



EXHIBIT MM 3

**MARK VIVIAN
PAMENSKY**



**JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE,
CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE**

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THE COMMISSION OF INQUIRY INTO STATE CAPTURE**AFFIDAVIT**

I, the undersigned,

MARK VIVIAN PAMENSKY

do hereby affirm that:

1. I served as an independent non-executive director of Eskom Holdings SOC Ltd ("Eskom") from 11 December 2014 until my resignation on 25 November 2016. During that time:
 - 1.1 I sat on Eskom's Investment and Finance Committee ("IFC") from January 2015 until June 2016; and
 - 1.2 I chaired its Audit and Risk Committee ("ARC") from July 2016 until my resignation.
2. I depose to this affidavit in order to assist the Commission, and at the request of its evidence leaders that I provide them with such information as I have regarding:



- 2.1 My appointment to Eskom's board; and
- 2.2 My participation in the ratification, during February 2015, of a sponsorship agreement concluded between Eskom's previous Acting Chief Executive, Mr Matjila, and The New Age Media (Pty) Ltd during 2014 (and thus prior to my tenure on Eskom's board).
3. I consequently confine this affidavit to dealing only with those issues. Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge and are, to the best of my knowledge and belief, both true and correct.
4. I wish to record that I have elected voluntarily to assist the Commission, and do not depose to this affidavit under subpoena or other compulsion.
5. Unless otherwise indicated by the context, the facts herein contained are within my knowledge, and are true and correct.

MY APPOINTMENT TO THE ESKOM BOARD

6. I am a Chartered Accountant with significant experience as a company director. At the time that I joined Eskom's board, I had served on the board of around twenty-five companies, six of which were active. In particular, I served as the Chief Operating Officer and a director of Blue Label Telecoms Ltd, a



company listed on the Johannesburg Stock Exchange from 5 October 2007 to 3 November 2015. I also served on the board of a number of its subsidiaries and on the Boards of other companies. I had not, however, been a director of any state-owned entity ("SOE"). Indeed, to date, Eskom is the only SOE on whose board of directors I have served.

7. During 2014, I decided that I wanted to move on from Blue Label, to gain wider experience as a director and to enhance my reputation as a business turnaround specialist. I was therefore looking for new work opportunities.
8. On or about 28 September 2014, I saw an advertisement in the Sunday Times inviting nominations to the board of seven state-owned enterprises ("SOEs"), including Eskom. A copy of the advertisement (which I sent to my PA at the time to print, and which I have recovered from my sent items) is attached as "MP1". Directors of SOEs serve 3 year terms on a rotational basis, and new directors were due to be appointed to these various SOEs in December 2014.
9. At that time, the country was experiencing frequent load-shedding and Eskom was in a precarious position. I felt that my experience in developing and implementing company turnaround strategies meant I was well placed to assist it, and that serving on its board would enhance my business profile. I therefore decided to apply for nomination to its board. I requested Etienne de Villiers, Blue Label's General Counsel, to nominate me.

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10. On 16 October 2014, my then personal assistant, Gillian Rosslee, submitted my nomination form to Eskom, on my behalf. In accordance with Eskom's application requirements, it was accompanied by my curriculum vitae, a copy of my ID, proof of my qualifications, and details of the companies on whose boards I served. A copy of that e-mail and accompanying documents is attached as "MP2".
11. Eskom acknowledged receipt of the application on 21 October 2014, as appears from the e-mail attached as "MP3".
12. After that and until 11 December 2014, I heard nothing further about my application. I have no knowledge of the application process Eskom/the Department of Public Enterprises followed. I was not interviewed for the directorship post.
13. On 11 December 2014, I was e-mailed a letter from the Minister of Public Enterprises, dated 10 December 2014, informing me that I had been appointed to Eskom's board of directors as a non-executive director for a period of 3 years, with effect from 11 December 2014. A copy of that letter is attached as "MP4".
14. I did not immediately accept appointment to the Eskom board. On 15 December 2014, I responded to provide an updated CV and list of directorships, and to disclose, in particular, that one of Blue Label's



subsidiaries, CigiCell (Pty) Ltd had a current contract with Eskom for the supply of online vending for prepaid electricity sales. I recorded that if my acceptance of a non-executive directorship on Eskom's board would jeopardise current or future dealings between Eskom and Cigicell, I would have to reconsider the appointment. A copy of that e-mail is attached as "MP5".

15. That prompted a series of exchanges between me and representatives of Eskom and Department of Public Enterprises:

15.1 On 18 December 2014, Malesela Phukubje, who was then Eskom's company secretary, addressed an e-mail to me saying that he had noted the information I provided, and that I would need to make declarations of my interests formally when I attended a board meeting. A copy of that e-mail is attached as "MP6".

15.2 That same day, Shelley Pather, the Director: Governance within the Department of Public Enterprises, called me to discuss my directorships and potential conflicts of interest. She followed that call up with the e-mail attached as "MP7", in which she requested that I provide the Department and Eskom with detailed information of any companies in which I held directors' positions or shares, whether those companies held any contracts with Eskom and what the materiality of those contracts were.

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- 15.3 Matsietsi Mokholo of the Department responded to that e-mail the following day, to record that they would await my response. A copy of that e-mail is attached as **"MP8"**.
- 15.4 On 19 December 2014, I responded to Ms Pather's queries in the e-mail attached as **"MP9"**. I explained that of the various companies in which I held directorships or shares, CigiCell was the only one with any dealings with Eskom, and that while I was not a director or direct shareholder in CigiCell, I was a director and shareholder in Blue Label Telecoms, which indirectly held shares in CigiCell. I went on to explain the materiality of the CigiCell/ Eskom contract to Blue Label Telecoms' business.
- 15.5 I did not receive a response from Ms Pather (or anyone else on the e-mail chain), so on 4 January 2015, I sent the follow-up e-mail attached as **"MP10"** to check whether the Department and Eskom were satisfied that I could properly accept the appointment. The matter had become pressing because, as my e-mail records, Eskom's company secretary had sent out the proposed timetable for the board meeting dates.
- 15.6 Ms Mokholo responded on 7 January 2015 by way of the e-mail attached as **"MP11"**. On behalf of the Department, she thanked me for my acceptance of the nomination and the disclosure of my

interests and recorded that I would be required to record my financial and other interests on an ongoing basis and to recuse myself from any dealing relating to the Eskom/ CigiCell contract. It also requested Mr Phukubu, as Eskom's company secretary, to advise me on Eskom's disclosure policies and procedures. In her e-mail, she also said she would speak to the Minister (which, I understand, she subsequently did).

15.7 Mr Phukubu responded the same day to note the contents of that e-mail and to record that he would assist me in dealing with Eskom's declaration of interest policy. A copy of his e-mail is attached as "MP12" Ms Mokholo acknowledged receipt of his e-mail shortly thereafter. (Her e-mail is attached as "MP13").

16. I understood, from this exchange, that both the Department and Eskom were comfortable that my existing directorships did not interfere with my ability to serve Eskom, and that there was no impediment to my joining its board.
17. Once my appointment had been confirmed, I began to prepare for my role as an independent non-executive director of Eskom. I read about Eskom's financial and operational position, I studied its integrated reports and its audited financial statements, and generally set about understanding its business and the environment in which it operated.

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18. I did not, at that stage, read or consider the Public Finance Management Act ("PFMA") other than the reporting requirements, and was not familiar with it. However, I recall that new directors were given an induction pack by Eskom during January or February 2015 which to the best of my recollection it included an introduction to the PFMA. During the course of my tenure at Eskom I gained greater knowledge and insight into the PFMA and Eskom's business regime.
19. I attended my first board meeting shortly thereafter, on 16 January 2015.
20. I formally disclosed my interests to Eskom's board and to the Department again around that time:
- 20.1 At the 16 January 2015 board meeting, I tabled a declaration of interests, and verbally recorded that I was an executive director and COO of Blue Label Telecoms, that Blue Label held an indirect interest in CigiCell, and that CigiCell had a current vending contract with Eskom, which had been in place since 2007. The minutes of that meeting, which I attach as "MP14". The minutes do not record that declaration but Ms Daniels, Eskom's company secretary, confirmed that it had been captured on the recording of the meeting and that the minutes ought to be amended to reflect as much. A copy of the documents that she sent to me (in response to my querying the content of the minutes in this regard), is attached as "MP15".

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20.2 Moreover, at that meeting, a questionnaire was distributed to Eskom's directors and officers which required us to disclose, among others, any directorships we held or had held over the last 5 years. I completed the form and caused my PA, Ms Rosslee, to return it to Eskom on 19 January 2015. A copy of her e-mail and accompanying attachments is "MP16" hereto.

20.3 On 29 January 2015, I received an e-mail from the Department, attached as "MP17", recording that it had received my declarations of interest regarding Blue Label Telecoms and the Blue Label Group, and requesting additional information from me. I responded the same day and provided the information requested, as appears from the e-mail attached as "MP18".

21. Both Eskom and the Department were consequently aware, when I joined the board, of the other directorships that I held.
22. The evidence leaders specifically asked whether I sought nomination to the Eskom board at the instance of, or discussed my appointment with, any member of the Gupta family. I state categorically that I did not. Nor did any member of the Gupta family – or anyone else – ask me to do anything untoward as a director of Eskom. I would have reported it, had they done so.

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THE NEW AGE CONTRACT

23. When I joined the Eskom board, I was aware that The New Age ("TNA") was a newspaper in circulation. I was not myself a reader.
24. I had also heard about the TNA breakfast briefings, which I understood to be a forum on the SABC through which stakeholders could be engaged or companies could procure a public platform. I do not recall ever having watched a breakfast briefing prior to the agreement being ratified.
25. I was not aware of any dealings between TNA and Eskom and was not advised of any when I joined the Eskom board. I would have noticed a reported irregularity, for irregular expenditure of R43 million, in the November 2014 Eskom financials but as far as I can recall, the TNA contract was not identified as such.
26. I first learned that Eskom had concluded a contract with TNA in respect of the breakfast briefings on 3 February 2015, when Eskom's company secretary, Mr Phukubje, sent the e-mail and accompanying documents attached as "MP19" to Eskom's board. The e-mail recorded that the documents were distributed to the board at the request of Eskom's chairman, Zola Tsotsi.
27. It was understood that the matter was urgent. The auditors had raised a reportable irregularity in late November 2014 and the board had committed to

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dealing with the matter, including commissioning an independent party to undertake a review. The auditors were required to follow up on the original report within 30 days.

28. The documents accompanying the e-mail comprised:

28.1 A draft round robin resolution titled "Ratification of The New Age (TNA) Media Contract" and an accompanying summary of facts;

28.2 A report prepared by Sizwe Ntsaluba Gobodo ("SNG") dated 6 November 2014 titled "Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd (without its annexures); and

28.3 A legal opinion prepared by Ledwaba Mazwai setting out their recommendations on the TNA Review Report dated 4 December 2014; and

28.4 Representations prepared by the then Acting CEO, Collin Matjila, in response to SNG's draft report and dated 5 November 2014.

29. Those documents speak for themselves and I do not set out their content in full here. I carefully considered the content of each of them at the time.

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30. I understood from those documents that:

30.1 During May 2014 Mr Matjila had concluded an agreement with TNA, which committed Eskom to sponsor 36 of TNA's business breakfasts over a period of 3 years, at a total of R43 200 00.00.

30.2 SNG had investigated that agreement and found that it was concluded by Mr Matjila in contravention of Eskom's delegation of authority policy and that payments of amounts due under that agreement would amount to irregular expenditure. SNG recommended inter alia that Eskom procure legal advice on what corrective steps could be taken in respect of the agreement.

30.3 Pursuant to the recommendations in the SNG report Eskom had procured urgent legal advice from Ledwaba Mazwai. They had found no impropriety in the conclusion of the TNA agreement, and advised that the board had two alternatives available to it: either to ratify the agreement and procure commercial value from it; or not to ratify it. But they warned that if we did not ratify it, that would be construed as a repudiation of the contract and would place Eskom at risk of a claim from TNA of R43 million, as well as legal fees (see paragraph 4 of the opinion, particularly paragraph 4.1.3.2 and its subparagraphs).

31. In light of the risk of a repudiation and probable litigation, I believed that it was

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in Eskom's best interests to continue with the contract, rather than cancelling it. It was preferable for Eskom to procure value from the contract – which I understood, from Mr Matjila's submission, it would – than to risk being forced to pay damages for repudiating it and TNA cancelling pursuant to the repudiation, without Eskom receiving any commercial benefit.

32. My view that ratifying the contract as opposed to repudiating it made good commercial sense was based on, *inter alia*, the following information set forth in Mr Matjila's representations in response to SNG's report which accompanied the draft round robin resolution. In his representations, Mr Matjila explained the value which Eskom had and would continue to derive from the contract. *Inter alia*:

- 32.1 Mr Matjila recorded that similar contracts had been in place between Eskom and TNA regarding the same subject matter and that contract had come to an end (*vide*: paragraph 9.1).
- 32.2 According to Mr Matjila, the agreement offered a platform to Eskom to propagate its various campaigns including the publicised 49M campaign which reportedly was a phenomenal success (*vide*: paragraph 9.2).
- 32.3 This would be achieved by rights granted by TNA to Eskom (in terms of the agreement) in respect of business briefings posted by TNA

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including:

- 32.3.1 live (television) broadcasts of events for at least sixty minutes;
- 32.3.2 advertisements in the New Age newspaper;
- 32.3.3 two tables of ten guests each at the event;
- 32.3.4 banner advertisements on the New Age website;
- 32.3.5 use of social media;
- 32.3.6 Eskom logo displays on all invitations to events;
- 32.3.7 six pull-up banners at events;
- 32.3.8 two Eskom guests being allocated seats at the “main table”;
- 32.3.9 sponsor speech from the podium before the event broadcasts; and
- 32.3.10 the right to be consulted by TNA media regarding the decision on the identity of all guest speakers for business

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briefings (36 in total).

33. I therefore concluded that the contract was effectively a renewal except on more favourable terms, especially as Eskom would be saving 17% in agency fees if it had to procure similar publicity through a media agency. Eskom had already adopted this strategy prior to my appointment.
34. Moreover, at the time, Eskom was in financial disarray and I believed that management's attention would be better spent on focusing on its operational needs than attending to unnecessary disputes and likely litigation (which, as I understood the legal advice, it would lose).
35. I accordingly signed the round robin resolution and e-mailed it back to Mr Phukubje (copying the rest of the board, for the sake of transparency) on 5 February 2015. A copy of my e-mail and accompanying resolution is attached as "MP20". In addition, the Board adopted a resolution to clarify Eskom's delegation of authority policy inasmuch as Mr Matjila had interpreted the agreement to involve an investment and not a sponsorship, and the ambiguity in the delegation of authority policy needed to be clarified.
36. I did not discuss the TNA agreement, or my decision to ratify it, with any other board members before doing so. I was satisfied to take the decision on the documents made available to me.



37. I did not think it was strange or untoward that ratification of the TNA agreement was being sought by way of round robin resolution, rather than at a formal board meeting. I had not been at Eskom very long and assumed that it was common practice to take decisions by round robin. Also, the matter was urgent. (It had been common practice other boards that I sat on where a matter required urgent action or if management felt there was sufficient information available for a decision to be taken by round robin.) The TNA agreement, and payment under it, had been reported as an irregularity and, to my mind, it needed to be dealt with and swiftly. I also believed there was sufficient information available for the board to take a decision on it. Had I felt otherwise, I would have requested further information or requested that the matter be dealt with at a meeting of the board.
38. It also gave me comfort that Eskom's CEO and its CFO had been copied on the e-mail and that their approval for the resolution was also sought. If they had any concerns they would have been brought to the attention of other board members, since they were duty-bound to do so. They didn't raise any concerns at the time.
39. I did not know and was not told at the time which other board members also signed the round robin resolution, or whether anyone queried the ratification being dealt with by round robin.
40. The TNA Agreement was subsequently discussed at an ad hoc "in-committee"

special board meeting (which did not include executive management) held in the evening of 19 March 2015. I attach a copy of the minutes of the in-committee portion of that meeting as "MP21". (They are distinct from the minutes that the Commission has in its possession, which are the minutes of the main board meeting).

41. Although the minutes attached as "MP21" do not record my attendance, I was present at the meeting. I remember attending to discuss the suspension of executives (recorded in the minutes as item 8.3) and that the meeting ended shortly after midnight. I do not specifically recall the discussions regarding the TNA contract minuted at item 8.1. It is possible that I arrived late for the meeting and missed the TNA discussion. (Some leeway was allowed for directors to arrive late for ad hoc meetings that were scheduled urgently.) But because I have no recollection of the discussions, I cannot provide any information on why the TNA Agreement was raised at that meeting, by whom or what was finally resolved.
42. To my knowledge, the TNA agreement was dealt with only on one further occasion. The round robin resolution was tabled at the board meeting of 28 May 2015 "for ratification". I attach that minute as "MP22". Eskom's processes require that any resolution taken by round robin must be tabled at the next scheduled board meeting. (This would be a standard agenda item in all companies and not only with SOE's). As I understand it, this is to ensure that all board members are informed of whether the resolution was taken and

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that it is properly minuted. The resolution is not however tabled for reconsideration – although board members retain their ordinary entitlement to place on record any concerns or new information that has come to light.

43. I am recorded as having been in attendance at the meeting of 28 May 2015, but I cannot specifically recall any issues being raised at the meeting in regard to the TNA Agreement. I do not remember any concerns or issues being raised in this regard at that time. I had no further involvement in, or knowledge of, the TNA agreement.
44. I was not aware that Eskom had been asked to respond to parliamentary questions in relation to the TNA contract, or that the Public Protector had engaged Eskom in relation to it.


MARK PAMENSKY

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit was signed and sworn to before me at JOHANNESBURG on this the 16th day of OCTOBER 2019, and that the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having been complied with.


MARESA KURZ
Practising Attorney
Commissioner of Oaths Ex-Officio
34 Impala Road
Chislehurst, 2196 Johannesburg**COMMISSIONER OF OATHS**

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Gillian Rosslee

From: Mark Pamensky
Sent: 29 September 2014 09:32 AM
To: Gillian Rosslee
Subject: FW: Scan: Nomination for state companies
Attachments: 0566_001.pdf

please complete for me and get the info from the website. print before you work this article and come discuss.

From: Gillian Rosslee
Sent: 29 September 2014 08:11 AM
To: Mark Pamensky; Etienne De Villiers
Subject: Scan: Nomination for state companies

Kind regards

Gillian Rosslee
Personal Assistant to Mark Pamensky (C.O.O)



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From: BLTS Canon
Sent: 29 September 2014 08:10 AM
To: Gillian Rosslee
Subject: Attached Image

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Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

THE SOC WITHIN THE REMIT OF THE MINISTRY OF PUBLIC ENTERPRISES ARE

The Forestry and Timber Industry, Natural Resource Management and Development, Land Reclamation, Agro-Forestry, Community Development and Stakeholder Management.

HOW TO SUBMIT A NOMINATION

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A large crowd of people, mostly men, are gathered in an open area, possibly a park or a large square. They are dressed in casual clothing, and many are looking towards the camera. The background shows some trees and a clear sky.

- [illegible]

QUALITIES BEING SOUGHT IN NOMINEES

Among the documents which the nominee will be requested to submit should you be short-listed are:

- Signed acceptance of the nomination by the nominee;
- Certified copy of Identity Document;
- Certified copies of Qualifications;
- Certified evidence of Board experience and directorship (if any);
- **Declaration of interest** and/or potential interests including contracts and shareholdings in relation to the fact which the nominee has been nominated, in compliance with **Section 1 of the Public Service Management Act 2018** and **Section 225 of the Companies Act 2006** (see below).

• Nominees will be considered only after the verification of their academic qualifications and of their personal and financial situation.

- Appointment is subject to Cabinet approval.
- Appointment is subject to acceptance of undergoing security vetting.

- Notifications submitted via DocuFile will not be accepted.

- 10

- The Member reserves the right to extend, modify or withdraw the advertisement or amend any of the registered advertising materials at any time without prior notice and without liability to compensate or reimburse any party.

- The Advertiser reserves the right not to select any number of candidates.

For more information about each State-Owned Company, visit the EPC website on www.epc.gov.sg

2



Gillian Rosslee

From: Gillian Rosslee
Sent: 16 October 2014 01:21 PM
To: 'Eskom2014@dpe.gov.za'
Subject: Nomination of Mark Vivian Pamensky
Attachments: Nomination Form.pdf; CV and certified copy of ID.pdf; Certified copies of qualifications.pdf; Certified copy of proof of directorship.pdf

Good day,

Please find attached the completed nomination form for Mark Pamensky's nomination for possible appointment to the board of directors of Eskom.

Please also find attached the following:

- Mark Pamensky's Full CV
- Certified copy of his ID
- Certified copies all his qualifications
- Certified copy of his current directorship as per CIPC.

Kind regards

Gillian Rosslee

Executive Director (to Mark Pamensky) (G.D./D)



Direct Line: +27 11 523 3058
Office Line: +27 11 523 3030
Fax: +27 86 535 3031
Email: enquiries@eskom.co.za
Web: www.bluelabeltelecoms.com

blu

A handwritten signature in black ink, appearing to be 'Mak' or similar, with a long horizontal line extending from the bottom.



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

NOMINATION FORM FOR POSSIBLE APPOINTMENT TO THE BOARD OF DIRECTORS OF A STATE OWNED COMPANY WITHIN THE PORTFOLIO OF THE DEPARTMENT OF PUBLIC ENTERPRISES

Ms Lynne Brown, MP
Minister of Public Enterprises
Private Bag X15
Hatfield
0028

Dear Minister Brown,

RE: NOMINATION OF A SUITABLE PERSON FOR POSSIBLE APPOINTMENT TO THE BOARD OF DIRECTORS OF (ESKOM) (NAME OF SOC)

I, ETIENNE CHARL DE VILLIERS hereby nominate MARK VIVIAN PAMENSKY

to be considered for appointment to the Board of Directors of ESKOM
(NAME OF SOC) which reports to the Minister of Public Enterprises.

Has the nominee been contacted by the nominator to determine their interest in being nominated?

☒ YES ☐ NO

NOMINATOR	NOMINEE
DATE: 16-10-2014	DATE: 16-10-2014

Handwritten signature/initials

Nominator's Information

1.	Full name(s)	ETIENNE CHARL
2.	Surname	DE VILLIERS
3.	Residential address	70 GALLOPS DRIVE, BLUE HILLS COUNTRY ESTATE MIDRAND
4.	Telephone number (w)	011 523 3264
5.	Cellphone number	082 462 2980
6.	Email address	etienned@blts.co.za
7.	Employer	BLUE LABEL TELECOMS
8.	Employer's address	75 GRAYSTON DRIVE, MORNINGSIDE EXT 5 SANDTON 2196
9.	Occupation	GENERAL COUNSEL
10.	Qualification (s)	BA (LLB) ADMITTED ATTORNEY
11.	Relationship to the Nominee	PROFESSIONAL

Nominee's Information

1.	Full name(s)	MARK VIVIAN
2.	Surname	PAMENSKY
3.	Residential address	11 WEST ROAD SOUTH ESTATE FARRINGDON ROAD MORNINGSIDE EXT 130 SANDTON
4.	Telephone number (w)	011 523 3098
5.	Cellphone number	082 901 8173
6.	Email address	markp@blts.co.za
7.	Employer	BLUE LABEL TELECOMS
8.	Employer's address	75 GRAYSTON DRIVE, MORNINGSIDE EXT 5 SANDTON 2196
9.	Occupation	CA(SA)
10.	Qualification (s)	PLEASE SEE ATTACHED
11.	Relationship to the Nominator	PROFESSIONAL

NOTE:

Written nominations must contain the following:

- Completed nomination form downloaded from the DPE website;
- The full name, address and contact numbers of the nominator and the nominee;
- A comprehensive Curriculum Vitae of the nominee, including the following information:
Full names; Identity number; gender; demographic profile; current address; contact and fax numbers/email address; Certified copy of Identity Document; Certified copies of qualification and training; List of previous and current Board experience/directorships with reference to dates; and organisations and/or institutions concerned;
- Disclosure of current and/or potential interests, including contracts and shareholdings, in relation to the Board of the SOC that you wish to serve on in compliance with the requirements of section 50(3) of the Public Finance Management Act and section 75 of the Companies Act, 71 of 2008, respectively;
- Whether or not the nominee has a criminal record, including details of any defaults or judgments;
- Confirmation whether or not the nominee has ever been disqualified; placed on probation or declared a delinquent Director; and
- Any other motivation that may be of assistance.

Further considerations:

- Nominees will be considered only after the verification of their academic qualifications and of their personal details by the Department;
- Appointment is subject to Cabinet approval;
- Appointment is subject to acceptance of undergoing security vetting;
- Correspondence will be limited to short-listed candidates. If you do not receive any communication from the Department after a period of three months, please consider your application as having been unsuccessful;
- Nominations submitted via facsimile will not be accepted.

Disclaimers:

- The Minister reserves the right to amend, modify or withdraw this advertisement or amend any of the requirements set out herein at any time without prior notice and without liability to compensate or reimburse any party;
- Acknowledgement of the nomination does not mean acceptance as a candidate; and
- The Minister reserves the right not to select any nominee as a candidate.

***Failure to comply with any of the above requirements will result in the nomination not being considered.**

P. M. M.

CANDIDATE: MARK VIVIAN PAMENSKY
POSITION: CHIEF OPERATING OFFICER

PERSONAL PROFILE

I completed my articles with PriceWaterhouse Coopers before moving to the corporate finance department of Mercantile Bank in 1998. In 2000 I joined a boutique corporate advisory firm, Nucleus Corporate Finance, where after I was employed by Blue Label Investments in 2001 and was appointed COO in 2004, a position I have held since that date. I play an integral role in the strategic and operational management of the Blue Label Telecoms Group, and a significant portion of its local and global footprint can be attributed to my efforts. I'm a member of the South African Institute of Chartered Accountants (SAICA) and the Young Presidents Organisation (YPO).

I have approximately 18 years ongoing experience of Management, Operations, Sales, Marketing, and Strategy. I have in excess of 15 years' experience in solving complex business, product, technology, organisational structure and "people" problems in high-pressure environments.

I have a strong track record of helping to establish start-ups into successful businesses and effecting turn around strategies in others. I see myself as a serial innovator and a highly successful builder of high performance teams.

KEY ACHIEVEMENTS

I am currently employed by Blue Label Telecoms as the group COO. I serve as a member of the group's main board of directors and the executive team with specific responsibility for operations, corporate finance, information technology and strategic planning. This requires participating in defining and communicating the organisational culture, values, strategic direction and business objectives. This flows into several areas, specifically:

- Responsibility for planning and allocating resources in a manner consistent with the business objectives;
- Evaluating requirements for commercial partnerships / joint ventures;
- Developing plans to meet shareholder growth and profitability targets;
- Implementation of global best practice initiatives.

In my role at Blue Label I have:

- overseen revenue growth from R17 million, when I started in the business, to today's R17 billion
- seen the staff complement grow to its current 1600 personnel;
- ensured that the business has retrained technical staff and core skills;
- managed the business in terms of strategy, sales, profitability, training and development, staff and cost control;
- prepared budgets and achieved agreed results in terms of sales, turnover, profit and productivity for my areas of responsibility;
- been responsible for relationship building with key accounts' at executive management and senior management levels;
- focused on relationship building with stakeholders;
- developed new strategic partnerships with leading global technology suppliers;
- developed business plans for entering African, India & Mexico markets as well as other emerging markets;



- travelled extensively to ensure management input and oversight in respect of offshore subsidiaries, and have made and nurtured numerous in-country relationships;
- had direct reports from sales, marketing, operations, services, finance, IT and human resources functions within the group;
- served on numerous subsidiary boards and have provided strategic and commercial guidance to those companies;
- negotiated numerous long term, high value contracts for the group;
- carried out my fiduciary duties as Executive director listed Blue Label Telecoms Limited.

CANDIDATE PROFILE

I am self-motivated and robust leader and am in charge of a number of directives by companies to move into new territories. I have successfully established these operations, ranging from full presence with company set-up, to chair the entities forming the beachhead for the company presence.

I am articulate, self-motivated, focused, and professional and have a proven track record of establishing and maintaining strong, sustainable relationships that deliver. I am able to translate strategy into everyday operational requirements.

Having worked in many different subsidiaries, countries and cultures, I am able to navigate across customer, departmental, governmental and geographical boundaries.

Specialties

- Deal making, negotiation, innovation, performance management, leadership, team building, and strategy;

Experience

- Completed Accounts Articles at Top 4 auditing firm;
- Exposure to listed and unlisted companies, intimate working knowledge of financial and auditing reporting;
- Corporate Finance structuring, engineering, deal making and negotiation;
- Responsibility for operations of complex group of companies, in depth technology and business environmental knowledge;
- Team building and motivational abilities;
- Well regarded deal making skills;
- Extensive network.

Strengths

- Customer focused;
- Track record of over-achievement;
- Proven leadership skills;
- In-depth management experience;
- Know-how in corporate and start-ups;
- Analytical thinker with excellent commercial, strategy and negotiation skills;
- I have been integral in the growth of Blue Label Telecoms from an unlisted company with a presence only in South Africa to a listed entity with a market capitalisation of over R5 billion and revenues in excess of R17 billion as well as a presence in India, Mexico and until recently Nigeria;
- I have honed my management and leadership skills substantially through my work experience and I am well respected by staff and colleagues;
- I have initiated complex projects and seen them through to completion;
- I am able to negotiate difficult transactions in highly pressurised situations;

MVP
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- I have assisted in the structuring and implementation of intricate deal structures and have guided start-ups to profitability and have turned around loss making business.

Other Interests

- I exercise widely and extensively. I enjoy golf and attending sporting events. My recreational time is unfortunately limited, but when I do get a chance, I enjoy unwinding at Pescanwood and reading. I am very interested in technology and its applications, particularly telecommunications. I enjoy reading and researching this subject extensively.
- Hobbies / Interests: Family; Business; Reading; Sport
- I am physically fit and healthy. I am currently actively involved in running

PERSONAL MISSION STATEMENT

I will always seek and merit personal growth, happiness at home and success at work. I will never compromise on honesty, even if it may affect me materially.

I will not fear mistakes, only the absence of corrective action, and the reluctance to learn. People on my team are important to me and I will facilitate and celebrate their success. I will delegate responsibility to those who seek it, but never relinquish accountability.

I will obtain the council of those more knowledgeable than me, yet reach my own opinion and take decisive action when required. I will listen to others with due respect and only speak when I can contribute meaningfully.

I will always maintain a positive attitude and a healthy sense of humour, while focusing on the task on hand to the best of my ability. I will keep an open mind and try to learn something new on a daily basis.

OBJECTIVE

THE ROLE

My objective is always to find a role where I can use my strengths in conceptualisation and strategic planning. Ideally this role will offer scope for learning about a new area of business, make a substantial contribution to overall business strategy, and represent an intellectual challenge. The role must have merger and acquisition opportunities. The role should give me the opportunity to make a difference to people by helping them to learn and develop their full potential.

THE PEOPLE

The people working directly with or for me must be strong executors with above average intellectual capacity. I look for an aspirational leadership team, and specifically an aspirational mentor with that team that is prepared to contribute to my development. Within the broader organisation I look for a track record of innovation and the flexibility and fluidity to adapt rapidly to change.

ACADEMIC QUALIFICATIONS

1990 Matriculated with University exemption – King David Victory Park
(Distinctions in Math, History, Accounting and Business economics)

1995 Bachelor of Commerce
University of Witwatersrand

1998 Honours Bachelor of Accounting Science
University of SA

1999 Public Accountants & Auditors Board

1999 South African Institute of Chartered Accountants

CAREER BACKGROUND: - Current

January 2001 – Present
Blue Label Telecoms Limited Ltd
Chief Operating Officer

CAREER BACKGROUND: - Previous

Price Waterhouse Coopers – (Articles) Jan – Nov 1998
Mercantile Bank – Corporate Finance (2 years) as a Consultant – Dec 1998 – 2000
Nucleus Corporate Time – (1 year) as a consultant – 2000 – 2001

OTHER COMPANIES/ORGANISATIONS I'M INVOLVED IN:

I am an active Director on many of the boards of the subsidiary and associate companies with Blue Label Group. I am also a member of the Young Presidents Organisation, I am currently a director of various outside entities that involve mainly commercial/residential properties.

PERSONAL DETAILS

FULL NAME: Mark Vivian Pamensky

ID NUMBER: 720913 5261 089

GENDER: Male

DEMOGRAPHIC PROFILE: Caucasian

PHYSICAL ADDRESS: 11 West Road South Estate
Farringdon Road
Morningside Ext 180 2191

CONTACT NUMBERS: (t) 011 523 3098
(f) 011 523 3031
(c) 082 901 8173

EMAIL ADDRESS: markp@blts.co.za





Certified True Copy of Original

[Signature]
 16-14
Etienne Chari de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3030

[Handwritten signature]

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**TRANSVAALSE
ONDERWYSDEPARTEMENT**



**TRANSVAAL
EDUCATION DEPARTMENT**

43781/0412

HIERMEER WORD GESKRIFTEER DAT

THIS IS TO CERTIFY THAT

PAMENSKY, MARK VIVIAN

IDENTITEITSNUMMER

7209135761089

IDENTITY NUMBER

AAN AL DIE EKSAMENVEREISTES
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SATISFIED ALL THE EXAMINATION
REQUIREMENTS FOR THE

**SENIORSERTIFIKAAT
SENIOR CERTIFICATE**

STUDIERIGTING

ECONOMIC SCIENCE

VAKKE GELEAG
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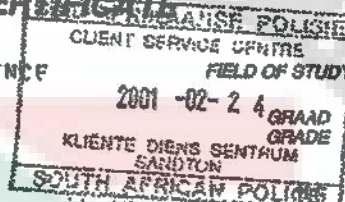
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HISTORY

ACCOUNTING

BUSINESS ECONOMICS

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K-10-14
Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
15 Grayston Drive, Sandton
Tel: 011 528 3030

UITVOERENDE DIREKTEUR: ONDERWYS
EXECUTIVE DIRECTOR: EDUCATION

DATUM VAN UITREIKING

1991.01.01

DATE OF ISSUE

THIS CANDIDATE HAS, WITH EFFECT FROM 1991.01.01 BEEN EXEMPTED
FROM THE MATRICULATION EXAMINATION OF THE UNIVERSITIES
ESTABLISHED IN THE REPUBLIC OF SOUTH AFRICA BY ACTS OF
PARLIAMENT.

SEKRETARIS/SECRETARY

GENEESKAPLIKE MATRIVULSTERAAD/JOINT MATRICULATION BOARD

SIMBOOL/WAARDES/VALUE OF SYMBOLS

A 80% — 100%	D 50% — 59%	HG Hoër Graad	SG Standaardgraad	LG Laer Graad
B 70% — 79%	E 40% — 49%	HG Higher Grade	SG Standard Grade	LG Lower Grade
C 60% — 69%	F 33 1/3% — 39%			

Hierdie sertiikaat word uitgereik sonder verandering of uitwissing van enige aard.
This certificate is issued without alteration or erasure of any kind.

TRANSVAALSE
ONDERWYSDEPARTEMENT



TRANSVAAL
EDUCATION DEPARTMENT

TOD/TED 546
Edinb 6/90

UITSLAG VAN DIE SENIORCERTIFIKAAT-EKSAMEN EN SIMBOLE BEHAAL RESULT OF THE SENIOR CERTIFICATE EXAMINATION AND SYMBOLS OBTAINED

90/11
HIERMEE WORD VERKLAAR DAT/THIS IS TO CERTIFY THAT

PAMFUSKY, MARK VIVIAN

EKSAMENNOMMER
EXAMINATION NUMBER

43781 / 412

soos volg in hierdie eksamen gepresteer het:-
obtained the following results in this examination:-

A. UITSLAG VAN DIE EKSAMEN/RESULT OF THE EXAMINATION
PASSED WITH MATRICULATION EXEMPTION.

B. SIMBOLE BEHAAL/SYMBOLS OBTAINED

D ENGLISH FIRST LANGUAGE HG
D AFRIKAANS TAALDE TAAL HG
A MATHEMATICS SG
A HISTORY HG
B ACCOUNTING HG
A BUSINESS ECONOMICS HG

C. STUDIERIGTING/FIELD OF STUDY
ECONOMIC SCIENCE

Certified True Copy of Original

16-10-14
Etienne Charl de Villiers
Namens UITVOERENDE DIREKTOR : ONDERWYS
For EXECUTIVE DIRECTOR : EDUCATION
75 Grayston Drive, Sandton
Tel: 011 523 3030

Hierdie verklaring word uitgereik sonder verandering of uitwissing van enige kind.
This statement is issued without alteration or erasure of any kind.

PERSENTASIEWAARDE VAN SIMBOLE/PERCENTAGE VALUE OF SYMBOLS

A - 80% en meer/and over
B - 70-79%
C - 60-69%

D - 50-59%
E - 40-49%
F - 30-39%

FF - 30-39%
G - 20-29%
H - 0-19%

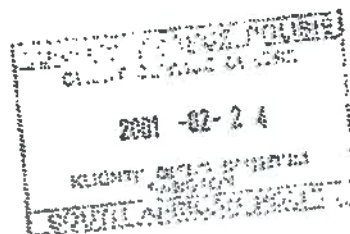
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(#) teenoor 'n vak dui aan dat die vak op die standaardgraad geskryf is maar op die laer graad geslaag is.

An asterisk (*) against a subject indicates that the subject has been written on the Higher Grade but has been passed on the Standard Grade.

(#) against a subject indicates that the subject has been written on Standard Grade but has been passed on Lower Grade.

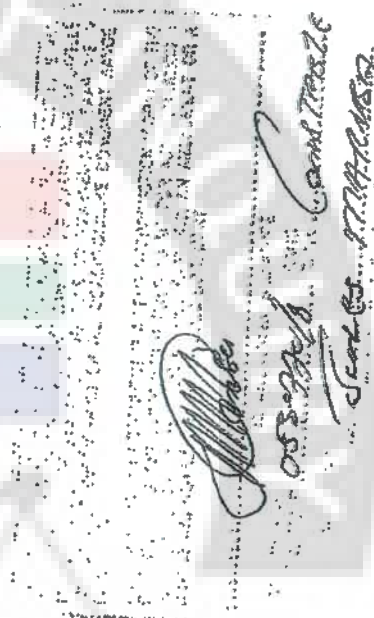
KYK OP KEERSY VIR HERWAGINGS VAN EKSAMENSKRIFTE EN VERDERE INLIGTING
SEE REVERSE SIDE FOR REMARKING OF EXAMINATION SCRIPTS AND FURTHER INFORMATION.



UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG

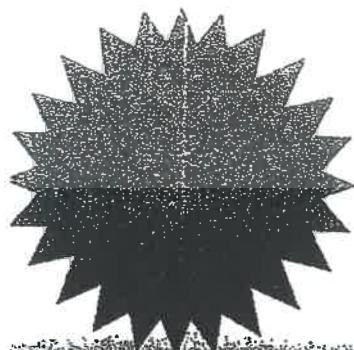
At a congregation of the University
held on 11 May 1995

Mark Vivian Pamensky
was admitted to the Degree of
Bachelor of Commerce



Dean, Faculty of Commerce

Vice-Chancellor and Principal



Certified True Copy of Original

16-10-14
Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3030

AMC

University of South Africa



We certify that

Mark Vivian Pamensky

having complied with the requirements of the Act
and Statute, was admitted to the degree of

HONOURS BACHELOR OF ACCOUNTING SCIENCE

at a congregation of the University

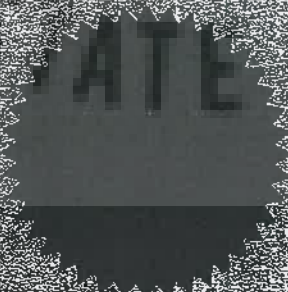
on 11 May 1998

Certified True Copy of Original

Exhibited to the
Examination Commission
on 11 May 1998
and 11 May 1999

Antony M. J. de Vries

Vice-Chancellor



Mark Pamensky

Dean

Mark Pamensky

Dean

PRINTER

AMK

PRICEWATERHOUSECOOPERS

SERVICE CERTIFICATE

We herewith certify that
MARK VIVIAN PAMENSKY

has been in the employ of PricewaterhouseCoopers
from 1 January 1995 to 30 November 1998

in the final position of
Accountant 2

This certificate is released without amendments on

20 February 2001
at
Sunninghill

Certified True Copy of Original

Certified by:

B. Mackinnon

16-10-14
Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3090

20.02.2001

PRICEWATERHOUSECOOPERS

Date

Am



Public Accountants' & Auditors' Board

This is to certify that

Mark Vivian Pamensky
in

June 1999
passed

the Qualifying Examination and completed the
required period of practical training

in **November 1998**

as prescribed by the
Public Accountants' and Auditors' Board in terms
of the provisions of the Public Accountants'
and Auditors' Act, 1991.

Given under our hands this **22** day of

September 1999
Certified True Copy of Original

S. J. J. J.
Chairman

M. J. J.
Director

16-10-14
Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3030



NO 8957

UNK
A



The South African Institute of Chartered Accountants

6 March 2001

TO WHOM IT MAY CONCERN

This is to certify that **MARK VIVIAN PAMENSKY (03320491)** joined The South African Institute of Chartered Accountants in 1999 and is a member in good standing.

MARK VIVIAN PAMENSKY was admitted by examination and we are unaware of any reason why **MARK VIVIAN PAMENSKY** should be disqualified for admission to any other Institute.

Yours faithfully

Sarah Wadlow
Membership Manager

Certified True Copy of Original

[Signature]
16-10-14
Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3030

[Handwritten signature]



The South African Institute of Chartered Accountants
Die Suid-Afrikaanse Instituut van Geoktrooieerde Rekenmeesters

Certificate of Membership Sertifikaat van Lidmaatskap

This is to recognise that / Hiermee word gesertifiseer dat

Mark Vivian Panyensky

is a member of the Institute and became entitled to the
designation Chartered Accountant (SA)

is a member of the Institute and became entitled to the
benaming Geoktrooieerde Rekenmeester (SA)

NAME IN ENGLISH: *Mark Vivian Panyensky*
NAME IN AFRIKANS: *Mark Vivian Panyensky*
DATE OF BIRTH: *05-03-1956*
DATE OF ENTRY: *1999*

SUID-AFRIKAANSE BOEKHOUDERS
CLIENT SERVICE CENTRE
JAN 1999

Given under the Common Seal of the Institute

Gedeken onder die Gewone Seel van die Instituut

Chief Executive
Hoof Uitvoerende Beampte

Secretary of the Institute and
Secretary of the Institute of Chartered
Accountants of South Africa
of the 100th Anniversary
celebrations of the 100th Anniversary
celebrations of the 100th Anniversary



Certified True Copy of Original

16-10-1999
Ex-Officio Commissioner of
75 Grosvenor Drive, Sandton

Pank



Director Details
ID Number: 7289135351085
Surname: PAMEISKY

Login

Search E 400665



Company Name	Company Status	Registration Date	Company Status	Company Type
CONEX INVESTMENT HOLDINGS	In Business	20000329	In Business	Other Organisation
CONEX FASHIONS	Conversion COCC or COCC	20211115	Conversion COCC or COCC	Private Company
JWELL LAFORD CREATIONS	Conversion COCC or COCC	10000508	Conversion COCC or COCC	Private Company
MONICURE INVESTMENTS	In Business	19520912	In Business	Private Company
EVERTRADE 34	In Business	20000307	In Business	Private Company
IFO INVESTMENTS	In Business	20000306	In Business	Private Company
YELLOWSTAR TRADING 1089	In Business	20000818	In Business	Private Company
AFRICANWAVE HOLDINGS	In Business	20000806	In Business	Private Company
ZIMBA 210	In Business	20040808	In Business	Private Company
AFRICA FREEMO SERVICES	In Business	20041210	In Business	Private Company
FREDSHIF 603	In Business	20091123	In Business	Private Company
FREDSHIF 600	In Business	20091129	In Business	Private Company
PLI INVESTMENTS	In Business	20060306	In Business	Private Company
MATRA-BONHOUSE	In Business	20070505	In Business	Private Company
BLUE LINES TELECOMS	In Business	20060721	In Business	Private Company
PLI BRIDGE PROP	Deregulation First	20060726	Deregulation First	Private Company
BORDELO PROPERTIES	In Business	20070422	In Business	Private Company
OWAAR EQUITIES	In Business	20071017	In Business	Private Company

Certified True Copy of Original

16-10-11

Etienne Charl de Villiers
Ex Officio Commissioner of Oaths
75 Grayston Drive, Sandton
Tel: 011 523 3030

3



Gillian Rosslee

From: Eskom2014 <Eskom2014@dpe.gov.za>
Sent: 21 October 2014 11:50 AM
To: Gillian Rosslee
Subject: RE: Nomination of Mark Vivian Pamensky

Your application for Board of Directors of Eskom is hereby acknowledged.

From: Gillian Rosslee [mailto:gillianr@blts.co.za]
Sent: 16 October 2014 01:25 PM
To: Eskom2014
Subject: Nomination of Mark Vivian Pamensky

Good day,

Please find attached the completed nomination form for Mark Pamensky's nomination for possible pointment to the board of directors of Eskom.

Please also find attached the following:

- Mark Pamensky's Full CV
- Certified copy of his ID
- Certified copies all his qualifications
- Certified copy of his current directorship as per CIPC.

Kind regards

Gillian Rosslee
Personal Assistant to Mark Pamenky (C.O.O)



Direct Line: +27 11 523 3058
Office Line: +27 11 523 3030
Faxmail: +27 86 535 3031
Email: gillianr@blts.co.za
Web: www.bluelabeltelecoms.com

blū

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Mark Pamensky

From: Miriam Maroga <Miriam.Maroga@dpe.gov.za>
Sent: 11 December 2014 10:04 AM
To: Mark Pamensky
Cc: Matsietsi Mokholo; Jumarie Botha; Orcilla Ruthnam; Kim Davids; Melanchton Makobe; Lawrence Nevondo; Sarah Setshedi; Vinolia Mashodi; 'ztsotsi@liquifire.biz'; Gugu Mbatha; Brendon Roberts
Subject: Appointment as Non-Executive Director: Eskom Board
Attachments: SDG14121108311.pdf

Importance: High

Good Morning

Attached, please find the letter from the Minister of DPE for your attention.

Kind regards,

Miriam





**MINISTER
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA**

Private Bag 2016, Hatfield, 0081 Tel: 012-431 1111 Fax: 012-431 1000
Private Bag 20073, Cape Town, 8001 Tel: 021-461 6876 Fax: 021-461 6877/021 1741

Mr Mark Vivian Pamensky
PO Box 850115
Benmore
2010

Tel: 082 901 8173
Email: marko@blis.co.za

Dear Mr Pamensky

Appointment as Non-Executive Director: Eskom Board

I am pleased to inform you of your appointment to the Board of Directors of Eskom ("Eskom Board") as a Non-Executive Director, with effect from 11 December 2014, for a three-year term, subject to annual review.

The term of appointment is subject to review by the Shareholder and confirmation at the Eskom Annual General Meeting. This review will be supported by the annual evaluation of the performance of the Eskom Board and its Committees. By accepting this appointment, you confirm that you are able to allocate sufficient time to meet the requirements of serving on the Board. I plan on holding an induction of all Directors prior to the first meeting of the Board, to elucidate on, amongst others, clarification of roles and the Shareholder's expectations.

Your fee structure will be based on the DPE-approved Remuneration Guidelines for State-Owned Companies. Directors' and Officers' liability insurance is maintained by Eskom, full details of which will be made available to you by Eskom.

Your appointment is regulated by the provisions of the Companies Act No. 71 of 2008, the Public Finance Management Act No. 1 of 1999, the Protocol on Corporate Governance in the Public Sector (currently under review) as well as the Shareholder's Compact entered into between the Eskom Board and myself.

I trust that the above is clear. If, however, you have any questions regarding this appointment, please do not hesitate to raise them with myself.

Please accept my sincere appreciation in anticipation of your commitment and contribution in steering Eskom towards its future success.

Am

It would be appreciated if you can confirm your acceptance hereof by signing the attached statement and returning a copy to myself.

Yours sincerely


MS LYNNE BROWN, MP
MINISTER OF PUBLIC ENTERPRISES
DATE: 16/12/2014





**public enterprises**

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

I, _____, hereby accept the appointment as Non-Executive Director to the Board of Eskom. I undertake to observe and comply with the principles and provisions of all legislation relevant to Eskom, the Protocol on Corporate Governance (currently under review) and the provisions of the Shareholder's Compact to be entered into between Eskom and Government, to devote sufficient time for the execution of my responsibilities, to utilize my skills to the best of my ability, to initiate, develop and implement systems or mechanisms for the effective and efficient management of Eskom, and to maintain and observe the highest standards of integrity and probity in the execution of my responsibilities.

Mr Mark Vivian Pamensky

Date: _____

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Mark Pamensky

From: Mark Pamensky
Sent: 15 December 2014 10:12 AM
To: Mark Pamensky (markp@blts.co.za)
Subject: FW: nomination
Attachments: Curriculum Vitae - Mark Pamensky Dec 2014.docx; Current Directships - Mark Pamensky.docx

From: Mark Pamensky
Sent: 15 December 2014 10:10 AM
To: 'Malesela Phukubje'; 'Miriam Maroga'; 'Lawrence Nevondo'
Cc: Mark Levy
Subject: nomination

Dear Sirs,

I am honoured by my nomination as a non-executive director to Eskom. I would like to accept this esteemed position but as an executive director of Blue Label Telecoms LTD, feel it would be appropriate for me to disclose that one of Blue Label's subsidiaries, namely CigiCell (Pty) Limited, has had a contract for the supply of online vending for prepaid electricity sales since 2007 under contract number 4600025772. I do not sit on the board of Cigicell (Pty) Limited. I further attached my updated CV and list of directorships, some which are not reflected on CPIC.

If my acceptance of the non-executive directorship in any way jeopardises any current or future dealings between Cigicell and Eskom, then please inform me, as I would have to reconsider the position.

I trust you will find the above in order and I look forward to hear from you.

Kind regards,

Mark Pamensky
Chief Operating Officer



Direct Line : +27 11 523 3098
Office Line : +27 11 523 3030
Fax : +27 11 523 3031
Fax to email : +27 86 680 9896
Email : markp@blts.co.za
Web : www.bluelabeltelecoms.com

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CANDIDATE: MARK VIVIAN PAMENSKY
 POSITION: CHIEF OPERATING OFFICER

PERSONAL PROFILE

I completed my articles with PriceWaterhouse Coopers before moving to the corporate finance department of Mercantile Bank in 1998. In 2000 I joined a boutique corporate advisory firm, Nucleus Corporate Finance, where after I was employed by Blue Label Investments in 2001 and was appointed COO in 2004, a position I have held since that date. I play an integral role in the strategic and operational management of the Blue Label Telecoms Group, and a significant portion of its local and global footprint can be attributed to my efforts. I'm a member of the South African Institute of Chartered Accountants (SAICA) and the Young Presidents Organisation (YPO).

I have approximately 18 years ongoing experience of Management, Operations, Sales, Marketing, and Strategy. I have in excess of 15 years' experience in solving complex business, product, technology, organisational structure and "people" problems in high-pressure environments.

I have a strong track record of helping to establish start-ups into successful businesses and effecting turn around strategies in others. I see myself as a serial innovator and a highly successful builder of high performance teams.

KEY ACHIEVEMENTS

I am currently employed by Blue Label Telecoms as the group COO. I serve as a member of the group's main board of directors and the executive team with specific responsibility for operations, corporate finance, information technology, and strategic planning. This requires participating in defining and communicating the organisational culture, values, strategic direction, and business objectives. This flows into several areas, specifically:

- Responsibility for planning and allocating resources in a manner consistent with the business objectives;
- Evaluating requirements for commercial partnerships / joint ventures;
- Developing plans to meet shareholder growth and profitability targets;
- Implementation of global best practice initiatives.

In my role at Blue Label I have:

- overseen revenue growth from R17 million, when I started in the business, to today's R17 billion
- seen the staff complement grow to its current 1600 personnel;
- ensured that the business has retained technical staff and core skills;
- managed the business in terms of strategy, sales, profitability, training and development, staff and cost control;
- prepared budgets and achieved agreed results in terms of sales, turnover, profit and productivity for my areas of responsibility;
- been responsible for relationship building with key accounts' at executive management and senior management levels;
- focused on relationship building with stakeholders and key clients/customers ;
- developed new strategic partnerships with leading global technology suppliers;
- developed business plans for entering African, India & Mexico markets as well as other emerging markets;

P. Pamensky

- travelled extensively to ensure management input and oversight in respect of offshore subsidiaries, and have made and nurtured numerous in-country relationships;
- had direct reports from sales, marketing, operations, services, finance, IT and human resources functions within the group;
- served on numerous subsidiary boards and have provided strategic and commercial guidance to those companies;
- negotiated numerous long term, high value contracts for the group;
- carried out my fiduciary duties as Executive director listed Blue Label Telecoms Limited.

CANDIDATE PROFILE

I am self-motivated and robust leader and am in charge of a number of directives by companies to move into new territories. I have successfully established these operations, ranging from full presence with company set-up, to chair the entities forming the beachhead for the company presence.

I am articulate, self-motivated, focused, and professional and have a proven track record of establishing and maintaining strong, sustainable relationships that deliver. I am able to translate strategy into everyday operational requirements.

Having worked in many different subsidiaries, countries and cultures, I am able to navigate across customer, departmental, governmental and geographical boundaries.

Specialties

- Deal making, negotiation, innovation, performance management, leadership, team building, and strategy;

Experience

- Completed Accounts Articles at Top 4 auditing firm;
- Exposure to listed and unlisted companies, intimate working knowledge of financial and auditing reporting;
- Corporate Finance structuring, engineering, deal making and negotiation;
- Responsibility for operations of complex group of companies, in depth technology and business environmental knowledge;
- Team building and motivational abilities;
- Well regarded deal making skills;
- Extensive network.

Strengths

- Customer focused;
- Track record of over-achievement;
- Proven leadership skills;
- In-depth management experience;
- Know-how in corporate and start-ups;
- Analytical thinker with excellent commercial, strategy and negotiation skills;
- I have been integral in the growth of Blue Label Telecoms from an unlisted company with a presence only in South Africa to a listed entity with a market capitalisation of over R5 billion and revenues in excess of R17 billion as well as a presence in India and Mexico;
- I have honed my management and leadership skills substantially through my work experience and I am well respected by staff and colleagues;
- I have initiated complex projects and seen them through to completion;
- I am able to negotiate difficult transactions in highly pressurised situations;

P. M. M.

- I have assisted in the structuring and implementation of intricate deal structures and have guided start-ups to profitability and have turned around loss making business.

Other Interests

- I exercise widely and extensively. I enjoy golf and attending sporting events. My recreational time is unfortunately limited, but when I do get a chance, I enjoy unwinding at Peacanwood and reading. I am very interested in technology and its applications, particularly telecommunications. I enjoy reading and researching this subject extensively.
- Hobbies / Interests: Family; Business; Reading; Sport.
- I am physically fit and healthy. I am currently actively involved in running.

PERSONAL MISSION STATEMENT

I will always seek and merit personal growth, happiness at home and success at work. I will never compromise on honesty, even if it may affect me materially.

I will not fear mistakes, only the absence of corrective action, and the reluctance to learn. People on my team are important to me and I will facilitate and celebrate their success. I will delegate responsibility to those who seek it, but never relinquish accountability.

I will obtain the counsel of those more knowledgeable than me, yet reach my own opinion and take decisive action when required. I will listen to others with due respect and only speak when I can contribute meaningfully.

I will always maintain a positive attitude and a healthy sense of humour, while focusing on the task on hand to the best of my ability. I will keep an open mind and try to learn something new on a daily basis.

OBJECTIVE

THE ROLE

My objective is always to find a role where I can use my strengths in conceptualisation and strategic planning. Ideally this role will offer scope for learning about a new area of business, make a substantial contribution to overall business strategy, and represent an intellectual challenge. The role must have merger and acquisition opportunities. The role should give me the opportunity to make a difference to people by helping them to learn and develop their full potential.

THE PEOPLE

The people working directly with or for me must be strong executors with above average intellectual capacity. I look for an aspirational leadership team, and specifically an aspirational mentor with that team that is prepared to contribute to my development. Within the broader organisation I look for a track record of innovation and the flexibility and fluidity to adapt rapidly to change.

ACADEMIC QUALIFICATIONS

1990 Matriculated with University exemption -- King David Victory Park
(Distinctions in Math, History, Accounting and Business economics)

1995 Bachelor of Commerce
University of Witwatersrand

1998 Honours Bachelor of Accounting Science
University of SA

1999 Public Accountants & Auditors Board

1999 South African Institute of Chartered Accountants

CAREER BACKGROUND: - Current

January 2001 -- Present
Blue Label Telecoms Limited Ltd
Chief Operating Officer

CAREER BACKGROUND: - Previous

Price Waterhouse Coopers -- (Articles) Jan -- Nov 1998
Mercantile Bank -- Corporate Finance (2 years) as a Consultant -- Dec 1998 -- 2000
Nucleus Corporate Time -- (1 year) as a consultant -- 2000 -- 2001

OTHER COMPANIES/ORGANISATIONS I'M INVOLVED IN:

I am an active Director on many of the boards of the subsidiary and associate companies with Blue Label Group. I am also a member of the Young Presidents Organisation, I am currently a director of various outside entities that involve mainly commercial/residential properties.

PERSONAL DETAILS

FULL NAME: Mark Vivian Pamensky

ID NUMBER: 720913 5261 069

GENDER: Male

DEMOGRAPHIC PROFILE: Caucasian

PHYSICAL ADDRESS: 11 West Road South Estate
Farringdon Road
Morningside Ext 190 2191

CONTACT NUMBERS: (t) 011 523 3098
(f) 011 523 3031
(c) 082 901 8173

EMAIL ADDRESS: markp@blts.co.za

MARK PAMENSKY

CURRENT DIRECTORSHIPS

1. AFRICAN PREPAID SERVICES (PTY) LTD
2. AFRICAN IVORY HOLDINGS (PTY) LTD
3. BIT INFORMATION TECHNOLOGY (PTY) LTD
4. BLUE LABEL TELECOMS LIMITED
5. BORDELO PROPERTIES (PTY) LTD
6. CLIFFROCK SHARE BLOCK COMPANY (PTY) LTD (NOT REFLECTING ON CIPC)
7. CONTEX FASHIONS CC
8. CONTEX INVESTMENT HOLDINGS CC
9. EVERTRADE 34 (PTY) LTD
10. FRIEDSHELF 663 (PTY) LTD
11. FRIEDSHELF 669 (PTY) LTD
12. IPO INVESTMENTS (PTY) LTD
13. JANE LANFORD CREATIONS CC
14. MATRAGON HOUSE (PTY) LTD
15. MONIQUE INVESTMENTS (PTY) LTD
16. OAKBAY RESOURCES AND ENERGY LIMITED (NOT REFLECTING ON CIPC)
17. PLL INVESTMENTS (PTY) LTD
18. YELLOW STAR TRADING 1099 (PTY) LTD
19. ZAMORI 219 (PTY) LTD
20. ZRP INVESTMENTS (PTY) LTD
21. AFRICA PREPAID NIGERIA LIMITED
22. BLUE LABEL MEXCO
23. SMART VOUCHER LIMITED
24. 2DFINE HOLDINGS MAURITIUS (Alternative director)
25. 2DFINE INVESTMENTS MAURITIUS (Alternative director)



6



Mark Pamensky

From: Malesela Phukubje <PhukubM@eskom.co.za>
Sent: 18 December 2014 12:25 PM
To: Mark Pamensky; Miriam Maroga; Lawrence Nevondo
Cc: Mark Levy
Subject: RE: nomination

Dear Mr. Pamensky,

Thanks for your e-mail message and sorry for the delay in getting back to you.

I have noted the information you provided and the issue regarding declarations will arise when you come for a Board meeting and make your declarations of interest formally.

Please do not hesitate to contact us should you require any assistance.

I look forward to working with you and the other members of the Board.

Kind regards,

Malesela Phukubje | Company Secretary
 Office of the Company Secretary | Office of the Chairman | Third Floor T36
 2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 652 3139 |
 eFac: 0866523139
 E-mail : phukubm@eskom.co.za
 Secretariat website: http://slvmas045.eskom.co.za/corporate_secretariat/



18 Dec 2014 12:25 PM

From: Mark Pamensky [mailto:markp@blts.co.za]
Sent: Monday, December 15, 2014 10:10 AM
To: Malesela Phukubje; Miriam Maroga; Lawrence Nevondo
Cc: Mark Levy
Subject: nomination



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HOME

ABOUT US

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INVESTOR & MEDIA RELATIONS



Dear Sirs,

Handwritten signature

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If my acceptance of the non-executive directorship in any way jeopardises any current or future dealings between CigiCell and Eskom, then please inform me, as I would have to reconsider the position.

I trust you will find the above in order and I look forward to hear from you.

Kind regards

Mark Pamensky
Chief Operating Officer



Direct Line : +27 11 523 3088
Office Line : +27 11 523 3030
Fax : +27 11 523 3031
Fax to email : +27 86 680 9896
Email : markp@blts.co.za
Web : www.bluelabeltelecoms.com

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I'm part of the 49Million initiative.
<http://www.49Million.co.za>

NB: This Email and its contents are subject to the Eskom Holdings SOC Limited EMAIL LEGAL NOTICE which can be viewed at http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx

7



Mark Pamensky

From: Shelley Pather <Shelley.Pather@dpe.gov.za>
Sent: 18 December 2014 04:51 PM
To: Mark Pamensky
Cc: Orcilla Ruthnam; Matsietsi Mokholo; Melanchton Makobe; Brendon Roberts; Msekeli Willie
Subject: Confidential: Directorships and Disclosure of Interests
Attachments: Current Directships - Mark Pamensky.docx
Importance: High

Dear Mark

Our telecon of earlier this afternoon has reference. Thank you for taking the time to talk to me and apologies for the interruption whilst you are abroad. As mentioned, I work in the Governance unit at the DPE.

With reference to your below-mentioned email to our Director-General's office and to the Eskom Company Secretary, we note your attached list of directorships and thank you for same. As we would like to finalise the process and provide Minister with all the necessary information, we request that you kindly provide us with detailed information pertaining to the following:

1. Directorships in the above-mentioned companies that you currently occupy;
2. Shareholdings and/or investments therein;
3. Whether there are any current or potential contracts/dealings between any of these companies and Eskom SOC Ltd; and
4. The Materiality of these contracts
5. Any additional information that may be relevant to these discussions.

Whilst there may be a perceived conflict regarding Blue Label Telecoms, it is important for the Department to understand the materiality thereof, to enable us as the Shareholder, to act accordingly.

As agreed, I look forward to you providing me with this information during the course of the morning, tomorrow.

Thank you.

Warm Regards

Shelley Pather | Director: Governance

Legal and Governance Unit

+27 (0)12 431 1156 | +27 (0)86 628 8367 | shelley.pather@dpe.gov.za

1080 Arcadia Street | InfoTech Building | Hatfield | Pretoria | Switchboard: +27 12 431 1000



public enterprises
 Department:
 Public Enterprises
 REPUBLIC OF SOUTH AFRICA

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 Click on the following link to view directions to DPE <http://www.dpe.gov.za/home.asp?id=1053>

Amie

From: Mark Pamensky [mailto:markp@blts.co.za]
 Sent: 15 December 2014 10:10 AM
 To: Malesela Phakubje; Miriam Maroga; Lawrence Nevondo
 Cc: Mark Levy
 Subject: nomination



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I trust you will find the above in order and I look forward to hear from you.

Kind regards

Mark Pamensky
 Chief Operating Officer



Direct Line : +27 11 523 3098
 Office Line : +27 11 523 3030
 Fax : +27 11 523 3031
 Fax to email : +27 86 680 9896
 Email : markp@blts.co.za
 Web : www.bluelabeltelecoms.com

For Disclosure and Confidentiality Note: [click here](#)

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MARK PAMENSKY

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25. 2DFINE INVESTMENTS MAURITIUS (Alternative director)



8



Mark Pamensky

From: Matsietsi Mokholo <Matsietsi.Mokholo@dpe.gov.za>
Sent: 19 December 2014 07:51 AM
To: Shelley Pather
Cc: Mark Pamensky; Orcilla Ruthnam; Melanchton Makobe; Brendon Roberts; Msekeli Willie
Subject: Re: Confidential: Directorships and Disclosure of Interests

Thanks Shelley, we will await Mark's response.

Regards

Matsi

Sent from my iPad

On 18 Dec 2014, at 4:50 PM, Shelley Pather <Shelley.Pather@dpe.gov.za> wrote:

Dear Mark

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With reference to your below-mentioned email to our Director-General's office and to the Eskom Company Secretary, we note your attached list of directorships and thank you for same. As we would like to finalise the process and provide Minister with all the necessary information, we request that you kindly provide us with detailed information pertaining to the following:

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Shelley Pather | Director: Governance

Legal and Governance Unit

<image001.gif>+27 (0)12 431 1156 | <image002.gif>+27 (0)86 628 8357 |

<image003.gif>shelley.pather@dpe.gov.za

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<image004.jpg>

Click on the following link to view DPE website & email disclaimer <http://www.dpe.gov.za/home.asp?id=10>
Click on the following link to view directions to DPE <http://www.dpe.gov.za/home.asp?id=1053>

From: Mark Pamensky [<mailto:markp@blts.co.za>]
Sent: 15 December 2014 10:10 AM
To: Malesela Phukubje; Miriam Maroga; Lawrence Nevondo
Cc: Mark Levy
Subject: nomination

<image005.gif>

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Kind regards

Mark Pamensky
Chief Operating Officer

<image006.png>

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Fax : +27 11 523 3031
Fax to email : +27 86 680 9896
Email : markp@blts.co.za
Web : www.bluelabeltelecoms.com

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<Current Directships - Mark Pamensky.docx>

Handwritten signature

9



Mark Pamensky

From: Mark Pamensky
Sent: 19 December 2014 11:01 AM
To: Shelley Pather
Cc: Orcilla Ruthnam; Matsietsi Mokholo; Melanchton Makobe; Brandon Roberts; Msekeli Willie; Mark Pamensky
Subject: Re: Confidential: Directorships and Disclosure of Interests

Dear Shelley,

With reference to your email dated 18 December 2014, I hereby wish to expound on the information submitted to you to date.

Of my various directorships and shareholdings, Cigicell is the only company which has dealings with Eskom and in turn requires a related party disclosure. Whilst I am not a director of, or direct shareholder in Cigicell per se, I am a director and shareholder of Blue Label Telecoms Limited ("BLT"), a publicly quoted company listed on the Johannesburg Stock Exchange. BLT owns 100% of the Ventury Group, registration number 1996/016921/07, which in turn owns 74% of Cigicell.

My shareholding of approximately 4.5 million shares in BLT, held via various Trust structures, represents 0.0067% of its total of 674 million shares in issue. My effective shareholding in Cigicell is therefore nominal.

Cigicell has been a vendor of Prepaid Electricity on behalf of Eskom since 2007. Its current contract with Eskom is due expire in March 2015. Accordingly, Cigicell has tendered for the renewal of this contract for a further 3 years. The tender pertaining thereto is Online Vending Corp 3024.

Cigicell currently generates approximately R330 million per month in revenue on behalf of Eskom. Only the commission of approximately 6% of the aforesaid amount received thereon by BLT is reflected in BLT annual turnover of R19 billion. This amount therefore equates to 0.017% of BLT's total revenue.

I hope this explains your mail and should you require any further information, please feel free to contact me.

Kind regards

Mark

Sent from my iPhone

On 18 Dec 2014, at 18:57, Shelley Pather <Shelley.Pather@dpe.gov.za> wrote:

Dear Mark

Our telecon of earlier this afternoon has reference. Thank you for taking the time to talk to me and apologies for the interruption whilst you are abroad. As mentioned, I work in the Governance unit at the DPE.

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3. Whether there are any current or potential contracts/dealings between any of these companies and Eskom SOC Ltd; and
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5. Any additional information that may be relevant to these discussions.

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As agreed, I look forward to you providing me with this information during the course of the morning, tomorrow.

Thank you.

Warm Regards

Shelley Pather | Director: Governance

Legal and Governance Unit

<image001.gif> +27 (0)12 431 1156 | <image002.gif> +27 (0)86 628 8357 |

<image003.gif> shelley.pather@dpe.gov.za

1090 Arcadia Street | InfoTech Building | Hatfield | Pretoria | Switchboard: +27 12 431 1000

<image004.jpg>

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Click on the following link to view directions to DPE <http://www.dpe.gov.za/home.asp?id=1053>

From: Mark Pamensky [<mailto:markp@blts.co.za>]

Sent: 15 December 2014 10:10 AM

To: Malesela Phukubje; Miriam Maroga; Lawrence Nevondo

Cc: Mark Levy

Subject: nomination

<image005.gif>

Dear Sirs,

I am honoured by my nomination as a non-executive director to Eskom. I would like to accept this esteemed position but as an executive director of Blue Label Telecoms LTD, feel it would be appropriate for me to disclose that one of Blue Label's subsidiaries, namely CigiCell (Pty) Limited, has

Handwritten signature: P. M. M.

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I trust you will find the above in order and I look forward to hear from you.


Kind regards

Mark Pamensky
Chief Operating Officer

<image006.png>

Direct Line : +27 11 523 3098
Office Line : +27 11 523 3030
Fax : +27 11 523 3031
Fax to email : +27 86 680 9896
Email : markp@blts.co.za
Web : www.bluelabeltelecoms.com

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<Current Directorships - Mark Pamensky.docx>



10



Mark Pamensky

From: Mark Pamensky
Sent: 04 January 2015 06:37 AM
To: Shelley Pather
Cc: Orcilla Ruthnam; Matsietsi Mokholo; Melanchton Makobe; Brendon Roberts; Msekeli Willie
Subject: Re: Confidential: Directorships and Disclosure of Interests

Dear Shelley,

Further to the email dated 19 December 2014, I need to get an answer, as Eskom company secretary has sent out the proposed board meeting dates for 2015.

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by BLT is reflected in BLT annual turnover of R19 billion. This amount therefore equates to 0.017% of BLTS total revenue.

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<Current Directships - Mark Pamensky.docx>

Handwritten signature and initials

11



Mark Pamensky

From: Matsietsi Mokholo <Matsietsi.Mokholo@dpe.gov.za>
Sent: 07 January 2015 08:23 AM
To: Mark Pamensky
Cc: Orcilla Ruthnam; Brendon Roberts; Msekeli Willie; Shelley Pather; Malesela Phukubje (PhukubM@eskom.co.za); Phahlani Mkhombo
Subject: RE: Confidential: Directorships and Disclosure of Interests

Morning Mr. Pamensky

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Furthermore, Minister will be receiving a briefing from my team and may want to respond to the matter personally.

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Legal and Governance Unit

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<Image006.png>

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Handwritten signature

12



Mark Pamensky

From: Malesela Phukubje <PhukubM@eskom.co.za>
Sent: 07 January 2015 04:39 PM
To: Matsietsi Mokholo; Mark Pamensky
Cc: Orcilla Ruthnam; Brendon Roberts; Msekeli Willie; Shelley Pather; Phahani Mkhombo
Subject: RE: Confidential: Directorships and Disclosure of Interests

Dear Ms. Mokholo,

Compliments of the New Year and Best Wishes in 2015!

I have noted the contents of your e-mail message and I will assist Mr. Pamensky in dealing with Eskom's Declaration of Interest Policy.

Kind regards,

Malesela Phukubje | Company Secretary
 Office of the Company Secretary | Office of the Chairman | Third Floor T36
 2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 662 3139 |
 eFax: 0866523139
 E-mail : phukubm@eskom.co.za
 Secretariat website: http://sivmas045.eskom.co.za/corporate_secretariat/



From: Matsietsi Mokholo [mailto:Matsietsi.Mokholo@dpe.gov.za]
Sent: Wednesday, January 7, 2015 8:23 AM
To: Mark Pamensky
Cc: Orcilla Ruthnam; Brendon Roberts; Msekeli Willie; Shelley Pather; Malesela Phukubje; Phahani Mkhombo
Subject: RE: Confidential: Directorships and Disclosure of Interests

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I'm part of the 49Million initiative.
<http://www.49Million.co.za>

NB: This Email and its contents are subject to the Eskom Holdings SOC Limited EMAIL LEGAL NOTICE which can be viewed at http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx

Handwritten signature: P. M. M.

13



Mark Pamensky

From: Matsietsi Mokholo <Matsietsi.Mokholo@dpe.gov.za>
Sent: 07 January 2015 04:43 PM
To: Malesela Phukubje; Mark Pamensky
Cc: Orcilla Ruthnam; Brendon Roberts; Msekeli Willie; Shelley Pather; Phahlani Mkhombo
Subject: RE: Confidential: Directorships and Disclosure of Interests

Happy 2015 to you too Mr. Phukubje and thank you for attending to the matter.

Kind Regards

Matsi

From: Malesela Phukubje [mailto:PhukubM@eskom.co.za]
Sent: 07 January 2015 04:41 PM
To: Matsietsi Mokholo; Mark Pamensky
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Malesela Phukubje | Company Secretary
Office of the Company Secretary | Office of the Chairman | Third Floor T36
2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 652 3139 |
eFax: 0866523139
E-mail : phukubm@eskom.co.za
Secretariat website: http://phukubm45.eskom.co.za/corporate_secretariat/



Powering your world 1923 2013

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4. The Materiality of these contracts
5. Any additional information that may be relevant to these discussions.

Whilst there may be a perceived conflict regarding Blue Label Telecoms, it is important for the Department to understand the materiality thereof, to enable us as the Shareholder, to act accordingly.

As agreed, I look forward to you providing me with this information during the course of the morning, tomorrow.



Thank you.

Warm Regards

Shelley Pather | Director: Governance

Legal and Governance Unit

<image001.gif> +27 (0)12 431 1156 | <image002.gif> +27 (0)86 628 8357 |

<image003.gif> shelley.pather@doe.gov.za

1090 Arcadia Street | InfoTech Building | Hatfield | Pretoria | Switchboard: +27 12 431 1000

<image004.jpg>

Click on the following link to view DPE website & email disclaimer <http://www.doe.gov.za/home.asp?id=10>
Click on the following link to view directions to DPE
<http://www.doe.gov.za/home.asp?id=1053>

From: Mark Pamensky [<mailto:markp@blts.co.za>]

Sent: 15 December 2014 10:10 AM

To: Malesela Phukutje; Miriam Maroga; Lawrence Nevondo

Cc: Mark Levy

Subject: nomination

<image005.gif>

Dear Sirs,

I am honoured by my nomination as a non-executive director to Eskom. I would like to accept this esteemed position but as an executive director of Blue Label Telecoms LTD, feel it would be appropriate for me to disclose that one of Blue Label's subsidiaries, namely CigiCell (Pty) Limited, has had a contract for the supply of online vending for prepaid electricity sales since 2007 under contract number 4600025772. I do not sit on the board of CigiCell (Pty) Limited. I further attached my updated CV and list of directorships, some which are not reflected on CPIC.

If my acceptance of the non-executive directorship in any way jeopardises any current or future dealings between CigiCell and Eskom, then please inform me, as I would have to reconsider the position.

I trust you will find the above in order and I look forward to hear from you.

Kind regards

Mark Pamensky
Chief Operating Officer

<image006.png>

Direct Line : +27 11 523 3098

Office Line : +27 11 523 3030

Fax : +27 11 523 3031

Fax to email : +27 86 680 9896

Email : markp@blts.co.za

Web : www.bluelabeltelecoms.com

[For Disclaimer and Confidentiality Notes \(click here\)](#)

 Please consider your environmental responsibility before printing this e-mail

Handwritten signature: Pmk

<Current Directships - Mark Pamensky.docx>

Part of the 49Million initiative.
<http://www.49Million.co.za>

NB: This Email and its contents are subject to the Eskom Holdings SOC Limited EMAIL LEGAL NOTICE which can be viewed at http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx



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14



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		Office of the Company Secretary Department	

**MINUTES OF THE ESKOM BOARD MEETING B12-2014/15 HELD ON 16 JANUARY 2015 AT
THE HUVO NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Mr T Matona	Chief Executive
Mr NT Baloyi	Member
Dr BS Ngubane	Member
Ms C Mabude	Member
Mr Z W Khoza	Member
Ms V Naidoo	Member
Ms V J Klein	Member
Ms N Carrim	Member
Dr P Naidoo	Member
Mr MV Parnensky	Member
Mr R Kumalo	Member

APOLOGIES

None

BY INVITATION

Mr M Adam	Divisional Executive: Regulation and Legal (DE: R&L)
Mr T Govender	Group Executive: Generation (GE: TX)
Mr M Koko	Group Executive: Technology & Commercial
Ms A Noah	Group Executive: Distribution (GE: DX)
Mr F Ndou	Acting Divisional Executive: Office of the Chairman

IN ATTENDANCE

Mr M Phukubje	Company Secretary
Mr N Tsholanku	General Manager: Legal (GM: Legal)
Mr L Dlamini	General Manager: Office of the Chairman
Ms C Reddy	Acting Board Secretary

1. OPENING AND WELCOME

The Chairman of the Board, Mr Z A Tsotsi welcomed members to the first Board meeting for 2015.

