

Eskom Update on 2019 Oversight Visit Recommendations to SCOPA

7 November 2023



- This engagement is at the backdrop of the **three previous oversight visits** to Eskom and its projects, after which **observations and recommendations were made**.
 - During the **2019 oversight visit, 23 recommendations** were made by the committee and,
 - In 2022, **eight recommendations** were made
- This presentation reflects the **progress made on all recommendations**
- Eskom is also sharing its **annual performance report for FY2022/23**
- Lastly, we will also update the committee on issues emanating from the **2023 oversight visit**

1. **2019 Recommendations: 6.1 – 6.23**

10 Recommendations: Successful Implemented

(1/2)



6.1

Contracts must be managed properly by suitably skilled and qualified people to ensure that expiring contracts are identified timeously and that the appointment of contractors is made through an open market process.



6.2

There must be no restrictions for Eskom to employ suitably qualified and skilled employees and contractors to ensure that the Medupi and Kusile projects are completed on time and are operated at maximum efficiency.



6.3

Proper document management systems must be in place to create a paper trail for all transactions in compliance with the Companies Act.



6.6

Compulsory DOIs must be made by all senior managers and directors, at the very least annually, and declarations must be enforced immediately in instances where they have not been done in order to avoid employees and directors and their family members doing business with Eskom.



6.11

All previous employees who have left the employ of Eskom and who have been implicated in malfeasance of any sort must, in collaboration with law enforcement agencies such as the NPA and the Hawks, have criminal charges instituted against them.



6.12

Before payments to suppliers are made, proper controls must be implemented through documented checks and balances. This is to ensure that payments are made for value received and are not advance payments for which non-commensurate value or, worse, no value is received.



6.15

The issue of responsibility of contractors for defects must be followed up, and the contractors must be held responsible for costs, where necessary.



6.17

Retention bonds must be used against contractors as a recourse for delays and substandard work that has been performed.



6.18

There must be stability of project managers at Kusile to avoid delays.



6.22

Contractors must be held accountable for substandard work



Progress on SCOPA Recommendation – 2019 Oversight Visit



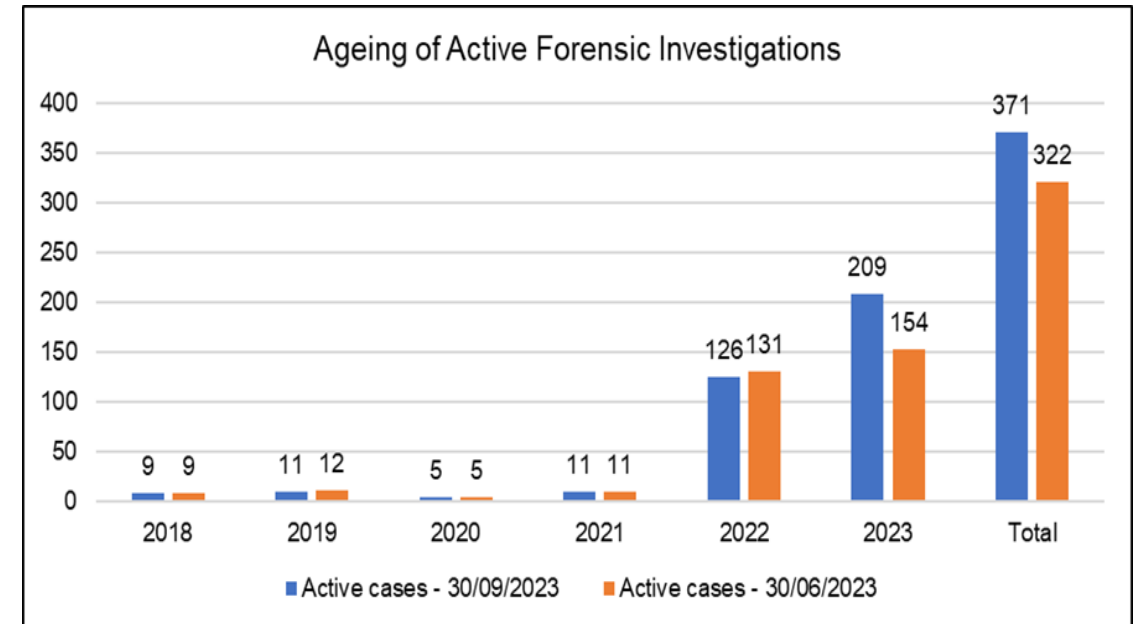
Recommendations	Actions	Status	Progress
<p>(6.4) Employment of skilled personnel in the P&SCM</p>	<ul style="list-style-type: none"> Capacitating of Procurement and Supply Chain Management function. <ul style="list-style-type: none"> Recruit Re-skilling and upskilling Establish Divisional Contract Management Offices 	<ul style="list-style-type: none"> Recruitment for critical positions at head office has been achieved Procurement Leadership in the Generation Division has been stabilised with the appointment of the Senior Manager Procurement Procurement and contract management training and workshops are conducted to close the identified skills gaps Recruitment of the Head of Procurement for the Distribution Division is completed. Training and awareness in collaboration with the DTIC, BBBEE Commission and National Treasury is ongoing Divisional Contract Management Offices have been established and additional recruitment for these offices is underway 	<ul style="list-style-type: none">
<p>(6.5) Vetting of all supply chain practitioners, managers, and the Board must be implemented immediately for head office and other centres where procurement takes place</p>	<ul style="list-style-type: none"> Conduct vetting for all supply chain practitioners, managers, and the Board for head office and other procurement centres Eskom and State Security Agency (SSA) in October 2023 signed a Memorandum of Understanding (MoU) for the creation of a Vetting Field Unit in Eskom. 	<p>Board:</p> <ul style="list-style-type: none"> Top secret clearance granted - 1 In-progress with SSA - 4, and in-progress with Eskom – 1 Vetting forms & supporting documents to be completed = 6 <p>Senior Executives:</p> <ul style="list-style-type: none"> Top secret clearance granted - 7 In-progress with SSA - 8, and in-progress with Eskom – 1 Vetting forms & supporting documents to be completed = 5 <p>Supply Chain Management: Top secret clearance granted - 99</p>	<ul style="list-style-type: none">

