

SUBMISSION TO STANDING COMMITTEE ON PUBLIC ACCOUNTS

24 April 2023

1. INTRODUCTION

This statement is submitted to the Standing Committee on Public Accounts in response to a request received on 4 April 2023 from the Committee Chairperson, Hon M Hlengwa, MP, for elaboration on information regarding alleged corruption and malfeasance at Eskom Holdings SOC. I submit this information in good faith and out of respect for the Committee and its function as watchdog over public expenditure. I am, however, constrained in providing certain information for the following reasons:

- 1.1 Having resigned as Group Chief Executive Officer of Eskom at the end of February, I am not in possession of documents and other material that remain in the possession of Eskom or in the hands of law enforcement bodies to corroborate or substantiate certain allegations. I am therefore constrained regarding the amount of detail that I can provide.
- 1.2 Having regard to the nature of the alleged criminal and unlawful activities, the sources that I have relied on to inform law enforcement and intelligence agencies have legitimate reasons to fear for their safety. I am therefore not able to divulge the names of sources or intelligence operatives, as doing so will undoubtedly compromise their identities and their safety. To the extent that these are known to the Directorate for Priority Crimes Investigation, also known as the Hawks, I respectfully direct the Committee to direct enquiries to the officers investigating these cases.
- 1.3 The alleged criminal and unlawful activities that are currently under investigation are of a sensitive and complex nature and involves elements that are best characterised as organized crime. As these investigations are currently ongoing and, having regard to the public nature of proceedings at SCOPA, I do not wish to defeat the ends of justice by divulging information that may compromise the successful arrest and prosecution of individuals implicated in these activities. Again, if the Committee wishes to engage with the Hawks and other entities to obtain further information, I respectfully direct the Committee to the appropriate

officers who are in a better position to judge what information can be disclosed without compromising ongoing investigations.

- 1.4 There are also various forensic investigations aimed at garnering evidence for critical recoveries that are subject to legal professional privilege which attaches to Eskom. Publication of the minutiae of these investigations will probably compromise Eskom's ability to make these recoveries.

2. **QUESTIONS RAISED BY SCOPA**

2.1 **ALLEGATION THAT R1 BN IS STOLEN PER MONTH**

I have publicly made the statement on a number of occasions that an estimated R1 billion per month is stolen from Eskom. This is, if anything, a conservative estimate and is based on my assessment of the losses suffered by Eskom that have come to my attention. Some examples that corroborate this estimate are:

2.1.1 After additional control measures were instituted at Tutuka Power Station following my observation of excessively high fuel oil consumption, fuel oil cost at Tutuka reduced by some R100m per month. Soon thereafter, fuel oil consumption increased significantly at Grootvlei and Majuba power stations. It would therefore appear that there is significant fuel oil theft taking place at Eskom, possibly with the involvement of organised crime cartels. Having regard to the fact that there are fourteen other coal-fired power stations at Eskom, the opportunity for theft of fuel oil remains very considerable.

2.1.2 Substantial fraud and corruption take place in the procurement process, particularly at power stations. Reconciliation of inventory to actual stock counts has been an ongoing process to address legacy and ongoing fraud. In FY20, R1.3bn had to be written off, with a further R0.8bn in FY21, equating to about R70m - R100m per month. The implementation of enhanced controls, and procurement and inventory management processes have slowed down this type of crime, but internal resistance and non-compliance have hamstrung efforts.

2.1.3 Significant infrastructure theft, including cables, overhead lines, transformers and conductors costs Eskom approximately R2bn per year (R170m per month), according to a media release issued on 17 May 2022.

2.1.4 Non-technical losses of electricity, which accounts for a significant amount of electricity theft, amount to about R200m per month, or R2.3bn per year according to the Eskom FY22 annual report.

2.1.5 There is significant theft and fraud of prepaid electricity vouchers, which is estimated to amount to billions of rands per annum. While some progress has been made to replace the existing system, significant delays and internal resistance have been experienced. In conjunction with the Hawks, individual “ghost vendors” and syndicates are arrested from time to time, with losses for one syndicate alone estimated to be between R150 000 to R250 000 per day, or between R4.5m and R7.5m per month. However, this is only a very modest victory against an ongoing major loss for Eskom. The total loss due to prepaid voucher fraud could exceed R5bn per year, or R400m per month.

