



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA



**public enterprises**

Department:  
Public Enterprises  
REPUBLIC OF SOUTH AFRICA

# PORTFOLIO COMMITTEE ON PUBLIC ENTERPRISES

Inquiry into Eskom, Transnet and Denel

Old Assembly Chamber

17th October 2017

09h30

**DAY 01**



[00h00:00 - START OF AUDIO]

**Ms Daphne Rantho - Chairperson** - [Inaudible] ... our Meeting. Good morning honourable members of the portfolio committee on public enterprises, members of the media from all different media houses, our guests and South Africans. You are all welcomed to this first hearing of the oversight enquiry into the three state-owned companies which is Eskom, Transnet and Denel. Prior to the studying with the business of today fellow South Africans please allow me to make the following important remarks and comments. In terms of section 42 subsection 3 of the constitution; the national assembly is elected to represent the people and to ensure government by the people under the constitution. The national assembly does this by amongst others scrutinising and overseeing executive actions. Section 55 subsection 2 of the supreme law of our land the constitution obliges the national assembly to provide mechanism to, one, ensure that all executive organs of state in the national sphere of government are accountable to it and two, maintain oversight of A: The exercise of national executive authority including implementation of legislation and any organ of state. In terms of the rules of the national assembly the committee system is one of the many mechanisms by which the executive organs of state are held accountable to the national assembly and through which the national assembly maintains oversight over the exercise of the internal national executive authority and any organ of state. In terms of section 57 subsection 1a of the constitution, the national assembly determines and control its internal arrangements, proceedings and procedures.

[00h02:25]

Fellow South Africans this oversight enquiry is sanctioned by both the supreme law of the land, our constitution and the rules of the national assembly. This process is not intended to replace nor substitute the role of other legitimate state institution charged with law enforcement. Members of the committee like many in our country have observed disturbing developments in respect of some of our state-owned companies like Eskom, Transnet and Denel, documented in a number of reports including the public protector report on state capture during November 2016, media reports and Gupta email leaks. Engagement by the committee with the department of enterprise and the relevant state-owned companies did not assist the committee comprehend the challenges facing this state entities there by enabling the committee to assist remedy to remedy the situation. The committee decisions to conduct this oversight enquiry into the three mentioned state-owned entities; the oversight enquiry is a project consisting of three phases. Phase one is on Eskom, phase two on Transnet phase three on Denel. Further than that the house chairperson of committees instructed relevant committees to the national assembly to discharge their constitutional obligation by holding the executive accountable. The inquisitorial nature of the oversight enquiry section 57 subsection 1 A of the constitution empowers the assembly to determine and control its internal arrangements, proceedings and procedures. The oversight enquiry is inquisitorial in nature and aimed at finding facts on the state of corporate governments at the SOCs therefore no one is accused of any wrongdoing thus no one should behave as an accused in this proceedings. The oversight enquiry is founded on the rules of natural justice therefore the committee will be fair and transparent in discharging its constitutional mandate of holding the executive accountable, and in maintaining oversight of the exercise of the national executive authority. The oversight enquiry is divided into two stages; the first stage will see the committee calling various witnesses other than the minister of public enterprise and current and former board members of Eskom. However, individuals likely to be implicated by the testimony of the witnesses will be notified in advance and can attend the proceeding personally or through their representatives, but may not participate in the proceedings of the committee.

[00h05:49]

At my conclusion, at the conclusion of the first phase, the minister of public enterprises and the Eskom board members past or present will engage with the committee on the second phase of the enquiry. A draft committee report will be prepared and submitted to all those individuals implicated for comment and return submissions to the committee, where after a final report will be presented to the national assembly for its consideration.

Members, I thought let me do this, let me make this remarks so that everybody inside here and outside there knows exactly what are we here for as this committee members. I think everybody has got their agenda in front of us. I don't expect any apologies therefore I am not going to get to the second part of the agenda which are apologies. I do not expect any apologies. I expect everybody to be here because this has been a long journey up to this day of today and all South Africans are awaiting this to start. Those that are international and those that are in the country; they are waiting for this enquiry to start. We are starting today, hopefully everybody is prepared, those who are going to present and those who are going to interact with the presentation. As per my remark we are now going to give over to the presentation by the State Capacity Research Project on the enquiry reference book that they have developed. I will give over to you Professor if you are going to give over to anyone, you'll be doing that on your own. Thank you very much. Honourable Singh?