He briefly highlighted the following housekeeping matters:

12.Board Minutes 16 January 2015.Final

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- Meetings will commence with an in-committee meeting with Board members only.
- Security of information and leakages was of utmost importance and the Board needed to address this, taking into cognisance interaction with their offices either via electronic medium or telephonically. This matter will be dealt with further during the in-committee discussion.

The executives and officials from the Office of the Company Secretary in attendance were given the opportunity of introducing themselves..

APOLOGIES

There were no apologies noted

2. QUORUM

A quorum being present, the Acting Chairman declared the meeting duly constituted.

3. DECLARATIONS OF INTEREST

The following declaration of interests were recorded, there were no other declarations of interest pertaining to items on the Agenda.

Mr M Adam,item 6.4 Selective Demand Curtailment.
Dr P Naidoo.....member of the SA Electrical Engineers Council

4. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

5. APPROVAL OF THE AGENDA

The agenda with inclusion of the items Unpacking of Burning Platforms and Issues and SA Electrical Engineering Council under General was adopted, and on conclusion of the agenda, an in-committee with members only will be held. It was agreed that the order of items on the agenda would be slightly changed to accommodate the availability of members.

The Chairman commenced by taking the Board through the process that would be followed for clarity and future engagements. Executives were advised that Board's expectation was to maintain transparency between Board and Exco so as to build and foster a high trust relationship by:

- Keeping Board informed of all critical issues timeously and avoid information getting to the media prior to members becoming aware of it.
- Updating the Chief Executive and Chairman on the War Room engagements to maintain alignment.



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- Ensuring Board is kept abreast of the top risks of the company through the Audit and Risk Committee who will monitor and keep Board informed, providing due respect and protocols between executive and Board are followed. Executives to engage Board members via the CE. Arising from the presentation made at the Board Induction, risk management was an area of concern, therefore Board will be taking a keen interest in how risks are managed, Audit and Risk; and
- Scheduling a relationship-building breakaway between Board and Exco.

Members were informed that the list of Board committees and its membership will be circulated and discussed further during the in-committee meeting on even date.

Further, the Board was informed that an independent company should evaluate the climate between the Board and Exco, and the outcome should be submitted to the shareholder at the AGM. It was noted that the actions from the previous AGM would be considered at the February 2015 meeting.

6. REPORTS

6.1 BUILD PROGRAMME UPDATE Reference document 6.1 (a)

By direction of the Chairman and members, the presentation in the meeting pack was taken as read. Management was commended for the informative presentation that was considered and noted. Board acknowledged that Eskom was on track to meet the build programme target.

Resolved that:

1. the update on the Build Programme is noted.

6.2 ESKOM WAR ROOM UPDATE

The CE took the Board through the emergency measures for the next 30 days to respond to government's five point plan on the electricity challenges in the War Room established in December 2014. He explained that this initiative was triggered by the increase load shedding incidents over the last three months mainly due to the silo-collapse at Majuba that also had led to the increases usage of OCGTs. Further, he explained that the costs and logistics challenges were a consequence of this capacity reduction, diesel usage was beyond the available budget, etc.

The elements of the five point plan were;

- o The 30 day Eskom Emergency Measures that consisted of UCLF, Majuba Recovery plan, management of diesel, skills to deliver Generation maintenance and Management of Eskom's Financial position till year end.
- o Co-Generation
- o Gas Imports
- o Coal Independent Power Producers (IPPs)
- o Demand-side Management



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He went on to share background on the joint initiative between Eskom and government to address the constrained power system challenges based on the recent spectre of load shedding events. Eskom's responses arising from the discussions was unpacked and Board was informed that Eskom was tasked to improve strategic maintenance and operational efficiency, address diesel supply constraints with collaboration between critical SOCs (PetroSA, TNPA, and strategic Fuel Fund) supported by a Memorandum of Understanding. Eskom was also to provide a detailed financial plan to manage its cash flow until the end of January 2015 and shift from the business unusual situation of Eskom. Further, he explained that Eskom has been tasked to submit a plan with initiatives to deal with the emergency measures over the next thirty days.

The CE handed over to Mr L Maleka, Eskom representative in the War Room engagement to provide Board with more details and update on the progress to date. More details on the five point plan was shared based on the presentation in the meeting pack. Positively it was highlighted that Eskom had welcomed the support and opportunity to engage government on the burning issues.

A member queried the number of smelters in the country, their consumption and the process to shut them down, in particular BHP Billiton and their views. It was accepted that information pertaining to this query will be dealt with under agenda item 6.4, however, it was noted that there was appetite to deal with this matter and discussions with Industries will be driven by government.

The key priority for Eskom from the War Room in the 30 day emergency response was to improve strategic maintenance and operational efficiency, achieve the immediate short term funding, regulatory support and logistics management mechanisms for the additional diesel supply requirements for February and March 2015 must be resolved. In addition Eskom's emergency measures in the 30 day period were to;

- Explore other Generation options (e.g. STIPP's, Gas)
- Focus on New (Medupi unit 6 first synchronisation in quarter 1 of 2015) and existing Generation options(Majuba interim solution)
- Explore methods to fast track demand side initiatives which are currently in the medium to long term time-frame
- Eskom is also focussing on other key areas of challenge, e.g. debt management
- More work needs to be undertaken on other areas to deliver on initiatives in the medium to long term; and this was largely informed by initiatives like the Medium Term Outlook with cost implications

The CE requested Mr Maleka to repackage the presentation to include progress to date and the actions going forward including achievements for Board to influence.

The GE: GX took the Board through the outage management and gave insight into the operations of the machines and achievements to date. It was agreed that this information is included in the report to Board, including the achievement of 5000MW during the December outages that was wiped out by other breakdowns. It was explained that TX



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was involved with DoE and had raised concerns with the purchase agreements, and it was subsequently agreed that Eskom's comments will be considered.

Board acknowledged the expectation from Eskom to rebuild confidence and questioned the War Room timelines for delivery and accepted accountability to sustain the Eskom business as per the PFMA requirements under section 50. Members expressed concern that there could be a tendency and a risk of talks by government without results due to delayed decision-making. Mr Maleka confirmed that there were timelines within the 30-day period to focus on the demand response strategies and going forward it was expected that there will be committed deliverables and timelines.

From the ensuing discussion it was pointed out and noted that:

- Eskom's involvement in the IPPs was an area that the Board needed to consider going forward. this period required quick decision making and although there were consistent engagements, the decisions taken were slow and frustrating.
- Therefore, it was important that the public and stakeholders are kept abreast through the media briefings kept abreast of the preceding events and informed of the real state of the system to maintain transparency.
- It was important for Board to understand the gravity of the issues facing Eskom and that Eskom needed to continue placing pressure and emphasising its requirements for support from government and stakeholders.
- Despite taking into consideration the enormous challenges, the current political situation and the efforts from the business, Eskom must take accountability to sustain the system and face reality.
- The debt issue was a concern of the Board and warranted a discussion.
- Board is represented at the Eskom Emergency Task Team ("EETT") meeting to facilitate progress going forward in Eskom's favour.
- A consolidated list of burning issues, its status, Eskom's position with timelines, accountability for deliverables and challenges is consolidated to inform and assist Board on its level of engagement and the resolutions required from government.
- the 30 day plan was a timeline from government for decisions to be taken to procure diesel, etc and was a plan in response to government, but Eskom did have its own turnaround longer-term plan that could be unpacked for Board at the breakaway.
- From a governance perspective, Board needs to receive sufficient detail and assurance and be adequately informed to engage stakeholders, whereas currently the Board members were not sufficiently informed.
- There was a perception of mistrust and non-transparency.
- Information to the media should be brief, limited to the facts and Eskom taking accountability and without pointing fingers and making reference to the past.

Having considered all the comments and responses recorded above, the Chairman agreed that the report to Board would include the emergency response plans, with focus on Eskom's plans, deliverables, timelines and accountability. Further, members were



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requested to add to the list of burning issues being identified for discussion that would be monitored by the company secretary as an action list.

Resolved that:

1. Mr L. Maleka should submit a consolidated report to Board members on Eskom's emergency response plans, with focus on Eskom's plans, deliverables, timelines and accountability; and
2. Members should submit their burning issues to the Company Secretary for future Board discussions and monitoring of actions.

6.3 SELECTIVE DEMAND CURTAILMENT

The GE: Commercial and Technology, Mr M Koko and DE: Regulation and Legal, Mr M Adam took the Board through the Selective Demand Curtailment based on the submission documents circulated in the meeting pack.

Board took into consideration that the Protocol for Selective Demand Curtailment was approved by the then Board in March 2012 as an additional mechanism to ensure the security of supply and the subsequent process followed to date resulting in a resubmission for Board's consideration. Board was informed that the risks articulated in the submission had been addressed, however, the risk of implementation without Nersa approval would expose Eskom to civil claims for damages and customers could also seek to interdict Eskom.

The Board deliberated the pros and cons of the submission and raised questions of clarity and concern that were addressed as follows:

- With regard to the legal implication from cutting off Eskom due to debt, Nersa approves the liability to discriminate and Eskom would be protected providing Nersa follows due process.
- The issue of paying customers versus non-paying customers was being considered.
- debt management and legal implications be added to the list and the right of recourse also be looked at to understand the risk of implications.
- The total smelters were worth approximately 5000MW and there was a special pricing with BHP Billiton.
- The approach followed was to make a Nersa application in view of the changed circumstances to reach an agreement, BHP Billiton had made submissions to Nersa and Nersa was seeking legal opinion prior to making a decision. The duration of the contract was 2025 and Nersa has agreed with Eskom's interpretation that the contract is up to 2025 and not 2030.
- It was confirmed that all avenues and legal options for the contract had been considered for implementation within its mandate with equitable apportioning of supply to customers. The biggest failure of the contract was due to not having it capped.



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In response to query regarding the resubmission, it was clarified that a submission was made to Nersa but due to no response and given the current situation the resubmission was considered for sharing with the current Board prior to a discussion in the War Room. Secondly, the then Board had mandated the CE in 2012 and given the restricted movement from Nersa. The request on the table was for the current Board to support the same process to be fast tracked, excluding the resolution 2.3 reflected in the submission.

For future consideration, the Board requested that contentious issues for resolutions be highlighted to the Board for urgent consideration and approval. Further, the agenda and reports to Board articulate whether items are for noting and/or for approval with salient facts supporting the submission.

With regard to the economic impact assessment, Treasury will be analysing the impact of this load curtailment on the economy, revenue and other factors to obtain an informed outcome. It was noted that since Mr Adam will be leaving Eskom at the end of January 2015, Mr Neo Tsholanku of Legal will be working on this matter going forward.

The Board supported the resubmission and approved the recommendations, excluding 2.3 on the basis that the matter would be fast tracked in light of the current status of Eskom.

Resolved:

1. In the light of the significant power system constraints it is noted that the Board had approved the following:
 - 1.1 The Protocol for Selective Load Curtailment which, amongst others, authorised the reduction or termination of supply to selected customers (Selective Curtailment) as a viable additional option to manage the supply constraints;
 - 1.2 The submission of an application to Nersa for approval to implement Selective Curtailment;
 - 1.3 The Chief Executive is authorised to:
 - 1.3.1 Convene a special meeting of the Board if deemed appropriate by him to do so, to decide on actions to be taken;
 - 1.3.2 Reduce or terminate supply to specific customers or a group of customers; or
 - 1.3.3 Reduce supply to all customers to whom a mandatory Energy Conservation Scheme would apply (as per the relevant resolution and protocol referred to in the resolution included in the submission to the Board on 16 January 2015);
2. It is noted that the application was duly submitted to Nersa but approval has not as yet been received. In the circumstances, and given the ongoing system constraints, that in line with the Board decision the Cabinet Sub-Committee will be requested to assist regarding the following:
 - 2.1 Engagement with Nersa to expedite the processing of the application for approval to temporarily suspend reduce or terminate the supply of electricity



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to a select group of customers (Selective Curtailment), being the top 50 customers; and

- 2.2 The relevant Government Departments (including National Treasury, DTI, Economic Development, OPE and DoE) be requested to support the application by making written submissions to the Nersa in this regard.

6.4 FINANCIAL STATUS UPDATE

Reference document 6.5

Messrs M Buys and A Pillay joined the meeting to present an update on Eskom's financial status based on the presentation in the meeting pack.

The following queries were raised and clarified at the meeting:

- Historical costs are used for depreciation and are disclosed.
- The half year results and how the principles are applied in the calculation and the actual revenue losses at mid-year were questioned.
- The cost reflective tariffs assist Eskom's calculation, however, the gap identified still needed to be addressed.
- Revenue under-performance was mostly due to the drop in demand in some sectors of the economy (e.g. Munics)
- Reduction in sales did not result in a reduction in coal due to other costs carried such as the Medupi coal penalty, OCGT fuel costs, etc.
- Coal contracts include penalty clauses to address coal cost variances.
- The option of increasing imported power from the SAPP region (e.g. Mozambique; etc.), which is cheaper than the coal-based electricity should inform the sales strategy.
- Repairs and maintenance was behind budget due to the maintenance being weather driven, normally GX maintenance is done in summer when the load is low.
- Repairs and maintenance will be carried out as per the 80-10-10 plan consistently over the next 3 years and recurring maintenance will be matched and under opex.
- Other major maintenance and repairs is recorded under capital, especially the replacement of equipment. However, in view of the Nersa approval above inflation rates, the refurbishment maintenance costs versus budget are high and Eskom has to grapple.
- Eskom takes the necessary steps to create better understanding and build a relationship with Nersa given the previous experiences and delays and taking into consideration the requests and actions from Eskom to no avail
- Separation packages approved will be provided for in full by year-end. The impact of salary adjustment will take longer to come into effect and increased overtime was due to the high maintenance. Allowances were being reviewed in light of BPP.

WAK

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- More information on employee benefits be provided in future reports,
- Contract labour is reviewed with more information on the strategies to curtail the risks and ensure air tight contracts.
- The return on assets is much lower than what it costs to produce it and reduces Eskom's operating cost line, weakens the balance sheet and reduces Eskom's ability to pay interest on its debt, hence the need to get cost-reflective tariffs.
- Eskom makes profit in winter due the lower costs and reduced winter maintenance and higher winter tariff with higher volumes of energy sold.
- Regarding the municipal debt, more comparative details on the impairment is provided.

Resolved that:

1. the Financial Report for the period ending November 2014 is noted;
2. Exco takes the necessary steps to create better understanding and build a relationship with Nersa; and
3. future reports include more information on employee benefits and comparative details on the impairment of the municipal debt.

The CE, GE: C&T & DE: R&L were excused from the meeting at 12:30

6.4.1 Bond Issue Questionnaire
Reference document 6.5.1

Members were taken through the questionnaire circulated individually for completion and return to Treasury by Friday, 23 January 2015.

The Board adjourned for lunch at 13:30 and resumed at 14:00. Ms Carrim was excused at 14:00

7. COMMITTEE HANDOVER REPORTS

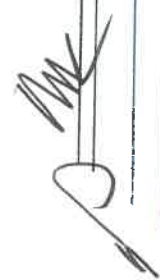
By direction of the Chairman and Members, the committee handover reports for the Board sub-committees included in the meeting pack were taken as read and noted.

7.1. Investment and Finance
Reference document 7.1

7.2 Social Ethics And Sustainability
Reference document 7.2

7.3 People and Governance
Reference document 7.3

7.4 Tender



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Reference document 7.4

8. GENERAL

8.1 Media/Communication: Review

A concern was expressed with regard to the media releases and the information that was shared with the media. It was a concern that the public was not aware of the efforts and achievements of Eskom and the good news that was not being published. In response, management advised that there was an education drive and campaign in 2014 to share good news stories, which needed to be elevated and expanded wider. Another member agreed that a PR exercise was required to expose the good work Eskom was doing; taking cognisance of ensuring there was a balance in view of the current status and load shedding. The member suggested that a subcommittee consider the concerns and make recommendations to the Board for approval.

It was suggested that the energy saving message should be aggressively driven by approaching communities, schools and the public, which as explained was part of the five point plan. The committee should look at how to strategise the savings campaign and the good work being done by Eskom and make recommendations to the Board. The current messaging and the inundated requests from the ministers and messages from Eskom being changed and released thus distorting the message, therefore it was necessary to formalise the process to the effect that a message from Eskom should not be changed once approved by Eskom. Further, given the queries about why 'good news' was limited, messages should be coupled with information on the scope and cost messaging. The member emphasised that the Board must make a decision to review and change its 'mode and content of messaging, with continuous reminders.

It was agreed that the subcommittee would engage the PR committee and make recommendations to the Board on 16 February 2015. The chairman of SES was requested to communicate a date for the meeting to the Secretariat.

8.2 Risk Register

A copy of the risk register should be circulated to members of the Board.

8.3 Debt management

More detail of the process, the challenges, actions taken, outstanding issues with proof of results and matters escalated to Board for attention. Costs for delivering services to the Rural area compared to day to day costs, to include plans of electrification of the scattered homes in the Rural area. Consider alignment with the Rural Development plans in terms of future layouts and how best Eskom can optimise on providing services, taking into consideration future development and costs savings versus money waste in services to newly designed areas. Management to consider the concept of 'selling the debt' in particular the legal issues and share what has been explored to date.

P. M. M.

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8.4 Turnaround Strategy

List the 3 main issues of the company and reflect how the current situation has diverted focus and reflect how these areas are being managed. The output should form part of the report back at the next Board meeting. Keep separate from the crisis category and report on the category of sustainability and growth as well to inform a discussion on 'What can be Done Going Forward'.

8.5 State of the Eskom Fleet

Include a report on whether or not an independent view was obtained and include the cost of replacement. It was confirmed that an independent benchmark was conducted and will be included in a detailed report to Board. Report be submitted for discussion at the next meeting. It was recommended that government is advised that an independent review was conducted and for government to decide whether they want to request another independent review. It was considered that Eskom could benefit from an independent review by government providing protocols are followed and based on agreed criteria.

8.6 Panel of Experts/International Advisory committee- Chairman

The Chairman was in engagement with government to source international and multi-national energy experts to 'monitor' Eskom which will also assist Eskom with its public relations and will give fresh views. Members supported the idea that the report needs to be considered in light of its confidentiality with the necessary due diligence prior to sharing in the public domain. It was noted that HSBC has been doing a lot of work in the energy area and Eskom could consider whether their input could be used in the exercise. Given the support of members, the Chairman indicated that the forthcoming DAVOS conference could be a platform to engage stakeholders. Further, a member indicated that Eskom should take advantage of the SA Electrical Engineering Council delegates that were positioned in key energy industries, some former Eskomites who could share valuable insight to benefit Eskom and to enhance public relations for Eskom. The Chairman requested inputs towards framework/terms of reference on the process of engagement. The tor articulates the principles notwithstanding those members should not be conflicted and the tor should be carefully crafted to avoid repercussions such as conflict of interest and others.

8.7 PFMA Section 51 – indemnity

Indemnity should be tabled at the next meeting. The risk register would assist in assessing the related risks. It was suggested that the Audit and Risk committee should consider these risks and the mitigating strategies with input from members. The Company Secretary was requested to engage the Finance Director and to ensure that sub-committees are orientated before the meeting starts.

9. ASSESSMENT OF MEETING

Members were requested to complete the assessment of the meeting forms.



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10. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 14:50 after which the Board went into an in-committee session.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN: _____ DATE: _____



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MR M V PAMENSKY**DECLARATIONS OF INTEREST****Contents**

1. Extract from recording of the Board meeting held on 16 January 2015 noting Mr. Pamensky's Declaration of Interest. Recording is available.
2. Copy of approved minutes for the Board meeting held on 16 January 2015. *These do not include Mr. Pamensky's verbal declaration. A correction to the approved minutes will have to be tabled to include the comments in 1 above.*
3. Copy of Draft minutes of the Board meeting held on 21 September 2015. This was a Special Board meeting to deal with the media report in the Sunday Times around the coal procurement matters.
4. Extract from Special Eskom Investment and Finance Committee meeting held on 9 December 2015 to discuss the urgent request to approve the pre-purchase of coal from Optimum Coal (Pty) Ltd, at which Mr. Pamensky recused himself due to a Conflict of Interest.
5. Mr. Pamensky's e-mail; to Ms. V Klein (Chairman of Eskom People & Governance Committee).
6. Bound extracts from all Declarations of Interest, which includes the following declarations.
 - 6.1. Oakbay Resources and Energy Ltd included in electronic version
 - 6.1.1. Version 1 on 13 November 2015.
 - 6.1.2. Version 2 on 26 February 2016.
 - 6.1.3. Version 3 on 26 February 2016. (2 declarations on 26/2 due to removal of subsidiary companies linked to holding companies he had resigned from)
 - 6.1.4. Version 4 on 3 March 2016.
 - 6.1.5. Version 5 on 4 March 2016. (Updated from 4 March 2016 upon receiving supporting documents from his PA confirming resignation from Blue Label)
 - 6.2. Blue Label Telecoms included in electronic version
 - 6.2.1. Version 1 on 13 November 2015.
 - 6.2.2. Version 2 on 26 February 2016.
 - 6.2.3. Version 3 on 26 February 2016.

4/4/2016
D. M. K.

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EXTRACT FROM THE RECORDING OF THE ESKOM BOARD MEETING B12-2014/15 HELD
ON 16 JANUARY 2016 AT THE HUVO NKULU BOARDROOM, MEGAWATT PARK FROM
09H00

STRICTLY CONFIDENTIAL

1. DECLARATIONS OF INTEREST

The following declaration of interests were recorded, there were no other declarations of interest pertaining to items on the Agenda.

Mr M Adam, ...Item 6.4 Selective Demand Curtailment.

Dr P Naidoo.....member of the SA Electrical Engineers Council

Mr Pamensky tabled a declaration which he handed to the Chairman and stated that he was an Executive Director and Chief Operating officer for Blue Label Telecoms Ltd which had a subsidiary call C G Cell which has a vending contract with Eskom since 2007. He stated that although he was not on the Board of CG he was a member of the Board of the holding company and wanted to declare that interest. He noted further that he had completed the Declaration of interest register. (Not included in signed approved minutes and details taken from the recording)



16



Mark Pamensky

From: Gillian Rosslee
Sent: 19 January 2015 03:30 PM
To: Nomusa Mazibuko
Cc: Mark Pamensky
Subject: 2015 Foreign Bond Questionnaire
Attachments: 1236_001.pdf; Attachment with additional information.docx; Curriculum Vitae - Mark Pamensky.docx

Hi Nomusa,

Hope you are well.

Please find attached Mark Pamensky's completed directors and officers questionnaire as well as his CV and attachment with additional information for the questionnaire.

I will send you the original documents to your office.

Kind regards

Gillian Rosslee

Personal Assistant to Mark Pamensky (C.O.O)



Direct Line: +27 11 523 3058
Office Line: +27 11 523 3030
Email: gillianr@blts.co.za
Web: www.bluelabeltelecoms.com

blu

Office Address: 75 Grayston Drive, Morningside Ext 5, Sandton, 2196
Postal Address: PO Box 652262, Benmore, 2010

CONFIDENTIAL

**ESKOM HOLDINGS SOC LTD
QUESTIONNAIRE TO BE COMPLETED BY
DIRECTORS AND OFFICERS**Instructions

In connection with one or more potential offerings (each, an "Issuance") of notes (the "Notes") by Eskom Holdings SOC Limited (the "Company") under its global medium term note programme (the "Programme"); the Company requests that you, as a director or officer of the Company, provide certain information in connection with the Company and the Programme. References in this Questionnaire to the Company should be read to refer to the Company and the Company's subsidiaries and Affiliates, unless the context otherwise requires.

The information that you supply in response to this Questionnaire will be used to assure the accuracy and completeness of certain information provided in the base prospectus relating to the Programme (the "Prospectus"). If the Prospectus contains any untrue statement of a material fact or omits to state any material fact, the Company and its controlling persons (including directors and officers of the Company and major shareholders) may be subject to civil or criminal liabilities under the U.S. securities laws. As a result, we ask your cooperation in responding carefully to the questions in this Questionnaire.

Please respond to each of the following questions. If any questions are answered "Yes", please provide all relevant details to fully explain your answer in the space provided below the question.

If the space provided is not sufficient to supply a complete answer to any question, please attach an additional sheet for the answer to that question. Please note that information regarding compensation matters called for by this Questionnaire relates to compensation for the financial year ended 31 March 2014. If the answer to any question is "No," "None," "0" or "Not Applicable," please so state.

Answers should be given as of the date you complete this Questionnaire. If at any time prior to the closing date of an issuance any of the information set forth in your responses to this Questionnaire has changed due to passage of time, or any development occurs which requires a change in your answers, or if for any other reason any of your answers become incorrect, please immediately furnish all necessary or appropriate correcting information to Reem Murad of White & Case LLP (at the address provided below).

Please note that certain terms, not otherwise defined in this Questionnaire, are defined in the section titled "Definitions" at the beginning of this Questionnaire and you should refer to those defined terms when completing this Questionnaire.

If there is any response or underlying factual matter about which you are uncertain, please explain the matter fully or you can contact Reem Murad (telephone number +44 20 7532 1443), White & Case LLP, with any questions or concerns when completing this Questionnaire. Please complete and sign this Questionnaire as soon as practicable, but not later than 14 November 2014.

LONDON: 12/2014

P
D. Murad

When you have completed this Questionnaire, please e-mail a pdf copy and return the original completed and signed Questionnaire to the attention of:

Reem Murad
White & Case LLP
5 Old Broad Street
London
EC2N 1DW
England

E-mail: alreem.murad@whitecase.com

PLEASE ENSURE THAT YOU SIGN AND DATE THIS QUESTIONNAIRE IN THE SPACE PROVIDED ON PAGE 15.

Definitions

For purposes of this Questionnaire, the following terms have the following meanings:

"Affiliate" — means a person or entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, the Company.

"Associate" — means (1) any corporation or organization (other than the Company) of which you are an officer or partner or in which you are the beneficial owner (directly or indirectly) of 10% or more of any class of equity securities; (2) any trust or estate in which you have a substantial beneficial interest or of which you are a trustee or serve in a similar fiduciary capacity; or (3) your spouse or any relative of you or your spouse who has the same residence as you or is a director or officer of the Company.

"Beneficial Ownership" — means the right to the economic benefits of a security, including (1) voting power which includes the power to vote, or direct the voting of, such security, and (2) investment power which includes the power to dispose, or to direct the disposition of, such security. A person also is considered to be the "beneficial owner" of securities that the person has the right to acquire within 60 days by option, conversion of another security or other agreement. Beneficial owners include persons who hold their securities through one or more trustees, brokers, agents, legal representatives or other intermediaries, or through companies in which they have a "controlling interest," which means the direct or indirect power to direct the management and policies of the entity.

"Close Family Members" — of an individual's family include such individual's spouse, parents, children, siblings, mothers and fathers-in-law, sons and daughters-in-law, brothers and sisters-in-law, and any other family member who may be expected to influence, or be influenced by, such individual in his or her dealings with a company.

"Material" — information is "material" to an entity if a reasonable investor could consider it important in a decision to buy, hold, or sell securities of the entity. The materiality of any transaction or interest is to be determined on the basis of the significance of the information in light of all the circumstances of the particular instance. The importance of the transaction or interest to the person concerned, the relationship of the parties to the transaction with each other, and the amount involved in the transaction are among the factors considered in determining the significance of the information.

[Handwritten signature]

"Significant Influence" — is the power to participate in the financial and operating policy decisions of the entity in question, and does not necessarily include the power to control those policies. Shareholders beneficially owning a 10% or greater interest in the voting power of an entity are presumed to have a significant influence over such entity.

Questions

1. Personal Data

- (a) Please state your full name as it should appear in the Prospectus.

MARK VIVIAN PAMENSKY

- (b) Please state your date of birth.

13/09/1972

- (c) Please provide your business address.

75 GRAYSTON DRIVE

MORNINGSIDE EXT 5

SANDTON 2196

- (d) Please describe your educational background (including name of each institution, date of graduation and degrees).

CHARTERED ACCOUNTANT

(SEE ATTACHED CV)

2. Employment Information

Please provide the following information with respect to your occupation or employment.

- (a) All positions, offices, business experience, functions and areas of expertise in the Company, including dates of service in each such capacity (for directors, please include membership on board committees). Please also include the date of expiration of any current term of office (if applicable).

ARTICLES - PRICE WATERHOUSE COOPERS - JAN 1995 - NOV 1998;

CONSULTANT - MERCANTILE BANK - DEC 1998 - 2000; CONSULTANT -

NICHELIS CORPORATE TIME - 2000 - 2001; CHIEF OPERATING

OFFICER - BLUE LABEL TELECOMS - 2001 - PRESENT

(PLEASE ATTACHMENT) 3

[Handwritten signature]

- (b) Principal business activities performed outside the Company, including dates of service for each such activity.

- NON EXECUTIVE DIRECTOR OF ESKOM SOC LIMITED
 - CHIEF OPERATING OFFICER OF BLUE LABEL TELECOMS LIMITED
 - SEE ATTACHED CV/Directores Listing

- (c) Any arrangement or understanding between you and any of the Company's major shareholders, customers or suppliers or any other person or persons pursuant to which you were or are to be selected to serve as a director or member of senior management of the Company. If applicable, supply details, including the name(s) of such person(s).

NO

- (d) To the extent not already provided above, a brief account of your business experience during the past five years, including principal occupations and employment during that period and the name, principal business of any corporation or other organization in which such occupations and employment were carried on and whether such corporation or organization is a parent, subsidiary or other Affiliate of the Company.

SEE ATTACHED CV

- (e) Name each directorship you have held in the last five years in any company, other than the Company. Please provide the complete name and location of each such company, your position and specify whether you are aware of any services or products of any such company which could be regarded as competitive with those of the Company.

- SEE ATTACHED LIST

- NOT AWARE OF ANY COMPETITIVE SERVICES
 OR PRODUCTS

P me

- (f) Please disclose the name of any other entity of which you are a member of senior management.

SEE ATTACHED CV

3. Relationship with the Company.

State the nature of any family relationship between you and any director or member of senior management of the Company, any person nominated or chosen by the Company to become a director or a member of senior management of the Company, any employee upon whose work the Company is dependent or any Affiliate of the Company. The term "family relationship" means any relationship by blood, marriage or adoption, not more remote than first cousin.

NONE

4. Pending Legal Proceedings.

Is there any pending legal proceeding or threatened legal proceeding of which you are aware, in which you, or any of your Associates, is a party adverse (or in which you or they have an interest adverse) to the Company or any of its Affiliates?

Yes ☐No ☒

if yes, please describe:

5. Involvement in Certain Proceedings.

For purposes of Question 5, the date of any reportable event is the date on which the final order, judgment or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments or decrees have lapsed. For bankruptcy petitions, the date should be the date of filing for uncontested petitions or the date of final approval of a contested petition.

During the past five years:

- (g) Was a petition under any bankruptcy law or insolvency law filed by or against, or a receiver, financial agent or similar officer appointed for (i) you or your business or property, (ii) any

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(iii) any corporation or business association of which you were a member of senior management at or within two years before such event?

Yes ☐No

- (b) Were you convicted in a criminal proceeding or are you a named subject of a pending criminal proceeding? (Please do not include traffic violations and other minor offenses.)

Yes ☐No ☒

- (c) Were you the subject of any final order, judgment or decree, of any court or other authority permanently or temporarily enjoining you, or otherwise limiting you from engaging in or being associated with persons engaging in any type of business practice or activity?

Yes ☐No ☒

- (d) Were you found by a court in a civil action or a securities regulator to have violated any securities or commodities law or are you presently the subject of any investigations by any securities regulator?

Yes ☐

No

If the answer to any of the above questions is "Yes" please describe below:

6. **Compensation.** Please provide the following information for the financial year ended 31 March 2014. Responses to the questions in this item should include compensation for services as a director or a member of senior management of, or in any other capacity for, the Company, and should also include any transaction between the Company and any third party if the primary purpose was to furnish compensation to you. Please note if a contract governs any of these relationships.

- (a) State the aggregate value of compensation paid and benefits in kind granted to you by the Company for services in all capacities to the Company. Include in this amount any contingent or deferred compensation accrued for the year, even if such compensation is payable at a later date.

THE NOMINATION TO BE A NON EXECUTIVE DIRECTOR
WAS IN DECEMBER 2014.

- Board fee - R 249 658⁻²⁰ per annum

- Chairman of IFC (sub-committee) - R 149 739-12 per agreement

Provide separately any amounts or benefits in kind included in the response to Question 6(a) that were paid pursuant to a bonus, profit-sharing or similar plan or other arrangement.

N/A

- (b) For any payments included in the response to Question 6(a) that were made in the form of options to purchase securities of the Company, provide the following:

(i) The title(s) of the securities covered by the options.

N/A

(ii) The amount of securities covered by the options.

N/A

(iii) The exercise prices of the options.

N/A

(iv) The purchase prices for the options (if any).

N/A

(v) The expiration date of the options.

N/A

- (c) Provide the total amount set aside or accrued by the Company or its subsidiaries to provide pension, retirement or similar benefits to you.

N/A

- (d) Describe any service contract between you and the Company or any of its subsidiaries, and any other arrangement that provides for benefits upon the termination of your employment or a change of control of the Company or any of its subsidiaries.

N/A

[Handwritten signature]

(v) **The expiration date of the Rights.**

N/A

(c) Please indicate whether any Shares or Rights are owned pursuant to an employee benefit plan (such as an employee stock purchase plan), identifying the applicable plan and relevant number of Shares or Rights.

N/A

(d) If you disclaim ownership of any Shares or Rights listed above, please describe the basis for your disclaimer of Beneficial Ownership.

NIA

(c) If you are not the record owner of any such Shares, please indicate below the nominal owner, the Beneficial Owner and any Material arrangements relating to the indirect ownership of such Shares by you or a member of your immediate family, as the case may be.

N/A

(f) Do you know of any pledge of any of the Shares or Rights listed above as collateral? If so, please provide details.

N/A

(g) Do you share voting or investment power with respect to any such shares? If so, please provide details regarding the contract, arrangement, understanding, relationship or other basis on which your voting or investment power is shared and the number of shares beneficially owned by you pursuant to each such contract, arrangement, understanding, relationship or other basis.

2 ml

is unusual in its nature or terms and (iii) that occurred during the last three financial years of the Company or is currently pending or proposed.

SEE ATTACHED

- (b) For any loan made to, or guarantee made on behalf of, you, any Close Family Member, key management or any entity you own or over which you have Significant Influence by the Company or any of its Affiliates during the last three financial years of the Company, provide the current amount outstanding, the largest amount outstanding during the last three financial years of the Company, the interest rate and describe the nature of the loan and the transaction in which the loan was made.

N/A

- (c) Has the Company, directly or indirectly, including through any Affiliate arranged for the extension of credit in the form of a personal loan for you?

Yes ☐

No ☒

If the answer is "Yes", briefly describe the nature of the loan and transaction in which the arrangement was made.

10. Insurance or Indemnification.

Are you party to any contract, understanding or arrangement under which you are insured or indemnified in any manner against any liability which you may incur in your capacity as a director or officer of the Company?

Yes ☒

No ☐

If the answer is "Yes", briefly describe such arrangements and identify whether the Company is involved.

ESKOM HAS A D&O POLICY

A
P. M. K.

11. Knowledge of Certain Payments by the Company and its subsidiaries.

Do you have knowledge, or any reason to believe, that the Company or any of its subsidiaries at any time during the last three years has or may have engaged, directly or indirectly, in:

- (a) Any bribes or kickbacks to government officials (either domestic or foreign) or their relatives, or any other payments to such persons, whether or not legal, to obtain or retain business or to receive favourable treatment with regard to the business of the Company?

Yes ☐ No ☒

- (b) Any bribes or kickbacks to persons other than government officials, or to relatives of such persons, or any other payments to such persons or their relatives whether or not legal, to obtain or retain business or receive favourable treatment with regard to the business of the Company?

Yes ☐ No ☒

- (c) Any contributions, whether or not legal, made to any political party, political candidate or holder of public office?

Yes ☐ No ☒

- (d) Any bank accounts, funds or pools of funds created or maintained without being reflected on the Company's books of account or as to which the receipts and disbursements therefrom have not been reflected on such books?

Yes ☐ No ☒

- (e) Any receipts or disbursements, the actual nature of which has been disguised or intentionally misrecorded on the Company's books of account?

Yes ☐ No ☒

- (f) Any fees paid to consultants or commercial agents which exceed the reasonable value of the services purported to have been rendered?

Yes ☐ No ☒

- (g) Any payments or reimbursements made to personnel of the Company for the purpose of enabling them to expend time or to make contributions or payments of the kind for the purposes referred to in subparts (a) through (f) above?

Yes ☐ No ☒

If the answer to any of the above questions is "Yes", please describe:

✓
A. M. K.

12. Business Relationships with Auditors

For purposes of Question 12, the term "business relationships" is broadly defined as formal or informal arrangements with any third party (clients and non-clients of the firm) for services or products provided to the firm by an individual or company such as a vendor, consultant, facilitator, sub-contractor, licensor, licensee, reseller or distributor and include arrangements involving alliances, joint ventures, joint marketing, co-ventures, sponsorships, co-marketing, cooperative arrangements, investing, lending or borrowing monies or acting as a lessor or lessee. Business relationships do not include relationships between Sizwe Ntsaluba Gobodo Inc. or KPMG Inc. and their respective clients for that firm's performance of professional services to that client.

To the best of your knowledge, do you or a member of your immediate family, the Company or the Company's Board of Directors and any member of their immediate family have any business relationship with the Company's auditors or any of their respective affiliates, or have an ownership interest of 5% or more, or serve as an officer or director of, any company (public or private) that has any business relationship with the Company's auditors or any of their respective affiliates?:

Yes ☐No ☒

If the answer to the above question is "Yes", please specify the name of the person or entity that has the business relationship, a description of the business relationship and the amounts involved:

13. Additional information regarding persons who are directors (or nominees for directors) of the Company.¹

- (a) Are you now or at any time in the last three financial years have you been a member of senior management, or have you owned, directly or indirectly, in excess of 10% of the equity interest in any firm, corporation or other business or professional entity:

N/A

- (i) Which has made payments to the Company or its subsidiaries for property or services during any of the Company's last three financial years?

Yes ☐No ☐

- (ii) To which the Company or its subsidiaries were indebted?

Yes ☐No ☐

¹ If you are not a director or nominee for a director of the Company, a response to question 13 is not required.

Handwritten signature: *A. Muk*

- (iii) To which the Company or its subsidiaries have made payments for property or services in the last three financial years?

Yes ☐No ☐

- (b) Are you now, or have you been in the last three financial years, a member of, or of counsel to, a law firm that the Company has retained at any time since in the last three financial years or proposes to retain during 2014?

Yes ☐No ☐

- (c) Are you now, or have you been in the last three financial years, a partner or member of senior management of any investment banking firm that has performed services for the Company, other than as participating as an underwriter in a syndicate, during the Company's last financial year or that the Company proposes to have perform services during 2014?

Yes ☐No ☐

- (d) Are you now, or have you been in the last three financial years, an independent auditor that has performed services for the Company?

Yes ☐No ☐

If the answer to any question in 13(a), (b), (c) or (d) is "Yes", please describe below the transaction or indebtedness, including the entity with which the Company has such a relationship, the nature of the relationship, and the amount involved:

- (e) Describe any of the relationships between yourself and the Company or its subsidiaries which are substantially similar in nature and scope to those relationships described in questions 13(a), (b), (c) or (d) above, or which otherwise involved providing services to the Company in the last three financial years or proposals to provide services during 2014:

NA

✓


P. M. K.

The undersigned agrees to notify the Company promptly of any changes in the above answers that may occur beginning with the date below and ending on the date of the closing of an issuance.

The undersigned has furnished the information called for in this Questionnaire expressly for use in connection with the preparation of the Prospectus and confirms that the answers given in this Questionnaire are correctly stated to the best of his or her knowledge, information and belief.

Dated: 19 January

2015
2014


Signature

MARK VUNANI PRAMENSEY
Print Name

15 GRAYSTON DRIVE
Address

+27 82 901 8173
Phone Number

+27 11 523 3031
Fax Number

MARK@BLTS.CO.ZA
E-mail address



ATTACHMENT FOR QUESTION 2 SECTION (A)

- In terms of Eskom, non-executive director
- Chairman of Investment and Finance Committee (sub-committee of the board)

CURRENT DIRECTORSHIPS

1. AFRICAN PREPAID SERVICES (PTY) LTD
2. AFRICAN IVORY HOLDINGS (PTY) LTD
3. BIT INFORMATION TECHNOLOGY (PTY) LTD
4. BLUE LABEL TELECOMS LIMITED
5. BORDELO PROPERTIES (PTY) LTD
6. CLIFFROCK SHARE BLOCK COMPANY (PTY) LTD
7. CONTEX FASHIONS CC
8. CONTEX INVESTMENT HOLDINGS CC
9. ESKOM SOC LIMITED
10. EVERTRADE 34 (PTY) LTD
11. FRIEDSHELF 663 (PTY) LTD
12. FRIEDSHELF 669 (PTY) LTD
13. IPO INVESTMENTS (PTY) LTD
14. JANE LANFORD CREATIONS CC
15. MATRAGON HOUSE (PTY) LTD
16. MONIQUE INVESTMENTS (PTY) LTD
17. OAKBAY RESOURCES AND ENERGY LIMITED
18. PLL INVESTMENTS (PTY) LTD
19. YELLOW STAR TRADING 1099 (PTY) LTD
20. ZAMORI 219 (PTY) LTD
21. ZRP INVESTMENTS (PTY) LTD
22. AFRICA PREPAID NIGERIA LIMITED
23. BLUE LABEL MEXICO
24. SMART VOUCHER LIMITED
25. 2DFINE HOLDINGS MAURITIUS (Alternative director)
26. 2DFINE INVESTMENTS MAURITIUS (Alternative director)

ATTACHMENT FOR QUESTION 2 SECTION E

DIRECTORSHIP	LOCATION
AFRICAN PREPAID SERVICES (PTY) LTD	SOUTH AFRICA
AFRICAN IVORY HOLDINGS (PTY) LTD	SOUTH AFRICA
BIT INFORMATION TECHNOLOGY (PTY) LTD	SOUTH AFRICA
BLUE LABEL TELECOMS LIMITED	SOUTH AFRICA
BORDELO PROPERTIES (PTY) LTD	SOUTH AFRICA
CLIFFROCK SHARE BLOCK COMPANY (PTY) LTD	SOUTH AFRICA
CONTEX FASHIONS CC	SOUTH AFRICA
CONTEX INVESTMENT HOLDINGS CC	SOUTH AFRICA

ESKOM SOC LIMITED	SOUTH AFRICA
EVERTRADE 34 (PTY) LTD	SOUTH AFRICA
FRIEDSHELF 663 (PTY) LTD	SOUTH AFRICA
FRIEDSHELF 669 (PTY) LTD	SOUTH AFRICA
IPO INVESTMENTS (PTY) LTD	SOUTH AFRICA
JANE LANFORD CREATIONS CC	SOUTH AFRICA
MATRAGON HOUSE (PTY) LTD	SOUTH AFRICA
MONIQUE INVESTMENTS (PTY) LTD	SOUTH AFRICA
OAKBAY RESOURCES AND ENERGY LIMITED	SOUTH AFRICA
PLL INVESTMENTS (PTY) LTD	SOUTH AFRICA
YELLOW STAR TRADING 1099 (PTY) LTD	SOUTH AFRICA
ZAMORI 219 (PTY) LTD	SOUTH AFRICA
ZRP INVESTMENTS (PTY) LTD	SOUTH AFRICA
AFRICA PREPAID NIGERIA LIMITED	NIGERIA
BLUE LABEL MEXICO	MEXICO
SMART VOUCHER LIMITED	UNITED KINGDOM
2DFINE HOLDINGS MAURITIUS (Alternative director)	MAURITIUS
2DFINE INVESTMENTS MAURITIUS (Alternative director)	MAURITIUS

ATTACHMENT FOR QUESTION 9 SECTION (A)

Of my various directorships and shareholdings, Cigicell is the only company, which has dealings with Eskom and in turn requires a related party disclosure. Whilst I am not a director of or direct shareholder in Cigicell per se, I am a director and shareholder of Blue Label Telecoms Limited (BLT), a publicly quoted company listed on the Johannesburg Stock Exchange.

BLT owns 100% of the Ventury Group, registration number 1996/016921/07, which in turn owns 74% of Cigicell.

My shareholding of approximately 4.5 million shares in BLT, held via various Trust structures, represents 0.0067% of its total of 674 million shares in issue. My effective shareholding in Cigicell is therefore nominal.

Cigicell has been a vendor of Prepaid Electricity on behalf of Eskom since 2007. Its current contract with Eskom is due expire in March 2015. Accordingly, Cigicell has tendered for the renewal of this contract for a further 3 years. The tender pertaining thereto is Online Vending Corp 3024. Cigicell currently generates approximately R330 million per month in revenue on behalf of Eskom. Only the commission of approximately 6% received thereon by BLT is reflected in its annual turnover of R19 billion, equating to .017% of its total revenue.

Pmk

CANDIDATE: MARK VIVIAN PAMENSKY
POSITION: CHIEF OPERATING OFFICER

PERSONAL PROFILE

I completed my articles with PriceWaterhouse Coopers before moving to the corporate finance department of Mercantile Bank in 1998. In 2000 I joined a boutique corporate advisory firm, Nucleus Corporate Finance, where after I was employed by Blue Label Investments in 2001 and was appointed COO in 2004, a position I have held since that date. I play an integral role in the strategic and operational management of the Blue Label Telecoms Group, and a significant portion of its local and global footprint can be attributed to my efforts. I'm a member of the South African Institute of Chartered Accountants (SAICA) and the Young Presidents Organisation (YPO).

I have approximately 18 years ongoing experience of Management, Operations, Sales, Marketing, and Strategy. I have in excess of 15 years' experience in solving complex business, product, technology, organisational structure and "people" problems in high-pressure environments.

I have a strong track record of helping to establish start-ups into successful businesses and effecting turn around strategies in others. I see myself as a serial innovator and a highly successful builder of high performance teams.

KEY ACHIEVEMENTS

I am currently employed by Blue Label Telecoms as the group COO. I serve as a member of the group's main board of directors and the executive team with specific responsibility for operations, corporate finance, information technology, and strategic planning. This requires participating in defining and communicating the organisational culture, values, strategic direction, and business objectives. This flows into several areas, specifically:

- Responsibility for planning and allocating resources in a manner consistent with the business objectives;
- Evaluating requirements for commercial partnerships / joint ventures;
- Developing plans to meet shareholder growth and profitability targets;
- Implementation of global best practice initiatives.

In my role at Blue Label I have:

- overseen revenue growth from R17 million, when I started in the business, to today's R17 billion
- seen the staff complement grow to its current 1600 personnel;
- ensured that the business has retained technical staff and core skills;
- managed the business in terms of strategy, sales, profitability, training and development, staff and cost control;
- prepared budgets and achieved agreed results in terms of sales, turnover, profit and productivity for my areas of responsibility;
- been responsible for relationship building with key accounts' at executive management and senior management levels;
- focused on relationship building with stakeholders and key clients/customers ;
- developed new strategic partnerships with leading global technology suppliers;
- developed business plans for entering African, India & Mexico markets as well as other emerging markets;



- travelled extensively to ensure management input and oversight in respect of offshore subsidiaries, and have made and nurtured numerous in-country relationships;
- had direct reports from sales, marketing, operations, services, finance, IT and human resources functions within the group;
- served on numerous subsidiary boards and have provided strategic and commercial guidance to those companies;
- negotiated numerous long term, high value contracts for the group;
- carried out my fiduciary duties as Executive director listed Blue Label Telecoms Limited.

CANDIDATE PROFILE

I am self-motivated and robust leader and am in charge of a number of directives by companies to move into new territories. I have successfully established these operations, ranging from full presence with company set-up, to chair the entities forming the beachhead for the company presence.

I am articulate, self-motivated, focused, and professional and have a proven track record of establishing and maintaining strong, sustainable relationships that deliver. I am able to translate strategy into everyday operational requirements.

Having worked in many different subsidiaries, countries and cultures, I am able to navigate across customer, departmental, governmental and geographical boundaries.

Specialties

- Deal making, negotiation, innovation, performance management, leadership, team building, and strategy;

Experience

- Completed Accounts Articles at Top 4 auditing firm;
- Exposure to listed and unlisted companies, intimate working knowledge of financial and auditing reporting;
- Corporate Finance structuring, engineering, deal making and negotiation;
- Responsibility for operations of complex group of companies, in depth technology and business environmental knowledge;
- Team building and motivational abilities;
- Well regarded deal making skills;
- Extensive network.

Strengths

- Customer focused;
- Track record of over-achievement;
- Proven leadership skills;
- In-depth management experience;
- Know-how in corporate and start-ups;
- Analytical thinker with excellent commercial, strategy and negotiation skills;
- I have been integral in the growth of Blue Label Telecoms from an unlisted company with a presence only in South Africa to a listed entity with a market capitalisation of over R5 billion and revenues in excess of R17 billion as well as a presence in India and Mexico;
- I have honed my management and leadership skills substantially through my work experience and I am well respected by staff and colleagues;
- I have initiated complex projects and seen them through to completion;
- I am able to negotiate difficult transactions in highly pressurised situations;

- I have assisted in the structuring and implementation of intricate deal structures and have guided start-ups to profitability and have turned around loss making business.

Other Interests

- I exercise widely and extensively. I enjoy golf and attending sporting events. My recreational time is unfortunately limited, but when I do get a chance, I enjoy unwinding at Peacanwood and reading. I am very interested in technology and its applications, particularly telecommunications. I enjoy reading and researching this subject extensively.
- Hobbies / Interests: Family; Business; Reading; Sport.
- I am physically fit and healthy. I am currently actively involved in running.

PERSONAL MISSION STATEMENT

I will always seek and merit personal growth, happiness at home and success at work. I will never compromise on honesty, even if it may affect me materially.

I will not fear mistakes, only the absence of corrective action, and the reluctance to learn. People on my team are important to me and I will facilitate and celebrate their success. I will delegate responsibility to those who seek it, but never relinquish accountability.

I will obtain the council of those more knowledgeable than me, yet reach my own opinion and take decisive action when required. I will listen to others with due respect and only speak when I can contribute meaningfully.

I will always maintain a positive attitude and a healthy sense of humour, while focusing on the task on hand to the best of my ability. I will keep an open mind and try to learn something new on a daily basis.

OBJECTIVE

THE ROLE

My objective is always to find a role where I can use my strengths in conceptualisation and strategic planning. Ideally, this role will offer scope for learning about a new area of business, make a substantial contribution to overall business strategy, and represent an intellectual challenge. The role must have merger and acquisition opportunities. The role should give me the opportunity to make a difference to people by helping them to learn and develop their full potential.

THE PEOPLE

The people working directly with or for me must be strong executors with above average intellectual capacity. I look for an aspirational leadership team, and specifically an aspirational mentor with that team that is prepared to contribute to my development. Within the broader organisation, I look for a track record of innovation and the flexibility and fluidity to adapt rapidly to change.

ACADEMIC QUALIFICATIONS

1990 Matriculated with University exemption – King David Victory Park
(Distinctions in Math, History and Business economics)

1995 Bachelor of Commerce
University of Witwatersrand

1998 Honours Bachelor of Accounting Science
University of SA

1999 Public Accountants & Auditors Board

1999 South African Institute of Chartered Accountants

CAREER BACKGROUND: - Current

January 2001 – Present
Blue Label Telecoms
Chief Operating Officer

CAREER BACKGROUND: - Previous

Price Waterhouse Coopers – (Articles) Jan 1995 – Nov 1998
Mercantile Bank – Corporate Finance (2 years) as a Consultant – Dec 1998 – 2000
Nucleus Corporate Time – (1 year) as a consultant – 2000 – 2001

OTHER COMPANIES/ORGANISATIONS I AM INVOLVED IN:

I am an active Director on many of the boards of the subsidiary and associate companies with Blue Label Group. I am also a member of the Young Presidents Organisation; I am currently a director of various outside entities that involve mainly commercial/residential properties. I too sit on the Oakbay Resources and Energy Limited Company in the mining sector. I also sit on the board of Eskom Holdings SOC Limited.

PERSONAL DETAILS

FULL NAME: Mark Vivian Pamensky

ID NUMBER: 720913 5261 089


GENDER: Male

DEMOGRAPHIC PROFILE: Caucasian

PHYSICAL ADDRESS: 11 West Road South Estate
Farrington Road, Morningside Ext 180 2196

CONTACT NUMBERS: (t) 011 523 3098
(f) 011 523 3031
(c) 082 901 8173

EMAIL ADDRESS: markp@blts.co.za



17



Mark Pamensky

From: Wayne Venner <VennerWV@eskom.co.za>
Sent: 29 January 2015 11:47 AM
To: Mark Pamensky
Cc: gillianr@bits.co.za; Daphne Morwalle; Malesela Phukubje
Subject: FW: Eskom: Minister of DPE's Request

Importance: High

Dear Mr Pamensky

The Minister of Public Enterprises has requested Eskom to provide the information mentioned below by close of business 29 January 2015.

- a) Directorships in the companies that you currently occupy;
- b) Shareholding and/or investments;
- c) Whether there are any current or potential contracts/dealings; between any of these companies and Eskom;
- d) Interests of related persons as contemplated in sec 75 of the Companies Act, Act 71 of 2008, and
- e) any additional information that may be relevant to the above; and
- f) Certified copies of your main qualifications.

We confirm receiving your declaration of interest in the following companies/organisations:

- Blue Label Group
- Blue Label Telecoms

Please submit the requested information under c), d), e) and f) above if applicable. It will be appreciated if this information can reach us 12 noon 29 January 2015 in order to ensure that the deadline set by DPE can be met. We apologise for such short notice.

Your kind assistance in this regard will be sincerely appreciated.

Many thanks and kind regards,

Sent on behalf of Ms D Morwalle
Wayne Venner
Senior Advisor Secretariat
Link Block C3 S35, Megawatt Park
5 Maxwell Drive, Sunninghill
Office : 011 800 3250
Cell: 082 593 1732
Fax: 086 560 0486

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

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18



Gillian Rosslee

From: Gillian Rosslee
Sent: 29 January 2015 04:03 PM
To: 'VennerWV@eskom.co.za'
Cc: Mark Pamensky
Subject: RE: Eskom: Minister of DPE's Request
Attachments: Response to the Ministers request.docx; Current Directships - Mark Pamensky.docx; MV Pamensky Qualifications.pdf; RE: Confidential: Directorships and Disclosure of Interests

Dear Wayne,

As requested as per the mail sent today please find attached Mr Pamensky's response.

Kind regards

Gillian Rosslee

Personal Assistant to Mark Pamensky (C.O.O)



Direct Line: +27 11 523 3058
 Office Line: +27 11 523 3030
 Email: gillianr@bits.co.za
 Web: www.bluelabeltelecoms.com

blu

Office Address: 75 Grayston Drive, Morningside Ext 5, Sandton, 2196
 Postal Address: PO Box 662262, Benmore, 2010

From: Mark Pamensky
 Sent: 29 January 2015 12:01 PM
 To: Gillian Rosslee
 Subject: Fwd: Eskom: Minister of DPE's Request

Sent from my iPhone

Begin forwarded message:

From: Wayne Venner <VennerWV@eskom.co.za>
Date: 29 January 2015 at 13:47:18 GMT+4
To: Mark Pamensky <markp@bits.co.za>
Cc: "gillianr@bits.co.za" <gillianr@bits.co.za>, Daphne Morwalle <RamekgMD@eskom.co.za>, Malesela Phukubje <PhukubM@eskom.co.za>
Subject: FW: Eskom: Minister of DPE's Request
Reply-To: Wayne Venner <VennerWV@eskom.co.za>, Daphne Morwalle <RamekgMD@eskom.co.za>, Malesela Phukubje <PhukubM@eskom.co.za>

Dear Mr Pamensky

Handwritten signature/initials

The Minister of Public Enterprises has requested Eskom to provide the information mentioned below by close of business 29 January 2015.

- a) Directorships in the companies that you currently occupy;
- b) Shareholding and/or investments;
- c) Whether there are any current or potential contracts/dealings; between any of these companies and Eskom;
- d) Interests of related persons as contemplated in sec 75 of the Companies Act, Act 71 of 2008, and
- e) any additional information that may be relevant to the above; and
- f) Certified copies of your main qualifications.

We confirm receiving your declaration of interest in the following companies/organisations:

- Blue Label Group
- Blue Label Telecoms

Please submit the requested information under c), d), e) and f) above if applicable. It will be appreciated if this information can reach us 12 noon 29 January 2015 in order to ensure that the deadline set by DPE can be met.

We apologise for such short notice.

Your kind assistance in this regard will be sincerely appreciated.

Many thanks and kind regards,

Sent on behalf of Ms D Morwalle
Wayne Venner
Senior Advisor Secretariat
Link Block C3 S35, Megawatt Park
5 Maxwell Drive, Sunninghill
Office : 011 800 3250
Cell: 082 593 1732
Fax: 086 560 0486

I'm part of the 49Million initiative.
<http://www.49Million.co.za>

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LEGAL NOTICE which can be viewed at
http://www.eskom.co.za/Pages/Email_Legal_Spam_Disclaimer.aspx



Mark Pamensky
CA (SA)

75 Grayston Drive
Morningside East 5
Sandton
Johannesburg
2196

Tel: 011 523 3048
Cell: 082 401 8173
Email: markp@lha.co.za

29 January 2015

Dear Sirs,

In response to the request of the Minister of DPE dated 29th January 2015, please find below detailed answers to the question posed

- Directorships in the companies that you currently occupy;

Please find annexed a list of my current directorships. Please note that my directorships may not be accurately reflected on the CIPC (Companies and Intellectual Property Commission) systems as a result of the backlog CIPC is currently experiencing.

- Shareholding and/or investments;

The only shares I hold in my name are in IPO Investments (Pty) Ltd (2000/006060/07), which is a property investment company. I am the beneficiary of family trusts that hold shares in many companies.

- Whether there are any current or potential contracts/dealings; between any of these companies and Eskom;

There are no current or potential dealings between any entity of which I am a director or in which I am a direct or indirect shareholder, save that I own 0.67% of the shares of the JSE listed Blue Label Telecoms Ltd, which in turn owns a subsidiary called Ventury Group (Pty) Ltd (1996/016921/07) and Ventury Group in turn owns 74% of Cigicell (Pty) Ltd, which has since 2007 been a vendor of prepaid electricity. Cigicell's commissions on Eskom prepaid electricity constitute 0.17% of Blue Label Telecoms' revenue. Cigicell's current contract with Eskom is due expire in March 2015. Cigicell has responded to the prepaid electricity vending tender "Online Vending Corp 3024" issued by Eskom in 2014, along with many other hopeful bidders. Please find attached the email sent on the 19 December 2014 to the DPE in this regard. Further this was disclosed at the board meeting of Eskom SOC Limited dated 16 January 2015, and attached to the conflicts register of Eskom SOC Limited accordingly.

Handwritten signature and initials

Mark Pamensky
CA (SA)

75 Grayston Drive
Morningside Est 5
Sandton
Johannesburg
2196

Tel: 011 523 3098
Cell: 082 901 8173
Email: markp@ltl.co.za

- Interests of related persons as contemplated in sec 75 of the Companies Act, Act 71 of 2008:

I am not a director or direct or indirect shareholder in, nor do I have any interest in any person or entity that is in relation to Eskom, a "related person" as contemplated in the Companies Act 2008, nor is any person who is related to me (as contemplated in the Companies Act 2008).

- Any additional information that may be relevant to the above

None

- Certified copies of your main qualifications

Please find annexed copies of certificates evidencing my qualifications, namely my matric certificate, Honours - Bachelor of Accounting Science, Public Accountants & Auditors Board, and Certificate of Membership to the South African Institute of Chartered Accountants.

I hope you find the above in order.

Feel free to contact me directly should you have any additional questions. .

Kind regards



Mark Vivian Pamensky
082 901 8173




MARK PAMENSKY**CURRENT DIRECTORSHIPS**

1. AFRICAN PREPAID SERVICES (PTY) LTD
2. AFRICAN IVORY HOLDINGS (PTY) LTD
3. BIT INFORMATION TECHNOLOGY (PTY) LTD
4. BLUE LABEL TELECOMS LIMITED
5. BORDELO PROPERTIES (PTY) LTD
6. CLIFFROCK SHARE BLOCK COMPANY (PTY) LTD
7. CONTEX FASHIONS CC
8. CONTEX INVESTMENT HOLDINGS CC
9. ESKOM SOC LIMITED
10. EVERTRADE 34 (PTY) LTD
11. FRIEDSHELF 663 (PTY) LTD
12. FRIEDSHELF 669 (PTY) LTD
13. IPO INVESTMENTS (PTY) LTD
14. JANE LANFORD CREATIONS CC
15. LORNANOX (PTY) LTD
16. MATRAGON HOUSE (PTY) LTD
17. MONIQUE INVESTMENTS (PTY) LTD
18. OAKBAY RESOURCES AND ENERGY LIMITED
19. PLL INVESTMENTS (PTY) LTD
20. YELLOW STAR TRADING 1099 (PTY) LTD
21. ZAMORI 219 (PTY) LTD
22. ZRP INVESTMENTS (PTY) LTD
23. AFRICA PREPAID NIGERIA LIMITED
24. BLUE LABEL MEXICO
25. SMART VOUCHER LIMITED
26. 2DFINE HOLDINGS MAURITIUS (Alternative director)
27. 2DFINE INVESTMENTS MAURITIUS (Alternative director)



TID

**TRANSVAALSE
ONDERWYSDEPARTEMENT**



43791/0412

**TRANSVAAL
EDUCATION DEPARTMENT**

HIERMEE WORD GEFIRTFISEER DAT THIS IS TO CERTIFY THAT

PAMENSKY, MARK VIVIAN

IDENTITEITSNOMMER
AAN AL DIE EKSAMENVEREISTES
VOLDOEN HET VIR DIE

7209135261089

IDENTITY NUMBER
SATISFIED ALL THE EXAMINATION
REQUIREMENTS FOR THE

**SENIORSERTIFIKAAT
SENIOR CERTIFICATE**

STUDIERIGTING
VAKKE GESLAAG
SUBJECTS PASSED

ENGLISH FIRST LANGUAGE

AFRIKAANS TWEEDE TAAL

MATHEMATICS

HISTORY

ACCOUNTING

BUSINESS ECONOMICS

ECONOMIC SCIENCE

PRIVATISE POLISIE
CLIENT SERVICE CENTRE
FIELD OF STUDY
2001-02-24 GRAAD
GRADE
KUNTE DIENS SENTHUM
SANDTON
SOUTH AFRICAN POLICE

UITVOERENDE DIREKTEUR: ONDERWYS
EXECUTIVE DIRECTOR: EDUCATION

SYMBOL
SYMBOL

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D
A
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B
A

DATUM VAN UITREKING DATE OF ISSUE

1991.01.01

THIS CANDIDATE HAS, WITH EFFECT FROM 1991.01.01 BEEN EXEMPTED
FROM THE MATRICULATION EXAMINATION OF THE UNIVERSITIES
ESTABLISHED IN THE REPUBLIC OF SOUTH AFRICA BY
PARLIAMENT.

SEKRETARIS / SECRETARY

GENEESKAPLIKE MATRICULASTERAAR / JOINT MATRICULATION

SIMBOOLWAARDES / VALUE OF SYMBOLS

A 80% - 100%	D 50% - 59%	HG Hoër Graad	SG Standaardgraad	LG Leer Graad
B 70% - 79%	E 40% - 49%	HG Higher Grade	SG Standard Grade	LG Lower Grade
C 60% - 69%	F 33 1/3% - 39%			

Hierdie sertifikaat word uitgereik sonder verandering of uitwissing van enige aard.
This certificate is issued without alteration or erasure of any kind.

P. M. K.

University of South Africa



We certify that

Mark Yvonne Patemsky

having complied with the requirements of the Act
and Statute, was admitted to the degree of

HONOURS BACHELOR OF ACCOUNTING SCIENCE

VICTORIA BECK

COMMISSIONER OF the Congregation of the University

EX OFFICIO

ON THE TWENTY-FOURTH DAY of May 1998

57 Clarendon Road

Midrand South Africa 2008

CERTIFICATE COPY OF RECORD

Anthony M. M. M.

Vice-Chancellor

Mark Y. Patemsky

DATE

UNIVERSITY

Mark Y. Patemsky



The South African Institute of Chartered Accountants
Die Suid-Afrikaanse Instituut van Geoktrooneerde Rekenmeesters

Certificate of Membership Sertifikaat van Lidmaatskap

This is to recognise that / Hiermee word gesertifiseer dat

Mark Devian Panyensky

is a member of the Institute and become entitled to the
designation Chartered Accountant (SA)

is lid van die Instituut is en getoëtig geword het op die
benaming Geoktrooneerde Rekenmeester (SA)

Mark Devian Panyensky

1999

Mark Devian Panyensky

1999

VICTORIA BECK
COMMISSIONER OF OATHS
EX OFFICIO
NON-PRACTISING ATTORNEY
75 Graydon Drive
Morningside Ext. 5, Sandton

Given under the Common Seal of the Institute
Geëien onder die Gewone Seel van die Instituut

CERTIFIED TRUE COPY OF ORIGINAL

Chief Executive/
Hoof Uitvoerende Belegter

Membership of the Institute and entitlement
to the designation is subject to the approval
of the Council of the Institute of Chartered Accountants
South Africa (ICA) and the relevant
regulatory authorities.



President

Membership of the Institute and entitlement
to the designation is subject to the approval
of the Council of the Institute of Chartered Accountants
South Africa (ICA) and the relevant
regulatory authorities.

P MK

Gillian Rosslee

To: Mark Pamensky
Subject: RE: Confidential: Directorships and Disclosure of Interests

From: "Mark Pamensky" <markp@blts.co.za>
Date: 19 December 2014 at 13:01:21 GMT+4
To: "Shelley Pather" <Shelley.Pather@dpe.gov.za>
Cc: "Orcilla Ruthnam" <Orcilla.Ruthnam@dpe.gov.za>, "Matsietsi Mokholo" <Matsietsi.Mokholo@dpe.gov.za>, "Melanchton Makobe" <Melanchton.Makobe@dpe.gov.za>, "Brendon Roberts" <Brendon.Roberts@dpe.gov.za>, "Msekeli Willie" <msekeli.willie@dpe.gov.za>, "Mark Pamensky" <markp@blts.co.za>
Subject: Re: Confidential: Directorships and Disclosure of Interests

Dear Shelley,

With reference to your email dated 18 December 2014, I hereby wish to expound on the information submitted to you to date.

Of my various directorships and shareholdings, Cigicell is the only company which has dealings with Eskom and in turn requires a related party disclosure. Whilst I am not a director of, or direct shareholder in Cigicell per se, I am a director and shareholder of Blue Label Telecoms Limited ("BLT"), a publicly quoted company listed on the Johannesburg Stock Exchange. BLT owns 100% of the Ventury Group, registration number 1996/016921/07, which in turn owns 74% of Cigicell.

My shareholding of approximately 4.5 million shares in BLT, held via various Trust structures, represents 0.0067% of its total of 674 million shares in issue. My effective shareholding in Cigicell is therefore nominal.

Cigicell has been a vendor of Prepaid Electricity on behalf of Eskom since 2007. Its current contract with Eskom is due expire in March 2015. Accordingly, Cigicell has tendered for the renewal of this contract for a further 3 years. The tender pertaining thereto is Online Vending Corp 3024.

Cigicell currently generates approximately R330 million per month in revenue on behalf of Eskom. Only the commission of approximately 6% of the aforesaid amount received thereon by BLT is reflected in BLT annual turnover of R19 billion. This amount therefore equates to 0.017% of BLTS total revenue.

I hope this explains your mail and should you require any further information, please feel free to contact me.

Kind regards

Mark.



19



Mark - Markpam

From: Malesela Phukubje <PhukubM@eskom.co.za>
Sent: Tuesday, 03 February 2015 21:31
To: Zola Tsotsi; Tsholofelo Molefe; Tshediso Matona; viroshini naidoo; Zethembe Khoza; Baldwin.Ngubane@gmail.com; norman baloyi; nazia.c@vodamail.co.za; Chwayita Mabude; Mark Pamensky; Romeo Kumalo; venete@kleininc.co.za; Pat Naidoo
Cc: Leo Dlamini; Wayne Venner
Subject: ROUND ROBIN RESOLUTION
Attachments: Eskom TNA Report 2014 - 6 November 2014(1).pdf; TNA Contract Review 27102014 (clean).pdf; TNA ROUND ROBIN 03 FEBRUARY 2015.pdf; Summary Note on Recommendations of the TNA Contract Review Report (4 Dec 2014).pdf

Dear Board Members,

The Chairman of the Board has requested me to forward the attached documents to you, the contents of which are self-explanatory.

I will send the password to open the Report by sms tomorrow morning.

Kind regards,

Malesela Phukubje | Company Secretary
Office of the Company Secretary | Office of the Chairman | Third Floor T36
2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 652 3139 |
eFax: 0866523139
E-mail : phukubm@eskom.co.za
Secretariat website: http://sivmas045.eskom.co.za/corporate_secretariat/



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P MK

	ROUND ROBIN RESOLUTION	Unique Identifier	
		Document Type	CFM
		Revision	
		Effective Date	
		Legal & Governance Division	


	Date	3 February 2015
	Enquiries	
	Contact Person	
	Telephone number	

TITLE OF SUBMISSION	RATIFICATION OF THE NEW AGE (TNA) MEDIA CONTRACT
---------------------	--

RESOLUTION REQUIRED:	Approval by Eskom Board: 1. Decision on The New Age (TNA) Contract.
----------------------	---

COMMITTEE MEMBER	APPROVED (Signature)	NOT APPROVED	DATE
Z Tsotsi			
T Baloyi			
V Klein			
M Pamensky			
P Naidoo			
V Naidoo			
Z Khoza			
R Kumalo			
B Ngubane			
C Mabude			
N Carrim			
T Matona			
T Molefe			

PME

	ROUND ROBIN RESOLUTION	Unique Identifier	
		Document Type	CFM
		Revision	
		Effective Date	
		Legal & Governance Division	

SUMMARY OF FACTS

A contract ("the Contract") was concluded between the Company and TNA Media (Pty) Limited ("TNA Media") on 14 April 2014, with the Interim CE acting as signatory on behalf of the Company;

Following conclusion of the Contract, the Audit and Risk Committee ("ARC") queried it and instituted a review of the Contract by the Company's external auditors, SizweNtsalubaGobodo ("SNG");

SNG conducted a review of the Contract and compiled a report ("the Report") which was presented to the ARC;

The ARC tabled the Report at a Special Meeting of the Board held on 08 December 2014;

In the same meeting, an electronic mail message was sent to the Chairman of the Board raising a number of allegations against two members of the Board at the time. The electronic mail sent by the Interim CE was read out in the meeting and placed on record;

The Interim CE submitted written representations to the Board, through the Office of the Chairman of the Board, clarifying and explaining his rationale in concluding the Contract; and

The Board has the opportunity to review the representations from the then Interim CE, together with all the documents which are attached to this round robin resolution regarding the Contract.

The Board, in arriving at the resolution incorporated herein, has considered the following matters:

- That the parties that were involved in this matter are no longer within the sphere of Eskom's operations. This emanates from the rotation of the former Board, which took effect on 11 December 2014 and the appointment of a permanent Chief Executive. The parties involved had divergent views on the specific aspects of the matter and as such scarce resources would have to be deployed to bring these contentious matters to finality.
- Considering the representations made by the then Interim CE, there exists a difference of interpretation regarding the provisions of the Company's

AMK

	ROUND ROBIN RESOLUTION	Unique Identifier	
		Document Type	CFM
		Revision	
		Effective Date	
		Legal & Governance Division	

Delegations of Authority ("DoA") that needs to be reviewed and clarified further in order to close any gaps which may be present.

- The cost and time required to pursue the matter in contrast with matters facing Eskom and the Board. The Company finds itself in a highly challenging phase of its existence. In light of this, the Company's resources need to be dedicated to issues which have an immediate and fundamental bearing on the reputational and business risk which may accrue to Eskom in the event of the matter continuing unresolved.

The Board recognizes that there is value in platforms that enable Eskom to interact with the public to communicate and garner support for the work that it is doing to ensure that South Africa has sufficient energy. In this regard, the Contract provides an opportunity for Eskom to achieve the aforesaid objectives.

Therefore the Board Resolves that:

1. The TNA Contract is hereby ratified;
2. Eskom's Legal Department is instructed to conduct a full review of the Delegations of Authority to ensure that there is no lack of clarity and ambiguity in the Delegations of Authority; and
3. The Corporate Affairs Department is hereby instructed to ensure that maximum value is realised from the contract and must report to the Board on measures it will implement to achieve this objective.

OTHER APPROVALS REQUIRED

None

SIGNED

ZOLA TSOTSI

Who hereby represents that the above
Information is correct.

DATE

P. M. M.



AUDIT • ADVISORY • FORENSICS

OPPORTUNITY. EXCEEDED.

**REPORT: REVIEW OF THE PROCESS UNDERTAKEN IN
AWARDING THE SPONSORSHIP CONTRACT TO TNA
MEDIA (PTY) LTD**

6 November 2014



P

06 November 2014

Ms Bajabulile Luthuli
Audit and Risk Committee Chairperson
Eskom Holdings Soc Ltd
Megawatt Park
Maxwell Drive
Sunninghill
Sandton

Dear Ms Luthuli,

**REPORT: REVIEW OF THE PROCESS UNDERTAKEN IN AWARDING THE SPONSORSHIP
CONTRACT TO TNA MEDIA (PTY) LTD ("TNA MEDIA")**

Attached hereto please find our report in respect of the above mentioned matter.

Our report is set out under the following headings:

1. Background and mandate;
2. Qualifications and Limitations;
3. Procedures performed;
4. Findings and conclusions; and
5. Recommendations.

Should you require further information, please do not hesitate to contact Vusmuzi Masilela on (086) 117 6782 or 071 889 2245.