Progress on SCOPA Recommendation – 2019 Oversight Visit



Recommendations	Actions	Status	Progress
(6.7) Internal investigations must be sped up and finalised by 31 March 2020	<ul style="list-style-type: none"> To speed up and finalise internal investigation by 31 March 2020 	<ul style="list-style-type: none"> Since FY2019/2020, 746 case were registered and 715 investigations were completed As at 30 September 2023, there are 371 active forensic investigations Management is attending to the chronic backlog of forensic investigations. Only 25 of the active cases were registered during 2018, 2019 and 2020. 	<ul style="list-style-type: none"> Achieved Achieved In-progress

Balances	FY2018/19	FY2019/20	FY2020/21	FY2021/22	FY2022/23	FYTD2023/24
Active cases – opening balance	200	340	256	238	253	305
+ New cases added during financial year	257	118	105	128	279	116
- Cases completed during financial year	-117	-202	-123	-113	-227	-50
Active cases – closing balance	340	256	238	253	305	371



Progress on SCOPA Recommendation – 2019 Oversight Visit



Recommendations	Actions	Status	Progress
<p>(6.9) Consequence management must be followed through where wrongdoing has been proven</p>	<ul style="list-style-type: none"> To implement consequence management when wrongdoing has been proven <ul style="list-style-type: none"> ➤ As at year-to-date (YTD) 30 September 2023, Eskom People Relations Department (PR) had registered 398 employees who had undergone disciplinary processes 	<ul style="list-style-type: none"> Of these, 388 had been completed, and 10 were in progress. 168 employees terminated Eskom employment through resignation (138), abscondment (4), and retirement (26) during the disciplinary processes In July - September 2023, 14 employees disciplinary records with sanctions, were processed. These 14 employees were reported on the list of employees who resigned whilst they were implicated in wrongdoing. In total, 48 were dismissed due to fraud and corruption 	<p>●</p> <p>●</p> <p>●</p> <p>●</p>
<p>(6.10) The Internal Audit Unit must be capacitated and fully functional at head office and other cost centres, so that early warning signs of corruption and maladministration are picked up</p>	<ul style="list-style-type: none"> To capacitated Internal Audit Unit and fully functional at head office and other cost centres. 	<ul style="list-style-type: none"> 14 specialist resources, with the associated budget, were approved and recruitment of candidates has been completed to fill all these specialist positions The recruitment of Chief Audit Executive in progress 	<p>●</p> <p>●</p>

Progress on SCOPA Recommendation – 2019 Oversight Visit

- Achieved
- In-progress
- Delayed



Recommendations	Actions	Status	Progress
<p>(6.11) All previous employees who have left the employ of Eskom and who have been implicated in malfeasance of any sort must, in collaboration with law enforcement agencies such as the NPA and the Hawks, have criminal charges instituted against them.</p>	<ul style="list-style-type: none"> • To institute criminal charges against previous employees who left the employ of Eskom implicated in malfeasance. • Work in collaboration with law enforcement agencies such as the NPA and the Hawks 	<ul style="list-style-type: none"> • 195 criminal cases had been opened with the South African Police Service (SAPS) for further investigation • 42 of the above 195 have been through the criminal proceedings provided for under the Criminal Procedure Act • SIU is conducting investigations on, inter alia, maladministration in the affairs of Eskom and any losses or prejudice suffered by Eskom. • 168 employees terminated Eskom employment through resignation, abscondment and retirement • 48 were dismissed due to fraud and corruption • The State Capture Task Team (SCTT) has been tracking progress on the implementation of the Zondo Commission recommendations 	<ul style="list-style-type: none"> ● ● ● ● ●