2.1.6 Similarly, coal theft is estimated to be a very significant contributor to losses from theft at Eskom. Estimating the total impact of coal theft is very difficult, as acceptable quality coal is replaced with discard coal, or the weight manipulated by the addition of rocks, water or heavy items such as steel. This takes place at so-called black sites, where good quality coal is replaced with poor quality. I have been informed by an Eskom security official that three black sites have been raided by the police, with a reported thirty further sites being under surveillance, giving an indication of the size and sophistication of coal theft. Given that Eskom spends about R132bn per annum on buying primary energy, the bulk of which is coal, even a 5% loss factor on coal would equate to some R500m per month. Moving coal to rail to prevent theft en route has proved problematic because of sabotage, infrastructure theft on railway lines and a shortage of locomotives. Similarly, implementing control measures to prevent coal theft has proven to be a challenge, although progress has been made.

2.1.7 Coal quality remained a problem, despite measure being implemented to significantly improve the management of coal deliveries and the measurement of quality. Poor coal quality contributes to partial load losses and ultimately, the need to implement load shedding. Coal quality is adulterated in transit from a mine to a power station to conceal the theft of approved coal. Eskom has implemented a variety of measures to both secure coal supply and improve coal quality. I briefly summarise the measures implemented by Eskom here.

- Eskom utilises three types of contracts for the supply of coal:
 - Cost plus mine contracts in terms of which Eskom invests in a mine situated close to a power station and secures a dedicated supply of coal with the coal price set at the mining costs plus an agreed profit consisting of management fees and a return on the capital originally invested by the supplier.
 - Fixed price contracts in terms of which coal is sold to Eskom at a pre-determined base price, which escalates annually in accordance with an escalation formula; and
 - Short and medium term contracts, which are similar to fixed price contracts except that they are of much shorter duration. These contracts, while allowing for flexibility, have a much higher R/t cost and generally require coal to be transported to power plants by rail or road.

- Eskom had been implementing a long-term coal supply strategy. The strategy gives preference to dedicated long-term coal contracts – giving preference to fixed term and cost plus mine contracts over short and medium term contracts. This strategy will ensure a predictable coal price path and security of coal supply. Eskom is also focussing on coal delivered on conveyors instead of road – reducing the risk of coal theft and tampering (for instance, contractors mixing lower quality coal with higher quality coal to meet volume targets).

- After years of underinvesting in cost-plus mines, Eskom had resumed investing in cost plus mines to expand the mines and access the remaining contracted reserves. Cost plus contracts have certain advantages: they are historically the lowest R/t cost; the coal is dedicated to Eskom – ensuring security of supply; and the coal is transported to the power plant by conveyor instead of road.

- Eskom's strategy had already started to pay off. The volume of coal from short and medium- term contracts had decreased from 56% in the 2020 financial year to 41% total coal volumes by the 2022 financial year. The shift towards cost plus and fixed price contracts also had a significant impact on plant performance. Power stations that are supplied from a single mine receive a more consistent quality of coal – allowing them to better optimise combustion

and unit processes for that quality of coal. This is associated with a significantly higher energy availability factor. Power stations with imports from multiple coal sources from short and medium-term contracts receive a more variable quality of coal and resultantly do not perform as well.

- In addition to this, Eskom had taken several measures to increase verification and monitoring in order to prevent the delivery of poor quality coal, including:
 - ensuring that coal supplies are also pre-certified by laboratories to ensure they adhere to contractual quality before being delivered;
 - ensuring that the magnets or metal detectors from all coal suppliers are in place and working effectively;
 - deploying monitors at the power stations and mines to identify any coal-quality issues, including foreign material, excessive contamination and wet coal; and
 - increasing the intensity of the coal verification at various sites. This is an audit process where Eskom confirms the quality of coal delivered at a particular power station.

- A large part of the problem relating to coal quality is rampant criminality. The risk of criminality is increased where coal is transported by road. To prevent coal theft and tampering, stockpiles of coal destined for Eskom from the contracted mines are pre- tested and certified by both parties. It is required that the delivery coal trucks are inspected at source and the trailers are sealed on site for security purposes. The seals are to remain in-tact until the truck reaches the Eskom power station where it is again inspected for tampering before the coal is off-loaded. Eskom is also seeking to pilot a project whereby the coal will be tested to determine whether it meets certain specifications upon delivery at the power plant. Eskom is aware that criminals are actively engaged in circumventing these controls, sometimes in connivance with corrupt Eskom contractors and employees.

- In addition, Eskom had contracted private security to investigate coal theft and tampering, and overt and covert surveillance and intelligence gathering have

been put in place. These measures had been bearing fruit with instances of coal tampering at Camden and Matla recently being uncovered.