Yours faithfully,



Vusmuzi Masilela CA (SA)

Director: Forensic Services & Specialist Forensic Accounting Leader

SizweNtsalubaGobodo Advisory Services (Pty) Ltd

Email: vusmuzim@sng.za.com

HEAD OFFICE
20 Morris Street East, Rosebank, 2196
P.O. Box 2924, Sandton, 2152
Tel: +27 (0) 11 234 0000
Fax: +27 (0) 11 234 0000

Nontobeko Gobodo - Executive Chairman, Victor Setse - Chief Executive
A comprehensive list of all Directors is available at the company's office or registered office.
SizweNtsalubaGobodo Advisory (PTY) Ltd. Registration number: 2005/01595/07



Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

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Report

Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

LIST OF ANNEXURES

Annexure 1	Copy of letter of engagement dated 11 August 2014 between Eskom and SNG
Annexure 2	Copy of contract dated 30 April 2014 between TNA Media and Eskom Version 8
Annexure 3	Copy of Delegation of Authority Policy dated 3 June 2013
Annexure 4	Copy of Procurement and Supply Chain Management Procedure approved on 19 May 2014
Annexure 5	Copy of Procurement and Supply Chain Management Policy approved on 19 May 2014
Annexure 6	Copy of minutes of the special EXCOPS meeting dated 9 September 2013
Annexure 7	Copy of submission to EXCO dated 19 May 2014 in respect of Eskom Sponsorship Practice Note
Annexure 8	Copy of submission to EXCO dated 30 July 2014 in respect of Eskom Sponsorship Practice Note
Annexure 9	Copy of contract dated 30 April 2014 between TNA Media and Eskom Version 9
Annexure 10	Copies of emails between Legal, Corporate Affairs, CE's office and TNA Media relating to the sponsorship contract
Annexure 11	Copy of submission dated 9 April 2014 addressed to the Mr Matjila by Mr Choeu in respect of the TNA Media Business Briefing Breakfast
Annexure 12	Copy of a report addressed to Adv Madonsela by Mr Du Plessis dated 19 November 2013 as well as annexures thereto
Annexure 13	Copy of EXCO Build-Programme Review sub-committee TOR approved on 3 October 2013
Annexure 14	Copy of undated and unsigned MANCO terms of reference
Annexure 15	Copy of unsigned submission dated 1 February 2013 addressed Enterprise Development to EXCO with regards to Sponsorship Framework
Annexure 16	Copies of revised sponsorship budgets of Group and Divisional executives for 2014/2015 financial year
Annexure 17	Copies of letters dated 9 April 2014 addressed by Ms Johnson to various Divisional Executives requesting them to consider reducing their budgets
Annexure 18	Copy of memorandum dated 23 July 2014 addressed by Ms Dhlomo to Mr Venner relating to the approval of the revised sponsorship budgets
Annexure 19	Copies of letters dated 9 June 2014 addressed by Ms Dhlomo to various Divisional Executives requesting them to further consider reducing their budgets
Annexure 20	Copy of email correspondence dated from 11 July 2014 to 12 September 2014 between Ms Dlamini, Mr Mdakane, Ms Doubell and Mr Le Roux
Annexure 21	Copy of power point document dated February 2013 titled "Eskom's Delegation of Authority"
Annexure 22	Copies of three (3) invoices from TNA Media totalling R3.6 million (R1.2 million each) for the business briefings pertaining to the contract under review
Annexure 23	Sponsorship Policy dated 15 August 2013
Annexure 24	Memorandum dated 26 August 2014 from Mr Adam responding to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship

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GLOSSARY OF TERMS AND ABBREVIATIONS

1.1 The following terms and abbreviations apply throughout this report:

Terms and abbreviations

Adv	Advocate
BEE	Black Economic Empowerment
Board	Eskom Board of Directors
BPR	Exco Build-Programme Review sub-committee
CE /CEO	Chief Executive /Officer
DCF	Delegation Consent Form
DE	Divisional Executive
DFI	Development Finance Institution
ESDEF	Eskom Development Foundation
Eskom	Eskom SOC Ltd
EXCO	Executive Committee
EXCOPS	Executive Committee Procurement Sub-Committee
FD	Finance Director
FE	Finance Executive
GE	Group Executive
HR	Human Resources
ICAS	Investment and Capital Assurance Subcommittee
LTD	Limited
MANCO	Management Committee
MYPD3	Multi Year Price Determination
NERSA	The National Energy Regulator of South Africa
PFMA	Public Finance Management Act, Act 1 of 1999
PPPFA	Preferential Procurement Policy Framework Act, Act 5 of 2000
PR	Purchase Requisition
PTC	Procurement Tender Committee
Pty	Propriety
SAP	Systems, Applications & Products
SCM	Supply Chain Management
SNG	SizweNtsalubaGobodo Advisory Services (Pty) Ltd
SOC	State Owned Company
TNA Media	The New Age Media (Pty) Ltd
TOR	Terms of reference
VAT	Value added tax

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Individuals

Adv Madonsela	Adv Thuli Madonsela: Public Protector South Africa
Mr Adam	Mr Mohammed Adam: Divisional Executive, Regulation & Legal
Mr Choeu	Mr Chose Choeu: Divisional Executive, Corporate Affairs
Mr Dames	Mr Brian Dames: Chief Executive
Mr Dhlomo	Mr Phumi Dhlomo: Senior Manager, Marketing Services
Mr Du Plessis	Mr Willie Du Plessis: General Manager (Legal Specialist)
Mr Lakmeharan	Mr Kannan Lakmeharan: Acting Group Executive, Technology and Commercial
Mr Le Roux	Mr Pieter Le Roux: General Manager, Project Sourcing
Mr Matjila	Mr Collin Matjila: Former Acting Chief Executive
Mr Mdakane	Mr Thulani Mdakane: Manager, Procurement and SCM
Mr Phukubje	Mr Malesela Phukubje: Company Secretary
Mr Tsholanku	Mr Neo Tsholanku, Head of Legal Services
Mr Venner	Mr Wayne Venner: Senior Advisor Secretariat
Ms Dlamini	Ms Philile Dlamini: Junior legal Advisor, Corporate Affairs
Ms Doubell	Ms Grietjie Doubell: Senior Consultant, Project Sourcing ,DFI
Ms Johnson	Ms Erica Johnson: Group Executive: Enterprise Development
Ms Koor	Ms Fehmidah Koor: Chief Legal Advisor
Ms Molefe	Ms Tsholofelo Molefe: Finance Director

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1. BACKGROUND AND MANDATE

- 1.1 We understand that Eskom entered into a contract with TNA Media on 30 April 2014 and that the contract was signed by the former acting CE, Mr Collin Matjila.
- 1.2 In terms of the letter of engagement dated 11 August 2014 (**Annexure 1**) between Eskom and SNG, the Audit and Risk Committee of Eskom requested SNG to conduct a review of the said contract entered into between Eskom and TNA Media, in order to:
- (a) Determine whether the SCM process described as per the PFMA and all relevant prescripts have been followed in awarding the contract;
 - (b) Determine whether delegations of authority were adhered to in awarding the contract; and
 - (c) Determine whether there were any deviations and whether these were approved in line with the relevant prescripts.
- 1.3 Based on the findings, SNG is to recommend appropriate corrective action to be considered by Eskom.



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2. QUALIFICATIONS AND LIMITATIONS

- 2.1 SNG was not required to, and therefore did not undertake an audit in terms of the International Standards on Auditing. The scope of SNG's work was limited to a review of the documentation and information provided to us during the course of our review. SNG has not authenticated the relevant records and documentation provided to us.
- 2.2 The purpose of SNG's forensic review was to consider and review the available documents, financial records and other relevant information obtained during our review and ultimately to prepare a report on the factual findings in relation thereto.
- 2.3 SNG has attempted to include all information relevant to the execution of our mandate. However, it is possible that documents and information exist which have not been made available to us or that SNG was unable to locate. Any documents or information brought to our attention subsequent to the date of our fieldwork which could affect our findings may require our findings to be adjusted and qualified accordingly.
- 2.4 This report is neither designed nor intended to provide legal advice and/or a legal opinion and should not, and cannot, be so construed as such.
- 2.5 This report was prepared solely for the purposes of reporting on our findings to date to Eskom. No part may be quoted, referred to or disclosed in whole or in part, by any party, without our prior written consent.



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Review of the process undertaken in awarding the sponsorship contract to TNA Media (Pty) Ltd

3. PROCEDURES PERFORMED

3.1 We obtained and reviewed the following policies, procedures and legislative prescripts as part of the review of the awarding of the TNA contract:

- a) Eskom Delegation of Authority Policy dated 3 June 2013;
- b) Eskom Procurement and Supply Chain Management Policy dated 19 May 2014;
- c) Eskom Procurement and Supply Chain Management Procedure dated 19 May 2014;
- d) Eskom Sponsorship Practice Notes dated 19 May 2014 and 30 July 2014;
- e) Eskom Sponsorship policy dated 15 August 2013;
- f) Eskom Sponsorship framework dated 19 August 2013; and
- g) Public Finance Management Act, Act 1 of 1999.

3.2 We consulted with the following relevant parties amongst others:

- (a) Mr Adam;
- (b) Mr Choeu;
- (c) Ms Dlamini;
- (d) Ms Doubell;
- (e) Ms Koor;
- (f) Mr Le Roux;
- (g) Mr Matjila;
- (h) Ms Molefe; and
- (i) Mr Phukubje.

3.3 We further obtained and reviewed copies of the following documentation:

- (a) Agreement between TNA Media and Eskom dated 30 April 2014;
- (b) Minutes of the special EXCOPS 05/2013-2014 meeting held on 9 September 2013;
- (c) Minutes of EXCO meetings from September 2013 to May 2014;
- (d) Minutes of Board meetings from September 2013 to May 2014;
- (e) Minutes of the EXCO Procurement sub-committee meeting held on 9 September 2013;
- (f) Submission relating to Eskom Sponsorship Practice Notes dated 19 May and 30 July 2014;
- (g) Undated and unsigned terms of reference of the Management Committee;
- (h) Submission letter dated 9 April 2014 addressed by Mr Choeu to Mr Matjila in respect of TNA Media contract;

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- (i) Memorandum dated 26 August 2014 from Mr Adam responding to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship;
- (j) Letter dated 21 October 2013 addressed by Mr Du Plessis to Adv Madonsela;
- (k) Submission dated 19 November 2013 addressed to Adv Madonsela along with the relevant supporting documentation;
- (l) Memorandum dated 23 July 2014 relating to the approval of revised sponsorship budget for 2014/2015 addressed by Ms Dhlomo to Mr Venner;
- (m) Submission of proposed sponsorship framework document dated 1 February 2013 addressed to EXCO for approval;
- (n) Copies of email correspondence between the Legal Division, Corporate Affairs Division, CE's office and TNA Media; and
- (o) Power Point slides dated February 2013 titled "Eskom's Delegation of Authority".

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4. FINDINGS AND CONCLUSIONS**4.1 Our findings are set out under the following headings:**

- A. ALLEGED CANCELLATION OF TNA MEDIA CONTRACT BY THE BOARD;
- B. PROCESS FOLLOWED IN AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA; AND
- C. PAYMENTS IN RESPECT OF THE TNA MEDIA CONTACT.

A. ALLEGED CANCELLATION OF TNA MEDIA CONTRACT BY THE BOARD

4.2 We were informed by Eskom during the briefing session of an allegation that the Board of Eskom had sanctioned the cancellation of the TNA Media contract and that, despite the above, Eskom entered into a three year contract with TNA Media on 30 April 2014.

4.3 This background formed the basis of our request for the minutes of the decision allegedly made by the Board, in this regard from Mr Phukubje. We reviewed the minutes of Board and EXCO meetings for the period September 2013 to May 2014 and there was no mention of the TNA Media sponsorship contract.

4.4 Mr Phukubje further provided us with a copy of the minutes of meeting of Special EXCOPS 05/2013-14 held on 09 September 2013 (Annexure 6). The minutes captured interaction by EXCO related to the newspaper contract with TNA Media, which had apparently expired in August 2012. These minutes are therefore not relevant to the TNA Media sponsorship contract under review.

4.5 During our consultation with Mr Choeu, he informed us that EXCO requested all Divisional and Group Executives to reduce their marketing (which included sponsorships) budgets. This was communicated across all divisions and the prerogative was with the divisional executives to decide on the specific marketing and sponsorship items in respective of which budgets would be reduced. According to with Mr Choeu, in this regard, the TNA Media sponsorship contract was not specifically mentioned.

4.6 Mr Choeu provided us with copies of letters dated 9 April 2014 (Annexure 17) which were addressed by Ms Johnson to various Group and Divisional Executives. The letters (Annexure 17) state that *"Following NERSA's determination on MYPD3 and subsequent cost-saving measures in Eskom, a step-change in the awarding of*

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sponsorships was required given the financial constraints. In 2013 the Sponsorship Practice Note was formulated with the objective of providing the business with a more focussed and efficient approach to managing sponsorships for each financial year, in terms of what will be sponsored and what will be declined in line with current financial constraints. This Practice Note was subsequently ratified as an Exco resolution."

- 4.7 According to the letters (Annexure 17), "The Sponsorship Practice Note aims to:
- *Develop a firm and clear position on managing sponsorship for the next 5 years.*
 - *Assist with cost controlling within the business in terms of ad hoc sponsorships.*
 - *Communicate an Eskom-wide principle decision on how sponsorships outside the proposed structure will be addressed going forward.*
 - *Execute only flagship sponsorships and business imperative sponsorship programmes approved by EXCO.*
 - *Allow the sponsorship desk to decline all sponsorship requests outside the proposed and approved list of flagship and Exco approved sponsorships.*
 - *Eliminate ad-hoc, unplanned sponsorships."*
- 4.8 The letters (Annexure 17) further state "In line with the practice note ratified by Exco, please submit a list of planned sponsorships for your group/division, including amounts, for the 2014/15 fiscal year. The list will then be added to the list of flagship sponsorships and as such will be the only sponsorships to be executed by Eskom for this fiscal year."
- 4.9 Mr Choeu informed us that a second request was made to all the Group and Divisional Executives to further consider revising their sponsorship budgets for 2014/2015 financial year. In this regard, Mr Choeu provided us with copies of the letters (Annexure 19) dated 9 June 2014 addressed by Ms Dhlomo to various Group and Divisional Executives. The letters (Annexure 19) state that "The proposed sponsorship budget for 2014 was presented to Exco on Monday, 26 May 2014. The outcome of the presentation was the recommendation that the Group and Divisional Executives should further cut the sponsorships which they have submitted" and that "Please submit your amended list by end of business on Friday, 13 June 2014 as this list will be resubmitted to Exco for approval."
- 4.10 Mr Choeu also informed us that EXCO decided to centralise the sponsorship budget reduction and that he was tasked to implement this. According to Mr Choeu, this is the reason the second letter dated 9 June 2014 (Annexure 19) came from his office.

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- 4.11 We obtained and reviewed memoranda containing three versions of the Group and Divisional budgets (**Annexure 16 and 18**) after they were revised by the Group and Divisional Executives as instructed in the letters from Ms Johnson dated 9 April 2014 and Ms Dhlomo dated 9 June 2014 (**Appendices 17 and 19**). The table below reflects the said three versions of the consolidated Eskom sponsorship budgets:

Table 1: Sponsorship Budgets

Budget A – Presented to EXCO on 26 May 2014 – prior to reduction (R)	Budget B – Presented to EXCO on 27 June 2014 – after reduction (R)	Budget C – Presented to EXCO on 30 July 2014 – letter for EXCO (R)
46 976 567	30 676 567	53 446 567

- 4.12 It appears from Table 1 above that the budget submitted to EXCO on 26 May 2014 was reduced from R46 976 567 to a new figure of R30 676 567 submitted to EXCO on 27 June 2014. This figure was however adjusted upwards to a total amount of R53 446 567 which was submitted to EXCO on 30 July 2014.
- 4.13 During our consultation with Mr Choeu, he stated that the fluctuation of the sponsorship budgets as illustrated in Table 1 above was due to on-going consultations within the divisions as to which budget items to reduce in line with the instruction from EXCO. According to Mr Choeu, this was work in progress and the final “revised budget” had not yet been finalised and approved by EXCO.
- 4.14 A copy of a memorandum (**Annexure 18**) dated 23 July 2014 addressed by Mr Venner to Ms Dhlomo and copied to Mr Choeu titled “*Approval of the revised Sponsorship Budget 2014/15 list*” states that “*This memo serves as a request for approval by Exco (to be held on 30 July 2014) of the sponsorship listed in the attached revised Sponsorship Budget 2014/15 spread sheet. The spread sheet consists of both budgeted for and not budgeted for sponsorships. The resolution required is for the approval of the sponsorships budgeted for and a decision to be made with regards to the sponsorships not budgeted for.*”
- 4.15 According to the memorandum (**Annexure 18**), the said total sponsorship budget amounted to R53 446 567 which comprised of budgeted sponsorships amounting to R52 278 000 and sponsorships not budgeted for amounting to R1 168 567. According to Mr Choeu, although he was not present at the said meeting, he is aware that the revised budget of R53 446 567 was not approved at the EXCO meeting held on 30 July 2014 as planned. This was confirmed by Mr Adam, who stated that the discussion of the sponsorship contract that had been concluded with TNA Media,

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according to the submission that had been made to EXCO, took priority and that the revised sponsorship budget was therefore not deliberated upon as planned.

- 4.16 During our consultation with Mr Choeu, he informed us that the TNA Media contract in respect of the sponsorship was part of the CE budget. He stated that included in the budgeted amounts in Table 1 above were the budgeted amounts for the office of the CE, which include the TNA Media contract. We reviewed the CE's budget and confirmed that it included the TNA Media sponsorships budget. This is illustrated in Table 2 below:

Table 2: Sponsorship budget for office of CE

Description	Budget A – Presented to EXCO on 26 May 2014 – prior to reduction (R)	Budget B – Presented to EXCO on 27 June 2014 – after reduction (R)	Budget C – Presented to EXCO on 30 July 2014 – letter for EXCO (R)
The New Age/SABC Breakfast Session	14 400 000	14 400 000	14 400 000
Wits Centre for Public Enterprises	8 500 000	8 500 000	8 500 000
South African Local Government Association	2 000 000	0.00	2 000 000
TOTAL	24 900 000	22 900 000	24 900 000

Conclusions

- 4.17 Based on our discussions with relevant parties within Eskom and review of relevant documentation including, *inter alia*, memoranda, minutes of EXCO meetings and email correspondence, a decision was taken by EXCO to reduce Group and Divisional sponsorship budget across the board and not to, necessarily, cancel TNA Media sponsorship contract or budget. This was apparently in line with NERSA's determination on MYPD3 and cost-saving measures in Eskom.
- 4.18 The evidence available indicates that Group and various Divisional Executives attempted to reduce their sponsorship budgets as requested and that the said revised budgets were to be presented to EXCO on 26 May 2014, 27 June 2014 and on 30 July 2014. However, although the revised consolidated sponsorship budget apparently presented to EXCO on 27 June 2014 was 35% (R46 976 567 – R30 676 675) less than that apparently presented on 26 May 2014, the consolidated sponsorship budget that was to be presented to EXCO on 30 July 2014 was 14% (R53 446 567 – R46 976 567) and 74% (R53 446 567 – R30 676 675) more than the budget apparently

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presented to EXCO on 26 May 2014 and 27 June 2014 respectively. Based on our discussion with the relevant parties, this was due to the fact that various Divisional Executives continued updating their budget on an ongoing basis.

- 4.19 Based on the available evidence, the revised budgets were presented to EXCO after the TNA Media sponsorship contract was concluded, as this contract was signed on 30 April 2014.
- 4.20 Based on our discussions with relevant parties, the revised sponsorship budget has not yet been approved by EXCO.

B. PROCESS FOLLOWED IN AWARDING THE SPONSORSHIP CONTRACT TO TNA MEDIA

- 4.21 The table below reflects the policies and procedures in respect of the procurement and contracting process that were provided for purpose of our review:

Table 3: Procurement and delegation of authority policies

Number	Policy	Date of approval	Annexure
1	Delegation of Authority policy	03 June 2013	Annexure 3
2	Procurement and Supply Chain Management Procedure	19 May 2014	Annexure 4
3	Procurement and Supply Chain Management Policy	19 May 2014	Annexure 5
4	Sponsorship Policy	15 August 2013	Annexure 23

- 4.22 However, as captured in Section A of this report, the sponsorship contract entered into between TNA and Eskom was concluded on 30 April 2014. The procurement and supply chain management policy and procedure provided are therefore not applicable for the period under review.
- 4.23 The delegation of authority policy (Annexure 3) was signed by Mr Dames on 3 June 2013 as CE of Eskom and authorised by the Chairman of the Board, Mr Tsotsi. A date was not appended next to his signature. Based on the signature date of the CE, the delegation of authority policy was applicable for the period under review.
- 4.24 The purpose of the policy (Annexure 3) is to provide Eskom with a guideline to the powers and authorities delegated by the Board. It prescribes the scope, conditions and parameters within which the powers can be exercised by executives and all employees. We have summarised below the relevant sections of the policy:

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- a) Paragraph 2.2.7.1.4 of the policy provides that, *"Except for procurement matters, an authorised Delegee is entitled at its discretion to make any decision without the need for a recommendation from any party"*
 - b) According to paragraph 2.2.7.1.5: *"Any submission to the Board or a Board committee must be authorised by the CE, EXCO or an EXCO subcommittee, where applicable"*
 - c) Furthermore, paragraph 2.2.7.1.6 provides that, *"In the event of any doubt regarding an authorised signatory, the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive"*.
- 4.25 In our consultation with Mr Le Roux and Ms Doubell, they informed us that the sponsorships do not fall under SCM and /or procurement. Mr Le Roux then referred us to Mr Choeu as head of Eskom Development Fund.
- 4.26 We reviewed the sponsorship policy dated 15 August 2013 (Annexure 23). The policy defines a sponsorship as follows *"A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsors image, brands or products and sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits"*.
- 4.27 Paragraph 3.10 of the policy deals with the return on investments from sponsorship transaction. This therefore means it was envisaged that sponsorship transactions will invariably have an element of investment.

The submission for the TNA business briefing breakfasts

- 4.28 A submission dated 09 April 2014 (Annexure 11) was prepared by Mr Choeu for the attention of the Acting CE, Mr Matjila. The submission was with regards to the 49M Campaign: Investment in TNA Media (Pty) Ltd business briefing breakfasts.
- 4.29 The submission (Annexure 11) captures the strategic context, justification, project scope, costs, main risks, contracting strategy and key assumptions.
- 4.30 Under the heading of the main risks, *"public scrutiny"* was highlighted. This was apparently because Eskom was involved in a previous investigation by the Public Protector for allegations of fruitless and wasteful expenditure. According to the

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submission (Annexure 11) all relevant documentation were submitted to the Public Protector. Eskom had apparently not yet received any further communication regarding the investigation.

4.31 The submission (Annexure 11) states that Eskom has been using the TNA Media breakfast platform as part of the 49M campaign. According to the submission, the contents of the TNA Media Sponsorship contract have been summarised as follows:

- (a) The previous contract was entered through an agency, The Media Shop, as stipulated in the "Contracting Strategy" paragraph of the submission;
- (b) The TNA business breakfast sponsorship proposal received from TNA Media was also attached for Mr Matjila's consideration as stipulated in the "Background" paragraph of the submission;
- (c) In the "Justification" paragraph, Mr Choeu states that *"Sponsorship is a form of marketing communication in which a brand is aligned with an activity or entity in order to exploit the commercial potential creates by association, thereby positively impacting brand image and/or sales among the sponsor's target markets in order to attain marketing and corporate objectives". "Sponsorships are embarked upon for business reasons and therefore need to be leveraged, tracked and measured to ascertain the return on investment that they are providing. Sponsorships is (sic) thus an investment which creates the expectation of future returns."*

4.32 The submission to Mr Matjila further states that *"Eskom will enjoy the following benefits:*

- (a) *Enhance its standing with all Stakeholders around the country as well as emphasise key issues that affect Eskom;*
- (b) *High level networking opportunities exist where executives from Eskom will be able to interact with senior government officials and executives at the Business Briefing Breakfasts; and*
- (c) *Business Briefing Breakfasts will bring Eskom executives and representatives closer to the organisations and individuals with decision making powers in the respective Government; Statutory Bodies; Regulators and Legislators in a congenial environment conducive to dialogue and engagement."*

4.33 In the submission (Annexure 11) Mr Choeu also refers to a contracting strategy which states *"Eskom has received a proposal to use an agency The Media Shop to access the TNA Business Breakfast platform with an additional 17% agency fee per event. We are proposing that we engage directly with TNA Media and contract directly. This will save Eskom the additional 17% agency fee"*.

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- 4.34 On the basis of the above, it was recommended that *"you approve the investment in the sponsorship request of R43 200 000 for 36 business briefings for a period of 36 months."*
- 4.35 The submission was signed by Mr Choeu and approved by Mr Matjila. The dates of signature were not appended next to their signatures and we could therefore not establish when these parties signed the submission.
- 4.36 The submission (Annexure 11) stated what the amount of the sponsorship was (i.e. R43 200 000 for a period of 36 months). It however did not indicate if there was budget available for the said sponsorship and whether the same was approved by EXCO. As already indicated in Sections A above, the available evidence indicates that, although the 2014/2015 sponsorship budget might have been presented to EXCO for approval, this has not yet been approved.
- 4.37 During our consultation with Mr Matjila, he informed us that he understood the TNA Media contract to fall within the ambits of an "investment" transaction and not sponsorship. Mr Matjila stated that he approved the contract based on his delegated investment transactions approval of R75 million. He showed us what appeared to have been power point slides dated February 2013 titled *"Eskom's delegation of Authority"* (Annexure 21) which referred to the said investment delegation of R75 million. We compared this document to the Delegation of Authority policy (Annexure 3) approved on 03 June 2013 referred to above which also makes reference to the said threshold of R75 million in respect of investments.
- 4.38 Mr Adam informed us that he drafted a memorandum dated 26 August 2014 in response to a discussion he had with the CE on whether the TNA Media transaction could be classified as an investment or sponsorship (Annexure 24). Mr Adam stated in the said memorandum that in terms of Eskom's Sponsorship Policy, a sponsorship is defined as follows *"A sponsorship is any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsors image, brands or products and sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits"*. We reviewed the sponsorship policy dated 15 August 2013 (Annexure 23) and confirmed this was the definition of sponsorship according to the said policy.
- 4.39 Mr Adam further stated in the said memorandum that paragraph 3.10 of the policy envisages the management of return on investment for sponsorships and he

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understands this means Eskom contemplates returns or some benefits associated with sponsorship. This is in line with our understanding of what is envisaged by paragraph 3.10 of the said policy.

- 4.40 Mr Adam also addressed the relevant provisions of the delegation of authority on the matter. He stated that in interpreting the delegation of authority, any specific powers or conditions must take precedence over any general powers or conditions. He further stated that even if the transaction could be classified as an investment transaction, the specific provisions relating to the transaction in question takes precedence over general delegation of authority. He stated that sponsorships are dealt with specifically in the delegations of authority and this serves to limit the general provisions. In conclusion, Mr Adam stated that it is clear that the agreement with TNA Media is a sponsorship as contemplated in the delegations of authority and its approval should have been in consultation with EXCO.
- 4.41 Paragraph 2 of the TNA contract states *"Eskom wishes to participate in the aims and objectives of TNA Media (Pty) Ltd through the sponsorships of the business briefings"*. The contract refers to the transaction as a sponsorship and no reference is made to an "investment" in this contract.
- 4.42 In addition, the following factors confirm that Eskom considered the contract to be sponsorship and not "investment":
- (a) The budget amount for the TNA Media contract was included in the budgets for Group and Divisional Executives' sponsorship budgets;
 - (b) During our consultations with other parties on the matter, it was never mentioned that the transaction was considered to be an "investment" and not sponsorship; and
 - (c) By his own admission, Mr Matjila stated that the "investment" he is referring to is not an investment as defined in accounting terms that would constitute an asset to be reflected on the Statement of Financial Position, but rather an "investment" in that Eskom expected to derive some returns in the form of enhanced brand image and awareness. However, it would appear that the investments envisaged in the delegation of authority are indeed investments as defined in accounting terms representing an asset to Eskom. Consequently, the fact that the provisions relating to investments in the delegation of authority were utilised by Mr Matjila to justify the approval of "investments" other than those envisaged in the delegation of authority appears to be irregular.



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- 4.43 Based on our review of a copy of the submission to EXCO dated 1 February 2013 (Annexure 15), the objectives of the sponsorship framework are outlined as follows:
- To provide an opportunity by brand awareness, attribute association, networking, and/or customer relations to enhance goodwill and loyalty;
 - To create opportunities and platforms to form strategic alliances with existing and potential partners;
 - To present opportunities to develop properties that Eskom could own and leverage cost effectively on a sustainable basis;
 - To ensure good governance of the process and ensure consistency.
- 4.44 The submission dated 9 April 2014 addressed by Mr Choeu to Mr Matjila mentions the following as benefits to Eskom from the TNA Media contract:
- Enhance its standing with all stakeholders around the country as well as emphasise key issues that affect Eskom;
 - High level networking opportunities exist where executives from Eskom will be able to interact with senior government officials and executives at the Business Briefing Breakfasts;
 - Business briefing breakfast will bring Eskom executives and representatives closer to the organisation and individuals with decision making powers in the respective Government; Statutory Bodies; Regulators and Legislators in a congenial environment conducive to dialogue and engagement.
- 4.45 Based on the various factors discussed above, the sponsorship framework objectives as outlined above as well as the purported benefits that would be derived from the contract as per the submission from Mr Choeu, the contract concluded with TNA Media is a sponsorship contract and not an investment contract
- 4.46 Table 4 illustrates the delegation of authority applicable to Eskom sponsorships (Annexure 3).

Table 4: Delegation of authority: Corporate Social Investment

Paragraph ref	Powers & Authority	Approvals Authority	Recommends
12.2	Sponsorships		
	Up to R50K	CE/FE/GE/DE in consultation with Corporate Sponsorship Committee established by the DE Corporate Affairs	Relevant Manager

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	Up to R3m	CE/Sponsorship Committee established by the GE Corporate Affairs	Relevant Manager
	Above R3m and subject to approved budget	CE (in consultation with EXCO) or he may delegate to ICAS	Relevant Manager

- 4.47 The TNA Media contract (Annexure 2) was valued at R43.2 million and as such should have been approved by the CE in consultation with EXCO.
- 4.48 The said contract between TNA and Eskom in the amount of R43.2 million was signed by the authorised signatory, Mr Collin Matjila, who was the Acting Chief Executive as prescribed by section 2.2.7.1.6 of the policy.
- 4.49 However, Mr Matjila confirmed that he did not approve the contract in consultation with EXCO as he did not consider this to be a sponsorship but an "investment". Furthermore, as discussed in section A above, the revised 2014/2015 sponsorship budget has not yet been approved by EXCO. The first letter addressed to the Group and Divisional Executives requesting them to reduce their sponsorship budgets was sent on 9 April 2014, before the signing of the TNA Media contract. Based on this and the fact that Mr Matjila was part of EXCO, Mr Matjila was aware of the decision by EXCO to revise the sponsorship budgets.
- 4.50 Based on the above findings, the approval of the TNA Media sponsorship contract was done by Mr Matjila in contravention of the delegation of authority policy which required Mr Matjila to approve the contract in consultation with EXCO and subject to approved budget.

The Contract between Eskom and TNA Media

- 4.51 Eskom entered into a sponsorship contract with TNA Media (Annexure 2) signed on 30 April 2014 by the Acting CE, Mr Collin Matjila. We summarise below the salient features of the contract:
- This is a three year agreement which shall commence on the effective date and terminate on 30 April 2017;
 - The agreement is in respect of breakfast/ business briefings; and
 - Eskom shall pay TNA Media an amount of R43, 200,000.00 for 36 breakfast/ business briefing events at a cost of R1, 200,000.00 each as a sponsorship fee.



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- 4.52 The agreement in paragraph 4.2 sets out how the sponsorship fee shall be paid and the bank account into which it shall be paid while paragraph 5 covers the responsibilities of TNA Media.
- 4.53 In our interview with Mr Adam, he stated that upon his review of the contract as a Divisional Executive for Legal, he noted that there was no termination clause and made a suggestion (Annexure 9) that the contract be amended to include a termination clause. The exit clause was subsequently factored in in paragraph 2.1 and paragraph 12.2 as follows: *"Eskom will have the right to terminate this agreement on 30 (thirty) days written notice of its intention to terminate, which Eskom will be entitled to exercise for any reason whatsoever at its sole discretion"*
- 4.54 Mr Adam informed us that this recommendation was mainly due to Eskom's cash constraints and also taking into account the envisaged duration of the contract of 36 months.
- 4.55 We reviewed the email correspondence between Legal, Corporate Affairs Division, CE's office and TNA Media (Annexure 10) with regards to the TNA Media contract. We summarise the correspondence in table 5 below:

Table 5: Summary of the email correspondence

Date	Time	Sender	Recipients	Contents of the email
24 April 2014	11:08 AM	Mr Adam	Ms Koor and Mr Tsholanku	<i>"Fehmidah perhaps the best way to deal with the notice is to say that the agreement is for 3 years unless terminated by either party on 30 days written notice. Then align the other sections and you build in the discretion by either party etc."</i>
24 April 2014	12:02 PM	Ms Koor	Ms Dlamini and cc'd Mr Tsholanku	<i>"I have revised the payment clause to link it to each event and strengthen the right to cancel in terms of clause 12.2. I have enclosed version 9 of the draft agreement"</i>
24 April 2014	12:10 PM	Ms Dlamini	Ms Koor and cc'd Mr Tsholanku	<i>"The contract version 8 was sent to the CE earlier. I think I will wait and see what he says now. There was a strong preference for the "year one", "year two" and "year three" payment per version 8. Is there a significant difference between the two versions?"</i>

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24 April 2014	12:13 PM	Ms Koor	Ms Dlamini and cc'd Mr Tsholanku	<i>"I mad (sic) changes as per Mohammed Instructions on payment and the issue relating to cancellation for convenience"</i>
29 April 2014	1:26 PM	Mr Howa	Mr Choeu	<i>"Thank you for taking my call earlier about the current draft which is little bit different to the one agreed between us previously. On reading it, the changes noted include: Paragraph 2.1 in which a termination clause has been added. Our understanding is that paragraph 2.2 with its breach conditions would cover termination. Paragraph 12.2. We are 100% behind termination based on breach, but have some difficulty with the introduction of this kind of clause which was not included in the previous versions or agreements. "I am sure this is an oversight in drafting and is easily correctable after which I would be happy to receive a corrected version".</i>
29 April 2014	1:39 PM	Mr Choeu	Mr Adam, Mr Tsholanku and Ms Koor	<i>"Refer to mail from TNA below and assist respond (sic)"</i>
29 April 2014	2:19 PM	Mr Adam	Mr Choeu, Mr Tsholanku and Ms Koor	<i>"Chose, you need to make a call on the commercial need. It was not an oversight – it was deliberately drafted to allow for cancellation on 30 days notice. I would recommend retaining our wording"</i>

4.56 According to Ms Koor, an email (Annexure 10) dated 29 April 2014 at 11:51 AM sent by Mr Adam to Mr Choeu included the last version of the contract that the legal department sent to Mr Chose and Ms Dlamini and contained the termination clause. Ms Dlamini also confirmed that the last version she received from Ms Koor contained the termination clause. Ms Dlamini further informed us that she did not remove the said clause nor was she requested to remove same by anyone.

4.57 The fact that a contract without a termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause to be factored

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in the final contract, appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises.

- 4.58 During our consultation with Mr Matjila, he informed us that Mr Choeu mentioned to him that TNA Media indicated during the contract negotiations that they were not comfortable with the 30 days termination clause. Mr Matjila stated that he then enquired with Mr Choeu as to whether this was a standard clause for similar contracts and the response from Mr Choeu was that there were other similar contracts which were concluded without the clause in question.
- 4.59 Mr Matjila informed us that he then requested Mr Choeu to consult with the legal department and discuss this clause. Mr Matjila stated that he was of the view that the clause rendered the contract very onerous to TNA Media and defeated the objective of the contract as it granted Eskom permission to cancel for any reason with only 30 days' notice. It is not clear why Mr Matjila would seemingly be this concerned about an onerous clause on the part of TNA Media when he would be expected to negotiate this contract in the best interest of Eskom.
- 4.60 Based on our review of the email correspondence it appears that the termination clause was removed after the email dated 29 April 2014 (2:19 PM) addressed to Mr Choeu by Mr Adam stating "Chose, you need to make a call on the commercial need. It was not an oversight – it was deliberately drafted to allow for cancellation on 30 days notice. I would recommend retaining our wording". According to email correspondence we reviewed, this email was the last correspondence from the legal department on the matter. Mr Adam also confirmed that this was the last time he engaged with Mr Choeu on the said termination clause and that he never followed up on what decision was subsequently taken on this matter by Mr Choeu. The final version which was signed on the 30 April 2014 did not have the termination clause in question.

Conclusions

- 4.61 We conclude as follows, based on our consultations with relevant parties within Eskom and review of documentary evidence available:
- (a) Mr Matjila signed the contract with TNA Media as prescribed by the delegation of authority policy. However, the evidence available indicates that the 2014/2015 sponsorship budget has not yet been approved by EXCO. According to the delegation of authority policy, the CE may approve sponsorship expenditure above R3 million subject to budget approval. Additionally, the

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delegation of authority policy requires expenditure above R3 million to be approved by the CE in consultation with EXCO;

- (b) Mr Matjila confirmed that he did not approve this contract in conjunction with EXCO as he did not view the TNA Media contract as sponsorship, but as an "investment". However, based on our discussions with various relevant parties with in Eskom and review of documentary evidence available, including the TNA Media contract, sponsorship budgets and submission to Mr Matjila in respect to this contract, the TNA Media contract concluded on 30 April 2014 relates to sponsorships and not "investment" as alleged by Mr Matjila. This contract was therefore irregularly approved by Mr Matjila;
- (c) The fact that a contract without the termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause to be factored in the final contract, appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises; and
- (d) Based on our review of the email correspondence and consultations with relevant parties as indicated above, it appears that the termination clause was removed after the email dated 29 April 2014 (2:19 PM) addressed to Mr Choeu by Mr Adam.

C. PAYMENTS IN RESPECT OF THE TNA MEDIA CONTRACT

- 4.62 In our discussion with Mr le Roux, he referred us to the email discussion below regarding the process that should be followed for loading sponsorship projects on SAP to enable payment.
- 4.63 We reviewed email correspondence between Ms Dlamini from Corporate Affairs and Mr Mdakane, dated 11 July 2014 (**Annexure 20**), with regards to the loading of the TNA sponsorship contract on SAP for payment. The email stated "*as discussed earlier, kindly outline the process of loading this contract on SAP*".
- 4.64 Mr Mdakane responded to the email, copying Mr Le Roux, on 21 July 2014 (**Annexure 20**) and stated "*please discuss your request with our Eskom procurement policy and process custodian (Risk and Governance) Ms Tshavhungwe Mamphiswana or Mr Pieter Le Roux in terms of the correct process to be followed. Am not allowed to load such agreement on SAP without proper approval*".
- 4.65 Mr Le Roux referred this request to Ms Doubell on 23 July 2014 according to the attached **Annexure 20**.

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4.66 On 23 July 2014 (Annexure 20) Ms Doubell advised that *"Hi, let me see what the procedure on the Donations says and if it covers sponsorships. Our procedure is silent about sponsorships"*.

4.67 Further to the email above, Ms Doubell sent another email dated 24 July 2014 to Mr Le Roux. The email states

"...Since this sponsorship is in the same category of ESDEF support, I recommend below based on the assumption:

Since there is an agreement signed between Eskom and TNA, I take it that approval has been granted by an authorised person(s). I also assume TNA is on our vendor database.

Because of this assumption and the high number of money (sic), I suggest the following:

-The end users to create a PR in the system

-The buyer to create a 46 contract on SAP

Once done, the end users can do a 45 to release the task orders as per the contract.

If TNA is not registered on the database then unfortunately it will delay the creation on (sic) the contract".

4.68 According to our consultation with Ms Doubell, no payment was effected as at the date of our report. This was confirmed by an email request from SNG to Mr Phukubje for the list of payments made and supporting payment documentation. Mr Phukubje replied in an email dated 11 September 2014 that to date no payment have been effected in respect of this contract. He confirmed however that invoices have been received.

4.69 We were provided with copies of three invoices totalling R3.6 million (R1.2 million each - excluding VAT) (Annexure 22) from TNA Media in relation to the contract under review.

4.70 According to Mr Le Roux, SCM would be involved once all the proper authorisations have been granted. Their role is to load the contract on SAP. The procurement team would then manage the approved budgets and ensure that payment occurs within the budget.

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4.71 The PFMA defines irregular expenditure as follows:

"Irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including—

- (a) *this Act; or*
- (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
- (c) *any provincial legislation providing for procurement procedures in that provincial government;*

[Definition of "irregular expenditure" amended by s. 1 (d) of Act No. 29 of 1999.]"

4.72 As at the date of report, Eskom had incurred irregular expenditure of R3.6 million (excluding VAT) relating to the TNA Media sponsorship.

Conclusions

4.73 As at the date of our report, although invoices totalling R3.6 million (excluding VAT) had been issued by TNA Media, no payments had been made to TNA Media in respect of the sponsorship contract.

4.74 Irregular expenditure amounting to R3.6 million as defined by the PFMA has been incurred in relation to the sponsorship contract with TNA Media, as the contract was irregularly approved by the then Acting Chief Executive in contravention of the delegation of authority.

5. **RECOMMENDATIONS**

5.1 Based on our findings as discussed above, we recommend that Eskom considers taking appropriate corrective action against the following parties for:

Mr Matjila

- (a) Approving the TNA Media sponsorship contract in contravention of the delegation of authority which required him to approve the contract in consultation with EXCO. Mr Matjila confirmed that he did not consult with EXCO in approving this contract; and
- (b) Approving the TNA Media sponsorship contract in contravention of the delegation of authority which required him to approve the contract in consultation with EXCO and subject to approved budget. The 2014/2015 TNA

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Media sponsorship budget of R14.4million has not as yet been approved by EXCO. The TNA Media contract amount concluded amounted to R43.2million.

Mr Choeu

- (c) His involvement in the removal of the termination clause in the contract with TNA Media, despite the recommendation by the legal department to include and retain the said clause.

- 5.2 We further recommend that Eskom considers seeking legal advice on what would be appropriate corrective action to consider in respect of the parties indicated above as well as how to proceed with the TNA Media sponsorship contract.



MEASURES MUST BE IMPLEMENTED BY THE CORPORATE AFFAIRS DEPARTMENT TO ENSURE THAT THESE OBJECTIVES ARE ACHIEVED FOR THE COMPANY'S BENEFIT; REPRESENTATIONS OF THE ACTING CHIEF EXECUTIVE OFFICER TO THE DRAFT REPORT COMPILED BY SIZWE NTSALUBA GOBODO ("the Auditors") ENTITLED: REVIEW OF THE PROCESS UNDERTAKEN IN AWARDED THE SPONSORSHIP CONTRACT TO TNA MEDIA (PTY) LTD ("the Report") DATED 5 NOVEMBER 2014

INTRODUCTION

- 1 The Audit and Risk Committee ("the ARC") of the Board of Directors ("the Board") of Eskom Holdings SOC Limited ("Eskom") had initiated a review into the regularity of the conclusion by the Acting Group Chief Executive of Eskom ("CE") of the Agreement between TNA Media (Pty) Ltd ("TNA") and Eskom ("the Agreement").
- 2 The Agreement was concluded on 30 April 2014. Its effective date would be 1 May 2014 and it would endure for a period of 3 years, terminating on 30 April 2017.
- 3 At the heart of the enquiry is the question whether or not the CE was authorised in terms of the relevant delegation of authority to execute the Agreement.
- 4 The CE makes the representations below to the Board in response to the Report.

THE AGREEMENT

- 5 The Agreement largely entails the granting by TNA to Eskom of the following rights in respect of business briefings hosted by TNA¹:
 - 5.1 Live broadcasts of events for at least 60 minutes;
 - 5.2 Advertisements in *The New Age Newspaper*;
 - 5.3 2 tables of 10 guests each at the events;
 - 5.4 Banner advertisements on The New Age website;
 - 5.5 Use of Social Media;
 - 5.6 Eskom logo displays on all invitations to events;

¹ Clauses 3.1, 3.2 and 5.1, Agreement

- 5.7 6 pull up banners at events;
 - 5.8 2 Eskom guests being allocated seats at the "main table";
 - 5.9 Sponsor speech from the podium before the event broadcasts.
- 6 The Agreement provides that TNA Media shall consult Eskom regarding the decision on all guest speakers for business briefings².
- 7 The amount of R43.2m would be paid by Eskom to TNA. That would cover 36 business briefings at the cost of R1.2m each³. The sum of R1.2m is payable within 30 days after each briefing⁴.

THE PROCESS FOLLOWED

- 8 The CE received the request for approval ("RFA") of the conclusion of Agreement from the Divisional Executive: Corporate Affairs ("DECA") around 9 April 2014.
- 9 It was apparent from the RFA that:
- 9.1 Previously there were contracts in place between Eskom and TNA regarding the same subject matter and that contract had come to an end;
 - 9.2 The Agreement offered a platform to Eskom to propagate its various campaigns, including the much publicised 49M campaign, which reportedly was a phenomenal success;
 - 9.3 The latitude to engage directly with TNA (as opposed to doing it through *The Media Shop* who are Eskom's appointed agency for placement of advertising and related spend) offered Eskom the opportunity to save up to 17% in agency fees; and
 - 9.4 The continuation of the association with TNA regarding the business briefings was commercially desirable to Eskom, particularly to advance energy efficiency programmes in light of power capacity constraints.

² Clause 3.3, Agreement

³ Clause 4.1, Agreement

⁴ Clause 4.2, Agreement

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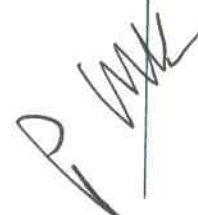
- 10 In the engagements between the CE and DECA it became clear that never before was the TNA contract dealt with and processed as a sponsorship. In other words, the approval protocols that were followed in respect of the previous contract were not those specified for sponsorships in the Eskom Delegation of Authority Policy ("DOA"). The contract was approved by the CE without reference to any other organ of authority within Eskom. The understanding was that it was treated as an investment.
- 11 Accordingly, having regard to past practice and the CE's understanding of the content of the Agreement, the CE was satisfied that the Agreement could not properly be categorised as a "sponsorship" but that it would more fitting to treat it as an "investment". Hence the CE dealt with the RFA in terms of the provisions of the DOA which grant the CE the power to approve investments up to R75m upon the recommendation of the relevant manager (the DECA in this instance).
- 12 In terms of the Eskom Sponsorship Policy, a sponsorship is defined as⁵:
- "..... any commercial agreement by which a sponsor, for the mutual benefit of the sponsor and the sponsored party, contractually provides financing or other support in order to establish an association between the sponsor's image, brands or products and a sponsorship property in return for rights to promote this association and/or for the granting of certain agreed direct or indirect benefits" (own emphasis).*
- 13 I specifically take issue with the opinions expressed by Mr Adam as articulated in clause 4.40 of the Report, where he asserts that: *"...in interpreting the delegation of authority, any specific powers or conditions must take precedence over any general powers or conditions...even if the transaction could be classified as an investment transaction, the specific provisions relating to the transaction in question takes precedence over general delegation of authority...sponsorships are dealt with specifically in delegations of authority and this serves to limit the general provisions...it is clear that the Agreement with TNA Media Shop is a sponsorship as contemplated in the delegations of authority and its approval should have been in consultation with EXCO".*
- 14 The CE has never understood that the relationship contemplated between Eskom and TNA in terms of the Agreement was one in which Eskom sought to derive a benefit of any sort from the "association" with TNA or The New Age, that being a critical element of a sponsorship contract in terms of the Eskom Sponsorship Policy. The TNA brand or The New Age would plainly not offer that. It is a new and upcoming brand that would not offer such brand equity that would enhance the Eskom brand or any of its campaign initiatives. All that TNA offers is a platform for Eskom to propagate its various campaigns primarily through the

⁵ Para 3.3.3, dated 15 August 2013



business breakfasts and secondarily through publicity in *The New Age* and the associated web platforms. This the CE believed was an investment worth making, having regard to the reported successes of utilisation of these platforms in the past.

- 15 It is important to note that an agreement is not a "sponsorship" or other agreement merely because it is labelled or branded as such. It is the substance or content of the agreement that defines its identity – certainly not the form.
- 16 Quite apart from "sponsorships" which are defined in the Eskom Sponsorship Policy, "investments" are not sought to be defined. This indeed makes perfect sense because investments are wide ranging in nature. The Agreement offers an invaluable opportunity for Eskom to propagate its campaigns and to invest in the development and enhancement of its brand as the national electricity supplier.
- 17 Accordingly, the CE does not agree with the conclusion of the Auditors that because the nature of investment made in the brand image and awareness of Eskom cannot be categorised as an investment in accounting terms, the CE could not have treated it as an investment. The fact of the matter is one cannot simply call the TNA contract "a sponsorship contract" merely because it cannot be categorised as an investment in accounting terms. There is no basis to contend for a constrained definition of investments as contemplated in the DOA.
- 18 Ultimately, it is a matter of whether or not it was reasonable of the CE under the circumstances to give the interpretation that he gave to the DOA. The CE submits that the interpretation that he applied to the DOA was reasonable.
- 19 Therefore against the backdrop of the past treatment of the TNA relationship, the content of the Agreement and the extensive powers that the CE enjoys as enunciated in clause 2.2.3.5 in clause 2.2.3.5 of the DOA which gives the CE "...the full authority to manage and run Eskom's business....." and provides further that:
 - (a) The provisions hereof shall not be construed as in any way limiting the authority of the Chief Executive, subject to the overall limitations set out herein, to manage the day-to-day operations of the business in accordance with his/her performance compact.
 - (b)
 - (c) The Chief Executive shall be entitled to implement or give effect to a Board mandate in the manner he deems most effective and efficient for Eskom, and he shall not require



Board approval for each aspect of a transaction or structuring of transactions, falling within a Board mandate", (own emphasis)

the CE cannot have acted irregularly in approving and concluding the Agreement. He can only have done so if he acted in contravention of an express policy of Eskom or a provision of the DOA. That is not the case in this instance.

- 20 Most pertinently, The DOA does not provide for levels of authority for approvals of sponsorships of the kind suggested for the TNA contract.
- 21 The only sponsorship provision of the DOA is to be found under the category "General: Corporate Social Investment". According to King III Corporate Social Investment "in the narrow sense, refers to donations and other kinds of financial assistance made for an altruistic purpose".
- 22 Thus provisions of the DOA which the CE is alleged to have breached regulate "donations" and "sponsorships" under the rubric of Corporate Social Investment. In terms hereof the CE is authorised to approve sponsorships up to R3m upon recommendation of the relevant manager. In relation to sponsorships above R3m, the CE is authorised to approve those upon the recommendation of the relevant manager, but in consultation with EXCO or he may delegate that function to ICAS.
- 23 It is plain that the foregoing sponsorship provisions that are purported to be applicable to the Agreement just do not find application in this instance. Those provisions regulate Corporate Social Investment. The subject Agreement does not by any deduction fall under that category of contracts. The CE therefore submits that the matter is not as clear as Mr Adam contends.
- 24 The CE also notes with a measure of amazement the criticism regarding the exclusion of the "exit clause" which was proposed by Mr Adam from the contract that was signed with TNA. It would certainly be a contradiction in terms to have a term contract but yet have a provision that the contract could be terminated by Eskom on thirty (30) days' notice. That would naturally change the substance of the contract from a term contract to a monthly contract. It would not make commercial sense to anyone seeking to conclude a term contract. The CE therefore fails to appreciate the basis for the conclusion drawn by the Auditors that "the fact that a contract without a termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause to be factored into the final contract, appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises". The practice contended for by the Auditors is simply not consistent with the everyday reality of commerce and contract. It is simply not an objective conclusion to make.

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REMEDIAL ACTION

- 25 Accordingly, having regard to the representations made herein the CE submits that the Board should reject the findings of the Auditors as they are not objective nor sustainable.
- 26 Moreover, in light of the ambiguity of the DOA in respect of sponsorships (if the Board accepts that the Corporate Social Responsibility section of the DOA applies, which the CE does not accept to be the case), then the Board should lean in favour of excusing the conduct of the CE on account of the ambiguity of the DOA on this aspect. This will be in line with an established principle of law that policy must be clear and unambiguous to ensure compliance therewith by all against whom it applies. In case it is unclear or vague, it must be interpreted strictly and certainly not to the detriment of the persons against whom it is aimed.

DATED 27 NOVEMBER 2014

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1.1.4. Due to the urgency in which this summary note has been sought, we have in the main only recorded in summary form our conclusions and not a discussion of all the underlying law on which the conclusion is founded and sometimes briefly our rationale for some of those conclusions.

1.1.5. On account of the pressure of time we have also not had occasion –

1.1.5.1. to be provided with any of the annexures to the Report, or documentation referred to therein;

1.1.5.2. to discuss or clarify any aspect of the Report with either the author thereof or anyone else at Eskom, apart from the initial meeting;

1.1.5.3. to peruse the TNA contract or any document or consider any information pertaining to the TNA contract review other than the Report,

with the result that we rely solely on the factual findings of the Report as articulated without commentary, and if at a later stage additional information is made available to us, that may cause us to review our conclusions and views which may lead to a revision thereof.

1.2. Issue and Question(s) to be Addressed

1.2.1. We have been requested, from the initial meeting, as we understand, to furnish our view on the recommendations of the Report, and in particular the following –

1.2.1.1. what corrective action may be available to be taken or pursued in respect of Matjila, on the one hand, and Choeu on the other hand;

1.2.1.2. whether ratification of the TNA contract is an option available to Eskom, and if so, what the implications of ratifying the TNA contract would be; and

1.2.1.3. whether cancellation of the TNA contract is an option available to Eskom, and if so, what the implications of cancellation of the TNA contract would be.

1.2.2. We were also requested at the initial meeting to express our view on the status of the Report, as it seems that this aspect may have been raised as a matter for clarification.

1.2.3. At a meeting of the board of directors which we attended on Wednesday 3 December 2014, at the invitation of the company secretary of Eskom, we were requested to express our view on whether any of the findings of the Report constitute irregular expenditure.

1.2.4. We express no view in this summary note on what recourse or corrective action may be available to the Minister for Public Enterprises, if any, in relation to Matjila arising out of the Report, as we have not been requested to express any view thereon.

1.3. Documents Reviewed

1.3.1. The main documents reviewed and perused in preparing this summary note are –

1.3.1.1. the Report;

1.3.1.2. Companies Act, 71 of 2008 ("the Companies Act");

1.3.1.3. Public Finance Management Act, 1 of 1999 ("PFMA"), and the regulations promulgated thereunder ("Treasury Regulations");

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1.3.1.4. a Guideline on Irregular Expenditure issued by the Office of the Accountant-General dated May 2014, which was issued as a consolidation of Practice Note of 2008/2009 on Irregular Expenditure ("the Guideline"); and

1.3.1.5. the Law of South Africa ("LAWSA").

1.3.2. We have noted from section 1 of the Report, at paragraph 1.2 on page 7 thereof that the scope of the forensic review of SNG was to –

1.3.2.1. determine whether the SCM (supply chain management) process described in the PFMA and all relevant prescripts were followed in awarding the TNA contract;

1.3.2.2. determine whether delegations of authority were adhered to in awarding the TNA contract; and

1.3.2.3. determine whether there were any deviations and whether these were approved in line with the relevant prescripts.

1.4. Approach and Structure

1.4.1. The approach to this summary note is to express our views in the following manner –

1.4.1.1. mention general principles, in our experience, on the status of forensic audit reports, and stipulate the findings and recommendations of the Report;

1.4.1.2. in respect of possible corrective action in relation to Matjila and Choeu is to mention the complaint, as understood from the Report, identify the complainant, discuss whether the complaint may constitute misconduct and finally some considerations to be taken into account if corrective action is to be pursued;

1.4.1.3. in respect of the options available to Eskom in relation to the TNA contract, we deal first with applicable law on ratification and the key considerations to be taken into account, and secondly deal with cancellation, and lastly possible renegotiation of the TNA contract; and

1.4.1.4. in respect of irregular expenditure we canvass the PFMA definition of the term, and whether any of the findings of the Report fall within such definition, taking into account certain provisions of the Guideline.

1.4.2. This summary note is accordingly organised in the following sections, namely –

1.4.2.1. Introduction;

1.4.2.2. Status of the Report and Findings

1.4.2.3. Potential Corrective Action in relation to Employees;

1.4.2.4. Options in relation to the TNA Contract;

1.4.2.5. Irregular Expenditure; and

1.4.2.6. Conclusion.

2. STATUS OF THE REPORT, FINDINGS AND RECOMMENDATIONS

2.1. Status of the Report

We do not intend to express a conclusive opinion on the status of the Report, on account of firstly that SNG would be better placed to do so, and secondly we are not placed with sufficient information at this time to conclude thereon. However we mention, from our experience, how the status of reports prepared following a forensic investigation are often regarded, namely -

- 2.1.1. if the investigation has been properly commissioned and undertaken with the requisite skill, diligence and independence, then the report should represent findings of fact by the author of the report on matters that were investigated;
- 2.1.2. the findings are patently findings of a court of law, or a quasi-judicial body or inquiry and are generally not binding on the persons against whom adverse findings may have been made, which is why further action is required if there is a desire to have those findings found and to be made binding against those persons. That further action often finds expression in a number of forms including internal disciplinary enquiry, civil litigation, and criminal investigation and/or prosecution; and
- 2.1.3. the findings remain open to the commissioner of the report to accept or reject, and to decide whether or not to act on any recommendation of such report. However if any findings of a report are not accepted then the commissioner of the report would be well advised to document the basis of the rejection, and similarly if any recommendation is not to be pursued, again it would be prudent for the rationale for that decision to be documented, so as to bring closure the investigation and the uncertainty that often accompanies such investigations.

2.2. Findings of the Report

For the purposes of this summary note and ease of reference it is perhaps useful to repeat the relevant findings of the Report, which are summarised at section 4, paragraph 4.61 at page 24 and paragraph 4.74 at page 27 of the Report (acronyms in the Report are accorded the same meanings in this note), as follows -

- 2.2.1. Matjila signed the TNA contract with TNA Media as prescribed by the delegation of authority policy. However the evidence available indicates that the 2014/2015 sponsorship budget had not yet been approved by EXCO. According to the delegation of authority policy, the CE may approve sponsorship expenditure above R3 million subject to approval. Additionally, the delegation of authority policy requires expenditure above R3 million to be approved by the CE in consultation with EXCO;
- 2.2.2. Matjila confirmed that he did not approve the TNA contract in conjunction with EXCO as he did not view the TNA contract as a sponsorship, but as an "investment". However, based on SNG discussions with various parties within Eskom and review of documentary evidence available, including the TNA contract, sponsorship budgets and submission to Matjila in respect of the TNA contract, the TNA contract (concluded on 30 April 2014) relates to sponsorships and not "investment" as alleged by Matjila. The TNA contract was therefore irregularly approved by Matjila;
- 2.2.3. the fact that a contract without a termination clause was ultimately concluded, despite the fact that the Legal Department recommended this clause be factored in the final contract,

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appears to be irregular and exposes Eskom to an undue risk of being unable to terminate the contract when a need to do so arises;

2.2.4. based on the SNG review of the email correspondence and consultations with relevant parties as indicated in the Report, it appears that the termination clause was removed after the email dated 29 April 2014 (14:19) addressed to Choeu by Mr M Adam; and

2.2.5. irregular expenditure amounting to R3,6 million, as defined in the PFMA, has been incurred in relation to the TNA contract, as the TNA contract was irregularly approved by the then acting chief executive in contravention of the delegation of authority.

We have not repeated the SNG findings in relation to unpaid invoices, as those do not form part of the aspects on which we were requested to express our view on.

2.3. Recommendations of the Report

For the purposes of this summary note and ease of reference it is perhaps useful to repeat the relevant recommendations of the Report, which are contained in section 5, paragraphs 5.1 and 5.2 at pages 27 and 28 of the Report (acronyms in the Report are accorded the same meanings in this note), as follows -

2.3.1. Matjila

2.3.1.1. Approving the sponsorship contract with TNA Media in contravention of the delegation of authority which required him to approve the TNA contract in consultation with EXCO. Matjila confirmed that he did not consult with EXCO in approving the TNA contract. (exceeding the financial limit)

2.3.1.2. Approving the TNA contract in contravention of the delegation of authority which required him to approve the TNA contract in consultation with EXCO subject to approved budget. The 2014/2015 TNA Media sponsorship budget of R14.4 million had not yet been approved by EXCO at signature of the TNA contract. (approving without approved budget)

2.3.2. Choeu

His involvement in the removal of the termination clause in the TNA contract, despite the recommendation by the legal department to include and retain the said clause.

2.3.3. TNA Contract

SNG further recommend that Eskom considers seeking legal advice on what would be appropriate corrective action to consider in respect of the parties indicated above, as well as how to proceed with the TNA contract.

3. POTENTIAL CORRECTIVE ACTION IN RELATION TO EMPLOYEES

This section sets out, in respect of Matjila and Choeu, some matters to be taken into account when consideration is being given whether or not corrective action should be taken.

3.1. Acting Chief Executive - Matjila

3.1.1. Complaint(s)

P. M. K.

The two primary complaints and findings in the Report in respect of Matjila are -

- 3.1.1.1. he concluded the TNA contract for an amount exceeding his delegated authority for sponsorship contracts; and
- 3.1.1.2. he concluded the TNA contract committing Eskom to pay amounts which had not been part of any approved budget of Eskom for sponsorships.

3.1.2. Complainant

- 3.1.2.1. It is plain that the complaints referenced in paragraph 3.1.1 above relate to Matjila discharging his duties as an executive in the employ of Eskom, namely the then acting chief executive, meaning that the complainant would be his employer being Eskom.
- 3.1.2.2. We mention in passing that if one or both complaints had been in relation to the discharge of any duty by Matjila as a nonexecutive director of Eskom, then the complainant would be the shareholder, which is the government of the Republic of South Africa as represented by the executive authority of Eskom, being the Minister for Public Enterprises.

3.1.3. Misconduct

The next enquiry is whether the conduct complained of constitutes breach of the terms of employment of Matjila. In the absence of his service (employment) agreement and the applicable general conditions of employment or applicable disciplinary code, we are not able to respond to this enquiry with specificity. However the general principles would be as follows –

- 3.1.3.1. the conduct complained of would have to constitute a breach of an express or implied term(s) of employment known to the employee concerned. In respect of Matjila, these would also include –
 - 3.1.3.1.1. fiduciary duties of a director in terms of the Companies Act (mainly in section 76) and the common law;
 - 3.1.3.1.2. fiduciary duties of accounting authorities in terms of the PFMA (section 50) given that he was also a director of the public entity. Some of these are mentioned in paragraph 3.1.5 below; and
 - 3.1.3.1.3. responsibilities of other officials in terms of the PFMA (section 57) as he, as acting chief executive was an official to whom the board (accounting authority) has delegated certain powers. Some of these are mentioned in paragraph 3.1.5 below;
- 3.1.3.2. the precise nature and extent of the misconduct would have to be determined and what an appropriate or competent sanction would be, taking into account all factors, including presence or absence of impropriety, as the case may be; and
- 3.1.3.3. furthermore if corrective action is to be taken, the form thereof would have to be determined.

PMK

3.1.4. Fiduciary Duties of Directors at Common Law

At common law directors are subject to four fundamental fiduciary duties, which are that a director may not -

- 3.1.4.1. exceed their powers;
- 3.1.4.2. exercise their powers for an improper or collateral purpose;
- 3.1.4.3. fetter their discretion; or
- 3.1.4.4. place themselves in a position in which their personal interests conflict, or may possibly conflict, with their duties to the company.

3.1.5. Fiduciary Duties of Directors and Responsibilities of Officials under the PFMA

3.1.5.1. The PFMA provides for fiduciary duties of directors, collectively and individually, in section 50, some of which are the following, namely -

- 3.1.5.1.1. section 50(2)(a) read with section 50(1)(b) provides that a board member must act with fidelity, honesty, integrity and in the best interests of the public entity in managing the financial affairs of the public entity; and
- 3.1.5.1.2. section 50(2)(a) read with section 50(1)(d) provides that a board member must seek, within the sphere of influence of that board member, to prevent any prejudice to the financial interests of the state.

The test that may have to be applied to the conduct of Matjila (as acting chief executive) in concluding the TNA contract is whether all these fiduciary duties were discharged or met.

3.1.5.2. The PFMA also provides for responsibilities of other officials of a public entity (section 57), to whom an accounting authority (board) may have delegated any powers (section 56). Some of those responsibilities include the following, namely -

- 3.1.5.2.1. section 57(c) which provides that an official in a public entity (such as Matjila when he was the acting chief executive) must take effective and appropriate steps to prevent, within that official's area of responsibility, any irregular expenditure and fruitless and wasteful expenditure and any under collection of revenue; and
- 3.1.5.2.2. section 57(d) which provides that an official in a public entity (such as Matjila when he was the acting chief executive) must comply with the provisions of the PFMA (including Treasury Regulations and treasury directives issued under the PFMA) to the extent applicable to that official, including any delegations and instructions in terms of section 56.

The relevance of these responsibilities is discussed in further detail in paragraph 5 below on irregular expenditure.

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3.1.6. Liability of Directors under the Companies Act

3.1.6.1. In terms of section 77(2)(a) of the Companies Act a director of a company may be held liable in accordance with the principles of the common law relating to the breach of a fiduciary duty, for any loss, damages or costs sustained by the company as a consequence of any breach by the director of duties contemplated, inter alia, in section 76.

3.1.6.2. Section 77(3)(a) states that any director of a company is liable for any loss, damages or costs sustained by the company as a direct or indirect consequences of the director having acted in the name of the company, signed anything on behalf of the company, or purported to bind the company or authorise the taking of any action by or on behalf of the company, despite knowing that the director lacked the authority to do so.

3.1.7. Decision to take Corrective Action

Any decision on whether or not to take corrective action is dependent on numerous factors which differ from case to case and more importantly the weighting of which also differs from case to case. The factors often taken into account for purposes of this summary note, include, without limitation and in no order of importance, the following –

3.1.7.1. whether or not there has been impropriety on the part of the employee, and if so, whether the employee wilfully and knowingly took part therein, or was perhaps innocent to the impropriety being perpetrated from which they derived no benefit. In our reading of the Report we did not find any reference to suggestion of any impropriety on the part of any Eskom employee in the conclusion of the TNA contract;

3.1.7.2. whether the employee remains in the employment of the company concerned. In this case it is plain that Matjila is no longer an employee of Eskom, meaning that the ability of Eskom to take internal corrective action (in the context disciplinary action) may be academic;

3.1.7.3. any finding of guilt in an internal disciplinary inquiry does not necessarily result in founding any legally enforceable liability for repayment of any monies, whether at common law, under the Companies Act or the PFMA; and

3.1.7.4. what decision has been taken on whether or not ratify, in this case, the TNA contract, as discussed below.

3.2. Divisional Executive, Corporate Affairs - Choeu

3.2.1. Complaint

The primary complaint and finding in the Report in respect of Choeu is that he, without good cause, procured the removal of the termination for convenience clause (and provisions) from the final draft of the sponsorship contract to be concluded with TNA Media, to the detriment of Eskom.

3.2.2. Complainant

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It is plain that the complaint referenced in paragraph 3.2.1 above relates to Choeu discharging his duties as an executive in the employ of Eskom, namely divisional executive, corporate affairs, meaning that the complainant would be his employer being Eskom.

3.2.3. Misconduct

The next enquiry is whether the conduct complained of constitutes breach of the terms of employment of Choeu. In the absence of his service (employment) agreement and the applicable general conditions of employment or applicable disciplinary code, we are not able to respond to this enquiry with specificity. However the general principles would be as follows –

- 3.2.3.1. the conduct complained of would have to constitute a breach of an express or implied term(s) of employment known to the employee concerned. In respect of Choeu, these would also include responsibilities of other officials in terms of the PFMA (section 57) as he, was an official to whom the board (accounting authority) has delegated certain powers;
- 3.2.3.2. the precise nature and extent of the misconduct would have to be determined and what appropriate or competent sanction would be, taking into account all factors, including presence or absence of impropriety, as the case may be. There are perhaps two key issues here, being that –
 - 3.2.3.2.1. either Choeu had the executive authority to make the commercial call to exclude the termination for convenience provisions, in which instance if there is misconduct it is one of a judgement call; or
 - 3.2.3.2.2. Choeu did not have the executive authority to make the call to remove the termination for convenience provisions, in which instance there may be misconduct on the basis of exercising a power he did not have;
- 3.2.3.3. furthermore if corrective action is to be taken, the form thereof would have to be determined.

3.2.4. Decision to take Corrective Action

Any decision on whether or not to take corrective action is dependent on numerous factors which differ from case to case and more importantly the weighting of which also differs from case to case. The factors often taken into account for purposes of this summary note, include, without limitation and in no order of importance, the following –

- 3.2.4.1. whether or not there has been impropriety on the part of the employee, and if so, whether the employee wilfully and knowingly took part therein, or was perhaps innocent to the impropriety being perpetrated from which they derived no benefit. In our reading of the Report we did not find any reference to the suggestion of any impropriety on the part of any Eskom employee in the conclusion of the TNA contract;

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- 3.2.4.2. overall performance of the employee, and whether the misconduct or complaint represents an isolated incident, or is representative of a systematic approach to the discharge of duties and responsibilities; and
- 3.2.4.3. any finding of guilt in an internal disciplinary inquiry does not necessarily result in founding any legally enforceable liability for repayment of any monies, whether at common law or under the PFMA.

4. OPTIONS IN RELATION TO THE TNA CONTRACT

This paragraph seeks to identify what options are available to Eskom to deal with the TNA contract, given the complaints referenced in paragraph 3.1.1 above regarding the conclusion thereof by Matjila. The underlying assumption is that Eskom is faced with only two choices which are to either ratify or not ratify the conclusion of the TNA contract, where the latter is consistent with an intention to cancel.

4.1. Ratification

4.1.1. Common Law

The general common law position regarding ratification of conduct by a board of directors for the errand conduct of a director, or the ratification of conduct by a member(s) for the errand conduct of a board of directors is set in LAWSA as follows -

- 4.1.1.1. the common law rule is that where a director or directors have been involved in a breach of duty vis-a-vis their company, the company may ratify that breach of duty. A ratification of a director's breach of duty is a decision by the company, made after full and frank disclosure of all facts, to release a director from liability arising on the part of the director;
- 4.1.1.2. the principal drawn from ratification is that what the members can prospectively authorise, they can ratify;
- 4.1.1.3. if a transaction is rendered voidable at the instance of the company as a result of a breach of a duty owed to it by its directors, the power to affirm vests in the members in general meeting, and can be exercised by ordinary resolution; and
- 4.1.1.4. the members in a general meeting may elect to affirm a transaction rendered voidable because it was entered into by the directors for an improper or collateral purpose; that is to say transactions entered into by the directors in breach of their duty to act bona fide in the interests of the company, or for an unauthorised purpose, for example to further objects other than those authorised by the company's memorandum or to dilute the voting power of the members in general meeting or to maintain themselves on the board.

4.1.2. PFMA

- 4.1.2.1. The assignment of powers and duties by accounting authorities (board of directors) is dealt with in section 56 of the PFMA, which effectively regulates assignment and delegation of powers by a board of directors.
- 4.1.2.2. For purposes of this summary note, the relevant part of section 56 is section 56(3) which provides that the accounting authority (board of directors) may confirm, vary or revoke any decision taken by an official as a result of a

delegation or instruction in terms of section 56(1), subject to any rights which may have become vested as a consequence of the decision.

4.1.3. The TNA Contract

4.1.3.1. It is plain from the foregoing that the decision of Matjila to conclude the TNA agreement beyond his delegated authority in quantum for sponsorship contracts, and without an approved budget may be ratified by the board of directors of Eskom in terms of common law and in terms of section 56(3) of the PFMA. In our view no shareholder ratification would be required in this instance.

4.1.3.2. Any ratification of the TNA contract by the Eskom board of directors would, in our view, be predicated on one or both of the following primary considerations, namely –

4.1.3.2.1. if the board determines or considers, from a commercial perspective, that the TNA contract represents a good value for money proposition to Eskom, as measured against the costs of the sponsorship on the one hand, and the benefits to be derived therefrom by Eskom on the other hand; and/or

4.1.3.2.2. if the board determines that a decision not to ratify is tantamount to cancellation when there are no contractual or lawful grounds for such cancellation, meaning that unlawful cancellation would result in either a claim or specific performance by TNA Media, or a claim for damages TNA Media would suffer by the unlawful cancellation, placing Eskom in financially the same position it would have been had it ratified the TNA contract. The aspect of cancellation is dealt with in more detail below.

4.1.4. We are not able to offer any advice regarding the commercial value to Eskom of the TNA contract. The cancellation aspect is dealt with below.

4.1.5. We pause to mention that if the board is minded to take a view on the commercial benefits, or otherwise of the TNA contract, then the board would be well advised to invite Matjila to give his full account of the benefits of the TNA contract and why such contract, in his judgement represents (or represented at the time) good or fair value to Eskom. The board would be enjoined (on corporate governance principles, in our view) in determining the commercial value or otherwise of the TNA contract to take into consideration any accounting offered by Matjila in this respect.

4.2. Cancellation

This aspect of cancellation is discussed without us having opportunity, given the pressure of time to be furnished with a copy of the TNA contract for review, meaning that we have made certain assumptions about the breach and termination provisions of the TNA contract, which may prove inaccurate, in which instance this section would be revised accordingly.

4.2.1. In the absence of a termination for convenience clause, namely that one or either party may give notice to terminate the contract without breach or default by the other party, the

only lawful termination remedy would be on account of unremedied breach or default by one party under the contract.

4.2.2. In many instances agreements will provide that on the occurrence of a material breach (or sometime any breach) the aggrieved party may give notice to the other party to remedy such breach within a stipulated time, if it is a breach capable of remedy, and if not cured within that time, then aggrieved party will become entitled, among other rights, to terminate the agreement. If the TNA contract breach and termination provisions follow this convention, then Eskom would not be entitled to cancel the TNA contract in the absence of breach (and perhaps only material breach) of the TNA contract by TNA Media.

4.2.3. Another potential ground for cancellation of the TNA contract would be if TNA Media actually knew, or ought to have known that Matjila did not have the authority to conclude the TNA contract when he did. The difficulty with this basis of cancellation is that there has to be actual knowledge or deemed knowledge on the part of TNA Media as to the lack of authority for Matjila to do so, which would be difficult as it would not stop at merely knowledge by TNA Media of the Eskom delegation of authority document (even if filed as a public document at CIPC), but the fact that –

4.2.3.1. Matjila failed to conclude the TNA contract in consultation with EXCO; and

4.2.3.2. there was no approved budget for the TNA contract.

4.2.4. A further option would be to cancel without lawful cause, often referred to as repudiation. The issue with repudiation is that the counter-party (TNA Media) would be entitled on the occurrence of a repudiation event to elect to either –

4.2.4.1. accept the repudiation leading to termination of the TNA contract which would entitle TNA Media to recover damages it would lose as a result of the repudiation, which is likely to equal (or close to equalling) the unpaid balance of the R43 million contract value, thereby placing Eskom in the same financial position as if it had ratified the TNA contract but without any sponsorship association benefits it would have received had the contract not been terminated; or

4.2.4.2. decline the repudiation and hold Eskom to its performance obligations under the TNA contract, which would place Eskom in the same contractual and financial position it would have been in, had it ratified the TNA contract.

4.3. Renegotiate

Eskom could seek to renegotiate the terms of the TNA contract with TNA Media, though the incentive or encouragement which Eskom would use to get TNA Media to the negotiating table as a willing participating is unclear to us at this time, other than potentially –

4.3.1. the prospect of future or other business with Eskom, subject to applicable SCM (supply chain management) policies and procedures; or

4.3.2. appealing to good corporate citizenry role on the part of TNA Media given the current financial position of Eskom, if that would even be a serious and credible option for Eskom.

5. IRREGULAR EXPENDITURE

We now turn to consider whether the conclusion of the TNA contract in the circumstance of the findings of the Report may constitute, or perhaps be construed as, irregular expenditure as defined in the PFMA.

5.1. PFMA

5.1.1. The term irregular expenditure is defined in section 1 of the PFMA as follows –

"irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –

(a) this Act; or

(b) the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or

(c) any provincial legislation providing for procurement procedures in that provincial government;"

5.1.2. The term 'unauthorised expenditure' is defined in section of the PFMA by reference to –

5.1.2.1. overspending of a vote or main division within a vote; and/or

5.1.2.2. expenditure not in accordance with the purpose of a vote or main division with a vote,

with the result that such term, as defined, is of no application to Eskom.

5.1.3. It is plain to us that the remaining jurisdictional facts to found irregular expenditure in respect of Eskom, are whether any of the factual findings of the Report in relation to the conclusion of the TNA contract –

5.1.3.1. constitute an incurrence of expenditure in contravention of any applicable legislation, including the PFMA, the State Tender Board Act or any provincial legislation; or

5.1.3.2. constitute an incurrence of expenditure in a manner that is not in accordance with a requirement of any applicable legislation, including the PFMA, the State Tender Board Act or any provincial legislation.

5.1.4. The next enquiry is what legislation is applicable for purposes of the definition of irregular expenditure in so far as the conclusion of the TNA contract is concerned. We, for purposes of this summary note exclude the State Tender Board Act and any provincial legislation, and given the urgency with which this note has been sought, we have also not considered what other legislation may be applicable other than the PFMA.

5.1.5. It is noteworthy that the term 'this Act' is defined in section 1 of the PFMA as follows –

"this Act includes any regulations and instructions issued in terms of section 69, 76, 85 or 91,"

meaning that Treasury Regulations on the one hand, and directives and practise notes on the other (to the extent that the latter are instructions) form part of the PFMA and accordingly constitute legislation for purposes of the definition of 'irregular expenditure'.

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5.1.6. The relevant provisions of the PFMA for the purpose of establishing whether any of the jurisdictional facts to found irregular expenditure are present are –

5.1.6.1. conclusion of the TNA contract without the agreement of EXCO in contravention of the delegation of authority by the board; and

5.1.6.2. conclusion of the TNA contract without an approved budget therefor, in contravention of the delegation of authority of the board.

