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Zondo Commission – multi-million-rand Tegeta payment rushed through under irregular circumstances

The controversial advance payment of R659-million that Eskom made to Tegeta Exploration in April 2016 came under the spotlight at the commission of inquiry into state capture on Tuesday. Snehal Nagar, a senior finance official in Eskom's primary energy division, told the inquiry how procurement controls were breached in order to process the payment on an unusually tight deadline.

Nagar received the urgent instruction from his supervisor, Maya Naidoo, a general manager in the finance division, via telephone shortly after noon on 12 April 2016 while on his way to meet a client. He was to effect the payment to Tegeta, and do it within less than two hours, against a deadline of 2pm. Naidoo offered no further explanation as to the urgency of the instruction, but Nagar asked her to make the necessary supporting documents available, so that he could forward the instruction to his team back at the office. He was surprised to find, on his return, only an e-mail from Naidoo with a proforma invoice from Tegeta attached. The subject line said "as discussed", giving the impression that the two of them had discussed the details of the payment, when they had not.

During Nagar's absence, and under pressure, his team could only obtain an approval form signed by Naidoo, to justify the payment.

The anomaly for Nagar's team was that because there was no existing contract with Tegeta for supply of coal from Optimum mine – which it had only recently bought from Glencore – no payment could be made against Optimum as a supplier on the database. The only practical solution for Nagar's team was to manipulate Eskom's procurement system by making the payment look like it was for another mine, Brakfontein, also owned by Tegeta. The only supporting document to justify the payment was the form signed by Naidoo. Nagar would later learn that a board tender committee meeting, held the previous evening by telecom, approved the payment, resolving that then chief financial officer Anoj Singh, would oversee the transaction. Naidoo at the time reported to Singh.

In the end, Tegeta received a total of R728-million, including the R659-million and two other payments for existing orders. Under normal circumstances, Nagar would have had to be furnished with a signed contract between Eskom and Tegeta, that stipulates how much is to be paid and when. The contract forms the basis on which future transactions between Eskom and Optimum would be concluded in the system. Further details of goods delivered and invoices submitted are scrutinised for compliance purposes.

Asked by evidence leader Phillip Mokoena if he did not find the nature of the transaction odd, Nagar said not only was it odd, but it had never been done before. "We budget for coal, we do not budget to make prepayments," he said, adding that the circumstances surrounding the peculiar request were never explained to his team. Eskom and Tegeta signed a contract, which was made available to Nagar for record keeping. It struck him as odd that the date of the signing was 13 April, which effectively means that the payment was made before Optimum was officially a supplier of Eskom.

With the necessary documents now in hand, a second manipulation of the system was required. This time, the R659-million transaction had to be reversed from the Brakfontein account, and repaid to the Optimum account, once this had been registered on the system.

Although sufficient supporting documentation was provided to “legitimise” the payment, no explanation was ever given as to why it had to be done so quickly, and before there was even a contract in place. Nagar would not be drawn to speculate on why there was a rush to get it done, but could only say that since he joined Eskom in 2004, he had never known of payments being made under these circumstances.

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