**PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA**

**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION NO: 2492**

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**QUESTION PAPER NO: 23**

**DATE OF REPLY:**

**Mr C MacKenzie (DA) to** **ask the Minister of Telecommunications and Postal Services:**

1. With regard to the Special Investigating Unit (SIU) investigation into the irregularities around the appointment of a certain person (name and details furnished) and noting that an application to set aside this appointment is being opposed by both Universal Service and Access Agency SA (USAASA) as well as the specified person in the High Court in Gauteng, is USAASA paying the legal costs of the specified person; if so,

(2)  Will the specified person be liable to pay back the legal costs incurred in the event the application is unsuccessful?

(3)  Will steps be taken to recover the specified legal costs if a cost order is applied for by the applicant and awarded against the specified person;

(4) Under which authority is USAASA opposing the SIU application?                                                                                                                                                          **NW2863E**

**REPLY:**

I have been advised by USAASA as follows:-

1. The USAASA Board took a resolution to oppose the SIU Court Application. Supporting affidavits deposed by the CEO were filed by the Agency in support of its defence and to answer to the allegations involving the CEO. The Agency is therefore paying all the legal costs.
2. The CEO will not be held liable for any legal costs incurred in the event the application is unsuccessful. The reason for this is that, the CEO is not defending this matter in his personal capacity. The Board is defending the matter because it is the Board’s decision to appoint the CEO that is being challenged by the SIU. The Board’s decision to appoint Mr Zami Nkosi is what is at issue in this Court Case.
3. No steps will be taken to recover the specified legal costs if a cost order is awarded against the Agency. The Agency is defending its own decision
4. The Board, as the Accounting Authority, has a fiduciary duty to act in the best interest of the Agency. The Board exercised its mind with due diligence when it decided to appoint Mr Zami Nkosi as its CEO and when it took a resolution to defend that decision and oppose the SIU Court application.