**1. REPORT OF THE SELECT COMMITTEE ON APPROPRIATIONS ON THE *SPECIAL APPROPRIATION BILL* [B10-2019 (Reprint)] (NATIONAL ASSEMBLY – SECTION 77), DATED 23 OCTOBER 2019**

Having considered the *Special Appropriation Bill* [B10 – 2019 (Reprint)], referred to it in terms of Section 13 of the Money Bills and Related Matters, Act No. 9 of 2009 (as amended), the Select Committee on Appropriations reports as follows:

1. **Introduction**

Section 213(2) of the Constitution of the Republic of South Africa, provides that money may be withdrawn from the National Revenue Fund (NRF) only in terms of an appropriation by an Act of Parliament. The Appropriation Act sets out to appropriate money from the National Revenue Fund for the requirements of the State and to prescribe conditions for the spending of funds withdrawn. In executing this mandate, the Select Committee on Appropriations (the Committee) was established in terms of section 4(3) of the Money Bills and Related Matters Act, No. 9 of 2009 (the Act). The *Special Appropriation Bill* [B10 – 2019 (Reprint)] was tabled by the Minister of Finance on 23 July 2019 and it was referred to the Committee on 22 October 2019.

In line with section 13(2) of the Act, read together with section 72 of the Constitution, the Committee has a responsibility to hold public hearings on any money bills and and report thereon to the National Council of Provinces (NCOP). To this end, advertisements were published in national and regional newspapers inviting the general public and interested parties to comment on the Bill. In response, written submissions were received from the following individuals and organisations:

* Mr G Sigwela;
* Mr G Gulston;
* Fish Hoek Ratepayers and Residents Association;
* Alternative Information Development Centre (AIDC);
* Organisation Undoing Tax Abuse (OUTA);
* Congress of South African Trade Unions (COSATU);
* National Union of Mineworkers (NUM); and
* Dear SA online poll.

The AIDC, OUTA and COSATU, accompanied by NUM, also made oral submissions during a public hearing that was held jointly with the Standing Committee on Appropriations in Parliament on 11 September 2019. In addition to the briefing received from National Treasury, the Committee consulted with the following stakeholders on the Bill:

* Department of Public Enterprises;
* Eskom Holdings (SOC) Limited;
* Parliamentary Budget Office (PBO); and
* Financial and Fiscal Commission (FFC).

1. **Background provided by National Treasury**

Eskom is experiencing serious financial and operational challenges, caused to a large extent by governance challenges and malfeasance that the entity previously experienced, resulting in a decline in investor confidence. The entity now has to borrow increasing amounts to service its debt obligations, making it financially unsustainable and exposing it to high levels of liquidity challenges (more exposure) and going concern risk. Without major changes to Eskom’s business model and financial assistance from government, the entity will be unable to meet its financial obligations in the 2019/20 financial year. Eskom is also experiencing challenges in raising its required funding due to lenders’ concerns about –

* Its future sustainability;
* Uncertainty about government’s restructuring or unbundling plan; and
* Lack of clarity on policy direction of the energy sector.

Failure to manage short term liquidity will result in Eskom defaulting on its debt repayments and this will result in a possible call on its government guaranteed debt. Due to a lower than requested tariff determination by NERSA and slower implementation of cost-saving measures, the projected Eskom revenues will not be enough to cover its interest payments, debt repayments and capital expenditure requirements. For this reason, government decided to provide Eskom with financial support to assist with its challenges.

In his 2019 Budget speech, the Minister of Finance announced proposed allocations of R23 billion annually over the medium term to support Eskom during its reconfiguration and restructuring. On 31 March 2019 Eskom experienced challenges in drawing its intended facilities and could not honour its financial obligations. Because of that, failure to meet its financial obligations could have had negative consequences for Eskom and the fiscus, the Minister intervened by invoking section 16 of the Public Finance Management Act (PFMA) to approve R17.6 billion for Eskom, which was the maximum allowable amount. This was an accelerated part of the R23 billion allocation announced in the 2019 Budget. To date, R13.5 billion of the R17.6 billion approved has been transferred to Eskom. The remaining R4.1 billion is to be disbursed in accordance with Eskom’s cash flow requirements. In his June 2019 State of the Nation Address, the President, indicated that Eskom was too vital to the economy to be allowed to fail and announced that a Special Appropriation Bill would be tabled by the Minister of Finance. On 19 June 2019, Cabinet approved the proposed additional funding allocation to assist Eskom with its financial challenges and on 23 July 2019 the Minister tabled the Bill in Parliament.