5.1.7. We apply these factual findings to the remaining jurisdictional facts by posing and answering a series of questions, as follows, namely –

5.1.7.1. does the conclusion of the TNA contract constitute an incurrence of expenditure? On a plain reading the answer would be affirmative to the extent that (a) the TNA contract is lawfully binding on Eskom and (b) Eskom has incurred a contractual obligation to pay thereunder, presumably against counter-performance by TNA Media;

5.1.7.2. does the conclusion of the TNA contract constitute the incurrence of expenditure in contravention of the PFMA? The answer in our view is affirmative, in that section 57(d) states that an official in a public entity (such as Matjila when he was the acting chief executive) must comply with the provisions of the PFMA (including Treasury Regulations and treasury directives issued under the PFMA) to the extent applicable to that official, including any delegations and instructions in terms of section 56. The factual findings of the Report are that Matjila contravened his delegated authority by failing to (a) seek and obtain EXCO approval and (b) to ensure that there was an approved (and we add, sufficient) budget prior to concluding the TNA contract.

5.1.7.3. does the conclusion of the TNA contract constitute the incurrence of expenditure in a manner that is not in accordance with a requirement of the PFMA? The answer is in our view also affirmative for the reasons of section 57(d) referenced above, and further that an implicit or tacit requirement of section 56 is that the official may not exceed or act outside of the powers delegated by the accounting authority. Once again the findings of the Report in relation to the contravention of the delegation of authority demonstrate a contravention by Matjila of a requirement of the PFMA, namely the legal requirement for an official to act intra vires their delegated authority.

5.1.8. It appears to us, from the foregoing analysis, that the requisite jurisdictional facts to found irregular expenditure for definitional purposes are present in so far as the conclusion of the TNA contract is concerned. In our view the conclusion of the TNA contract, in the circumstance set out above, constitutes irregular expenditure as defined in the PFMA.

5.2. Treasury Regulations

In our brief review of the Treasury Regulations, we were not able to find any provision which advances and tempers with the definition of irregular expenditure, or our analysis thereof.

5.3. The Guideline



- 5.3.1. Subject to the following sub-paragraph, in our review of the Guideline, we did not find or interpret any provision thereof which has an impact on our legal analysis of the definition of irregular expenditure, or our conclusion thereon.
- 5.3.2. It is interesting to note that the Guideline at paragraphs 14 and 15 provides the following, namely –
 - 5.3.2.1. irregular expenditure is deemed to have been incurred not on conclusion of any agreement, or entering into the undertaking to incur expenditure, but on the actual disbursement or payment of that expenditure; and
 - 5.3.2.2. this treatment of and accounting for irregular expenditure is to be applied various accounting standards, namely GRAP, GAAP and IFRS.

5.4. Financial Misconduct

- 5.4.1. The PFMA at section 83(3) provides that financial misconduct occurs when an official of a public entity to whom a power or duty is assigned in terms of section 56 wilfully or negligently fails to exercise that power or perform that duty.
- 5.4.2. It appears to us that taking into account the factual findings of the Report and section 57 of the PFMA, as mentioned in paragraph 5.1.7.3 above, that the conduct of Matjila in relation to the conclusion of the TNA contract also constitutes a financial misconduct.
- 5.4.3. We mention in passing the following excerpts from Treasury Regulation 33 which contains various provisions in relation to financial misconduct, including the following, namely –
 - 5.4.3.1. if financial misconduct is alleged against any employee of the public entity, the accounting authority (board) of the public entity must ensure that an investigation is conducted into the matter, and if confirmed, must ensure that a disciplinary hearing is held in accordance with relevant prescripts;
 - 5.4.3.2. if the accounting authority (board) of the public entity or any member thereof is alleged to have committed financial misconduct, then the relevant executive authority must initiate an investigation into the matter, and if the allegations are confirmed, must ensure that appropriate disciplinary proceedings are initiated;
 - 5.4.3.3. the accounting authority must advise the Auditor-General and relevant executive authority and treasury of any criminal charges laid against any person in terms of section 86 of the PFMA; and
 - 5.4.3.4. if an accounting authority fails to take appropriate action, then the executive authority or relevant treasury may direct the public entity to lay charges of criminal financial misconduct against any person found to have been guilty thereof.

5.5. Aspects not Dealt with

5.5.1. Reportable Irregularity

We have not, in this summary note, traversed the question of whether or not any of the findings of the Report merit a disclosure in the financial statements of Eskom of a reportable irregularity, for three main reasons, being (a) we understand that the auditors

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of Eskom (SNG) have already made that disclosure, (b) we are not aware of the provision under which that disclosure is made, and (c) we have not had opportunity within the time available to make any informed assessment of the issue or to formulate a view thereon.

5.5.2. Fruitless and wasteful expenditure

5.5.2.1. We have not sought in this summary note to traverse the question of whether or not the conclusion of the TNA contract may constitute fruitless and wasteful expenditure, primarily on account of the fact that such assessment may, in our view, only be entertained once a determination of the commercial value or otherwise of the TNA contract has been made. We reiterate that we are not able to express any view on the commercial merit or otherwise of the TNA contract to Eskom.

5.5.2.2. It may perhaps, for sake of context and ease of reference to state the PFMA definition of the term 'fruitless and wasteful expenditure, which is as follows –

"means expenditure which was made in vain and would have been avoided had reasonable care been exercised."

6. CONCLUSION

6.1. The decision on whether or not to take any corrective action against Matjila arising out of one or both of the complaints mentioned in paragraph 3.1.1 above would be informed by such considerations as the board may consider appropriate taking into account some of the factors –

6.1.1. mentioned in paragraph 3.1.6 above (decision to take corrective action);

6.1.2. mentioned in paragraph 4.1.3.2.1 above (ratifying the TNA contract on account of the commercial value derived by Eskom therefrom).

6.2. The decision on whether or not to take any corrective action against Choeu arising out of the complaint mentioned in paragraph 3.2.1 above would be informed by such considerations as the board may consider appropriate taking into account some of the factors mentioned in paragraph 3.2.4 (decision to take corrective action).

6.3. The decision on how to proceed with the TNA contract rests, in our view, in the main on –

6.3.1. the extent of commercial value Eskom considers it is deriving and may in future derive from the TNA contract and whether that represents money well spent in its current financial challenges; and

6.3.2. if the determination to the former is in the negative, whether there is any lawful basis on which the TNA contract may be terminated.

6.4. It would seem from the findings of the Report that there have been, from the conclusion of the TNA contract without the agreement of EXCO and without an approved budget therefor, contraventions which –

6.4.1. constitute a violation of fiduciary duties owed by Matjila to Eskom in his capacity as an executive director of Eskom in terms of common law and the Companies Act;

6.4.2. constitute a violation of responsibilities owed by Matjila to Eskom under sections 57(c) and (d) of the PFMA in his capacity as an official in the employ of Eskom at the time; and

P. M. K.

- 6.4.3. in tandem with the violation of sections 57(c) and (d) of the PFMA, meet the jurisdictional requirements to found a irregular expenditure as defined in the PFMA.
- 6.5. We trust that the foregoing, though brief in a number of respects is sufficient to furnish our views on the matters so requested.
- 6.6. If you wish to discuss any aspect of our views or advice herein, please let us know.

Ledwaba Mazwai

141 Boshoff Street, Niuew Muckleneuk, Pretoria

Tel: 012 346 7313 Fax: 012 346 7314

Ref: Mr L Mazwai / Ms E Marobyane/COM.38/2014/LGM

Date: 4 December 2014



[Handwritten signature]

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Mark - Markpam

From: Mark Pamensky
Sent: Thursday, 05 February 2015 07:22
To: Malesela Phukubje; Zola Tsotsi; Tsholofelo Molefe; Tshediso Matona; viroshini naidoo; Zethembe Khoza; Baldwin.Ngubane@gmail.com; norman baloyi; nazia.c@vodamail.co.za; Chwayita Mabude; Romeo Kumalo; venete@kleininc.co.za; Pat Naidoo
Cc: Leo Dlamini; Wayne Venner
Subject: RE: ROUND ROBIN RESOLUTION
Attachments: 1328_001.pdf

Dear Mr Phukubje,

Please find attached.

Regards

Mark

From: Malesela Phukubje [mailto:PhukubM@eskom.co.za]
Sent: 03 February 2015 09:31 PM
To: Zola Tsotsi; Tsholofelo Molefe; Tshediso Matona; viroshini naidoo; Zethembe Khoza; Baldwin.Ngubane@gmail.com; norman baloyi; nazia.c@vodamail.co.za; Chwayita Mabude; Mark Pamensky; Romeo Kumalo; venete@kleininc.co.za; Pat Naidoo
Cc: Leo Dlamini; Wayne Venner
Subject: ROUND ROBIN RESOLUTION

Dear Board Members,


The Chairman of the Board has requested me to forward the attached documents to you, the contents of which are self-explanatory.

I will send the password to open the Report by sms tomorrow morning.

Kind regards,

Malesela Phukubje | Company Secretary
 Office of the Company Secretary | Office of the Chairman | Third Floor T36
 2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 652 3139 |
 eFax: 0866523139
 E-mail : phukubm@eskom.co.za
 Secretariat website: http://sivmas045.eskom.co.za/corporate_secretariat/

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 Eskom	ROUND ROBIN RESOLUTION	Unique Identifier	
		Document Type	CFM
		Revision	
		Effective Date	
		Legal & Governance Division	


	Date	3 February 2015
	Enquiries	
	Contact Person	
	Telephone number	

TITLE OF SUBMISSION	RATIFICATION OF THE NEW AGE (TNA) MEDIA CONTRACT
---------------------	--

RESOLUTION REQUIRED:	Approval by Eskom Board: 1. Decision on The New Age (TNA) Contract.
----------------------	--

COMMITTEE MEMBER	APPROVED (Signature)	NOT APPROVED	DATE
Z Tsotsi			
T Baloyi			
V Klein			
M Pamensky			5-Feb-2015
P Naidoo			
V Naidoo			
Z Khoza			
R Kumalo			
B Ngubane			
C Mabude			
N Carrim			
T Matona			
T Molefe			



	ROUND ROBIN RESOLUTION	Unique Identifier	
		Document Type	CFM
		Revision	
		Effective Date	
		Legal & Governance Division	

SUMMARY OF FACTS

A contract ("the Contract") was concluded between the Company and TNA Media (Pty) Limited ("TNA Media") on 14 April 2014, with the Interim CE acting as signatory on behalf of the Company;

Following conclusion of the Contract, the Audit and Risk Committee ("ARC") queried it and instituted a review of the Contract by the Company's external auditors, SizweNtsalubaGobodo ("SNG");

SNG conducted a review of the Contract and compiled a report ("the Report") which was presented to the ARC;

The ARC tabled the Report at a Special Meeting of the Board held on 08 December 2014;

In the same meeting, an electronic mail message was sent to the Chairman of the Board raising a number of allegations against two members of the Board at the time. The electronic mail sent by the Interim CE was read out in the meeting and placed on record;


The Interim CE submitted written representations to the Board, through the Office of the Chairman of the Board, clarifying and explaining his rationale in concluding the Contract; and

The Board has the opportunity to review the representations from the then Interim CE, together with all the documents which are attached to this round robin resolution regarding the Contract.

The Board, in arriving at the resolution incorporated herein, has considered the following matters:

- That the parties that were involved in this matter are no longer within the sphere of Eskom's operations. This emanates from the rotation of the former Board, which took effect on 11 December 2014 and the appointment of a permanent Chief Executive. The parties involved had divergent views on the specific aspects of the matter and as such scarce resources would have to be deployed to bring these contentious matters to finality.
- Considering the representations made by the then Interim CE, there exists a difference of interpretation regarding the provisions of the Company's



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Delegations of Authority ("DoA") that needs to be reviewed and clarified further in order to close any gaps which may be present.

- The cost and time required to pursue the matter in contrast with matters facing Eskom and the Board. The Company finds itself in a highly challenging phase of its existence. In light of this, the Company's resources need to be dedicated to issues which have an immediate and fundamental bearing on the reputational and business risk which may accrue to Eskom in the event of the matter continuing unresolved.

The Board recognizes that there is value in platforms that enable Eskom to interact with the public to communicate and garner support for the work that it is doing to ensure that South Africa has sufficient energy. In this regard, the Contract provides an opportunity for Eskom to achieve the aforesaid objectives.

Therefore the Board Resolves that:

1. The TNA Contract is hereby ratified;
2. Eskom's Legal Department is instructed to conduct a full review of the Delegations of Authority to ensure that there is no lack of clarity and ambiguity in the Delegations of Authority; and
3. The Corporate Affairs Department is hereby instructed to ensure that maximum value is realised from the contract and must report to the Board on measures it will implement to achieve this objective.

OTHER APPROVALS REQUIRED

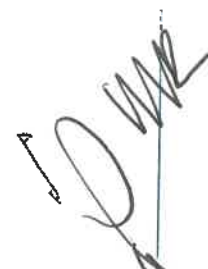
None

SIGNED

ZOLA TSOTSI

Who hereby represents that the above
Information is correct.

DATE



Mark - Markpam

From: Malesela Phukubje <PhukubM@eskom.co.za>
Sent: Thursday, 05 February 2015 08:23
To: Mark Pamensky
Subject: RE: ROUND ROBIN RESOLUTION

Dear Sir,

Thanks for the signed document. I hereby confirm receipt.

Kind regards,

Malesela

From: Mark Pamensky [mailto:markp@blts.co.za]
Sent: Thursday, February 5, 2015 7:22 AM
To: Malesela Phukubje; Zola Tsotsi; Tsholofelo Molefe; Tshediso Matona; viroshini naidoo; Zethembe Khoza; Baldwin.Ngubane@gmail.com; norman baloyi; nazia.c@vodamail.co.za; Chwayita Mabude; Romeo Kumalo; venete@kleininc.co.za; Pat Naidoo
Cc: Leo Dlamini; Wayne Venner
Subject: RE: ROUND ROBIN RESOLUTION



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SUSTAINABLE DEVELOPMENT

INVESTOR & MEDIA RELATIONS

Leading distributor of e-tokens of value



Dear Mr Phukubje,

Please find attached.

Regards

Mark

From: Malesela Phukubje [mailto:PhukubM@eskom.co.za]
Sent: 03 February 2015 09:31 PM
To: Zola Tsotsi; Tsholofelo Molefe; Tshediso Matona; viroshini naidoo; Zethembe Khoza; Baldwin.Ngubane@gmail.com; norman baloyi; nazia.c@vodamail.co.za; Chwayita Mabude; Mark Pamensky; Romeo Kumalo; venete@kleininc.co.za; Pat Naidoo
Cc: Leo Dlamini; Wayne Venner
Subject: ROUND ROBIN RESOLUTION

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I will send the password to open the Report by sms tomorrow morning.

Kind regards,

Malesela Phukubje | Company Secretary

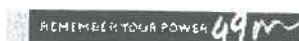
Office of the Company Secretary | Office of the Chairman | Third Floor T36

2 Maxwell Drive Megawatt Park | Tel : +27 11 800 8542 | Cell : +27 84 200 0087 | Fax : +27 86 652 3139 |

eFax: 0866523139

E-mail : phukubm@eskom.co.za

Secretariat website: http://sivmas045.eskom.co.za/corporate_secretariat/



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	MINUTES OF THE ESKOM HOLDINGS SPECIAL BOARD IN-COMMITTEE MEETING	Unique Identifier	221-206
		Document Type	OCSDTE
		Revision	0
		Revision Date	July 2015
		Office of the Company Secretary Department	

**MINUTES OF THE SPECIAL BOARD IN-COMMITTEE MEETING HELD ON 19 MARCH 2015 IN
THE HUVO-NKULU BOARD ROOM, THIRD FLOOR, MWP**

STRICTLY CONFIDENTIAL

PRESENT:

MEMBERS

Mr Z Tsotsi
Dr B Ngubane
Ms C Mabude
Ms V Klein
Ms V Naidoo
Ms N Carrim
Mr R Kumalo
Mr N Baloyi

Chairman
Member
Member
Member
Member
Member
Member
Member

OFFICIALS

Mr M Phukubje

Company Secretary

1. OPENING AND WELCOME

The Chairman welcomed all present and declared the meeting open.

2. APOLOGIES

None.

3. QUORUM

A quorum being present, the Chairperson declared the meeting duly constituted.

4. DECLARATION OF INTERESTS

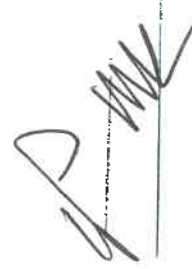
5. SAFETY/EVACUATION

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. CONFIRMATION OF THE AGENDA

The agenda was confirmed as tabled.

- 7. Chairman reported that he has spoken to the Minister and she indicated that it is unlikely for Eskom to receive any further financial assistance. She said that she will speak to the Acting DG**



	MINUTES OF THE ESKOM HOLDINGS SPECIAL BOARD IN-COMMITTEE MEETING	Unique Identifier	221-206
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		Revision Date	July 2016
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and she will sit down with our CFO. She also wanted to know what Eskom will be saying about the downgrade tomorrow and he had responded that he didn't know. It was therefore imperative that the CFO & the Acting DG sit and discuss a joint response.

8. ITEMS FOR INFORMATION

8.1 New Age Contract

Chairman would speak to Ms. Klein who had explained that she would not sign because she was not comfortable with the resolution.

Mr. Baloyi also expressed his concerns to the effect that the Board should choose its items carefully, especially as the organization was in need. The second issue was that of the way in which it was done – processes where not followed properly.

Ms. Mabude said that the principles around how the New Age breakfasts were to be done could be discussed and clarified. It must be recorded that this contract did not follow due process on the basis of the fact that it was a commercial process and that the contract cannot be rescinded by Eskom. There was also a letter of demand and it was not going to be possible for Eskom to get engaged in a litigation.

It was agreed that an early termination clause should form part of all contracts in future.

8.2 Power Purchase Agreements (PPAs) for Short Term Energy procured by Eskom from Independent Power Producers (IPPs) and Municipalities.

It was noted that the round robin resolution for the PPAs for Short Term Energy procured by Eskom from IPPs and Municipalities had been approved by the majority, and Mr. Naidoo recused himself.

8.3 Suspended Executives

With regard to the Letters from suspended executives, including the CE, it was agreed that the position was clear that no charges would be preferred against the suspended executives at this stage. The Legal department was authorized to send the letter that had been prepared in this regard.

The Chairman explained the background as to who Nick Linnell was and that he (the Chairman) had been introduced to him in a meeting with President. Mr Linnell had offered to co-ordinate the work that was supposed to be done. The Chairman stated that he did not offer the Board an opportunity to agree to appoint Mr Linnell and that this had been a mistake on his part and Mr Linnell had probably believed that the proper processes had been complied with and he then proceeded to undertake the work. He had asked whether there were charges which could be brought against the individuals concerned. He was told that he could meet with the complainants and other trade union representatives who then told him a number of things. Then came the Wednesday meeting and he did not inform the Board again as to the issue around the appointment of Mr Linnell. There was no contract for Mr Linnell, and there was no clarity as to who he was acting for. This was not broached with the Board again.



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The Chairman accepted blame for that failure to take the Board, as well as the fact that work that was already being done (e.g. Interviews etc.). The people who were acting in place of the suspended executives were allegedly called into a meeting and knew beforehand that they would be acting. The Board needed to find out how this happened. They were apparently called into a meeting and the acting CE met with them. The problem was that the Chairman's action had now compromised the process of the inquiry. It was agreed that the statement issued should be retracted & Mr Dlamini should advise on how this will be done.

Resolved that:

- The ARC deals with the matter;
- it should be ascertained whether the Board was exposed in bringing the consultant in without the correct governance procedure being followed;
- The ARC should report back to the Board on what steps they are proposing to take with regard to this matter;
- Minister should be advised of the error of the nature/ contents of the statement;
- It is noted that the Minister had stated that the statement should not be sent out until briefing has been held with either the Minister or the acting DG.

Mr. R Kumalo joined the meeting

Resolution by the Board:

Break and resumed at 23:40, the Chairman was excused from the meeting. Dr. Ngubane was elected to chair the meeting.

The view was that the Board needed to make a call about the actions of the Board and the Chairman. The Chairman was an ordinary member of the Board and given the severity of the matter and what happened to the Company due to the downgrade. The downgrade occurred purely on governance and this was a reflection on the Board. Members felt that the decision of 11 March 2015 to institute an inquiry was correct, given what the company was going through. That member should now stay fully non-executive and that is how it must be done.

The Board cannot go back on decisions which have been made but the one thing the Board had control over was the independence of inquiry. It was therefore very important how the process going forward was managed by the Board. At the end of the process the Board either goes down with the process or survives the process. The question before the Board was what it needs to do about the Chairman's actions. Two options were tabled of which one was to say that the Chairman should step aside as well for three months of the inquiry or based on the apologies, the Board could work together with him on the provision that he obeys the rules of governance.

The Board unanimously resolves that it had lost confidence in the Chairman as a Director of the Board and recommended his removal as a Director. It was agreed that supporting documents should be put together to indicate:

- Failure to get Board approval

P. M. M.

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- Matters considered as aggravating actions of the Chairman.
- Preparing and distributing a media statement in the name of the Board without Board approval.

The Board resolved that

1. Mr. R Kumalo is the delegated media person in the ARC; and
2. Dr B Ngubane is appointed as Acting Chairman of the Board.

The Board was prepared to take the risk of whatever the Minister might decide around the issue. It was agreed that all communications should go through ARC around this resolution and all matters related thereto.

The Chairman then came back to the meeting at 00:37

The proposal was that the Company Secretary should write to the Minister requesting a meeting as soon as the Minister was available, the sooner the better given the inquiry, preferably on Friday or even the weekend. Sunday, Monday, the ARC decision to continue.

The meeting adjourned at 00:45

Signed by Dr Ngubane for purposes of noting the meeting's proceedings

CHAIRPERSON

DATE

[Handwritten signature]

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	MINUTES OF THE ESKOM HOLDINGS SOC LTD BOARD MEETING	Unique Identifier	221-209
		Document Type	OCSDFM
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

**MINUTES OF THE ESKOM BOARD MEETING 03-2015/16 HELD ON 28 MAY 2015 AT THE
HUVU NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Dr BS Ngubane	Acting Chairman
Ms N Carrim	Member
Mr Z W Khoza	Member
Ms V J Klein	Member
Mr R Kumalo	Member
Ms C Mabude	Member
Mr B Molefe	Acting Chief Executive ("Acting CE")
Dr P Naidoo	Member
Ms V Naidoo	Member
Mr MV Ramensky	Member

OFFICIALS

Mr M Phukubje	Company Secretary
---------------	-------------------

BY INVITATION

Mr C Choeu	Divisional Executive: Corporate Affairs
Mr T Govender	Group Executive: Transmission Division and Customer Services Division
Mr E Mabelane	Acting Group Executive: Technology and Commercial Division
Mr A Masango	Acting Group Executive: Group Capital
Ms A Noah	Group Executive: Distribution Division
Mr M Ntsokolo	Group Executive: Generation Division
Ms E Pule	Acting Group Executive: Human Resources
Mr M Rossouw	Special Advisor: Energy

IN ATTENDANCE

Ms S Daniels	Senior Manager: Office of the Chairman
Mr F Ndou	Acting Divisional Executive: Office of the Chief Executive
Mr N Tsholanku	General Manager: Regulation and Legal
Ms N Veleti	Chief Financial Officer
Mr W Verner	Committee Secretary

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	MINUTES OF THE ESKOM HOLDINGS SOC LTD BOARD MEETING	Unique Identifier	221-209
		Document Type	OCSDFM
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

1. OPENING AND WELCOME

The Acting Chairman welcomed members to the meeting.

2. APOLOGIES

There were no apologies.

3. QUORUM

A quorum being present, the Chairman declared the meeting duly constituted.

4. DECLARATIONS OF INTEREST

There were no declarations of interest pertaining to items on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. ADOPTION OF THE AGENDA

The Acting Chairman tabled a revised Agenda for the meeting which was approved by all members.

At this point the meeting went into an In-committee session and all non-Board members except the Company Secretary were excused from the meeting for this session, minutes of which were kept separately. At the conclusion of the In-committee session all executives and attendees re-joined the meeting.

7. REPORT FROM THE ACTING CHAIRMAN

The Acting Chairman reported that there were a number of critical challenges facing the organisation today. Uppermost for him was the continued load shedding and the impact this was having on the South African economy. The Board needed to engage with the issues around this matter in order to understand them fully and look after the business' interests.

The second issue of concern to him was around Eskom's status as a going concern. He reported that the Audit & Risk Committee ("ARC") had been appraised on the issues at their meeting the day before and he was hopeful that the Board could continue the discussion at this meeting.

He reported that the Forensic Fact Finding Enquiry currently being undertaken by Dentons was progressing well.



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Eskom's interaction at the War Room had also improved.

The preparation for the Annual General Meeting ("AGM") was underway and he urged all Board members to be present at the AGM.

7.1 Update on Board Activities

The Acting Chairman reported that the review of the Terms of Reference of the Board Committees was underway and the Board would need to conclude on this subject during this meeting.

He reported that the Minister of Public Enterprises ("Minister") had recently informed Eskom of the update to the Strategic Statement of Intent and that the Board would need to assess its impact on the Corporate Plan and other strategic documents. Ms Klein was leading the review of the Memorandum of Incorporation and the Board would need to participate in this regard as it needed to be finalised and tabled at the AGM for adoption.

7.2 Key Performance Indicators

At the last meeting, members had requested a more action oriented business plan and more robust performance indicators to be developed and implemented. The Acting Chairman requested a progress report focusing on the major key performance indicators so that the Board could be fully appraised of the status of the organisation.

The Acting Chairman reported further that the War Room was being closed down and the actions would be transferred to the DPE.

RESOLVED THAT:

1. the Acting Chairman's Report is noted; and
2. a progress report focusing on the major key performance indicators should be tabled for information.

8. REPORT FROM THE ACTING CHIEF EXECUTIVE

The Acting CE tabled his report, details of which was circulated to members at the meeting.

He stated that Eskom's management would focus on 3 primary issues in the short term over the next 100 days as follows:

1. Liquidity – Eskom would focus on its liquidity position to ensure financial viability.
2. Operational Performance – Eskom would focus on improving operational performance by prioritising critical maintenance, which would aim to reduce Unplanned Capacity Loss Factor ("UCLF") and minimise the risk of load shedding.
3. Governance – This issue would be dealt with by the Acting CE and the Board.



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Performance

He drew members' attention to the fatalities and loss time injury rate ("LTIR") figures which had improved since 2010.

He reported on the performance of Eskom for the financial year ended 31 March 2015 as follows:

- Revenue was R147.7 billion (2014: R138.3 billion).
- Cost containment initiatives had been successful with a marginal increase in employee benefit cost for the year to R25.9 billion from R25.6 billion in 2014.
- Other operating costs had reduced to R15.9 billion in 2015 from R19.1 billion in 2014.
- The Business Productivity Programme ("BPP") had achieved R9 billion in savings in the current year although this had been used to assist with liquidity and funding of primary energy.
- This good performance was offset by the increase in primary energy costs to R83.4 billion (2014: R69.8 billion), mainly due to the provision for the Medupi Coal penalty (R7.8 billion) and an increase in the cost of Independent Power Producers ("IPPs").
- Despite the pressure on the primary energy costs, the earnings before interest, tax, depreciation and amortisation ("EBITDA") was R24.7 billion (2014: R 23.5 billion).
- The group achieved a net profit after tax of R3.6 billion (2014: R 7.1 billion)
- Significantly, Eskom had issued a USD1.2 billion (R14.8 billion) 10-year bond in February 2015 despite a further downgrade by the ratings agencies.
- The Fixed asset base had increased by R54.5 billion during the year to R458.9 billion (2014: R404.4 billion).
- Medupi Unit 6 had been synchronised on 2 March 2015. It had also generated 800MW recently.
- Transmission and Distribution networks had also performed well.

The Acting CE stated that according to these figures, Eskom was not in dire straits financially and had a story to tell investors. The recent downgrade had been for reasons other than financial performance.

With regard to the focus on improving on plant unavailability and compliance to emission limits, he stated that breakdowns were unsystematic and random and could not be foreseen. Koeberg Unit 1 should have returned to service on 18 May but would only be back on 30 May 2015. If it had returned to service on 18 May 2015 there would have been no need for load shedding. In response to a recommendation that an announcement should be made to the public around this subject it was agreed that the Acting CE would consider an announcement to coincide with the State of the System address.

He reported that the capital projects were on track and noted the following details for information:

- Medupi Unit 6: Continue to ramp up to full commercial operation with full Load planned for the 2nd quarter of 2015, and hand-over to Generation during the 3rd quarter of 2015.

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- Kusile Project: Unit 1 Boiler Re-heater hydrostatic test was successfully executed per the acceptance criteria on 12 April 2015. Balance of Plant items was progressing well.
- The 100MW Sere Wind Farm: Eskom's first utility-scale renewable energy project was put into commercial operation on 31 March 2015.
- Transmission Projects: There were 48 active schemes contributing to 14,415 MVA of transformer capacity and 4,397km to the network at completion. During the Financial year 2014-2015 Eskom achieved 318.6 kms of lines built and 2,090 MVA transformation capacity built.
- Majuba Rail: the first commercial train was expected in the 2nd quarter of 2017.
- Other Projects: Progress was being made on Photo-voltaic ("PV") rollout at power stations and administration buildings for self-consumption, with a Solar PV plant.

Other Key Focal areas were noted as follows:

- The Executives and the Board members had been engaging with Parliament, Ministers and Portfolio Committee levels at different levels.
- The Chief Executive had engaged the media on various issues that had impacted Eskom in the past few weeks.
- The one year EE plan which came to an end on 31 March 2015 had been replaced with a 1 year plan for the period.
- Eskom's environmental legal contraventions for the year were down to 11, from 24 the previous year.
- There were 14 days in April 2015 that required mandatory load reduction (shedding and curtailment) and 20 days in May 2015.
- The total municipal arrear debt to Eskom was R5 223 million as at the 30 April 2015. This was an increase of R270 million on the previous total municipal arrear debt amount of R4 953 million as at 31 March 2015.

Eskom Turnaround Plan

The Acting CE stated that Eskom had to remain liquid in the financial year although the buffer of R20bn was not sustainable under the current capital investment phase. At a minimum, Eskom must breakeven in the current financial year, which would require a close monitoring of expenditure as well as improved sales and collections from customers to minimise the impairment of revenue. Load shedding would be eliminated through additional use of base load to a large extent, which would require a review of the maintenance strategy. The New Build Programme was expected to deliver 3 units in the current financial year from Medupi (one unit) and Ingula (two units).

The cash flows for the Financial Year 2016 ("FY2016") indicated a closing balance of R15.7 billion which was mainly due to an equity injection of R10 billion, which it was assumed would be received by December 2015, as pre-funding for FY2017. It was reported that municipalities, mining and industrial customers were the biggest contributors to energy sales and revenue. In this regard, all favourable customers would be converted to prepaid metering as soon as was practical.



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Going forward there would be monthly cash flow statistics for all business units and the system would not allow any Business Unit to spend more than its budget. In this way, the cash holding could be reduced to between R5Bn to 2Bn.

It was noted that the cash flow in the presentation was a deviation from the Corporate Plan. The response was that this was correct as the cash flow being presented indicated the worst case scenario. It was reported further that the bond that would mature in September 2015 was in the process of being switched, so as to avoid having to pay investors out during the current financial year.

The production budget was predominantly spread across coal and gas purchases. Once Eskom had stabilised in approximately ten years' time, consideration would be given to moving away from coal as a base load.

The total capital expenditure for the year was R60Bn with new builds contributing over 40% of expenditure, details of which were included in the presentation. Eskom needed to ensure that capital was available to ensure delivery of one Medupi and two Ingula units in FY2016.

Eskom planned to raise a total of R55Bn of debt securities for FY2016 as follows:

Source	R'millions
Eskom bonds	8 000
DFI and other loans	7 244
Export Credit Facilities	10 576
International Bonds	16 500
Commercial Papers	10 000
DBSA	3 000
Total debt securities raised	<u>55 320</u>

Of this, 42.9% of the potential sources for the borrowing programme had been committed to date. Management was confident that they would raise the funding required. It was noted that the World Bank had an issue around funding build for coal base due to its stance on the environmental impact of coal, but had funded Medupi. The Acting CE undertook to distribute an update to the Board around the World Bank funding.

It was reported that total maturities for FY 2016 were R23.7Bn but switches to longer bonds had reduced this repayment requirement by approximately R6Bn. Cash flows were monitored per division on a daily basis and indicated a monthly positive cash balance.

It was reported that the price drivers for FY2016 included the revised Nersa allocation, a selective reopener and an environmental levy increase. Of the requested 24.7% increase for FY 2016, only 6.8% was an actual increase, and Eskom was only the agent for the environmental levy.

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The makeup of the 24.7% increase was explained as follows:

Source		FY 2016 %
Rest of normal costs and returns		6.8 %
OCGTs		0.1 %
Other IPPs (Renewables & DOE Peaker)	0.7 %	
STPPP		0.0 %
Environmental levy		0.4 %
MYPD3 Original price decision		8.0 %
MYPD2 RCA clawback decision by Nersa		4.7 %
Revised price already granted by Nersa		12.7 %
Selective reopener		9.5 %
- OCGTs	6.4 %	
- STPPP	3.1 %	
Environmental levy increase (if Gazetted)		2.5 %
Overall price to consumer		24.7 %

Load Shedding

The implementation of load shedding on 5 May 2015 was used as an illustration to explain why load shedding occurred.

A member requested that KPIs be determined that measure all aspects of maintenance to allow the Board to follow progress around this issue.

It was reported that insurance rates for Eskom had increased by 595% because of the incidents that had happened at Majuba, Duvha and Ingula. It was noted that management had to take cognisance of this as the Board did not want to get to a position where Eskom could not obtain insurance.

The Acting CE stated that more capacity was required to balance PCLF and UCLF. Eskom needed to prioritise the risk maintenance to ensure that there would be sufficient capacity available for philosophy maintenance. The various types of outages associated with plant maintenance were explained. Management would actively look to reduce the execution time for PCLF and outages as well as eliminate slippages. In this regard leadership, had to be visible. As a result, he had instructed Exco to implement site visits every Friday as well as engage with site management wherever possible. It was recommended that some Board meetings also be held at different Eskom sites.

Performance Management

The Acting CE tabled his defined performance management approach which cascaded as follows:

- Approved Corporate Plan for 2015/16 to 2109/20.
- Contracted with CE.
- Contracted with Executives.
- Cascaded down to the rest of the organisation.



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- Individual performance reviews every 100 days.

The CE compact would be structured around a turnaround plan and the shareholder compact. The Turnaround plan would include liquidity at 40% to maintain liquidity levels for break-even, and operational excellence at 60% including the reduction of UCLF to avoid load shedding.

There would also be a "business as usual" component underpinned by the Shareholder Compact, which would include the following:

- Focus on safety.
- Place the customer at the centre.
- Improve operations (focus on Transmission and Distribution).
- Deliver capital expansion.
- Reduce environmental footprint in existing fleet.
- Implementing coal haulage and the "road to rail" migration plan.
- Ensure financial sustainability.
- Human capital.
- Economic impact.

Conclusions

The 100 day focus would be on:

- Maintenance without load shedding;
- Liquidity; and
- Governance.

A detailed Turnaround plan and performance compacting in sufficient granularity would be finalised at the next Exco Breakaway. This would constitute the quarterly deliverables until March 2016. The Turnaround Plan implications on the Corporate Plan would be analysed and dealt with through an addendum.

The Acting CE stated that he was confident that Eskom could be salvaged. The Acting Chairman expressed the Board's gratitude and confidence that the presentation had given them in respect of Eskom's future. Members stated that the Acting CE had only projected positivity and he had the Board's full support. The Acting CE stated that he had a strong team at Eskom to assist him and could not have achieved any results on his own. It was also requested that the Board Committees be flexible in the near future to facilitate meetings and decisions.

RESOLVED THAT:

1. the Acting Chief Executive's report for the period ended 31 March 2015 is noted;
2. the Acting CE should consider an announcement around the return-to-service of Koeberg Unit 1 to coincide with the State of the System address;
3. KPIs should be determined that measure all aspects of maintenance; and



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4. consideration should be given to holding some Board meetings at different Eskom sites.

9. ITEMS FOR APPROVAL

9.1. REFERRALS FROM AUDIT AND RISK COMMITTEE ("ARC")

9.1.1. Group Financial Results

Reference document 10.1.1 (a) (b)

The external auditors joined the meeting for the purposes of the discussion.

The Group Finance Pack 3: Eskom Group Financial Results for the year ended 31 March 2015 and external audit reports were tabled for approval, details of which were included in the meeting pack.

The External Auditors stated that they were issuing an unqualified audit with an "emphasis on matter" which related to the "going concern" in order to bring it to the attention of other outside parties. They stated that they were awaiting a letter of support from the National Treasury in respect of the going concern issue.

In response to a query as to whether there was any irregular activities and anything of significance which had to be reported to the Board, the External Auditors reported that the irregular activity related to The New Age Contract ("TNA") and the significant activity related to the removal of Mr Baloyi as a Board member. It was reported that the TNA contract had been ratified by the Board and therefore was no longer regarded as irregular. However, it still had to be noted in the financial results as it had been considered irregular from the time of implementation to the date it was condoned by the Board. With respect to Mr Baloyi, the Board had followed the letter of the law and his removal was not in question. However, his actions and conduct had been regarded as irregular.

The CFO undertook to prepare a presentation for the public around these issues outside of the meeting. The Acting CE noted that the external auditors had specified that all matters had been adequately addressed. It was noted further that the notes (around these issues) that were included in the AFS, had been put into the report by management and the external auditors had only drawn attention to it.

It was reported that the "going concern" issue and the "emphasis of matter" had been discussed in detail at ARC and the ARC had been satisfied with the external auditors' response.

In response to a query the external auditors stated that if a letter of support was not received from the National Treasury to address the going concern issues, they would not be in a position to sign off the financial results. However, they had been advised by management that the letter would be forthcoming.

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It was reported that the ARC had reviewed the subsidiaries' financial results in detail. It was requested that a "deep dive" analysis into the subsidiaries be included at a Board Breakaway.

The Acting CE thanked the external auditors for their professional work and for completing the audits on time.

RESOLVED THAT:

1. the audited annual financial statements for the year ended 31 March 2015 are approved and the Board concurred with the adoption of the going-concern premise in the preparation of the annual financial statements and approved it for signature by the Acting Chairman subject to the letter of support from the shareholder;
2. the directors' valuations of investments in subsidiaries, associates and joint ventures as at 31 March 2015 are approved;
3. the draft audit opinion on the annual financial statements and the report of the external auditors to the Audit and Risk Committee, including the Auditor General's final management report and the final audit fee are noted;
4. the management representation letter and the summary of unadjusted audit differences for the year ended 31 March 2015 are approved;
5. all the above documents are approved for signature by the Acting Chief Executive and the Chief Financial Officer; and
6. a "deep dive" analysis into the subsidiaries be included at a Board Breakaway.

9.1.2. Group Finance pack 2: The integrated report and the supplementary and divisional reports for the year ended 31 March 2015

Reference document 10.1.2 (a) (b)

The Group Finance Pack 2: The Integrated Report and the Supplementary and Divisional Reports for the Year Ended 31 March 2015 were tabled for approval, details of which were included in the meeting pack.

In response to members' concerns around the size of the pack, it was reported that the report was a large document because it contained a vast amount of information that had been requested by the shareholder and other regulatory authorities.

Members were requested to provide input and updates to the CFO around the directors' details and qualifications; key Board activities; and any other issues they may have pertaining to the report before the report was finalised for printing. The Acting Chairman stated that he was satisfied with the Chairman's Report and the Acting CE undertook to provide input to the CE's Report.

It was noted that as the Acting CE and the CFO were not directors, it would be necessary to authorise the Chairman of the Board, the Chairman of the ARC and the Chairman of the IFC as signatories to the Integrated Report.

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RESOLVED THAT:

1. the Board considered and approved the following:
 - 1.1 The 2015 Integrated Report (including the summarised financial statements) and is satisfied that;
 - 1.1.1 the content in the report accurately reflects the material items for the company and that the material items discussed are complete;
 - 1.1.2 the report accurately reflects the social, ethics, financial and sustainability results for the year ended 31 March 2015; and
 - 1.1.3 the report is presented in accordance with the International Integrated Reporting Framework Version 1.0;
 - 1.2 the 2015 Fact Sheets (containing supplementary information that will only be published on Eskom's website);
 - 1.3 the newspaper advert for the year ended 31 March 2015;
 - 1.4 the draft Results Presentation for the year ended 31 March 2015;
2. the Board noted the draft audit opinion for the selection of KPI data included in the Integrated Report (sustainability audit) for the year ended 31 March 2015;
3. Members should provide input and updates to the Chief Financial Officer around the directors' details and qualifications; key Board activities; and any other issues they may have pertaining to the report before the report was finalised for printing; and
4. the Chairman of the Board, the Chairman of the Audit and Risk Committee and the Chairman of the Investment and Finance Committee are authorised to sign the 2015 Integrated Report and all other documents that may be required to give effect to these resolutions.

9.1.3. Shareholder Report for the period ended 31 March 2015

Reference document 14.2.1 (a) (b) (c) (d)

The Shareholder Report for the period ended 31 March 2015 was noted and taken as read.

RESOLVED THAT:

1. the Shareholder Report for the period ended 30 September 2014 is noted.

9.1.4. Audit & Risk Committee Terms of Reference Review 2015

Reference document 10.1.3 (a) (b)

The Terms of Reference for the Board Audit and Risk Committee were tabled for approval, details of which were included in the meeting pack:

RESOLVED THAT:

1. the Terms of Reference for the Board Audit and Risk Committee are approved.



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9.2. REFERRALS FROM PEOPLE AND GOVERNANCE COMMITTEE ("P&G")

9.2.1. P&G Committee Terms of Reference Review 2015

Reference document 10.2.1 (a) (b)

The Terms of Reference for the P&G Committee were tabled for approval, details of which were included in the meeting pack.

RESOLVED THAT:

1. the Terms of Reference for the People and Governance Committee are approved.

9.3. REFERRALS FROM BOARD TENDER COMMITTEE ("BTC")

None

9.4. REFERRALS FROM SOCIAL ETHICS AND SUSTAINABILITY COMMITTEE ("SES")

9.4.1. SES Committee Terms of Reference Review 2015

Reference document 10.4.1 (a) (b)

It was reported that the Terms of Reference for the SES Committee were tabled at the SES Committee meeting on 26 May 2015 but changes were requested before they could be recommended for approval by the Board.

9.5. REFERRALS FROM INVESTMENT AND FINANCE COMMITTEE ("IFC")

9.5.1. Tutuka Fabric Filter Plant Retrofit Project – ERA Revision 1

Reference document 10.5.1 (a)

The Tutuka Fabric Filter Plant Retrofit Project – ERA Revision 1 was tabled for approval, details of which were included in the meeting pack.

In response to concerns and queries it was reported that this was not an increase in costs but was for approval of additional requirements to comply with environmental legislation. If this was not approved then Tutuka would have to be closed down. It was reported further that this had been examined in detail by the BRBP Committee.

Members stated that the Minister had instructed the Board not to increase costs and a discussion was required around how to control cost overruns. It was requested that the letter from the Minister of PE around cost increases be distributed for information.

RESOLVED THAT:

1. the ERA Rev 1 scope change and cost increase of R1 674.6M, from R6 529.7M (excluding IDC) to R8 204.3M (excluding IDC of R504.6M, but including contingency of R664.7 M, cost of cover of R456.3 M and previously approved DRA's of R33.6 M) for

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2. the Tutuka Fabric Filter Plant Retrofit project is approved;
3. the ERA Rev 1 time re-phasing which involves a delay of the FFP retrofits, with the start of the first retrofit shifting from May 2016 to October 2018 and the start of the last (sixth) retrofit shifting from January 2022 to August 2022 is approved. The new execution duration is 109 months, extending to March 2024, including a 9 months' time contingency;
4. the Minister of Public Enterprises ("the Minister") should be informed, as per PFMA requirements;
5. the Group Executive: Group Capital is authorised, with the power to delegate further, to take all necessary steps to give effect to the above;
6. a discussion around how cost overruns could be controlled in the New Build Programme should be considered at the next Board Breakaway; and
7. the letter from the Minister around cost increases be distributed for information.

9.5.2. Cape Corridor Phase 2: Hydra to Omega 765kV Integration ERA Revision
Reference document 10.5.2 (a)

The Cape Corridor Phase 2: Hydra to Omega 765kV Integration ERA Revision was tabled for approval, details of which were included in the meeting pack.

RESOLVED THAT:

1. the revision of the execution phase budget from the previously approved amount of R5 655 M (including contingency of R174 M and excluding IDC of R1 496 M) by an increase of R395 M to R 6 050 M (including contingency of R10 M and excluding IDC of R1 577 M) for the Cape Corridor Phase 2: Hydra Omega 765kV Integration Project is approved;
2. the revision of the commercial operation date from the previously approved date of 31 March 2016 to 30 June 2016 is approved (an increase of 3 months); and
3. the Group Executive: Group Capital Division is authorised with the power to take all the necessary steps to execute the project including the signing or approval of any documentation.

9.6. REFERRALS FROM BOARD RECOVERY AND BUILD PROGRAMME COMMITTEE ("BRBP")

9.6.1. BRBP Committee Terms of Reference Review 2015
Reference document 10.6.1 (a) (b)

The Terms of Reference for the BRBP Committee were tabled for approval, details of which were included in the meeting pack.

Members expressed a concern that the powers of the BRBP were too wide and conflicted with other Board Committees in terms of finance and build approvals. It was reported that the BRBP Terms of Reference had evolved from the merger of the Board Build Programme Review Committee and the Eskom Emergency Task Team. It was requested that the BRBP

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be approved for now subject to review after being aligned with the Terms of Reference for all the other Board Committees.

RESOLVED THAT:

1. the Terms of Reference for the Board Recovery and Build Programme Committee are approved; and
2. the Terms of Reference should be aligned with the Terms of Reference for all the other Board Committees.

9.7. REFERRALS FROM EXCO

9.7.1. ANNUAL GENERAL MEETING ("AGM")

It was noted that the AGM documents would be discussed with the DPE on 29 May 2015 and thereafter would be distributed to members for information. It was reported that the date for the AGM would have to be changed as the Acting CE would not be available on 10 July 2015. This would be done in consultation with the Minister and members would be advised accordingly.

10. MINUTES OF PREVIOUS MEETINGS FOR APPROVAL

It was agreed that all minutes from 2014 could not be approved as a true reflection of the proceedings as the Board had changed in December 2014 and therefore all of those minutes would only be noted but not signed by the Acting Chairman. It was agreed that the Company Secretary would engage with Ms Mabude around the correctness of the minutes.

RESOLVED THAT:

1. the Company Secretary should engage with Ms Mabude around the correctness of the Board minutes still outstanding from 2014.

10.1. Minutes of Board Meeting No. 07-2014/15 held on 19 November 2014
Reference document 12.1 (a)

The minutes of the Board Meeting No. 07-2014/15 held on 19 November 2014 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting No. 07-2014/15 held on 19 November 2014 are noted.



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10.2. Minutes of Board Meeting No. 08-2014/15 held on 24 November 2014

Reference document 12.2 (a)

The minutes of the Board Meeting No. 08-2014/15 held on 24 November 2014 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting No. 08-2014/15 held on 24 November 2014 are noted.

10.3. Minutes of Board Meeting No. 09-2014/15 held on 28 November 2014

Reference document 12.3 (a)

The minutes of the Board Meeting No. 09-2014/15 held on 28 November 2014 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting No. 09-2014/15 held on 28 November 2014 are noted.

10.4. Minutes of Board Meeting No. 10-2014/15 held on 3 December 2014

Reference document 12.4 (a)

The minutes of the Board Meeting No. 10-2014/15 held on 3 December 2014 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting No. 10-2014/15 held on 3 December 2014 are noted.

10.5. Minutes of Board Meeting No. 11-2014/15 held on 8 December 2014

Reference document 12.5 (a)

The minutes of the Board Meeting No. 11-2014/15 held on 8 December 2014 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting No. 11-2014/15 held on 8 December 2014 are noted.

10.6. Minutes of Board Meeting No. 12-2014/15 held on 16 January 2015

Reference document 12.6 (a)

The minutes of the Board Meeting No. 12-2014/15 held on 16 January 2015 having been circulated, were considered.

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RESOLVED THAT:

1. the minutes of the Board Meeting 12-2014/15 held on 16 January 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.7. Minutes of Board Meeting No. 13-2014/15 held on 16 February 2015

Reference document 12.7 (a)

The minutes of the Board Meeting No. 13-2014/15 held on 16 February 2015 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting 13-2014/15 held on 16 February 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.8. Minutes of Board Meeting No. 14-2014/15 held on 9 March 2015

Reference document 12.8 (a)

It was noted that these were In-committee minutes and were dealt with during the In-committee session.

10.9. Minutes of Board Meeting No. 15-2014/15 held on 11 March 2015

Reference document 12.9 (a)

The minutes of the Board Meeting No. 15-2014/15 held on 11 March 2015 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting 15-2014/15 held on 11 March 2015 are approved as an accurate reflection of the proceedings; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.10. Minutes of Board Meeting No. 16-2014/15 held on 19 March 2015

Reference document 12.10 (a)

The minutes of the Board Meeting No. 16-2014/15 held on 19 March 2015 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting 16-2014/15 held on 19 March 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and



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2. the Chairman of this meeting is duly authorised to sign the minutes.

10.11. Minutes of Board Meeting No. 17-2014/15 held on 31 March 2015

Reference document 12.11 (a)

The minutes of the Board Meeting No. 17-2014/15 held on 31 March 2015 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting 17-2014/15 held on 31 March 2015 are approved as an accurate reflection of the proceedings; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.12. Minutes of Board Meeting No. 02-2015/16 held on 23 April 2015

Reference document 12.12 (a)

The minutes of the Board Meeting No. 02-2015/16 held on 23 April 2015 having been circulated, were considered.

RESOLVED THAT:

1. the minutes of the Board Meeting 02-2015/16 held on 23 April 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

11. ROUND ROBIN RESOLUTIONS FOR RATIFICATION

11.1. Ratification of The New Age ("TNA") Media Contract

The Round Robin Resolution for the approval of the TNA Contract was tabled for ratification.

RESOLVED THAT:

1. the Round Robin Resolution for the approval of The New Age Contract is ratified.

11.2. Ratification of Power Purchase Agreements for Short Term Energy procured by Eskom

Reference document 12.13.1 (a)

The Round Robin Resolution for the approval of the Power Purchase Agreements for Short Term Energy procured by Eskom was tabled for ratification.

RESOLVED THAT:

1. the Round Robin Resolution for the approval of the Power Purchase Agreements for Short Term Energy procured by Eskom is ratified.

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12. MATTERS ARISING FROM PREVIOUS MINUTES FOR NOTING

12.1. Board Action List up to 16 January 2015

Reference document 13.1 (a)

The Action list for items outstanding from the Board meetings up to 16 January 2015 was noted and taken as read.

The Company Secretary undertook to revise the Action list to colour code actions into different categories to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

RESOLVED THAT:

1. the Action list for the Board meetings held up to 16 January 2015 is noted;
2. the finalised action items could be removed from the Action list; and
3. the Action List should be colour coded to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

12.2. Board Breakaway Action List for 2 and 3 April 2014

Reference document 13.2 (a)

The Board Breakaway Action list for 2 and 3 April 2014 was tabled at the meeting for information.

RESOLVED THAT:

1. the Board Breakaway Action list for 2 and 3 April 2014 is noted;
2. the finalised action items could be removed from the Action list; and
3. the Action List should be colour coded to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

12.3. AGM Action List – 11 July 2014

Reference document 13.3 (a)

The AGM Action List for 11 July 2014 was tabled for information, details of which were included in the meeting pack.

It was reported that a process was in place to track the progress of all actions and ensure they were completed before the next AGM.

RESOLVED THAT:

1. the Annual General Meeting Action List for 11 July 2014 is noted.



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13. BOARD COMMITTEE REPORTS

13.1. Matrix of Board Committee Reports to Board Reference Document 14.1 (a)

The Matrix of Board Committee Reports to Board up to May 2015 as included in the meeting file was noted.

It was agreed that in future each Board Committee Chairman should give a short verbal report on critical issues dealt with at their respective committees.

RESOLVED THAT:

1. the Matrix of Board Committee Reports to Board up to May 2015 is noted.

13.2 Audit & Risk Committee ("ARC") Report Reference document 14.2 (a) (b) (c)

The ARC Committee Reports for the meetings held on 10 November 2014, 18 November 2014 and 10 February 2015 were taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

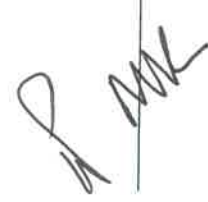
1. the reports of the Audit & Risk Committee meeting held on 10 November 2014, 18 November 2014 and 10 February 2015 are noted.

17.3 Board Tender Committee Reference document 14.3 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n)

The Board Tender Committee Reports for the meetings held on 2 June 2014, 19 June 2014, 30 July 2014, 31 July 2014, 12 August 2014, 22 September 2014, 24 October 2014, 12 November 2014, 9 December 2014, 24 February 2015, 28 February 2015, 25 March 2015 and 15 April 2015 were taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

1. the Tender Committee reports for the meetings held on 2 June 2014, 19 June 2014, 30 July 2014, 31 July 2014, 12 August 2014, 22 September 2014, 24 October 2014, 12 November 2014, 9 December 2014, 24 February 2015, 28 February 2015, 25 March 2015 and 15 April 2015 are noted.



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17.4 People & Governance ("P&G") Committee

Reference document 14.4 (a) (b)

The P&G Committee Reports for the meetings held on 20 October 2014 and 16 February 2015 were taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

1. the People & Governance Committee reports for the meetings held on 20 October 2014 and 16 February 2015 are noted.

13.5. Investment & Finance Committee ("IFC")

Reference document 14.5 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j)

The IFC reports for the meetings held on 3 September 2014, 5 October 2014, 4 November 2014, 5 December 2014, 9 February 2015, 15 February 2015, 26 February 2015, 5 March 2015, 12 March 2015 and 8 April 2015 were taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

1. the Investment & Finance Committee reports for the meetings held on 3 September 2014, 5 October 2014, 4 November 2014, 5 December 2014, 9 February 2015, 15 February 2015, 26 February 2015, 5 March 2015, 12 March 2015 and 8 April 2015 are noted.

13.6. Social, Ethics & Sustainability Committee ("SESC")

Reference document 14.6 (a) (b) (c)

The SESC report for the meetings held on 7 August 2014, 14 November 2014, 18 February 2015 was taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

1. the Social, Ethics & Sustainability Committee report for the meetings held on 7 August 2014, 14 November 2014 and 18 February 2015 are noted.

13.7. Board Build Programme Review Committee ("BBPR") and Board Recovery and Build Programme Committee (BRBP)

Reference document 14.7 (a) (b) (c) (d)

The BBPR report for the meeting held on 10 December 2014 and the BRBP reports for the meetings held on 20 February 2015, 19 and 20 March 2015 and 20 April 2015 were taken as read and noted, details of which were included in the meeting pack.

P. M.

	MINUTES OF THE ESKOM HOLDINGS SOC LTD BOARD MEETING	Unique Identifier	221-209
		Document Type	OCSDFM
		Revision	0
		Review Date	July 2015
		Office of the Company Secretary	

RESOLVED THAT:

1. the Board Build Programme Review Committee report for the meeting held on 10 December 2014 is noted; and
2. the Board Recovery and Build Programme Committee reports for the meetings held on 20 February 2015, 19 and 20 March 2015 and 20 April 2015 are noted.

13.8. Exco

Reference documents 15.8 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p)

The Exco reports for the meetings held on 2 November 2014, 3 November 2014, 17 November 2014, 2 December 2014, 5 December 2014, 7 January 2015, 27 January 2015, 28 January 2015, 2 February 2015, 5 February 2015, 20 February 2015, 12 March 2015, 18 March 2015, 26 March 2015, 1 April 2015 and 7 May 2015 were taken as read and noted, details of which were included in the meeting pack.

RESOLVED THAT:

1. the Exco reports for the meetings held on 2 November 2014, 3 November 2014, 17 November 2014, 2 December 2014, 5 December 2014, 7 January 2015, 27 January 2015, 28 January 2015, 2 February 2015, 5 February 2015, 20 February 2015, 12 March 2015, 18 March 2015, 26 March 2015, 1 April 2015 and 7 May 2015 are noted.

14. GENERAL

14.1. Broadband Infraco

Mr Pamensky reported that his company was doing business with Broadband Infraco, and that Broadband Infraco was not paying their accounts. As a result it was anticipated that the contract would not be renewed because of this reason when it came to an end.

14.2. Site Visits

It was reported that the BRBP would be conducting site visits to Kusile in June 2015 and Ingula in July 2015 on dates still to be determined. Board members were invited to attend should they so wish.

14.3. Board Members' Private e-mails

It was noted that the CIO had raised a concern around the security of using Board members private and other business e-mail addresses instead of Eskom e-mail addresses. It was agreed that all members would contact Executive IT support to have their Eskom e-mail addresses linked to their cell phones to be aware of all Eskom e-mails.



	MINUTES OF THE ESKOM HOLDINGS SOC LTD BOARD MEETING	Unique Identifier	221-209
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14.4. Board Evaluation

Members noted that the Board evaluation questionnaire that had been circulated to members for completion included questions that they were of the opinion could not be adequately completed at this time as the Board had not been in place for sufficient time to evaluate some performances.

After a short debate it was agreed that the evaluation be discontinued for the 2014/15 Financial Year and a new service provider be engaged for the 2015/6 Financial Year.

RESOLVED THAT:

1. the internal limited Board evaluation exercise be discontinued for the 2014/15 Financial year; and
2. a full Board evaluation be undertaken for the 2015/16 Financial Year; and
3. the service providers for the 2015/16 Financial Year be engaged.

15. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 15h30.

SIGNED BY THE CHAIRMAN AS AN ACCURATE RECORD OF THE PROCEEDINGS

CHAIRMAN: _____ **DATE:** _____



OTHER DOCUMENTS



Row over Eskom's R43m Gupta breakfast deal

Lionel Faull & Sam Sole

1,376 words

24 October 2014

Mail & Guardian Online

AIWMAG

English

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The R43m New Age deal raises board eyebrows over the former chief executive's alleged role.

Eskom is in an uproar after recently departed interim chief executive Collin Matjila allegedly disregarded internal legal advice and approved a budget-busting R43-million New Age business breakfasts sponsorship.

The contract with the newspaper, owned by the Gupta family, caused such dismay at board level that the chair of its audit and risk subcommittee went to Public Enterprises Minister Lynne Brown last month to complain about Matjila's conduct and, on a senior Eskom executive's version, asked for him to be suspended.

Matjila is close to the Guptas because of deals and mutual associates they shared when Matjila was chief executive of Cosatu investment company Kopano ke Matla.

A senior union leader sympathetic to President Jacob Zuma said that Matjila enjoyed political protection because he was a member of Zuma's inner circle. This is corroborated by two ANC national executive committee members, both unionists. The Guptas are also business partners of Zuma's son, Duduzane. Concerns over contract Brown confirmed this week that the chair of the audit and risk committee, Bajabulile Luthuli, came to her with concerns about Matjila and the New Age contract.

Brown denied she vetoed any move to suspend Matjila over the New Age contract. "I don't take the decisions and I wouldn't tell anyone you must not charge or suspend someone."

Brown said talk of suspension was premature as the board was still investigating.

Board chairperson Zola Tsotsi confirmed this, saying: "This matter is being dealt with by the board subcommittee, [which] will then bring it to the board. It's a little premature to comment until I get feedback from them to tell me what they have uncovered. We shouldn't prejudge the situation."

AmaBhungane understands that the contract is an audit risk because it exceeded the sponsorship budget. It allegedly also contains clauses that are against Eskom's commercial interests, such as no exit option, which Eskom's legal team allegedly flagged with Matjila before he approved it. Matjila may also not have had legal authority to grant approval.

Eskom is in a precarious financial position, with revenue shortfalls of more than R200-billion. Finance Minister Nhlanhla Nene announced plans on Wednesday to find R20-billion to dig Eskom out of debt. Charmed existence Matjila has enjoyed a charmed existence in public life, emerging from several damning inquiries into his stewardship of Kopano ke Matla to run Eskom for six months.

He has been an Eskom board member and tender subcommittee chairperson since 2011.

AmaBhungane has reported how, as tender committee chair, he intervened in a R4-billion steam generator contract at Koeberg in favour of French nuclear company Areva, in the teeth of the technical team's recommendation. The award is now mired in a court review.

Matjila's term as interim chief executive expired shortly after Luthuli's meeting with the minister. He made way for the permanent appointment of Tshediso Matona, and has now resumed his board duties.

Members of the audit and risk subcommittee, including Luthuli, were tight-lipped about the New Age contract this week and referred queries to Eskom.

Eskom's acting group executive for technology and commercial, Matshela Koko, responded: "Eskom has had dealings with the New Age since 2011, long before Collin Matjila became the interim chief executive. The new contract is part of the continuing relationship." Multi-million rand breakfasts Last year, City Press revealed that between 2011 and 2012 Eskom paid R1.2-million for each of six breakfast briefings. Koko disclosed that Eskom has since paid for a further four breakfast briefings – two in 2013 and two early this year – at R1.2-million each. This brings the previous contract to R12-million for 10 New Age breakfast business briefings over three years.

The new contract for R43-million allegedly approved by Matjila commits Eskom to sponsoring roughly one monthly briefing for three years. In the context of declining newspaper advertising revenues, the contract is a boon to the New Age.

Gupta family spokesperson Gary Naidoo said: "This contract was negotiated not with the then acting chief executive, but with functional executives at Eskom and Nazeem Howa, New Age chief executive.

"We have no intention of providing information of a hard-won deal with a competitor [the Mail & Guardian]," Naidoo added.

He ignored a question about the Guptas' relationship with Matjila. Budget obliterated A senior executive said that the board's audit and risk committee was "in uproar" when it discovered last month that the contract had obliterated Eskom's sponsorship budget.

Matjila has a chequered history in the area of corporate governance. Under him, a subsidiary of Kopano ke Matla was stripped by the Financial Services Board (FSB) of its licence to administer a pension fund.

Between 2007 and 2010, the Kopano subsidiary drained R123-million from the pension fund in administrative fees.

FSB investigators unpicked a complex web of payments, including a total of R1.3-million paid to a company owned by Matjila. When confronted, Matjila told the FSB the payments were "personal commissions".

The FSB handed its report to the police and the Asset Forfeiture Unit in 2011, but no action has been taken.

Cosatu also commissioned a forensic report by Sizwe Ntsaluba Gobodo last year into various allegations of financial impropriety at the union and its investment arm.

This revealed that Matjila only passed a summary of the FSB pension fund investigation on to Cosatu in 2011, and held on to the full report – which included details of the on-payments in which he was implicated – until confronted by Cosatu general secretary Zwelinzima Vavi last year. 'Informally assisted' The Sizwe Ntsaluba Gobodo report, finalised in February this year, also investigated the sale of Cosatu's old offices and purchase of new headquarters.

It found Kopano had acted for Cosatu and that a task team led by Matjila negotiated both property transactions.

The report quotes Matjila as saying that the Kopano task team was "informally assisted" by a Salim Essa, who had "previously worked with Kopano ke Matla on an energy project, through an entity named Inca Energy, which was jointly owned by Kopano and Essa".

Ama Bhungane has identified Essa as a majority partner in a precision steel cutting company whose minority partner is owned by Rajesh Gupta and Duduzane Zuma.

The report found Matjila sold the old Cosatu property for R9.5-million less than it was valued, and paid R6.3-million more for the new property than it was valued.

Cosatu had to find R14-million to pay for the new building, doing this through the sale of Kopano shares.

According to an email exchange included in the report, a disgusted Vavi exclaimed: "Please don't rub the salt! We have been screwed literally by these fellows."

Vavi said he regretted that political squabbling had prevented action on the FSB and Cosatu House matters. Bullying complaints Eskom sources complain of deteriorating corporate governance during Matjila's term, and a bullying campaign against senior executives and line managers who insisted on following due process.

One source said that Matjila "worked closely" with Koko, whom Matjila appointed after he became chief executive, and that they had "an unhealthy relationship".

Koko has either suspended or threatened to suspend at least three line managers and staff who refused to comply with instructions from Matjila, said the source.

Koko said: "That's not correct. I do what I'm expected to do within Eskom's rules, and I derive no pleasure in bullying people. And I'm not an agent of Collin and I will never be. I am a professional, and that is what I want to be judged on."

Matjila's tenure as chief executive has also coincided with at least three resignations by other long-serving senior executives.

Matjila has not replied to calls, voicemails and detailed SMSes, inviting him to comment. See "Nene hobbled by old tusker".* Got a tip-off for us about this story? Click here. The M&G Centre for Investigative Journalism (amaBhungane) produced this story. All views are ours. See www.amabhungane.co.za for our stories, activities and funding sources.

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Auditors rap Eskom Gupta splurge

Lionel Faull

1,175 words

28 November 2014

Mail & Guardian Online

AIWMAG

English

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An investigation by the parastatal's board into the contentious 'New Age' deal will be finalised soon

Eskom's auditors have warned that the R43-million deal to sponsor the New Age business breakfasts is "a reportable irregularity" in the utility's interim financial results released on Tuesday. Some Eskom board members tried to keep the auditor's warning out of the public domain this week.

AmaBhungane first exposed the contentious contract last month, including allegations that former interim chief executive Collin Matjila had disregarded internal legal advice and allegedly approved the budget-busting sponsorship deal without having the authority to do so.

In the context of Eskom's troubled financial situation, this could be the most egregious example to date of a state-owned enterprise's funds being diverted to prop up the New Age, a newspaper regarded as government-friendly. The politically connected Gupta family owns the New Age newspaper, AmaBhungane revealed that Matjila is close to them through deals and mutual associates they shared when Matjila was chief executive of trade union federation Cosatu's investment company Kopano ke Matla.

Eskom board members who have been pushing for Matjila's censure are understood to have resisted a last-ditch attempt this week by other board members to prevent the irregularity being disclosed in the interim financial statements.

A reportable irregularityThe external auditor's review statement accompanying Eskom's interim financials confirms that "we have reason to believe that certain alleged unlawful acts or omissions have been committed by a member of the accounting authority of Eskom, which constitute a reportable irregularity".

The board statement expands on the auditor's disclosure, saying that "the alleged irregularity relates to the conclusion of a sponsorship contract amounting to R43-million by a member of the accounting authority contrary to the group's delegation of authority applicable to that contract".

The "member of the accounting authority" is understood to be Matjila, who is believed not to have had the authority to approve a contract valued at R43-million, but did so anyway.

According to Eskom's delegation of authority, all procurement of goods above R5-million requires approval by a tender committee.

It is unclear why Matjila was willing to risk approving such a contract; amaBhungane understands he did so against the express advice of Eskom's internal legal department. An Eskom executive had previously told amaBhungane the contract had obliterated Eskom's sponsorship budget.

Power utility financially unstableAs Eskom's interim results revealed this week, the utility is in a precarious financial position. It received a R20-billion financial support package from government last month, and will in all likelihood apply for increased electricity tariffs next year.

Business Day reported this week that the utility hoped to reduce its costs by asking staff to apply for voluntary severance packages.

Eskom now routinely urges its domestic users to "live lightly" by reducing their electricity consumption to avoid nationwide blackouts.

Gupta spokesperson Gary Naidoo has previously dismissed amaBhungane questions about the Eskom sponsorship as "an attempt by yourselves to cast doubt on our successful business strategies ... to ensure that an independent entrant does not gain further traction in a very competitive market and therefore take some share from yourselves".

This week, Naidoo said he stood by his previous statement. "The New Age concluded a legally correct and binding contract with Eskom regarding the sponsorship of its business briefings. We are not in a position to comment on the internal processes at Eskom."

AmaBhungane has previously reported how Matjila's alleged flouting of corporate good governance on this contract caused such dismay at board level that the chair of its audit and risk subcommittee, Bajabulile Luthuli, reported the matter in person to Public Enterprises Minister Lynne Brown.

Luthuli's committee subsequently launched an internal investigation and an external audit into the contract.

A board divided Matjila is back on the board, having completed six months as interim chief executive at the end of September. Permanent appointee Tshediso Matona succeeded him.

On Friday last week, Eskom's auditors Sizwe Ntsaluba Gobodo reported the irregularity to the Independent Regulatory Board for Auditors, as required by law.

Two senior Eskom sources told amaBhungane independently that Eskom board members were divided about whether the auditor's opinion should be made public in this week's interim financial statements.

The sources said that Luthuli and two of her audit and risk subcommittee colleagues had resisted last-minute pressure from board members sympathetic to Matjila to exclude the auditor's warning statement from the financial results.

According to the sources, board members held meetings at Eskom's Megawatt Park headquarters on Sunday and Monday night this week to discuss the issue.

Luthuli and her audit committee colleagues' view prevailed in the end, if only because the board had no other option. The company's auditors are obliged by law to report any irregularity in their review of the financial statements.

The statements were finally signed off late on Monday night and made public on Tuesday.

The board statement added that it is still "considering the findings of the [auditor's] review" and that "to date no payment has been effected against this contract".

Luthuli declined to comment, saying the matter was "still under board consideration".

Eskom board chairperson Zola Tsotsi, who is understood to have motivated against disclosing the irregularity, did not respond to calls and an SMS.

30 days to contemplate irregularity Having reported the irregularity to the Independent Regulatory Board for Auditors, the law gives Eskom's auditors 30 days to discuss the irregularity with the board and allow board members to "make representations". The auditors will then submit a final report to the regulatory board, which can in turn take further action. The board's audit and risk committee could take other steps against Matjila, such as reporting his conduct to the Institute of Directors in Southern Africa.

Eskom said: "The matter that [you are] referring to has not been concluded. Once concluded Eskom will decide on how to handle it."

Matjila is no stranger to corporate controversy, having been embroiled in a pension fund administration scandal when he was chief executive of Kopano ke Matla.

His appointment as interim chief executive of Eskom caused a public outcry, and he resigned from his Kopano position within days.

Matjila has also been prominently cited in court papers filed by nuclear company Westinghouse, alleging that he played a key role in Eskom's appointment of rival nuclear company Areva for a R4-billion maintenance contract at Koeberg.

Westinghouse lost out to Areva, despite being recommended for the award by Eskom's technical team. Westinghouse wants the tender award reviewed, whereas Eskom is opposing them. Matjila did not respond to calls and SMSes.

See "Eskom hand-out gets red card" Got a tip-off for us about this story? Click here. The M&G Centre for Investigative Journalism (amaBhungane) produced this story. All views are ours. See www.amabhungane.co.za for our stories, activities and funding sources.

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Shift performance, grow
sustainably

Reviewed condensed group
interim financial statements
for the six months ended 30 September 2014



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The reviewed condensed group interim financial statements for the six months ended 30 September 2014 have been prepared under the supervision of the finance director, TBL Molefe CA(SA). These condensed group interim financial statements have been independently reviewed by the group's external auditors and were published on 25 November 2014.

Currency of financial statements

The reviewed condensed group interim financial statements are expressed in South African rand (R).

The following are approximate values of R1.00 to the selected currencies and one unit of the selected currencies to the rand:

	One unit of the selected currency to the rand			R1.00 to the selected currencies		
	30 September 2014	31 March 2014	30 September 2013	30 September 2014	31 March 2014	30 September 2013
EUR	14.28	14.57	13.60	0.07	0.07	0.07
USD	11.32	10.57	10.05	0.09	0.09	0.10
GBP	18.36	17.58	16.22	0.05	0.06	0.06
CHF	11.84	11.95	11.11	0.08	0.08	0.09
JPY	0.10	0.10	0.10	10.00	10.00	10.00

Currency	Abbreviation
Euro	EUR
United States dollar	USD
Pound sterling (United Kingdom)	GBP
Swiss franc	CHF
Japanese yen	JPY

Approval of the condensed group interim financial statements

Basis of preparation

The condensed group interim financial statements from page 4 to page 21 for the six months ended 30 September 2014 have been prepared in accordance with the recognition and measurement requirements of International Financial Reporting Standards (IFRS), the presentation and disclosure requirements of International Accounting Standards (IAS) 34 *Interim Financial Reporting*, and in the manner required by the Companies Act of South Africa.

Going concern assumption

The directors have made an assessment of the ability of Eskom and the group to continue as a going concern in the foreseeable future.

The directors reviewed the group's performance for the period ended 30 September 2014 and the cash flow forecast for the Multi-Year Price Determination (MYPD) 3 period ending 31 March 2018.

During the reporting period the National Energy Regulator of South Africa (NERSA) announced its decision to allow Eskom to recoup R7.82 billion in respect of the underrecoveries for the MYPD 2 period. This Regulatory Clearing Account (RCA) balance will be liquidated through tariffs recovered from customers and will be implemented in the 2015/16 financial year.

The Minister of Finance announced in the Medium Term Budget Policy statement on 22 October 2014 that government will provide at least R20 billion in funding to support Eskom's financial sustainability and if necessary, consideration will be given to a partial equity conversion of the R60 billion government loan.

The board continues to critically examine the group's activities and costs in order to balance its cash flow requirements through the Business Productivity Programme (BPP) to identify cost saving and efficiency opportunities to close the revenue shortfall, together with pursuing alternative funding options.

The board resolved that Eskom's financial sustainability, liquidity and status as a going concern will not be compromised in support of operational sustainability and balancing supply and demand and has not approved any capital expenditure beyond the Kusile project.

In assessing the ability to raise funds, the current economic climate as well as Eskom's and the sovereign's credit ratings have been taken into account.

Based on the above, the directors are satisfied that Eskom and the group have access to adequate resources and facilities to be able to continue its operations for the foreseeable future. Accordingly the board has continued to adopt the going-concern basis in preparing the interim financial statements.

Compliance with legislation


Reportable irregularity in terms of the Auditing Profession Act

On 21 November 2014, the group's external auditors reported an irregularity in terms of section 45(1) of the Auditing Profession Act to the Independent Regulatory Board for Auditors. The alleged irregularity relates to the conclusion of a sponsorship contract amounting to R43 million by a member of the accounting authority contrary to the group's delegation of authority applicable to that contract. This resulted in alleged irregular expenditure as contemplated in the Public Finance Management Act. To date no payment has been effected against this contract.

The matter was identified by management and is being considered by the board, which included the commissioning of an independent review by an independent external audit firm. The board is presently considering the findings of the review. The matter is receiving the full attention of the board and Eskom is committed to the consistent enforcement of, and adherence to, principles of the highest standards of corporate governance.

Approval by the board

In the opinion of the directors, based on the information available to date, the condensed group interim financial statements fairly present the financial position of the group at 30 September 2014 and the results of the operations and cash flow information for the six months then ended. The condensed group interim financial statements have been approved by the board of directors and signed on its behalf by:



ZA Tsotsi
Chairman
24 November 2014



TJ Matona
Chief executive
24 November 2014



TBL Molefe
Finance director
24 November 2014

Independent auditors' review report on the condensed group interim financial statements to the Minister of Public Enterprises

Introduction

We have reviewed the accompanying condensed group interim financial statements of Eskom Holdings SOC Ltd, which comprise the condensed group statement of financial position at 30 September 2014, and the condensed group income statement, statements of comprehensive income, changes in equity and cash flows for the six months then ended and selected explanatory notes as set out on pages 4 to 21. The board of directors are responsible for the preparation and presentation of these condensed group interim financial statements in accordance with the recognition and measurement requirements of IFRS, the presentation and disclosure requirements of IAS 34 *Interim Financial Reporting*, the requirements of the Companies Act of South Africa, and for such internal control as the directors determine is necessary to enable the preparation of interim financial statements that are free from material misstatement, whether due to fraud or error. Our responsibility is to express a conclusion on these condensed group interim financial statements based on our review.

Scope of review

We conducted our review in accordance with the International Standard on Review Engagements 2410, *Review of Interim Financial Information Performed by the Independent Auditor of the Entity*. A review of the condensed group interim financial statements consists of making enquiries, primarily of persons responsible for financial and accounting matters, and applying analytical and other review procedures. A review is substantially less in scope than an audit conducted in accordance with International Standards on Auditing and consequently does not enable us to obtain assurance that we would become aware of all significant matters which might be identified in an audit. Accordingly, we do not express an audit opinion.

Conclusion

Based on our review, nothing has come to our attention that causes us to believe that the accompanying condensed group interim financial statements of Eskom Holdings SOC Ltd for the six months ended 30 September 2014, are not prepared, in all material respects, in accordance with the recognition and measurement requirements of IFRS, the presentation and disclosure requirements of IAS 34 *Interim Financial Reporting* and the requirements of the Companies Act of South Africa.

Compliance with laws and regulations

In accordance with our responsibilities in terms of sections 44(2) and 44(3) of the Auditing Profession Act, we report that we have reason to believe that certain alleged unlawful acts or omissions have been committed by a member of the accounting authority of Eskom Holdings SOC Ltd which constitute a reportable irregularity in terms of the Auditing Profession Act, and have reported such matters to the Independent Regulatory Board for Auditors. The matter pertaining to the reportable irregularity has been described in the approval of the condensed group interim financial statements by the board on page 2.

