



**20 February 2019**

### **Zondo Commission – Eskom’s procurement processes to be closely scrutinised**

Eskom chairperson Jabu Mabuza will testify before the commission of inquiry into state capture on Friday, and is expected to give insight into the financial status of the power utility when the new board took over last year. It is hoped that he will also shed light on the procurement decisions that Eskom has engaged in over the years, particularly the Tegeta Exploration coal supply contract that followed the takeover of Optimum mine by Tegeta in 2015.

Before that happens, however, the commission sought to spell out its intentions with regard to evidence relating to Eskom. Vincent Maleka SC, a member of the legal team, spent Wednesday setting the scene for where his team would go in tackling the alleged capture of Eskom over the weeks after Mabuza’s testimony.

The commission, said Maleka, would benefit from closing the gaps left by other investigative processes involving Eskom to date, such as the public protector’s state capture investigation, the parliamentary enquiry into Eskom and the once-highly sought after Dentons report. The more recent Fundudzi report, commissioned by National Treasury and released late last year, will also make a big play.

Tegeta is the company owned at some point by the Gupta family and Duduzane Zuma, the son of former president Jacob Zuma.

Essentially, the events of 2015, the commencement year of the R3-billion contract, will form a large part of the evidence sought by the commission for the coming few weeks. The contract, which is meant to end only in 2025, is the subject of court action instituted by the Special Investigating Unit, which wants it cancelled on the basis that it is unlawful.

The reason for following this model of evidence gathering, explained Maleka, was because the commission received a mixed reaction to its investigation attempts into Eskom. While some people previously implicated in alleged corruption want to divulge information by blowing the whistle to the commission, others wish to clear their names, and some flatly disputed allegations against them. The latter, he said, may become the basis for which commission chairperson, Deputy Chief Justice Raymond Zondo, institutes his powers of summoning individuals to the inquiry.

Zondo said while he appreciates the principles guiding the decisions of the legal team, including cost cutting by avoiding duplication of work, he wanted it to be clear that it does not mean that the commission would simply take the findings of these processes as they are. Maleka explained that the commission had obtained sworn statements from some people who have appeared before the parliamentary process, albeit some of it needing further investigation. Where witnesses have implicated individuals, the due notices have been sent for response.

The area of Eskom’s operations through which state capture seems mainly to have manifested, is in its procurement functions. Some of the key points to be deliberated on over the next few weeks include:

- The apparent stymieing of the Dentons forensic investigation by Eskom leadership in 2015, despite the process being commissioned by the utility's board.
- The omission of mention of Tegeta as owner of Brakfontein mine – which was found to have supplied inferior quality coal to Eskom – until the halted investigation by Dentons in 2015, in Eskom documents.
- The acquisition of Optimum coal mine from Glencore by Tegeta and whether Eskom played a role in this process. The acquisition is reported to have been hostile to some extent, with Glencore having to eventually relent.
- The role of former mineral resources minister Mosebenzi Zwane, and whether he used his official capacity to influence the transaction between Tegeta and Glencore in the acquisition of Optimum.
- Suspicious movement of funds between accounts of entities that apparently provided professional services to Eskom, including consultancy firms McKinsey and Trillian – with evidence to be provided by Standard Bank.
- Confidential emails amongst key role-players in the Tegeta-Eskom deal – with evidence to be presented by a cyber-specialist.

According to Maleka, the legal team's presentation on Eskom evidence will continue until Thursday.

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