- Where Eskom encounters instances of coal tampering it investigates and acts accordingly. This includes reporting the incidences to law enforcement and suspending the contracts of suppliers and transporters. Four illegal coal blending facilities have been stopped and are with law enforcement for action. There are also approximately 30 other such blending facilities which are under investigation and against whom law enforcement will take appropriate action

2.2 Allegation of theft of spare parts and collusion between maintenance contractors and coal suppliers to sabotage generation equipment

As a result of an intelligence-led operation, significant information has been gathered on the extent of organised crime activities in Eskom, particularly in Mpumalanga. The findings of this investigation have been extensively shared with senior officers in the SAPS, in compliance with reporting obligations, and cooperation with the SAPS is continuing, as detailed below. Should the Committee wish to obtain more information, I respectfully direct it to the SAPS.

There are allegedly at least four, probably more, cartels operating in Mpumalanga, each with their own identities: the Presidential Cartel, with a number of companies to its name, focusing mainly on Matla. The Mesh-Kings Cartel operates out of Witbank, with Duvha as its main area of control, and also has its own favoured corporate entities to funnel money out of Eskom. The Legendaries Cartel, which has Tutuka as its focus, is based in Standerton, where it operates guest houses with contracts with Eskom, suppliers and local structures. The Chief Cartel operates out of Newcastle, and thus has domain over Majuba, with a focus on coal supply by road. Further cartels are said to be operating elsewhere, and are in the process of being uncovered. The cartels are alleged to have delineated their areas of operation.

The modus operandi is fairly standard. The cartel leader or his subordinates will approach a specific end-user, who could be an Eskom engineer or manager at a power station to begin the illicit process. The end user, who is

authorised by the Eskom delegation of authority to place orders on the procurement system, creates a fictitious demand for goods or services, with the purpose of defrauding Eskom. He receives a substantial amount in cash, including extra funds to pay an upfront bribe to the store manager of a power station.

The store official then verifies how much of a specific type of equipment is available on inventory to be covered in a purchase order. Should the equipment to the value of the intended purchase order be available in stock, the existing equipment in stock will be hidden or displaced somewhere in the power station to justify the purchase request for additional equipment. Also, for the cartels to create a supplementary business to supply essential components or renew or continue maintenance contract works, the cartel will arrange the destruction of equipment with insiders so that a breakdown can justify repairs or the supply of components via the cartel vendors.

The end-user then approaches a procurement official, or an employee referred to as a *mphati* who works in collusion with the cartel and is an influential contact at the power station. The procurement official receives an upfront inducement that serves as an acceleration fee to issue a purchase request (RFQ). The illicit procurement process is set in motion. The procurement official instructs the financial department to approve the expenditure that must, according to the Supply Chain directives of Eskom, have the signatures of both the end-user and the store official.

The purchase request (RFQ) is then taken to a senior buyer who will receive their share of the bribe/pay-off. After that, three compulsory quotes will be obtained. All three quotations will originate from the same cartel as all three approaching vendors are members/soldiers of the same cartel. The vendors manipulate the quotations so that a specific pre-chosen company is inevitably appointed as the final vendor, and a purchase order (PO) is issued accordingly. In addition, the buyers often will create a false urgency by sending official emails to the vendor to expedite delivery which will then be used to justify a higher price. It will also then record that the purchase order is bona fide.

Once the order is ready, the crime cartel, through the appointed vendor, will arrange for delivery during a specific security shift at a particular time. For example, a vehicle with a ghost delivery will arrive at the power station gate. The security guard, an accomplice who is paid for his services, will sign the delivery note at the entrance gate to the power station. In addition, the security guard will verify that the equipment was inspected at the main gate to the power station and will sign off on the delivery note.

The end-user and store official will receive the ghost delivery and sign the receipt to deliver the non-existing equipment. The hidden equipment is retrieved from where it was concealed and placed back into storage as if the equipment had been delivered. There is no link to the actual requirements of the power station - making it clear how billions of rands of inventory could be accumulated at each power station, with signify inventory write downs required in order to reconcile actual with what is reflected on the system.

All the procurement documentation from the purchase request to the delivery note will procedurally correspond with the equipment on inventory, making it difficult for forensic audits to identify fraudulent practices except by doing a physical stock count, a discipline that had only been restored during my tenure.

The acceleration fee to the *mphati* or procurement official will ensure that payment to the crime cartel is made within one week instead of the usual 30 days. This procurement process is repeated at various power stations and amounts to millions of rands of fraudulent transactions per month per power station.