SizweNtsalubaGobodo Inc

Sizwe Ntsaluba Gobodo Inc.

Per S Lockhat
Chartered Accountant (SA)
Registered Auditor
Director

24 November 2014

20 Morris Street East
Woodmead
2191

Condensed group statement of financial position

at 30 September 2014

	Reviewed 30 September 2014 Rm	Audited 31 March 2014 Rm	Reviewed 30 September 2013 Rm
Assets			
Non-current assets	469 172	439 869	402 416
Property, plant and equipment and intangible assets	432 375	404 389	366 366
Investment in equity-accounted investees	351	318	322
Future fuel supplies	9 459	8 744	7 741
Investment in securities	2 499	4 841	8 339
Loans receivable	8 628	8 654	8 716
Derivatives held for risk management	12 753	9 361	7 672
Other assets	3 107	3 562	3 260
Current assets	65 150	64 977	79 241
Inventories	15 252	12 422	14 584
Investment in securities	7 157	6 068	4 659
Loans receivable	301	329	75
Derivatives held for risk management	910	2 812	3 709
Trade and other receivables	18 388	16 578	17 477
Financial trading assets	6 824	4 265	5 703
Other assets	3 365	2 829	2 841
Cash and cash equivalents	12 953	19 676	30 193
Non-current assets held-for-sale	12	147	8
Total assets	534 334	504 993	481 665
Equity			
Capital and reserves attributable to owner of the company	128 412	119 784	123 446
Liabilities			
Non-current liabilities	322 235	310 915	294 950
Debt securities and borrowings	236 973	234 562	220 461
Embedded derivatives	6 508	7 871	8 211
Derivatives held for risk management	277	310	13
Deferred tax	22 529	19 461	21 354
Deferred income	13 277	12 518	11 989
Employee benefit obligations	11 765	9 922	11 099
Provisions	25 617	21 157	17 334
Other liabilities	5 289	5 114	4 489
Current liabilities	83 687	74 181	63 269
Debt securities and borrowings	27 942	20 258	16 319
Embedded derivatives	1 203	1 461	1 402
Derivatives held for risk management	1 730	1 197	621
Employee benefit obligations	3 918	4 561	3 169
Provisions	12 000	9 601	6 779
Trade and other payables	25 757	28 531	26 354
Financial trading liabilities	7 463	5 658	5 839
Other liabilities	3 674	2 914	2 786
Non-current liabilities held-for-sale	-	113	-
Total liabilities	405 922	385 209	358 219
Total equity and liabilities	534 334	504 993	481 665

Condensed group income statement

for the six months ended 30 September 2014

	Note	Reviewed six months ended 30 September 2014 Rm	Reviewed ¹ six months ended 30 September 2013 Rm	Audited year ended 31 March 2014 Rm
Continuing operations				
Revenue	17	81 898	77 722	139 506
Primary energy	18	(38 065)	(31 266)	(69 812)
Net employee benefit expense	19	(13 176)	(12 951)	(25 622)
Depreciation and amortisation expense		(6 672)	(5 912)	(11 937)
Net impairment loss		(855)	(682)	(1 557)
Other operating expenses		(7 841)	(9 077)	(19 177)
Operating profit before net fair value gain and net finance cost		15 289	17 834	11 401
Other income		452	183	962
Net fair value loss on financial instruments, excluding embedded derivatives		(860)	(998)	(620)
Net fair value gain on embedded derivatives		1 621	1 868	2 149
Operating profit before net finance cost		16 502	18 887	13 892
Net finance cost		(3 539)	(1 853)	(4 772)
Finance income		1 157	1 124	2 475
Finance cost		(4 696)	(2 977)	(7 247)
Share of profit of equity-accounted investees, net of tax		33	26	43
Profit before tax		12 996	17 060	9 163
Income tax		(3 675)	(4 846)	(2 137)
Profit for the period from continuing operations		9 321	12 214	7 026
Discontinued operations				
(Loss)/profit for the period from discontinued operations		(34)	27	63
Profit for the period		9 287	12 241	7 089
Attributable to:				
Owner of the company		9 287	12 241	7 089

Condensed group statement of comprehensive income

for the six months ended 30 September 2014

	Reviewed six months ended 30 September 2014 Rm	Reviewed six months ended 30 September 2013 Rm	Audited year ended 31 March 2014 Rm
Profit for the period	9 287	12 241	7 089
Other comprehensive (loss)/income	(659)	2 066	3 556
Items that may be reclassified subsequently to profit or loss	(195)	1 795	2 925
Available-for-sale financial assets - net change in fair value	(92)	(154)	(377)
Cash flow hedges	(202)	2 669	4 471
Foreign currency translation differences on foreign operations	17	(15)	(23)
Income tax thereon	82	(705)	(1 146)
Items that may not be reclassified subsequently to profit or loss	(464)	271	631
Remeasurement of post-employment medical benefits	(645)	376	882
Income tax thereon	181	(105)	(251)
Total comprehensive income for the period	8 628	14 307	10 645
Attributable to:			
Owner of the company	8 628	14 307	10 645

1. Restated. Refer to note 21.

Condensed group statement of changes in equity

for the six months ended 30 September 2014

	Reviewed six months ended 30 September 2014 Rm	Reviewed six months ended 30 September 2013 Rm	Audited year ended 31 March 2014 Rm
Balance at beginning of the period	119 784	109 139	109 139
Total comprehensive income for the period	8 628	14 307	10 645
Balance at end of the period	128 412	123 446	119 784
Comprising			
Equity reserve	30 520	30 520	30 520
Share capital ¹	–	–	–
Cash flow hedge reserve	6 033	5 922	6 178
Available-for-sale reserve	(17)	210	50
Unrealised fair value reserve	(7 659)	(7 369)	(7 744)
Foreign currency translation reserve	11	2	(6)
Accumulated profit	99 524	94 161	90 786
Total equity	128 412	123 446	119 784

1. Nominal amount

Condensed group statement of cash flows*for the six months ended 30 September 2014*

	Reviewed six months ended 30 September 2014 Rm	Reviewed ¹ six months ended 30 September 2013 Rm	Audited year ended 31 March 2014 Rm
Cash flows from operating activities			
Profit before tax	12 996	17 060	9 163
Adjustment for non-cash items	14 081	8 876	21 925
Changes in working capital	(7 729)	(12 256)	(10 455)
Cash generated from operations	19 348	13 680	20 633
Net cash flows from/(used in) financial trading assets	2 273	(3 317)	(1 471)
Net cash flows (used in)/from financial trading liabilities	(3 005)	4 853	4 383
Net cash flows (used in)/from current derivatives held for risk management	(345)	4 469	10 278
Net cash flows (used in)/from non-current assets held-for-sale	(64)	27	(23)
Income taxes paid	(101)	(87)	(184)
Net cash from operating activities	18 106	19 625	33 616
Cash flows used in investing activities			
Proceeds from disposal of property, plant and equipment and intangible assets	50	51	28
Acquisitions of property, plant and equipment and intangible assets	(24 193)	(21 624)	(53 160)
Expenditure on future fuel supplies	(1 256)	(1 444)	(2 675)
Decrease/(increase) in non-current loans receivable	26	(291)	(229)
Other cash flows from/(used in) investing activities	89	(1 197)	(1 171)
Net cash used in investing activities	(25 284)	(24 505)	(57 207)
Cash flows from financing activities			
Debt securities and borrowings raised	13 369	29 475	44 142
Debt securities and borrowings repaid	(8 445)	(4 819)	(8 014)
Decrease in investment in securities	1 111	4 050	5 748
Decrease in finance lease liabilities	(6)	(14)	(11)
Interest received	1 204	1 257	2 768
Interest paid	(6 795)	(5 481)	(11 838)
Net cash from financing activities	438	24 468	32 795
Net (decrease)/increase in cash and cash equivalents	(6 740)	19 588	9 204
Cash and cash equivalents at beginning of the period	19 676	10 620	10 620
Foreign currency translation	17	(15)	(23)
Cash and cash equivalents at beginning of the period attributable to non-current assets held-for-sale	—	—	(125)
Cash and cash equivalents at end of the period	12 953	30 193	19 676

1. Restated. Refer to note 21.

Selected notes to the condensed group interim financial statements

for the six months ended 30 September 2014

1. General information

Eskom Holdings SOC Ltd (Eskom), a state-owned company and holding company of the group, is incorporated and domiciled in the Republic of South Africa. Eskom is a vertically integrated operation that generates, transmits and distributes electricity to industrial, mining, commercial, agricultural, redistributors (ie municipalities), and residential customers and to international customers in southern Africa.

2. Basis of preparation

The reviewed condensed group interim financial statements of Eskom as at and for the six months ended 30 September 2014 comprise the company and its subsidiaries (together referred to as the group) and the group's interest in associates and joint arrangements. The reviewed condensed interim group financial statements do not include all of the information required for full financial statements and should be read in conjunction with the Eskom Holdings SOC Ltd 31 March 2014 annual financial statements. The annual financial statements of the group as at and for the year ended 31 March 2014 are available for inspection at the company's registered office and on the Eskom website at www.eskom.co.za. The condensed group interim financial statements are prepared in accordance with the recognition and measurement requirements of International Financial Reporting Standards (IFRS), the presentation and disclosure requirements of IAS 34 *Interim Financial Reporting*, and in the manner required by the Companies Act of South Africa. The financial statements have been prepared on the going-concern basis.

The condensed group interim financial statements are prepared on the historical cost basis except for the following items which are measured at fair value:

- investment in securities
- derivatives held for risk management
- financial trading assets
- financial trading liabilities
- embedded derivatives
- non-current assets and liabilities held-for-sale

Going concern

The board's assessment of the ability of Eskom and the group to continue as a going concern in the foreseeable future included:

- a review of the group's performance for the six months ended 30 September 2014
- a review of the cashflow forecasts for the MYPD 3 period ending 31 March 2018. These forecasts include NERSA's RCA announcement (as referred to in note 6), the announcement by the Minister of Finance in his Medium Term Budget Policy statement (as referred to in note 11), Eskom's regulatory options available, its ability to raise funds, the current and anticipated future economic climate and Eskom and the sovereign's credit rating.

The board continues to critically examine its activities and costs in order to balance its cash flow requirements through BPP to identify cost saving and efficiency opportunities to close the revenue shortfall, together with pursuing alternative regulatory and funding options.

The board has resolved that Eskom's financial sustainability, liquidity and status as a going concern will not be compromised in support of operational sustainability and balancing supply and demand and has not approved any capital expenditure beyond the Kusile project.

Based on the above, the directors are satisfied that Eskom and the group have access to adequate resources and facilities to be able to continue its operations for the foreseeable future. Accordingly the board have continued to adopt the going-concern basis in preparing the interim financial statements.

3. Significant accounting policies

The accounting policies applied by the group in these condensed group interim financial statements are consistent with those applied by the group in the audited financial statements as at and for the year ended 31 March 2014 except for the following new or revised statements and interpretations adopted during the six months ended 30 September 2014.

The nature and effect of these are as follows:

Amendments to IAS 32 *Financial Instruments: presentation* (effective 1 January 2014)

The amendments clarify the meaning of *currently has a legally enforceable right of set-off*, and that certain gross settlement systems may be considered equivalent to net settlement. The group has assessed the effect of this change and is considered to be immaterial.

IFRS 7 *Financial Instruments: disclosure* (effective 1 January 2014)

The amendments require additional disclosure where there are transfer transactions of financial assets. It has been assessed that the amendment has no impact on the group.

Amendments to IAS 36 *Impairment of assets* (effective 1 January 2014)

The group has assessed the impact of the disclosures required when the recoverable amount of impaired assets is based on fair value less costs of disposal as having no impact as there are no such assets. The group also assessed the impact of the amended disclosure requirements of the recoverable amount as having no impact.

Amendments to IAS 39 *Financial Instruments: recognition and measurement* (effective 1 January 2014)

This amendment provides relief from discontinuing hedge accounting when novation (novation of derivatives) of a hedging instrument to a central counterparty meets specified criteria. This amendment is not applicable to the group.

IFRIC 21 *Levies* (effective 1 January 2014)

IFRIC 21 clarifies that a levy is not recognised until the obligating event specified in legislation occurs, even if there is no realistic opportunity to avoid the obligation. The group assessed the timing of when to accrue for levies imposed by legislation. The group already accrued for levies during the year on the basis that it would continue to operate in the future. The adoption of the interpretation therefore has no significant impact on the financial statements for prior periods or the interim period and is not expected to have a significant impact on the financial statements for the financial year ending 31 March 2015.

4. Income tax expense

Income tax expense for the interim period is recognised based on management's best estimate of the weighted average annual income tax rate expected for the full financial year, which is applied to the pre-tax income of the interim period.

5. Seasonality of interim results

The sale of electricity is subject to seasonal fluctuations where revenue is normally higher for the first six months of the financial year (winter months) as compared to the summer months, both in terms of tariff energy charges and peak demand.

6. Significant events and transactions

During the reporting period NERSA announced its decision to allow Eskom to recoup R7.82 billion in respect of the underrecoveries for the MYPD 2 period. This RCA balance will be liquidated via tariffs recovered from standard tariff customers and will be implemented in the 2015/16 financial year.

The chief executive, Mr T Matona, has been appointed effective from 1 October 2014.

7. Critical accounting estimates and judgements

Embedded derivatives

Estimates and judgements are evaluated continually and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The group makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the related actual results.

The significant estimates and judgements made by management in applying the accounting policies and the key sources of estimating uncertainty were substantially the same as those applied to the financial statements as at and for the year ended 31 March 2014.

The forward electricity price used to value the embedded derivatives at 30 September 2014 is based on the NERSA RCA determination of 13% for 2015/16 and the MYPD 3 tariff increase of 8% for the period 2016/17 and 2017/18, whereafter a forecasted return on the regulatory asset base is used until maturity. Another key estimate in the valuation of embedded derivatives includes the forecast of United States (US) production price index (PPI) which is based on an internal model which simulates US PPI using other observable market prices such as the South African consumer price index and ZAR/USD forward exchange rates.

The contracted electricity price used to value embedded derivatives is based on a combination of the factors in the table below over the contracted period.

Forecast sales volumes are based on the most likely future sales volumes based on past trends and taking into account future production plans in consultation with industry specific experts and key customer executives.

The fair value of embedded derivatives takes into account the inherent uncertainty relating to the future cash flows of embedded derivatives, such as liquidity, model risk and other economic factors.

The following valuation assumptions for the future electricity price curve discussed above for the valuation of embedded derivatives were used and are regarded as the best estimates by management:

Input	Unit	Period ended 30 September 2014 (reviewed)					
		2014	2015	2016	2017	2018	2019
Aluminium	USD per ton	1 930	2 003	2 042	2 086	2 134	2 189
Volatility	Year-on-year (ratio)	0.19	0.19	0.19	0.19	0.19	0.19
Rand interest rate	Continuous actual/365 days (%)	5.79	7.12	6.91	7.20	7.46	7.68
Dollar interest rate	Annual actual/365 days (%)	0.17	0.73	0.82	1.31	1.69	1.96
United States PPI	Year-on-year (%)	2.60	2.31	2.23	2.01	2.61	1.89
Rand/USD	USD per rand	0.09	0.08	0.08	0.07	0.07	0.07

Input	Unit	Period ended 31 March 2014 (audited)					
		2014	2015	2016	2017	2018	2019
Aluminium	USD per ton	1 716	1 865	1 939	2 005	2 068	2 127
Volatility	Year-on-year (ratio)	0.22	0.22	0.22	0.22	0.22	0.22
Rand interest rate	Continuous actual/365 days (%)	5.57	6.74	6.84	7.28	7.55	7.79
Dollar interest rate	Annual actual/365 days (%)	0.09	0.52	0.57	1.03	1.48	1.87
United States PPI	Year-on-year (%)	3.27	2.20	2.33	2.20	2.41	2.32
Rand/USD	USD per rand	0.09	0.09	0.08	0.08	0.07	0.07

Input	Unit	Period ended 30 September 2013 (reviewed)					
		2013	2014	2015	2016	2017	2018
Aluminium	USD per ton	1 794	1 881	1 994	2 094	2 181	2 256
Volatility	Year-on-year (ratio)	0.25	0.25	0.25	0.25	0.25	0.25
Rand interest rate	Continuous actual/365 days (%)	4.97	5.47	5.89	6.22	6.66	7.00
Dollar interest rate	Annual actual/365 days (%)	0.23	0.42	0.60	0.54	0.87	1.27
United States PPI	Year-on-year (%)	0.79	2.28	2.74	1.99	2.14	2.36
Rand/USD	USD per rand	0.10	0.10	0.09	0.09	0.08	0.08

8. Issuances, repurchases and repayments of debt securities and borrowings

The nature of the group's issuances, repurchases and repayments of debt securities and borrowings are consistent with those reported previously. The details of the debt raised and repaid by the group are disclosed in the statement of cash flows.

9. Dividend paid

No dividend was paid to the shareholder during the six months ended 30 September 2014 (March 2014: nil; September 2013: nil).

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

10. Segment information

Management has determined the reportable segments, as described below, based on the reports regularly provided, reviewed and used by the executive management committee (Exco) to make strategic decisions and assess performance of the segments. Exco assesses the performance of the operating segments based on a measure of profit or loss consistent with that of the financial statements. The amounts provided to Exco with respect to total assets and liabilities are measured in terms of IFRS. These assets and liabilities are allocated based on the operation of the segment and the physical location of the assets.

The operations in each of the group's reportable segments are as follows:

Generation	Consists of the generation and primary energy functions. These functions procure primary energy and generate electricity for sale.
Transmission	Consists of the transmission grids, systems operations and the South African Energy unit (international buyer). These functions operate and maintain the transmission network for transmitting electricity and also sell bulk electricity to international customers.
Distribution	Distribution consists of nine provincial operating units. These units provide, operate and maintain the distribution network.
Group customer services	Group customer services consists of the customer service and integrated demand management functions and sells electricity to local key large, redistributors, large and small customers.
Group capital	Group capital is responsible for the planning, development and monitoring of all capital projects and the execution of capacity expansion projects.
All other segments	Relates to operating segments which are below the quantitative thresholds for determining a reportable segment in terms of IFRS 8 <i>Operating Segments</i> . These include the group's subsidiaries.
Corporate and other	Relates to all service and strategic functions which do not qualify as a reportable segment in terms of IFRS 8 <i>Operating segments</i> .

The segment information provided to Exco for the reportable segments is as follows:

30 September 2014 (reviewed)	Generation Rm	Transmission Rm	Distribution Rm	Group customer services Rm	Group capital Rm	All other segments Rm	Corporate and other Rm	Inter- segment transactions Rm	Group Rm
Continuing operations									
External revenue	–	2 743	424	78 134	–	597	–	–	81 898
Inter-segment revenue/recoveries	55 372	6 914	12 684	(74 953)	–	4 721	–	(4 738)	–
Total revenue	55 372	9 657	13 108	3 181	–	5 318	–	(4 738)	81 898
Primary energy	(32 690)	(5 195)	–	(179)	(1)	–	–	–	(38 065)
Net employee benefit expense	(3 591)	(778)	(3 522)	(710)	(325)	(1 841)	(2 426)	17	(13 176)
Depreciation and amortisation expense	(3 603)	(713)	(1 445)	(4)	(33)	(126)	(814)	66	(6 672)
Net impairment (loss)/reversal	(129)	(1)	7	(729)	2	(5)	–	–	(855)
Other operating expenses	(8 360)	(1 052)	(4 012)	(830)	129	(2 733)	3 168	5 849	(7 841)
Operating profit/(loss) before net fair value gain/(loss) and net finance (cost)/income	6 999	1 918	4 136	729	(228)	613	(72)	1 194	15 289
Other income	195	311	152	53	58	180	150	(647)	452
Net fair value gain/(loss) on financial instruments, excluding embedded derivatives	44	78	(9)	(97)	(882)	33	(27)	–	(860)
Net fair value gain on embedded derivatives	–	–	–	1 621	–	–	–	–	1 621
Operating profit/(loss) before net finance (cost)/income	7 238	2 307	4 279	2 306	(1 052)	826	51	547	16 502
Net finance (cost)/income	(2 823)	(504)	(340)	201	(30)	(62)	19	–	(3 539)
Finance income	4	16	24	296	–	223	913	(319)	1 157
Finance cost	(2 827)	(520)	(364)	(95)	(30)	(285)	(894)	319	(4 696)
Share of profit of equity-accounted investees	–	–	–	–	–	7	26	–	33
Profit/(loss) before tax	4 415	1 803	3 939	2 507	(1 082)	771	96	547	12 996
Income tax	–	–	–	–	–	(192)	(3 311)	(172)	(3 675)
Profit/(loss) for the period from continuing operations	4 415	1 803	3 939	2 507	(1 082)	579	(3 215)	375	9 321
Discontinued operations									
Loss for the period from discontinued operations	–	–	–	–	–	(34)	–	–	(34)
Profit/(loss) for the period	4 415	1 803	3 939	2 507	(1 082)	545	(3 215)	375	9 287
Other information									
Total segment assets	118 853	37 018	67 678	16 655	234 313	26 345	55 781	(22 309)	534 334
Total segment liabilities	37 713	2 983	23 815	16 743	20 131	20 273	306 569	(22 305)	405 922
Capital expenditure (including borrowing costs capitalised)	4 894	3 122	2 855	1	23 998	201	623	(886)	34 808

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

10. Segment information (continued)

30 September 2013 (reviewed)	Generation Rm	Transmission Rm	Distribution Rm	Group customer services Rm	Group capital Rm	All other segments Rm	Corporate and other Rm	Inter- segment transactions Rm	Group Rm
Continuing operations									
External revenue	–	3 451	261	73 354	–	656	–	–	77 722
Inter-segment revenue/recoveries	51 296	4 754	13 230	(69 276)	–	4 275	–	(4 279)	–
Total revenue	51 296	8 205	13 491	4 078	–	4 931	–	(4 279)	77 722
Primary energy	(27 922)	(3 168)	–	(43)	(133)	–	–	–	(31 266)
Net employee benefit expense	(3 282)	(749)	(3 362)	(704)	(414)	(1 587)	(2 853)	–	(12 951)
Depreciation and amortisation expense	(3 116)	(603)	(1 399)	(5)	(38)	(130)	(663)	42	(5 912)
Net impairment (loss)/reversal	(10)	(14)	(1)	(670)	–	13	–	–	(682)
Other operating expenses	(8 356)	(1 344)	(4 256)	(1 334)	117	(2 839)	3 139	5 796	(9 077)
Operating profit/(loss) before net fair value (loss)/gain and net finance (cost)/income	8 610	2 327	4 473	1 322	(468)	388	(377)	1 559	17 834
Other income	237	146	142	245	47	234	245	(1 113)	183
Net fair value (loss)/gain on financial instruments, excluding embedded derivatives	(132)	(107)	62	26	(948)	46	55	–	(998)
Net fair value gain on embedded derivatives	–	–	–	1 868	–	–	–	–	1 868
Operating profit/(loss) before net finance (cost)/income	8 715	2 366	4 677	3 461	(1 369)	668	(77)	446	18 887
Net finance (cost)/income	(1 293)	(371)	(272)	107	(22)	(65)	63	–	(1 853)
Finance income	9	16	24	181	–	176	959	(241)	1 124
Finance cost	(1 302)	(387)	(296)	(74)	(22)	(241)	(896)	241	(2 977)
Share of profit of equity-accounted investees	–	–	–	–	–	8	18	–	26
Profit/(loss) before tax	7 422	1 995	4 405	3 568	(1 391)	611	4	446	17 060
Income tax	–	–	–	–	–	(146)	(4 577)	(123)	(4 846)
Profit/(loss) for the period from continuing operations	7 422	1 995	4 405	3 568	(1 391)	465	(4 573)	323	12 214
Discontinued operations									
Profit for the period from discontinued operations	–	–	–	–	–	27	–	–	27
Profit/(loss) for the period	7 422	1 995	4 405	3 568	(1 391)	492	(4 573)	323	12 241
Other information									
Total segment assets	106 909	30 334	60 429	15 015	191 341	23 083	73 821	(19 267)	481 665
Total segment liabilities	30 167	1 965	22 361	17 226	13 119	15 554	274 060	(16 233)	358 219
Capital expenditure (including borrowing costs capitalised)	4 167	1 515	5 237	–	18 098	163	1 492	(1 253)	29 419

31 March 2014 (audited)	Generation Rm	Transmission Rm	Distribution Rm	Group customer services Rm	Group capital Rm	All other segments Rm	Corporate and other Rm	Inter- segment transactions Rm	Group Rm
Continuing operations									
External revenue	–	6 446	817	131 007	–	1 236	–	–	139 506
Inter-segment revenue/recoveries	97 303	6 932	20 623	(124 816)	–	9 184	–	(9 226)	–
Total revenue	97 303	13 378	21 440	6 191	–	10 420	–	(9 226)	139 506
Primary energy	(62 716)	(6 577)	–	(350)	(169)	–	–	–	(69 812)
Net employee benefit expense	(6 597)	(1 480)	(6 818)	(1 407)	(784)	(3 271)	(5 300)	35	(25 622)
Depreciation and amortisation expense	(6 436)	(1 205)	(2 809)	(9)	(70)	(260)	(1 402)	254	(11 937)
Net impairment loss	(12)	(18)	(7)	(1 482)	(2)	(7)	(29)	–	(1 557)
Other operating expenses	(16 694)	(2 498)	(8 726)	(2 689)	31	(7 578)	6 195	12 782	(19 177)
Operating profit/(loss) before net fair value gain/(loss) and net finance (cost)/income	4 848	1 600	3 080	254	(994)	(696)	(536)	3 845	11 401
Other income	504	354	317	154	96	401	490	(1 354)	962
Net fair value gain/(loss) on financial instruments, excluding embedded derivatives	691	–	206	46	(1 885)	126	190	6	(620)
Net fair value gain on embedded derivatives	–	–	–	2 149	–	–	–	–	2 149
Operating profit/(loss) before net finance (cost)/income	6 043	1 954	3 603	2 603	(2 783)	(169)	144	2 497	13 892
Net finance (cost)/income	(3 715)	(744)	(526)	268	(6)	(155)	106	–	(4 772)
Finance income	15	54	48	439	–	353	2 067	(501)	2 475
Finance cost	(3 730)	(798)	(574)	(171)	(6)	(508)	(1 961)	501	(7 247)
Share of profit of equity-accounted investees	–	–	–	–	–	16	27	–	43
Profit/(loss) before tax	2 328	1 210	3 077	2 871	(2 789)	(308)	277	2 497	9 163
Income tax	–	–	–	–	–	87	(1 521)	(703)	(2 137)
Profit/(loss) for the period from continuing operations	2 328	1 210	3 077	2 871	(2 789)	(221)	(1 244)	1 794	7 026
Discontinued operations									
Profit for the period from discontinued operations	–	–	–	–	–	63	–	–	63
Profit/(loss) for the period	2 328	1 210	3 077	2 871	(2 789)	(158)	(1 244)	1 794	7 089
Other information									
Total segment assets	116 066	34 784	65 070	13 658	210 439	26 207	62 344	(23 575)	504 993
Total segment liabilities	37 297	2 292	23 081	17 598	15 863	19 365	291 555	(21 842)	385 209
Capital expenditure (including borrowing costs capitalised)	14 634	6 440	11 596	–	37 186	455	3 310	(905)	72 716

Inter-segment purchases and sales of electricity are allocated between the Generation, Transmission, Distribution and Group customer services segments based on cost recovery plus a uniform return on assets.

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

10. Segment information (continued)

	Revenue			Non-current assets		
	Reviewed 30 September 2014 Rm	Reviewed 30 September 2013 Rm	Audited 31 March 2014 Rm	Reviewed 30 September 2014 Rm	Reviewed 30 September 2013 Rm	Audited 31 March 2014 Rm
Geographical information						
South Africa	79 089	74 646	133 495	444 563	376 663	416 013
Foreign countries	2 809	3 076	6 011	126	121	114
	81 898	77 722	139 506	444 689	376 784	416 127

The group's reportable segments operate mainly in South Africa, which is Eskom's country of domicile.

Revenue is allocated based on the country in which the customer is located after eliminating inter-segment transactions. There is no significant revenue derived from a single external customer by any of the reportable segments.

Non-current assets disclosed for geographical information comprise non-current assets other than deferred tax assets and financial instruments.

11. Material events subsequent to 30 September 2014

The Minister of Finance announced in the Medium Term Budget Policy statement on 22 October 2014 that government will provide at least R20 billion in funding to support Eskom's financial sustainability. If necessary, consideration will be given to a partial equity conversion of the R60 billion government loan.

12. Material changes in property, plant and equipment

Property, plant and equipment increased by R28.12 billion during the six months ended 30 September 2014 as compared to the financial statements as at 31 March 2014. This expenditure relates mainly to the cost incurred on the capital expansion programme.

13. Material changes to provisions

Provisions increased by R6.86 billion during the six months ended 30 September 2014 as compared to the financial statements as at 31 March 2014. The increase relates mainly to changes in environmental and mine-related provisions.

14. Material changes in contingent liabilities

There were no material changes in contingent liabilities during the six months ended 30 September 2014 from those reported in the financial statements as at 31 March 2014.

15. Material changes in capital commitments

There were no material changes in the contracted capital commitments during the six months ended 30 September 2014 from those reported in the financial statements for the year ended 31 March 2014. Eskom continues to assess and reprioritise its capital expenditure programme in response to the MYPD 3 tariff determination by NERSA.

16. Issued share capital

There was no change in the issued share capital during the six months ended 30 September 2014.

	Reviewed six months ended 30 September 2014 Rm	Reviewed six months ended 30 September 2013 Rm	Audited year ended 31 March 2014 Rm
17. Revenue			
Electricity revenue	80 785	76 294	136 869
Other revenue, excluding electricity revenue	1 113	1 428	2 637
	81 898	77 722	139 506
18. Primary energy			
Own generation costs	28 415	23 537	54 186
Environmental levy	4 276	4 385	8 530
International electricity purchases	1 661	1 581	3 311
Independent power producers	3 534	1 607	3 266
Other	179	176	519
	38 065	31 266	69 812
19. Net employee benefit expense			
Gross employee benefit expense	16 330	15 567	31 324
Employee benefit expense capitalised to property, plant and equipment	(3 154)	(2 616)	(5 702)
	13 176	12 951	25 622

20. Fair value classification and measurement

20.1 Accounting classification and fair value

Valuation processes

The group has a controlled framework with respect to the measurement of fair values. The framework includes a valuation team that reports to the finance director, and has overall responsibility for all significant fair value measurements.

The valuation team regularly reviews significant unobservable inputs and valuation adjustments. If third party information, such as broker quotes or pricing services, is used to measure fair value, then the valuation team assesses and documents the evidence obtained from the third parties to support their conclusion that such valuations meet the requirements of IFRS, including the level in the fair value hierarchy that the resulting fair value estimate should be classified to.

Principal markets

The group is involved in various principal markets because of the unique funding activities undertaken. The fair value is determined by each participant in the different principal markets. The principal markets are:

- capital and money markets
- development financing institutions
- export credit agencies

The classification of each class of financial assets and liabilities, and their fair values are:

	Held- for-trading	Loans and receivables	Available- for-sale	Liabilities at amortised cost	Other assets and liabilities	Total carrying amount	Fair value
30 September 2014 (reviewed)	Rm	Rm	Rm	Rm	Rm	Rm	Rm
Financial assets							
Investment in securities	–	–	9 656	–	–	9 656	9 656
Government bonds	–	–	5 735	–	–	5 735	5 735
Negotiable certificates of deposit	–	–	3 921	–	–	3 921	3 921
Loans receivable ¹	–	8 929	–	–	–	8 929	7 172
Secured by mortgages	–	8 589	–	–	–	8 589	6 974
Other	–	340	–	–	–	340	198
Derivatives held for risk management	1 239	–	–	–	12 424	13 663	13 663
Foreign exchange derivatives	1 232	–	–	–	12 424	13 656	13 656
Credit default swap	7	–	–	–	–	7	7
Finance lease receivables ²	–	–	–	–	529	529	529
Trade and other receivables ²	–	18 377	–	–	–	18 377	18 377
Financial trading assets	6 824	–	–	–	–	6 824	6 824
Repurchase agreements	5 586	–	–	–	–	5 586	5 586
Listed shares	1 087	–	–	–	–	1 087	1 087
Government bonds	151	–	–	–	–	151	151
Cash and cash equivalents	–	12 953	–	–	–	12 953	12 953
Bank balances	–	6 890	–	–	–	6 890	6 890
Unsettled deals	–	283	–	–	–	283	283
Fixed deposits	–	5 711	–	–	–	5 711	5 711
Other	–	69	–	–	–	69	69
	8 063	40 259	9 656	–	12 953	70 931	69 174
Financial liabilities							
Debt securities and borrowings	–	–	–	264 915	–	264 915	249 862
Eskom bonds	–	–	–	106 477	–	106 477	107 175
Promissory notes	–	–	–	37	–	37	48
Commercial paper	–	–	–	10 055	–	10 055	10 053
Eurobond zero coupon bonds	–	–	–	3 707	–	3 707	3 839
Foreign bonds	–	–	–	31 195	–	31 195	33 105
Development financing institutions	–	–	–	53 527	–	53 527	45 575
Export credit facilities	–	–	–	30 820	–	30 820	32 155
Subordinated loan from shareholders	–	–	–	25 486	–	25 486	14 342
Other loans	–	–	–	3 611	–	3 611	3 570
Embedded derivatives	–	–	–	–	7 711	7 711	7 711
Derivatives held for risk management	1 100	–	–	–	907	2 007	2 007
Foreign exchange derivatives	989	–	–	–	907	1 896	1 896
Commodity derivatives	61	–	–	–	–	61	61
Credit default swap	50	–	–	–	–	50	50
Finance lease liabilities ²	–	–	–	–	494	494	494
Trade and other payables ²	–	–	–	25 518	–	25 518	25 518
Financial trading liabilities	7 463	–	–	–	–	7 463	7 463
Short-sold government bonds	1 723	–	–	–	–	1 723	1 723
Repurchase agreements	5 740	–	–	–	–	5 740	5 740
	8 563	–	–	290 433	9 112	308 108	293 055

1. The fair value of loans receivable is based on what a market participant would be willing to pay to acquire the loans. This participant would not have the ability to garnish salaries, thus increasing the probability of default resulting in a lower fair value than the group's carrying value.

2. The fair values of these financial instruments approximate their carrying amounts. The effect of discounting is not expected to be material.

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

20. Fair value classification and measurement (continued)

20.1 Accounting classification and fair value (continued)

31 March 2014 (audited)	Held- for-trading	Loans and receivables	Available- for-sale	Liabilities at amortised cost	Other assets and liabilities	Total carrying amount	Fair value
	Rm	Rm	Rm	Rm	Rm	Rm	Rm
Financial assets							
Investment in securities	–	–	10 907	–	–	10 907	10 907
Government bonds	–	–	8 160	–	–	8 160	8 160
Negotiable certificates of deposit	–	–	2 747	–	–	2 747	2 747
Loans receivable ¹	–	8 983	–	–	–	8 983	7 408
Secured by mortgages	–	8 546	–	–	–	8 546	7 139
Other	–	437	–	–	–	437	269
Derivatives held for risk management	2 344	–	–	–	9 829	12 173	12 173
Foreign exchange derivatives	2 289	–	–	–	9 829	12 118	12 118
Commodity derivatives	51	–	–	–	–	51	51
Credit default swap	4	–	–	–	–	4	4
Finance lease receivables ²	–	–	–	–	538	538	538
Trade and other receivables ²	–	16 581	–	–	–	16 581	16 581
Financial trading assets	4 265	–	–	–	–	4 265	4 265
Negotiable certificates of deposit	334	–	–	–	–	334	334
Repurchase agreements	2 325	–	–	–	–	2 325	2 325
Listed shares	1 039	–	–	–	–	1 039	1 039
Government bonds	541	–	–	–	–	541	541
Other money market securities	26	–	–	–	–	26	26
Cash and cash equivalents	–	19 676	–	–	–	19 676	19 676
Bank balances	–	10 757	–	–	–	10 757	10 757
Unsettled deals	–	1 489	–	–	–	1 489	1 489
Fixed deposits	–	7 361	–	–	–	7 361	7 361
Other	–	69	–	–	–	69	69
	6 609	45 240	10 907	–	10 367	73 123	71 548
Financial liabilities							
Debt securities and borrowings	–	–	–	254 820	–	254 820	240 646
Eskom bonds	–	–	–	102 080	–	102 080	102 274
Promissory notes	–	–	–	35	–	35	45
Commercial paper	–	–	–	14 635	–	14 635	14 629
Euro and zero coupon bonds	–	–	–	3 484	–	3 484	3 711
Foreign bonds	–	–	–	29 100	–	29 100	30 965
Development financing institutions	–	–	–	49 256	–	49 256	41 910
Export credit facilities	–	–	–	31 506	–	31 506	32 751
Subordinated loan from shareholders	–	–	–	24 393	–	24 393	14 030
Other loans	–	–	–	331	–	331	331
Embedded derivatives	–	–	–	–	9 332	9 332	9 332
Derivatives held for risk management	840	–	–	–	667	1 507	1 507
Foreign exchange derivatives	837	–	–	–	667	1 504	1 504
Credit default swap	3	–	–	–	–	3	3
Finance lease liabilities ²	–	–	–	–	500	500	500
Trade and other payables ²	–	–	–	29 266	–	29 266	29 266
Financial trading liabilities	5 658	–	–	–	–	5 658	5 658
Short-sold government bonds	752	–	–	–	–	752	752
Commercial paper issued	762	–	–	–	–	762	762
Repurchase agreements	4 144	–	–	–	–	4 144	4 144
	6 498	–	–	284 086	10 499	301 083	286 909

1. The fair value of loans receivable is based on what a market participant would be willing to pay to acquire the loans. This participant would not have the ability to garnish salaries, thus increasing the probability of default resulting in a lower fair value than the group's carrying value.

2. The fair values of these financial instruments approximate their carrying amounts. The effect of discounting is not expected to be material.

30 September 2013 (reviewed)	Held-for-trading	Loans and receivables	Available-for-sale	Liabilities at amortised cost	Other assets and liabilities	Total carrying amount	Fair value
	Rm	Rm	Rm	Rm	Rm	Rm	Rm
Financial assets							
Investment in securities	–	–	12 998	–	–	12 998	12 998
Government bonds	–	–	9 941	–	–	9 941	9 941
Negotiable certificates of deposit	–	–	3 057	–	–	3 057	3 057
Loans receivable ¹	–	8 791	–	–	–	8 791	7 252
Secured by mortgages	–	8 362	–	–	–	8 362	7 045
Other	–	429	–	–	–	429	207
Derivatives held for risk management	2 700	–	–	–	8 681	11 381	11 381
Foreign exchange derivatives	2 645	–	–	–	8 570	11 215	11 215
Interest rate swap	–	–	–	–	111	111	111
Commodity derivatives	28	–	–	–	–	28	28
Credit default swap	27	–	–	–	–	27	27
Finance lease receivables ²	–	–	–	–	547	547	547
Trade and other receivables ²	–	17 802	–	–	–	17 802	17 802
Financial trading assets	5 703	–	–	–	–	5 703	5 703
Repurchase agreements	4 383	–	–	–	–	4 383	4 383
Listed shares	938	–	–	–	–	938	938
Government bonds	282	–	–	–	–	282	282
Other money market securities	100	–	–	–	–	100	100
Cash and cash equivalents	–	30 193	–	–	–	30 193	30 193
Bank balances	–	8 754	–	–	–	8 754	8 754
Unsettled deals	–	1 051	–	–	–	1 051	1 051
Fixed deposits	–	20 388	–	–	–	20 388	20 388
	8 403	56 786	12 998	–	9 228	87 415	85 876
Financial liabilities							
Debt securities and borrowings	–	–	–	236 780	–	236 780	226 379
Eskom bonds	–	–	–	94 853	–	94 853	98 338
Promissory notes	–	–	–	10	–	10	10
Commercial paper	–	–	–	12 389	–	12 389	12 550
Euroand zero coupon bonds	–	–	–	3 276	–	3 276	3 522
Foreign bonds	–	–	–	27 671	–	27 671	29 838
Development financing institutions	–	–	–	43 491	–	43 491	36 581
Export credit facilities	–	–	–	29 521	–	29 521	30 485
Floating rate notes	–	–	–	2 014	–	2 014	1 698
Subordinated loan from shareholders	–	–	–	23 356	–	23 356	13 158
Other loans	–	–	–	199	–	199	199
Embedded derivatives	–	–	–	–	9 613	9 613	9 613
Derivatives held for risk management	447	–	–	–	187	634	634
Foreign exchange derivatives	447	–	–	–	178	625	625
Interest rate swap	–	–	–	–	9	9	9
Finance lease liabilities ²	–	–	–	–	506	506	506
Trade and other payables ²	–	–	–	26 661	–	26 661	26 661
Financial trading liabilities	5 839	–	–	–	–	5 839	5 839
Short-sold government bonds	969	–	–	–	–	969	969
Commercial paper issued	163	–	–	–	–	163	163
Repurchase agreements	4 707	–	–	–	–	4 707	4 707
	6 286	–	–	263 441	10 306	280 033	269 632

1. The fair value of loans receivable is based on what a market participant would be willing to pay to acquire the loans. This participant would not have the ability to garnish salaries, thus increasing the probability of default resulting in a lower fair value than the group's carrying value.

2. The fair values of these financial instruments approximate their carrying amounts. The effect of discounting is not expected to be material.

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

20. Fair value classification and measurement (continued)

20.2 Fair value hierarchy

The table below analyses fair value measurements which are categorised into the different levels in the fair value hierarchy based on the inputs to the valuation techniques used. There has been no change in the valuation technique applied. The hierarchy levels are defined as follows:

Level 1: Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2: Inputs other than quoted prices included within level 1 that are observable for the asset or liability, either directly (ie as prices) or indirectly (ie derived from prices).

Level 3: Inputs for the financial asset or financial liability that are not based on observable market data (unobservable inputs).

The group recognises transfers between levels of the fair value hierarchy at the end of the reporting period during which the transfer has occurred.

Eskom's policy for determining when transfers between levels in the hierarchy have occurred includes monitoring of the following factors:

- Changes in market and trading activity (eg significant increases/decreases in activity)
- Changes in inputs used in valuation techniques (eg inputs becoming/ceasing to be observable in the market)

There were no transfers between level 1, 2 or 3 of the fair value hierarchy during the six months ended 30 September 2014.

The valuation techniques used are as follows:

Level 1: Quoted prices (unadjusted) in active markets

The fair value of financial instruments traded in active markets is based on quoted market prices at the reporting date. A market is regarded as active when it is a market in which transactions for the asset or liability take place with sufficient frequency and volume to provide pricing information on an ongoing basis. The quoted market price used for financial assets held by the group is the current bid price. For financial liabilities included in level 1 the current ask price is used. Instruments included in level 1 comprise primary listed investments classified as trading securities or available-for-sale.

Level 2: Inputs other than quoted prices included within level 1 that are observable

Level 2 fair values for debt securities are determined using a discounted cash flow technique, which uses expected cash flows and a market-related discount rate. Level 2 fair values for simple over-the-counter derivative financial instruments are based on broker quotes. These quotes are tested for reasonableness by discounting expected future cash flows using a market interest rate for a similar instrument at the measurement date. Fair values reflect the credit risk of the instruments and include adjustments for the credit risk of the group entity and counterparty where appropriate. The fair values are obtained from listed bond yields or using a discounted cash flow model for unlisted instruments. The future cash flows are discounted using a zero curve, which is adjusted to reflect the credit value adjustment (CVA) and debit value adjustment (DVA) that are constructed from money market and swap rates.

Level 3: Inputs not based on observable market data (unobservable inputs)

Level 3 items are fair valued using unobservable inputs. For information on the valuation techniques and assumptions of embedded derivatives refer to page 9.

30 September 2014 (reviewed)	Level 1 Rm	Level 2 Rm	Level 3 Rm	Total Rm
Assets measured at fair value				
Investment in securities	5 735	3 921	–	9 656
Government bonds	5 735	–	–	5 735
Negotiable certificates of deposit	–	3 921	–	3 921
Derivatives held for risk management	–	13 663	–	13 663
Foreign exchange derivatives	–	13 656	–	13 656
Credit default swap	–	7	–	7
Financial trading assets	1 238	5 586	–	6 824
Repurchase agreements	–	5 586	–	5 586
Listed shares	1 087	–	–	1 087
Government bonds	151	–	–	151
	6 973	23 170	–	30 143
Liabilities measured at fair value				
Embedded derivatives	–	–	7 711	7 711
Derivatives held for risk management	–	2 007	–	2 007
Foreign exchange derivatives	–	1 896	–	1 896
Commodity derivatives	–	61	–	61
Credit default swap	–	50	–	50
Financial trading liabilities	1 723	5 740	–	7 463
Short-sold government bonds	1 723	–	–	1 723
Repurchase agreements	–	5 740	–	5 740
	1 723	7 747	7 711	17 181

31 March 2014 (audited)	Level 1 Rm	Level 2 Rm	Level 3 Rm	Total Rm
Assets measured at fair value				
Investment in securities	8 160	2 747	–	10 907
Government bonds	8 160	–	–	8 160
Negotiable certificates of deposit	–	2 747	–	2 747
Derivatives held for risk management	–	12 173	–	12 173
Foreign exchange derivatives	–	12 118	–	12 118
Commodity derivatives	–	51	–	51
Credit default swap	–	4	–	4
Financial trading assets	1 580	2 685	–	4 265
Negotiable certificates of deposit	–	334	–	334
Repurchase agreements	–	2 325	–	2 325
Listed shares	1 039	–	–	1 039
Government bonds	541	–	–	541
Other money market securities	–	26	–	26
	9 740	17 605	–	27 345
Liabilities measured at fair value				
Embedded derivatives	–	–	9 332	9 332
Derivatives held for risk management	–	1 507	–	1 507
Foreign exchange derivatives	–	1 504	–	1 504
Credit default swap	–	3	–	3
Financial trading liabilities	752	4 906	–	5 658
Short-sold government bonds	752	–	–	752
Commercial paper issued	–	762	–	762
Repurchase agreements	–	4 144	–	4 144
	752	6 413	9 332	16 497
30 September 2013 (reviewed)				
Assets measured at fair value				
Investment in securities	9 941	3 057	–	12 998
Government bonds	9 941	–	–	9 941
Negotiable certificates of deposit	–	3 057	–	3 057
Derivatives held for risk management	–	11 381	–	11 381
Foreign exchange derivatives	–	11 215	–	11 215
Interest rate swap	–	111	–	111
Commodity derivatives	–	28	–	28
Credit default swap	–	27	–	27
Financial trading assets	1 220	4 483	–	5 703
Repurchase agreements	–	4 383	–	4 383
Listed shares	938	–	–	938
Government bonds	282	–	–	282
Other money market securities	–	100	–	100
	11 161	18 921	–	30 082
Liabilities measured at fair value				
Embedded derivatives	–	–	9 613	9 613
Derivatives held for risk management	–	634	–	634
Foreign exchange derivatives	–	625	–	625
Interest rate swap	–	9	–	9
Financial trading liabilities	969	4 870	–	5 839
Short-sold government bonds	969	–	–	969
Commercial paper issued	–	163	–	163
Repurchase agreements	–	4 707	–	4 707
	969	5 504	9 613	16 086

Selected notes to the condensed group interim financial statements (continued)

for the six months ended 30 September 2014

20. Fair value classification and measurement (continued)

20.2 Fair value hierarchy (continued)

Movement analysis

The movement in the fair value measurements in level 3 of the fair value hierarchy is as follows:

	Reviewed six months ended 30 September 2014 Rm	Audited year ended 31 March 2014 Rm	Reviewed six months ended 30 September 2013 Rm
Embedded derivatives			
Carrying value at beginning of the period	9 332	11 481	11 481
Net fair value gain on embedded derivatives	(1 621)	(2 149)	(1 868)
Carrying value at end of the period	7 711	9 332	9 613

Embedded derivatives

The fair value of embedded derivatives is determined by using a forward electricity price curve to value the host contract and the derivative contract is valued by using market forecasts of future commodity prices, foreign currencies and exchange rate, interest rate differential, future sales volumes, production price and liquidity, model risk and other economic factors.

The forecast cash flow is determined and then discounted at the relevant interest rate curve. The net present value of the cash flows is then converted at the rand/foreign currency spot rate to the reporting currency. The fair value of the embedded derivative is adjusted, where applicable, to take into account the inherent uncertainty relating to the future cash flows of embedded derivatives such as liquidity, model risk and other economic factors. The important assumptions are obtained either with reference to the contractual provisions of the relevant contracts or from independent market sources where appropriate. These assumptions are:

- spot and forward commodity prices
- spot and forward foreign currency exchange rates
- spot and forward interest rates
- forecast sales volumes
- spot and forward consumer and foreign production prices indices
- liquidity, model risk and other economic factors

Embedded derivatives that are not separated are effectively accounted for as part of the hybrid instrument. Non-option based derivatives are separated on terms that result in a fair value at the date of inception of zero. Option-based derivatives are separated on the terms stated in the contracts and will not necessarily have a fair value equal to zero at the initial recognition of the embedded derivative resulting in day-one gains or losses. These day-one gains or losses are recognised over the period of the agreement. The fair value will depend on the strike price at inception.

The only significant unobservable input is the United States producer price index (PPI).

Sensitivity analysis

The approximate change in the value of embedded derivatives if one of the inputs is changed is disclosed below. The analysis assumes that all other variables remain constant and the possible impact on profit or loss is:

	Unit change	Reviewed 30 September 2014		Audited 31 March 2014		Reviewed 30 September 2013	
		Increase Rm	Decrease Rm	Increase Rm	Decrease Rm	Increase Rm	Decrease Rm
Aluminium price	1%	112	(112)	130	(130)	144	(144)
Rand interest rate	100 basis points	747	(807)	886	(950)	1 074	(1 157)
Dollar interest rate	100 basis points	(502)	520	(586)	614	(709)	746
Electricity tariffs	1%	(708)	684	(790)	765	(782)	757
United States PPI	1%	187	(189)	178	(175)	233	(227)
Rand/USD	1%	134	(139)	152	(156)	172	(176)

20.3 Day-one gain/loss

The group recognises a day-one gain/loss on initial recognition of cross-currency, credit default and interest rate swaps held as hedging instruments where applicable.

Movement analysis

The movement relating to the day-one loss from these hedging instruments are as follows:

	Reviewed six months ended 30 September 2014 Rm	Audited year ended 31 March 2014 Rm	Reviewed six months ended 30 September 2013 Rm
Balance at beginning of the period	(168)	252	252
Day-one gain	(82)	(329)	(49)
Amortised to profit or loss	8	(91)	(15)
Balance at end of the period	(242)	(168)	188

The day-one (gain)/loss is included within debt securities and borrowings in the statement of financial position.

21. Restatement of comparatives

At 31 March 2014 the assets and liabilities in Eskom Energie Manatali s.a were reclassified as held-for-sale in accordance with IFRS 5 *Non-current assets held-for-sale and discontinued operations* and as a result the September 2013 income statement and statement of cash flows have been restated accordingly. During the period under review, the liquidation of the company has started and is anticipated to be finalised by year-end.

The impact of the restatement is as follows:

	Previously reported	30 September 2013 Adjustments	Restated
	Rm	Rm	Rm
Income statement			
Continuing operations			
Revenue	77 815	(93)	77 722
Primary energy	(31 266)	—	(31 266)
Net employee benefit expense	(12 989)	38	(12 951)
Depreciation and amortisation expense	(5 920)	8	(5 912)
Net impairment loss	(682)	—	(682)
Other operating expenses	(9 111)	34	(9 077)
Operating profit before net fair value loss and net finance cost	17 847	(13)	17 834
Other income	197	(14)	183
Net fair value loss on financial instruments, excluding embedded derivatives	(998)	—	(998)
Net fair value gain on embedded derivatives	1 868	—	1 868
Operating profit before net finance cost	18 914	(27)	18 887
Net finance cost	(1 853)	—	(1 853)
Finance income	1 124	—	1 124
Finance cost	(2 977)	—	(2 977)
Share of profit of equity-accounted investees after tax	26	—	26
Profit before tax	17 087	(27)	17 060
Income tax	(4 846)	—	(4 846)
Profit for the period from continuing operations	12 241	(27)	12 214
Discontinued operations			
Profit for the period from discontinued operations	—	27	27
Profit for the period	12 241	—	12 241
Cash flow statement			
Cash flows from operating activities			
Cash generated from operations	13 707	(27)	13 680
Non-current assets held-for-sale	—	27	27
Other net cash flows from operating activities	5 918	—	5 918
Net cash generated from operating activities	19 625	—	19 625
Cash flows from investing activities			
Acquisitions of property, plant and equipment and intangible assets	(21 639)	15	(21 624)
Other net cash flows from investing activities	(2 881)	—	(2 881)
Net cash generated from investing activities	(24 520)	15	(24 505)
Cash flows from financing activities			
Net cash generated from financing activities	24 468	—	24 468
Net increase in cash and cash equivalents	19 573	15	19 588
Cash and cash equivalents at beginning of the period	10 620	—	10 620
Foreign currency translation	—	(15)	(15)
Cash and cash equivalents at end of the period	30 193	—	30 193



 Eskom	Policy	
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Title: **The Eskom Delegation of Authority Policy** Document Identifier: **240-62072907**

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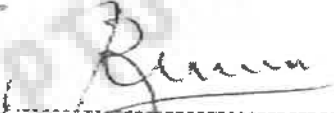
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1. Introduction

The Eskom Delegation of Authority Framework (Framework) is codified in two parts, namely the Eskom Delegation of Authority Policy (Principles) and Annexure A the Delegation of Authority (Delegation). The Policy sets out the principles and conditions upon which the Delegation is based, whereas the Delegation records the nature, extent and financial limits of the authorities delegated by the Eskom board of directors ("the Board") to Delegees. For ease of reference, the principles and specific conditions are also set out in the Delegation.

2. Policy Content

2.1 Policy Statement

This policy sets out the DOA powers and authorities delegated by the Board. It prescribes the scope, conditions and parameters within which the powers can be exercised by executives and all employees.

The powers of the Eskom Board shall be exercised subject to the provisions of –

- the Memorandum and Articles of Association ("Articles");
- the Shareholder Compact;
- the Companies Act No. 71 of 2008 ("Companies Act");
- the Public Finance Management Act No. 1 of 1999 (PFMA); and
- any other legislation applicable to Eskom.

The Board hereby delegates the powers and authorities as set out, subject to the principles and conditions set out herein, which may be amended from time to time and the policies and guidelines that may be applicable

2.2 Principles and Conditions of the Delegation of Authority

2.2.1 Shareholder approval, consultation and reporting

2.2.1.1 The Companies Act and PFMA set out the matters that require shareholder approval. *Inter alia*, the following matters shall require shareholder approval:

- a) Entering into any transaction or the purchasing or disposing of any asset other than in the ordinary, regular and normal course of business;
- b) making a decision falling beyond the scope of the mandate and authority of Eskom;
- c) the sale or alienation of the company or the whole or a substantial part of the assets of the company;
- d) the appointment of directors to the Board; appointment of the Chief Executive or Chairman;
- e) the policy and framework for the remuneration of executive and non-executive directors;
- f) the issuing or approval of the transfer of Eskom shares;
- g) an alteration of share capital, the allotment or issue of shares, or share buy-backs;
- h) certain aspects of the business plan, namely:
 - strategic intent, and
 - key performance indicators for the shareholder compact.

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- i) matters provided for in section 54(2) of the PFMA;
- j) the provision of financial assistance to any party as contemplated in sections 44 and 45 of the Companies Act.

2.2.1.2 In terms of the Public Auditors (Audit or Auditors) Act 25 of 2004, an auditor may not be discharged prior to the expiry of that auditor's term of appointment except with the consent of the executive authority (shareholder) and the Auditor-General.

2.2.1.3 The shareholder shall be consulted, inter alia, with regard to the following:

- a) the development of an appropriate dividend policy and framework; and
- b) the appointment of directors to the boards of Main Subsidiaries.

2.2.1.4 The shareholder shall be provided with reports on the following matters:

- a) a projection of revenue, expenditure and borrowings for the financial year in the prescribed format;
- b) a corporate plan, in the prescribed format, covering the affairs of Eskom for the following three financial years and, if it has subsidiaries, also the affairs of the subsidiaries; and
- c) quarterly reports on the performance of Eskom.

2.2.1.5 In terms of section 54(1) of the PFMA, the Board must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as prescribed or as may be required.

2.2.1.6 In terms of section 55 of the PFMA, the Board must –

- a) submit financial statements within two months after the end of the financial year to the auditors for auditing;
- b) submit within five months of the end of the financial year to the shareholder, relevant treasury and the Auditor-General –
 - I. an annual report on its activities;
 - II. the financial statements for that financial year; and
 - III. the report of the auditors.

2.2.1.7 In terms of section 66 of the PFMA, Eskom as a public entity is authorised to borrow money and –

- a) must annually submit to the Minister of Finance a borrowing programme for the year;
- b) may not borrow money in a foreign currency above a prescribed limit, and
- c) may only exercise these powers through the board unless specifically authorised by the Minister of Finance to delegate such powers.

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2.2.2 Powers and authorities of the Board of Directors

2.2.2.1 The Board is empowered to exercise all powers and authorities to lead, control and ensure the effective management of Eskom and to delegate any or all of such powers to an official(s), employee(s), any other person and/or to a committee(s) of Eskom, subject to the provisions set out herein.

2.2.2.2 The approval of the Board shall be obtained for all matters that are beyond the authority delegated.

2.2.2.3 The Board shall comply with its obligations in terms of the company laws of the Republic of South Africa and the PFMA and in particular with the fiduciary duties and the general responsibilities of the Board as set out in the PFMA.

2.2.2.4 The following matters, *inter alia*, are specifically reserved for approval by the Board:

- a) the corporate/business plan (including the financial plan), and budgets.
- b) performance objectives and the strategic direction for Eskom.
- c) decisions regarding additional or new generation capacity, or the recommissioning of mothballed plants.
- d) annual reports, integrated reports and financial statements.
- e) key policies that are not delegated to a specific Board committee, and in particular the –
 - I. investment policy; and
 - II. risk management policy.
- f) appointment of auditors in the event that the Auditor-General does not perform the audit (Board Audit and Risk Committee function).
- g) financial lease transactions as contemplated in the PFMA.
- h) succession planning for executives.
- i) mechanisms to monitor the performance of executives.
- j) recommendations regarding matters requiring shareholder approval.
- k) the restructuring of Eskom (this refers to any restructuring that results or could result in a change in the ownership of significant assets or a significant business, the establishment of a new entity, the transfer of significant assets out of Eskom, or any internal planning or preparation that is initiated as a first step towards the implementation of initiatives in this regard).
- l) any other matter that the Board may from time to time reserve for decision/approval by the Board.

2.2.2.5 The powers and/or authorities delegated have to be exercised subject to the terms and conditions set out hereunder and the delegation of such authorities –

- a) does not divest the Board of its accountability relating to the exercising of the delegated authority or the performance of the assigned duty;
- b) may be given to a specific individual or to the holder of a specific position or to a committee;
- c) is subject to the statutory and legal limitations recorded herein, and such other lawful limitations as may be applicable to Eskom from time to time;
- d) is subject to any limitations, conditions, policies and/or directives that the Board, or executive management may from time to time prescribe; and
- e) may at any time be revoked or varied by the Board.

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2.2.2.6 The Board may confirm, vary or revoke any decision taken by a Delegee as a result of a delegation in terms hereof, subject to any rights that may have become vested as a consequence of the decision.

2.2.2.7 The Board shall ensure that notwithstanding the delegation of its powers, it reviews the key policies, including investment, procurement and risk management, and the control policies and systems on a regular basis.

2.2.3 General conditions

2.2.3.1 Unless otherwise specified, the Delegees referred to herein are hereby authorised, in writing –

- a) to delegate further any powers and authority delegated to such Delegee to an officer, employee, any person or committee and to allow the sub-delegation of such powers in exceptional cases only once and where necessary, in terms of the needs of the business; and
- b) to impose any limits or conditions in such Further Delegation to ensure good governance and controls with regard to the exercising of such powers.

2.2.3.2 The Chief Executive or EXCO may delegate such authorities to another person or committee in terms hereof, even if such powers were not delegated to such other Delegee by the Board in terms of the Delegation.

2.2.3.3 The Chief Executive and EXCO shall be responsible for the management of all delegations and authorisations granted in terms hereof to all Executives and other employees and shall ensure that Delegees act –

- lawfully;
- within the scope of their powers and authorisation, and in terms of the rules, policies directives and procedures

2.2.3.4 Any power not expressly delegated by the Board shall remain vested in the Board, unless such power can be regarded as necessary or incidental to a power that is delegated.

2.2.3.5 It is hereby recorded that the Chief Executive is, in general terms and subject to what is set out herein, delegated with the full authority to manage and run the Eskom's business; and

- a) The provisions hereof shall not be construed as in any way limiting the authority of the Chief Executive, subject to the overall limitations set out herein, to manage the day-to-day operations of the business in accordance with his/her performance compact.
- b) In particular, the Chief Executive is authorised to prescribe the manner in which authority is exercised by Delegees, and is entitled to act in any matter even where authority is delegated to another Delegee, and to revoke or amend any Delegation granted to any Delegee, provided that any such amendment shall not grant to any Delegee any higher authority than that granted by the Board for that level of Delegee. The authority of the Chief Executive as set out in this clause extends to EXCO subcommittees but does not extend to the Board Committees.
- c) The Chief Executive shall be entitled to implement or give effect to a Board mandate in the manner he deems most effective and efficient for Eskom, and he shall not require Board approval for each aspect of a transaction or the structuring of transactions, falling within a Board mandate.

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2.2.3.6 Where power is delegated to more than one Delegee, it shall be on the basis of a different functional responsibility and financial limits.

2.2.3.7 In keeping with the approval of the Minister of Finance in terms of section 66(6) of the PFMA, the Further Delegation regarding Eskom's Treasury activities, as set out in the Delegation, is hereby approved.

2.2.3.8 Absence of the Chief Executive, Finance Director, Group Executive/Divisional Executive or other Delegee.

- a) Should the Chief Executive, Finance Director, Group Executive/Divisional Executive or any other Delegee be absent from office he/she may, in writing, appoint a manager to act in his/her stead with full or limited delegated authority. Where such Delegee is the Chief Executive, the person appointed so to act shall be a member of EXCO and where the Delegee is the Finance Director or a Group Executive/Divisional Executive, the person appointed so to act shall not be lower than the level of a General Manager. Where there is no Senior General Manager or General Manager in a particular division, the appointment of an appropriate E Band employee will be acceptable. Where such absence or delegation is for a period longer than three working days (even if to different persons), the approval of the next level of authority shall be obtained. In the case of the Chief Executive the approval of the Chairman of the Board shall be obtained if required for more than one month, subject to a maximum of three months.

2.2.3.9 Allocation and reallocation of responsibilities:

- a) The Finance Director, Group Executives/Divisional Executives or any other person with delegated powers may only exercise those powers in respect of the responsibilities and functions allocated to them from time to time, in terms of a performance agreement (compact) or specific instructions or mandates. The Chief Executive is authorised to define the scope and functional area of responsibility of the Finance Director, Group Executives/Divisional Executives and Divisional Executive Committees and in this regard may revoke, amend or vary any delegation granted by the Board to any Delegee, provided that such amendment does not result in any higher authority than that granted to that level of Delegee by the Board.
- b) In the event of any reallocation of responsibilities to any other person, or the appointment of additional Group Executives/Divisional Executives, all powers delegated in terms hereof shall vest in such appointees in respect of the functions to be carried out by such appointees. The Chief Executive shall in such instance confirm in writing the particular functions to be carried out by such appointees and provide for any additional conditions that may be applicable to the exercising of such delegated authority, and shall be entitled to delegate any other powers to such appointees.
- c) The Chief Executive shall be entitled to appoint any executives, in addition to EXCO members, to report directly to him/her, and to allocate responsibilities to such executives, provided that the appointment of EXCO members and Group Executives/Divisional Executives shall be approved by the People and Governance Committee.

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2.2.3.10 Signing authorities

- a) All signing authorities are subject to the limitations and directives in respect of the specific delegation to which the signed agreement or document relates. A Delegee may sign all documents relating to a delegated authority exercised by the Delegee. A Delegee may also authorise any Eskom official or appointed agent to sign any documents, the principal terms of which have been approved by the Delegee.
- b) The delegation of signing authorities is subject to the proviso that any contract that is approved or within the authorisation limits of the EXCO Procurement Subcommittee, Board Tender Committee (BTC) or the Board itself shall only be delegated to the level of a Senior General Manager or General Manager and where such Senior General Manager or General Manager does not exist within a division, a delegation to an appropriate E Band employee will be acceptable.

2.2.3.11 In the absence of any Delegee within whose authority a matter falls, and if there is no specific resolution in this regard, the Chief Executive is empowered to sign any document or agreement to give effect to any decision of the Board, any of its committees, or any other Delegee.

2.2.3.12 Where Board approval is required, the Board may authorise committees of the Board to exercise such authority on its behalf, provided that such authority is set out in the terms of reference of the said committee or that a specific mandate is provided by the Board to such committee.

2.2.4 The Chairman of the Board

2.2.4.1 The Chairman of the Board is authorised to sign any document, memorandum of understanding or contract, which –

- a) is within the decision-making powers of the Board, and approved by the Board;
- b) is within the decision-making powers of the CE and approved by the CE; and
- c) is within the decision-making powers of a Group Executive/Divisional Executive or any other Delegee, and approved by the Group Executive/Divisional Executive or such Delegee.

2.2.4.2 Donations may also be made by the Chairman of the Board in terms of what is approved by the Board as part of the budget for the year.

2.2.4.3 The Chairman is authorised to approve any travel (domestic and overseas), training, conference and subsistence claims in respect of the Chief Executive and Non-Executive Directors.

- a) Approval of the Chairman's travel (domestic and overseas), training, conference and subsistence claims shall be subject to the policies approved by the Board's People and Governance Committee.

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2.2.4.4 The Chairman may appoint consultants, or purchase, or lease movable assets or approve contracts for any services up to the maximum financial amount approved as part of the annual budget for the Chairman. The financial limit applicable shall be R15 million per transaction and for a period of five years, subject to the procurement and other policies that are applicable to Eskom.

2.2.5 Board committees

2.2.5.1 The Board has various Board committees. The powers delegated to the Board committees are set out in the Delegation and must be read together with the terms of reference of such committees.

2.2.6 Urgent /Emergency powers

2.2.6.1 It is hereby recorded in case of an emergency or if there is an urgent matter, the Board authorises that it can be dealt with at a special meeting convened as follows:

2.2.6.1.1 The convening of the meeting must be approved by the Chairman, and in his absence the Chairman of the IFC and the Chief Executive.

2.2.6.1.2 The meeting may be convened at three hours' notice to all members.

2.2.6.1.3 All members shall be invited.

2.2.6.1.4 A quorum (urgent/emergency special meeting quorum) shall be met if the following members are present in person or otherwise:

- I. the Chairman or Chairman of the IFC,
- II. the Chief Executive or the Finance Director
- III. three additional members of the Board.

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2.2.7 Specific conditions and principles**2.2.7.1 Specific overall conditions**

- 2.2.7.1.1 The following are specific additional conditions applicable to the entire delegation of authority:
- 2.2.7.1.2 Where no financial limit is specified, the authority is subject to the general financial limit set out herein. All delegated amounts exclude VAT.
- 2.2.7.1.3 All limits are per transaction unless otherwise stated. Any higher authority may exercise any power delegated to a lower level authority.
- 2.2.7.1.4 Except for procurement matters, an authorised Delegee is entitled at its discretion to make any decision without the need for a recommendation from any party.
- 2.2.7.1.5 Any submission to the Board or a Board committee must be authorised by the CE, EXCO or an EXCO subcommittee, where applicable.
- 2.2.7.1.6 In the event of any doubt regarding an authorised signatory, the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive.
- 2.2.7.1.7 The powers delegated in terms hereof may be delegated further by the Delegee, including in terms of the standard group /divisional delegation.
- 2.2.7.1.8 Any power delegated to any EXCO subcommittee may be reallocated to any other subcommittee or other Delegee by the Chief Executive after consultation with EXCO.
- 2.2.7.1.9 Any power to be exercised in consultation with another party means by agreement with the party to be consulted and acting after consultation with another party means obtaining that party's input.
- 2.2.7.1.10 Where any power needs to be exercised in or after consultation with EXCO, the CE may delegate such power to any other Delegee or to a subcommittee of EXCO in consultation with EXCO or after consultation with EXCO, as required by the relevant condition.
- 2.2.7.1.11 The exercising of any powers delegated in terms hereof to the FD/GE/DE or management is subject to any additional limitations or also conditions that the CE may in writing prescribe. The exercising of the powers of DEs is subject to the conditions imposed by the GEs to whom they report. The authority delegated includes the power to sign any document or agreement to give effect to the authority, subject to any legal restrictions set out in the legal section of Part 2 of the DOA.

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2.2.8 Investment/Capex

- 2.2.8.1 In order to expedite decision making, the Financial/Business Plans, including all major investments and projects, should be tabled at IFC and the Board at the beginning of each financial year.
- 2.2.8.2 Where co-approval is applicable, any other disinterested EXCO member may approve in the absence of the CE or FD, provided that at least one of them (i.e. CE or FD) approves as well.
- 2.2.8.3 The CE (or EXCO or ICAS if delegated by him) is authorised to reallocate budgets or allow over-expenditure at Group/Divisional level, provided that under no circumstances will the Eskom Financial Plan/Budget be exceeded, without the approval of the IFC or Board, as applicable.
- 2.2.8.4 In any matter where FD approval is required and the FD is the proposing party, another disinterested EXCO member shall approve together with the CE.
- 2.2.8.5 Planned means that the project is included in the approved five-year Financial/Business Plan and the cash flows are within the cash flows for the approved three-year MYPD period as well as for the balance of the six years of the plan. Alternatively, the five-year plan and the annual budget at Group/Divisional/OU level and/or at Eskom level have been revised to include a project that was not originally included in the plan.
- 2.2.8.6 SMF means the Significance and Materiality Framework.
- 2.2.8.7 The Group/Divisional/Regional Committees shall include members with technical and financial skills.
- 2.2.8.8 Investments as referred to herein include authority in respect of disposals or divestitures, subject to any specific limitations set out.

2.2.9 Reallocation of investments

- 2.2.9.1 Approval is required for reprioritisation above the limits delegated.
- 2.2.9.2 Each Group/ Division is permitted to reprioritise its approved Plan every three months, subject to the approval limitations as stipulated, provided that the total value of both year one and the total five-year approved Plan is not exceeded. Once approved, the delegation will apply to this revised / reprioritised Plan for the remainder of that financial year.
- 2.2.9.3 The revised Plan must be reported to the IFC at its earliest meeting, if not approved by the IFC.
- 2.2.9.4 The reallocation or reprioritisation will not trigger an over-expenditure on a budget if it is within the approved total budget.

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2.2.10 Indemnities/Guarantees

2.2.10.1 With regard to an indemnity that forms part of a contract, the Delegee that has the transactional authority to conclude the contract is authorised to provide the indemnity, security or guarantee.

2.2.10.2 The additional conditions that will be applicable include the following:

2.2.10.2.1 No further delegation shall be permitted other than that specified herein.

2.2.10.2.2 All guarantees, indemnities and securities must be reported to the Eskom Treasury, Finance Director and Board.

2.2.10.2.3 The above authority is limited to guarantees, indemnities, securities or any other transactions that bind the company to any future financial commitment, in relation to the Eskom Group's ordinary course of business and within the functional accountability of Delegees.

2.2.10.2.4 Only the Eskom Treasury Department and CE/FD shall have the power to issue guarantees, indemnities and securities related to trading in financial markets.

2.2.10.2.5 The delegations herein regarding PFMA section 66 transactions are subject to the underlying transaction's being part of a pre-approved budget and approved Corporate Plan.

2.2.11 Leases

2.2.11.1 The entering into of leases and rental agreements is also subject to the procurement processes as prescribed.

2.2.11.2 The SGM Treasury must be notified of all leases and rental agreements, excluding property rental agreements above R1 million, to ascertain exposure to financial leases.

2.2.12 Procurement

2.2.12.1 The commercial processes should be fair, equitable, transparent, competitive and cost-effective. All authority set out herein can only be exercised after an appropriate procurement process has been executed by a Procurement Practitioner assigned by Group Commercial.

2.2.12.2 The Technology and Commercial Group is responsible for the procurement process and execution.

2.2.12.3 All Sole Source, Condonation, Ratification and Modifications exceeding 20% in terms of time/value must be approved by the appropriate Procurement Committees and reported to the EXCO Procurement Committee if within the group/divisions. All Sole Source Transactions must be reviewed by the Supplier Development and Localisation Department.

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- 2.2.12.4 Proof that the expenditure is budgeted for or approved must accompany the recommendation for approval.
- 2.2.12.5 All procurement is subject to alignment with the Corporate Plan targets, or any procurement framework developed by the GE Technology and Commercial.
- 2.2.12.6 All disposals must be executed via an authorised representative of the Investment Recovery Department and all disposals of fixed assets other than in the ordinary and normal course of business must be reported to EXCO and the Board.
- 2.2.12.7 With regard to the appointment of consultants, the Internal Consulting Department must be consulted prior to any appointment and ensure that empowerment and transformation are taken into account.
- 2.2.12.8 Regional or Site Tender Committee means a committee established for procurement within a Group/Division by the CE/FD/GE/DE, consisting of at least three members, collectively with technical, commercial and finance representatives/skills, to approve procurement for a site/BU (Site Committee) or across sites (Regional Committees) and must include a representative from the Commercial Department and take into account equity and transformation in its composition.
- 2.2.12.9 Corporate Opex or Capex Procurement Committee means a committee established at head office by the GE (Technology and Commercial) for procurement matters.
- 2.2.12.10 The Board IFC and BTC are authorised to delegate any higher authority to EXCO or management in this regard.
- 2.2.12.11 Auditor fees must be approved by the Audit and Risk Committee subject to the approved budget.
- 2.2.12.12 All transactions within Dual and Triple Adjudication –
- must be reported to the Committee authorised to deal with that level of decision for oversight.
 - Transactions trends must be analysed and investigated by Group Commercial Risk & Governance to identify and manage risks and compliance on transactions below R5 million (including SD&L).
- 2.2.12.13 All transactions to procurement committees below the EXCO subcommittee must be reported to the next level committee for oversight.
- 2.2.12.14 Project Sourcing and Commodity Sourcing Procurement Strategies must be submitted to the relevant committees as a whole for the project, not merely the individual packages.

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2.2.12.15 Procurement strategies for capital expenditure should be presented to the relevant committees before ERA (after DRA) approval to ensure proactive inputs by the relevant committees before the final investment decision is made.

2.2.12.16 All procurement decisions must be reported to the next level committee for information.

2.2.13 Disposal of land

2.2.13.1.1 With regard to all disposal of Land & Rights and Commercial Property –

- a) the GE Commercial and Technology and FD must be consulted before submission to the Board/Board IFC for approval.
- b) Disposal must be recommended by the Land and Rights Committee.

2.2.13.2 A Registered Valuer and Quantity Surveyor must be consulted for all Lands & Rights transactions.

2.2.13.3 All transactions within Dual and Triple Adjudication must be reported to the Lands & Rights Committee for oversight.

2.2.13.4 The CE must be consulted prior to the disposal of any immovable property.

2.2.13.5 Any overlap between Land & Rights & Properties will be addressed by the CE in terms of their mandates.

2.2.14 Electricity sales and purchases

2.2.14.1 The Shareholder must be notified of all International Transactions and must approve long-term sales or long term PPAs in terms of the Significance and Materiality Framework.

2.2.14.2 All transactions will be based on the Standard Terms & Conditions unless otherwise approved.

2.2.14.3 A long-term contract exceeds three years.

2.2.14.4 Entering into power purchase agreements is subject to the general investment and procurement delegation.

2.2.15 Human Resources

2.2.15.1 All terminations for performance or misconduct shall be subject to the applicable HR policies.

2.2.15.2 All appointments must adhere to the HR policies.

2.2.15.3 The appointment of the CE is a matter reserved for the Board and shareholder.

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2.2.15.4 All temporary/acting appointments must be made in writing and in respect of GEs, must be approved by the CE.

2.2.15.5 Any temporary/acting appointments in respect of the CE, FD, GE or DEs for longer than three months must be approved by the CE and the People & Governance Committee.

2.2.16 Finance

2.2.16.1 To prevent doubt, the CE and/or FD may in terms of the general principles set out in terms hereof delegate further the authority to open and operate bank accounts and to issue duplicate certificates as set out herein.