1. **Provisions of the Bill**

The Bill proposes the following additional financial support for Eskom:

* An additional R26 billion in the 2019/20 financial year; and
* R33 billion in the 2020/21 financial year.

National Treasury indicated that this financial support also addressed the going concern status which enabled external auditors to sign off Eskom’s annual financial statements. However, this financial support was based on Eskom’s ability to execute its funding plan of R46 billion for 2019/20, of which 58 percent had already been secured. Failure to execute the funding plan could result in Eskom experiencing liquidity shortfalls at 31 March 2020 and requiring additional funding to that provided through Bill.

The Bill further provides that the Minister of Finance, in writing –

• May impose conditions to be met by Eskom before any part of the amount is transferred; and

• Must impose conditions to be met by Eskom after the transfer of any part of the amount.

During the initial briefing on the Bill, National Treasury reported that it was in the process of developing conditions to be imposed before and after transfers were made to Eskom. Upon request of the Committee, these proposed conditions were presented to a joint meeting of the Select and Standing Committees on Appropriations on 9 October 2019.

1. **Submissions by stakeholders**
   1. **Financial and Fiscal Commission**

The Financial and Fiscal Commission (FFC) supported the Bill, based on the significance of Eskom to the overall functioning of the South African economy, especially the potentially devastating repercussions should Eskom default on its debt obligations. However, the FFC raised a number of concerns over Eskom’s current state of affairs and implications for government’s bail-out, including the following:

* Governance weaknesses at Eskom;
* Leadership instability at Eskom;
* Operational inefficiencies at Eskom;
* Inappropriate tariff setting by Eskom; and
* Absence of a clear plan or strategy to improve Eskom’s financial viability and future profitability.

The FFC further made proposals to assist Parliament in finding a sustainable solution to Eskom’s financial challenges, which included the following:

* Linking financial support to a solid plan with clear delivery milestones;
* Stricter oversight through quarterly reporting to Parliament on the spending of the bail-out funds;
* Greater urgency to improve and stabilise Eskom’s leadership and governance;
* Linking the Bill to clear and strict conditions;
* Maximising operational efficiency such as re-negotiating contracts, reducing costs of Independent Power Producers (IPPs);
* Increasing competition and outsourcing of non-core activities; and
* Setting up an *ad-hoc* committee for closer and strict monitoring of Eskom’s use of government’s financial support.

The FFC proposed that the following conditions be set in regard to the Bill to counter the likely negative effects of the bail-out:

* That Eskom establish a performance management framework linking the turnaround plan deliverables to executive and non-executive salaries and performance contracts.
* That National Treasury establish clear key performance areas with specific time frames for the Chief Restructuring Officer, the Eskom Board and Eskom Executive Management Committee.
* That an oversight framework of Eskom be established by an *ad hoc* parliamentary committee, entailing quarterly reports outlining the milestones reached in relation to the prescribed set of performance indicators.
* That the Department of Mineral Resources and Energy establish a comprehensive legislative and regulatory framework with timelines and responsibilities for energy transition towards cheaper renewable power generation and associated technologies.
* That the Department of Public Enterprises establish a detailed legislative and regulatory framework with timelines and responsibilities for unbundling Eskom into three separate units - generation, transmission and distribution.
  1. **Parliamentary Budget Office**

The Parliamentary Budget Office (PBO), in reporting on Eskom’s financial performance in 2019, indicated that earnings from operations had declined by 31% in 2019. Electricity sales volume declined, leading to a decrease in production in Eskom generation sources. Although revenue value had increased by 3 percent since 2018, there was a significant increase in uncollectable revenue from invoiced customers in 2019 (R 8.4 billion) compared to 2018 (R3.1 billion). Municipal receivables (R8.8 billion) accounted for 40 percent of electricity debtors and municipal debtors increased by 13 percent from 2018. In addition, local small power users consumed a large portion of electricity, but formed a significant portion of uncollectable amounts. The PBO further reported a lack of effective and appropriate steps to collect all revenue due, while NERSA revenue tariffs were not reflective of cost of sales and other expenditure.