Upon receiving payment from Eskom, the vendor who owns the ghost company that successfully tendered for the business will retain his allowed portion of the money paid by Eskom and then deliver the bulk of the money to the leader of the crime cartel. The leader of the crime cartel will retain his allowed portion of the money, and the balance of the money is handed to an intermediary that also receives a portion of the money for services rendered—the trusted intermediary will deliver the balance of the money to the obscure initiators.

Measures that my management team and I have take to implement better controls - better use of SAP, barcoding, inventory controls, outsourcing of procurement - have been actively resisted and circumvented, necessitating ongoing time-consuming micromanagement to ensure implementation took place.

Numerous incidents of damage to and sabotage of Eskom property have taken place. In a number of cases, it is clear that damage to Eskom property and operations has been deliberate. The sheer number of inexplicable incidents of damage to Eskom's property, coupled with the substantial number in which intention is clear, overwhelmingly confirms that Eskom has experienced a sustained campaign of sabotage. For example:

1. On 18 December 2019, Majuba's overland coal conveyor caught fire. Subsequent investigation revealed that two valves controlling water flow to a fire suppression system on the conveyor were shut off before the fire broke out. There was no record of any approval for the valves to be shut off. As a result of this fire, Eskom had to transport coal to Majuba by truck, at an approximate cost of about R100 million per year.
2. On 17 November 2021, a pylon carrying power lines to Lethabo's overland coal conveyor was cut, causing the pylon to collapse, and the conveyor to stop functioning. It took 9 hours the coal supplies to be re-routed to Lethabo. Eskom narrowly avoided an entire outage of Lethabo's 3558 MW of generating capacity which would have moved the country from stage 4 to stage 6 load shedding.
3. In May 2022, Eskom's Chief Operating Officer, Jan Oberholzer, received a bomb threat.
4. On 22 June 2022, an extension cord was dropped into Matimba's unit 2 transformer. All three of Matimba's cooling units consequently shut down. Three units tripping in this way at Matimba, one of Eskom's best performing power stations, was unprecedented. On

the same day, a unit at Kendal and two units at Matla broke down. Cumulatively, these incidents reduced generation capacity by 2 400 MW.

5. On 28 June 2022, unlawful industrial action at various of Eskom's power plants interrupted its operations, and caused 10 generation units to trip. As a result, the country was moved from stage 4 to stage 6 load shedding.
6. On 10 November 2022, a contractor at Camden removed the bearing oil plug from the stations bearing, causing oil burners to trip repeatedly, resulting in an outage of Camden Unit 4. The contractor later confessed that this was an intentional act of sabotage.
7. On 12 December 2022, I was poisoned.
8. Eskom has recorded more than 25 arrests for matters of sabotage relating to plant tampering and theft of diesel and fuel oil.
9. On 16 December 2022, since Eskom was under near constant siege, the President deployed South African National Defence soldiers to four of Eskom's power stations. Presumably the President would not have deemed this extraordinary step necessary if he had not been persuaded that the situation was sufficiently serious for the army to be deployed.

Fuel oil contracts irregularly awarded or otherwise corrupt in nature

Fuel oil is a by-product of crude oil processing in a refinery. It is produced in a number of different grades, depending on qualities such as sulphur content, viscosity, heat value and other parameters. In some instances, companies specialising in the processing of so-called bottom of the barrel products will buy non-compliant products from refineries and then process it to produce different grades of fuel oil through a process of blending and refinement. In terms of a board

decision taken by the Eskom board prior to my commencing my tenure, and supported by National Treasury, Eskom is required to purchase fuel oil from the primary producers, and not through non-value adding intermediaries.

Fuel oil is used by Eskom for two purposes, viz. to provide ignition in boilers when these are started, as well as to augment the calorific value of poor quality coal by co-firing during the normal operation of a boiler. If a power plant is producing well, such as Matimba or Lethabo, fuel oil consumption will be modest. Where a power plant does not perform well, such as Majuba and Tutuka, fuel oil consumption will be substantially higher owing to mill failures or poor coal quality, requiring more co-firing. Where a plant has frequent unit trips, fuel oil consumption will also be higher.

Fuel oil is delivered to power stations by road using tankers. There have been repeated instances of fuel oil not being delivered, or only partially delivered. Further information in this regard may be obtained from Eskom. The theft of fuel oil at Tutuka is well documented, and curtailing this has saved Eskom an estimated R100m per month, which is the amount by which fuel oil consumption at Tutuka dropped after enhanced control measures were implemented. Fuel oil is stolen, for example, colluding with security and power station officials to certify that a delivery has taken place, when in fact it has not. Fuel oil may then be resold to Eskom, or to other customers who operate boilers. Road tankers also do round-tripping, where the same truck drives through the controls a number of times without off-loading, again with the collusion of Eskom, security and contractor personnel.