**Honourable Singh** - Yes, thank you very much Chairperson. Chairperson, I just thought it might be appropriate for us to get to know who is on the other side so we can record the name, beside the Professor.

[00h08:10]

**Ms Daphne Rantho** - Thank you Honourable Singh, my apologies, I thought we know each other because I know all of you who are inside here. Professor, you'll start by yourself and then you'll give us the names of the other people.

**Professor Anton Eberhard** - Madam Chair my name's Professor Anton Eberhard, and I have with me two members of my team, Katrina Godino and Lauren Romanus behind me. Anyone else sitting close to me is not known to me.

**Ms Daphne Rantho** - They will introduce themselves.

**Nur-Jehan Rawood** - I am a legal representative from a firm named Gogo Guzana, panel attorneys for Transnet.

**Sipamandla Makapela** - I am also a panel attorney in the office with Ms Rawood; Transnet, sorry.

**Honourable Swart** - Chair, sorry why are they sitting there surely we need to guide them that legal representatives should sit further and away from the presenters they might not know and it's purely ignorance but maybe we can just give guidance in that regard. And I think the idea was to just introduce the delegation not everyone in the whole of the assembly chair. Thank you.

**Ms Daphne Rantho** - Thank you Honourable Swart we thought they are part of the delegation that is led by the Professor; can you then move a little but further from the delegation.

**Nur-Jehan Rawood** - Sure we'll do that my apologies I was told that I could sit on this side.

**Ms Daphne Rantho** - You did not have to respond you can just move. Professor can you press the mic when you are going to speak.

[00h10:04]

**Professor Anton Eberhard** - Honourable members, Chairman Rantho, evidence leader Finaro. Thank you very much for this presentation to make a submission to this committee. I have been told and I have been asked to present this booklet that is before you and copies have been distributed. We are covering a lot of ground today and I've been told that I've been allocated an hour to go through this presentation. So let me begin by introducing myself and explaining why we are making this submission. So I am research Professor at the University of Cape Town and I have worked in the energy sector for 35 years. I founded and I directed the energy and development research centre at UCT in 1989 which focused on the nexus between energy and economic and social development. Together with my colleagues I worked with the ANC and others on issues related to energy development before 1994. After the democratic transition we continued to work with the ANC government Eskom, the Regulator, finance institution, electricity consumers, bodies like SAOGA, trade unions and other stakeholders. It's worth remembering that in 1994 all white South Africans had access to electricity even white farmers who lived in very remote areas but less, than a third of black South Africans had access. That figure now stands at 90 percent and South Africans have achieved one of the fastest electrification rates in history. You should remember that Eskom who is subjected in this enquiry played a very crucial role in that success as well as providing electricity to power economic growth and increase employment. So my work has been on these issues. I have in more recent years moved to the Graduate School of Business and I focus on topics relevant to this enquiry. We look at how to accelerate investment into the power sector, to expand capacity and access. We look at regulatory and governance intensives to improve utility performance, and we try to understand the political economy that helps us achieve power sector reforms.

[00h12:30]

So Chair, it is within this context that we've researched the challenges around governance and performance in Eskom, and concerns around Eskom have also risen in the broader context of state capture. In November 2016 the former public protector's state of capture report was made public after President Zuma's legal team withdrew it bid to interdict its release. Madonsela's report provided the first comprehensive legal analysis of the alleged systemic corruption being perpetrated through state owned Enterprises. Expository work on state capture since advanced further thanks to the extraordinary brave reporting by investigative journalists some of them here in this room. A massive trove of Gupta leaks Emails, the South African council of churches and burdening processes, charges that have been laid by OUTA and other organisations and the research of the state capacity project led by academics at the University of Cape Town, Stellenbosch, Wits and Johannesburg. And this booklet Madam Chair that we present today is part of that project. So we must now take seriously the possibility that what we are seeing in SOEs is not a series of random acts of corruption but rather a systematic political project to repurpose government to benefit unlawfully and politically connect the elite. South Africans are already starting to join the dots by shedding light on the modus operandi by a network of implicated individuals and recognized brokers such as the Gupta family and associates. And we were beginning to understand the extent of rent-seeking. Let me define the term rent-seeking; we mean a process of extracting private benefits through formal and informal political processes. And in this context we are particularly concerned with corrupt rent-seeking, where private actors such as the Guptas have used political connections to extract resources from the state and from SOEs without reciprocating any benefits to society or the economy. So rent-seeking behaviour typically involves symbiotic relationships between private actors and political elites when incumbent office holders, members of their networks in the polity bureaucracy and SOEs and their benefactors and brokers all benefit from these actions. So when this symbiotic relationships metastasise we speak of state capture where good politicians, bureaucrats, public servants and employees are edged out so that a corrupt network can be instated to facilitate a rent-

