



24 May 2021

Zondo commission – Singh grilled on Tegeta pre-payment

Former Eskom CFO Anoj Singh has told the state capture commission that the decision by the power utility to make a R659-million pre-payment to Gupta-owned Tegeta Exploration and Resources in 2016 was underpinned by an urgent need for Eskom to maintain coal supply for its mines.

Singh concluded his testimony related to Eskom on Monday evening. Questioned on why the payment was actioned on an urgent basis following a board meeting in which the circumstances of Tegeta were discussed, he said the two were not linked, and the payment was a matter of Eskom delivering on its obligation to Tegeta as per its coal supply agreement with the company.

“The payment that was made on the 13th of April was as a result of an agreement that was entered into between Eskom and Tegeta that a payment be made by close of business on the 13th of April. So in terms of that agreement, Mr Chair, we had an obligation to perform,” Singh said.

Commission chairperson Deputy Chief Justice Raymond Zondo was not convinced: “No Mr Singh, that can’t be the answer. If the question is why was it urgent to pay on the 13th, it can’t be because of the agreement, because the question wants to find out why Eskom would agree to pay so urgently on the 13th.”

“I guess, Mr Chair, that emanated from the meeting on the 11th, which I was not party to,” Singh replied.

“From what one sees here, the urgency was about Tegeta needing the money in order to pay the price [outstanding for Optimum Coal Mine],” Zondo went on.

“Well, Mr Chair, I wouldn’t be able to comment.”

An urgent meeting of the board tender committee just two nights before the payment was made, on 11 April, discussed concerns around Tegeta in the midst of the public allegations against its shareholders, and the media reports of its bank accounts being shut down. Former CEO of Optimum Coal Mine (OCM), Clinton Ephron, had previously testified that earlier on that day he had been contacted by Nazeem Howa, CEO of Tegeta’s parent company Oakbay Investments, who said Tegeta was unable to raise the balance owed in respect of its purchase of OCM from Ephron’s employer, Glencore.

Evidence leader Advocate Pule Seleka wanted to know if the Eskom leadership – who are alleged to have openly favoured the sale of the mine to Tegeta in December 2015 – were scrambling to assist the company in raising the capital to pay its debt.

In fact, he proposed, both the April pre-payment and the one planned before it, for R1.6-billion in December, were merely a means through which Tegeta could get hold of money to pay for OCM, and not urgent measures to secure coal, as Singh and then head of generation, Matshela Koko, have testified.

“Based on discussions we had with Mr Koko at the time [in December], he identified this to be a significant matter that needed to be considered by the board, hence the documentation that needed to be considered on an urgent basis,” Singh said. That pre-payment was not made in the end.

Singh was asked to give his understanding of which company, between Glencore and Tegeta, was to receive the R1.6-billion, given that he and Koko motivated for the board to approve it urgently, despite the sale of the mine being in a negotiations phase at the time. Seleka pressed Singh to explain why, when it was not clear whether OCM would definitely change hands in that time, did he believe it was Tegeta, its potential new owner, that deserved the significant pre-payment.

“The reason behind the submission was to mitigate ... the supply of coal risk that had been identified relating to OCM as well as supply to the Kroonfontein mine, which was also a subsidiary of OCM. It really related to supply by OCM as well as an issue relating to Exxarro, in terms of the submission.”

Based on the long-standing coal supply agreement Eskom had with OCM, and the extract from it that Koko used to motivate for board approval, “it would be difficult to understand how this would not be anticipated that this would be a payment that was made in anticipation of an acquisition of a mine,” said Singh.

Seleka played an audio clip from a press conference in July 2016, in which then Eskom CEO Brian Molefe explained the April pre-payment. He told the media that upon occupation of Brakfontein mine, which had fallen under the same holding company as OCM, Tegeta discovered a reserve of coal that appeared to have been earmarked for export by Glencore while Brakfontein was in its ownership. For Tegeta to be able to mine the area and supply this “better” quality coal for Eskom, it needed capital, which Eskom was willing to supply in the form of the pre-payment.

Singh said he agreed, when questioned by Seleka on his position on Molefe’s statements. But Zondo came back to the issue of how this made business sense, and why Eskom would give a company that was declared a concern that banks did not want to touch, such a large amount of money.

“At that time I don’t think all of the bank accounts were closed. I think there was one that had indicated that they were closing the account. When we raised this with them, Mr Chair, they had given us the assurances that they had alternative measures in place to enable them to continue the operation,” Singh explained.

A new agreement arising from Tegeta’s status had been mooted, in which the company pledged its shares in OCM holding company Optimum Coal Holdings to Eskom, should it fail to meet its obligations, among other mitigation measures.

“In terms of our obligation as Eskom, I think the entire submission was premised on access to coal. Pre-payment was made, as you know, and the security that we received for that was that in the event of default, we would own Brakfontein mine.”

“How was that going to help you?” asked Zondo.

“We had taken the cession of shares, and they had pledged their shares to Eskom in the event of default,” said Singh.

Useful links:

[Zondo Commission website](#)

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

[Eskom](#)