Recommendations	Actions	Status	Progress
<p>(6.14) Defects identified at Medupi and Kusile must be corrected expeditiously to avoid further project delays and cost escalations</p>	<p>Correction of defects identified at Medupi and Kusile. Below are the defects:</p> <ul style="list-style-type: none"> Medupi and Kusile: Pulse Jet Fabric Filter Plant (PJFF) poor performance due to inadequate pulsing system and flue gas flow entry (In-progress) Medupi and Kusile: Gas Air Heater (GAH) mechanical performance, erosion, and operational performance in terms of ash carry over and outlet temperature stratification (In-progress) Medupi and Kusile: Furnace Exit Gas Temperature resulting in excessive Reheater Spray Water flow (In-progress) Medupi and Kusile: Milling plant defects (In-progress) Medupi and Kusile: Air and Flue Gas ducting erosion (Complete) Medupi: control and instrumentation (C&I) repeated distributed control system (DCS) card failures (In-progress) Kusile: Western fill (demineralised water tanks and water treatment laboratory) - (Complete) 	<ul style="list-style-type: none"> The rollout of the major boiler plant defect solutions agreed upon with the contractor in 2020 for Medupi and Kusile have been completed Medupi and Kusile: the gas air heater, pulse-jet fabric filter, and boiler plant modifications by the boiler contractor have been implemented on all six units at Medupi and Kusile Unit 1 to 5 Kusile: Modifications on Units 6 are being rolled out during construction before commercial operation. Medupi: Roll-out of the mill long-lead items commenced during standard rebuild outages (10 000 hours) in February 2022. Twenty two (22) out of 30 mills have been completed with all mill long-lead modification spares available at site. Medupi: Rollout of the low-load and transient solution will now commence with the Unit 5 outage in December 2023. Medupi: The implementation of upgrades and hardware modifications of the DCS on Medupi Units 4 to 6 and balance of plant (BOP) by Eskom and General Electric (GE) have sufficiently resolved the repeated card failures defect 	<p> ● ● ● ● ● ● </p>

Progress on SCOPA Recommendation – 2019 Oversight Visit

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- In-progress
- Delayed



(1/2)

Recommendations	Actions	Status	Progress
<p>(6.16) Coal quality must be prioritised and checked regularly</p>	<ul style="list-style-type: none"> • Carry out regular coal quality audits • In addition, Eskom is piloting the new technology to measure coal quality at Eskom receiving site. The overall objective of the piloted technologies is to ensure that the correct quality and quantity of coal is loaded at the mines and that this exact quality and quantity of coal is delivered to Eskom site. 	<ul style="list-style-type: none"> • Coal quality audits were conducted with various service providers in FY2024 Q2 (July to Sept 2023) • All non-conformances were closed by Laboratory 1,2,3,4 and 5. • 2 Major non-conformance from the previous quarter for the 4th Laboratory are still open pending the update of LIMS software by the service provider. • No follow up audit conducted on 7 major non-conformance due to the suspension of the 6th laboratory. • The project for new technology to measure coal quality is at a basic engineering phase, and the objective is to roll out a full-scale solution rather than a pilot. Majuba and Kusile Power Stations are targeted for the implementation of the truck auger sampler project 	<ul style="list-style-type: none"> ● ● ● ● ●
<p>(6.19) Weighbridges and offloading facilities must be constructed at Kusile to transport coal from the mine to the plant. Negotiations for the development of the adjacent New Largo coalfield must be fast-tracked and concluded without further delay.</p>	<ul style="list-style-type: none"> • To construct weighbridge and offloading facilities at Kusile to transport coal from the mine to the plant • To fast-track negotiations for the development of the adjacent New Largo coalfield and conclude without further delay 	<ul style="list-style-type: none"> • The first three phases of Coal offloading facility have been completed. • Outstanding phases are the coal hopper civil construction (Phase 4) and the west access road (Phase 5). The coal hopper contract was awarded on 11 February 2022 and Construction is under way. • In total, six weighbridges have been installed in the stockyard, and all are operational. • The installation of the additional Feed Conveyor in the coal stockyard has been completed and is currently operational. 	<ul style="list-style-type: none"> ● ● ● ●

Recommendations	Actions	Status	Progress
<p>(6.19) Weighbridges and offloading facilities must be constructed at Kusile to transport coal from the mine to the plant. Negotiations for the development of the adjacent New Largo coalfield must be fast-tracked and concluded without further delay.</p>	<ul style="list-style-type: none"> To construct weighbridge and offloading facilities at Kusile to transport coal from the mine to the plant To fast-track negotiations for the development of the adjacent New Largo coalfield and conclude without further delay 	<ul style="list-style-type: none"> Negotiations between Eskom and Seriti for the New Largo Pit D, Pit H, Pit F, and the New Largo main mine for coal supply to Kusile have advanced. The parties concluded coal supply agreements (CSAs) for a three-year supply from Pit D to Kusile Power Station followed by a 10-year conveyor fed CSA from Pit D to Kusile which was signed by the Parties on 8 May 2023. The signing of this CSA for ~27 Mt of coal has triggered the construction of the conveyor and off-loading facility from New Largo Mine to Kusile Power Station The conveyor is anticipated to be constructed by October 2024. Negotiations are underway for a 10-year CSA from Pit H for ~23 Mt. The Pit H CSA is anticipated to be concluded by March 2024 <ul style="list-style-type: none"> ➤ This is to be followed by a CSA for supply from the Main Mine for 47 Mt over 30 years It is anticipated that the conclusion of the Main Mine CSA will be completed by December 2025 	<ul style="list-style-type: none"> ● ● ● ● ● ● ●