2.2.17 Treasury

2.2.17.1 The SGM (Eskom Treasury) and Treasury Officials may implement the borrowing programme and effect all transactions necessary or incidental thereto, subject to the delegation, conditions and limitations specified by the FD, and in accordance with the Board-approved borrowing programme and the approved Eskom Treasury Mandate.

2.2.17.2 The authority granted in terms hereof includes all necessary and incidental authority required to implement the borrowing programme, including the listing, issuing of bonds, making investments, withdrawal of funds and implementing hedges.

2.2.17.3 Any limits regarding this authority may be prescribed in the Treasury Mandate by the Board Audit and Risk Committee.

2.2.17.4 Contract Management: Legal

2.2.17.4.1 The entering into of any international MOU will be subject to the Significance and Materiality Framework.

2.2.17.4.2 Best practice requires the establishment of Variation and Claims Committees.

2.2.18 Operation

2.2.18.1 The delegation of operational and management authority is subject, *inter alia*, to adherence to the Corporate Plan, Group/ Divisional mandates, Eskom policies and the delegation of authority.

2.2.19 Corporate Social Investment

2.2.19.1 Donations made by Eskom shall be for education, schools or appropriate community projects, but shall exclude political party activities, grants to individuals and profit-making organisations/businesses.

2.2.19.2 Most Corporate Social Investment initiatives will be channelled through the Eskom Development Foundation.

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3. Supporting Clauses

3.1 Scope

3.1.1 Purpose

In striving to be a top performing company, Eskom has to ensure that it is a well-governed and ethical organisation. Good governance involves a broad range of conduct and processes. One aspect of good governance relates to an effective decision-making process; and a clear delegation of authority contributes to the applicability of an effective decision-making process.

The DOA in the main addresses the delegation from the Board to executives. It is to be supported by further delegations by the executives (CE/FD/GE/DE) to employees in the organisation in terms of a standard Group/Divisional Delegation.

3.1.2 Applicability

This policy shall apply throughout Eskom Holdings SOC Limited, including subsidiaries which have the maximum powers as per a Group/Division. This DOA Framework supersedes any prior DOA Frameworks, and is effective from 1 April 2013.

3.2 Normative/Informative References

Parties using this document shall apply the most recent edition of the documents listed in the following paragraphs.

3.2.1 Normative

- [1] The Memorandum and Articles of Association ("Articles")
- [2] Shareholder Compact
- [3] Companies Act No. 71 of 2008 ("Companies Act")
- [4] Public Finance Management Act No. 1 of 1999 (PFMA).

3.2.2 Informative

- [5] Significance and Materiality Framework.

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3.3 Definitions

- 3.3.1** Unless otherwise indicated by the context, the following words and phrases shall have the meanings assigned to them hereunder
- 3.3.2** Delegee shall mean any person or committee that is delegated authority in terms of this Delegation.
- 3.3.3** Delegate shall mean a person or committee that is delegated authority by a Delegee, or a person authorised by or acting on behalf of the Delegee.
- 3.3.4** Executive shall mean F Band employees.
- 3.3.5** Further delegation shall mean a delegation by a Delegee.
- 3.3.6** Sub-delegation shall mean a permitted delegation to another by a Delegate.
- 3.3.7** Official means an employee or Director of Eskom.

Title definitions:

- 3.3.8** Procurement Practitioner: an employee within Eskom's Group Commercial, appointed and accredited to manage or execute a procurement procedure or process.
- 3.3.9** Procurement Middle Manager (MPS Band): means the M/P/S Procurement Practitioner specifically responsible for managing the performance quality of the procurement disposal function.
- 3.3.10** Procurement Executive Manager (E Band): means the E Band Procurement Practitioner specifically accountable for managing the performance quality of the procurement /disposal function.
- 3.3.11** Commercial General Manager: An appointed executive manager with a direct reporting relationship to the GE: Technology & Commercial.
- 3.3.12** Disposal Officers means the Procurement Practitioners who by virtue of a written appointment are responsible for the disposal of moveable assets and goods.
- 3.3.13** Land & Rights Practitioner means an Eskom employee appointed to execute transactions relating to the sourcing and securing of land and associated land/property rights.
- 3.3.14** Land & Rights Development Manager means an Eskom employee appointed to manage transactions relating to the sourcing and securing of land and associated land/property rights

3.4 Abbreviations

CE/ FD: a sideways slash between any two words means OR

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Abbreviation	Explanation
AGM	Annual General Meeting
BTC	Board Tender Committee
CAPEX	Capital Expenditure
CE	Chief executive
CS (SHE)	Corporate Sustainability (Safety, Health and Environment)
CSI	Corporate Social Investment
CX	Group Customer Services
DE	Divisional Executive
DOA	Delegation of Authority
DPE	Department of Public Enterprises
DSM	Demand Side Management
Dx	Distribution Division
EE	Eskom Enterprises / Employment Equity
ERA	Execution Release Approval
ESDEF	Eskom Development Foundation
EXCO	Executive Management Committee
FAQ	Frequently Asked Questions
FBE	Free basic electricity
FD	Financial Director
GCS	Group Customer Services
GE	Group Executive
GHG	Greenhouse gas
Gx	Group Generation Division
HR	Group Human Resources Division
ICAS	Investment and Capital Assurance Subcommittee
IFC	Investment & Finance Committee
KPI	Key Performance Indicator
MOU	Memorandum of Understanding

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Abbreviation	Explanation
MW	Megawatt
MWh	Megawatt hour (1 000 kWh)
MYPD	Multi-Year Price Determination
OPEX	Operating Expenditure
PCM	Process Control Manual
PED	Primary Energy Department
PFMA	Public Finance Management Act
PPA	Power Purchase Agreement
PPI	Producer Price Index
PSA	Power Supply Agreement
R&D	Research and Development
SD&L	Supplier Development & Localisation
SDCT	South Dunes Coal Terminal
SGM	Senior General Manager
TASK	Tuned Assessment of Skills and Knowledge
TX	Group Transmission Division

3.5 Roles and Responsibilities

Roles and responsibilities for this policy are defined in the text.

3.6 Process for Monitoring

The application of this policy throughout Eskom and shall be audited at least once every three years by the Assurance and Forensic Department.

4. Acceptance

This document has been seen and accepted by:

Name	Designation
Mr Brian Dames	Chief Executive
Mr P O'Flaherty	Finance Director & Group Executive – Group Capital
Mr Bhabhalazi Bulunga	Group Executive Human Resources

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Name	Designation
Mr Thava Govender	Group Executive Generation
Ms Erica Johnson	Group Executive Enterprise Development
Dr Steve Lennon	Group Executive Sustainability
Mr Dan Marokane	Group Executive Technology & Commercial
Ms Tsholofelo Molefe	Group Executive Customer Services
Ms Ayanda Noah	Group Executive Distribution
Mr Mongezi Ntsokolo	Group Executive Transmission
Mr Mohamed Adam	Divisional Executive Regulation and Legal
Mr Kannan Lakmeharan	Divisional Executive Office of the Chief Executive
Mr Sal Laher	Chief Information Officer
Mr Chose Choeu	Divisional Executive Corporate Affairs
Mr Matshela Koko	Divisional Executive Technology
Ms Kiren Maharaj	Divisional Executive Primary Energy

5. Revisions

Date	Rev.	Remarks
March 2013	1	New document

6. Development Team

The following people were involved in the development of this document:

- Mohamed Adam
- Pindi Mabena
- Pieter le Roux
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- Ismail Mulla
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- Jan Wiese

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- Charles Gradwell
- Christo van Niekerk
- Ohna Smit
- Suki Laher
- Neo Tsholanku

7. Acknowledgements

Not applicable.



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Annex A: Delegation of Authority Part II: Delegation

1 STRATEGY AND LEADERSHIP				
	Powers & Authority	Approval Authority	Recommendation	Conditions/Principles
1.1	Corporate Leadership			<p>The Board hereby delegates the powers and authorities set out herein to the delegates subject to:</p> <ul style="list-style-type: none">• The delegation principles & conditions as amended from time to time• Policies and guidelines that are applicable <p>Specific additional conditions applicable to the entire delegation of authority:</p> <ol style="list-style-type: none">1. Where no financial limit is specified, the authority is subject to the general financial limit set out herein. All delegated amounts exclude VAT.2. All limits are per transaction unless otherwise stated. Any higher authority may exercise any power delegated to a lower level authority.3. Except for procurement matters, an authorised delegatee is entitled at its discretion to make any decision without the need for a recommendation from any party.4. Any submission to the Board or a Board committee must be authorised by the CE, Exco or an Exco sub-committee, where applicable.5. In the event of any doubt regarding an authorised signatory the Chief Executive is authorised to sign any document to give effect to a transaction authorised by the appropriate approval authority. The CE may also sign any document, notwithstanding a specific mandate given to any executive.6. The powers delegated in terms hereof may be delegated further by the delegatee, including in terms of the standard group /divisional delegation.7. Any power delegated to any Exco sub-committee may be re-allocated to any other sub committee or other delegatee by the Chief Executive after consultation with Exco8. Any power to be exercised in consultation with another party means by agreement with the party to be consulted and acting after consultation with another party means obtaining that party's input.9. Where any power needs to be exercised in or after consultation with Exco, the CE may delegate such power to any other delegatee or to a sub-committee of Exco in consultation with Exco or after consultation with Exco, as required by the relevant
1.1.1	Eskom strategy, mandate, corporate plan and Shareholder Compact	Board (after agreement with shareholder)	CE after consultation with Exco	
1.1.2	Nuclear Strategy	Board	Social, Ethics and Sustainability Committee.	
1.1.3	Financial Plans budget and KPI's	Board	IFC	
1.1.4	Eskom restructuring	Board	CE after consultation with Exco	
1.2	Governance & Control Ensuring effective, efficient, & transparent systems of governance, financial & risk management & controls			
1.2.1	Investment process	IFC	CE after consultation with Exco	
1.2.2	Procurement process	Tender Committee	CE after consultation with Exco	
1.2.3	Risk, Control & other governance processes	Audit and Risk	CE after consultation with Exco	
1.2.4	Reporting to shareholder -quarterly reports -AGM	Audit and Risk Committee Audit and Risk and Social, Ethics and Sustainability Committees	CE after consultation with Exco	
1.2.5	Formation of companies, trusts, significant joint ventures or other entities	Board (subject to approval in terms of sec 54 of the PFMA)	CE after consultation with Exco	
1.2.6	Appointing directors, trustees or other representatives to boards of companies, including subsidiaries, trusts, employee benefit schemes or pension funds, or any other entity.	CE after consultation with the chairman of the Board	GE/DE	
1.2.7	PFMA reporting	IFC	CE	
1.2.8	Approving new generation capacity	Board (subject to approval in terms of the PFMA)	IFC	

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1.3	Group/ Divisional/ OU/Subsidiaries Leadership			<p>condition.</p> <p>10. The exercise of any powers delegated in terms hereof to the FD/GE/DE or management is subject to any additional limitations or also conditions that the CE may in writing prescribe. The exercise of the powers of DEs are subject to the conditions imposed by GEs to whom they report. The authority delegated includes the power to sign any document or agreement to give effect to the authority subject to any legal restrictions set out in the legal section. In the event of any matter that requires a Board decision and is deemed urgent by the CE and Chairman or Chairman of the IFC, a special meeting may be convened on three hours' notice to all Board members. Provided that information regarding the decision sought is submitted to all members, and the CE or FD, Chairman of the Board or Chairman of the IFC, and at least 3 other Board members are present (in person or by telephone) such meeting is authorised to take a decision on any such urgent matter.</p> <p>11. In the event of any matter that requires a Board decision and is deemed urgent by the CE and Chairman of Chairman of the IF, a special meeting may be convened on three hours' notice to all Board members. Provided that the information regarding the decision sought is submitted to all members, and the CE or FD, Chairman of the Board or Chairman of the IFC, and at least 3 other Board members are present (in person or by telephone) such meeting is authorised to take a decision on any such urgent matter.</p> <p>Shareholder Reserved Matters:</p> <p>12. The Companies Act and PFMA set out matters that require shareholder approval. Inter alia, the following matters shall require shareholder approval:</p> <ul style="list-style-type: none"> a) entering into any transaction or the purchasing or disposing of any asset other than in the ordinary, regular and normal course of business; b) making a decision falling outside the scope of the mandate and authority of Eskom; c) the sale or alienation of the company or the whole or substantial part of the assets of the company; d) appointment of directors to the Board; appointment of the CE and Chairman e) policy and framework for the remuneration of executives and
1.3.1	Group/Divisional / Subsidiary strategies, compacts, mandate, business plans, financial plans, budgets	CE after consultation with Exco	FD/GE/DE	
1.3.2	Group /Divisional/Subsidiary KPIs	CE	DE/GE/FD	
1.3.3	Divisional/ OU implementation plans	FD/GE/DE	OU Head/Relevant Manager	

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	<p>non-executive directors;</p> <p>f) issue or approve the transfer of Eskom shares;</p> <p>g) alteration of share capital, the allotment or issue of shares, or share buy-backs;</p> <p>h) certain aspects of the business plan, namely:</p> <ul style="list-style-type: none"> • Strategic intent, and • key performance indicators for the shareholder compact. <p>i) matters provided for in section 54(2) of the PFMA.</p> <p>j) Financial assistance to any party as set out in Section 44 and 45 of the Companies Act.</p> <p>13. In terms Public Auditors (Audit or Auditors) Act 25 of 2004, an auditor may not be discharged prior to the expiry of that auditor's term of appointment except with the consent of the executive authority (shareholder) and the Auditor-General.</p> <p>14. The shareholder shall be consulted, inter alia, with regard to the following:</p> <p>a) development of an appropriate dividend policy and framework; and</p> <p>b) the appointment of directors to the Boards of Main Subsidiaries</p> <p>15. The shareholder shall be provided reports on the following matters:</p> <p>a) projection of revenue, expenditure and borrowings for the financial year in the prescribed format;</p> <p>b) a corporate plan, in the prescribed format, covering the affairs of Eskom for the following three financial years and, if it has subsidiaries, also the affairs of the subsidiaries; and</p> <p>c) quarterly reports on the performance of Eskom.</p> <p>16. In terms of section 54(1) of the PFMA, the Board must submit to the relevant treasury or the Auditor-General such information, returns, documents, explanations and motivations as prescribed or as may be required</p> <p>17. In terms of section 55 of the PFMA, the Board must:</p> <ul style="list-style-type: none"> • submit financial statements within two months after the end of the financial year to the auditors for auditing; • submit within five months of the end of the financial year to the shareholder, relevant treasury and the Auditor-General: <ul style="list-style-type: none"> o an annual report on its activities; o the financial statements for that financial year; and o the report of the auditors. <p>18. In terms of section 66 of the PFMA,</p>
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Eskom as a public entity authorised to borrow money; must annually submit to the Minister of Finance a borrowing programme for the year;

- a) may not borrow money in a foreign currency above a prescribed limit, and
- b) may only exercise these powers through the Board unless specifically authorised by the Minister of Finance to delegate such powers.

7.

Board Reserved Matters

19. The approval of the Board shall be obtained for all matters that are beyond the authority delegated

The following matters, inter alia, are specifically reserved for approval by the Board or a duly delegated Board Committee:

- The Corporate/Business plan, (including the financial plan), budgets and corporate plan.
- Performance objectives and the strategic direction for Eskom.
- Decisions regarding additional or new generation capacity, or re-commissioning of mothballed plant.
- Annual reports and financial statements.
- Key policies that are not delegated to a specific Board committee, and in particular:
 - investment policy; and
 - risk management policy.
- Financial lease transactions as contemplated in the PFMA.
- Succession planning for executives.
- Mechanisms to monitor the performance of executives.
- Recommendations regarding matters requiring shareholder approval.
- The restructuring of Eskom (This refers to any restructuring that results or could result in a change in ownership of significant assets or a significant business, the establishment of a new entity, the transfer of significant assets out of Eskom, or any internal planning or preparation that is initiated as a first step towards implementation of initiatives in this regard).
- Any other matter that the Board may from time to time reserve for decision/approval by the Board.

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2 INVESTMENTS/CAPEX				
	Key Decisions	Approval Authority	Recommends	Conditions/ Principles
	Investments			<ol style="list-style-type: none"> 1. In order to expedite decision making, the Financial/Business plans including all major investments and projects should be tabled at IFC and the Board at the beginning of each financial year. 2. Where co-approval is applicable, any other disinterested Exco member may approve in the absence of the CE or FD provided at least one of them (i.e.: CE or FD) approves as well. 3. The CE (or Exco or ICAS if delegated by him) is authorised to re-allocate budgets or allow over-expenditure at Group/Divisional level provided that under no circumstances will the Eskom Financial Plan/Budget be exceeded, without approval of the IFC or Board, as applicable. 4. In any matter where FD approval is required and the FD is the proposing party, another disinterested Exco member shall approve together with the CE. 5. Planned means that the project is included in the approved 5 year Financial/Business plan and the cash flows are within the cash flows for the approved 3 year MYPD period as well as for the balance of the 6 years of the plan. Alternatively, the 5 year plan and the annual budget at Group/Divisional/OU level and or at Eskom level has been revised to include the project that was originally not included in the plan. 6. SMF means the Significance and Materiality Framework. 7. The Group/divisional/Regional Committees shall include technical and financial skills. 8. Investments as referred to herein include authority in respect of disposals or divestitures, subject to any specific limitations set out.
2.1	Investment strategy	Board	IFC and Social, Ethics & Sustainability Committee should be informed of any nuclear investment proposals	
2.2	Eskom budget over-expenditure	IFC (up to 5% over total Capex budget)	CE	
2.3	Investment decision for transactions up to budgeted amount in overall approved Eskom financial plan with authority to allow up to 5% over-expenditure on a project, subject to the maximum limit above. Provided the Eskom budget is not exceeded, for planned investments	IFC for matters where PFMA approval is required or any matter reserved for IFC approval from time to time (subject to the Significance and Materiality Framework (SMF)	CE after consultation with Exco	
	<ul style="list-style-type: none"> ➤ Up to the maximum of approved budget, unless PFMA approval is required 	CE in consultation with Exco	FD/GE/DE	
	<ul style="list-style-type: none"> ➤ Up to R350m 	Co-approval by CE, FD and one Exco member ONLY for priority matters deemed as such by the CE.	GE/DE	
	<ul style="list-style-type: none"> ➤ Up to R300m 	Group/Divisional/Regional Site	Relevant Manager	

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		Committee/s established by the relevant FD/GE/DE consisting of at least three members, and subject to approval by the CE for a specific committee or for committees generally.		
	➤ Up to R75m	CE	Relevant Manager	
	Up to R50 m	FD/GE/DE or committee established by FD/GE/DE)	Relevant Manager	
2.4	Reallocation of Investments/ Budgets			
	Key decision	Approval/Authority	Recommends	Conditions/Principles
2.4.1	Reallocation of investments or amendment of Capex plans within the total budget			<ol style="list-style-type: none"> 1. Approval is required for reprioritization above the limits delegated. 2. Each Group/ Division is permitted to reprioritise its approved Plan every three months subject to approval limitations as stipulated, provided the total value of both year one and the total five year approved Plan is not exceeded. Once approved, the delegation will apply to this revised / reprioritised plan for the remainder of that financial year. 3. The revised Plan must be reported to the IFC at its earliest meeting, if not approved by the IFC. 4. The re-allocation or reprioritisation will not trigger an over-expenditure on a budget if within the approved total budget
	➤ Greater than R750m	IFC	CE after consultation with Exco	
	➤ Up to R750m	CE in consultation with Exco	GE/DE	
	➤ Up to R50m	CE/FD/GE/DE	Relevant manager	
2.4.2	Issue of guarantees, sureties, indemnities, securities or enter into any other transactions that binds the Company to any future financial commitment, as contemplated in terms of sect 66 of PFMA			<ol style="list-style-type: none"> 1. With regard to an indemnity that forms part of a contract, the Delegee that has the transactional authority to conclude the contract is authorised to provide the indemnity, security or guarantee. 2. The additional conditions that will be applicable include the following: <ol style="list-style-type: none"> 2.1 No further delegation shall be permitted other than specified herein. 2.2 All guarantees, indemnities and securities must be reported to the Eskom Treasury, Finance Director and Board.
	➤ Up to max R250m per transaction (ordinary transactions) including indemnities or bonds for purchasers or sale of electricity and R500m per transaction (capacity expansion programme, op refurbishment or maintenance)	IFC	CE in consultation with Exco	

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	➤ Up to max R250 m per transaction but restricted to performance guarantees, bid bonds & indemnities required in procurement of purchase/sale of electricity, fuel, equipment or services.	Tender Committee/IFC for matters within their respective mandates	CE in consultation with Exco	<p>2.3 The above authority is limited to guarantees, indemnities, securities or any other transactions that bind the company to any future financial commitment, in relation to the Eskom Group's ordinary course of business and within the functional accountability of Delegees.</p> <p>2.4 Only the Treasury department, and CE/FD shall have the power to issue guarantees, indemnities and securities related to trading in financial markets.</p> <p>3. The delegations herein regarding section 66 transactions are subject to the underlying transaction being part of a pre-approved budget and approved Corporate Plan.</p>
	➤ Up to R100m per transaction	CE in consultation with Exco.	Relevant Manager	
	➤ Up to a max of R1m per transaction to cumulative R10m pa.	Group/Divisional Exco/Procurement committees	Relevant Manager	
	➤ In accordance with limits of transactions that are incidental to or related to borrowing powers already delegated and up to max of R10m per transaction for other matters	CE/FD		
	➤ Up to a max R1m per transaction for legal matters relating to security or indemnities for legal costs, any higher amounts must be referred to Exco.	Legal/GM(Legal DE: Regulation & Legal		
2.5	Lease and rental agreements			
	Powers & Authority	Approval Authority	Recommends	Conditions/Principles
2.5.1	Up to overall Eskom plan or budget ≤15 years(including financial leases)	IFC	CE in consultation with Exco	<p>1. The entering into of leases and rental agreements is also subject to the procurement processes as prescribed.</p> <p>2. The SGM Treasury must be notified of all leases and rental agreements excluding property rental agreements above R1m to ascertain exposure to financial leases.</p>
	➤ Up to R100m & 10 years (including financial leases)	CE in consultation with Exco	FD/GE/DE	
	➤ Up to R50m & five years	Co-approval by CE & FD	FD/GE/DE	

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	➤ Up to R35m & five years	CE/FD/GE/DE	Relevant manager	
2.5.2	Eskom subsidiary investment decisions in excess of subsidiary financial limit			
	Up to subsidiary overall plan or budget	CE in consultation with Exco	Exco member responsible in respect of subsidiary	
3 PROCUREMENT				
	Powers/Authority	Approval Authority	Recommendations	Conditions/ Principles
3.1.	General procurement strategy	Board Tender committee	CE after consultation with Exco	<ol style="list-style-type: none"> The commercial processes should be fair, equitable, transparent, competitive and cost effective. All authority set out herein can only be exercised after an appropriate procurement process has been executed by a Procurement Practitioner assigned by Group Commercial. The Technology and Commercial Group is responsible for the procurement process and execution. All Sole Source, Condonation, Ratification and Modifications exceeding 20% in terms of time/value must be approved by the appropriate Procurement Committees and reported to the Exco procurement committee if within the group/divisions. All Sole Source Transactions must be reviewed by the Supplier Development and Localisation department. Proof that the expenditure is budgeted for or approved must accompany the recommendation for approval. All procurement is subject to alignment within the Corporate Plan targets, or any procurement framework developed by the GE Technology and Commercial. All disposals must be executed via an authorised representative of the Investment Recovery Department and all disposals of fixed assets must be reported to Exco and
3..2	Procurement policies and procedures	CE after consultation with Exco	GE Commercial and Technology	
3.3	Procurement strategy for specific transactions from R750m up to Investment decision or Budget	Board Tender Committee	ICAS	
3..4	Procurement strategy for specific transactions from R300m up to R750m	CE after consultation with Exco	Procuring Exco member in consultation with GM Commercial	
3. 6	Procurement strategy for specific transactions >R1m and up to R300m	The person or committee with delegated authority set out below.	Relevant Manager or procurement	

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		practitioner		<p>Board.</p> <p>7. With regard to appointment of consultants, the Internal Consulting department must be consulted prior to any appointment and ensure that empowerment and transformation is taken into account.</p> <p>8. Regional or Site Tender Committee means a committee established for procurement within a Group/Division by the CE/FD/GE/DE consisting of at least three members, collectively with technical, commercial and finance representatives/skills, to approve procurement for a site/BU (Site Committee) or across sites (Regional Committees) and must include a representative from the Commercial Department and take into account equity and transformation in its composition.</p> <p>9. Corporate Opex or Capex Procurement Committee means a committee established at head office by the GE (Technology and Commercial) for procurement matters.</p> <p>10. Title definitions:</p> <p>a. Procurement Practitioner: an employee within Eskom's Group Commercial Division appointed and accredited to manage or execute a procurement procedures or process</p> <p>b. Procurement Middle Manager (MPS Band): The Procurement Practitioner at an M/P/S band specifically responsible for managing the performance quality of procurement disposal function.</p> <p>c. Procurement Executive Manager (E-Band): the Procurement Practitioner at an E band specifically accountable for managing the performance quality of the procurement /disposal function.</p> <p>d. Commercial General Manager: An appointed executive manager with a direct reporting relationship to the GE: technology & Commercial.</p> <p>e. Disposal Officers are Procurement Practitioners who by virtue of a written appointment are responsible for the disposal of moveable assets and goods.</p> <p>f. Land & Rights Practitioner: An Eskom employee appointed to execute transactions relating to the sourcing and securing of land and associated land/property rights</p> <p>g. Land & Rights development manager: An Eskom employee appointed to manage transactions relating to the sourcing and securing of land and associated land/property rights.</p> <p>11. The Board IFC and BTC are authorised to delegate any higher authority to Exco or management in this regard.</p>
	Acquisition and disposal of movable and immovable property, operational expenditure and the provision and acquisition of services			
	Transactions up to R1m (maximum one year) – dual adjudication	Procurement Middle Manager	Procurement Practitioner	
3.6.1	Transactions up to R5 m for max two years (triple adjudication)	Procurement Executive Manager	Procurement Practitioner and Procurement Middle Manager	
3.6.2	Transactions up to R50m for max three years (Exco dual adjudication)	Co-approval by 2 Exco members (excluding procuring Exco member) (where an OU has a second Manco member co-approval shall be by that Manco member).	Procurement Executive Manager / FD/GE/DE	
3.6.3	Transactions up to R100m for a maximum period of three years (Exco triple adjudication)	Co-approval by CE or FD, GE Group Commercial and Technology and one other Exco Member.	Procurement Executive Manager	
3.7	Tender Committees			
3.7.1	Transactions up to R100m for max three years	Regional or Site based procurement committees established by GE/DE/FD	Procurement Middle Manager (minimum level)	
3.7.2	Transactions up to R300m for max five years	Corporate Opex and Capex Procurement Committees	Procurement Executive Manager (minimum level)	
3.7.3	Transactions up to R750m max	CE in consultation	Commercial	

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	10 years	with Exco	al General Manager (minimum level), in consultation with the relevant procurement executive manager.	12. Auditor fees must be approved by the Audit and Risk Committee subject to the approved budget. 13. For all transactions within Dual and Triple Adjudication : a. It must be reported to the Committee authorised to deal with that level of decision for oversight b. Transactions trends must be analyzed and investigated by Group Commercial Risk & Governance to identify and manage risks and compliance on below R5m transactions (incl SD&L)
3.7.4	Transactions up to Investment Decision or budget (if no investment required)	Board tender committee	Exco Procurement Committee or GE Commercial and Technology	14. All transactions to procurement committees below the Exco sub-committee must be reported to the next level committee for oversight 15. Project Sourcing and Commodity Sourcing Procurement Strategies must be submitted to the relevant committees as whole for the project and not the individual packages. 16. Procurement strategies for capital expenditure should be presented to relevant committees before ERA (after DRA) approval to ensure pro-active inputs by the relevant committees before the final investment decisions. 17. All procurement decisions must be reported to the next level committee for information.
Lands & Rights, Commercial Property and Leasing of Property				
	Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
3.8	Acquisition and disposal of Land & Rights related to the build programme and infrastructure development: subject to Condition 1b for disposals.			1. With regard to all disposal of Land & Rights and Commercial Property : a. The GE Commercial and Technology and FD must be consulted before submission to the Board/Board IFC for approval b. It must be recommended by the Land and Rights Committee . 2. For all Lands & Rights transactions a Registered Valuer and Quantity Surveyor must be consulted 3. All transactions within Dual and Triple Adjudication must be reported to the Lands & Rights Committee for oversight 4. The CE must be consulted prior to the disposal of any immovable property. Any overlap between Land & Rights & Properties will be addressed by the CE in terms of their mandates.
	➤ Transactions up to R50k indefinite period (dual adjudication)	Land and Rights Development manager	Land and Rights Practitioner	
	➤ Transactions from R50k to R250k indefinite period (Triple adjudication)	Procurement Executive Manager	Land and Rights Practitioner and Land and Rights Development Manager	
	➤ Transactions up to R300m	Centralised Land & Rights Committee	FD/GE/DE	
	➤ Transactions up to R750m	CE in consultation with Exco	Procurement Executive	

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			Manager	
	Transactions up to Investment decision/budget	Tender Committee	CE in consultation with Exco	
3.9	Acquisition and disposal of Land & Rights, Commercial Property, Leasing of property.			
	➤ Up to 300m	Corporate Properties Committee	FD/GE/DE	
	➤ Up to R750m	CE in consultation with Exco	Corporate Properties Committee	
	➤ Up to Investment decision/budget	Tender Committee	CE in consultation with Exco	
3.10	Specific Procurement			
3.10.1	Gx/Tx/Dx up to R300m for Opex in relation to spares or maintenance provided it is in line with approved budget	Co-approval by CE,FD and relevant GE.	Relevant Manager and Procurement Executive Manager	
3.10.2	Coal ➤ Approval of colliery capital, budgets, colliery technical and mining plans, and provision accounts of existing cost plus coal contracts	CE/FD/GE(Group Technology)/DE	Relevant Manager(DE(PED))	

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4 ELECTRICITY SALES & PURCHASES				
	Powers & Authority	Approval Authority	Recommendations	Conditions/ Principles
4.1	Pricing			<ol style="list-style-type: none"> 1. The Shareholder must be notified of all International Transactions and must approve long-term sales or long term PPAs in terms of the Significance and Materiality Framework. 2. All transactions will be based on Standard Terms & Conditions unless otherwise approved 3. A long-term contract exceeds three years. 4. Entering into of power purchase agreements is subject to the general investment and procurement delegation
4.1.1	Strategic pricing policies	IFC	CE after consultation with Exco	
4.1.2	MYPD Application	Board	IFC	
4.1.3	Standard tariff plans, structures and rates, including annual tariff rate adjustment based on MYPD decision,	IFC	CE after consultation with Exco	
4.1.4	Operational pricing policies	CE after consultation with Exco	Relevant Manager	
4.2	Electricity Sales Agreements			
4.2.1	Specific Conditions & prices for selling electricity in terms of long term agreements (> 3 y)	IFC after consultation with legal (subject to the SMF)	CE after consultation with Exco	
4.2.2	Specific Conditions & prices for selling electricity in terms of short term agreements (≤ 3 y)	CE after consultation with Exco and legal (subject to the SMF)	GE	
4.2.3	Electricity Supply Agreements in terms of standard agreements and pricing	CE/GE (GCS)/GE (Dx)	Relevant Manager	
4.3	Power Purchase Agreements			
4.3.1	Conditions and pricing of Power Purchase Agreements -longer than 3y -less than 3 y	IFC(subject to the SMF) CE after consultation with Exco	CE after consultation with Exco Relevant Manager	
4.4	Connection and Use of System Agreements			
4.4.1	Execution of connection and time-of-use agreements for connecting	CE/ GE (GCS)/GE (Dx)/GE (Tx)	Relevant Manager	

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	generators to the system in terms of standard agreements and pricing			<div>1. The DPE must be notified of all International Transactions and must approve long-term sales or PPAs in terms of the <u>Significance and Materiality</u> Framework.</div> <div>2. All transactions will be based on Standard Terms & Conditions unless otherwise approved</div> <div>3. A long-term contract exceeds three years</div>
4.5	International Agreements			
4.5.1	Selling of electricity excluding trading on short term basis	IFC (subject to the SMF)	CE after consultation with Exco	
4.5.2	Purchase of electricity excluding trading on short term basis	IFC (subject to the SMF)	CE after consultation with Exco	
4.6	Demand Management			
4.6.1	Demand Management and Demand Participation rates and conditions	General Thresholds- IFC	CE after consultation with Exco	
		Specific Transactions ICAS	SGM (IDM)	
		CE/GE (GCS)		
4.7	Trading			
4.7.1	Trading of electricity in terms of buying and selling on a day to day basis, up to 3 months, including trading of electricity internationally in terms of the SAPP, subject to operating within approved budgets	CE/GE (GCS)/GE (TX)	Relevant Manager	
5. HUMAN RESOURCES				
	Powers & Authority	Approval Authority	Recommend ds	Conditions/ Principles
5.1	Strategic HR policies and strategies	Board	People and Governance Committee	
5.2	Policies and guidelines to give effect to strategy	CE after consultation with Exco	GE(HR)	
5.3	Structures			
5.3.1	Eskom organisational structure	Board	CE after consultation with Exco and People & Governance Committee	
5.3.2	Establish Divisional Executive committees & other divisional structures	CE/FD/GE/DE	N/A	
5.3.3	Staffing numbers and level of posts	CE/FD/GE/DE	FD/GE/DE	

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5.4	Remuneration , structures & conditions of services			
	Powers and Authority	Approval Authority	Recommendations	Conditions/Principles
5.4.1	With regard to CE & top management (F Bands)	Board (for CE) After consultation with Shareholder;; Top management (People and Governance Committee	CE (For F bands)people and Governance Committee for CE	1. All terminations for performance or misconduct shall be subject to the applicable HR policies 2. All appointments must adhere to the HR policies. 3. The appointment of the CE is a matter reserved for the Board and shareholder. 4. All temporary/acting appointments must be in writing and in respect of GEs, must be approved by the CE. 5. Any temporary/acting appointments in respect of the CE, FD, GE or DEs for longer than three months must be approved by the CE and the People & Governance Committee
5.4.2	General conditions of service and principles for managerial employees	CE after consultation with Exco	GE HR	
5.4.3	Principles for bargaining unit	CE after consultation with Exco	GE HR	
5.4.4	Specific remuneration packages	GE/ DE provided in accordance with HR policies/Parameters	HR Practitioner	
5.5	Appointments and Terminations of Employment			
5.5.1	With regard to appointing GE/ DE/SGM (excluding FD)	People and Governance Committee	CE	
5.5.2	With regard to appointing CE/FD	Board (after approval of shareholder i.ro CE)	People and Governance Committee	
5.5.1	With regard to appointing GMs	CE after consultation with Exco	People and Governance Committee	
	With regard to appointing S3, E Band & other employees	CE/FD/GE/DE subject to approved posts and notifying Exco in respect of E Bands.	Interview panel	
5.6	Temporary/Acting appointments for more than 3 working days			
	➤ In respect of CE	CE if one month or less and chairman if up to 3 months	N/A	
	➤ In respect of GE/DE	Next higher level of authority	N/A	
	➤ In respect of other employees	Next higher level of authority	N/A	
	➤			

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6 FINANCE				
	Approval Authority	Approval/Authority	Recommendations	Conditions/Principles
6.1	Risk finance ➤ Insurance Strategy ➤ Plan & Budget	Audit & Risk Committee	FD after consultation with CE/Exco	For the avoidance of doubt, the CE and or FD may in terms of the general principles set out in terms hereof delegate further the authority to open and operate of bank accounts and the issue of duplicate certificates as set out herein.
6.2	Insurance Placement Below R200m per placement	CE or FD (in consultation with Exco)		
	Above R200m	Audit & Risk Committee	FD after consultation with CE	
3.3	Lending of money by Eskom ➤ To any related party, including subsidiaries	CE or FD (in consultation with Exco)	CE/FD after consultation with CE	
	➤ Up to R1b to further the interests of Eskom	IFC	FD/CE	
	➤ To lend money to employees for housing acquiring transport and education, subject to HR policies and directives and limits	CE/FD/GE/DE	Relevant Manager	
	➤ To make bursaries available to employees and prospective employees	Relevant E Band Manager subject to HR policies	N/A	
6.4	Bank account:- To open, operate and close any form of bank account including electronic fund transfer systems whether foreign or local and/or the transacting in negotiable instruments	Co-approval by CE and FD to open account and approval by FD to operate an account.	FD after consultation with CE/Exco	
6.5	Eskom securities certificates: To authorise the issue of duplicate certificates or certified deeds in respect of Eskom securities	CE or FD	Relevant Manager	
6.6	Subsidiaries: Sales and purchases to/from wholly owned subsidiaries			
	➤ Up to 750m	GE/DE	Relevant Manager	
	➤ Up to R1bn	CE or FD	Relevant Manager	

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	Up to maximum of budget	CE in consultation with Exco	Relevant Manager	
6.7	Write off bad Debts ➤ Above R100m p/a	IFC	FD	
	Up to R100m p/a.	CE&FD (after consultation with Exco)	GE/DE	
	Up to R30m p/a	GE/DE after consultation with FD	Finance Business Partner	
	➤ Up to R10m p/a	Finance Business Partner (=<R00k per individual debt)	Relevant Manager	
6.8	Restructuring of debt owed ➤ Up to R75m	CE or FD after consultation with FD	GE/DE	
	➤ Up to R35m	CE/FD	GE/DE	
	➤ Up to R15m	GE	Relevant Manager	
7	GENERAL; TREASURY			
	Powers and Authority	Approval Authority	Recommendations	Conditions/Principles
7.1	Borrowing programme	Board	CE/FD after consultation with Exco	<ol style="list-style-type: none"> 1. The SGM (Treasury) and Treasury Officials may implement the borrowing programme and effect all transactions necessary or incidental thereto subject to the delegation, conditions and limitations specified by the FD, and in accordance with the Board approved borrowing programme and the approved Treasury Mandate. 2. The authority granted in terms hereof includes all necessary and incidental authority required to implement the borrowing programme, including the listing, issuing of bonds, making investments, withdrawal of funds and implementing hedges. Any limits regarding this authority may be prescribed in the Treasury Mandate by the audit and risk
7.2	Subject to section 66(6) of the PFMA, implement Borrowing Programme in line with the Board approved Corporate Plan			
7.2.1	Borrowing money and listing/ issuing of bonds Risk management and debt management including investment of surplus funds (Domestic markets)			

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	and foreign markets) ➤ Transactions greater than \$1000m (Foreign currency or equivalent in other currency or greater than R8000m (local currency) ➤ Transactions less than \$1000m (Foreign currency or equivalent in other currency or less than R8000m (local currency)	CE and FD CE/FD	SGM Treasury SGM Treasury	
7.2.2	➤ Signing of any document relating to loan agreements or anything related or incidental thereto, including listing or issue of bond notes or commercial paper.	CE/FD/SGM Treasury together with DE Regulation and Legal or GM Legal in respect of agreements.	N/A	
7.2.3	Signing of any document relating to Treasury activities, credit and trading agreements or anything related or incidental thereto, Treasury domestic market deposit accounts, bank accounts related to financing/ loan facilities, duplicate certificates, electronic signatures, Central Securities Depository requirements and/or deeds.	FD/SGM Treasury	N/A	
7.2.4	Treasury Mandate	Audit and Risk Committee	N/A	
8 GENERAL: LEGAL				
	Powers & Authority	Approval Authority	Recommendations	Conditions and Principles
8.1	To institute or defend legal proceedings, including arbitrations, and prove claims against any debtors	CE/DE (R&L)/GM Legal or delegate	FD/GE/DE/Line Manager	
8.2	Settling legal claims by/or against Eskom	CE/FD/DE/GE/DE(R&L)/GM LEGAL	Relevant manager in consultation with Legal Department	
8.3	Receiving or giving indemnities in respect of settlement agreements	CE/FD/GE/DE in consultation with DE (R&L)/ GM Legal or delegate	Relevant Manager	
8.4	Applying to relevant authorities for the award and amendment of permits, licences, consents and orders and also to oppose applications for such by others	CE/FD/GE/DE in consultation with DE (R&L)/ GM Legal	Line Manager in Consultation with legal Department	
8.5	Pleading guilty or not guilty to criminal charges or any other similar charges preferred against Eskom	CE/ FD/GE/DE in consultation with DE (R&L)/ GM Legal or	N/A	

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		delegate.		
8.6	Appointment of external legal advisors, Attorneys and Advocates	CE/ DE (R&L), GM Legal or Delegate after consultation with relevant manager	N/A	
8.7	Expropriate immovable property	CE/DE (R&L)/ GM Legal or delegate after consultation with relevant manager.	Relevant Manager	
8.8	To register trademarks, patents, designs, copyrights or any license, concession or similar rights in respect thereof and the alienation thereof	CE/DE (R&L)/ GM Legal or delegate after consultation with relevant manager.	Line Manager in consultation with legal Department	
9. CONTRACT MANAGEMENT:LEGAL				
	Powers/Authority	Approval Authority	Recommends	Conditions/Principles
9.1	To approve standard conditions of contract for electricity sales and any other standard contracts required or used, including construction and sales of electricity contracts , and any deviations from standard contracts	DE R&L / GM Legal or delegate	Relevant Manager	1. The entering into of any international MOU will be subject to the Significance and Materiality Framework . 2. Best practice requires the establishment of Variation and Claims Committees
9.2	Specific contract conditions	Authorised delegee for trasantion in consultation with the DE Regulation and Legal or GM Lega/Delegate	Relevant Manager in consultation with Legal Department .	
9.3	Managing Contract on day to day basis	Relevant GE/DE/Appointed Project Manager	N/A	
9.4	Entering into any MOU, confidentiality agreement, or any other agreement in area of responsibility and provide any approvals required in terms of such contracts, and do what is necessary to execute/implement contracts	CE/FD/GE/DE within limits of delegation and Group/Divisional mandate (subject to the SMF for international MOUs and consultation wit DE R&L/GM Legal or delegate.	Relevant Manager	
9.5	Membership of International Organisations	CE/GE (Sustainability)	Relevant Manager	
9.6	Major Construction Projects (New Build)			
9.6.1	> Modification to contract within contract contingency	FD/Project Manager	Project Manager after consultation	

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9.6.2	➤ Modification to contract above the contract contingency but within the unallocated project contingency.	FD and GE Technology and Commercial provided the modification is reported at the next Tender Committee or appropriate lower level committee with delegated authority in consultation with Legal	with Project variation Project Manager after consultation with Project variation & claims committee & claims committee	
9.7	Approve and settle claim within the contract contingency	Project Manager in consultation with Legal		
9.8	Approve and settle claim above the contract contingency but within unallocated project contingency.	FD in consultation with Legal. Provided this is reported at the next Tender Committee	Project Manager after consultation with Project variation & claims committee	
9.9	Referral to adjudication, mediation or dispute adjudication Board	FD/Project Manager in consultation with GM Legal.	N/A	
10 General: Safety, Health, Environmental, Quality and Security (SHEQS)				
	Powers & Authority	Approval	Recommends	Conditions/Principles
10.1	Statutory appointments	CE/FD/GE/DE/ Divisional E Band or other responsible line managers	SHEQS officers	
10.2	Strategy, Policy, Procedures and Directives			
10.2.1	Eskom SHEQS Strategic Policies	Social, Ethics & Sustainability Committee	CE after consultation with Exco GE (Sustainability)	
10.2.2	Other Policies and procedures SHEQS Strategy & targets	CE after consultation with Exco		
10.2.3	Eskom SHEQ Strategy & Targets	Board	Social, Ethics & Sustainability Committee	
10.2.4	SHEQS Directives	GE (Sustainability)	Relevant Manager/SHEQ Officers	

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11. GENERAL: OPERATIONS				
	Powers/Authority	Approval Authority	Recommends	Condition/Principles
11.1	The running of the day to day operations of Eskom Divisions	FE/GE and DE subject to the direction & conditions required by CE	N/A	The delegation of operational and management authority is subject, inter alia, to adherence to the Corporate Plan, Group/ Divisional mandates, Eskom policies, and the FD/GE and DE subject to direction & conditions required by CE delegation of authority.
11.2	Effective delegation of operational matters by GEs, DEs, and other managers	CE/GE/DE	N/A	
12 GENERAL: CORPORATE SOCIAL INVESTMENT				
	Powers & Authority	Approval Authority	Recommends	Conditions/ Principles
12.1	Donations & CSI			1. Donations made by Eskom shall be for education, schools or appropriate community projects, but shall exclude political party activities, grants to individuals and profit making organisations/businesses
	Up to R5m p/a	Chairman/CE		
	Up to approved budget	FD/GE/DE		
12.2	Sponsorships			2. Most Corporate Social Investment initiatives will be channelled through the Eskom Development Foundation.
	Up to R50k	CE/FE/GE/DE in consultation with Corporate Sponsorship Committee established by DE Corporate Affairs	Relevant Manager	
	Up to R3m	CE/Sponsorship Committee established by GE Corporate Affairs	Relevant Manager	
	Above R3m and subject to approved budget.	CE (in consultation with Exco) or he may delegate to ICAS.	Relevant manager	

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national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

GUIDELINE ON IRREGULAR EXPENDITURE

OFFICE OF THE ACCOUNTANT-GENERAL
May 2014

GUIDELINE ON IRREGULAR EXPENDITURE

PURPOSE

1. The purpose of this *Guideline* is to provide clarity on the procedures¹ to be followed when dealing with the identification and application of *irregular expenditure*, defined in section 1 of the Public Finance Management Act (PFMA), 1999 as '*expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –*
 - (a) *this Act; or*
 - (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
 - (c) *any provincial legislation providing for procurement procedures in that provincial government.*
2. This Act in section 1 of the PFMA includes any regulations and instructions issued in terms of section 69, 76, 85 or 91.

APPLICABILITY

3. This *Guideline* applies to all departments, government components, trading entities, constitutional institutions and public entities listed in Schedule 2 and 3 to the PFMA.

THE STATE TENDER BOARD ACT, 1968

4. The State Tender Board Act, 1968 (Act No. 86 of 1968) establishes the State Tender Board and provides, among others, for regulating the procurement of goods and services of national departments, for the disposal of movable property and the hiring or letting of anything. Provinces had similar legislation that established Provincial Tender Boards and which offered matters similar to those provided for in State Tender Board Act, 1968.
5. It must be noted that in section 1 of the PFMA, irregular expenditure is also deemed to have occurred if there was contravention of the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act.
6. In December 2003, the National Treasury issued a Supply Chain Management Framework in terms of section 76(4)(c) of the PFMA. This Framework was published in Government Gazette No. 25767 dated 5 December 2003 and took effect from the same date.

¹ This *Guideline* does not prescribe any new principle or procedure related to the identification and application of irregular expenditure but is merely a consolidation of provisions that are currently contained in Practice Note 4 of 2008/2009 on Irregular Expenditure.

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7. In essence, the aforementioned Framework provides that accounting officers and accounting authorities of Schedule 3A and 3C public entities must develop and implement effective and efficient systems of supply chain management and to establish separate supply chain management units reporting to their respective chief financial officers.
8. Prior to this Framework taking effect, all national and provincial departments arranged for the procurement of their goods and services in terms of legislation that established their respective Tender Boards.
9. After this Framework took effect, all Provinces repealed legislation that established their respective Provincial Tender Boards and which also determined the manner in which their supplies (goods) and services were procured.
10. When the Supply Chain Management Framework took effect, it was recognized that the State Tender Board Act, 1968 (Act No. 86 of 1968) provided that national departments were only to procure their supplies for goods and services through the State Tender Board. This in effect was in conflict with provisions of the Supply Chain Management Framework, which required departments to procure their goods and services either through the State Tender Board or in terms of the PFMA.
11. On 5 December 2003, the Minister of Finance therefore published an amendment to regulations in terms of section 13 of the State Tender Board Act, 1968 (Act No. 86 of 1968) which essentially allowed for accounting officers of national departments to procure their goods and services either through the State Tender Board or by using the provisions contained in the Supply Chain Management Framework.
12. The amendment to the State Tender Board Act Regulations is consistent with the ethos of the PFMA which empowers accounting officers to manage but be held accountable for all expenditure incurred by their respective departments.
13. Whilst the above amendment provides for a 'dual system' of procurement, the State Tender Board at the national level of government has since been disbanded and it is the intention to repeal the currently dormant State Tender Board Act, 1968 (Act No. 86 of 1968) when amendments are effected to the PFMA.

PRINCIPLES FOR IRREGULAR EXPENDITURE

14. For a department or a government component² to incur irregular expenditure, the non-compliance must be linked to a financial transaction. Although a transaction, condition or an event may trigger irregular expenditure, a department or government component will only record irregular expenditure when a payment pertaining to the

² This provision is applicable to those government components that are currently applying the modified cash basis of accounting and the Modified Cash Standard issued by the National Treasury.

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non-compliance is actually made (i.e. when the expenditure is recognized in accordance with the recognition principles contained in the Modified Cash Standard). If 'possible irregular expenditure' is determined prior to a payment being made, then such a transgression shall be regarded as a non-compliance matter until payment is made at which point irregular expenditure shall be recorded. Non-compliance corrected prior to any payment being made will not result in any irregular expenditure.

15. A constitutional institution, trading entity or public entity listed in Schedules 2 and 3 to the PFMA shall incur irregular expenditure when a transaction, condition or an event linked to the non-compliance is recognized as expenditure in the Statement of Financial Performance in accordance with the Standards of Generally Recognised Accounting Practice (GRAP), the Standards of Generally Accepted Accounting Practice (GAAP) or the International Financial Reporting Standards (IFRS).
16. The principle in paragraph 15 above shall also apply to government components that are required to comply with Standards of Generally Recognised Accounting Practice (GRAP), the Standards of Generally Accepted Accounting Practice (GAAP) or the International Financial Reporting Standards (IFRS).
17. For the purposes of determining whether irregular expenditure has taken place, there must have been a transgression of a provision contained in any applicable legislation which shall include:-
 - (a) the PFMA;
 - (b) the Treasury Regulations;
 - (c) a National Treasury Instruction, issued in terms of section 76 of the PFMA; and
 - (d) a Provincial Treasury Instruction issued in terms of section 18(2)(a) of the PFMA.
18. When applying the test to determine whether irregular expenditure has been incurred, it must be clear that the contravention must relate to how the transaction, condition or event was entered into and by whom as opposed to when the transaction, condition or event was entered into. For example, non-compliance with the requirement to pay an invoice within 30 days from its receipt (Treasury Regulation 8.2.3) shall not be regarded as irregular expenditure unless the expenditure itself was incurred in contravention of relevant legislation, such as an instance where the expenditure was authorized by an official who did not possess the appropriate delegated authority to approve the expenditure in question.

FINANCIAL MISCONDUCT

19. Section 38(1)(c)(ii) of the PFMA requires an accounting officer to take effective and appropriate steps to, amongst others, prevent irregular expenditure. The corresponding provision for public entities related to the prevention of irregular expenditure is contained in section 51(1)(b)(ii) of the PFMA.

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20. In terms of section 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer and accounting authority shall commit an act of financial misconduct if that accounting officer or accounting authority makes or permits irregular expenditure.
21. Similarly, officials serving in the institutions referred to in paragraph 3 above shall commit an act of financial misconduct if he or she fails to take effect and appropriate steps to prevent irregular expenditure within that official's area of responsibility.
22. In terms of sections 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer or authority must take effective and appropriate disciplinary steps against any official in the service of their respective establishments who makes or permits irregular expenditure.
23. Treasury Regulation 4.1.3 provides that, if an accounting officer is alleged to have committed financial misconduct, the relevant treasury, as soon as it becomes aware of the alleged misconduct, must ensure that the relevant executive authority initiates an investigation into the matter and if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts applicable and agreements applicable in the public service.

UNAUTHORISED EXPENDITURE³ VERSUS IRREGULAR EXPENDITURE

24. If a department incurs expenditure that contravenes any applicable legislation, this expenditure meets the definition of irregular expenditure and must be classified as such.
25. Should the irregular expenditure in paragraph 24 relate to the procurement of goods or services that are not in accordance with the purpose of the main division/vote or which results in the overspending of the main division/vote, such expenditure also meets the definition of unauthorised expenditure.
26. Transactions such as those in paragraphs 24 and 25 above may not be accounted for as both irregular expenditure and unauthorised expenditure. Considering that irregular expenditure is defined as expenditure other than unauthorised expenditure, this means that unauthorised expenditure shall take precedence over irregular expenditure.

ACCOUNTING POLICY FOR IRREGULAR EXPENDITURE

27. The following is the recommended accounting policy for irregular expenditure:
When confirmed, irregular expenditure must be recorded in the notes to the financial statements. The amount to be recorded in the notes must be equal to the value of the irregular expenditure incurred unless it is impracticable⁴ to determine the value thereof.

³ Unauthorised expenditure is a concept that is only applicable to departments.

⁴ **Impractical means**, "Applying a requirement which is impracticable when a department, government component, trading entity, constitutional institution or a public entity cannot apply it after making every reasonable effort to do so."

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Where such impracticality exists, the reasons therefore must be provided in the notes. Irregular expenditure must be removed from the notes when it is either (a) condoned by the National Treasury or the relevant authority; (b) it is transferred to receivables for recovery; or (c) it is not condoned and is irrecoverable. A receivable related to irregular expenditure is measured at the amount that is expected to be recovered and must be de-recognised when the receivable is settled or subsequently written off as irrecoverable.

IRREGULAR EXPENDITURE THAT DOES NOT RESULT IN A LOSS

28. Whilst irregular expenditure is incurred as a result of transactions, conditions or events where there have been legislative transgressions, there are, however, instances where such transactions, conditions or events have not resulted in an institution suffering a loss and where value for money was derived from the use of the goods procured or services rendered.
29. If the National Treasury or the relevant authority does not condone the irregular expenditure in paragraph 28 above and it is confirmed that there is no person liable in law for the irregular expenditure, the accounting officer or accounting authority may write off the irregular expenditure as irrecoverable.

PROCEDURES FOR THE TREATMENT OF IRREGULAR EXPENDITURE

30. ***Procedures for the discovery, investigation and reporting of irregular expenditure***
 - (a) Any employee who becomes aware of or suspects the occurrence of irregular expenditure must immediately, in writing, report such expenditure to the accounting officer or accounting authority.
 - (b) On discovery of alleged irregular expenditure, such expenditure must be left in the expense account and the accounting officer or accounting authority must record the details of the expenditure in an irregular expenditure register.
 - (c) The accounting officer or accounting authority or his/her delegate must decide on the level of enquiry/investigation to be undertaken to determine whether the expenditure in question is irregular expenditure or not. During the period of enquiry/investigation, the expenditure must remain in the expense account. The results of the enquiry/investigation will determine the appropriate action to be taken regarding the transgression.
 - (d) Should the investigation reveal that the expenditure does not constitute irregular expenditure, the details of the expenditure should be retained in the register for the purposes of completeness (and to provide an appropriate audit trail). The register must then be updated to reflect the outcome of the investigation.

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- (e) If the investigation indicates that the expenditure is in fact irregular expenditure, the accounting officer must immediately report, in writing, in terms of section 38(1)(g) of the PFMA the particulars of the expenditure to the relevant treasury. In the case of departments, the irregular expenditure must also be included in the monthly report on revenue and expenditure as submitted by the accounting officer to the relevant treasury, in terms of section 40(4)(b) of the PFMA.

31. *Procedures for raising a receivable and the recovery of irregular expenditure*

- (a) Receivables comprise of amounts due to the state as a result of the sales of goods, the provision of services or the recovery of expenditure incurred by the state. If an investigation into alleged irregular expenditure confirms that such expenditure has in fact been incurred, a receivable (debtor) for the recovery of the relevant amount must be raised.
- (b) The accounting officer or accounting authority must in terms of section 38(1)(c)(i) and 51(1)(b)(i) of the PFMA, take effective and appropriate steps to collect all money due to the institution, hence every effort must be undertaken to recover irregular expenditure.
- (c) The accounting officer or accounting authority must determine who the responsible party is from whom the amount should be recovered. This information would normally become evident while performing the investigation.
- (d) The accounting officer or accounting authority must in writing request that the responsible person pay the amount within 30 days or in reasonable installments. If the official fails to comply with the request, the matter may be handed to the State Attorney or an internal appointed attorney (in the case of departments) or appointed attorneys (in the case of constitutional institutions and public entities) for the recovery of the debt.
- (e) In terms of Treasury Regulation 9.1.4, the recovery of losses or damages resulting from irregular expenditure must be dealt with in accordance with Treasury Regulations 12 dealing with management of losses.
- (f) If the amount of the irregular expenditure is irrecoverable from a person who is liable in law⁵, the accounting officer may write off the debt in terms of Treasury Regulation 11.4. The accounting authority may perform similar in terms of the public entity's debt write off policy.

32. *Procedures for the condonation of irregular expenditure*

- (a) As part of the enclosed procedures, provision is made for accounting officers and accounting authorities to forward submissions to the National Treasury or the

⁵A person who is liable in law means a legal responsibility of a person's acts or omissions

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relevant authority to request condonation for non-compliance with the PFMA or other legislation respectively. The treasury to which the submission must be forwarded will depend on the provision that was contravened. It must, however, be emphasised that submissions requesting condonation for non-compliance must contain the following:

- (aa) detailed motivation as to why the irregular expenditure in question should be considered for condonation;
 - (bb) details of the transgression;
 - (cc) reference to relevant legislation;
 - (dd) reason(s) for deviating from the required legislation or prescripts;
 - (ee) whether the state suffered any loss due to the transgression;
 - (ff) in the case of supply chain management transgressions provide reasonableness of price(s) determined in a case where only one price was sourced from one bidder;
 - (gg) financial implications for such a transgression;
 - (hh) in the case of a supply chain management transgression provide contractor(s) who were involved;
 - (ii) corrective steps taken to prevent any recurrence; and
 - (jj) the relevant supporting documentation.
- (b) If the irregular expenditure is subsequently condoned by the National Treasury or the relevant authority, no further action is required by the department, government component, constitutional institution, trading entity of a public entity as the amount has already been expensed in the statement of financial performance. The register must be updated to reflect that the irregular expenditure was condoned and the notes to the annual financial statements must also be updated to reflect the condoned irregular expenditure.
- (c) In instances where condonation for irregular expenditure is not granted by the National Treasury or the relevant authority, immediate steps must be taken to recover such expenditure from the relevant person, if he/she is liable in law.
- (d) If there is doubt regarding liability in law referred to in (c) above, the accounting officer of a department must consult the internal appointed attorney or State Attorney. Constitutional institutions and public entities must at least consult their in house legal services in this regard.
33. The enclosed **Annexure A** illustrates procedures for the treatment of irregular expenditure by departments, trading entities, government components and constitutional institutions whilst **Annexure B** illustrates procedures to be followed by public entities.
34. Irregular expenditure not condoned must be accounted for in accordance with the relevant accounting standards.

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RELEVANT AUTHORITY

35. For purposes of condoning irregular expenditure, the relevant authority is "the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation".
36. Where the accounting authority of a public entity consists of a board, such authority may delegate the power to condone irregular expenditure to the next lower level of authority within the public entity, for example, Chief Executive Officer.

DELEGATIONS OF AUTHORITY

37. Expenditure resulting from non-adherence to an institution's delegations of authority is also regarded as irregular expenditure since such delegations are issued in terms of sections 44 and 56 of the PFMA for departments/constitutional institutions/trading entities and public entities respectively.

EXAMPLES OF IRREGULAR EXPENDITURE

38. The enclosed **Annexure C** provides a list of possible transgressions, the impact thereof (whether it results in irregular expenditure or non-compliance with laws and regulations) and the relevant authority for condonement in each particular instance. This annexure only provides possible transgressions and the list contained therein is not exhaustive.
39. The following table provides examples of irregular expenditure and the relevant authority that is empowered to condone such expenditure:

Categories of irregular expenditure	Relevant Authority
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation where prior written approval was required from a relevant treasury . For example, a department, trading entity, constitutional institution or public entity that incurred expenditure related to a public private partnership without obtaining the prior written approval of the relevant treasury , as required by Treasury Regulation 16.4.2.	The National Treasury , in the case of national departments, trading entities, constitutional institutions and national public entities and the relevant provincial treasury in the case of provincial departments or provincial public entities.
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation which required cognisance to be taken of a National Treasury determination. For example, a department, trading entity, constitutional institution or public entity procured goods or services by means of price quotations where the value of	The National Treasury , in cases of all departments, trading entities, constitutional institutions and public entities.

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Categories of irregular expenditure	Relevant Authority
the purchase exceeded the threshold values determined by the <u>National Treasury</u> for price quotations. (Contravention of Treasury Regulation 16A6.1)	
Irregular expenditure incurred as a result of institutions procuring goods or services by means other than through competitive bids and where reasons for deviating from inviting competitive bids have not been recorded and approved by the functionary to whom the power has been delegated by the accounting officer or accounting authority. (Contravention of Treasury Regulation 16A6.4)	The Accounting Officer , in cases of all departments, trading entities and constitutional institutions and in the case of public entities, the Accounting Authority .
Irregular expenditure incurred as a result of non-compliance with a requirement of the institution's delegations of authority issued in terms of the PFMA. For example: An official approves purchase of goods to the value of R35 000 however his limit in terms of delegation of authority is R30 000.	The Accounting Officer, in cases of all departments, trading entities or constitutional institutions and in the case of public entities, the Accounting Authority.
Irregular expenditure incurred as a result of non-compliance with a provision contained in any applicable legislation. For example, a department grants performance rewards to personnel without maintaining and implementing a Performance Management and Development System, as required by Part VIII B of the Public Service Regulations).	The Dept responsible for the legislation concerned and in the case of this example, the Dept of Public Service and Administration.

40. From the above it is clear that in certain instances, accounting officers and accounting authorities have the power to condone irregular expenditure that was incurred as a result of transgressions by their respective officials.
41. If, however, the accounting officer or accounting authority is responsible for the transgression, only the National Treasury or the relevant treasury (whichever is applicable) may condone such a transgression.

IRREGULAR EXPENDITURE REGISTER

42. Accounting officers and accounting authorities must maintain an irregular expenditure register which must contain a detailed schedule for each financial year listing all irregular expenditure incurred by their respective institutions. An example of an irregular expenditure register is contained in the enclosed **Annexure D**.
43. Prior to institutions recording expenditure as irregular, a process must be instituted to ensure that the expenditure in question falls within the definition of irregular expenditure, as provided in section 1 of the PFMA.

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44. If in doubt, accounting officers and accounting authorities must consult the relevant treasury for guidance on interpretation of the definition of irregular expenditure.
45. The irregular expenditure register must be kept up to date in order to track all alleged and confirmed irregular expenditure and for the purposes of maintaining an audit trail. This will also assist in ensuring that the irregular expenditure in the annual financial statements is complete and accurate.

RECORDING IN THE IRREGULAR EXPENDITURE REGISTER AND IN THE ANNUAL FINANCIAL STATEMENTS

46. On discovering possible irregular expenditure, the accounting officer or accounting authority must ensure the recording of such details in the irregular expenditure register.
47. If the irregular expenditure is confirmed, the register must be updated with the necessary confirmation that the expenditure in question is in fact irregular expenditure. These amounts must be included in the notes to the annual financial statements.
48. If the investigation reveals that the expenditure is not irregular expenditure, the register must be updated accordingly. Records of all the follow-up activities that take place once the alleged irregular expenditure is discovered must be maintained and referenced in the relevant register.
49. Accounting officers and accounting authorities are encouraged to conclude all investigations and resolve all matters related to irregular expenditure within 90 days from the date on which the alleged irregular expenditure was discovered or as soon as practically possible. If such investigations are not concluded by the date on which the annual financial statements are published, a narrative to this effect must be included part of the irregular expenditure note to the annual financial statements.
50. The accounting officer or accounting authority must ensure that the validity of irregular expenditure is confirmed before the annual financial statements are submitted for audit purposes. If irregular expenditure occurred during the year under review and is only discovered during the audit, the validity thereof must be confirmed before the audit is finalised. If an investigation is still in progress after the audit is completed then a narrative to this effect should be included in the irregular expenditure note in the annual financial statements.
51. Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective establishments as a note to their annual financial statements which must include particulars of amounts condoned by the National Treasury or relevant authority in the same financial year and/or before finalisation of financial statements.

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52. The disclosure of irregular expenditure incurred is a legal requirement rather than an accounting requirement. It is the act that results in irregular expenditure that is of importance to the user of the financial statements. The amount does not add to its significance and focusing on the quantification of irregular expenditure, while it is important, may divert attention away from the act itself. The primary focus from an oversight perspective is ensuring that spending agencies abide by the law in executing their mandates.
53. The Modified Cash Standard provides for the annual financial statements disclosure requirements for departments and government components operating on a modified cash basis of accounting. The annual financial statements template must be used to complement the Modified Cash Standard and provide for a format in which the disclosure requirements of irregular expenditure must be presented in the annual financial statements and related notes. The annual financial statements template must be used for disclosure requirements of irregular expenditure for government components operating on an accrual basis of accounting, trading entities, constitutional institutions and public entities.
54. Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is required with the exception of updating the note to the financial statements.
55. It is acknowledged that there may be instances where the irregular expenditure arose from fraudulent, corrupt and criminal activities or through actions that deprived the state of value for money and may result in the state instituting a civil claim against a third party. In such cases the institution would have to evaluate the impact of the infraction and the likelihood of someone being liable in law. The extent of the liability would thus have to be established. If the total amount could not be established by the date of approval for issue of the annual financial statements, the sub-notes must disclose this fact along with the reasons why.
56. In instances other than the above, the accounting officer or accounting authority must quantify the total amount of irregular expenditure unless it is impractical to do so. When the institution can demonstrate that it is impractical to quantify the full amount, it should disclose this fact along with the reasons why.
57. In summary, the disclosure requirements with regard to the identification and quantification of irregular expenditure are as follows:

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	Transgression took place in the current financial year	Transgression took place in a previous financial year
<p>Suspected irregular expenditure identified and in process of investigation to confirm</p> <p>↓</p>	<p>No disclosure in the irregular expenditure note</p>	<p>No disclosure in the irregular expenditure note</p>
<p>Alleged irregularity confirmed as irregular expenditure and further investigated to determine the nature, extent and root cause of the transgression (where for example the department is in the process of establishing whether this is isolated).</p> <p>↓</p>	<p>Disclose amount of irregular expenditure confirmed and note that further instances (the extent) of this type of irregular expenditure are under investigation.</p> <p>Continue with process as described below.</p>	<p>Disclose amount of irregular expenditure confirmed and note that further instances (the extent) of this type of irregular expenditure are under investigation.</p> <p>Continue with process as described below.</p>
<p>Institute a process to identify any fraudulent, corrupt and criminal activities or actions that deprived the state of value for money and may result in the state instituting a civil claim against a third party.</p> <p>↓</p>	<p>If confirmed criminal activities etc.:</p> <ul style="list-style-type: none"> • follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); • report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, 2003; • determine amount paid in current financial year; • disclose amount in the main note as "irregular expenditure - relating to current year"; • include supplementary disclosure on the disciplinary steps taken/criminal proceedings instituted. 	<p>If confirmed criminal activities etc.:</p> <ul style="list-style-type: none"> • follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); • report in terms of section 34 of the Prevention and Combating of Corrupt Activities Act, 2003; • determine amount paid from date of transgression to end of reporting period; • disclose amount in the main note as "irregular expenditure - relating to prior year"; • include supplementary disclosure on the disciplinary steps taken/criminal proceedings instituted.

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	Transgression took place in the current financial year	Transgression took place in a previous financial year
Confirmation that the irregular expenditure was not the result of fraudulent, corrupt and criminal activities or actions that deprived the state of value for money that may result in the state instituting a civil claim against a third party.	<p>If not confirmed by the date on which the financial are authorized for issue:</p> <ul style="list-style-type: none"> follow the process below and disclose the fact that further investigations are still underway; <p>↓</p> <ul style="list-style-type: none"> follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); determine amount paid and disclose amount in the main note as "irregular expenditure - relating to current year"; if can demonstrate that it is impractical to determine the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be quantified. 	<p>If not confirmed by the date on which the financial are authorized for issue:</p> <ul style="list-style-type: none"> follow the process below and disclose the fact that further investigations are still underway if not conformed in a subsequent financial period, the full amount must be quantified and disclosed as above <p>↓</p> <p>required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities);</p> <ul style="list-style-type: none"> determine amount paid from date of transgression to end of reporting period and disclose amount in the main note as "irregular expenditure – relating to prior year"; if can demonstrate that it is impractical to estimate the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be quantified.

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	Transgression took place in the current financial year	Transgression took place in a previous financial year
Confirmation that the irregular expenditure was not the result of fraudulent, corrupt and criminal activities or actions that deprived the state of value for money that may result in the state instituting a civil claim against a third party.	<ul style="list-style-type: none"> follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); determine amount paid and disclose amount in the main note as "irregular expenditure - relating to current year"; if can demonstrate that it is impractical to determine the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be quantified. 	<ul style="list-style-type: none"> follow relevant steps required in chapter 4, 9 and 12 of the Treasury Regulations (for depts., constitutional institutions and trading entities); determine amount paid from date of transgression to end of reporting period and disclose amount in the main note as "irregular expenditure – relating to prior year"; if can demonstrate that it is impractical to estimate the total irregular expenditure, disclose details of transgression and reasons why the amount cannot be quantified.

CONTRACTS ARRANGED BY OTHER INSTITUTIONS

58. Where institutions are mandated (in terms of law) to make use of other organs of state to procure goods and/or services, the institution receiving the goods and/or services must, where possible, ensure that it has supply chain management representatives on the mandated institution's bid adjudication committee to confirm that appropriate supply chain management procedures have been followed.
59. If supply chain management transgressions are identified in the procurement processes of the mandated institution, the supply chain management representatives of the institution that is going to receive the goods and/or services must immediately inform the accounting officer or accounting authority of the institution that he or she represents.
60. Where the mandated institution did not follow the required supply chain management processes, expenditure related thereto must be regarded as:
 - (a) irregular expenditure in the books of the procuring institution if that institution was represented on the bid adjudication committee of the mandated institution; and as a non-compliance matter in the books of the mandated institution indicating the value of the transaction; and

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- (b) a non-compliance matter in the books of the mandated institution indicating the value of the transaction if the procuring institution was not represented on the bid adjudication committee of the mandated institution.

ACCOUNTING FOR IRREGULAR EXPENDITURE

61. Irregular expenditure that was incurred and identified during the current financial year and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register and the relevant note to the annual financial statements.
62. Irregular expenditure that was incurred and identified during the current financial year and for which condonation is being awaited at year end must be recorded in the irregular expenditure register and in the relevant note to the annual financial statements.
63. Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the note to the financial statements must be updated with the amount condoned.
64. Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the relevant authority must be recorded appropriately in the irregular expenditure register and in the notes to the annual financial statements.
65. If liability for the irregular expenditure can be attributed to a person and that person is liable in law, a receivable must be created after which immediate steps must be taken to recover the amount from the person concerned. The irregular expenditure register and the note to the annual financial statements must be updated to reflect this.
66. If recovery is not possible, the accounting officer or accounting authority may write off the amount as irrecoverable and record such in the relevant note to the annual financial statements. The irregular expenditure register must also be updated accordingly.
67. Expenditure incorrectly recorded as irregular expenditure in prior years and which was only discovered to be proper during the year under review must be corrected using the accounting standards dealing with prior year errors.


	BOARD CHARTER	Unique Identifier	CCG 221-325
		Revision	3.1
		Revision Date	June 2013
		Corporate Governance Department	

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1. PURPOSE

The purpose of this Charter is to provide guidance to directors of the company in the discharge of their duties and responsibilities as well as requirements for meeting procedures.

This Charter is subject to the Companies Act, the company's memorandum and articles of association and any other applicable law or regulatory provision. The Charter is not intended to, and does not replace any other document, legislation, regulation or law of general application that regulates or applies to the company, the Board or both the company and the Board.

This Charter is intended to be a guide for the Board, and must not be read as a substitute for compliance with general legal duties, as it is not intended to be exhaustive or definitive on any issue.

2. OBJECTIVES

The objectives of this Board Charter are to ensure that all Board members acting as directors of the company are aware of their duties and responsibilities as Board members, and the various legislation and regulations affecting their conduct, and to ensure that the principles of good corporate governance are applied in all their dealings in respect, and on behalf, of the company.

As the Act extends the scope of the directors' duties and liabilities to non directors (e.g. prescribed officers, external committee members) and King III refers to responsible leadership, the Charter may be useful to other senior executives in Eskom.


In pursuit of the ideals in this Board Charter, the intention is to exceed "minimum requirements", with due consideration to recognised standards of best practice locally and internationally.

3. COMPOSITION OF THE BOARD

3.1 The company has a unitary Board, which is constituted as is provided for in the articles of association/MoI

3.1.1 The Board should consider whether its size, diversity and demographics make it effective.

3.1.2 Directors are appointed through a formal process and the People and Governance Committee assists with the process of identifying suitable candidates to be proposed to the shareholder.

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3.1.3 As is recommended by King III, an independent non-executive director serving more than 9 years will be subjected to greater scrutiny of his independence and performance by the Board.

3.1.4 The retired Chief Executive should not become the chairman of the board until three years have passed since the end of the Chief Executive's tenure as an executive director. After this period the Chief Executive may be considered for appointment as a non-executive chairman, after an assessment of his independence.

4. BOARD LEADERSHIP

4.1 The Board should provide effective leadership and vision based on an ethical foundation to the company in a way that will enhance shareholder value and ensure long-term sustainable development and growth of the company.

4.2 The roles of the Chairman and the Chief Executive (CE) are separate, with responsibilities divided between them. The roles are reflected in the document titled "Leadership Charter".

5. ROLE AND RESPONSIBILITIES OF THE BOARD

5.1 Given the mandate of the company, as set out in the Eskom Conversion Act, the MOI and, Shareholder Compact, and in keeping with good corporate governance practices (in particular King III), the Board has identified its role as follows:

5.1.1 Focal point for, and custodian of, corporate governance by managing its relationships with management, the shareholder, and other stakeholders of the company along sound corporate governance principles;

5.1.2 Providing strategic direction and leadership to build a sustainable business;

5.1.3 Approving key policies including:

5.1.3.1 investment policy and plan;

5.1.3.2 risk management policies and plan;

5.1.3.3 information technology ("IT") policies and strategy;

5.1.3.4 adoption of a formal dispute resolution process for internal and external disputes.

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- 5.1.4 Approving and monitoring compliance with corporate plans, financial plans and budgets (including setting objectives and targets);
- 5.1.5 Monitoring and reviewing performance and effectiveness of controls;
- 5.1.6 Setting the values to which the company will adhere (including board and management);
- 5.1.7 Monitoring and ensuring triple bottom line performance in the context of integrated sustainable economic, social and environmental performance, and issuing the Board's assessment of the company's ability to continue as a going concern in respect thereof;
- 5.1.8 Taking responsibility for information technology (IT) risk;
- 5.1.9 Ensuring that there are succession plans for the positions of chairman, chief executive and other members of the executive team and officers;
- 5.1.10 Taking responsibility for the governance of risk;
- 5.1.11 Guiding, restructuring and transformation;
- 5.1.12 Considering business rescue proceedings or other turnaround mechanism if and when necessary;
- 5.1.13 Liaising with and reporting to the shareholders;
- 5.1.14 Promoting the stakeholder inclusive approach of governance;
- 5.1.15 Guiding key initiatives that ensure that the company is a responsible corporate citizen;
- 5.1.16 Approving transactions beyond the authority of management and
- 5.1.17 Ensuring that the company complies with applicable laws to non-binding rules, codes and standards;
- 5.1.18 Evaluating the independence of directors. In particular, carefully considering the number of outside chairmanships that the Chairman of the Board holds and satisfying themselves that it does not negatively impact the ability and capacity of the Chairman



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to discharge his/her duties. Also, carefully considering the appropriateness of the Chief Executive taking on non-executives directorships outside of the company or its group, given the time constraints and potential conflicts of interest that could arise.

5.2 At intervals of not more than one year, the Board will:

- 5.2.1 Review and evaluate the present and future strengths, weaknesses and opportunities in respect of the company. Comparisons with competitors, locally and internationally, and best practice are important elements of this process;
- 5.2.2 Review and approve the company's financial objectives, plans and actions and significant allocation and expenditure;
- 5.2.3 Review the company's goals and the strategies for achieving the company's objectives;
- 5.2.4 Determine the goals and objectives for the coming year;
- 5.2.5 Approve the annual budget;
- 5.2.6 Approve the preliminary and half-yearly financial statements, annual report, other reports to shareholders and public announcements;
- 5.2.7 Consider and, if appropriate, declare or recommend the payment of dividends;
- 5.2.8 Review the performance of, necessity for and composition of the Board's committees;
- 5.2.9 Review risk assessment policies and controls, including compliance with legal and regulatory requirements;
- 5.2.10 Review shareholder, customer and other relevant stakeholder relations and strategies/policies.