[00h15:32]

seeking elite at the cost of the majority. This is why allegations of state capture must be taken seriously as state capture threatens economic development and transformation in South Africa. Parliament to its creditors initiated this enquiry into the abuse of public resources at Eskom, Transnet and DENEL. While the enquiry is primarily positioned to eliminate what has happened in SOEs the committee will also be able to probe high levels of structural and governance questions relating to the state capture. So we salute your initiative, Madam Chair, we are aware that you face a massive and complex task, Eskom has not only been the target but it is arguably where corruption has flourished the most, likely due to the sheer number of attempts to disrupt its governance and accountability structures. So there's much to investigate and your enquiry runs the risk of not covering the full range of what's happened in Eskom. Not being able to get side tracked for example there is a lot of concern around Mr Molefe's pension but we should not forget the much larger multi billion rand corrupt transactions, and we'll need to probe sufficiently that what has made high-level corruption possible. The way at which governance accountability structure's system processes have been undermined and repurposed. So it's again this background, Chair, that I and my researches at my centre have produced this enquiry booklet which sets out to produce an independent, accessible, concise and fact-based account of some but not all of their alleged instances of government failure and capture at Eskom. And I would like to use the remainder of my time to take you through this booklet. So if you could turn to page 3. Why is the focus been on Eskom? Well it should not be surprising it is by far South Africa's largest owned state company, it has assets valued at R710 Billion and its capex programme extends up to R350 Billion over 5 years. Its annual revenues are nearly three times that of Transnet and they 6 times that of SAAs. Its operating expenses amount to R140 Billion excluding depreciation and other charges. The largest component of which is coal purchase and again it's no surprise that it is here that the most blatant act of corruption appear to have been perpetrated through the awarding of over-priced coal contracts, the squeezing out of incumbent coal majors and their questionable acquisition of coal mines by the Gupta family financed by Eskom.

[00h18:30]

Average coal costs, and let's understand the consequences of this, average coal cost in 2011 were R190 per ton, today they sit at over R400 per ton. During load shedding years we used huge amounts of diesel and spent up to 10 million rand there also allegedly as a result of inflated cost by corruption. So burgeoning costs, arguably, propelled by rent-seeking and corruption have resulted in electricity tariffs increasing by more than 400 percent over the last decade while electricity services have deteriorated. So the effects of this and I often get asked this; the effects of this corruption on a South African economy and prospects for economical development and transformation are huge and they reinforce the urgent need for governance and structural reforms in the utility. I ask you to turn to pages 4 and 5 where we present a time line of significant events over the last decade. I know this diagram is busy and there is a lot there to absorb, but for example you can pick out the red governance icon if you look in the top right hand corner, colour coded icons that's for governance, and you can see the key moments when there were interventions to change Eskom's board and management. And similarly for coal, for nuclear new-build refurbishment projects and others, where you can pick up those interventions and we'll go through each of those. So let's look at the repurposing of Eskom Governance and there it's useful I think when we begin an enquiry like this to have a hypothesis and here is one the screen, that the governance of Eskom has been repurposed to facilitate large rent-seeking and corruption by politically connected elite. And this is a hypothesis that through calling witnesses over the next weeks and months one would be able to test. So let's look at pages 8 and 9 which I think represents some of the significant governance changes within Eskom. I think it should be obvious to all that the numerous acts of malfeasance, corruption, greed would not have been possible at Eskom without undermining or breaking laws, regulations, rules and

[00h21:00]

governance codes. It should also be obvious that the grand corruption that we have witnessed would not have been possible without the minister of public enterprises and some, if not all, the board members and management knowing. As all corrupt deals depend on direct or tacit approvals, signoffs an executive action. Looking at Eskom's governance over recent years we can see how people were put in positions to make this happen. Jacob Zuma became President in 2009. His first Public Enterprises Minister, Barbara Hogan, has reported that from the beginning the President took an unusual degree of interest...