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Recommendations	Actions	Status	Progress
<p>(6.20) The “take-or-pay” system must be revisited, and a cost-benefit analysis must be conducted to determine the viability of the system. A report on this must be sent to SCOPA within 60 days of the adoption of this report by the National Assembly.</p>	<ul style="list-style-type: none"> To revisit take-or-pay system and conduct a cost-benefit analysis to determine the viability of the system. 	<ul style="list-style-type: none"> In August 2020, Eskom wrote a formal letter to Exxaro, requesting the renegotiation of the take-or-pay contractual clause to make it applicable on an annual basis instead of the current monthly applicability. Exxaro responded formally in November 2021, declining Eskom’s request for renegotiation Since FY13 to date, the Medupi take-or-pay penalty amounted to R9,7 billion. The Medupi take-or-pay penalty is assessed annually and the amount in FY22 was incurred in 2021 calendar year. No penalty was incurred for the 2022 calendar year. For calendar year 2023, the assessment will take place in December 2023. The construction of the Medupi coal strategic stockyard was completed in August 2019, and the stockyard was at 17,6 Mt as at 30 September 2023 	<p>Achieved</p> <p>Achieved</p> <p>Achieved</p>
<p>(6.21) The production of gypsum should be processed further in order to capitalise on beneficiation for additional revenue for Eskom.</p>	<ul style="list-style-type: none"> To process the production of gypsum 	<ul style="list-style-type: none"> Request for proposals was issued to the market for the disposal of gypsum at Kusile Power Station on 3 August 2020. However, the transaction was submitted to Audit and Forensic for assurance after an anonymous complaint was received. <ul style="list-style-type: none"> The probity results and the mandate to negotiate a contract for the disposal of the gypsum were presented to the delegated committee on 17 March 2023. The last round of negotiations was held, but the technology presented has not been tested and or proven in South Africa Technical due diligence process is underway, a factory visit is arranged from 2 to 8 December 2023 to confirm the validity of the technology and other elements of the proposal 	<p>In-progress</p> <p>Achieved</p> <p>In-progress</p>

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- Achieved
- In-progress
- Delayed



Recommendations	Actions	Status	Progress
<p>(6.23) The Medupi and Kusile power stations must be completed at the revised times of 2020 and 2023, respectively. The Eskom Board must, jointly and severally, be held accountable for any further delays, given the massive state bailouts that have been made available to Eskom over the medium-term budget period. Quarterly reports on progress and expenditure must be submitted to SCOPA</p>	<ul style="list-style-type: none"> • To complete Medupi and Kusile power stations at the revised times of 2020 (Medupi) and 2023 (Kusile), respectively. • To submit quarterly reports on progress and expenditure to SCOPA 	<p>Medupi</p> <ul style="list-style-type: none"> • All six units at Medupi were complete. • Five units are in full commercial operation (CO), connected to the national grid and supplying energy, with Unit 4 offline for turbine repairs. <p>Kusile</p> <ul style="list-style-type: none"> • Four units achieved commercial operation, although Units 1 to 3 have been offline since October 2022, following the failure of the flue gas duct that supports those units using the west chimney stack • Unit 5: Seven (7) key commissioning milestones have successfully been achieved <ul style="list-style-type: none"> ○ Gas air heater (GAH) repairs were completed at the end of August 2023. ○ The current risk-adjusted forecast for first synchronisation and commercial operation is December 2023 and June 2024, respectively. • Unit 6: four key commissioning milestones have successfully been achieved in support of achieving first synchronization of the unit, forecasted for August 2024, pending delivery of key outstanding boiler and turbine materials to site • Temporary stacks have been constructed to accelerate the return to service of the units 1 to 3. • Units 3 and 1 have been returned to service on 30 September and 16 October 2023, respectively. 	<ul style="list-style-type: none"> ● ● ● ● ● ● ● ● ●

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



Supplier	Finance Recovery Action	Status	Progress
<p>ABB</p> <p>Recovered: R1,56bn</p>	<ul style="list-style-type: none"> On 31 March 2023, the SIU, Eskom and ABB filed an ex parte application to review and set aside the contract awarded to ABB. This litigation is ongoing Eskom will institute supplier disciplinary proceedings against ABB upon finalisation of the litigation. 	<ul style="list-style-type: none"> ABB repaid approximately R1,56 billion to Eskom In December 2022, ABB paid an amount of R2.5bn as punitive reparations to South Africa for serious crimes committed at Eskom during the state capture era 	<p>●</p> <p>●</p>
<p>Tegeta Exploration and Resources (Pty) Ltd (Tegeta)</p> <p>Claim: R359m</p>	<ul style="list-style-type: none"> Application for equitable relief in which the SIU seeks an order that Tegeta repay Eskom approximately R734 million for supply of reject coal The SIU has instituted proceedings against Tegeta and the BRPs for just and equitable relief to repay the sum of approximately R734 million to Eskom. The BRPs have opposed the relief sought. Eskom filed a notice to abide in June 2021. This matter is being driven by the SIU and remains ongoing. 	<ul style="list-style-type: none"> Tegeta is under business rescue, and Eskom submitted a claim of approximately R359 million against the business rescue practitioners Tegeta coal supply agreement (CSA) was set aside in terms of a court order handed down on 4 March 2020. 	<p>●</p> <p>●</p>
<p>NDPP v Kurt Robert Knoop NO and 15 Others (Case No. 62604/2021): Optimum Coal Mine</p> <p>Claim: R1bn</p>	<ul style="list-style-type: none"> An application for the preservation of all Tegeta's shares in Optimum Coal Mine (Optimum) and the business of Optimum Coal Mine was instituted by the NDPP in terms of the Prevention of Organised Crime Act 121 of 1998. The urgent application launched by Optimum Coal Mine (OCM) and OCT to interdict RBCT from preventing OCT to use its export entitlement was heard on 24 March 2023. Judgment has been reserved. 	<ul style="list-style-type: none"> Judgment was handed down in favour of the NDPP on 23 March 2022. NDPP instituted forfeiture proceedings in respect of funds illegally obtained from Eskom in the Optimum Coal Mine OCM/Tegeta acquisition in the amount of R1bn. 	<p>●</p> <p>●</p>

