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Zondo commission – Glencore didn't use Ramaphosa to bully Eskom, Zondo hears

Former Glencore director and Optimum Coal Holdings (OCH) CEO Clinton Ephron has described as “ridiculous” the allegations before the state capture commission that Glencore used its relationship with President Cyril Ramaphosa to bully Eskom into increasing the price it paid for coal from OCH.

Ephron appeared on Thursday, in the first sitting of the commission after a short break. He said when Glencore bought shares in OCH, which owned Optimum Coal Mine (OCM), it did not have a complete understanding of who the company's shareholders were, but was only interested in joining the coal supply market. The company approached individual shareholders in a series of transactions between 2011 and 2012, and by March 2012 held a 100% ownership of OCM.

Former Eskom CEO Brian Molefe and head of generation Matshela Koko both told the commission that Glencore's proximity to Ramaphosa became its bargaining tool in 2015 when it sought to bully Eskom into agreeing to an increase in the price of coal supplied for its Hendrina power station, from R150 per tonne to over R500 per tonne. Koko went even further to say Glencore's strategy in buying shares in OCH was motivated by Ramaphosa's position in the company, where he was a director.

“There is not an iota of evidence that points to the fact that Glencore in any way wanted to rely on the relationship with Mr Ramaphosa as our shareholder in order to change the contract price,” said Ephron, adding that nowhere in the evidence before the commission has it emerged that Ramaphosa was part of any discussions on the subject.

Ramaphosa was elected deputy president of the ANC in December 2012, during the party's elective conference in Mangaung, Free State. At the time, Glencore had owned OCH since March of the same year.

Ephron did concede that Glencore did not conduct a comprehensive due diligence exercise on OCH, and at the time of concluding the purchase of shares in the company did not fully appreciate its sustainability. This is why in 2014 the company approached Eskom to negotiate a new pricing structure. This was concluded and OCH was under the impression that Eskom was on board, until the arrival of Molefe in April, by which time the company was already in hardship.

He threw out the negotiated pricing schedule, and demanded answers from OCH over the need for the price increase, citing the hardship as OCH's own doing. OCM was going through operational difficulties and was no longer able to meet Eskom's demands for the supply of coal, and it was in that context that the company went into business rescue, said Ephron.

Koko in his own evidence told the commission that the business rescue route was taken to avoid the responsibility of going into an arbitration process as stipulated in the coal supply agreement by the two parties. Ephron denied this, saying the urgency of the operational challenges at the time dictated that OCH go into business rescue.

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