6. DELEGATION AND MATTERS RESERVED FOR THE BOARD

- 6.1 The authority and powers of the Board to direct and conduct the affairs of the company are contained in the document titled *'Delegation of Authority Framework'*.
- 6.2 The Board may, by resolution and from time to time, delegate powers to an officer(s) and management of the company to conduct the business of the company. The Board delegates to

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management via the Chief Executive, who will in turn delegate to those reporting to him. The collective responsibilities of management vest in the Chief Executive, and as such bears ultimate responsibility for all management functions. In delegating to management, the Board and its directors do not abdicate their duties and responsibilities.

- 6.3 The Board is responsible for monitoring management in respect of both the achievement of management performance objectives and the implementation of Board plans and strategies. Board should establish benchmarks and performance indicators to hold management accountable for decisions and actions delegated to them.
- 6.4 Officers and management of the company charged with the responsibility and powers to manage the business of the company and to implement the policies and strategies adopted by the Board are accountable to the Board.

7. MANAGEMENT OF RISKS

- 7.1 The Board must ensure that appropriate systems are in place to manage the identified risks, measure their impact and to manage them proactively, so that the company's assets and reputation are suitably protected.
- 7.2 The implementation of the risk management plan shall be reviewed at the least annually.
- 7.3 The Board shall determine the levels of risk tolerance.
- 7.4 The Board may delegate to management the responsibility to design, implement and monitor to risk management plan.
- 7.5 The Board will ensure that risk assessments are performed on a continual basis.

8. THE GOVERNANCE OF INFORMATION TECHNOLOGY

The board assumes the responsibility for the governance of IT. The responsibility of the implementation of an IT governance framework has been delegated to management through the CE. It will monitor and evaluate significant IT investments and expenditure through the Investment and Finance Committee.

9. COMPLIANCE WITH LAWS, RULES, CODES AND STANDARDS

The implementation of an effective compliance framework and process has been delegated to management through the CE.



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10. GOVERNING STAKEHOLDER RELATIONSHIPS

- 10.1 In appreciating that stakeholder perceptions affect a company's reputation, the board shall identify important stakeholder groupings. The board has delegated to management to proactively deal with stakeholder relationships.
- 10.2 The Board must endeavour to familiarise itself with issues of concern to the shareholder.
- 10.3 The Board will evaluate economic, political, social and legal issues on a regular basis, as well as any other relevant external matters that may influence or affect the development of the business or the interests of the shareholders and, if appropriate, take outside expert advice.
- 10.4 A stakeholder accountability matrix has been developed. Those matrices clarifying the role of the Chairman and Chief Executive in engaging with stakeholders is included the document titled "Leadership Charter".

11. BOARD COMMITTEES

- 11.1 The Board may, from to time and at its discretion, by resolution, establish committees of the Board to assist the Board and its directors in carrying out the duties and responsibilities of the directors.
- 11.2 Formal terms of reference must be developed and approved for each committee. It should be reviewed at least once a year.
- 11.3 Members of a committee shall be persons appointed by the Board, provided that, Board committees should only comprise members of the board and should have a majority of independent, non-executive directors. The chairman of a committee must be an independent non-executive director.
- 11.4 The Board may, at its discretion, appoint external parties to serve on Board Committees as Advisors or Officials (Non-voting participants), provided that such person is not ineligible or disqualified to be a director in terms of the Act.
- 11.5 With regard to the Chairman serving on committees, he/she should not:
- 11.5.1 be a member of the Audit Committee.
- 11.5.2 chair the remuneration committee.



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11.6 With regard to the Chief Executive serving on committees, he/she should not:

11.6.1 be a member of the Audit, Remuneration or Nomination committees but should attend by invitation.

11.7 As a state owned company, Eskom must and has appointed an audit committee. Remuneration and nominations matters form part of the mandate of the People and Governance Committee. A Social and Ethics Committee will be appointed if so required by the new Companies Act.

11.8 The purpose and membership of the Board committees shall be as is provided for in their terms of reference.

11.9 The Board shall be responsible for the actions and decisions of the committees. Any delegation of any authority to a committee will not discharge the responsibility of the Board in respect of any actions or decisions of a committee.

11.10 Committees shall be accountable to the Board, and shall be subject to regular evaluation and monitoring by the Board.

11.11 The Board may by resolution dissolve any one or more of its committees.

11.12 Save to the extent permitted by law, delegating authority to Board committees does not in any way mitigate or dissipate the discharge by the Board of their duties and responsibilities.

11.13 There shall be transparency and full disclosure from the Board committees to the Board, except where a committee has been mandated otherwise by the Board.

11.14 Board committees will observe the same rules of conduct and procedures as the Board, unless the Board determines otherwise.

11.15 Board committees will only speak or act for the Board when so authorised. The authority conferred on a Board committee will not derogate from the authority delegated to the CE by the Board.

12. GROUP BOARDS

12.1 A governance framework shall be agreed between the group and its subsidiary boards;

12.2 The holding company shall respect the fiduciary duties of a director serving in a representative capacity on the board of its subsidiary.

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13. BOARD GOVERNANCE

13.1 Conduct of board members


- 13.1.1 The conduct of Board members will be consistent with their duties and responsibilities to the company and thus to the shareholders.
- 13.1.2 The directors will always act within limitations imposed by the Board on its activities.
- 13.1.3 The Board shall be disciplined in carrying out its role, with the focus being on strategic issues and policy.
- 13.1.4 The Board's discussions will be constructive and based on the four values underlining good governance: fairness, accountability, responsibility and transparent. The Chairman will seek a consensus in the Board but may, where considered necessary, call for a vote.
- 13.1.5 The Board, in its endeavours, will emphasise good leadership values and exercise tolerance of dissenting voices.

13.2 Obtaining company information

- 13.2.1 The Board members are entitled to have access, at reasonable times, to all relevant company information and to senior management to assist them in the discharge of their duties and responsibilities, and to enable them to take informed decisions.
- 13.2.2 Unless otherwise determined, the Board members will treat all Board matters and information/documents received as confidential. Disclosure of information, to the extent required, shall be through the office of the Chairman or Company Secretary or their alternates.

13.3 Obtaining Independent Advice

- 13.3.1 In the event that independent advice is required by any Director, the following shall apply.
- 13.3.2 The matter shall be discussed with the Chairman, who is required to approve such a request.

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13.3.3 The following information shall be submitted to the Chairman:

- Nature of assistance required
- Reasons for such assistance
- Why assistance available in the company will not suffice
- Alternatives considered
- Estimate of costs to be incurred.

13.3.4 Once the request is approved, the appointment of the advisor shall be in accordance with the company's procurement procedures unless otherwise approved by the Chairman.

14. BOARD MEETINGS

14.1 Attendance and Contribution

14.1.1 Board members will use their best endeavours to attend Board meetings and to prepare thoroughly. Board members are expected to participate fully, frankly and constructively in Board discussions and other activities, and to bring the benefit of their particular knowledge and skills to the Board table, and to discharge their duties of skill, care and diligence as well as their fiduciary duties. Board members that are unable to attend shall advise the Chairman at an early date, and confirm their apologies in writing to the Company Secretary.

14.1.2 The company secretary is the secretary to the Board.

14.2 Frequency and Quorum

14.2.1 The Board shall meet for the dispatch of business at least once every four months or as frequently as is required to discharge all its responsibilities as set out in this Charter.

14.2.2 The Board meetings may be conducted by electronic communication facility or by one or more directors participating in the meeting by electronic communication.

14.2.3 The quorum Board meeting shall be a majority of all directors, present in person or via electronic communication facility.

14.2.4 If within 30 (thirty) minutes from the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place.

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14.2.5 In the absence of the Chairman, any other non-executive director may act as chairman for that meeting, as agreed by those present.

14.2.6 Questions arising at any board meeting shall be decided by a majority of votes and in the case of a tied vote the chairman may cast a deciding vote, if the chairman did not initially have or cast a vote; or the matter being voted on fails, in any other case.

14.3 Notice of meeting

14.3.1 The company secretary shall, as soon as possible in the previous year, develop a meeting schedule for the following year, for approval by the Board. The approved schedule shall be considered sufficient notice of all scheduled board and committee meetings.

14.3.2 Except under exceptional circumstances, at least 7 days' notice will be given to all directors of Special or ad hoc Board and committee meetings.

14.4 Agenda and meeting papers

14.4.1 The Board must establish an annual agenda plan for each year to ensure that all relevant matters are covered by the agendas of the meetings planned for the year.

14.4.2 The Chairman, assisted by the company secretary, must ensure that an agenda is prepared prior to the meeting, raising issues that require attention, ensuring that proceedings are conducted efficiently and all appropriate matters addressed.


14.4.3 Board members may table any matter on the agenda of Board meetings by giving reasonable notice thereof to the Company Secretary.

14.4.4 The Company Secretary must circulate the agenda and other meeting papers to the Board members within a reasonable period (approximately 1 week) before the date set down for the meeting.

14.5 Minutes of meetings

14.5.1 The Company Secretary shall cause minutes of all Board and committee meetings, and written resolutions of such meetings, to be taken and kept in one of the official languages of the Republic of South Africa.



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14.5.2 The Company Secretary will circulate minutes of the previous meeting to all members of the Board or committee prior to the next meeting of the Board. The minutes of the previous Board meeting being signed by the Chairman, they shall be reviewed and approved by all the other directors, with or without amendments.

14.5.3 The minutes shall include any declaration given by notice or made by a director and every resolution adopted by the board.

14.6 Retention of meeting papers

Minutes of meetings and a record of Board submissions and papers shall be maintained and held by the Company Secretary in terms of an appropriate retention of documents procedure. Such records shall be accessible to all directors.

15. CONFLICTS OF INTEREST

15.1 Board members are required to:

15.1.1 inform the Board of conflicts or potential conflicts of interest they may have in relation to particular items of business, in advance of meeting where the matter is to be considered.

It must be noted that a director includes an alternate director a prescribed officer; or a person who is a member of a committee of a board of a company, or of the audit committee of a company.

15.1.2 disclose the nature and extent of their interest (whether directly or indirectly) in any particular item of business, other directorships and any potential conflict of interest.

15.1.3 disclose to the meeting any material information relating to the matter and known to the director.

15.1.4 disclose any observations or pertinent insights relating to the matter if requested to do so by the other directors.

15.1.5 leave the meeting immediately after making the disclosure of conflict. Board members may not vote or be counted in the quorum present at a meeting to pass a resolution in respect of any business where they have a direct or indirect interest.

15.2 All declarations of interest made at any Board meeting shall be recorded in the minutes.

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- 15.3 Conflicted Board members may not execute any document on behalf of the company in relation to the conflicting matter.

16. DIRECTOR DEVELOPMENT

The induction and ongoing training and development of director shall be conducted through formal processes.

17. BOARD EVALUATION AND PERFORMANCE


- 17.1 The People and Governance Committee shall facilitate the evaluation of the performance of the Board, its committees and individual directors, and senior executives on an annual basis.
- 17.2 This may take the form of a questionnaire comprising a self-evaluation of the Board as a whole and each director, and the responses may be collected and collated by the Chairman, who shall then discuss the results with the Board after consideration of the findings. The evaluation of the board and directors may be conducted by an independent service provider in consultation with the Chairman.
- 17.3 The Board shall appraise the Chairman's ability to add value and his actual performance against what is expected of his role and function on an annual or such other basis as the Board may determine.
- 17.4 The Chairman shall appraise the performance of the Chief Executive against the criteria specified at least annually.
- 17.5 The Board committees shall also regularly be reviewed by the People and Governance Committee to ascertain their performance and effectiveness. The results shall be reported to the Board.
- 17.6 The results of performance evaluations should identify training needs for directors.

18. COMPANY SECRETARY

- 18.1 As a state-owned company, Eskom must appoint a competent, suitably qualified and experienced Company Secretary. The Company Secretary has a key role to play in ensuring that Board procedures are both followed and reviewed regularly, and has the responsibility in law to ensure that each Board member is made aware of and provided with guidance as to their duties, responsibilities and powers.

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- 18.2 It is the responsibility of the Board, and in its own best interests, to ensure that the Company Secretary remains able to fulfil the function for which he/she has been appointed, and the appointment and removal of the Company Secretary is a matter for the Board as a whole.
- 18.3 The Board members have unlimited access to the Company Secretary.
- 18.4 The Company Secretary is responsible for, *inter alia*:
- 18.4.1 ensuring that the applicable rules and regulations for the conduct of the affairs of the Board are complied with, and for all matters associated with its efficient operation are maintained. He or she must also report to the Board any failure on the part of the company or a director to comply with the MOI or rules of the company or the Companies Act.
 - 18.4.2 maintaining statutory books in accordance with legal requirements and ensuring board and committee terms of reference are kept up to date. He/she must draft annual meeting schedule and annual agenda plan.
 - 18.4.3 Providing the directors of the company collectively and individually with guidance as to their duties, and making the directors aware of any law relevant to or affecting the company.
 - 18.4.4 Providing a guidance and advice to the Board and its committees on issues including compliance with rules and procedures, statutory regulations.
 - 18.4.5 Preparing and circulating board and committee meeting papers.
 - 18.4.6 Ensuring that minutes of all shareholders meetings, board meetings and the meetings of any committees of the directors, or of the company's audit committee, are prepared, circulated and properly recorded in accordance with the Companies Act.
 - 18.4.7 Certifying in the company's annual financial statements whether the company has filed required returns and notices in terms of the Companies Act, and whether all such returns and notices appear to be true, correct and up to date.
 - 18.4.8 Ensuring that a copy of the company's annual financial statements is sent, in accordance with the Companies Act, to every person who is entitled to it.

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19. APPROVAL OF BOARD CHARTER

This charter has been approved by the Board.

Signed by:


Chairman of the Board

18 April 2011
Date



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		Review Date	July 2015
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**MINUTES OF THE ESKOM BOARD MEETING B08-2014/15 HELD ON 24 NOVEMBER 2014
AT THE HUVO NKULU BOARDROOM, MEGAWATT PARK FROM 17H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Mr T Matona	Chief Executive
Ms Q Gungubele	Member (Teleconference)
Ms N Lesela	Member
Ms B Luthuli	Member (Teleconference)
Ms C Mabude	Member (Teleconference)
Ms Y Masithela	Member
Mr M Mkwana	Member (Teleconference)
Ms T Molefe	Finance Director
Mr P Sedibe	Member (Teleconference)
Ms D Zondo	Member (Teleconference)

APOLOGIES

Dr B Fanaroff	Member
Mr C Matjila	Member
Dr B Mehlomakulu	Member

BY INVITATION

External Auditors

Mr S Lockhat
Mr A Mthimuniye
Mr N Ngobese
Mr V Sekese

IN ATTENDANCE

Mr W Venner Committee Secretary

1. WELCOME

The Chairman welcomed all members.

2. APOLOGIES

Apologies as indicated above were noted.

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3. QUORUM

A quorum being present the meeting was duly constituted.

4. DECLARATIONS OF INTEREST

Mr Mkwanazi declared his interests in any items that may relate to Transnet.

5. APPROVAL OF THE AGENDA

It was noted that there was only one Agenda item being the approval of the modifications to the condensed Group Interim Financial Statements for Eskom Holdings SOC Ltd for the six months ended 30 September 2014 ("IFS").

The Chairman explained that after consultation with the Company Secretary it had been agreed that the meeting held on 23 November 2014 had not been properly constituted and therefore it was necessary to hold this meeting to deal with the issues discussed on 23 November 2014. In this regard the Chairman stated he had not afforded the Board the opportunity to properly cancel the meeting held in 23 November 2014 or given them his reasons for not holding the meeting. He apologised for this oversight.

In this regard he had been concerned that the alleged irregularity around The New Age sponsorship ("the matter"), which was to be discussed at that meeting, would be released into the public domain before he had the opportunity to discuss them with the Minister of Public Enterprises. He had updated the Minister of PE and the Director General of PE earlier this day around the issue and therefore it was now prudent for the meeting to proceed.

The Chairman reported that he had received an e-mail from Mr Matjila, in response to Ms Masithela's e-mail around the legality of the previous day's proceedings. At the request of members it was read out for the record as follows verbatim: "I (Mr Matjila) want to place on record that the purpose for which this special board meeting is being called is malicious and is motivated by personal agendas of a few board members.

Firstly, there is an investigation by auditors SNG into the TNA contract. This investigation is not only inconclusive but also incomplete. You, Chairman, had indicated the process that needs to be followed by the Board to consider and conclude on the SNG report. To now claim that this issue is a reportable "irregularity" is malicious and seeks to prejudge the outcome of a process as outlined by the Chairman in his email of 14th November 2014. The board had approved the Interim results on 19th November 2014 with full knowledge that the SNG process is still to be considered by the Board. Even assuming that it is seen as a "subsequent matter" (which i do not agree it is) there is a mechanism in audit processes to deal with this matter in the annual financial report. It remains questionable why the need to insert this incomplete report now.

Secondly, the proposed insertion refers to a belief that 'certain unlawful acts or omissions' have been committed. The deliberate use of the word 'unlawful' presupposes a finding of guilt. This guilty finding has to my knowledge not been pronounced by the Board. The

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insistence to insert this in public documents is a gross violation of the constitutional rights of the person alleged to have acted 'unlawfully'

Thirdly, the proposed "amendments to the interim statements" also refers to 'alleged irregularity'. It is therefore clear that this is still an allegation that requires to be finalized into a conclusion by the Board. This has not happened.

Fourthly, assuming that allegations that may have a financial impact on the Company are reportable as alleged by some members, the question arises as to what criteria is used to single out a particular allegation and not others? There are allegations, Chairman, some of which have been reported to you in writing which may have huge financial implications for Eskom and may also constitute unlawful conduct. These include amongst others the allegations against the Chairperson of Audit and Risk committee and the Financial Director regarding the awarding of certain contracts to Howden, a company providing certain services to Eskom. There are other allegations regarding other Board members that you are also aware of Chair. I would insist that these and other allegations also be reportable consistent with the approach adopted regarding the allegation on the TNA contract.

I therefore wish to record my strongest objection to the proposed amendments to the interim statements and demand that this objection and the contents of this email be read into the record of the special meeting being held tonight."

Members concurred that proper investigations should be undertaken in response to the various allegations in the e-mail. However these were not part of the disclosure that was currently under discussion and should not delay the publication of the interim financial results.

In response to a comment that the Board could not report on an ongoing investigation the FD reported that it was not a Board decision. The external auditors ("the Auditors") had received a legal opinion that the matter was a reportable irregularity and on the basis of non-compliance with the PFMA the matter constituted an alleged irregularity which required reporting in terms of the Section 45(1) of the Auditing Profession Act, 2005 (No. 26 of 2005) ("APA"). Therefore the Auditors had a duty to disclose.

Members agreed that the meeting had not been convened to conclude the matter but to acknowledge that it had been raised and to note that the Board was dealing with it.

A member stated that when the management report included in the Interim Financial Results ("IFS") was written it was assumed that everything had been reported on. At the last in-committee meeting of the Audit and Risk Committee ("ARC"), the Chairman of the ARC had disclosed the matter to the Auditors as it had been brought to the attention of ARC. Therefore everything to date had been done in terms of the Auditors' lawful requirement to disclose the matter. She reiterated that this had not been instituted by any Board member and that the Board had a duty to act in the best interests of Eskom. If the Board resolved to not disclose the matter then the Auditors may not sign the IFS which would be a significant risk and may compromise the IFS as well as lenders and financial reporters. She was

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therefore of the opinion that the decision was whether to comply or not comply. She also supported any investigation arising from the allegations in Mr Matjila's e-mail.

The CE stated that from a procedural point the allegations in the e-mail were a separate issue. The matter was in a different space as it had been brought to the attention of the Auditors. In this regard the Board could deal with the allegations in their own time and they were not part of the discussions for this meeting. With regard to the matter, the Auditors were aware of it and the Board had instituted an investigation and furthermore at present the matter was only an allegation and there was no pre-judgement of guilt. The interests mentioned were for the Board as a collective and not for any individual member.

A member stated that not all members present had been present the previous day to receive the Auditors' explanation and had also not been privy to the ARC proceedings. She stated that the process had been totally transparent. She understood Mr Matjila's concerns in his e-mail and felt it was necessary to respond thereto. In this regard the Auditors should explain that the disclosure was part of a process and was not aimed at any individual. The Chairman agreed that Mr Matjila's e-mail would be noted at this meeting and he undertook to respond thereto.

6. MODIFICATIONS TO THE IFS

The Auditors joined the meeting for the purposes of the discussion.

The Auditors reported that after the Board meeting they had gone away to consider the events around the TNA sponsorship which had led rise to where they were today.

Mr Suleman reported that in terms of the APA that if Auditors became aware or, or had reason to believe, or were satisfied that an irregularity had occurred that they then had certain statutory duties they had to perform. An irregularity was defined by APA as an unlawful act or omission committed by an individual in management of an entity that either resulted in a loss or amounted to theft of fraud or abuse of fiduciary duty. In this regard the Auditors were not required to be 100% certain thereof, but merely satisfied or had reason to believe thereof. Once identified, such a scenario forced the Auditors into an obligation to report the irregularity to the Board of Auditors and at the same time inform management within 3 days of acquiring such knowledge. Thereafter Management had 30 days to respond in terms of the results of the review of the matter.

The Auditors had engaged independent legal advice to assess the information on the table and they had come to the conclusion that management had been involved, a breach of fiduciary duty existed and they had reason to believe an irregularity existed.

In terms of APA they therefore could not issue a clean audit opinion when it came to such a matter. They had to report that they required a modification to their audit opinion stating that such a matter had been identified and had been reported accordingly to the Regulator and management.

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In respect of the process to be followed they reported that the letter had already been delivered to the CE and that Eskom had 30 days to respond to the letter and such response should include consideration by management whether an irregularity existed as well as any corrective action required by the Board. The Auditors had a further obligation after 30 days to report to the Regulator and inform them whether management had either (i) closed out and resolved the irregularity, or (ii) believed it was still ongoing, or (ii) believed no such irregularity existed.

In this regard the Board could respond in any form it believed was fit and proper. It was noted that there may be PFMA considerations as well. The other issue to consider was as Auditors, they had to put in as much detail as possible in the audit opinion which would include APA requirements, the nature and quantum of the alleged irregularity and the specific instances around the irregularity. The Board was advised that if Eskom included the details in its report it removed the responsibility for the Auditors to include it, but this would have to be cross referenced.

For the record it was noted that the irregularity related to the approval of the sponsorship contract by the Interim Chief Executive at the time, which had exceeded the Delegation of Authority ("DoA") and as a result was indicative of a breach of fiduciary duty.

The Auditors had agreed the previous day that the amount of detail was governed by Section 45 of the APA without including a specific person's name. It was noted that the specific person would be included in the Year-end financial reports and was not necessary at this time for the IFS.

The modification to page 56 of the Integrated Interim Results was noted as follows:
"The condensed group interim financial statements have been reviewed by the independent auditors, SizweNtsalubaGobodo Inc. in accordance with International Standards on Review Engagement (ISRE 2410) Review of Interim Financial Information Performed by the Independent Auditor of the Entity, who issued an unmodified review conclusion. However this review conclusion includes an Other matter paragraph relating to a reportable irregularity in terms of Section 45(1) of the Auditing Profession Act, 2005 (No. 26 of 2005). Details of the irregularity are included in the condensed group interim financial statements, under the board approval statement."

The modification to the Financial Statements page 2 was noted as follows:
"On 21 November 2014, the Company's external auditors reported an irregularity in terms of section 45(1) of the Auditing Profession Act, 2005 (No.26 of 2005) to the Independent Regulatory Board for Auditors. The alleged irregularity relates to the conclusion of a sponsorship contract amounting to R43 million by a member of the Accounting Authority contrary to the company's delegation of authority applicable to that contract. This resulted in alleged irregular expenditure, as contemplated in the PFMA. To date no payment has been affected against this contract."

The matter was identified by management and is being considered by the board, which included the commissioning of an independent review by an independent external audit firm. The board is presently considering the findings of the review with a view to implement corrective action. The matter was identified by management and is being considered by the

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board, which included the commissioning of an independent review by an independent external audit firm. The board is presently considering the findings of the review with a view to implement correction action. The matter is receiving the full attention of the board and Eskom is committed to the consistent enforcement of, and adherence to, principles of the highest standards of corporate governance and corporate ethics and endeavours to address governance breaches in a firm and expeditious manner."

It was requested that :

- "To date no payment has been affected" be changed to read "To date no payment has been effected".
- Delete "and corporate ethics and endeavours to address governance breaches in a firm and expeditious manner."
- Delete any repetitions and correct any spelling errors.
- The Auditors reports and opinions modifications should be aligned with the Integrated Interim Results and the Financial Statements.

The Auditors reiterated that this was not a qualification of their audit but was a modification and that they had a clean opinion but had to reference to the other matter.

The media advertisement was discussed and it was agreed that the cross reference to the Financial Statements was adequate.

In response to a query the Auditors reported the following was the way forward:

- 1) The Board had to approve the revised Financial Statements.
- 2) The Board had 30 days to take action and at the end thereof the Auditors would report on the Action taken.
- 3) The auditors still required the letter from the Minister around the going concern status of Eskom

The Auditors were excused from the meeting at this point.

Resolved that:

1. the Board notes and approves amendments to the Interim Financial Results which were tabled before the Audit and Risk Committee on 18th November 2014 and before the Board on 19th November 2014 as follows, subject to the additional changes recommended by the Board:
 - 1.1 the amendment to the Statement of approval by Directors as contained in the condensed group financial statements for the six months ended 30 September 2014 (page 2 of the condensed group interim financial statements attached) is approved;
 - 1.2 the amendment to the Independent Auditors Review conclusion as contained in the condensed group financial statement for the six months ended 30



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September 2014 (page 3 of the condensed group interim financial statements attached) is noted;

1.3 the amendment to the interim integrated report for the six months ended 30 September 2014 (page 56 section 07 of the integrated report attached) is approved; and

1.4 the amendment to the media advertisement on Eskom's interim financial statements for the six months ended 30 September 2014 (page 4 of 5 of the media advert attached) is approved.

8. CLOSURE

There being no further business the Acting Chairman declared the meeting closed at 20h50.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:

Ngubane

DATE:

01/10/15

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**MINUTES OF THE ESKOM BOARD MEETING B10-2014/15 HELD ON 3 DECEMBER 2014 AT
THE OFFICES OF SIZWENTSALUBAGOBODO, NGUBANE INCORPORATED, 20 MORRIS
STREET EAST, WOODMEAD FROM 18H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Ms Q Gungubele	Member
Ms N Lesela	Member (partial Tele-conference until she arrived at the venue)
Ms B Luthuli	Member (Tele-conference)
Ms Y Masithela	Member
Mr T Matona	Chief Executive ("CE")
Dr B Mhlohlakulu	Member
Ms T Molefe	Finance Director ("FD")
Mr P Sedibe	Member (Tele-conference)
Ms D Zondo	Member

APOLOGIES

Dr B Fanaroff	Member
Ms C Mabude	Member
Mr C Matjila	Member
Mr M Mkwana	Member
Mr M Phukubje	Company Secretary

BY INVITATION

Mr L Mazwai.	Ledwaba Mazwai Attorneys
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IN ATTENDANCE

Mr L Dlamini	Senior General Manager in the Office of the Chairman
Mr N Tsholanku	General Manager: Legal
Mr W Venner	Board Secretary

1. OPENING AND WELCOME

The Chairman opened the meeting and welcomed all those present. He introduced the legal team from Ledwaba Mazwai.

2. APOLOGIES

Apologies as indicated above were noted.

3. QUORUM

A quorum being present the meeting was duly constituted.

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4. DECLARATIONS OF INTEREST

Dr Mehlomakulu declared her interests in any items that may relate to SABS on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. APPROVAL OF THE AGENDA

The Chairman stated that the purpose of the meeting was to get feedback from the Legal team as part of the process around the investigation into The New Age ("TNA") sponsorship investigation.

7. TNA SPONSORSHIP LEGAL REPORT

It was reported that the Chairman and the Chairman of the Audit and Risk Committee ("ARC") had met with Ledwaba Mazwai to give them the brief for their investigation.

Mr Mazwai reported that a forensic review had been undertaken around the contract between TNA and Eskom Holdings SOC Ltd ("Eskom"). He had received the preliminary findings and had been requested to provide a legal opinion and what actions should be undertaken against Mr C Matjila and Mr C Choeu who had facilitated the contract.

He reported that because Mr Matjila was no longer the Acting Chief Executive ("Acting CE"), this meant that he was also not an employee of Eskom. Prior to his appointment as Acting CE, Mr Matjila had been a non-executive member of the Board. Mr Choeu still remained an employee of Eskom.

The primary brief which the lawyers had been requested to advise on had been as follows:

- 1) What corrective action should be taken against Messrs Matjila and Choeu.
- 2) Whether or not ratification of the contract was an option and what may happen if this was implemented.
- 3) Whether cancellation of the contract was an option.

The secondary brief was to report on the status of the forensic report.

Mr Mazwai stated that he had received the summary forensic report and the findings were noted as factually correct as follows:

- i) Mr Matjila had signed the TNA contract as prescribed by the Delegation of Authority ("DoA") but evidence indicated that the Sponsorship budget for 2014/2015 had not been approved. The DoA allowed the Chief Executive to approve a contract up to R3m in and after consultation with Exco. In consultation meant in agreement with Exco and after consultation meant consultation with Exco and then make own

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decision. In this regard Mr Matjila had not spoken to Exco as he had viewed the contract as an investment and not a sponsorship.

- ii) The External Auditors (SizweNtsalubaGobodo, Ngubane Incorporated JV) were of the opinion that the contract did relate to a sponsorship and therefore the TNA contract had been irregularly approved because it was above R3m and there had been no consultation with Exco.
- iii) The contract had no exit clause which appeared to be irregular and did not allow Eskom to exit the contract.
- iv) The termination clause had been removed after Mr Choeu had been advised against this by Mr M Adam (Corporate Counsel).

Ms N Lesela joined the meeting at this point.

Mr Mazwai took the report as read and noted that with respect to Mr Matjila the report stated that:

- i) Mr Matjila had exceeded his mandate in terms of signing the agreement.
- ii) The approval should have been done in terms of the budget for 2014/15.
- iii) The sponsorship budget had not been approved.

With respect to Mr Choeu the report stated that Mr Choeu was involved in the removal of the termination clause despite legal opinion not to do so.

A detailed discussion followed on the corrective action noted in the report. It was noted further that the decision to take corrective action would revolve around the fact that Mr Matjila was no longer an employee. In this regard the other key factors were (1) was there any impropriety and (2) disciplinary action would not recover any losses.

In response to a query about liability in terms of the PFMA it was reported that the state would have to take action for recovery of any losses through the civil court if the person was found guilty in a criminal court.

The decision around whether the contract could be regarded as an irregular expense depended on the view of the contract. If the contract was ratified then there would be no irregularity.

It was summarised that the complaint was that Mr Matjila exceeded his authority to approve and sign the TNA contract and that Mr Choeu removed the termination clause against legal advice. It appeared that Mr Matjila was not aware that the termination clause had been removed. It was agreed that it was not the Board's responsibility to take action against Mr Choeu as he did not report to the Board and was an employee of Eskom.

With regard to the TNA contract the lawyers had examined whether the Board could ratify or cancel any contract entered in to by a responsible authority.

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At common law the contract could be ratified by the Board. In terms of PFMA the Board could confirm, vary or revoke any decision in terms of Section 56.3 which meant that the Board could ratify the contract should it so desire. In this instance the responsible authority had exceeded the DoA in the quantum for sponsorship and there was no budget for sponsorship. Furthermore the Board would have to apply its mind as to whether the TNA contract represented a good value for the company in order to ratify it. However if the Board was unable to cancel the contract it may be forced to ratify. As there was no exit clause it would be up to TNA whether they agreed to cancel or not if there had been no breach of the contract. If TNA did agree to cancel or not it could sue for damages if Eskom did not pay and therefore financially Eskom could be worse off. After further discussion it was agreed that Eskom could not cancel as there was no legal basis for termination. In response to a query it was noted that renegotiation of the contract would depend entirely on TNA based on their good corporate governance and/or the prospect of future business.

With respect to whether or not the contract should be regarded as an irregular expenditure, it was reported that this would be in terms of the definition thereof in the PFMA. In this regard it would have to be determined what legislation had been breached in order for the expense to be regarded as irregular. It was requested that the lawyers review the different interpretations of irregular expenditure as well as the definition of fruitless and wasteful expenditure.

The Chairman requested that this be done in order to allow members to understand the issues and to give direction to the action the Board would want to take. It was noted that if the Board or Exco or the CE were of the opinion that this was a bad contract, not much could be done against Mr Matjila as he was not an employee of Eskom.

Mr Sedibe was excused from the meeting at this point.

The Chairman reported that Mr Matjila had stated to him that he (Mr Matjila) had the right to defend himself. However there was a time factor involved to allow this which may lead to an incomplete processing of this issue by the current Board. In this regard members would have to decide whether they were comfortable to close off on this matter or take it to a level where another new Board could make the relevant decisions. Members agreed generally that this Board had to close off on the matter and that Mr Matjila should be given an opportunity to defend his actions. Thereafter the Board would be in a position to make an informed decision.

In response to a comment by a member that the report did not state whether there had been a breach or not it was reported that there had been a breach of fiduciary duty and the

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question was whether it was an irregular expenditure or not. In the absence of further information it had to be accepted that there had been a breach.

The Chairman of the ARC stated that it had to be determined whether or not the contract was irregular in terms of the definition of irregular expenditure in the PFMA. In this regard she had received a request from Mr Matjila for the annexures to the forensic report. At the time the Company Secretary had discussed this with the external auditors who had stated that this was unheard of and might prejudice the whole process and had reverted the decision back to the Chairman of ARC. The matter had been discussed at ARC and the committee decision had been to not make the annexures available as the investigation was still in progress and this might prejudice Eskom and the people who had given evidence. Furthermore time was not available for this action. However Mr Matjila could request any other relevant documents.

The Chairman of the ARC stated further that she wanted it noted that this was not a personal action between her and Mr Matjila and that all actions had been done on the basis of her duty as Chairman of ARC. The Chairman stated that the Board required guidance from the lawyers on what Mr Matjila was entitled to see or what sections and classes of information he was entitled to have. Furthermore the Board needed to decide what issues it should be concerned with around this matter. Thereafter the issues which had to be fixed should be fixed. The status of the contract was immaterial.

After some debate it was agreed that this Board had to finalise the matter and would have to agree or disagree with the audit findings and give reasons therefore.

It was agreed that the matter had to be finalised at a meeting to be held on 8 December 2014. In response to a discussion as to whether the contract could be regarded as good or bad, it was agreed that from the stand point of the financial status of Eskom the contract could not be regarded as a good contract. However this could only be resolved once Mr Matjila had made a representation to the Board and explained why he (Mr Matjila) was of the opinion that this was a good contract. In this regard the lawyers advised that the procedure would be as follows:

- 1) Mr Matjila should table his presentation as to why he was of the opinion that the TNA contract was a good one.
- 2) Explain why he did not follow the governance procedures and the guidelines of the DoA.
- 3) Recuse himself to allow the Board to deliberate.
- 4) The Board deliberates and makes a final decision.

In response to a query around the proposed response to Mr Matjila's allegation at other Board members (discussed on 24 November 2014) the Chairman reported that he was awaiting details from Mr Matjila and thereafter would address the allegations with the relevant parties and authority.

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Resolved that:

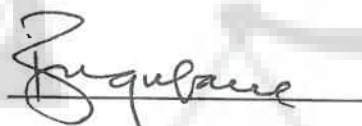
1. Messrs Ledwaba Mazwai should review the various interpretations of "irregular expenditure" and "fruitless and wasteful expenditure" in the PFMA and the National Treasury guidelines and any other relevant legislation to enable the Board to make an informed decision on the determination and the way forward of the TNA contract;
2. a special Board meeting should be convened on Monday 8 December 2014 to finalise this issue; and
3. Mr Matjila should be advised that he can table a representation at that meeting to explain why he is of the opinion that the TNA contract is a good contract and why he did not follow the governance procedures and the guidelines of the Delegation of Authority.

14. CLOSURE

There being no further business, the Acting Chairman declared the meeting closed at 21h00.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:



DATE:

01/10/15

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**MINUTES OF THE ESKOM BOARD MEETING B11-2014/15 HELD ON 8 DECEMBER 2014 AT
THE OFFICES OF SIZWENTSALUBAGOBODO, NGUBANE INCORPORATED, 20 MORRIS
STREET EAST, WOODMEAD FROM 18H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Ms Q Gungubele	Member
Ms B Luthuli	Member
Ms C Mabude	Member (Tele-conference)
Mr T Matona	Chief Executive ("CE")
Mr M Mkwana	Member
Ms T Molefe	Finance Director ("FD")
Mr P Sedibe	Member (Tele-conference)
Ms D Zondo	Member

APOLOGIES

Dr B Fanaroff	Member
Ms N Lesela	Member
Ms Y Masithela	Member
Mr C Matjila	Member
Dr B Mehlomakulu	Member
Mr N Tsholanku	General Manager: Legal

BY INVITATION

Mr L Mazwai.	Ledwaba Mazwai Attorneys
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IN ATTENDANCE

Mr L Dlamini	Senior General Manager in the Office of the Chairman
Mr M Phukubje	Company Secretary
Mr W Venner	Board Secretary

1. OPENING AND WELCOME

The Chairman opened the meeting and welcomed all those present.

2. APOLOGIES

Apologies as indicated above were noted.

3. QUORUM

A quorum being present the meeting was duly constituted.

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4. DECLARATIONS OF INTEREST

Dr Mehlomakulu declared her interests in any items that may relate to SABS on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. APPROVAL OF THE AGENDA

The Chairman stated that the purpose of the meeting was to get feedback from the Legal team as part of the process around the investigation into The New Age ("TNA") sponsorship investigation.

6.1 OTHER

The Chairman distributed a letter from the Minister of Public Enterprises to members which was also read out. It thanked the members for their participation on the Board of Eskom and noted that the Minister would contact each member individually in respect of their continued membership on the Board.

7. TNA SPONSORSHIP LEGAL REPORT

Mr Mkwazi stated that he was aware that the Board had met the previous week and felt that this follow-up meeting was the correct procedure and that this matter should be closed out and included in the handover report.

The FD stated that the auditors should advise on how the Board should respond and queried whether it was possible to get an extension from the Regulatory Authority for the Board's response. A member stated that the fact that the matter was on the Board's agenda would be the feedback that the auditors would give to their Regulatory Authority and that the matter would be completed by the end of the financial year.

It was reported that the Public Protector had granted an extension for a submission on the issue to today and that the CIPCR had also requested a report on the matter.

The External Auditors joined the meeting at this point.

The Chairman advised the auditors that the Board was aware of the 30 requirement for them to respond to the irregularity report sent to the Auditors Regulatory Board by the external auditors on this matter and queried if an extension of the time to respond was possible. Mr Suleman advised that the auditors duty was to report on what the Board has done in response to the irregularity report and therefore a response was required. If the

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Board did not respond the auditors would have to report elsewhere. However the auditors could apply for an extension and note that the Board had taken the matter seriously and was actively addressing the issue but that the Board was in the process of transition and therefore may require an extension. A letter would be required from the Chairman to state what the Board had done thus far, including a statement that the Board was preparing to hand over to a new Board.

The External Auditors were excused from the meeting and Messrs Ledwaba Mzwai joined the meeting.

Mr Ledwaba reported that they had been requested to review what constituted an irregular expense. They had examined the PFMA and other legislation including National Treasury regulations and guidelines in respect of irregular expenditure, fruitless and wasteful expenditure and a reportable irregularity.

The definition in the PFMA stated that irregular expenditure was "any expenditure other than unauthorised expenditure not in accordance with any approval incurred in contravention of any applicable legislation or incurred not in accordance with the requirement of any applicable legislation." In this regard "unauthorised" did not apply.

The judicial requirements breached were that the Mr Matjila, as Acting Chief Executive ("Acting CE") had signed The New Age ("TNA") contract without Exco approval or discussion and there had been no approved budget. It was noted that these facts aligned with the above definition. The lawyers had focussed on the PFMA definition and concluded that the TNA contract did incur an expenditure and was in contravention of the PFMA section 57 (b).

It was reported that the National Treasury regulations differed from the PFMA in that irregular expenditure was deemed to be incurred not on conclusion of the agreement or incurring the expenditure but on disbursement of payment.

The lawyers were of the opinion that Mr Matjila's conduct constituted a wilful misconduct in terms of the PFMA. The National Treasury regulations stated that if there was a financial misconduct by an employee then the Board must ensure that an investigation was conducted and relevant disciplinary action taken. Furthermore the Board had to advise the relevant Minister, National Treasury and the Auditor General thereof. In respect of the reportable irregularity it was reported that the external auditors had made a disclosure thereon.

With respect to the definition of fruitless and wasteful expenditure it was stated that the Board had to take a view whether the contract had value or not, whether the expenditure

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had been made in vain or would have been avoided if a decision had been taken by the relevant governance authority.

It was noted that it was necessary to narrow down to the basis for a decision by the Board. The CE stated that a hearing was not possible and therefore the Board could not decide on Mr Matjila's guilt or innocence. As a result he recommended that the determination as to whether the expense was fruitless and wasteful expenditure should be excluded from the discussion on the basis of the evidence received as the question was not whether Eskom should continue with the contract but was on the terms of the contract. The Chairman stated that the Board had to be convinced that the contract was not a bad one. The current discussion was around the irregular expense in terms of the PFMA and therefore it was necessary to isolate the issues that should be in the report to the various authorities, as stated above. Ms Luthuli stated that the handover report had to reflect that the Board had considered whether or not the contract was a bad one and had concluded that the contract was not good at this time.

In response to a members comment that the Board should find that there had been an irregular expense and the signing of the contract was not in the best interests of Eskom and the incoming Board should deal with the matter the Chairman stated that this point had not yet been reached but it had been resolved that Mr Matjila should explain his actions.

In response to a member's statement that whether the matter was reportable or not in terms of the APA, the expense had to be over R25m in one year and this expense was only R15m, it was noted that the report in terms of the APA had already been done and therefore this did not apply.

With respect to fruitless and wasteful expenditure, Mr Mazwai reported that there was no definitive definition or agreed legal opinion and therefore it could be resolved by the Board that it was not a fruitless and wasteful expense. It was recommended that this view be discussed with the auditors.

Mr Mazwai reported further that based on the facts they were of the opinion that the contract was not a good contract but this could not be resolved by the Board without first having Mr Matjila's representation (discussed on 3 December 2014). The forensic report had no focussed on the commercial value of the contract and it was recommended that consideration could be given to requesting the forensic auditors to investigate the commercial value. Mr Mazwai recommended that a view in this regard not be taken without Mr Matjila's recommendation.

After further discussion the Chairman requested that the lawyers prepare a summary and resolution with the Company Secretary for him and the Chairman of ARC to sign.

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The Chairman undertook to respond to Mr Matjila's e-mail tabled on 24 November 2014. With respect to the issues raised in the e-mail against Ms Luthuli and the FD he would ask management to investigate. However the rest of the issues raised by Mr Matjila had been done verbally to the Chairman and if he (Mr Matjila) wanted any further action taken he would have to submit details in writing to the Chairman. In response to a member's comment that all other issues should be included in the handover report the Chairman stated that only written issues would be dealt with.

Ms Luthuli stated that she was concerned that nothing had been done about the allegations raised by Mr Matjila and would welcome a thorough investigation. Furthermore she had offered to step down as Chairman of ARC if it was felt that she would interfere with the investigation. The Chairman stated that he had been of the opinion that the issues had not been material but agreed with members that this should be investigated because of reputational issues.

Resolved that:

1. the feedback from Ledwaba Mazwai Attorneys around the definitions of what constituted an irregular expense, fruitless and wasteful expenditure and a reportable irregularity is noted;
2. Ledwaba Mazwai Attorneys and the Company Secretary should prepare a summary and final resolution on the discussions and decisions around the New Age sponsorship contract for signing by the Chairman of the Board and the Chairman of the Audit and Risk Committee for inclusion in the handover report to the new Board; and
3. the Chairman should request an investigation into the matters raised by Mr Matjila in his e-mail dated 24 November 2014.

8. CLOSURE

There being no further business, the Acting Chairman declared the meeting closed at 21h00.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:



DATE:

01/10/15

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**MINUTES OF THE ESKOM BOARD MEETING B12-2014/15 HELD ON 16 JANUARY 2015 AT
THE HUVO NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Mr T Matona	Chief Executive
Mr NT Baloyi	Member
Dr BS Ngubane	Member
Ms C Mabude	Member
Mr Z W Khoza	Member
Ms V Naidoo	Member
Ms V J Klein	Member
Ms N Carrim	Member
Dr P Naidoo	Member
Mr MV Pamensky	Member
Mr R Kumalo	Member

APOLOGIES

None

BY INVITATION

Mr M Adam	Divisional Executive: Regulation and Legal (DE: R&L)
Mr T Govender	Group Executive: Generation (GE: TX)
Mr M Koko	Group Executive: Technology & Commercial
Ms A Noah	Group Executive: Distribution (GE: DX)
Mr F Ndou	Acting Divisional Executive: Office of the Chairman

IN ATTENDANCE

Mr M Phukubje	Company Secretary
Mr N Tsholanku	General Manager: Legal (GM: Legal)
Mr L Dlamini	General Manager: Office of the Chairman
Ms C Reddy	Acting Board Secretary

1. OPENING AND WELCOME

The Chairman of the Board, Mr Z A Tsotsi welcomed members to the first Board meeting for 2015.

He briefly highlighted the following housekeeping matters:

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- Meetings will commence with an in-committee meeting with Board members only.
- Security of information and leakages was of upmost importance and the Board needed to address this, taking into cognisance interaction with their offices either via electronic medium or telephonically. This matter will be dealt with further during the in-committee discussion.

The executives and officials from the Office of the Company Secretary in attendance were given the opportunity of introducing themselves..

APOLOGIES

There were no apologies noted

2. QUORUM

A quorum being present, the Acting Chairman declared the meeting duly constituted.

3. DECLARATIONS OF INTEREST

The following declaration of interests were recorded, there were no other declarations of interest pertaining to items on the Agenda.

Mr M Adam,item 6.4 Selective Demand Curtailment.
Dr P Naidoo.....member of the SA Electrical Engineers Council

4. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

5. APPROVAL OF THE AGENDA

The agenda with inclusion of the items Unpacking of Burning Platforms and Issues and SA Electrical Engineering Council under General was adopted, and on conclusion of the agenda, an in-committee with members only will be held. It was agreed that the order of items on the agenda would be slightly changed to accommodate the availability of members.

The Chairman commenced by taking the Board through the process that would be followed for clarity and future engagements. Executives were advised that Board's expectation was to maintain transparency between Board and Exco so as to build and foster a high trust relationship by:

- Keeping Board informed of all critical issues timeously and avoid information getting to the media prior to members becoming aware of it.
- Updating the Chief Executive and Chairman on the War Room engagements to maintain alignment.

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- Ensuring Board is kept abreast of the top risks of the company through the Audit and Risk Committee who will monitor and keep Board informed, providing due respect and protocols between executive and Board are followed. Executives to engage Board members via the CE. Arising from the presentation made at the Board Induction, risk management was an area of concern, therefore Board will be taking a keen interest in how risks are managed, Audit and Risk; and
- Scheduling a relationship-building breakaway between Board and Exco.

Members were informed that the list of Board committees and its membership will be circulated and discussed further during the in-committee meeting on even date.

Further, the Board was informed that an independent company should evaluate the climate between the Board and Exco, and the outcome should be submitted to the shareholder at the AGM. It was noted that the actions from the previous AGM would be considered at the February 2015 meeting.

6. REPORTS

6.1 BUILD PROGRAMME UPDATE

Reference document 6.1 (a)

By direction of the Chairman and members, the presentation in the meeting pack was taken as read. Management was commended for the informative presentation that was considered and noted. Board acknowledged that Eskom was on track to meet the build programme target.

Resolved that:

1. the update on the Build Programme is noted.

6.2 ESKOM WAR ROOM UPDATE

The CE took the Board through the emergency measures for the next 30 days to respond to government's five point plan on the electricity challenges in the War Room established in December 2014. He explained that this initiative was triggered by the increase load shedding incidents over the last three months mainly due to the silo-collapse at Majuba that also had led to the increases usage of OCGTs. Further, he explained that the costs and logistics challenges were a consequence of this capacity reduction, diesel usage was beyond the available budget, etc.

The elements of the five point plan were;

- The 30 day Eskom Emergency Measures that consisted of UCLF, Majuba Recovery plan, management of diesel, skills to deliver Generation maintenance and Management of Eskom's Financial position till year end.
- Co-Generation
- Gas Imports
- Coal Independent Power Producers (IPPs)
- Demand-side Management

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He went on to share background on the joint initiative between Eskom and government to address the constrained power system challenges based on the recent spectre of load shedding events. Eskom's responses arising from the discussions was unpacked and Board was informed that Eskom was tasked to improve strategic maintenance and operational efficiency, address diesel supply constraints with collaboration between critical SOCs (PetroSA, TNPA, and strategic Fuel Fund) supported by a Memorandum of Understanding. Eskom was also to provide a detailed financial plan to manage its cash flow until the end of January 2015 and shift from the business unusual situation of Eskom. Further, he explained that Eskom has been tasked to submit a plan with initiatives to deal with the emergency measures over the next thirty days.

The CE handed over to Mr L Maleka; Eskom representative in the War Room engagement to provide Board with more details and update on the progress to date. More details on the five point plan was shared based on the presentation in the meeting pack. Positively it was highlighted that Eskom had welcomed the support and opportunity to engage government on the burning issues.

A member queried the number of smelters in the country, their consumption and the process to shut them down, in particular BHP Billiton and their views. It was accepted that information pertaining to this query will be dealt with under agenda item 6.4, however, it was noted that there was appetite to deal with this matter and discussions with industries will be driven by government.

The key priority for Eskom from the War Room in the 30 day emergency response was to improve strategic maintenance and operational efficiency, achieve the immediate short term funding, regulatory support and logistics management mechanisms for the additional diesel supply requirements for February and March 2015 must be resolved. In addition Eskom's emergency measures in the 30 day period were to;

- Explore other Generation options (e.g. STIPP's, Gas)
- Focus on New (Medupi unit 6 first synchronisation in quarter 1 of 2015) and existing Generation options(Majuba interim solution)
- Explore methods to fast track demand side initiatives which are currently in the medium to long term time-frame
- Eskom is also focussing on other key areas of challenge, e.g. debt management
- More work needs to be undertaken on other areas to deliver on initiatives in the medium to long term; and this was largely informed by initiatives like the Medium Term Outlook with cost implications

The CE requested Mr Maleka to repackage the presentation to include progress to date and the actions going forward including achievements for Board to influence.

The GE: GX took the Board through the outage management and gave insight into the operations of the machines and achievements to date. It was agreed that this information is included in the report to Board, including the achievement of 5000MW during the December outages that was wiped out by other breakdowns. It was explained that TX

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was involved with DoE and had raised concerns with the purchase agreements, and it was subsequently agreed that Eskom's comments will be considered.

Board acknowledged the expectation from Eskom to rebuild confidence and questioned the War Room timelines for delivery and accepted accountability to sustain the Eskom business as per the PFMA requirements under section 50. Members expressed concern that there could be a tendency and a risk of talks by government without results due to delayed decision-making. Mr Maleka confirmed that there were timelines within the 30-day period to focus on the demand response strategies and going forward it was expected that there will be committed deliverables and timelines.

From the ensuing discussion it was pointed out and noted that:

- Eskom's involvement in the IPPs was an area that the Board needed to consider going forward. This period required quick decision making and although there were consistent engagements, the decisions taken were slow and frustrating.
- Therefore, it was important that the public and stakeholders are kept abreast through the media briefings kept abreast of the preceding events and informed of the real state of the system to maintain transparency.
- It was important for Board to understand the gravity of the issues facing Eskom and that Eskom needed to continue placing pressure and emphasising its requirements for support from government and stakeholders.
- Despite taking into consideration the enormous challenges, the current political situation and the efforts from the business, Eskom must take accountability to sustain the system and face reality.
- The debt issue was a concern of the Board and warranted a discussion.
- Board is represented at the Eskom Emergency Task Team ("EETT") meeting to facilitate progress going forward in Eskom's favour.
- A consolidated list of burning issues, its status, Eskom's position with timelines, accountability for deliverables and challenges is consolidated to inform and assist Board on its level of engagement and the resolutions required from government.
- The 30 day plan was a timeline from government for decisions to be taken to procure diesel, etc and was a plan in response to government, but Eskom did have its own turnaround longer-term plan that could be unpacked for Board at the breakaway.
- From a governance perspective, Board needs to receive sufficient detail and assurance and be adequately informed to engage stakeholders, whereas currently the Board members were not sufficiently informed.
- There was a perception of mistrust and non-transparency.
- Information to the media should be brief, limited to the facts and Eskom taking accountability and without pointing fingers and making reference to the past.

Having considered all the comments and responses recorded above, the Chairman agreed that the report to Board would include the emergency response plans, with focus on Eskom's plans, deliverables, timelines and accountability. Further, members were

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requested to add to the list of burning issues being identified for discussion that would be monitored by the company secretary as an action list.

Resolved that:

1. Mr L Maleka should submit a consolidated report to Board members on Eskom's emergency response plans, with focus on Eskom's plans, deliverables, timelines and accountability; and
2. Members should submit their burning issues to the Company Secretary for future Board discussions and monitoring of actions.

6.3 SELECTIVE DEMAND CURTAILMENT

The GE: Commercial and Technology, Mr M Koko and DE: Regulation and Legal, Mr M Adam took the Board through the Selective Demand Curtailment based on the submission documents circulated in the meeting pack.

Board took into consideration that the Protocol for Selective Demand Curtailment was approved by the then Board in March 2012 as an additional mechanism to ensure the security of supply and the subsequent process followed to date resulting in a resubmission for Board's consideration. Board was informed that the risks articulated in the submission had been addressed, however, the risk of implementation without Nersa approval would expose Eskom to civil claims for damages and customers could also seek to interdict Eskom.

The Board deliberated the pros and cons of the submission and raised questions of clarity and concern that were addressed as follows:

- With regard to the legal implication from cutting off Eskom due to debt, Nersa approves the liability to discriminate and Eskom would be protected providing Nersa follows due process.
- The issue of paying customers versus non-paying customers was being considered.
- debt management and legal implications be added to the list and the right of recourse also be looked at to understand the risk of implications.
- The total smelters were worth approximately 5000MW and there was a special pricing with BHP Billiton.
- The approach followed was to make a Nersa application in view of the changed circumstances to reach an agreement, BHP Billiton had made submissions to Nersa and Nersa was seeking legal opinion prior to making a decision. The duration of the contract was 2025 and Nersa has agreed with Eskom's interpretation that the contract is up to 2025 and not 2030.
- It was confirmed that all avenues and legal options for the contract had been considered for implementation within its mandate with equitable apportioning of supply to customers. The biggest failure of the contract was due to not having it capped.

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In response to query regarding the resubmission, it was clarified that a submission was made to Nersa but due to no response and given the current situation the resubmission was considered for sharing with the current Board prior to a discussion in the War Room. Secondly, the then Board had mandated the CE in 2012 and given the restricted movement from Nersa. The request on the table was for the current Board to support the same process to be fast tracked, excluding the resolution 2.3 reflected in the submission.

For future consideration, the Board requested that contentious issues for resolutions be highlighted to the Board for urgent consideration and approval. Further, the agenda and reports to Board articulate whether items are for noting and/or for approval with salient facts supporting the submission.

With regard to the economic impact assessment, Treasury will be analysing the impact of this load curtailment on the economy, revenue and other factors to obtain an informed outcome. It was noted that since Mr Adam will be leaving Eskom at the end of January 2015, Mr Neo Tsholanku of Legal will be working on this matter going forward.

The Board supported the resubmission and approved the recommendations, excluding 2.3 on the basis that the matter would be fast tracked in light of the current status of Eskom.

Resolved:

1. In the light of the significant power system constraints it is noted that the Board had approved the following:
 - 1.1 The Protocol for Selective Load Curtailment which, amongst others, authorised the reduction or termination of supply to selected customers (Selective Curtailment) as a viable additional option to manage the supply constraints;
 - 1.2 The submission of an application to Nersa for approval to implement Selective Curtailment;
 - 1.3 The Chief Executive is authorised to:
 - 1.3.1 Convene a special meeting of the Board if deemed appropriate by him to do so, to decide on actions to be taken;
 - 1.3.2 Reduce or terminate supply to specific customers or a group of customers; or
 - 1.3.3 Reduce supply to all customers to whom a mandatory Energy Conservation Scheme would apply (as per the relevant resolution and protocol referred to in the resolution included in the submission to the Board on 16 January 2015);
2. It is noted that the application was duly submitted to Nersa but approval has not as yet been received. In the circumstances, and given the ongoing system constraints, that in line with the Board decision the Cabinet Sub-Committee will be requested to assist regarding the following:
 - 2.1 Engagement with Nersa to expedite the processing of the application for approval to temporarily suspend reduce or terminate the supply of electricity

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to a select group of customers (Selective Curtailment), being the top 50 customers; and

- 2.2 The relevant Government Departments (including National Treasury, DTI, Economic Development, OPE and DoE) be requested to support the application by making written submissions to the Nersa in this regard.

6.4 FINANCIAL STATUS UPDATE

Reference document 6.5

Messrs M Buys and A Pillay joined the meeting to present an update on Eskom's financial status based on the presentation in the meeting pack.

The following queries were raised and clarified at the meeting:

- Historical costs are used for depreciation and are disclosed.
- The half year results and how the principles are applied in the calculation and the actual revenue losses at mid-year were questioned.
- The cost reflective tariffs assist Eskom's calculation, however, the gap identified still needed to be addressed.
- Revenue under-performance was mostly due to the drop in demand in some sectors of the economy (e.g. Munics)
- Reduction in sales did not result in a reduction in coal due to other costs carried such as the Medupi coal penalty, OCGT fuel costs, etc.
- Coal contracts include penalty clauses to address coal cost variances.
- The option of increasing imported power from the SAPP region (e.g. Mozambique; etc.), which is cheaper than the coal-based electricity should inform the sales strategy.
- Repairs and maintenance was behind budget due to the maintenance being weather driven, normally GX maintenance is done in summer when the load is low.
- Repairs and maintenance will be carried out as per the 80-10-10 plan consistently over the next 3 years and recurring maintenance will be matched and under opex.
- Other major maintenance and repairs is recorded under capital, especially the replacement of equipment. However, in view of the Nersa approval above inflation rates, the refurbishment maintenance costs versus budget are high and Eskom has to grapple.
- Eskom takes the necessary steps to create better understanding and build a relationship with Nersa given the previous experiences and delays and taking into consideration the requests and actions from Eskom to no avail
- Separation packages approved will be provided for in full by year-end. The impact of salary adjustment will take longer to come into effect and increased overtime was due to the high maintenance. Allowances were being reviewed in light of BPP.

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- More information on employee benefits be provided in future reports,
- Contract labour is reviewed with more information on the strategies to curtail the risks and ensure air tight contracts.
- The return on assets is much lower than what it costs to produce it and reduces Eskom's operating cost line, weakens the balance sheet and reduces Eskom's ability to pay interest on its debt, hence the need to get cost-reflective tariffs.
- Eskom makes profit in winter due the lower costs and reduced winter maintenance and higher winter tariff with higher volumes of energy sold.
- Regarding the municipal debt, more comparative details on the impairment is provided.

Resolved that:

1. the Financial Report for the period ending November 2014 is noted;
2. Exco takes the necessary steps to create better understanding and build a relationship with Nersa; and
3. future reports include more information on employee benefits and comparative details on the impairment of the municipal debt.

The CE, GE: C&T & DE: R&L were excused from the meeting at 12:30

6.4.1 Bond Issue Questionnaire
Reference document 6.5.1

Members were taken through the questionnaire circulated individually for completion and return to Treasury by Friday, 23 January 2015.

The Board adjourned for lunch at 13:30 and resumed at 14:00. Ms Carrim was excused at 14:00

7. COMMITTEE HANDOVER REPORTS

By direction of the Chairman and Members, the committee handover reports for the Board sub-committees included in the meeting pack were taken as read and noted.

7.1. Investment and Finance
Reference document 7.1

7.2 Social Ethics And Sustainability
Reference document 7.2

7.3 People and Governance
Reference document 7.3

7.4 Tender

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Reference document 7.4

8. GENERAL

8.1 Media/Communication: Review

A concern was expressed with regard to the media releases and the information that was shared with the media. It was a concern that the public was not aware of the efforts and achievements of Eskom and the good news that was not being published. In response, management advised that there was an education drive and campaign in 2014 to share good news stories, which needed to be elevated and expanded wider. Another member agreed that a PR exercise was required to expose the good work Eskom was doing; taking cognisance of ensuring there was a balance in view of the current status and load shedding. The member suggested that a subcommittee consider the concerns and make recommendations to the Board for approval.

It was suggested that the energy saving message should be aggressively driven by approaching communities, schools and the public, which as explained was part of the five point plan. The committee should look at how to strategise the savings campaign and the good work being done by Eskom and make recommendations to the Board. The current messaging and the inundated requests from the ministers and messages from Eskom being changed and released thus distorting the message, therefore it was necessary to formalise the process to the effect that a message from Eskom should not be changed once approved by Eskom. Further, given the queries about why 'good news' was limited, messages should be coupled with information on the scope and cost messaging. The member emphasised that the Board must make a decision to review and change its 'mode and content of messaging, with continuous reminders.

It was agreed that the subcommittee would engage the PR committee and make recommendations to the Board on 16 February 2015. The chairman of SES was requested to communicate a date for the meeting to the Secretariat.

8.2 Risk Register

A copy of the risk register should be circulated to members of the Board.

8.3 Debt management

More detail of the process, the challenges, actions taken, outstanding issues with proof of results and matters escalated to Board for attention. Costs for delivering services to the Rural area compared to day to day costs, to include plans of electrification of the scattered homes in the Rural area. Consider alignment with the Rural Development plans in terms of future layouts and how best Eskom can optimise on providing services, taking into consideration future development and costs savings versus money waste in services to newly designed areas. Management to consider the concept of 'selling the debt' in particular the legal issues and share what has been explored to date.

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8.4 Turnaround Strategy

List the 3 main issues of the company and reflect how the current situation has diverted focus and reflect how these areas are being managed. The output should form part of the report back at the next Board meeting. Keep separate from the crisis category and report on the category of sustainability and growth as well to inform a discussion on 'What can be Done Going Forward'.

8.5 State of the Eskom Fleet

Include a report on whether or not an independent view was obtained and include the cost of replacement. It was confirmed that an independent benchmark was conducted and will be included in a detailed report to Board. Report be submitted for discussion at the next meeting. It was recommended that government is advised that an independent review was conducted and for government to decide whether they want to request another independent review. It was considered that Eskom could benefit from an independent review by government providing protocols are followed and based on agreed criteria.

8.6 Panel of Experts/International Advisory committee– Chairman

The Chairman was in engagement with government to source international and multi-national energy experts to 'monitor' Eskom which will also assist Eskom with its public relations and will give fresh views. Members supported the idea that the report needs to be considered in light of its confidentiality with the necessary due diligence prior to sharing in the public domain. It was noted that HSBC has been doing a lot of work in the energy area and Eskom could consider whether their input could be used in the exercise. Given the support of members, the Chairman indicated that the forthcoming DAVOS conference could be a platform to engage stakeholders. Further, a member indicated that Eskom should take advantage of the SA Electrical Engineering Council delegates that were positioned in key energy industries, some former Eskomites who could share valuable insight to benefit Eskom and to enhance public relations for Eskom. The Chairman requested inputs towards framework/terms of reference on the process of engagement. The tor articulates the principles notwithstanding those members should not be conflicted and the tor should be carefully crafted to avoid repercussions such as conflict of interest and others.

8.7 PFMA Section 51 – Indemnity

Indemnity should be tabled at the next meeting. The risk register would assist in assessing the related risks. It was suggested that the Audit and Risk committee should consider these risks and the mitigating strategies with input from members. The Company Secretary was requested to engage the Finance Director and to ensure that sub-committees are orientated before the meeting starts.

9. ASSESSMENT OF MEETING

Members were requested to complete the assessment of the meeting forms.

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10. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 14:50 after which the Board went into an in-committee session.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:

Ngubane

DATE: 01/10/15

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**MINUTES OF THE ESKOM BOARD IN-COMMITTEE MEETING 12-2014/15 HELD ON 16
JANUARY 2015 AT THE HUVO NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Mr T Matona	Chief Executive
Mr NT Baloyi	Member
Dr BS Ngubane	Member
Ms C Mabude	Member
Mr Z W Khoza	Member
Ms V Naidoo	Member
Ms V J Klein	Member
Ms N Carrim	Member
Dr P Naidoo	Member
Mr MV Pamensky	Member
Mr R Kumalo	Member

APOLOGIES

Ms T Molefe	Finance Director
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BY INVITATION

Mr A Minnaar	Senior General Manager:
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IN ATTENDANCE

Mr L Dlamini	Senior General Manager: Office of the Chairman
Mr M Phukubje	Company Secretary
Ms C Reddy	Acting Board Secretary

1. IN-COMMITTEE DISCUSSION (MEMBERS ONLY)

1.1 Disconnect with Government/Trust Relationship

Members briefly discussed the trust relationship with government and the disconnect between the government departments. The Chairman indicated that issues of concern would be raised at the forthcoming meeting with the Deputy President with the aim of finding a way to interact with the Deputy President and engage him on Eskom's views and results. The discussion took into consideration past experiences and it was agreed that every opportunity should be taken to drive Eskom's view, challenges and expectations to move forward.

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A member queried whether Eskom could be in a position to air its view in terms of whom it should report to. Having considered the views and the government protocols, the Chairman was not comfortable to initiate engagements on this topic, given that it may not be considered within context. However, possible avenues would still be pursued to drive Eskom's thinking going forward. The Board briefly discussed the current process and governance.

1.2 Security of Information

The Chairman invited ideas from the members to enhance the security of information that was urgently required, given the recent leakage of information and bugging of meeting rooms. It was recommended and agreed that cell phones not be brought into the Boardroom, and only slates be allowed into the meeting room by the Board and Board subcommittee members. In future, cell phones should be left with a dedicated individual who should be mandated to receive and relay messages to the members. Eskom security, in consultation with the Company Secretary, would be requested to disable some functionality and implement blocking modes or initiate the necessary steps to address any security gaps.

The Chairman shared some background on the recent leakages of confidential information that had resulted in unnecessary media and legal interrogation that was time consuming and had led to additional Board meetings. Therefore, the decision was taken to sweep the meeting rooms prior to any Board meeting. A member indicated that some of them had received calls from media journalists.

1.3 Participation of Executives

Executives were normally in attendance for part of the meeting to deal with content issues on the main report and were excused after tea breaks but remained on standby throughout the meeting.

1.4 Board Packs

Board packs would be made available within 7 days to allow members to prepare adequately. Further, the size of the Board pack and the decision making process, it was stated should be reviewed, in particular focussing on only relevant information to inform the members towards an informed decision. The review would also consider timeframes per item and reflect on the agenda sequence as to whether items are for noting, approval, discussion etc. This would assist members in sufficiently preparing for the meeting. Normally, Board packs were sequenced under key categories as requested, however, the content of meeting packs would be reviewed to streamline the Board's focus on the subject and information at hand. Further, sub-committee reports would be clearer and reflect recommendations and items for Board approval amongst other pertinent matters.

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1.5 Board Sub-committees

A recommendation on the Board sub-committees membership and chairman was tabled for discussion, and which would require shareholder approval. The Chairman indicated that Mr T Baloyi would be chairing the ARC committee for the interim until an additional member (CA) was appointed. Members were taken through the subcommittee membership and explained the reasoning on the make-up and timelines of some of the committees, in particular the BBPR and EETT that would be chaired by the Chairman of Board, as appointed by the shareholder since established.

In response to a query around the frequency of some meetings with reference to those in 2014, the view was that given the new membership and chairpersons, meetings like the Tender Committee could be limited to those scheduled. A member enquired where the 'Nominations' portion of corporate governance was addressed and advised that it was important to ensure that this is addressed. It was acknowledged that annually this was considered by the People and Governance Committee, however, any recommendations for review would be made to the Board. Ms V Naidoo indicated that she would review her membership in the ARC and revert to the Chairman.

It was requested and agreed that Dr P Naidoo be included on the EETT sub-committee.

2. BOARD MEMBER REMUNERATION

Mr A Minnaar joined to explain to the Board the functions of the executive support and management of Board members' remuneration and payments, which was as per the remuneration guidelines.

He went on to explain the fee structure for Board fees, committee fees and chairmanship fees of Board committees, which was payable annually. It was highlighted that Eskom would be reviewing the structure to align with government guidelines going forward. Travelling and other subsistence claims would be managed by the Office of the Company Secretary. It was clarified that fixed fees would be paid and not by meeting attendance. For ease of understanding, Mr Minnaar undertook to share more information on the Remuneration Policy and incentive schemes at either a People and Governance or Board meeting.

As soon as the confirmation of meeting membership was received, a table of the individual membership remuneration would be distributed and discussed with the member.

3. OFFICIAL TRAVEL

The Company Secretary undertook to confirm the process for travel and subsistence claims.

In response to a query, the Chairman explained that overseas travel for members would be dependent on which of the committees the members belonged to and the areas targeted for

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training, as well as response to invitations that were extended to members and executives on a rotational basis and approved by the board.

The Chairman advised that he, as a member of the Board and an executive would be attending the DAVOS World Economic conference. The Chief Executive would not be attending given the current crisis, and the Chairman would consider a replacement.

4. NATIONAL CONTROL CENTRE VISIT

Members undertook to confirm their transport requirements with the Company Secretary.

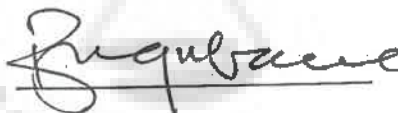
5. USE OF SOCIAL MEDIA

The Chairman cautioned members about the use of social media. He gave an example of a member whose post on Facebook was used by the media to generate negative publicity for the company and the member concerned.

6. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 16h00

Signed by Dr Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:  DATE: 06/10/15

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**MINUTES OF THE ESKOM BOARD MEETING AND WORKSHOP B13-2014/15 HELD ON 16
FEBRUARY 2015 AT THE HUVU NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Ms C Mabude	Member (Acting Chairman for the meeting)
Ms N Carrim	Member
Mr Z W Khoza	Member
Ms V J Klein	Member
Mr R Kumalo	Member
Mr T Matona	Chief Executive
Ms T Molefe	Finance Director
Dr P Naidoo	Member
Ms V Naidoo	Member
Dr BS Ngubane	Member
Mr MV Pamensky	Member

APOLOGIES

Mr Z A Tsotsi	Board Chairman
Mr NT Baloyi	Member
Mr T Govender	Group Executive: Transmission and Customer Services
Mr M Ntsokolo	Group Executive; Generation

BY INVITATION

Mr J Dladla	Chief Executive: Eskom Enterprises
Mr M Koko	Group Executive: Technology & Commercial
Dr S J Lennon	Group Executive: Sustainability Group (GE: SD)
Mr D Marokane	Group Executive: Group Capital
Mr V Mboweni	Senior General Manager: Coal 1
Ms A Noah	Group Executive: Distribution (GE: DX)
Mr F Ndou	Acting Divisional Executive: Office of the Chairman
Ms E Pule	Acting Group Executive: Human Resources
Mr M Rossouw	Specialist Consultant: Energy

IN ATTENDANCE

Mr L Dlamini	Senior General Manager: Office of the Chairman
Mr M Phukubje	Company Secretary
Mr W Venner	Committee Secretary

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1. OPENING AND WELCOME

The Acting Chairman welcomed members to the meeting.

2. APOLOGIES

There were no apologies noted

3. QUORUM

A quorum being present, the Acting Chairman declared the meeting duly constituted.

4. DECLARATIONS OF INTEREST

There were no declarations of interest pertaining to items on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. APPROVAL OF THE AGENDA

The agenda was approved.

7. STRATEGIC ISSUES

7.1 Power Purchase Agreements for Short Term Energy Reference document 7.4 (a) (b) (c) (d)

The Power Purchase Agreements ("PPAs") for Short Term Energy was tabled for approval, details of which had been circulated to members.

The GE: T&C explained the submission in detail for members.

It was reported that although there was a "pass through" on costs it did not assist cashflow.

A member requested that all governance procedures be observed for this submission. It was reported that the Minister had made the same request and had noted that the Board has a responsibility to save Eskom. The CE stated that the governance processes had to be fast tracked around this issue but there still had to be vigilance and awareness of all risks. He stated further that there was no funding available from National Treasury or from the 5 point plan.

Mr Maleka reported that pass through did not assist Eskom's cash flow and therefore two options had been explored of which neither was viable. As a result new options were being

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explored but they were all unfunded and therefore new ways had to be found to provide funding.

It was recommended that all initiatives be done in parallel but they had to be finalised by the end of March 2015 otherwise the IPPs would demobilise. There had been many unsolicited proposals received by Eskom which indicated that there was a lot of independent capacity available that Eskom had to consider but this was subject to funding being available.

Members raised the following queries which management was requested to respond to:

- Was the cost for these PPAs in the budget?
- Why can't the Municipalities offset their debts against IPP payments by Eskom?
- If Eskom did not buy the 705MW, would this lead to the next level of load shedding?
- Could a 3 year contract be considered instead of a 5 year contract?
- How do contract values increase?
- Does having long term contracts give opportunities to reduce prices?
- At what rate does Eskom supply and what rate does it buy at?
- How was it possible that Eskom had funds for OCGT but not for PPAs?
- If the CE and FDE had approved these contracts before, why were they now being tabled at Board for approval?
- With regard to the current submission, was the Board extending the CE and FD's decision?

It was reported that the War Room had been advised that Eskom required funding for OCGTs. When the Summer Plan had been presented, the need to extend the contracts under the same conditions had been noted, i.e. there was no funding and the contracts could not be concluded until funding had been identified.

It was noted that off-setting could be a positive initiative but the sales and purchases were done by different areas within some of the Municipalities which meant that this could not be considered in some areas. Care would also have to be taken as the selling and buying rates were significantly different. However the rates for buying would be negotiated down as low as possible. However management would explore this recommendation.

With regard to the process around the approvals it was reported that the submission had been tabled at IFC before coming to Board and a mandate had been requested. The process had not followed the normal PFMA process but approval had been applied for in terms of PFMA. It was reported that the 705MW applied to extensions but management was negotiating new sources at the same time.

The funds for OCGTs were not PPAs. Eskom had been instructed to reduce expenses. However the OCGTs had been required urgently and had been unbudgeted beyond the OCGT budget for 2014. These PPAs would provide regulatory certainty.

The FD stated that Eskom was investigating how it could contract at lower rate and had requested the PPAs assistance in this regard without them just considering making profits. Eskom must be in a position to secure 5 years of PPA purchases. A member recommended

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that Eskom should try for a 5 year contract with a clause to terminate or review after 32 years.

A member noted that the Checklist was completed incorrectly because it stated that PFMA approval was not required when in actual fact it was required. Management undertook to ensure that the checklists were completed correctly in future.

A member stated that they were not comfortable with the rates for the PPAs and recommended that if the municipality did not want to cap at the same rate as Eskom, then they should be advised to use their own electricity source and if needs be, Eskom could assist them to get the plant running efficiently. It was reported that Eskom could not cap at that rate and could not cut the municipality as it would be regarded as curtailing supply. Mr Rossouw advised further that although Eskom sold at R0.62 per MW, this was based on the total average of all Eskom's supplies on an average blended price. Therefore it could not be compared to the IPPs prices.

Mr Maleka reported that various economies had been tested at the War Room because it was agreed that load shedding was expensive. Eskom needed to deploy all available options to avoid load shedding but as it deployed its own resources it reduced the need for IPPs. These parameters had to be considered during negotiations.

It was noted that no contract would be concluded until funding had been secured. It was noted further that the principle to push back on price was a good one but Eskom could not expect to buy at a lower rate than it sold at. It was reported further that 5000MW had to be secured but it may be at a price.

It was reported that is a municipality ran a power station it was a separate business from the municipality and was not regulated by Nersa and therefore Eskom was still obliged to supply the municipality.

It was noted that Eskom had to move away from pass through to actual remuneration.