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established

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- In-progress
- Delayed



Supplier	Finance Recovery Action	Status	Progress
<p>Tenova</p> <p>Restraint order: R1,4bn</p> <p>Recovery: R58m (bonds)</p>	<ul style="list-style-type: none"> • Tenova made a voluntary disclosure of about R1m relating to an overseas holiday for a senior Eskom official. • Tenova made further disclosures relating to suspicious payments made to Babinatlou in the region of R46m. • SIU found evidence of corruption in respect of money paid by Tenova to Babinatlou, which was in turn paid to various former Eskom employees. • SIU is awaiting the technical experts reports on global settlements to the tune of R 700m and R350m that was paid to Tenova by Eskom, after which it intends instituting a recovery claim against Tenova • Tenova is challenging the termination of the contracts. Eskom lodged an application for an interdict to halt all DAB proceedings pending the outcome of the SIU and NPA investigations. 	<ul style="list-style-type: none"> • SIU has made NPA referrals against various individuals and companies including the former Eskom employees and the NPA has obtained a provisional restraint order in the amount of R1.4bn against Tenova and the employees • Eskom terminated the contract with Tenova and recovered R58m in the form of bonds that were in place • The hearing of Eskom’s application was held on 4 September 2023. Judgment has been reserved. Eskom awaits judgement 	<p style="text-align: center;">●</p> <p style="text-align: center;">●</p> <p style="text-align: center;">●</p>
<p>Impulse International</p> <p>Claims: Eskom - R61m ERI – R22m</p>	<ul style="list-style-type: none"> • Impulse International instituted action against Eskom for claims of approximately R61 million and Eskom Rotek Industries (ERI) for claims of approximately R22 million in respect of payment for contracts suspended by Eskom and ERI. • These proceedings are still pending, but are currently deadlocked by the fact that the sole director of Impulse passed away and the company remains incapacitated because a replacement Director (to represent the company) has not yet been appointed by the Executor of the deceased estate 	<ul style="list-style-type: none"> • Eskom is defending the claims, has filed a special plea, plea, and counterclaim and is continuing in its efforts to have the contracts with Impulse declared void, unlawful, and unenforceable <ul style="list-style-type: none"> • SARS/AFU and the SIU could not find any further assets belonging to Impulse. At this point, it is not feasible to proceed with litigation 	<p style="text-align: center;">●</p>

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



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<p>PwC Task Order SM003 – capital scrubbing</p> <p>Claim: R108m</p>	<ul style="list-style-type: none"> • On 16 March 2021, Eskom filed an application for an order declaring the award of a contract to PwC unlawful, unconstitutional, and invalid, for reviewing and setting aside the award, for reviewing and setting aside the contract concluded with PwC following the award, and for claiming repayment of R108 million paid by Eskom to PwC. • PWC is defending the action and has filed an answering affidavit 	<ul style="list-style-type: none"> • Eskom is in the process of filing its replying affidavit. • The matter is likely to be set down for hearing in the second half of 2024 	●
<p>Trillian Management Consulting (Pty) Ltd (Trillian)</p> <p>Claim: R595m</p>	<ul style="list-style-type: none"> • On 2 October 2019, Eskom obtained an interim enforcement order directing Trillian and Mr Eric Wood to repay the sum of R595 million to Eskom, which had been paid on the pretext of Trillian being a supplier development and localisation partner to McKinsey. • Trillian and Mr Wood did not honour this order, and Eskom instituted liquidation proceedings • Eskom has submitted a claim for R595 million to the liquidators but has not contested the SARS preferent claim. • The hearing of the liquidation inquiry, during which the liquidators and Mr Wood presented evidence, commenced on 20 January 2022 • The liquidators stayed the inquiry process until further notice, and the Commissioner will be requested to postpone the inquiry while the liquidators are considering the status of pending litigation and further steps to be taken 	<ul style="list-style-type: none"> • After SARS’ intervention Eskom took the position that Eskom would retain a watching brief and intervene where necessary to ensure that Eskom’s claim is considered during the liquidation. Eskom is closely monitoring the liquidation proceedings. 	●

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



Supplier	Finance Recovery Action	Status	Progress
AfricaWide Consulting Claim: R17m	<ul style="list-style-type: none"> Eskom awarded a contract to AfricaWide without undertaking an open and competitive tender process. The original contract value was modified to R17 million without National Treasury approval. AfricaWide is in liquidation, and the final liquidators were appointed on 8 February 2022. The liquidators' report confirmed that there were no assets in AfricaWide's estate. 	<ul style="list-style-type: none"> Eskom is still awaiting feedback from the liquidators regarding the finalisation of the liquidation 	
T-Systems South Africa (TSSA)	<ul style="list-style-type: none"> An investigation was undertaken to determine whether the contract between TSSA and Eskom was awarded irregularly. The investigation report identified instances where due process was not followed, resulting in potential wasteful expenditure to Eskom The PFMA Loss Control Function has finalised a PFMA determination which also entailed the review of the investigation report issued by Morar Incorporated. 	<ul style="list-style-type: none"> The PFMA determination report was considered by Eskom's legal representatives and Eskom intends on referring this matter to the SIU for further assessment as they are investigating at the boarder TSSA related issues. 	

