



4 March 2019

Zondo Commission – executives bypassed regulations to push through Eskom/Huarong deal

For the R25-billion loan deal between Eskom and Chinese firm Huarong to proceed, all repayments from the power utility would have to be paid into the account of an entity called Ideva. This put officials in Eskom's treasury unit in an awkward situation, and prompted senior manager for funding execution Sincedile Shweni to demand that Ideva submit financial statements, through which he could assess its legitimacy. Shweni testified at the commission of inquiry into state capture on Monday.

The facilitator for the deal, Rajeev Thomas, acting on behalf of Huarong Energy Africa (HEA) – a purported subsidiary of Huarong China – provided Ideva's financials for that period, which turned out to have a qualified audit opinion. When Shweni queried this, Thomas submitted a second set of financials, for the same period, this time with an unqualified opinion. Although this was a red flag, the process was so far along that Shweni had little power to reverse it.

As part of the process, he submitted an application to the South African Reserve Bank, as required by regulations, to have the Ideva account registered, hoping that this would help raise concerns there and potentially sink the deal. The reserve bank approved the registration, to Shweni's surprise. He conceded to commission chair, Deputy Chief Justice Raymond Zondo, that his application could have included his concerns over the deal, so as to help the reserve bank make an informed decision, but this was not the case.

Zondo pressed Shweni to explain why he was surprised with the approval of Ideva, if he himself had not informed the central bank of the potential risks involved should it be approved. In hindsight, said Shweni, he realises that had he included his concerns over the deal, and the red flags that it raised, the reserve bank would have probably come to a different conclusion. Another reason for his caution was that the terms sheet - which by this point had been signed – carried with it a cancellation fee of R400-million. He did not want to be the reason that the deal got cancelled.

Prior to the reserve bank application, Eskom had initiated a process for requests for information, in an effort to test the Huarong proposal against the market, and to see if it too would submit a proposal through legitimate channels. To this point, it had been through HEA's efforts that the proposal came to be made. According to Pillay, the proposal first came through a company called Tribus in early 2016, and when Eskom rejected it, it was made again through HEA, with Tribus playing the middle man.

HEA's submission included the signed time sheet, which meant the evaluation committee had to set it aside to allow for a parallel process already in place to take its course. It was a difficult time for members of the committee, said Shweni, who told the inquiry that HEA's was among the best of the proposals received. Zondo argued that it was an unfair practice on Eskom's part to not inform the other bidders that not only was a competitor already in talks with Eskom, but that its proposal included features that gave it an advantage over the others. None of the bids received resulted in a contract, according to Shweni, contradicting his boss Andre Pillay's testimony that Eskom went with the proposals from Absa, JP Morgan and Rand Merchant Bank.

By this point, however, Shweni had already been having serious concerns with regards to the Huarong deal. Like Pillay, whose testimony was heard on Friday, he was worried about the terms being pressed on Eskom in order for the deal to proceed. Pressure from former chief financial officer Anoj Singh was also not helpful. Singh also chaired the assets and liabilities committee, through which HEA's proposal should have been vetted. It never was, according to Shweni.

During his testimony, Pillay raised the legitimacy of HEA's status as a Huarong China subsidiary at the time, as a result of research done by law firm White & Case, from whom Eskom sought legal advice on the deal. According to White & Case, there had been no sign of HEA being a funding company, and no clear indication on the terms sheet on where the proposed funding would come from. The R400-million signing fee was one of the red flags for the officials at Eskom, but it did not seem to bother Singh, who authorised the deal, later signed by acting chief executive Sean Maritz. The latter resigned last year, prior to a disciplinary process over the matter.

Useful links:

[Zondo Commission website](#)

Corruption Watch's [Zondo Commission update page](#)

[Eskom](#)

[South African Reserve Bank](#)