On the expenditure side, the PBO reported that Eskom had seen a significant increase in primary energy costs since 2018. In addition, independent power producers (IPPs) contributed 5 percent of energy that Eskom produced, but accounted for 25 percent of primary energy costs. Employee benefits had increased by 13 percent (R3.8 billion), due largely to pension benefits increasing by R1.1 billion and salaries by 7 percent. Financing costs had increased by 16 percent, due to continuous growth in both short and long-term borrowing. Cash interest cover ratio continued to deteriorate further and debt service cover ratio had declined. Depreciation had increased by more than 20 percent and was expected to significantly increase further as more plants were capitalised in the assets books.

Earnings before interest, taxes, depreciation, and amortization (EBITDA) deteriorated by 31% in 2019 and Eskom was unable to raise funds from the market due to a lack of confidence in the annual financial statements; deterioration of plant performance and material uncertainty related to going concern, with a loss of R21 billion and current liabilities exceeding current assets by R44 billion. The PBO reported that government support (cash injection in particular) was seen by Eskom as part of its turnaround strategy, as well as income for the entity.

The PBO further questioned whether the Department of Public Enterprises had sufficient capacity to fulfil its mandate to –

* Provide and enforce state-owned companies’ (SOCs) governance, legal assurance, and financial and non-financial performance monitoring, evaluation and reporting systems in support of the shareholder to ensure alignment with government priorities; and
* Provide sector oversight to ensure that SOCs contribute to the advancement of industrialisation, transformation, intergovernmental relations and international collaboration services and support the shareholder in strategically positioning and enhancing the operations of SOCs.
  1. **Eskom and Department of Public Enterprises**

A delegation from the Department of Public Enterprises, led by the Minister and the Deputy Minister appeared before the Committee together with Eskom’s Board Chairperson and Acting Chief Executive Officer (CEO) and his delegation. In its submission, Eskom reported that the equity injection of R23 billion and the conversion of the subordinated loan of R60 billion in 2015 had had an immediate impact on key ratios with debt/equity improving and debt reduced. However, the entity was not sustainable in its current form. The reported challenges included the following:

* Borrowing to service debt, which was approaching R450 billion;
* Declining revenue volumes, tariffs that were not cost-reflective and R38 billion in receivables outstanding;
* Operating expenditure increasing by 30 percent in five years with large increases in the cost of employees and coal and IPP payments;
* The energy availability factor (EAF) dropping below 70 percent in 2019, with load shedding, increased costs and lost revenue and credibility; and
* An outdated business model with operational and structural inefficiencies, lack of transparency and a change in the energy landscape.

In reporting on the loss of R20.7 billion in the previous financial year, Eskom indicated that, despite the rapid increase in the price of electricity, it was not cost-reflective and still relatively cheap. Cash from operations was not sufficient to service the debt. Mention was also made of the increasing debt owed by municipalities and small local consumers in Soweto. Eskom was working with the Inter-Ministerial Task Team (IMTT) to address municipal debt and liaising with the community in Soweto to address the culture of non-payment.

Eskom presented its turnaround plan, centred on the five focus areas of debt relief; revenue management; cost initiatives; operational stability and business separation.

With regard to debt relief, Eskom proposed that R250 billion of debt be removed from the entity’s balance sheet by a debt transfer to government. Debt levels would be maintained by ensuring future capital expenditure equals redemption amounts, with the Medupi and Kusile power stations to be completed within the next five years. The Chief Restructuring Officer (CRO) would be responsible for the process of government debt support and liaising with the financial community to give assurance on the process regarding the debt.

With respect to revenue management, Eskom intended to drive short-term growth with pricing incentives; grow international sales and further pursue new growth opportunities. On cost initiatives, Eskom intended to drive procurement excellence; reduce sundry expenses; and launch operational improvements, including the performance of Eskom Rotek Industries (ERI), if it was not sold. It further planned to reduce road and rail logistics costs; optimise its coal inventory; and reduce overtime.