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



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<p>Econ Oil and Energy (Pty) Ltd (Econ Oil) – Overcharging</p> <p>Claim: R1,011,453,407.62</p>	<ul style="list-style-type: none"> Eskom received an interim forensics report on the quantification of possible overcharging by Econ Oil in the amount of approximately R1,2 billion over a five-year period (2012 to 2017). An expert provided a report and quantified the overcharge as being R1,011,453,407.62. The claim amount has been amended in line with the expert report. The parties exchanged responses to requests for further and better discovery on 11 August 2023. The parties are engaging regarding dates for the hearing of the matter in April 2024 	<ul style="list-style-type: none"> The claim amount has been amended in line with the expert report. Econ Oil was removed from the Eskom supplier database and subsequently Econ Oil applied to the High Court and Equality Court in two separate applications to set aside the decision taken to remove the company from the supplier database. The litigation is ongoing <ul style="list-style-type: none"> Econ Oil has also lodged a complaint with the Competition Commission challenging its removal from the supplier database as anti-competitive behaviour. This investigation is also ongoing. 	
<p>SAP - The contracting and procurement of Cloud computing services and Software licences and support services</p> <p>Claim: R1,1bn</p>	<ul style="list-style-type: none"> An investigation was undertaken by the SIU regarding the appointment of SAP and was found to be unlawful and irregular in that it did not comply with section 217 of the Constitution. SAP is opposing the claim and has filed its answering affidavit. Eskom is cited as a second defendant. Eskom filed a notice to abide. SAP has filed an answering affidavit and the litigation is ongoing 	<ul style="list-style-type: none"> The SIU has instituted civil litigation to the value R 1,1bn against SAP. <ul style="list-style-type: none"> SAP is opposing the claim and has filed its answering affidavit. Eskom is cited as a second defendant. Eskom filed a notice to abide. SAP has filed an answering affidavit and the litigation is ongoing 	

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Supplier	Actions	Status	Progress
<p>Former Eskom Directors and Executives implicated in State Capture</p> <p>Claim: R3,8bn</p>	<ul style="list-style-type: none"> • Eskom is pursuing civil action for R3.8 billion against a number of former Eskom directors and executives to recover large sums of money lost by Eskom as a result of State Capture and the involvement of the former executives in it. • Of the 12 defendants, Eskom is pursuing claims against 7 former Eskom executives and directors, based on breach of fiduciary duties and breach of contract • An interlocutory application in which the defendants contended that the particulars of claim did not comply with court rules in that they were not signed by an attorney who did not have right of appearance in the high court, was heard on 10 March 2023. The application was dismissed with costs in a judgement delivered on 24 July 2023. 	<ul style="list-style-type: none"> • At a case management meeting, the defendants Eskom’s attorneys have addressed a letter to the defendant’s legal representatives inviting them to reconsider their remaining objections. <ul style="list-style-type: none"> ➤ The presiding judge is presently on long leave, accordingly any further direction on this matter will be dealt with upon the judge’s return. 	<div style="text-align: center;"> ● ● </div>
<p>Monies irregularly spent on behalf of Directors and Executives for Legal Fees</p> <p>Recovered: R27 000,00</p> <p>Claim: R2 002m</p>	<ul style="list-style-type: none"> • Eskom instituted an action to recover monies advanced regarding legal fees to five former directors and executives. To date, R27 000,00 has been recovered from one director. • Another director (owing R500 000,00) entered into a payment arrangement, although he has defaulted on that arrangement. However, he has advised that he wishes to settle this matter. 	<ul style="list-style-type: none"> • Eskom recovered R27 000,00 from one director. • Another director (owing R500 000,00) entered into a payment arrangement, although he has defaulted on that arrangement. However, he has advised that he wishes to settle this matter. • Three directors (owing R706 000,00; R595 000,00; and R201 000,00 respectively) are defending the action. A trial date has been applied for. 	<div style="text-align: center;"> ● ● ● </div>