**Ms Daphne Rantho** - Professor just a minute. Could you switch off the mike? Professor for the sake of respect and the decorum of this house can we call President Zuma as President, because he is the President of the country after all thank you.

**Professor Anton Eberhard** - Chair the President took an unusual degree of interest in the board and management positions of Eskom and Transnet in particular. Minister Hogan resisted this undue influence which unlikely accounted for her dismissal 18 months after her appointment. Malusi Gigaba replaced Hogan as Minister of Public Enterprises in November 2010. In June 2011 Gigaba instituted the most radical board change in Eskom's then recent history. The existing and what was widely regarded as a experienced board, it even included CEO's of international power utilities, was gutted and it was replaced with names that are largely unknown and without any obvious experience or capabilities either in the power sector or in overseeing large corporations.

[00h23:08]

Zola Tsotsi was appointed Eskom chairman. He maintained a close relationship with Minister Gigaba in these years but this is more than can be said for the relationship of the CEO Brian Dames who was treated appalling by Minister Gigaba and Tsotsi's board with letters delivered to the CEO's office which indicated that he would be removed as a CEO, then his term would be extended, and then again would be terminated all with little process or notice. CEO Dames is thought to have held the Guptas and other meddlers at bay, allowing the executive staff to do their work without fully knowing the extent of the undo external influence and interference he suffered. None the less, many of Eskom's most respected executives left during this period demoralised by the early onset of co-ordinate corruption and political inference. Board Member, Collin Matjila, was then appointed interim CEO and interference in major tenders and contracts became more blatant. It has since come to light via the Gupta leaks that this appointment may have been facilitated by the Gupta lieutenant Salim Essa, who forwarded Matjila's CV to Mr Tony Rajesh Gupta and Duduzane Zuma just 6 days prior to his appointment. This pattern has re-edited shortly after Lynne Brown was appointed Minister of Public Enterprises in President Zuma's second term. This time the hollowing out of Eskom's board and executive governance appeared to be more severe. In December 2014 Minister Brown made sweeping changes to the board; 6 out of 8 appointees had unambiguous connections with the Gupta family. And questions had been raised about a notable deterioration in the balance of skills, expertise and experience on the board. Then in the first quarter of 2015 the Eskom executive was stripped to the bones when Zola Tsotsi, on instructions from the President relayed by Dudu Myeni, suspended 4 executives before being forced to step down himself, allegedly also at the behest of President Zuma and Minister Brown. So the committee could ask Minister Brown, they could ask the DPEs Director General and Chairman Zola Tsotsi to explain these radical governance and management changes during a critical period when Eskom was battling with load shedding and financial survival. Minister Brown then made secondments from Transnet. She transferred Brian Molefe as CEO in May 2015 and Anoj Singh CFO in the same year. President Zuma and Minister Brown also appointed Ben Ngubane as chairman despite his destructive performance and actions at the SABC and Land Bank and despite opposition from within the ANC's top 6.

[00h26:15]

This was around the same time as the Dentons report if you will remember into possible governance failures and other issues at Eskom; a report which was prematurely terminated with the interim report being held back from parliament, the public, and then allegedly destroyed by the board in August 2015. It is during this time that the most serious and alleged instances of capture of Eskom's leadership, procurement and operations have been appeared to be taking place. In July 2017 in the midst of another dramatic wave of resignations and suspensions, the first qualified audit of Eskom was released. In addition to exposing 3 billion in irregular expenditure the audit revealed the devastating effect that weak and arguably corrupt governance has had on the institutional integrity and the financial sustainability on South Africa's most critical state owned enterprise. It's a remarkable fact and you will see it clearly on pages 8 and 9 that in Lynne Brown's brief three and a half year tenure as Public Enterprises Minister there have been three different board chairman of Eskom and there have been 6 different CEO's of Eskom. So, the committee could ask Ministers Gigaba and Brown to explain the criteria and the processes for the appointments of new board members in 2011 and 2014. Were board members suitably qualified? How did the ministers satisfy themselves that the board appointments they made fulfilled requirements from a skills, integrity, experience transformational perspective. Were links between the relevant board members and the Gupta family known at the time of the appointment? If so was this a matter of concern? If not what might it imply about the use of due diligences checks. Both ministers should be asked to explain their contacts with the Guptas and associates, especially Salim Essa, who seems to be particularly present around Eskom. They should explain the reasons behind any meetings they had or their staff who tended with the Guptas and Eskom officials. It should be established whether such relationships led to the board or Eskom executive officials receiving instructions to take decisions in concurrence with the rules of good governance. The committee also needs to probe role that board Chair Zola Tsotsi and Ben Ngubane and individual board members played in procurement processes.

