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Zondo commission – Manager pressured to conclude Tegeta deal

For the second session of the day, the Zondo commission heard Eskom-related evidence from the power utility's acting senior manager for fuel resources, Dr Ayanda Nteta. Nteta's testimony relates to Eskom's 10-year mandate of securing coal and the deal between Eskom and the Gupta-linked Tegeta coal mine.

Nteta told the commission that former fuel sourcing manager Johann Bester requested her to engage with Tegeta on the supply of coal and to conclude the coal supply agreement. Evidence leader Pule Seleka asked Nteta whether the proper processes were followed when Eskom issued the tender, to which Nteta responded that there was no procurement process because it was an unsolicited approach from Tegeta.

"The justification that Eskom had on procurement of coal was based on the medium-term mandate of 2008 that said we could engage with suppliers to procure coal, reason being the lack of the availability of the coal," said Nteta.

She said the Eskom board gave them that mandate. Zondo chimed in to say the law is the law and the board cannot tell people to circumvent the law, and Seleka asked if the mandate given by the board allowed deviation from the procurement process. Nteta replied that it was unimportant if the mandate was right or wrong because they were guided by laws and the laws allowed them to engage with suppliers coming with unsolicited bids.

She also hinted that the executives and the board put her unit under pressure to conclude the Tegeta contract.

Seleka asked if she had met any of the Gupta brothers during the negotiation stages of the deal. Nteta said she only interacted with Tony Gupta after the deal was concluded, and added that she did not plan to meet with him but Tegeta CEO Ravindra Nath requested a meeting to discuss the volume of coal, and instead Tony Gupta showed up.

"The CEO of Tegeta invited me to a meeting and sent me the address, I arrived at Saxonwold and assumed it's their offices because it was a huge complex. I was met by Tony Gupta who was asking me about the coal deal and I directed him to the operations department. I kept on asking him where the CEO was and this might have made him angry because he abruptly said thank you and I left."

Nteta told the commission she left the meeting annoyed and later instructed Nath to update Tegeta shareholders on the deal.

Seleka, referring to evidence before the commission, told Nteta that she registered Tegeta as a vendor to Eskom and also sent an e-mail to management saying that Tegeta had been awarded the contract while this had not happened. Nteta said the e-mail she sent was incorrect; she only sent an

offer letter to Tegeta and Bester requested her to start with the registration process as this usually takes time.

Seleka asked Nteta why Eskom continued negotiating with Tegeta as the company did not have a water use licence. Nteta explained that the power utility had previously concluded contracts with suppliers without a water use licence, but since a new dispensation was introduced, they were prohibited from making deals with suppliers who did not possess such a licence.

With the new dispensation in place, Seleka asked, why did the deal continue, to which Nteta replied that the deal and the water licence were handled at the same time, thus encouraging Tegeta to sort out the issue. Nteta said they also kept in mind that contracts can take up to 18 months to conclude so this would have given Tegeta enough time.

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