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



Supplier	Actions	Status	Progress
<p>Eskom Pension and Provident Fund (EPPF) v Brain Molefe, Eskom Holdings SOC Ltd, and the Commissioner for the South African Revenue Service</p> <p>Recovered: R30 103 915,62</p> <p>Awaiting interest accrued on R30,1m and pension contributions</p>	<ul style="list-style-type: none"> On 25 January 2018, the High Court handed down judgment declaring the agreement concluded between Eskom and Mr Molefe, placing him on early retirement, invalid. Mr Molefe was ordered to pay back all amounts paid to him in terms of this agreement. Mr Molefe has filed the appeal record and is due to file his heads of argument and accompanying practice notes. The EPPF will be required to file its heads of argument within 30 days of the filing of Mr Molefe’s heads of argument and practice notes. Steps will be taken to recover the outstanding amounts from the EPPF upon finalization of the appeal process 	<ul style="list-style-type: none"> On 6 September 2022, the EPPF paid Eskom the amount of R30 103 915,62. The EPPF is due to pay Eskom the interest accrued on the R30.1 million and all pension contributions made on behalf of Mr Molefe, plus fund interest The implementation of the High Court judgment has been suspended pending the outcome of the petition for leave to appeal 	<p>●</p> <p>●</p> <p>●</p>
<p>Wilge Residential Development Project and former general manager (GM) for Facilities</p> <p>Claim: Approximately R840m</p>	<ul style="list-style-type: none"> Following an investigation into various allegations of fraud, corruption, and misconduct relating to the Wilge Housing Project, disciplinary proceedings were instituted against the GM for Facilities, for his failure to perform his duties, causing significant financial losses to Eskom. Investigations have been concluded, and in addition to the GM for Facilities, there are potentially other individuals from whom funds can be recovered; however, this is subject to further assessment from a civil litigation perspective 	<ul style="list-style-type: none"> The GM for Facilities was subsequently dismissed, and a decision was taken to recoup losses attributable to his conduct from him. The value of the claim is being determined, but initial estimates reflect approximately R840 million as fruitless and wasteful expenditure Eskom’s counsel had to be unfortunately changed, which has resulted in delays in finalising the summons. <ul style="list-style-type: none"> ➤ The target date for the finalisation of the summons is the end of November 2023 	<p>●</p> <p>●</p> <p>●</p>

Recommendation 6.8: Financial losses to Eskom must be recovered from those responsible where wrongdoing has been established



Supplier	Actions	Status	Progress
<p>Stefanutti Stocks Izazi Consortium JV and Eskom employees</p> <p>Claim: R18 042 020,70</p>	<ul style="list-style-type: none"> The SIU investigated the Stefanutti Stocks Izazi Consortium JV contract at Kusile Power Station for Site Finishing (P28), in respect of a Productivity Study allegedly produced by Khabangwane Holdings (Pty) Ltd (“Khabangwane”) and paid for under the “Kusile Power Station: Miscellaneous Structures Construction Contract”, also known as Package 16 (“P16”). Khabangwane was subcontracted to Stefanutti Stocks Izazi Consortium JV Kusile Buildings joint venture (SSBR), comprising Basil Read (Pty) Limited and Stefanutti Stocks (Pty) Limited) Eskom made payment to SSBR in the amount of R18 042 020.70. SSBR in turn paid Khabangwane an amount of R15,069,452.80. No evidence could be found that Khabangwane rendered any services to Eskom or performed any productivity study at all. Two employees were dismissed 	<ul style="list-style-type: none"> The SIU is of the view that the amount of R18 042 020.70 should be recovered from the SSBR and Khabangwane. Eskom has requested that it be afforded time till end November 2023 so that SSBR can conclude some of the outstanding works and variation on the contract. Eskom will then engage the SIU to assist with instituting a claim against SSBR JV and Khabangwane. 	<p style="text-align: center;">●</p> <p style="text-align: center;">●</p>
<p>Ms Duduzile Moyo</p> <p>Claim: R24 584 000</p>	<ul style="list-style-type: none"> The SIU investigated the Tamukelo contract at Kusile for the transportation of raw and potable water to the value of R 341 213 488,92. The Tamuleko contract was terminated by Eskom in October 2020 prior to any findings being made. The SIU found that an Eskom employee Ms Moyo, received financial benefits to the tune of R 24 584 000.00 from Tamukelo through a convoluted structure of entities, as well as family members The SIU has made referrals to the NPA and AFU 	<ul style="list-style-type: none"> Ms Moyo was dismissed from Eskom employ following a disciplinary hearing. She referred an unfair dismissal dispute to the CCMA, which was dismissed. The SIU has obtained an interim order to freeze Ms Moyo’s pension. The SIU has assisted the AFU in confiscating and freezing various assets of Ms Moyo which she acquired with the proceeds of crime as well as significant assets held by Tamukelo and its directors. 	<p style="text-align: center;">●</p> <p style="text-align: center;">●</p> <p style="text-align: center;">●</p>

Eskom Update on 2022 Oversight Visit Recommendations to SCOPA

7 November 2023



1. **2022 Recommendations: 6.1 – 6.8**

Progress on SCOPA Recommendation – 2022 Oversight Visit



Recommendations	Actions	Status	Progress
<p>(6.1) Carry out regular maintenance of units</p>	<ul style="list-style-type: none"> To carry out regular maintenance of units 	<ul style="list-style-type: none"> Regular maintenance is planned annually 79 outages were scheduled for FY2023 with additional 30 short-term outages 54 outages were scheduled for FY2024 with additional 21 short-term outages <ul style="list-style-type: none"> ➤ 14 completed, 7 are in execution, 17 are deferred, 3 are cancelled, and 13 are remaining The funding for the next 3 years has been made available easing the risk of poor outage performance 	
<p>(6.2) Develop a clean-up operation plan, identify teams that may be resisting internal controls where the application of a turnaround strategy is hampered, and put together a report detailing consequence management should there be any officials who are contributing to the delay in addressing the committee's recommendations</p>	<ul style="list-style-type: none"> To Develop a clean-up operation plan Identify teams that may be resisting internal controls where the application of a turnaround strategy is hampered To put together a report detailing consequence management should there be any officials who are contributing to the delay in addressing the committee's recommendations 	<ul style="list-style-type: none"> Clean-up plan was developed and shared with SCOPA in October 2022 Quarterly report. The plan is being implemented. No employee has been found resisting implementation of internal control. <ul style="list-style-type: none"> ➤ There has been increased leadership visibility at plant level. 	