[00h28:57]

The committee should interrogate the reasons behind various board members resigning or being replaced specifically those that resigned in 2016 and 2017. And the processes that govern the appointments of new board members by Minister Brown. The committee could further probe whether Minister Brown and the Eskom board management team undermined the Eskom War Room. Chair, I sat in the Eskom War Room at that time an institute by cabinet and deputy President to reverse load shedding and improve Eskom's technical and financial performance. To what extent were key reports such as the Dentons report investigation withheld from the War Room, withheld from cabinet, withheld from parliament, and the public at such a critical time when we were experiencing load shedding. The committee will also need to interrogate the circumstances of the appointment, suspension or resignation of key executives and officials between 2009 to the present. Specifically how these governance decisions facilitated certain deals. The committee then will be able to uncover the repurposing of governance through Eskom's management team and the role they played in specific tenders which we'll now explore. So we've spent some time on governance we will now look at various forays into Eskom around repurposing certain tenders. Let's start with the Koeberg steam generators tender page 10. One of the first issues Minister Gigaba raised with Brian Dames and the Eskom board after becoming Public Enterprises Minister concerned the procurement of 6 new steam generators for the Koeberg power plant. Gigaba was unhappy with the outcome of a tender process that had been initiated before he became Minister, which recommended the award of the bulk of the contract to Westinghouse. Areva, a French company that submitted the competing bid had thus missed out on a more sizeable contract. President Zuma visited France in March 2011 and the state visit including the signing of an agreement between the South African nuclear energy corporation NEXA and Areva which outlined expanding cooperation and

[00h31:22]

strategic exchanges. The next month Minister Gigaba vetoed the Board's earlier recommendations on the tender which had side-lined Areva and a tender bidding process was then reopened in 2012. Eskom management reached a similar conclusion that the bulk of the tender should still be awarded to the Westinghouse rather than Areva, however, the board tender committee, Collin Matjila, the chairman of that committee curiously blocked the recommendation and initiated a parallel process contracting a Swiss firm to undertake a review. In April 2014 Collin Matjila was appointed acting CEO of Eskom and despite Eskom's executive procurement committee consistently identifying Westinghouse as a stronger bid the board tender committee inexplicably awarded the tender finally to Areva. Westinghouse as you know has appealed this decision in court. They lost the case mainly on procedural grounds rather than on the technical and commercial merits of the award. Chair, if we could turn to the next issue the New Age breakfast deal on page 11. TNA Media New Age newspaper was founded by the Guptas in December 2010. During Collin Matjila's tenure on the board tender committee 2011 to 14 Eskom spent 12 million rand on TNA breakfasts more than the going rate for more established media groups. After Matjila was appointed CEO he raised an idea of a one year 14 million business breakfast deal with the Eskom executive. But the TNA contract soon ballooned to 43 million breakfast deal and a 4 million paper subscription package. Members of the board, executive, the legal counsel, tried to stop this and at the very least improve Eskom's terms in the contract but Collin Matjila overrid official procurement processes, he acted outside his authority and he signed the contract on the 30th April 2014. The board then initiated a forensic review which found that Matjila had acted improperly in signing the contract and as a consequence Eskom's external auditors, SMG, raised the TNA new age deal as reportable irregularity in October of that year. However, a number of board members motivated against identifying the deal as such including Tsotsi and Mabude. Had they been successful Eskom would have had to delay this publication of the interim of the financial results which would have been critical, it is a critical period in Eskom's bond raising. A forensic review also recommended that the board ask the Minister to remove and to lay criminal charges against Collin Matjila. Conspicuously Minister Brown made herself unavailable to the board, but troubled by these implications, let's remember that two board members that sat on the auditing risk committee, Masithela and Luthuli tendered their resignations over this issue. Soon after on the 11<sup>th</sup> December 2014 Minister Brown implanted a new board at Eskom. Tsotsi and Mabude were the only non-executive members that survived. The new board ratified the deal and no action was taken against Matjila.