At this point the Company Secretary drew members' attention to the Declaration of Interest and noted that the view was that a member should step out of any discussions where they had a conflict of interest. He requested that members should make this a general practice going forward. Ms Naidoo then recused herself from the discussion around the final resolutions.

It was recommended that Resolution 2.1 in the submission be amended to include "subject to the government making funding available and it be noted that until such funding is available that the IFC could not approve the contract. It was recommended further that the 94c/kWh be replaced by "10% less than the current contract price" as the 94c was an aspiration on the real base.

The CE stated that Eskom required every MW it could find. The FD's approach suggested that when funding was made available it would be a simple procedure to switch on the IPP.

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However the submission was to ensure that there was alignment between Eskom and the IPPs for when funding became available. It was agreed further that the contracts were subject to Eskom finding funding.

It was recommended that Resolution 2.3.1 in the submission be amended to include "subject to funding being made available from government and subsequent to IFC approval".

Resolved that:

Noting the letter dated 05 February 2015 received from the Deputy Chairman of the War Room; to ensure that the current short term and medium term contracts between Eskom and the various Independent Power producers ("IPPs") and Municipalities do not lapse and that they be extended from 31 March 2015 onwards, approval is hereby granted:

1. to immediately without budget approval extend the existing nine (9) PPAs as per contract strategy up to sixty (60) months from 1 April 2015 up to 31 March 2020 at a maximum combined contract value of R17 566,73 million (this includes the 124 MW additional offered by them) excluding Value Added Tax ("VAT") and Contract Price Adjustment ("CPA") at a maximum Base Energy Rate of 10% less than the current contract price subject to the government making funding available and it be noted that the Investment and Finance Committee ("IFC") cannot approve the contract until such funding is available.
2. for a mandate to source, negotiate and conclude, only once budget confirmation has been obtained in writing, new PPAs as per contract strategy for periods up to sixty (60) months at a maximum combined contract value of R13 663.48 million excluding VAT and CPA at a maximum Base Energy Rate of 94 c/kWh.
3. the above is subject to the following approval:
 - 3.1. the procurement processes proceed without budget approval and the Power Purchase Agreements ("PPAs") start date is subject to funding being made available from government and subsequent approval thereof at the Investment Committee;
 - 3.2. Ministerial determination under the Electricity regulations Act (as applicable) and PFMA approval; in this regard Eskom needs to take the necessary applications;
 - 3.3. NERSA approval that new generation licenses (extension of existing or issuing of new licenses; in this regard the Presidency War Room will facilitate engagement with NERSA);
 - 3.4. NERSA approval that cost recovery will be allowed for the procurement of energy under this arrangement for the term of the respective contracts for up to five years, with a review after 3 years;
 - 3.5. the IPPs are informed that the budget is not available and the budget value unknown therefore the current IPPs will be selected on capacity size and period of availability on a first come first served base, as well as proven value to Eskom;
 - 3.6. subject to exploring opportunities to offset sales and purchases;
 - 3.7. negotiating payment terms up to 90days;

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- 3.8. including adequate exit clauses in the event that circumstances improve before the end of the 5 year period;
4. the total estimated value for all the above is R31 230,21 million excluding VAT and CPA for a duration up to 5 years; and
5. the Group Executive, Transmission is authorised with the power to delegate further, to take all necessary steps to give effect to the above, including the settlement of any required amendments, the settlement of the final terms and the signing of the PPAs and PPA addenda, re-allocation of funds between the individual PPAs and any related agreements, consents or other necessary or related documentation.

7.2 The State of Municipal Debt

Reference document 7.3 (a)

The State of Municipal Debt was tabled for information, details of which were tabled at the meeting.

The GE: Tx reported that the overall debt from 2010 had increased by R11,6Bn as follows:

- Total active overdue debt increased by R9,7Bn;
- Total stopped overdue debt increased by R1,9Bn;
- Soweto Debt increased by R5,8Bn;
- Municipal Debt increased by R4,8Bn;
- Small Power Users ("SPU") other Debt increased by R252M;
- Large Power Users ("LPU") other Debt increased by R374M;
- LPU Litigation increased by R344M;
- Soweto as well as municipal arrears would include interest which would be significant;
- Municipal growth in last two years was indeed material;
- Increase in Tariffs contributed to the increase in overdue debt while write-offs would have reduced results annually; and
- Inability to conclude timeously on litigation matters continue to be reflected in the debt book.

Trade Debtor's Overview was noted as follows:

- Revenue increased by 114% since Mar 2010
- Overdue as % of total debt increased from 49% to 55% of total debt
- Total Trade Debtors increased by 168% since Mar 2010
- Interest Provision on arrear Soweto debt increased by 306% since Mar 2010
- Impairment provision excluding interest has increased by 264% since Mar 2010
- Average bad debt written off annually excluding provisions is approximately R100M per annum

The Overdue Customers Debt status was displayed for the following areas: National; Overdue Soweto Customers Debt Trends; Overdue Municipal Customers Debt Trends; Overdue Customers SPU Other Debt Trends; SPU Segment Debt Trends (2013 to 2014);

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Overdue Customers LPU Other Debt Trends; and LPU Segment Debt Trends (2013 to 2014).

The Movement in Overdue Municipal Debt was presented and it was noted that the increasing trend would not improve without all the role players dealing with the systemic issues causing non-payment. It was reported that Group Customer Services ("GCS") management had engaged and escalated the municipal debt situation with provincial and national government, ultimately resulting in Ministerial intervention.

The actions to reduce Eskom's financial risk, over and above GCS implementing Eskom's revenue management procedures to address the revenue management risk, were presented. Eskom adhered to and enforced Eskom's Revenue Management Policy & Procedures and conforms to legal (PFMA, MFMA, PAJA) and regulatory requirements. Eskom worked closely with CoGTA and Provincial Treasury to manage the municipal financial recovery process and multiple interventions were undertaken prior to embarking on the disconnection (PAJA) process. Several interventions had been pursued by Eskom, Provincial and National government in the last two years but there was no improvement.

Some possible alternative approaches had been identified to reduce Eskom's financial risk as follows:

- **Interrupt defaulting municipalities:** The possibility of placing defaulting municipalities first on the load reduction merit order prior to usage of the expensive OCGT generation in order to reduce both costs and debt was considered. This could be challenging due to third party impact but had been endorsed by the inter-ministerial 'war room' committee.
- **Demand Response:** The conclusion of a demand response ("DMP") agreement with defaulting municipalities. The municipality (and their top customers) to be paid DMP rates and the reduction was to be off set against the debt owed to Eskom – an internal process. Eskom had support of the AMEU and was engaging with municipalities and their top customers.
- **Prepayment:** The placing of municipalities' bulk accounts on a pre-payment option was being explored; however, there were a number of practical challenges to overcome. Municipalities in all the provinces, except for Free State, had been identified and GCS was engaging with the municipal managers. Agreement had been reached with Nama Khoi municipality and to sign a prepayment supply agreement early in March 2015.
- **Reconfigure networks / areas of supply:** The possibility of Eskom limiting the electricity supply to the defaulting municipalities or Distribution taking over areas of supply within the municipality. GCS was engaging with Eskom Dx Operations & Maintenance. The DoE and NERSA should evaluate municipalities' compliance to their license conditions as recommended in Ministerial task team report.

It was noted further that in future the municipalities would not be informed beforehand of any disconnection because of non-compliance with overdue account payment agreements. The process would be followed and if a municipality got to a point of not paying and defaulting with a payment agreement they would be disconnected. It was noted that there

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had been 3 interventions over the last few years prior to municipalities being disconnected. Furthermore the municipalities involved were now not paying at all.

Current Activities to Reduce Municipal Debt were noted as follows:

- GCS Top Customer staff had regular liaison meetings, customer forums, etc. with local & metro municipalities. Required interaction with Executive Mayors, Councils was facilitated by Eskom Dx Operating units.
- Top Customer enforced Eskom's Revenue Management Policy & Procedures and conforms to legal (PFMA, MFMA) and regulatory requirements and the PAJA disconnection process.
- The Premiers of each province were provided with a monthly update on the municipal debt and progress in managing any escalations.
- GCS senior management had various meetings with CoGTA, National and Provincial Treasury and DPE to address the municipal financial recovery process.
- Several interventions had been pursued by Eskom, Provincial and National government in the last two years but there was no improvement.
- Government had recognised that due to local economic circumstances, certain municipalities were not 'financially viable'.
- The Minister of COGTA had intervened and set up Task Teams to propose remedial actions to the affected municipalities and to identify areas of support required.

Various Interventions had been mandated by CoGTA and endorsed at the inter-ministerial technical 'war room':

- NMD management by cutting off if exceed notified maximum demand – Eskom
- Prioritizing the defaulting munics on Eskom load shedding schedules – Eskom
- Doing additional load shedding over peaks – Eskom
- Limiting supply in line with payment levels – Eskom
- Placing of municipality's bulk accounts on a pre-payment option – Eskom
- Invoking Section 216 (withholding grant funding) of the constitution – National Treasury
- Engaging NERSA to revoke distribution licenses – CoGTA

GCS was engaging with Dx Operations & Maintenance to compile specific plans for implementation of the above interventions in each province. The top defaulters in each municipality would be the focus and each municipality would be treated on its own merits. With regard to Prepayment, municipalities in all the provinces, except for Free State, had been identified and GCS was engaging with the municipal managers.

Dr Ngubane joined the meeting at this point.

It was noted that no permission was required for these actions and the relevant municipalities only had to be advised of the pending action. It was noted that defaulting municipalities would be prioritised for load shedding. In response to a query it was reported that this had been discussed with Nersa and would not be regarded as discrimination.

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It was reported that municipal debt was not part of the 5 point plan at the War Room. The Chairman of COPTU had recommended that Eskom run a joint campaign to educate people at country level to explain the need to pay for services. Board approval was not required for this initiative but it would be done in a responsible manner.

A member stated that the Board had a fiduciary duty and therefore this was a major discussion that one municipality could be disconnected for non-payment while not doing the same to others in a similar position. The FD stated that Board support was required to inform the stakeholders that if a letter was received to halt a pending disconnection that management did have Board support to implement the disconnection. A member stated that unless the letter to halt the disconnection included a statement to exempt the Board from the requirements of the PFMA, the letter would have to be ignored.

A member stated further that the process was clear and the Board did not need to approve a disconnection. Management must follow the process and Board would perform its fiduciary duty to take responsibility for the disconnection. It was recommended that this not be done wholesale but identify 2 or 3 specific municipalities and see what the outcome was. A manager recommended further that it not be full disconnection but rather disconnect a selected area in a particular municipality and review the consequences. It was noted further that if there was a backlash, the shareholder would engage directly with the Chairman and not the CE, and therefore the Chairman would have to be prepared.

A member stated that this presentation was for information but that the Board had to support management with whatever action it took.

It was reported further that Eskom had noted that these municipalities were in breach of their licence conditions and COGTA had engaged Nersa as to why the licences were not being revoked.

It was noted that the Soweto Debt was a separate issue and if the supply was cut there would be serious civil unrest. Split metering was being installed. However serious engagements had to be initiated between the Board and the Mayor of Johannesburg, as well as between the Board and the Soweto Crisis Committee.

In response to a query as to why the debt had not been sold to a third party, it was reported that this had been investigated but there had been no takers, although it could be explored again. The debt was 20 years old and was a political issue not a financial one.

It was recommended that the full presentation be tabled at Board on the 26 February 2015 including a resolution for consideration. The presentation should include a strategy. The shareholder should be kept up to date and advised on the Board's concern around the PFMA and the need therefore in any intervention letter. It was requested further that a stakeholder management plan and strategy be tabled to highlight where Board intervention was required.

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A member noted that initiatives were being recommended to the War Room without the Board being aware thereof and the IFC had been informed of a Special Advisory Group to the President. There had to be clarity around the governance and Terms of Reference in respect of who was responsible for reporting what to whom. The CE advised that this was a stakeholder engagement process and what was being suggested was that it should include a component of Board engagement with the Shareholder.

It was reported that Eskom had been invited to present the Gx Maintenance recovery programme to the IMC. This had been tabled at the War Room already.

Resolved that:

1. the State of Municipal Debt is noted; and
2. a full submission including strategies, recommendations and stakeholder engagement processes should be made to the Board on 26 February 2015

7.3 The 2014/15 – 2017/18 Corporate Plan

Reference document 7.1 (a) (b) (c)

The 2014/15 – 2017/18 Corporate Plan was tabled for input by members in order to table a final Plan for approval on 26 February 2015, details of which had been distributed to members.

It was reported that the shareholder had been engaged during the entire process. It was recommended that members be engaged on a one-on-one basis to go into the finer details of the Plan. It was requested that the final Plan be checked for typing errors and the figures be cross referenced throughout.

Resolved that:

1. the 2014/15 – 2017/18 Corporate Plan is recommended for submission to the Board on 26 February 2015 for approval subject to Board members being engaged individually on the details in the Corporate Plan.

7.4. Financial Sustainability

7.4.1. Financial History and Response Plan

Reference document 7.2.1 (a) (b) (c)

The Financial History and Response Plan was tabled for Board to note Eskom's current financial health, to support submission to Government war room for discussion and alignment and to note the year 1 MYPD3 RCA application submitted to NERSA and to support in-principle discussion with NERSA on additional revenue requirement needs, details of which had been distributed to members.

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It was noted that the report went back to 2010 and the IFC had requested more details which were being collated. It was noted that in an asset intensive industry, like energy, the return on assets should exceed cost of capital. In the case of a state owned entity, like Eskom, the return on assets should be at least equal to the cost of capital. Historically, Eskom's return on assets was less than its cost of capital resulting in a deterioration of Eskom's balance sheet. In addition, Eskom embarked on an ambitious expansion program to be funded from a weakened balance sheet. This expansion program was necessary to replace existing ageing infrastructure and to allow for growth. Financial sustainability was the ability of an entity to secure stable and sufficient returns to be able to fund future growth of the business while maintaining and replacing the current asset base. The presentation included details around the following issues for the period 2010 to date:

- Income Statement.
- Primary Energy Costs breakdown.
- Coal Economics in terms of Energy Availability Factor ("EAF"), Burn ratio and coal purchases.
- Breakdown of operating costs.
- Return on Assets and other key ratios.
- Cash flow.

In conclusion it was noted that all the financial indicators trend negatively and most indicators were below acceptable norm and below investment grade. The return on assets declined due to above inflationary cost increases and below cost reflective price of electricity. The impact was that Eskom was experiencing a liquidity constraint. The key to success was to restore the return on assets by containing cost and migration of the price of electricity to cost reflectivity.

The support package was in response to the MYPD3 determination. This was a high level view and all expenses had been cut as far as possible without affecting operations. Care had been taken to not only look at the cash flow in the short term.

Ms Naidoo was excused from the meeting at this point.

An Exco member commented that the price of electricity was not cost reflective and the Regulator process for determining price set Eskom up for failure and therefore the process became a negotiation process.

The Exco had a six point plan to move towards operational sustainability with the aim of minimizing the risk of load shedding. The plan entails the following:

- Additional capacity: Bring new base load and peaking power station units on line - on time and within budget.
- Maintenance: Effectively execute maintenance plans to return plant to desired performance levels.
- Major incidents: Safely and speedily return plant, such as Duvha Unit 3 and Majuba coal handling plant, to service.
- Demand-side management and energy efficiency: A need to reintroduce the demand side management programme to lower demand in the country.

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- Load shedding schedule improvements: Bridge the gap with municipalities to ensure alignment and improve predictability.
- Energy conservation programme: It was critical that the country revisit the option of introducing a national Energy Conservation Programme.

The Key challenges that were facing Eskom in the CAPEX portfolio were noted as follows:

- Eskom applied for R337bn Capex as part of the MYPD3 submission.
- The NERSA determination allowed for R230bn and Eskom was able to increase the portfolio to R251bn using available funding.
- Subsequent to the determination several key strategic issues arose which required additional funding, not envisaged at the time of the application:-
 - Generation Sustainability requiring increased Outages to improve plant performance and energy availability in order to balance supply and demand.
 - Generation Environmental Compliance Projects in line with partial compliance application.
 - The revised estimates of costs to completion of the New Build Programme to address the capacity shortages indicated significant variation from the original business case figures that were in the MYPD submission.
- Taking the above into consideration, Exco went through a robust process to prioritise critical projects, taking into account risks to the business, resulting in a project portfolio of R300bn
- In April 2014, the Board approved the proposal to increase Capex to R300bn subject to Eskom's ability to raise finance, and specified that the additional Capex must be allocated to Transmission and Distribution Regulatory compliance projects, Generation Environmental projects, and Primary Energy investments
- The approved Government Support package allowed Eskom to raise additional R29bn which increase the current Capex portfolio to R280bn.
- In addition to exploring alternative funding sources the business committed to finding efficiencies to close the funding shortfall of R20bn from the R300bn project portfolio.

It was noted that alternative financing options were required to fund the currently unfunded projects in order to mitigate severe operational sustainability risks, details of which were included in the presentation. The Government support package for Eskom would help in addressing mainly liquidity in short term.

Of the total of R73bn savings opportunities identified, R61.8bn had been cut from the plan/budget. Stringent target were set and in some cases activities would be discontinued. This could impact security of supply and long term business sustainability. Key trade-off decisions needed to be made and mitigating actions put in place to manage potential business risks. Current FY15 savings barometer showed banked savings of R5.84bn and a nett leakage of R3.92bn. It was reported that these BPP savings were a performance bonus qualifier and if they were not achieved then there would be no performance bonus for this financial year. The shareholder had been advised that this what Eskom had achieved for savings, what Eskom would not achieve and the reasons therefore.

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A member stated that if municipal debt was part of the savings not achieved then all legal steps to recover it should be implemented as soon as possible.

The FD explained that when Eskom received the support package that it had closed the gap somewhat but the government had expected more savings of R42Bn to make a total of R102Bn. Eskom had pushed back on this. It was generally agreed that the target of R60Bn should not be reduced. Management should check that Eskom was efficient in the business units but the risk of not achieving the R60Bn savings should be flagged with the shareholder. The following actions could be considered to fix the Return on Assets:

- 1) Sell assets
- 2) Reduce costs
- 3) Increase revenues.

The CE requested that a comprehensive picture of the financial position be prepared and an agenda be considered for engagements with the Minister of PE, the War Room and other significant stakeholders. These engagements would be attended by the Chairman with the support of the Board.

Resolved that:

1. Eskom's current financial health status is noted;
2. the presentation is approved for submission to the Government War Room for discussion and alignment;
3. the year 1 MYPD3 RCA application submitted to NERSA is noted and the in-principle discussion with NERSA on additional revenue requirement needs is supported;
4. a comprehensive picture of the financial position should be prepared and an agenda be considered for engagements with the Minister of Public Enterprises, the War Room and other significant stakeholders; and
5. these engagements should be attended by the Chairman with the support of the Board.

7.4.2. Eskom's financial budget for the period 1 April 2015 to 31 March 2020

Reference document 7.2.2 (a)

Eskom's financial budget for the period 1 April 2015 to 31 March 2020 was tabled for the Board to provide input for final approval by Board on 26 February 2015 before submission to the shareholder, details of which had been distributed to members.

It was reported that the draft financial budget for the period 1 April 2015 to 31 March 2020 was prepared in support of the Corporate Strategic Plan. After the MYPD3 determination by NERSA a response budget was prepared taking into account the 8% increase p.a allowed by NERSA. Since developing the response budget several changes in revenue and costs resulted in the funding gap increasing over the 3 year period (1 April 2015 to 31 March 2018). These changes were mainly caused by a reduction in sales, an increase in primary energy cost, an increased impairment to cater for non-payment by municipalities and

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funding of the Medupi Coal Penalty, offset by an increase in revenue. An additional R 29 billion was allocated to Capex for additional funds required for build program, Generation outages and technical plan, investment on cost plus mines and in support of Transmission and Distribution. Together with the R48Bn it implied that an additional R77Bn funding was required.

The plan reflected a total borrowing program of R199Bn over the MYPD3 period. Current indications were that Eskom would struggle to find sufficient sources of funding in support of this ambitious program. The only other option was to increase revenue through an adjustment to the price of electricity. This could either be done through the regulatory mechanism whereby future revenue was adjusted, re-opener of MYPD3 or an early MYPD4 application. It was reported that a substantial increase in the price of electricity was required to restore Eskom's financial sustainability and strengthen the balance sheet. It was estimated that a once off increase of greater than 30% or 3 years of at least 19% p.a. was required to align the price of electricity to cost reflectivity by 2018.

The following presentations were tabled, details of which were included in the presentation:

- The key assumptions
- Other assumptions and factors affecting the budget
- The Wheel diagram.
- Sales Budget
- Production budget
- Income Statement
- Primary Energy Budget. With respect to coal costs a member commented that it appeared that the Department of Energy was forcing the coal prices on Eskom and therefore a long term strategy was required to address this.
- Employee Benefit Expenses
- Headcount
- Maintenance
- Other Operating Expenditure (excluding Maintenance)
- Capital Budget
- Funding and Interest
- Cash flow
- Ratios
- Key Risks

The CE stated that when all the issues facing Eskom were considered that there had never been an engagement with the shareholder so that they could appreciate Eskom's true position. He reiterated that Eskom was a going concern and that had to be made clear to all stakeholders. A member stated that Eskom could not accept PPAs at prices that it could not afford.

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The Acting Chairman stated that the Board through the DPE had to meet with the leadership of the Department of Energy to highlight the crux of the IPPs and PPAs.

The FD stated that in terms of the support package, the Capex did not deal with investment in coal mines but this was required in order to develop coal mine supplies for Medupi. The Ce explained the history around Eskom's involvement and ownership of coal mines, explaining that the Department of Minerals had decided that Eskom was not a miner and had withdrawn Eskom's coal mine licences. Eskom now had agreements with 6 collieries for cost plus contracts.

Resolved that:

1. Eskom's financial budget for the period 1 April 2015 to 31 March 2020 is recommended for final approval by Board on 26 February 2015 before submission to the shareholder.

7.4.3. The Borrowing Programme and National Treasury Regulation

Reference document 7.2.3 (a) (b) (c)

The Borrowing Programme and National Treasury Regulations as input to the Eskom Corporate Plan 2015/16 – 2019/20 was tabled for approval, details of which had been distributed to members.

It was requested that this discussion be postponed to 26 February 2015 in order for more input to be given by Exco and IFC.

Resolved that:

1. the Borrowing Programme and National Treasury Regulations as input to the Eskom Corporate Plan 2015/16 – 2019/20 is postponed to the Board meeting to be held on 26 February 2015.

8. ITEMS FOR INFORMATION

8.1. MYPD3 Year One (2013/14) Regulatory Clearing Account (RCA) Submission

Reference document 8.1 (a)

The MYPD3 Year One (2013/14) Regulatory Clearing Account (RCA) Submission was tabled for information, details of which had been distributed to members.

Resolved that:

1. the MYPD3 Year One (2013/14) Regulatory Clearing Account (RCA) Submission is noted.

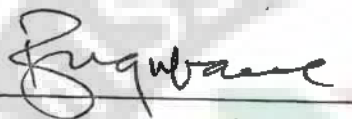
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9. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 14:00.

Signed by Dr. Ngubane for purposes of noting the meeting's proceedings

CHAIRMAN:



DATE:

01/10/15

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**MINUTES OF THE SPECIAL BOARD IN-COMMITTEE MEETING HELD ON 19 MARCH 2015 IN
THE HUVO-NKULU BOARD ROOM, THIRD FLOOR, MWP**

STRICTLY CONFIDENTIAL

PRESENT:

MEMBERS

Mr Z Tsotsi
Dr B Ngubane
Ms C Mabude
Ms V Klein
Ms V Naidoo
Ms N Carrim
Mr R Kumalo
Mr N Baloyi

Chairman
Member
Member
Member
Member
Member
Member
Member

OFFICIALS

Mr M Phukubje

Company Secretary

1. OPENING AND WELCOME

The Chairman welcomed all present and declared the meeting open.

2. APOLOGIES

None.

3. QUORUM

A quorum being present, the Chairperson declared the meeting duly constituted.

4. DECLARATION OF INTERESTS

5. SAFETY/EVACUATION

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. CONFIRMATION OF THE AGENDA

The agenda was confirmed as tabled.

- 7. Chairman reported that he has spoken to the Minister and she indicated that it is unlikely for Eskom to receive any further financial assistance. She said that she will speak to the Acting DG**

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and she will sit down with our CFO. She also wanted to know what Eskom will be saying about the downgrade tomorrow and he had responded that he didn't know. It was therefore imperative that the CFO & the Acting DG sit and discuss a joint response.

8. ITEMS FOR INFORMATION

8.1 New Age Contract

Chairman would speak to Ms. Klein who had explained that she would not sign because she was not comfortable with the resolution.

Mr. Baloyi also expressed his concerns to the effect that the Board should choose its items carefully, especially as the organization was in need. The second issue was that of the way in which it was done – processes where not followed properly.

Ms. Mabude said that the principles around how the New Age breakfasts were to be done could be discussed and clarified. It must be recorded that this contract did not follow due process on the basis of the fact that it was a commercial process and that the contract cannot be rescinded by Eskom. There was also a letter of demand and it was not going to be possible for Eskom to get engaged in a litigation.

It was agreed that an early termination clause should form part of all contracts in future.

8.2 Power Purchase Agreements (PPAs) for Short Term Energy procured by Eskom from Independent Power Producers (IPPs) and Municipalities.

It was noted that the round robin resolution for the PPAs for Short Term Energy procured by Eskom from IPPs and Municipalities had been approved by the majority, and Mr. Naidoo recused himself.

8.3 Suspended Executives

With regard to the Letters from suspended executives, including the CE, it was agreed that the position was clear that no charges would be preferred against the suspended executives at this stage. The Legal department was authorized to send the letter that had been prepared in this regard.

The Chairman explained the background as to who Nick Linnell was and that he (the Chairman) had been introduced to him in a meeting with President. Mr Linnell had offered to co-ordinate the work that was supposed to be done. The Chairman stated that he did not offer the Board an opportunity to agree to appoint Mr Linnell and that this had been a mistake on his part and Mr Linnell had probably believed that the proper processes had been complied with and he then proceeded to undertake the work. He had asked whether there were charges which could be brought against the individuals concerned. He was told that he could meet with the complainants and other trade union representatives who then told him a number of things. Then came the Wednesday meeting and he did not inform the Board again as to the issue around the appointment of Mr Linnell. There was no contract for Mr Linnell, and there was no clarity as to who he was acting for. This was not broached with the Board again.

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The Chairman accepted blame for that failure to take the Board, as well as the fact that work that was already being done (e.g. Interviews etc.). The people who were acting in place of the suspended executives were allegedly called into a meeting and knew beforehand that they would be acting. The Board needed to find out how this happened. They were apparently called into a meeting and the acting CE met with them. The problem was that the Chairman's action had now compromised the process of the inquiry. It was agreed that the statement issued should be retracted & Mr Dlamini should advise on how this will be done.

Resolved that:

- The ARC deals with the matter;
- it should be ascertained whether the Board was exposed in bringing the consultant in without the correct governance procedure being followed;
- The ARC should report back to the Board on what steps they are proposing to take with regard to this matter;
- Minister should be advised of the error of the nature/ contents of the statement;
- It is noted that the Minister had stated that the statement should not be sent out until briefing has been held with either the Minister or the acting DG.

Mr. R Kumalo joined the meeting

Resolution by the Board:

Break and resumed at 23:40, the Chairman was excused from the meeting. Dr. Ngubane was elected to chair the meeting.

The view was that the Board needed to make a call about the actions of the Board and the Chairman. The Chairman was an ordinary member of the Board and given the severity of the matter and what happened to the Company due to the downgrade. The downgrade occurred purely on governance and this was a reflection on the Board. Members felt that the decision of 11 March 2015 to institute an inquiry was correct, given what the company was going through. That member should now stay fully non-executive and that is how it must be done.

The Board cannot go back on decisions which have been made but the one thing the Board had control over was the independence of inquiry. It was therefore very important how the process going forward was managed by the Board. At the end of the process the Board either goes down with the process or survives the process. The question before the Board was what it needs to do about the Chairman's actions. Two options were tabled of which one was to say that the Chairman should step aside as well for three months of the inquiry or based on the apologies, the Board could work together with him on the provision that he obeys the rules of governance.

The Board unanimously resolves that it had lost confidence in the Chairman as a Director of the Board and recommended his removal as a Director. It was agreed that supporting documents should be put together to indicate:

- Failure to get Board approval

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- Matters considered as aggravating actions of the Chairman.
- Preparing and distributing a media statement in the name of the Board without Board approval.

The Board resolved that

1. Mr. R Kumalo is the delegated media person in the ARC; and
2. Dr B Ngubane is appointed as Acting Chairman of the Board.

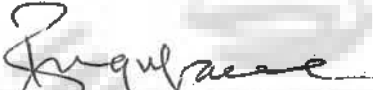
The Board was prepared to take the risk of whatever the Minister might decide around the issue. It was agreed that all communications should go through ARC around this resolution and all matters related thereto.

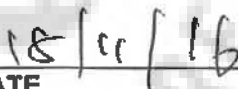
The Chairman then came back to the meeting at 00:37

The proposal was that the Company Secretary should write to the Minister requesting a meeting as soon as the Minister was available, the sooner the better given the inquiry, preferably on Friday or even the weekend. Sunday, Monday, the ARC decision to continue.

The meeting adjourned at 00:45

Signed by Dr Ngubane for purposes of noting the meeting's proceedings


CHAIRPERSON


DATE

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**MINUTES OF THE ESKOM BOARD MEETING AND WORKSHOP B16-2014/15 HELD ON 19
MARCH 2015 AT THE HUVU NKULU BOARDROOM, MEGAWATT PARK FROM 18H00**

STRICTLY CONFIDENTIAL

PRESENT

Mr Z A Tsotsi	Board Chairman
Mr NT Baloyi	Member (Tele-conference)
Ms N Carrim	Member
Mr Z W Khoza	Member
Ms V J Klein	Member
Mr R Kumalo	Member (Tele-conference)
Ms C Mabude	Member (Tele-conference)
Dr P Naidoo	Member
Ms V Naidoo	Member
Dr BS Ngubane	Member
Mr MV Pamensky	Member

APOLOGIES

None

BY INVITATION

Mr M Buys	General Manager: Finance
Mr C Cassim	Senior General Manager: Financial Planning
Ms C Henry	Senior General Manager: Treasury
Mr F Ndou	Acting Divisional Executive: Office of the Chairman

IN ATTENDANCE

Mr M Phukubje	Company Secretary
Mr N Tsholanku	Senior General Manager: Regulation & Legal
Ms N Velei	Acting Chief Financial Officer ("CFO")
Mr W Venner	Committee Secretary

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1. OPENING AND WELCOME

The Chairman welcomed members to the meeting.

2. APOLOGIES

There were no apologies.

3. QUORUM

A quorum being present, the Chairman declared the meeting duly constituted.

4. DECLARATIONS OF INTEREST

There were no declarations of interest pertaining to items on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. APPROVAL OF THE AGENDA

The agenda was approved.

7. MATTERS FOR APPROVAL

7.1 Eskom's current liquidity position Reference document 7.1 (a)

Eskom's current liquidity position was tabled for information, details of which had been distributed to members.

It was noted that the objectives of this presentation were as follows:

- To inform Board on the current severe short term liquidity constraints facing the organisation.
- To recommend potential options that needed to be considered for swift action and implementation.
- To recommend, in line with the Government Guarantee Framework, that Eskom immediately engage Government regarding the liquidity position and possible mitigation actions.
- To recommend that the Chairman immediately inform the National Treasury and the Department of Public Enterprises ("DPE") regarding the liquidity position and potential mitigation actions.

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It was reported that investor sentiment was poor and they were very uneasy around the uncertainty in the company. The feeling was that the government support package was not effective. Standard & Poor had already advised they would be downgrading Eskom's rating.

It was reported that Eskom's severe liquidity position was mainly due to high diesel expenditure and delays in funding. It was noted further that there was a probability that R1.8Bn for unused solar integrated demand management may have to be paid back to the Department of Energy ("DoE"). However management was holding back the payment until it was demanded by DoE. The risk factors contributing to Eskom's poor liquidity position were included in the presentation. The current short term liquidity situation (as at 12 March 2015) was noted and it was reported that there would be a R3.2Bn shortfall by the end of March 2015. The projected liquidity position at 31 March 2015 amounted to R6.3bn and consisted of the following instruments:

- R2.9bn RSA bonds (R4.5bn RSA bonds with R1.6bn allocated to the Carry Market)
- R3.4bn Call Deposits

The following cash flows were projected for April 2015 (as at 12 Mar 2015)

Liquid Assets available	R 6.3bn
Less Cash requirement up to 30 Apr 2015	(R 7.5bn)
Liquidity buffer (bare min) for daily cash flow management	<u>(R 2.0bn)</u>
Net shortfall	(R 3.2bn)

The longer term (going-concern related) picture was showing the organisational requirements and a negative nett liquidity picture until March 2016 and the 18 month timeline reflected a worse picture. It was reported that an amount of R4Bn was expected from National Treasury but it would not be available before the end of the month.

The Key Risk was that should Eskom be unable to fulfil payment obligations, a chain of events would start which could lead to a mandatory prepayment of secured facilities, and would have a material adverse effect on claims, credit rating downgrades, covenant breaches, loan defaults and cross defaults. This included general supplier payments, salaries and wages, regular coal and OCGT payments, and scheduled Capex and Opex payments.

The challenges were that investors were not comfortable that Eskom could maintain or improve its credit risk profile and therefore funding volume and pricing was based on the assumptions that Eskom may be further downgraded over time. Eskom could not show a liquidity projection that would be acceptable to lenders, rating agencies and auditors and a counter party due diligence was required to secure funding. The scaled down R237bn borrowing programme already stressed financial ratios and market capacity and at present there was no scope available for increased funding.

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The current "War Room" initiatives to potentially increase tariffs through STPPP and OCGT cost could place additional burden on Eskom which would make the possibility of securing additional increases become more difficult.

The various funding initiatives were noted, details of which were included in the presentation.

It was reported that if the R60Bn subordinated loan from government was converted to equity, it would assist the rating in the long term but would not assist cash flow now.

It was agreed that the Board had to engage with the shareholder, National Treasury, Portfolio Investment Committee, Finance ministries and government as a matter of urgency around the cash flow issue. The Chairman reported that he would be meeting with the Minister of DoE the following day and would raise the various issues with him. In response to a query it was reported that if the RCA was liquidated it would be a demonstration of what support was available but would not improve cash flow in the short term.

A member suggested that if Eskom was not awarded a 25% to 30% tariff increase in the near future, consideration should be given to starting MYPD4 sooner as well as investigating all other initiatives, such as considering unilaterally increasing the tariff and checking the legality thereof as well as the legality of Nersa imposing its tariff determination on Eskom. It was reported that finding a preferential gap in legislation would be difficult as the legislation was around the process which included public comment and engagement.

In response to a query it was reported that the only reason for the recent downgrade by S&P was the suspension of the 4 executives. Scenario 3 cash flow had been given to the investors but they did not foresee any short term improvement. It was reported that the domestic market had also been downgraded.

In response to a query from the Chairman as to what Eskom would have earned if it had been awarded the original tariff it had applied for, it was reported that this would have been around R45Bn per annum and a total of R225Bn. However it was reiterated that if the RCA for R8Bn was liquidated now it would indicate support by the Regulator to Eskom's cash flow plight. Nersa had indicated that Eskom should consider a full reopener on the tariff for the past 2 years which they would then fast track. This initiative still needed to be tabled at the War Room. It was noted further that consideration could be given to doing a two year RCA and the technical process could be implemented, but Board would have to lobby to have the process fast tracked at government level.

It was requested that an index of what had been tabled at the War Room be made available to the Board and that the Board should also engage all the relevant ministries for assistance.

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In response to a comment that Eskom was not accepting loan offers for both internal and external investors, it was reported that many of these offers wanted guarantees which the offeror could in turn take to the bank and leverage. Many also changed their requirements as the application progressed. A full evaluation was done for every offer, all credentials were requested and the offer was thoroughly reviewed and considered before being rejected.

It was suggested that the Chairman engage with the War Room around a possible cash inflow to provide temporary relief for the cash flow. It was recommended further that the Chairman, the Chairman of IFC, the CFO and SGM Treasury engage with the Minister of PE to engage with the Deputy President in his capacity as Chairman of the War Room.

A member commented that the funding of debt out of borrowings had begun some time ago and that Eskom spends the money first but only receives a return 3 to 5 years later. These details should be included in any engagement story.

The Chairman requested that the resolution be reviewed. The issues should be raised with the Chairman of the War Room with the assistance of the Minister of PE. In practical terms this meant that the Minister of PE should be requested to accompany the team to engage with the Chairman of the War Room. The Minister of PE should also be invited to attend the Nersa engagements.

In response to a suggestion to appoint a sub-committee to look at legal gaps, it was agreed that this could be dealt with by the IFC.

In response to a query around the sale of Eskom entities or parts thereof, it was reported that there were 2 initiatives in progress which would be tabled at IFC in due course. It was noted that if Eskom signed a guarantee for EFC it could raise R2Bn, but this was a long process.

The Chairman requested that the Board Breakaway Agenda include an item around finances in terms of what Eskom could do and how Nersa could assist Eskom. It was envisaged that the RCA would be available by 1 April 2015 and sometime soon thereafter it may be opportune to begin discussions around a reopener to be implemented by April 2016.

Mr Buys reported that as part of the year-end audit procedure the external auditors must appraise Eskom's status as a going concern by reviewing the liquidity position for the 12 months after signing of the financials. If they were of the opinion that Eskom would not be a going concern, they could issue a qualified audit report that would have serious consequences and would require a restatement of Eskom's financial statements. Alternatively they could include an "Emphasize of matter" in their audit opinion. The auditors would rely on "Emphasize of matter" if in their opinion there was a liquidity risk but Eskom could demonstrate that plans were in place to rectify the position. Eskom had to be able to support its plans with observable information and the auditors had to be satisfied that there was a realistic probability of the plan being successful, failing which they would qualify their audit opinion. If the auditors were concerned with Eskom's liquidity position, they had the right to ask for information beyond the 12 month period. Members agreed that under no

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circumstances could Eskom not be regarded as a going concern and this had to be emphasized to all stakeholders.

With regard to municipal debt it was reported that legal had prepared a plan and would be issuing interdicts shortly.

Resolved that:

1. the current severe short term liquidity constraints facing Eskom is noted;
2. Eskom should immediately engage Government regarding the liquidity position and possible mitigation actions in line with the Government Guarantee Framework;
3. the Chairman should immediately inform National Treasury and Department of Public Enterprises ("DPE") regarding the liquidity position and potential mitigation actions;
4. a team; comprised of the Chairman of the Board, the Chairman of the Investment and Finance Committee, the Chief Executive, the Acting Chief Financial Officer, the Finance Team, the Senior General Manager Treasury and the Treasury Team, should engage with the Minister of PE as urgently as possible;
5. the Minister of PE's assistance should be requested to engage with National Treasury, Portfolio Investment Committee, Finance ministries and government as a matter of urgency around the cash flow issue;
6. an index of what had been tabled at the War Room should be made available to the Board; and
7. the Board Breakaway Agenda should include an item around finances in terms of what Eskom could do and how Nersa could assist Eskom.

7.2 Eskom Finance Company SOC Ltd

The Board considered the motivation for R5Bn of Eskom SOC Ltd Guarantees in favour of lenders to the EFC. The Board approved a R2Bn guarantee for the ABSA loan only. This would allow EFC to repay R2Bn of Eskom commercial paper thereby assisting Eskom with its cash flow requirements. The Board wanted to consider the further R3Bn in due course.

Resolved that:

1. a R2Bn guarantee for the ABSA loan for the Eskom Finance Company SOC Ltd ("EFC") is approved to allow EFC to repay R2Bn of Eskom commercial paper.

7.3 Transnet Diesel

A verbal request was tabled to note engagements with Transnet around the supply of diesel for OCGTs. A memorandum of understanding ("MoU") had been drafted.

It was recommended that the final MoU include a 30 day payment period, tax and what was the best way to source diesel in future.

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Resolved that:

1. the feedback on the Memorandum of Understanding ("MoU") with Transnet around the supply of diesel for OCGTs is noted and the recommendations from members should be included in the final MoU.

2. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 20h30.

SIGNED BY THE CHAIRMAN AS AN ACCURATE RECORD OF THE PROCEEDINGS

CHAIRMAN:

Enguwa

DATE:

18/01/16

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**MINUTES OF THE ESKOM BOARD MEETING 03-2015/16 HELD ON 28 MAY 2015 AT THE
HUVO NKULU BOARDROOM, MEGAWATT PARK FROM 09H00**

STRICTLY CONFIDENTIAL

PRESENT

Dr BS Ngubane	Acting Chairman
Ms N Carrim	Member
Mr Z W Khoza	Member
Ms V J Klein	Member
Mr R Kumalo	Member
Ms C Mabude	Member
Mr B Molefe	Acting Chief Executive ("Acting CE")
Dr P Naidoo	Member
Ms V Naidoo	Member
Mr MV Pamensky	Member

OFFICIALS

Mr M Phukubje	Company Secretary
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BY INVITATION

Mr C Choau	Divisional Executive: Corporate Affairs
Mr T Govender	Group Executive: Transmission Division and Customer Services Division
Mr E Mabelane	Acting Group Executive: Technology and Commercial Division
Mr A Masango	Acting Group Executive: Group Capital
Ms A Noah	Group Executive: Distribution Division
Mr M Ntsokolo	Group Executive: Generation Division
Ms E Pule	Acting Group Executive: Human Resources
Mr M Rossouw	Special Advisor: Energy

IN ATTENDANCE

Ms S Daniels	Senior General Manager: Office of the Chairman
Mr F Ndou	Acting Divisional Executive: Office of the Chief Executive
Mr N Tsholanku	General Manager: Regulation and Legal
Ms N Veleti	Chief Financial Officer
Mr W Venner	Committee Secretary

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1. OPENING AND WELCOME

The Acting Chairman welcomed members to the meeting.

2. APOLOGIES

There were no apologies.

3. QUORUM

A quorum being present, the Chairman declared the meeting duly constituted.

4. DECLARATIONS OF INTEREST

There were no declarations of interest pertaining to items on the Agenda.

5. SAFETY AND EVACUATION PROCEDURE

The safety and evacuation process to be followed in the event of an emergency was presented and noted.

6. ADOPTION OF THE AGENDA

The Acting Chairman tabled a revised Agenda for the meeting which was approved by all members.

At this point the meeting went into an In-committee session and all non-Board members except the Company Secretary were excused from the meeting for this session, minutes of which were kept separately. At the conclusion of the In-committee session all executives and attendees re-joined the meeting.

7. REPORT FROM THE ACTING CHAIRMAN

The Acting Chairman reported that there were a number of critical challenges facing the organisation today. Uppermost for him was the continued load shedding and the impact this was having on the South African economy. The Board needed to engage with the issues around this matter in order to understand them fully and look after the business' interests.

The second issue of concern to him was around Eskom's status as a going concern. He reported that the Audit & Risk Committee ("ARC") had been appraised on the issues at their meeting the day before and he was hopeful that the Board could continue the discussion at this meeting.

He reported that the Forensic Fact Finding Enquiry currently being undertaken by Denton's was progressing well.

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Eskom's interaction at the War Room had also improved.

The preparation for the Annual General Meeting ("AGM") was underway and he urged all Board members to be present at the AGM.

7.1 Update on Board Activities

The Acting Chairman reported that the Review of the Terms of Reference of the Board Committees was underway and the Board would need to conclude on this issue during this meeting.

He reported that the Minister of Public Enterprises ("Minister") had recently informed Eskom of the update to the Strategic Intent and the Board would need to assess the impact on the Corporate Plan and other strategic documents. Ms Klein was leading the review of the Memorandum of Incorporation and the Board would need to participate in this regard as it needed to be finalised and tabled at the AGM for adoption.

7.2 Key Performance Indicators

At the last meeting, members had requested a more action oriented business plan and more robust performance indicators to be developed and implemented. He requested a progress report focusing on the major key performance indicators so that the Board could be fully apprised of the status of the organisation.

He reported further that the War Room was being closed down and the actions would be transferred to the DPE.

Resolved that:

1. the Acting Chairman's Report is noted; and
2. a progress report focusing on the major key performance indicators should be tabled for information.

8. REPORT FROM THE ACTING CHIEF EXECUTIVE

The Acting CE tabled his report, details of which were circulated to members at the meeting.

He stated that Eskom's management would focus on 3 primary issues in the short term over the next 100 days as follows:

1. Liquidity – Eskom would focus on its liquidity position to ensure financial viability.
2. Operational Performance – Eskom would focus on improving operational performance by prioritising critical maintenance, which would aim to reduce Unplanned Capacity Loss Factor ("UCLF") and minimise the risk of load shedding.
3. Governance – This issue would be dealt with by the Acting CE and the Board.

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Performance

He drew members' attention to the fatalities and loss time injury rate ("LTIR") figures which had improved since 2010.

He reported on the performance of Eskom for the financial year ended 31 March 2015 as follows:


- Revenue was R147.7 billion (2014: R138.3 billion).
- Cost containment initiatives had been successful with a marginal increase in employee benefit cost for the year to R25.9 billion from R25.6 billion in 2014.
- Other operating costs had reduced to R15.9 billion in 2015 from R19.1 billion in 2014.
- The Business Productivity Programme ("BPP") had achieved R9 billion in savings in the current year although this had been used to assist with liquidity and funding of primary energy.
- This good performance was offset by the increase in primary energy costs to R83.4 billion (2014: R69.8 billion), mainly due to the provision for the Medupi Coal penalty (R7.8 billion) and an increase in the cost of Independent Power Producers ("IPPs").
- Despite the pressure on the primary energy costs, the earnings before interest, tax, depreciation and amortisation ("EBITDA") was R24.7 billion (2014: R 23.5 billion).
- The group achieved a net profit after tax of R3.6 billion (2014: R 7.1 billion)
- Significantly, Eskom had issued a USD1.2 billion (R14.8 billion) 10-year bond in February 2015 despite a further downgrade by the ratings agencies.
- The Fixed asset base had increased by R54.5 billion during the year to R458.9 billion (2014: R404.4 billion).
- Medupi Unit 6 had been synchronised on 2 March 2015. It had also generated 800MW recently.
- Transmission and Distribution networks had also performed well.

The Acting CE stated that according to these figures, Eskom was not in dire straits financially and had a story to tell investors. The recent downgrade had been for reasons other than financial performance.

With regard to the focus on improving on plant unavailability and compliance to emission limits, he stated that breakdowns were unsystematic and random and could not be foreseen. Koeberg Unit 1 should have returned to service on 18 May but would only be back on 30 May 2015. If it had returned to service on 18 May 2015 there would have been no need for load shedding. In response to a recommendation that an announcement should be made to the public around this subject it was agreed that the Acting CE would consider an announcement to coincide with the State of the System address.

He reported that the capital projects were on track and noted the following details for information:

- Medupi Unit 6: Continue to ramp up to full commercial operation with full Load planned for the 2nd quarter of 2015, and hand-over to Generation during the 3rd quarter of 2015.

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- Kusile Project: Unit 1 Boiler Re-heater hydrostatic test was successfully executed per the acceptance criteria on 12 April 2015. Balance of Plant items was progressing well.
- The 100MW Sere Wind Farm: Eskom's first utility-scale renewable energy project was put into commercial operation on 31 March 2015.
- Transmission Projects: There were 48 active schemes contributing to 14,415 MVA of transformer capacity and 4,397km to the network at completion. During the Financial year 2014-2015 Eskom achieved 318.6 kms of lines built and 2,090 MVA transformation capacity built.
- Majuba Rail: the first commercial train was expected in the 2nd quarter of 2017.
- Other Projects: Progress was being made on Photo-voltaic ("PV") rollout at power stations and administration buildings for self-consumption, with a Solar PV plant.

Other Key Focal areas were noted as follows:

- The Executives and the Board members had been engaging with Parliament, Ministers and Portfolio Committee levels at different levels.
- The Chief Executive had engaged the media on various issues that had impacted Eskom in the past few weeks.
- The one year EE plan which came to an end on 31 March 2015 had been replaced with a 1 year plan for the period.
- Eskom's environmental legal contraventions for the year were down to 11, from 24 the previous year.
- There were 14 days in April 2015 that required mandatory load reduction (shedding and curtailment) and 20 days in May 2015.
- The total municipal arrear debt to Eskom was R5 223 million as at the 30 April 2015. This was an increase of R270 million on the previous total municipal arrear debt amount of R4 953 million as at 31 March 2015.

Eskom Turnaround Plan

The Acting CE stated that Eskom had to remain liquid in the Financial year although the buffer of R20bn was not sustainable under the current capital investment phase. At a minimum, Eskom must break-even in the current financial year, which would require a close monitoring of expenditure as well as improved sales and collections from customers to minimise the impairment of revenue. Load shedding would be eliminated through additional use of base load to a large extent, which would require a review of the maintenance strategy. The New Build Programme was expected to deliver 3 units in the current financial year from Medupi (one unit) and Ingula (two units).

The cash flows for the Financial Year 2016 ("FY2016") indicated a closing balance of R15.7 billion which was mainly due to an equity injection of R10 billion, which it was assumed would be received by December 2015, as pre-funding for FY2017. It was reported that municipalities, mining and industrial customers were the biggest contributors to energy sales and revenue. In this regard all favourable customers would be converted to prepaid metering as soon as was practical.

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Going forward there would be monthly cash flow statistics for all business units and the system would not allow any Business Unit to spend more than its budget. In this way the cash holding could be reduced to between R5Bn to 2Bn.

In response to a comment that the cash flow in the presentation was a deviation from the Corporate Plan, it was reported that this was correct as this cash flow indicated the worst case scenario. It was reported further that the bond that would mature in September 2015 was in the process of being switched to avoid having to pay investors out during the current financial year.

The production budget was predominantly spread across coal and gas purchases. Once Eskom had stabilised in about ten years' time, consideration would be given to moving away from coal as a base load.

The Total capital expenditure for the year was R60Bn with new builds contributing over 40% of expenditure, details of which were included in the presentation. Eskom needed to ensure that capital was available to ensure delivery of one Medupi and two Ingula units in FY2016.

Eskom planned to raise a total of R55Bn of debt securities for FY2016 as follows:

Source	R'millions
Eskom bonds	8 000
DFI and other loans	7 244
Export Credit Facilities	10 576
International Bonds	16 500
Commercial Papers	10 000
DBSA	3 000
Total debt securities raised	55 320

Of this, 42.9% of the potential sources for the borrowing programme had been committed to date. Management was confident that they would raise the funding required. It was noted that the World Bank had an issue around funding build for coal base due to its stance on the environmental impact of coal, but had funded Medupi. The Acting CE undertook to distribute an update to the Board around the World Bank funding.

It was reported that total maturities for FY 2016 were R23.7Bn but switches to longer bonds had reduced this repayment requirement by approximately R6Bn. Cash flows were monitored per division on a daily basis and indicated a monthly positive cash balance.

It was reported that the price drivers for FY2016 included the revised Nersa allocation, a selective reopener and an environmental levy increase. Of the requested 24.7% increase for FY 2016, only 6.8% was an actual increase, and Eskom was only the agent for the environmental levy. The makeup of the 24.7% increase was explained as follows:

Source	FY 2016 %
Rest of normal costs and returns	6.8 %
OCGTs	0.1 %
Other IPPs (Renewables & DOE peaker)	0.7 %

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STPPP	0.0 %
Environmental levy	0.4%
MYPD3 Original price decision	8.0 %
MYPD2 RCA clawback decision by Nersa	4.7 %
Revised price already granted by Nersa	12.7 %
Selective reopener	9.5%
- OCGTs	6.4 %
- STPPP	3.1 %
Environmental levy increase (if Gazetted)	2.5 %
Overall price to consumer	24.7 %

Load Shedding

The implementation of load shedding on 5 May 2015 was used as an example to explain why load shedding occurred, which was a result of PCLF, UCLF and "MW at risk of breaking down" which reduced the available capacity to a level below peak demand. It was noted that UCLF and "MW at risk of breaking down" had to be reduced to allow for more PCLF which would reduce the need for load shedding.

A member requested that KPIs be determined that measure all aspects of maintenance to allow the Board to follow progress around this issue.

It was reported that insurance rates for Eskom had increased by 595% because of the incidents that had happened at Majuba, Duvha and Ingula. It was noted that management had to take cognisance of this as the Board did not want to get to a position where Eskom could not obtain insurance.

The Acting CE stated that more capacity was required to balance PCLF and UCLF. Eskom needed to prioritise the risk maintenance to ensure that there would be sufficient capacity available for philosophy maintenance. The various types of outages associated with plant maintenance were explained. Management would actively look to reduce the execution time for PCLF and outages as well as eliminate slippages. In this regard leadership, had to be visible. As a result, he had instructed Exco to implement site visits every Friday as well as engage with site management wherever possible. It was recommended that some Board meetings also be held at different Eskom sites.

Performance Management

The Acting CE tabled his defined performance management approach which cascaded as follows:

- Approved Corporate Plan for 2015/16 to 2109/20.
- Contracted with CE.
- Contracted with Executives.
- Cascaded down to the rest of the organisation.
- Individual performance reviews every 100 days.

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The CE compact would be structured around a turnaround plan and the shareholder compact. The Turnaround plan would include liquidity at 40% to maintain liquidity levels for break-even, and operational excellence at 60% including the reduction of UCLF to avoid load shedding.

There would also be a "business as usual" component underpinned by the Shareholder Compact, which would include the following:

- Focus on safety.
- Place the customer at the centre.
- Improve operations (focus on Transmission and Distribution).
- Deliver capital expansion.
- Reduce environmental footprint in existing fleet.
- Implementing coal haulage and the "road to rail" migration plan.
- Ensure financial sustainability.
- Human capital.
- Economic impact.

Conclusions

The 100 day focus would be on:

- Maintenance without load shedding;
- Liquidity; and
- Governance.

A detailed Turnaround plan and performance compacting in sufficient granularity would be finalised at the next Exco Breakaway. This would constitute the quarterly deliverables until March 2016. The Turnaround Plan implications on the Corporate Plan would be analysed and dealt with through an addendum.

The Acting CE stated that he was confident that Eskom could be salvaged. The Acting Chairman expressed the Board's gratitude and confidence that the presentation had given them in respect of Eskom's future. Members stated that the Acting CE had only projected positivity and he had the Board's full support. The Acting CE stated that he had a strong team at Eskom to assist him and could not have achieved any results on his own. It was also requested that the Board Committees be flexible in the near future to facilitate meetings and decisions.

Resolved that:

1. the Acting Chief Executive's report for the period ended 31 March 2015 is noted;
2. the Acting CE should consider an announcement around the return-to-service of Koeberg Unit 1 to coincide with the State of the System address;
3. KPIs should be determined that measure all aspects of maintenance; and

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4. consideration should be given to holding some Board meetings at different Eskom sites.

9. ITEMS FOR APPROVAL

9.1. REFERRALS FROM AUDIT AND RISK COMMITTEE ("ARC")

9.1.1. Group Financial Results

Reference document 10.1.1 (a) (b)

The external auditors joined the meeting for the purposes of the discussion.

The Group Finance Pack 3: Eskom Group Financial Results for the year ended 31 March 2015 and external audit reports were tabled for approval, details of which were included in the meeting pack.

The External Auditors stated that they were issuing an unqualified audit with an "emphasis on matter" which related to the "going concern" in order to bring it to the attention of other outside parties. They stated that they were awaiting a letter of support from the National Treasury in respect of the going concern issue.

In response to a query as to whether there was any irregular activities and anything of significance which had to be reported to the Board, the External Auditors reported that the irregular activity related to The New Age Contract ("TNA") and the significant activity related to the removal of Mr Baloyi as a Board member. It was reported that the TNA contract had been ratified by the Board and therefore was no longer regarded as irregular. However, it still had to be noted in the financial results as it had been considered irregular from the time of implementation to the date it was condoned by the Board. With respect to Mr Baloyi, the Board had followed the letter of the law and his removal was not in question. However, his actions and conduct had been regarded as irregular.

The CFO undertook to prepare a presentation for the public around these issues outside of the meeting. The Acting CE noted that the external auditors had specified that all matters had been adequately addressed. It was noted further that the notes (around these issues) that were included in the AFS, had been put into the report by management and the external auditors had only drawn attention to it.

It was reported that the "going concern" issue and the "emphasis of matter" had been discussed in detail at ARC and the ARC had been satisfied with the external auditors' response.

In response to a query the external auditors stated that if a letter of support was not received from the National Treasury to address the going concern issues they would not be in a position to sign off the financial results. However, they had been advised by management that the letter would be forthcoming.

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It was reported that the ARC had reviewed the subsidiaries' financial results in detail. It was requested that a "deep dive" analysis into the subsidiaries be included at a Board Breakaway.

The Acting CE thanked the external auditors for their professional work and for completing the audits on time.

Resolved that:

1. the audited annual financial statements for the year ended 31 March 2015 are approved and the Board concurred with the adoption of the going-concern premise in the preparation of the annual financial statements and approved it for signature by the Acting Chairman subject to the letter of support from the shareholder;
2. the directors' valuations of investments in subsidiaries, associates and joint ventures as at 31 March 2015 are approved;
3. the draft audit opinion on the annual financial statements and the report of the external auditors to the Audit and Risk Committee, including the Auditor General's final management report and the final audit fee are noted;
4. the management representation letter and the summary of unadjusted audit differences for the year ended 31 March 2015 are approved;
5. all the above documents are approved for signature by the Acting Chief Executive and the Chief Financial Officer; and
6. a "deep dive" analysis into the subsidiaries be included at a Board Breakaway.

9.1.2. Group Finance pack 2: The integrated report and the supplementary and divisional reports for the year ended 31 March 2015

Reference document 10.1.2 (a) (b)

The Group Finance Pack 2: The Integrated Report and the Supplementary and Divisional Reports for the Year Ended 31 March 2015 were tabled for approval, details of which were included in the meeting pack.

In response to members' concerns around the size of the pack, it was reported that the report was a large document because it contained a vast amount of information that had been requested by the shareholder and other regulatory authorities.

Members were requested to provide input and updates to the CFO around the directors' details and qualifications; key Board activities; and any other issues they may have pertaining to the report before the report was finalised for printing. The Acting Chairman stated that he was satisfied with the Chairman's Report and the Acting CE undertook to provide input to the CE's Report.

It was noted that as the Acting CE and the CFO were not directors, it would be necessary to authorise the Chairman of the Board, the Chairman of the ARC and the Chairman of the IFC as signatories to the Integrated Report.

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Resolved that:

1. the Board considered and approved the following:
 - 1.1 The 2015 Integrated Report (including the summarised financial statements) and is satisfied that;
 - 1.1.1 the content in the report accurately reflects the material items for the company and that the material items discussed are complete;
 - 1.1.2 the report accurately reflects the social, ethics, financial and sustainability results for the year ended 31 March 2015; and
 - 1.1.3 the report is presented in accordance with the International Integrated Reporting Framework Version 1.0;
 - 1.2 the 2015 Fact Sheets (containing supplementary information that will only be published on Eskom's website);
 - 1.3 the newspaper advert for the year ended 31 March 2015;
 - 1.4 the draft Results Presentation for the year ended 31 March 2015;
2. the Board noted the draft audit opinion for the selection of KPI data included in the Integrated Report (sustainability audit) for the year ended 31 March 2015;
3. Members should provide input and updates to the Chief Financial Officer around the directors' details and qualifications; key Board activities; and any other issues they may have pertaining to the report before the report was finalised for printing; and
4. the Chairman of the Board, the Chairman of the Audit and Risk Committee and the Chairman of the Investment and Finance Committee are authorised to sign the 2015 Integrated Report and all other documents that may be required to give effect to these resolutions.

9.1.3. Shareholder Report for the period ended 31 March 2015

Reference document 14.2.1 (a) (b) (c) (d)

The Shareholder Report for the period ended 31 March 2015 was noted and taken as read.

Resolved that:

1. the Shareholder Report for the period ended 30 September 2014 is noted.

9.1.4. Audit & Risk Committee Terms of Reference Review 2015

Reference document 10.1.3 (a) (b)

The Terms of Reference for the Board Audit and Risk Committee were tabled for approval, details of which were included in the meeting pack:

Resolved that:

1. the Terms of Reference for the Board Audit and Risk Committee are approved.

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9.2. REFERRALS FROM PEOPLE AND GOVERNANCE COMMITTEE ("P&G")

9.2.1. P&G Committee Terms of Reference Review 2015

Reference document 10.2.1 (a) (b)

The Terms of Reference for the P&G Committee were tabled for approval, details of which were included in the meeting pack.

Resolved that:

1. the Terms of Reference for the People and Governance Committee are approved.

9.3. REFERRALS FROM BOARD TENDER COMMITTEE ("BTC")

None

9.4. REFERRALS FROM SOCIAL ETHICS AND SUSTAINABILITY COMMITTEE ("SES")

9.4.1. SES Committee Terms of Reference Review 2015

Reference document 10.4.1 (a) (b)

It was reported that the Terms of Reference for the SES Committee were tabled at the SES Committee meeting on 26 May 2015 but changes were requested before they could be recommended for approval by the Board.

9.5. REFERRALS FROM INVESTMENT AND FINANCE COMMITTEE ("IFC")

9.5.1. Tutuka Fabric Filter Plant Retrofit Project – ERA Revision 1

Reference document 10.5.1 (a)

The Tutuka Fabric Filter Plant Retrofit Project – ERA Revision 1 was tabled for approval, details of which were included in the meeting pack.

In response to concerns and queries it was reported that this was not an increase in costs but was for approval of additional requirements to comply with environmental legislation. If this was not approved then Tutuka would have to be closed down. It was reported further that this had been examined in detail by the BRBP Committee.

Members stated that the Minister had instructed the Board not to increase costs and a discussion was required around how to control cost overruns. It was requested that the letter from the Minister of PE around cost increases be distributed for information.

Resolved that:

1. the ERA Rev 1 scope change and cost increase of R1 674.6M, from R6 529.7M (excluding IDC) to R8 204.3M (excluding IDC of R504.6M, but including contingency of R664.7 M, cost of cover of R456.3 M and previously approved DRA's of R33.6 M) for

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- the Tutuka Fabric Filter Plant Retrofit project is approved;
2. the ERA Rev 1 time re-phasing which involves a delay of the FFP retrofits, with the start of the first retrofit shifting from May 2016 to October 2018 and the start of the last (sixth) retrofit shifting from January 2022 to August 2022 is approved. The new execution duration is 109 months, extending to March 2024, including a 9 months' time contingency;
3. the Minister of Public Enterprises ("the Minister") should be informed, as per PFMA requirements;
4. the Group Executive: Group Capital is authorised, with the power to delegate further, to take all necessary steps to give effect to the above;
5. a discussion around how cost overruns could be controlled in the New Build Programme should be considered at the next Board Breakaway; and
6. the letter from the Minister around cost increases be distributed for information.

9.5.2. Cape Corridor Phase 2: Hydra to Omega 765kV Integration ERA Revision

Reference document 10.5.2 (a)

The Cape Corridor Phase 2: Hydra to Omega 765kV Integration ERA Revision was tabled for approval, details of which were included in the meeting pack.

Resolved that:

1. the revision of the execution phase budget from the previously approved amount of R5 655 M (including contingency of R174 M and excluding IDC of R1 496 M) by an increase of R395 M to R 6 050 M (including contingency of R10 M and excluding IDC of R1 577 M) for the Cape Corridor Phase 2: Hydra Omega 765kV Integration Project is approved;
2. the revision of the commercial operation date from the previously approved date of 31 March 2016 to 30 June 2016 is approved (an increase of 3 months); and
3. the Group Executive: Group Capital Division is authorised with the power to take all the necessary steps to execute the project including the signing or approval of any documentation.

9.6. REFERRALS FROM BOARD RECOVERY AND BUILD PROGRAMME COMMITTEE ("BRBP")

9.6.1. BRBP Committee Terms of Reference Review 2015

Reference document 10.6.1 (a) (b)

The Terms of Reference for the BRBP Committee were tabled for approval, details of which were included in the meeting pack.

Members expressed a concern that the powers of the BRBP were too wide and conflicted with other Board Committees in terms of finance and build approvals. It was reported that the BRBP Terms of Reference had evolved from the merger of the Board Build Programme Review Committee and the Eskom Emergency Task Team. It was requested that the BRBP

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be approved for now subject to review after being aligned with the Terms of Reference for all the other Board Committees.

Resolved that:

1. the Terms of Reference for the Board Recovery and Build Programme Committee are approved; and
2. the Terms of Reference should be aligned with the Terms of Reference for all the other Board Committees.

9.7. REFERRALS FROM EXCO

9.7.1. ANNUAL GENERAL MEETING ("AGM")

It was noted that the AGM documents would be discussed with the DPE on 29 May 2015 and thereafter would be distributed to members for information. It was reported that the date for the AGM would have to be changed as the Acting CE would not be available on 10 July 2015. This would be done in consultation with the Minister and members would be advised accordingly.

10. MINUTES OF PREVIOUS MEETINGS FOR APPROVAL

It was agreed that all minutes from 2014 could not be approved as a true reflection of the proceedings as the Board had changed in December 2014 and therefore all of those minutes would only be noted but not signed by the Acting Chairman. It was agreed that the Company Secretary would engage with Ms Mabude around the correctness of the minutes.

Resolved that:

1. the Company Secretary should engage with Ms Mabude around the correctness of the Board minutes still outstanding from 2014.

10.1. Minutes of Board Meeting No. 07-2014/15 held on 19 November 2014

Reference document 12.1 (a)

The minutes of the Board Meeting No. 07-2014/15 held on 19 November 2014 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting No. 07-2014/15 held on 19 November 2014 are noted.

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10.2. Minutes of Board Meeting No. 08-2014/15 held on 24 November 2014

Reference document 12.2 (a)

The minutes of the Board Meeting No. 08-2014/15 held on 24 November 2014 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting No. 08-2014/15 held on 24 November 2014 are noted.

10.3. Minutes of Board Meeting No. 09-2014/15 held on 28 November 2014

Reference document 12.3 (a)

The minutes of the Board Meeting No. 09-2014/15 held on 28 November 2014 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting No. 09-2014/15 held on 28 November 2014 are noted.

10.4. Minutes of Board Meeting No. 10-2014/15 held on 3 December 2014

Reference document 12.4 (a)

The minutes of the Board Meeting No. 10-2014/15 held on 3 December 2014 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting No. 10-2014/15 held on 3 December 2014 are noted.

10.5. Minutes of Board Meeting No. 11-2014/15 held on 8 December 2014

Reference document 12.5 (a)

The minutes of the Board Meeting No. 11-2014/15 held on 8 December 2014 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting No. 11-2014/15 held on 8 December 2014 are noted.

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10.6. Minutes of Board Meeting No. 12-2014/15 held on 16 January 2015

Reference document 12.6 (a)

The minutes of the Board Meeting No. 12-2014/15 held on 16 January 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 12-2014/15 held on 16 January 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.7. Minutes of Board Meeting No. 13-2014/15 held on 16 February 2015

Reference document 12.7 (a)

The minutes of the Board Meeting No. 13-2014/15 held on 16 February 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 13-2014/15 held on 16 February 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.8. Minutes of Board Meeting No. 14-2014/15 held on 9 March 2015

Reference document 12.8 (a)

It was noted that these were In-committee minutes and were dealt with during the In-committee session.

10.9. Minutes of Board Meeting No. 15-2014/15 held on 11 March 2015

Reference document 12.9 (a)

The minutes of the Board Meeting No. 15-2014/15 held on 11 March 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 15-2014/15 held on 11 March 2015 are approved as an accurate reflection of the proceedings; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

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10.10. Minutes of Board Meeting No. 16-2014/15 held on 19 March 2015

Reference document 12.10 (a)

The minutes of the Board Meeting No. 16-2014/15 held on 19 March 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 16-2014/15 held on 19 March 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.11. Minutes of Board Meeting No. 17-2014/15 held on 31 March 2015

Reference document 12.11 (a)

The minutes of the Board Meeting No. 17-2014/15 held on 31 March 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 17-2014/15 held on 31 March 2015 are approved as an accurate reflection of the proceedings; and
2. the Chairman of this meeting is duly authorised to sign the minutes.

10.12. Minutes of Board Meeting No. 02-2015/16 held on 23 April 2015

Reference document 12.12 (a)

The minutes of the Board Meeting No. 02-2015/16 held on 23 April 2015 having been circulated, were considered.

Resolved that:

1. the minutes of the Board Meeting 02-2015/16 held on 23 April 2015 are approved as an accurate reflection of the proceedings, subject to minor amendments; and
2. the Chairman of this meeting is duly authorised to sign the minutes.


11. ROUND ROBIN RESOLUTIONS FOR RATIFICATION

11.1. Ratification of The New Age ("TNA") Media Contract

The Round Robin Resolution for the approval of the TNA Contract was tabled for ratification.

Resolved that:

1. the Round Robin Resolution for the approval of The New Age Contract is ratified.

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11.2. Ratification of Power Purchase Agreements for Short Term Energy procured by Eskom

Reference document 12.13.1 (a)

The Round Robin Resolution for the approval of the Power Purchase Agreements for Short Term Energy procured by Eskom was tabled for ratification.

Resolved that:

1. the Round Robin Resolution for the approval of the Power Purchase Agreements for Short Term Energy procured by Eskom is ratified.

12. MATTERS ARISING FROM PREVIOUS MINUTES FOR NOTING

12.1. Board Action List up to 16 January 2015

Reference document 13.1 (a)

The Action list for items outstanding from the Board meetings up to 16 January 2015 was noted and taken as read.

The Company Secretary undertook to revise the Action list to colour code actions into different categories to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

Resolved that:

1. the Action list for the Board meetings held up to 16 January 2015 is noted;
2. the finalised action items could be removed from the Action list; and
3. the Action List should be colour coded to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

12.2. Board Breakaway Action List for 2 and 3 April 2014

Reference document 13.2 (a)

The Board Breakaway Action list for 2 and 3 April 2014 was tabled at the meeting for information.

Resolved that:

1. the Board Breakaway Action list for 2 and 3 April 2014 is noted;
2. the finalised action items could be removed from the Action list; and
3. the Action List should be colour coded to indicate whether actions were (i) completed, (ii) in progress, or (iii) still outstanding.

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12.3. AGM Action List – 11 July 2014

Reference document 13.3 (a)

The AGM Action List for 11 July 2014 was tabled for information, details of which were included in the meeting pack.

It was reported that a process was in place to track the progress of all actions and ensure they were completed before the next AGM.

Resolved that:

1. the Annual General Meeting Action List for 11 July 2014 is noted.

13. BOARD COMMITTEE REPORTS

13.1. Matrix of Board Committee Reports to Board

Reference Document 14.1 (a)

The Matrix of Board Committee Reports to Board up to May 2015 as included in the meeting file was noted.

It was agreed that in future each Board Committee Chairman should give a short verbal report on critical issues dealt with at their respective committees.

Resolved that

1. the Matrix of Board Committee Reports to Board up to May 2015 is noted.

13.2 Audit & Risk Committee ("ARC") Report

Reference document 14.2 (a) (b) (c)

The ARC Committee Reports for the meetings held on 10 November 2014, 18 November 2014 and 10 February 2015 were taken as read and noted, details of which were included in the meeting pack.


Resolved that:

1. the reports of the Audit & Risk Committee meeting held on 10 November 2014, 18 November 2014 and 10 February 2015 are noted.

17.3 Board Tender Committee

Reference document 14.3 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n)

The Board Tender Committee Reports for the meetings held on 2 June 2014, 19 June 2014, 30 July 2014, 31 July 2014, 12 August 2014, 22 September 2014, 24 October 2014, 12 November 2014, 9 December 2014, 24 February 2015, 28 February 2015, 25 March 2015

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and 15 April 2015 were taken as read and noted, details of which were included in the meeting pack.

Resolved that:

- the Tender Committee reports for the meetings held on 2 June 2014, 19 June 2014, 30 July 2014, 31 July 2014, 12 August 2014, 22 September 2014, 24 October 2014, 12 November 2014, 9 December 2014, 24 February 2015, 28 February 2015, 25 March 2015 and 15 April 2015 are noted.

17.4 People & Governance ("P&G") Committee

Reference document 14.4 (a) (b)

The P&G Committee Reports for the meetings held on 20 October 2014 and 16 February 2015 were taken as read and noted, details of which were included in the meeting pack.

Resolved that:

- the People & Governance Committee reports for the meetings held on 20 October 2014 and 16 February 2015 are noted.

13.5. Investment & Finance Committee ("IFC")

Reference document 14.5 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j)

The IFC reports for the meetings held on 3 September 2014, 5 October 2014, 4 November 2014, 5 December 2014, 9 February 2015, 15 February 2015, 26 February 2015, 5 March 2015, 12 March 2015 and 8 April 2015 were taken as read and noted, details of which were included in the meeting pack.

Resolved that:

- the Investment & Finance Committee reports for the meetings held on 3 September 2014, 5 October 2014, 4 November 2014, 5 December 2014, 9 February 2015, 15 February 2015, 26 February 2015, 5 March 2015, 12 March 2015 and 8 April 2015 are noted.

13.6. Social, Ethics & Sustainability Committee ("SESC")

Reference document 14.6 (a) (b) (c)

The SESC report for the meetings held on 7 August 2014, 14 November 2014, 18 February 2015 was taken as read and noted, details of which were included in the meeting pack.

Resolved that:

- the Social, Ethics & Sustainability Committee report for the meetings held on 7 August 2014, 14 November 2014 and 18 February 2015 are noted.

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13.7. Board Build Programme Review Committee ("BBPR") and Board Recovery and Build Programme Committee (BRBP)

Reference document 14.7 (a) (b) (c) (d)

The BBPR report for the meeting held on 10 December 2014 and the BRBP reports for the meetings held on 20 February 2015, 19 and 20 March 2015 and 20 April 2015 were taken as read and noted, details of which were included in the meeting pack.

Resolved that:

1. the Board Build Programme Review Committee report for the meeting held on 10 December 2014 is noted; and
2. the Board Recovery and Build Programme Committee reports for the meetings held on 20 February 2015, 19 and 20 March 2015 and 20 April 2015 are noted.

13.8. Exco

Reference documents 15.8 (a) (b) (c) (d) (e) (f) (g) (h) (i) (j) (k) (l) (m) (n) (o) (p)

The Exco reports for the meetings held on 2 November 2014, 3 November 2014, 17 November 2014, 2 December 2014, 5 December 2014, 7 January 2015, 27 January 2015, 28 January 2015, 2 February 2015, 5 February 2015, 20 February 2015, 12 March 2015, 18 March 2015, 26 March 2015, 1 April 2015 and 7 May 2015 were taken as read and noted, details of which were included in the meeting pack.

Resolved that:

1. the Exco reports for the meetings held on 2 November 2014, 3 November 2014, 17 November 2014, 2 December 2014, 5 December 2014, 7 January 2015, 27 January 2015, 28 January 2015, 2 February 2015, 5 February 2015, 20 February 2015, 12 March 2015, 18 March 2015, 26 March 2015, 1 April 2015 and 7 May 2015 are noted.

14. GENERAL

14.1. Broadband Infraco

Mr Pamensky reported that his company was doing business with Broadband Infraco, and that Broadband Infraco was not paying their accounts. As a result it was anticipated that the contract would not be renewed because of this reason when it came to an end.

14.2. Site Visits

It was reported that the BRBP would be conducting site visits to Kusile in June 2015 and Ingula in July 2015 on dates still to be determined. Board members were invited to attend should they so wish.

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14.3. Board Members' Private e-mails

It was noted that the CIO had raised a concern around the security of using Board members private and other business e-mail addresses instead of Eskom e-mail addresses. It was agreed that all members would contact Executive IT support to have their Eskom e-mail addresses linked to their cell phones to be aware of all Eskom e-mails.

14.4. Board Evaluation

Members noted that the Board evaluation questionnaire that had been circulated to members for completion included questions that they were of the opinion could not be adequately completed at this time as the Board had not been in place for sufficient time to evaluate some performances.

After a short debate it was agreed that the evaluation be discontinued for the 2014/15 Financial Year and a new service provider be engaged for the 2015/6 Financial Year.

Resolved that:

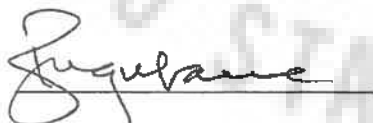
1. the internal limited Board evaluation exercise be discontinued for the 2014/15 Financial year; and
2. a full Board evaluation be undertaken for the 2015/16 Financial Year; and
3. the service providers for the 2015/16 Financial Year be engaged.

15. CLOSURE

There being no further matters for discussion, the Chairman declared the meeting closed at 15h30.

SIGNED BY THE CHAIRMAN AS AN ACCURATE RECORD OF THE PROCEEDINGS

CHAIRMAN:



DATE:

26/08/16