Progress on SCOPA Recommendation – 2022 Oversight Visit

- Achieved
- In-progress
- Delayed



Recommendations	Actions	Status	Progress
<p>(6.3) Employ adequately skilled personnel in the Supply Chain Management Unit at head office and at different projects where procurement takes place.</p>	<ul style="list-style-type: none"> • Capacitating of Procurement and Supply Chain Management function. <ul style="list-style-type: none"> ○ Recruit ○ Re-skilling and upskilling ○ Establish Divisional Contract Management Offices 	<ul style="list-style-type: none"> • Recruitment for critical positions at head office has been achieved • Procurement Leadership in the Generation Division has been stabilised with the appointment of the Senior Manager Procurement • Procurement and contract management training and workshops are conducted to close the identified skills gaps • Recruitment of the Head of Procurement for the Distribution Division is completed. • Training and awareness in collaboration with the DTIC, BBBEE Commission and National Treasury is ongoing • Divisional Contract Management Offices have been established and additional recruitment for these offices is underway 	<ul style="list-style-type: none"> ● ● ● ● ● ●
<p>(6.4) Develop a detailed action plan seeking to address poor procurement planning and poor governance structures that resulted in items not being approved timeously and submit this plan to the committee within 30 days of adoption of this report. The plan must also address the audit findings and the reported internal control deficiencies as well as how oversight measures will be enhanced.</p>	<ul style="list-style-type: none"> • To develop a detailed action plan seeking to address poor procurement planning and poor governance structures that resulted in items not being approved timeously • The plan must also address audit findings and the reported internal control deficiencies as well as how oversight measures will be enhanced • To submit the plan to the committee within 30 days of adoption of SCOPA report. 	<ul style="list-style-type: none"> • A detailed Improvement plan was developed and submitted to SCOPA in the quarterly reports. A central audit team was established to manage and coordinate all the findings from the external audit. <ul style="list-style-type: none"> ➤ The plan is updated annually and submitted to DPE and reported on quarterly • Audit recovery plan was developed and submitted to SCOPA. 	<ul style="list-style-type: none"> ● ●

Progress on SCOPA Recommendation – 2022 Oversight Visit

- Achieved
- In-progress
- Delayed



Recommendations	Actions	Status	Progress
<p>(6.5) Establish, document, and implement a fraud prevention plan</p>	<ul style="list-style-type: none"> • To establish, document and implement a fraud prevention plan 	<ul style="list-style-type: none"> • Eskom established a fraud prevention plan as contemplated in Regulations 27.2.1 and 29.1.1 of the Public Finance Management Act (PFMA). • More than 70% of the FY2023 Fraud Prevention Plan was implemented successfully • The Fraud Prevention Plan for the FY2024 was approved, however it is being reviewed to align with business processes • Since the beginning of FY2024, the total of 4271 preliminary assessments of incidents and 50 investigations have been completed 	<ul style="list-style-type: none"> ● ● ● ●
<p>(6.6) Ensure that concrete measures are in place to deal with the implementation of consequence management of officials who cause irregular expenditure</p>	<ul style="list-style-type: none"> • To ensure that concrete measure are in place for consequence management on irregular expenditure 	<ul style="list-style-type: none"> • The Loss Control function independently conducts PFMA determinations with regard to allegations of irregular expenditure. • The determination report provides details regarding the employees involved and their respective roles. • All occurrences of irregular expenditure are recorded in the loss control register 	<ul style="list-style-type: none"> ● ● ●

Progress on SCOPA Recommendation – 2022 Oversight Visit

- Achieved
- In-progress
- Delayed



Recommendations	Actions	Status	Progress
<p>(6.7) Ensure that the components of Unit 4 required to get the unit running again are in safe keeping</p>	<ul style="list-style-type: none"> • To ensure that Medupi Unit 4 Components are in a safe keeping 	<ul style="list-style-type: none"> • Medupi Unit 4 components will not be removed (undamaged property), as the plant is being preserved • The Unit has been declared a limited-access area and fenced off • The Medupi Unit 4 Spares and Equipment Removal Procedure (241-202224) is used to obtain the necessary clearance and approval for removal of spares and equipment from the plant • All defects and spares removed have been captured on the SAP 	<ul style="list-style-type: none"> ● ● ● ●
<p>(6.8) Develop and follow a plan designed to ensure that there is some degree of skills transfer every time the original equipment manufacturer (OEM) is called on to carry out repairs.</p>	<ul style="list-style-type: none"> • To develop a plan designed to ensure transfer of skills every time the OEM is called to carry our repairs 	<ul style="list-style-type: none"> • Most OEM contracts have skills transfer obligations for Eskom employees and broader skills development and localisation obligations for local communities. • Eskom has engineering, maintenance and operating resources contract with an OEM, General Electric for 5 years at Kusile. Eskom employees are paired with GE operators to ensure transfer of skills. 	<ul style="list-style-type: none"> ● ●



Thank You