[00h35:12]

So a similar pattern, Madam Chair overriding recommendations from Eskom's technical commercial staff that we've seen in the Koeberg steam generators, we saw it in the New Age contract, it has also come to light with another procurement signed during this period the T-systems IT contract, if you could turn to that page. In 2013 Eskom's chief information officer, Sal Laher, identified and reported on an opportunity for Eskom to save up to 1 billion rand a year by in sourcing its IT functions. T- Systems, the existing IT supporter, became aware of the risk of losing this Eskom contract which together with its contracts at Transnet accounted for the majority of its income. Salim Essa approached the firm's leadership, T- Systems, offered to lobby on their behalf and T- Systems leadership were already acquainted with Essa as they had formed a consortium with Infracore of which Essa was a director a year before when they bid for a Transnet contract. Essa had been appointed an Infracore director then also by Minister Malusi Gigaba. Essa knew Collin Matjila having worked with him on the dubious 2011 Cosatu property deal that many of you will remember and Essa and Matjila and T- systems management met together in Melrose Arch. Meanwhile, just as in the Koeberg steam generator, Matjila reportedly used delaying tactics to impede this awarding of this IT contract and over the 6 months that Matjila was in charge a number of audits

[00h37:04]

were conducted slowing this down but they all largely confirmed the possibility of the savings of one billion rand. Although we should recognise that T-Systems itself disputes the savings model. Essa facilitated another meeting between T-Systems and the new CEO Tshediso Matona and soon after Minister Lynne Brown made sweeping changes to the board, this we have already said, bringing in 6 Gupta connected members. And in January 2015 the new board decided to retain the T-Systems contract. So there have been so many reported irregularities at Eskom that it's hard, I appreciate not to be fatigued and simply to lose track but it is important to recognize the breadths and the depths of the forays into Eskom. One area that offers rich pickings is the large refurbishment contracts at [00h38:00] Eskom. We've already mentioned one, the Koeberg Steam Generators, but there're more that have risen as a result of catastrophic failures and accidents that have required large pieces of equipment to be replaced. So let's turn to the Duvha boiler. Eskom's Duvha Power Station has witnessed two major accidents in recent years, February 2011 Duvha's unit four turbine spun out of control during a control test, and in March 2014 Duvha's unit three boiler exploded. These incidents took major capacity offline at a time when Eskom and this country were desperate for power and we were experiencing blackouts. So there has been an inaudit amount of time to repair these units and issue the tender. Eskom's board tender committee eventually awarded the contract for the Duvha boiler unit to a Chinese company Dongfang even though their price was nearly double 2 billion rands more expensive than GEE or Murray and Roberts. The final decision and let's note this, was reported by late stage report conducted again by the ever present Salim Essa's Trillian just two days before the contract was awarded. On the 30<sup>th</sup> June this year, the high court granted GEE and Murray and Roberts an interdict to stop Eskom from implementing the contract with Dongfang while they makes the judgment on the matter, clearly there are many issues here that the committee could still probe. So whilst the refurbishment contracts are been large, the biggest prize and the biggest expenditure item in Eskom are its coal expenditures. 50 billion rand a year and it's not surprising therefore that the Guptas' have had ambitions to elbow their way into Eskom's lucrative coal contracts.

[00h40:05]