Opportunity also existed for fraud in the invoicing of fuel oil allegedly delivered. Prior to my insisting on this, Eskom did not have access to data services provided by Platts, which is used to calculate prices according to the contract pricing methodology. Eskom therefore paid according to pricing data provided by the supplier. In at least one instance an internal investigation revealed that a supplier, Econ Oil, allegedly overcharged Eskom by at least R1.2bn, money which is in the process of being recovered.

The irregular award of a fuel oil contract to Econ Oil has been ventilated in the courts on numerous occasions, and documents in that regard are a matter of public record. I respectfully wish to direct the attention of the Committee to those records for an illustration of alleged excessive pricing.

Purchase of goods or services at inflated prices or the misuse of procurement exceptions (such as emergency procurement measures) when contracting

Procurement is governed through the SAP enterprise management system. Contracts with goods and services are loaded onto the system, so that when an order for a particular commodity is placed, it can only be bought from an approved vendor at a contracted price. The easiest way to circumvent this control is to enter text into SAP using the so-called 'free-text' approach, which essentially means that the system will not pick up that an item is bought out of contract and at an inflated price. When I arrived at Eskom, only some 35% of procurement was done through the SAP system, with the balance being through so-called 'free-text' procurement. In practice, this meant that there were major control deficiencies in procurement of some 65% of Eskom's total spend. Following a project initiated by me, the 35% was substantially increased to in excess of 90%. A significant effort was made by Eskom Exco to enforce purchases on contract, but circumvention still took place at power station level. These violations are followed up by investigations and disciplinary action as required, but this is laborious and time-consuming. Where items are bought outside of contract, and using the process described above, it is possible to procure items at inflated cost. Without spot audits, and having regard to the fact that Eskom has tens of thousands of commodities, this irregularity is very difficult to detect with the complicity of a number of individuals as indicated above.

Details of any action taken by yourself to expose or alert any legal enforcement authority or persons in authority (whether government officials or political heads) of the alleged corruption; malfeasance and misuse of public funds.

Given the broad spectrum and large scale of malfeasance In compliance with section 34 of the Prevention and Combatting of Corrupt Activities Act, Act 12 of 2004 ("PRECCA"), I have taken a number of steps regarding the alleged corruption, to report and cause same to be reported to law enforcement authorities and government officials on the highest level. These steps include a meeting held on Saturday 4 June 2022 at Megawatt Park with senior police officials, including the National Police Commissioner, General Fannie Masemola and representatives of

the State Security Agency, where I requested the assistance of both SAPS and SSA to investigate corruption at Eskom, and to assist Eskom in combating crime. Following this meeting, a police brigadier (whose identity I leave to SAPS to disclose for reasons of security) was designated by General Masemola to be the liaison with the intelligence operation. This officer has had full access to all of the intelligence gathered and has stated to me that he has kept his line command informed. Additionally, since changes were made to the management of the Hawks in Mpumalanga, similar exchanges have been held with senior commanders in the province, and I am informed that all applicable information has been put at their disposal.

I also reported the matter to the then Interim Chair of Eskom Holdings SOC, Prof Malegapuru Makgoba. I also informed the new board of Eskom of the intelligence operation at a meeting held at the Eskom Academy of Learning in November 2022. Furthermore, on 5 July 2022, I attended a meeting with the Natjoints at the SAPS College in Pretoria, where I shared high-level concerns about corruption and theft in Eskom with the National Police Commissioner and his staff and offered to make available the intelligence to designated individuals. On the same date, I reported the findings to the shareholder representative, Minister Pravin Gordhan, and to the National Security Adviser, Dr Sydney Mufamadi. The main findings were shared with the latter two officials. I do not know if they reported this to their principals, although the President in his February 2023 State of the Nation Address had the following to say: “The South African Police Service (SAPS) has established a dedicated team with senior leadership to deal with the pervasive corruption and theft at several power stations that has contributed to the poor performance of these stations. Intelligence-driven operations at Eskom-related sites have so far resulted in 43 arrests.” The fact that these arrests have taken place, and that a dedicated team has been established, is corroborative evidence that intelligence related to alleged corruption has been shared with law enforcement authorities and that they are acting on it.