Eskom indicated that it was firstly focusing on generation due to its importance in achieving operational stability. This was done through the implementation of a 9-point plan over two years. The steps included the fixing of new plants; reducing load losses and station trips; fixing units on long-term forced outages; fixing partial losses and boiler tube leaks; fixing outage duration and slips; fixing human capital; preparing for increased open cycle gas turbine (OCGT) usage; fixing emissions and fixing coal stock piles.

In conclusion, Eskom reported that it had fully complied with all the conditions set by National Treasury for the cash injection and loan conversion of 2015, with the target date of the only outstanding matter set as March 2020.

* 1. **Organisation Undoing Tax Abuse**

The Organisation Undoing Tax Abuse (OUTA) raised various concerns regarding Eskom including, its growing debt that was currently at R440 billion and what it viewed as the lack of strategic direction. OUTA emphasised the need for a holistic approach in the upcoming Eskom Paper, announced by the President. OUTA further expressed concern over Eskom’s operating costs (including primary energy, personnel and interest payments) growing by 30 percent; the Auditor-General’s findings of non-compliance with the PFMA by the entity; and procurement processes that needed to be reviewed. OUTA was concerned that the inflationary impact of electricity price increases created social hardship and deepening poverty. OUTA further questioned the effectiveness of the Inter-Ministerial Task Team to resolve the overall municipal debt, including that of Soweto.

OUTA recommended that the bail-out should be apportioned for the following priorities:

* Reducing the current high levels of debt;
* Operational objectives;
* Capital objectives; and
* Improving liquidity and balance sheet risk, which should address the going concern status. (OUTA would like clarity on how Eskom would be operationally sustainable as a result of the R59 billion bailout.)

With regard to the conditions mentioned in Clause 1(2)*(b)*(i) of the Bill, OUTA proposed that the word “may” in line 18 be changed to “must”, and that such conditions should include the appointment of the restructuring team, at the very least. In addition, OUTA wanted to know whether National Treasury would institute corrective measures should Eskom fail to meet the conditions mentioned in Clause 1(2)*(b)*(ii) of the Bill. OUTA made further recommendations, as follows:

* Eskom’s turnaround strategy should be developed and implemented without delay under the auspices of specific, measurable, achievable, realistic and time-bound (SMART) principles.
* A new performance management framework and culture should be introduced at Eskom that links the turnaround plan deliverables to Eskom executive and non-executive pay and performance contracts.
* The role of the Chief Restructuring Officer (CRO) and how he complements and interfaces with Eskom’s Board and Executive Committee and reports to National Treasury, must be outlined.
* Parliament should conduct rigorous oversight over Eskom without fear or favour.
* The Department of Mineral Resources and Energy (DMRE) should develop a comprehensive legislative and regulatory framework with timelines and responsibilities for an energy transition towards cheaper renewable power generation and associated technologies.
* The Department of Public Enterprises (DPE) should develop a detailed legislative and regulatory framework with timelines and responsibilities for unbundling Eskom into three separate units -generation, transmission and distribution.
* The bail-out conditions being drafted by Treasury should be published for public comment.
* The above-mentioned conditions should prescribe how compliance will be enforced, including appropriate interventions or remedies Treasury will institute to correct any failure by Eskom to comply.
* National Treasury, together with the DPE, should instruct Eskom to draft and submit a SMART cost reduction plan with special focus on the key areas that will be trimmed and associated targeted savings.
* Eskom should be statutorily obligated to provide a breakdown of how funds will be utilised, including its payment plans to creditors and interest payments, as a non-negotiable condition before funds are transferred.
* Treasury should provide clarity on how long it envisages its financial assistance to Eskom to continue and the expected outcome or effect of this assistance.
* Treasury, DPE and DMRE should set unequivocal timelines for the turnaround of Eskom in line with the envisaged electricity supply industry (ESI) reform “End-State” Agenda.
  1. **Congress of South African Trade Unions jointly with the National Union of Mineworkers**

COSATU and the National Union of Mineworkers (NUM) made a joint presentation at the public hearings, expressing support for the Bill as a welcome intervention to save Eskom and protect workers and the economy. However, the Federation indicated that their support was conditional on a clear turnaround plan to stabilise and save Eskom, including the following non-negotiable components:

* No worker must be retrenched by Eskom; and
* Eskom must remain a state-owned company and not be privatised.