The coal story is a long and it's a complicated one and it's shown on pages 14 to 19. I don't expect you to follow this in the entire timeline, Chair, but let me just highlight two stories. The first one around the Gupta's Brakfontein mine and the second around on the Gupta's Optimum mine. So following Minister Brown's new appointments that occurred in December 2014 to Eskom's board, Eskom's staff began, they felt compelled, they talk about pressure from above; to start negotiating with the Brakfontein coal mine that had been purchased by the Gupta's to get a coal company. The managers and technical staff had raised serious concerns around the quality of Brakfontein coal, environmental contraventions as well as black economic power credentials at Tegeta, none of these were addressed. And the first Brakfontein contract is to supply Eskom's Majuba Power Station was signed in March 2015. Remember this is the time that Brian Molefe took over as CEO at Eskom and he did it in April and Matshela Koko who had previously been suspended was later brought back to his position. The Gupta's seemingly fortified by these changes at board and executive level became more insistent and enterprising. Meanwhile Eskom's new leadership appear to have been increasingly willing to respond to their demands. The initial Brakfontein contract was for 65 000 tons per month, this increased to 100 000, then 200 000 and the length of the contract was extended from 5 to 10 years at a price of coal to Majuba much higher than competitors. However, Brakfontein was repeatedly failing quality assurance tests, you would have read about this, the contract was actually briefly suspended only to be reinstated by Mr Koko who then suspended the scientists responsible for these negative tests. Let's move to the larger issue around coal which is Optimum. Guptas clearly had ambitions, great ambitions in their sights soon turned to Optimum Coal Holdings, a company

[00h42:27]

owned by Glencore which had three major assets. Optimum coal mine which supplies Eskom's Hendrina Power Station, the Koorfontein mine which supplies Eskom's Komati Power Station and the export allocation to the Richards Bay terminal. Under Glencore the costs of Optimum coal mine had increased to more than 300 rand per ton but the mine was locked into a long term fixed price contract with Eskom of only R150.00 a ton and was losing at that stage around 120 million rand per month. In July 2013, due to these conditions, Eskom invoked, sorry, Glencore invoked a hardship clause following negotiations, Eskom's executive procurement committee approved a new contract in March 2015 which should have made Optimum viable but deferred the final approval to the incoming CEO Brian Molefe. Brian Molefe immediately rejected the terms of the agreement, he suspended all negotiations and in July 2015, Molefe imposed a 2.1 billion rand fine on Glencore for not meeting coal supply specifications. In August of that year, in 2015 Glencore went into business rescue to stave off liquidation and in the same month Eskom's CEO Molefe and board chair Ben Ngubane met with the mining minister, Ramatlhodi to try to persuade him to cancel all of Glencore's mining rights. While Koko threatened to review all of Glencore's coal contracts with Eskom and the Gupta leaks provide evidence that Koko also leaking at this stage confidential Eskom information to the Guptas. Koko insisted also later that Glencore not only sold Optimum coal mine but also sold Koorfontein and then the very valuable export allocation. So under pressure from Optimum's business rescue practitioners, they entered into negotiations to sell. These were ultimately facilitated by President Zuma's new mining minister, Mosebenzi Zwane, who joined Tony Gupta and Salim Essa in Switzerland in December 2015 to finalise the deal with Glencore. And as it has been reported and confirmed and the Gupta leaks on his return journey, Minister Zwane allegedly joined the Gupta's in their private jet to Dubai. However, the Gupta's still needed to find the money to pay the banks which meant held Optimum's debt and between December and January both Mr Koko and Mr Anoj Singh were flown to Dubai on many trips allegedly at the Gupta expense. At that time, Anoj Singh the acting CFO at Eskom arranged a 1.6 billion rand guarantee to Tegeta. The eventual cash to buy Tegeta....for Tegeta to buy Optimum was finalised interestingly at a late night emergency Eskom board committee meeting was convened on the night of 13<sup>th</sup> April 2016 just after a few hours after a consortium of banks had refused to provide a 6 million- 600 million loan to get her. So it was agreed at that meeting that Eskom would make a prepayment of 659 million rand to the company. Phone records obtained by the former public protector show continual communication during this time between the CEO Brian Molefe and the Gupta's and one of their executives.

[00h46:30]

On the 14<sup>th</sup> April Tegeta was able to pay Glencore 2.1 billion rand concluding the deal. Three months later, Eskom business practitioners filled a report with the director of priority crime investigation in terms of section 34 of the prevention and combating of corrupt activities act, alleging that the payment that was made from Eskom had been directed elsewhere and not into Optimum's bank accounts to assist with its liquidity and coal suppliers as reported by Eskom. Eskom subsequently agreed to reduce the Gupta's fine from 2.1 billion to 577 million while the loss making coal suppliers to Hendrina were offset with a favourable contract to Eskom's Arnot power station. Chair we should note that there have been a number of and detailed investigations of these circumstances by treasury who've submitted reports to Scopa and these would be available. Chair in the interest of time and I realise I'm being long, I won't deal with the squeezing out of coal mines, made coal mine majors. I think there are a number of clear links between what has happened around the Gupta coal contracts and also making it more difficult for other companies to supply coals. We could then shift to Trillian, this has been much in the news in recent weeks and again I'll be brief through this. In December 2016, Minister Lynne Brown categorically denied here in this parliament that Eskom had conducted any business with Trillian Capital Partners. It has since come to