Further recommendations by COSATU and NUM on the turnaround plan included a comprehensive forensic audit of all Eskom expenditure and contracts, with a diagnosis of where Eskom was losing money. In collaboration with the National Prosecuting Authority (NPA), Hawks, SAPS and the State Security Agency, stolen funds should be recovered and guilty parties arrested and prosecuted. They further recommended the urgent appointment of a competent and experienced CEO; a reduction in the bloated senior management structure and a freeze and reduction in excessive salary packages of senior management. In addition, COSATU and NUM proposed the appointment of worker representatives to the Eskom Board, and that, where there was a need to reskill and redeploy workers, it be engaged upon with unions through the established collective bargaining structures.

COSATU and NUM further submitted that a plan was needed to deal with Soweto non-payments and to ensure that all municipal and government arrears were paid. They proposed that all Eskom and electricity payments by consumers be paid into one national account; that municipal add-on tariffs be reviewed to determine their actual value and legitimacy; and that legitimate municipal charges then be transferred to the municipalities from the national account. They further recommended that wealthy and excessive consumers be charged higher tariffs based on property value, company profit margins and excessive consumption to make tariffs progressive and reduce wasteful consumption. They also proposed that the allocation of free electricity be expanded to 3.6 million indigent households, to cushion the poor from rising tariff levels.

With regard to the economic path forward, COSATU and NUM recommended that Eskom’s license be expanded to allow it to produce and own its renewable energy plants; that IPP contracts be amended to make them more affordable, or otherwise be cancelled; and that the life span of feasible power stations be expanded. They further proposed that Eskom’s tariff hikes be inflation-linked to ensure affordability and that the tariff structure be reviewed to ensure affordability for domestic and neighbouring states’ households and industries, driving regional industrialisation and creating economic opportunities for South Africa. They felt that a special plan was needed for the fragile mining industry, which was heavily hit by tariff increases. Other proposals included building a local electric vehicle capacity and rebuilding the local solar panel industry.

COSATU and NUM finally submitted that, in order to ensure a just transition, Eskom needed plans for water conservation, recycling and harvesting, as well as land rehabilitation; and scientific tools and methods to enable industries to become green and sustainable.

* 1. **Alternative Information Development Centre**

In its submission, the Alternative Information Development Centre (the Centre) proposed that government should not use the National Revenue Fund to capitalise Eskom, but rather use other available resources such as excess funds of other state organs like the Government Employees Pension Fund (GEPF) and the Unemployment Insurance Fund (UIF) for this purpose. The Centre outlined the consequences of continued support to Eskom and other SOEs from the National Budget, including National Treasury’s proposed baseline spending reductions in the 2019 MTEF Budget, which would not only have serious implications for public service delivery like health, education and the provision of basic services; but was likely to trigger a recession. As an alternative to what amounted to harsh austerity measures, the Centre proposed that the UIF’s R170 billion total surplus (of which R154 billion was held in an investment portfolio in 2018) should be looked at. With regard to the GEPF, the Centre recommended that asset allocations be shifted from shares in corporations to government bonds; that the interest rate on inter-state lending be regulated to below 7 percent; and that a one-year contribution holiday be implemented, stimulating the cramped domestic demand. It was further recommended that the GEPF take a “hair-cut” on its R95 billion plus interest claims on Eskom. The Centre submitted that such measures comprised no threat to pension payments. A shift from equity (company shares) to bonds would improve the GEPF’s payment ability even more as a result of the 3 percentage points higher cash investment income to GEPF from bonds compared to shares.

* 1. **Fish Hoek Valley Ratepayers and Residents Association**

In its submission, the Fish Hoek Valley Ratepayers and Residents Association (the Association) indicated that Eskom had completely broken trust by being intimately associated with state capture as highlighted by the Zondo Commission of Inquiry. The Association submitted that a full forensic audit was needed to recover misspent funds. In addition, Eskom had invested unwisely in environmentally unfriendly fossil fuels when there were cheaper sources of renewable energy. The Association was of the opinion that the country could not afford a bail-out of R59 billion over the next two years; and that the need for bail-outs was likely to persist. The Association further stated that Eskom could become more efficient by, for example, mothballing some generating plants that were too expensive to maintain and reviewing its number of staff, as the Association estimated the entity had at least 33 percent more staff members than it needed. The Association was of the opinion that continued bail-outs for Eskom would amount to fruitless and wasteful expenditure, and recommended the following:

* That the Bill not be passed;
* That Eskom should focus on 100 percent collections from everybody;
* That defaulting municipalities should be placed under administration; and
* That Eskom's Distribution and Generation units be split with the Distribution side calling for tenders and awarding to the cheapest suppliers.
  1. **Individual submissions from Mr G Sigwela and Mr G Gulston**

In his written submission, Mr G Sigwela proposed that the government should look at new and innovative ideas to sustain state-owned companies and other economic initiatives, so that they not only rely on bail-outs. He was of the opinion that this would also improve rating agencies’ view of South Africa. Mr Sigwela further indicated that he had already made a proposal to Eskom on how to improve its situation and become sustainable. This proposal included South African electricity users donating back one kilowatt after purchasing their electricity, enabling Eskom to become sustainable.

Mr G Gulston, in his written submission, stated that no indication was given of how the two amounts contained in the Bill (R26 billion for 2019/20 and R33 billion for 2020/21) had been arrived at or of how the funds would be applied. He felt that it would be beneficial for the public to understand this. Mr Gulston further proposed that the proportional application of funds be as follows:

* Current high levels of debt which is debt-reduction;
* Operational objectives;
* Capital objectives;
* Liquidity and balance sheet risk which should address the going concern.
  1. **Dear SA online poll**

Dear SA is a network of online platforms designed to facilitate and encourage the public to participate in government decision-making processes or policy formulation. The non-profit organisation hosted a project on its mobile and online platforms for the public to comment on the Bill (please see <https://dearsouthafrica.co.za/special-appropriation-bill-2019/>). A total of 20 870 comments were received of which 16 482 were submitted by the set closing date and 4 338 were late entries. The table below provides a summary of the comments received before the closing date.

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| --- | --- | --- | --- |
| **Response** | **Number** | **Percentage** | **Common theme around response** |
| Yes, I do support the Bill | 505 | 3% | Concerns around Eskom as the backbone of South Africa’s economy. It was also mentioned that all taxpayers should contribute to the bailout instead of only those Eskom customers who pay their bills. |
| No, I do not support the Bill | 14 781 | 89.68% | Eskom being a bottomless pit of endless bailouts and tariff increases where funds are diverted away from social needs towards a proven corrupt entity. Emphasis was also placed on corruption, over-staffing, high salaries and bonuses as the drivers of high tariffs, cost and bailouts. |
| I do not fully support the Bill | 1 196 | 7.3% | Concerns were expressed on previous bailouts and the way funds were utilised. There was a recognition of the importance of Eskom within the economy alongside a concern for perpetual bailouts and tariff increases. |

1. **Committee Findings and Observations**

Having considered all the submissions made by the above stakeholders on the Bill, the Select Committee on Appropriations made the following findings and observations:

* 1. The Committee observed that Eskom was experiencing serious financial and operational challenges, caused to a large extent by governance issues and malfeasance that the entity previously experienced, resulting in a decline in investor confidence.
  2. The Committee observed that Eskom did not have an adequate debt collection strategy given the bulk of municipal debt amounting to R19.889 billion and had to borrow funds to service its debt obligations, making it financially unsustainable and exposing it to high levels of liquidity shortfalls and going concern risk.
  3. The Committee further found that without major changes to Eskom’s business model and financial assistance from government (in the form of the *Special Appropriation Bill* and the 2019 *Appropriation Bill*) the entity was not going to be able to meet its financial obligations and its solvency status was at risk in the 2019/20 financial year. Hence the government was proposing unbundling and financial support worth R230 billion (R23 billion per year) to be appropriated to Eskom over the next 10 years.
  4. The Committee noted National Treasury’s submission that, due to a lower than requested tariff determined by NERSA and slower implementation of cost-saving measures, the projected Eskom revenues were not enough to cover its interest payments, debt repayments and capital expenditure requirements.
  5. The Committee observed that of the R23 billion allocated to Eskom through the 2019 *Appropriation Bill*, government had transferred R13.500 billion from the R17.652 billion approved under section 16 of the Public Finance Management Act No.1 of 1999 (PFMA) – which accelerated part of the allocation for the 2019/20 financial year. Of which, the remaining R4.1 billion would be disbursed in accordance with Eskom’s cash flow requirements. The further remaining R5.348 billion of the R23 billion allocation for the 2019/20 financial year would be disbursed to Eskom following the enactment of the *Appropriation Bill* for the 2019/20 financial year.
  6. In addition to the allocated funds for the 2019/20 financial year, the Committee noted that the Bill proposed further financial support for Eskom (that is R26 billion in the 2019/20 financial year and R33 billion in the 2020/21 financial year) with specific conditions.
  7. On Eskom reconfiguration, the Committee observed that government had announced the establishment of the Chief Restructuring Office and the appointment of Mr Freeman Nomvalo as the Chief Restructuring Officer (CRO). However, the Committee expressed concerns over the heavy reliance on the CRO and warned that challenges at Eskom were not only financial but also technical in nature and therefore there was a need for a balanced approach.
  8. The Committee also noted that government was working on a *Special Paper on Eskom* which would outline the roadmap for reform at Eskom; provide clarity on measures government would implement to resolve Eskom’s financial challenges; and consolidate outcomes of various processes that had been undertaken and provide clarity on reforms which would be implemented in the energy sector to ensure sustainable electricity in future.
  9. Whilst acknowledging the global shift towards renewable energy sources, the Committee noted the financial impact and cost of independent power producers (IPPs), which contribute 25 percent to the overall cost of energy production at Eskom, while contributing only 5 percent to the energy grid, especially given Eskom’s current financial woes.
  10. The Committee noted that Eskom has the highest risk exposure of government guarantees, accounting for 74 percent or three quarters of the overall government guarantees issued to all public institutions; amounting to R350 billion between the 2015/16 and 2018/19 financial years. For instance, government guarantees issued to Eskom alone when compared to other entities have increased by 69 percent from R174.6 billion in the 2015/16 to R294.713 billion in the 2018/19 financial year and this constitutes a risk to the sustainability of the fiscus and the country’s sovereignty.
  11. The Committee noted the exorbitant prices paid by Eskom to the middleman for contracts, including coal suppliers who are making exorbitantly profits (75 to 100 percent) at the expense of Eskom’s current crisis. The Committee further noted the PBO’s questioning of monitoring and oversight capacity within the Department of Public Enterprises to oversee Eskom and other entities.
  12. The Committee believed very strongly that the conditions for the allocation of the money in this Bill should be set out in regulations by the Minister and wanted a clause relating to this to be inserted in the Bill. However, National Treasury argued that this would seriously hold up the process of allocating money to Eskom, leading to a default by Eskom and cross-defaults and exacerbate the fiscal risks of government. Existing legislation, like the Public Finance Management Act, does not enable the Minister of Finance to make regulations on conditions for appropriations in a Special Appropriation Act. Hence, putting the conditions into regulations requires an amendment to the Special Appropriation Bill. Amending the Bill must be in accordance with the Money Bills and Related Matters Act and will require further public hearings, notice to the Minister of Finance allowing him 14 days to respond, and referring the Bill back to the National Assembly. National Treasury argued further that the conditions that the Minister may impose in terms of the Special Appropriation Act are enforceable as these are imposed in terms of legislation. The Committee very grudgingly and very reluctantly agreed that the conditions not be put in the regulations, provided that National Treasury and the Department of Public Enterprises report at least once every two months to a joint meeting of the Appropriations committees and, with their agreement, the Public Enterprises committees of both Houses; and the recommendations below are fully implemented.

**5.13** The Committee is against special appropriation bills being introduced to Parliament unless they are absolutely necessary and exceptional circumstances dictate it. Should these Bills be introduced, they need to be done timeously so that Parliament can have sufficient time to process them rigorously.

1. **Recommendations**

The Select Committee on Appropriations, having considered the briefings and comments by invited stakeholders on the Bill, recommends as follows:

* 1. The Minister of Public Enterprises and Eskom should be conscious of the fact that Eskom cannot rely on government financial support forever, particularly the fiscus. Provision of continuous financial support to Eskom directly from the fiscus will compromise government’s social programmes for the poor and other developmental obligations of the Republic of South Africa. As part of Eskom’s turnaround strategy, concrete steps should be taken to strengthen the work of the CRO, including the swift appointment of a qualified and experienced CEO to turn the financial position of Eskom around within a reasonable period after the adoption of this Report by the House.
  2. The Minister of Finance should gazette the conditions prescribed for the Minister of Public Enterprises, which are meant for the Eskom bailout, within three months after the adoption of this Report by the House. The Committee requires the National Treasury to explain these conditions to the joint meeting referred to in paragraph 5.12.
  3. The Minister of Finance and the Minister of Public Enterprises should ensure that there is full compliance with all conditions prescribed for Eskom before and after appropriated funds are transferred. Should there be non-compliance, the appropriate consequence management should be instituted expeditiously, which include the “stoppage of funds” and report the matter to Parliament within a reasonable time.
  4. Within a reasonable period after the adoption of this Report by the House, Eskom should embark on the process of reducing costs of the current and additional independent power producers’ (IPPs) contracts, renegotiate/review certain contracts, remove the middleman for certain contracts, reduce cost of transporting coal, including costs associated with coal specifications in the global markets. Over and above that, Eskom should diversify into other alternative energy generation sources and not rely only on coal. This will address the matter of low approved Eskom tariffs by NERSA by supplementing the tariffs.
  5. Eskom should revive and accelerate the implementation of the delayed infrastructure repair and maintenance programme deferred due to low or non-availability of maintenance funds; and all other non-core services should be outsourced. This should be done as soon as possible after the adoption of this Report by the House, and quarterly reports should be provided to the relevant parliamentary committees on progress in this regard.
  6. Over and above the recruitment of the Chief Restructuring Officer (CRO), National Treasury and the Eskom Board should provide policy clarity in relation to clear key performance areas with specific time-frames for the CRO. The CRO policy clarity should be tied or aligned to the acceleration of the process of recruitment of the permanent Chief Executive Officer (CEO). Clashes of roles and responsibilities between these two senior officers should be prevented. The policy clarity should be finalised within three months after the adoption of this Report by the House.
  7. The Minister of Public Enterprises should ensure that Eskom urgently take steps to improve the implementation of consequence management regarding mismanagement of funds and corruption in the entity. Regular progress reports should be submitted to Parliament in this regard.
  8. For Eskom to recover from the poor financial position it finds itself in, there is a need for a performance management framework signed with the Minister of Public Enterprises to be linked to the turnaround plan deliverables of Eskom executives and non-executive director’s salary and performance contracts. This should be finalised within three months after the adoption of this Report by the House.
  9. The Department of Public Enterprises and National Treasury should put in place mechanisms and strengthen the oversight capacity to monitor Eskom’s operations and expenditure and jointly provide quarterly reports with a prescribed set of performance indicators to Parliament. This should be implemented within a reasonable period after the adoption of this Report by the House.
  10. The Department of Public Enterprises should provide Parliament with detailed timelines for the unbundling of Eskom into three units (generation, transmission and distribution). Clarification of this matter will allay fears of the financiers and regain investor confidence. This should be finalised within three months after the adoption of this Report by the House.
  11. In order for Eskom to be viable again, the entity should also develop a debt collection mechanism/strategy for all debts owed by private households (including Soweto communities), private businesses, municipalities, and provincial and national departments. This should include installation of prepaid meters in private households throughout the country. This strategy should be finalised within three months after the adoption of this Report by the House.
  12. The Department of Public Enterprises and the Eskom Board, in collaboration with National Treasury, the National Prosecuting Authority (NPA), the Special Investigating Unit, Hawks, SAPS, and the State Security Agency, should institute in-depth forensic investigations into the contributing factors to the financial state Eskom finds itself in. A directive/proclamation from the Presidency on this recommended forensic investigation is critical and may even assist to ensure that this recommendation is implemented without delay. This should be done within a reasonable timeframe after the adoption of this Report by the House.

1. **Committee Recommendation on the Bill**

The Select Committee on Appropriations, having considered the ***Special Appropriation Bill* [B10 – 2019 (Reprint)]**, referred to it, and classified by the Joint Tagging Mechanism as a section 77 Bill, reports that it has agreed to the Bill, without proposed amendments.

The Democratic Alliance and the Freedom Front Plus objected to the Bill and the Economic Freedom Fighters abstained.

Report to be considered.