[00h48:18]

light that Eskom has in fact paid Trillian almost 600 million rand for so-called consulting work. Unofficially contracted to McKinsey and allegedly undertaken by other Gupta companies since early 2016. McKinsey has also scored big in these deals netting over 1 billion rand from Eskom over the same period. During 2015, McKinsey negotiated two contracts with Eskom. The mandates for both were approved by the board tender committee. McKinsey then partnered with Gupta linked Trillian, allegedly in order to meet Eskom's empowerment requirements. However, it has since emerged that Trillian may not have in fact met these criteria and anyway subcontracted up to 77% of the work to a zero percent black-owned firm in Dubai, E-Gateway Consultants. At this stage there is no evidence that any contracts exist between Eskom and Trillian, McKinsey and Trillian. This means that all payments made to Trillian are likely in contravention of the PFMA section 45 C as well as internal Eskom policies. I won't go further into this except to note that it's now come to light the individuals in Eskom who facilitated these deals including Mr Koko and Mr Singh and Mr Mabolane and Mr Kalima, Prish Govender and others. We should note that there are a number of really damning reports and investigations. Those by Oliver Wyman, Geoff Budlender, the G9 forensic, Bowmans and we hope the committee subpoena all these reports because they confirm illicit relations between Trillian and Eskom and if provided firm recommendations for criminal and civil proceedings against those implicated. However, Eskom and Minister Brown have been slow to act and when Eskom finally acted against McKinsey, Trillian and implicated officials, earlier this month, astonishingly Minister Brown and the board hastily replaced the acting CEO Dladla with a less than reputable Sean Maritz and they suspended the head of legal Suzanne Daniels. Again Chair in the interest of time I'm going to bring this to a close and I'd briefly refer you to some of the issues which have still not come to light. So the issues I've spoken about much has reported, there is much evidence out there. There are a number of additional issues but this committee might wish to probe and I'll just very briefly summarise these. It's been reported in the press that Matshela Koko awarded a 1 billion rand to Impulse International while his 26 year old stepdaughter Koketso Choma was the director of the board and an equity holder. Mr Koko was subsequently suspended for this and I believe his disciplinary hearing has been held to today. What has been less in the light is Mr Koko's collaboration with the Coal Transporters Forum and you've seen ways in which his collusion with that forum led to an extraordinary strike by coal truckers which shutdown central Pretoria.

[00h51:51]

Hundreds of coal trucks on the 1<sup>st</sup> March with potentially extremely serious consequences for our economy. Mr Koko has also engineered the suspension of Kiren Maharaj a senior Eskom executive just as she was negotiating with the Coal Transporters Forum for more favourable terms. We've already mentioned the other issue of diesel and inflated contracts during the load shedding years. We think there is also much to be probed around Eskom's maintenance contracts. Eskom has spent a huge amount on maintenance and coal-fired stations over the last years. To its credit it's through that resulted in their performance improving but it's not clear that all of those contracts have necessarily been clean. The same issue around Eskom's big capital budgets the Medupi and Kusile and Ingula contracts and it's clear that the full scale of contract and subcontractor work needs to be probed. We know already that the quality management contracts, very sizable contracts, related to Medupi and Kusile involved corruption and some hearings have been held within Eskom and staff fired. I will have no time to cover the nuclear deal but clearly this is also relevant within this context. I'll just mention two final areas. Eskom has a treasury department. It had a treasury department that was extremely good in raising capital for Eskom, low cost capital. We've seen the way in which Regiments and then Trillian. Some of these services have been outsourced to these companies and we've seen a pattern of Eskom increasingly relying on more expensive finance particularly development finance institutions and Chinese finance. This has had huge

[00h53:48]

implications on Eskom's costs of capital. And finally, Chair if I could mention the issue of Eskom audits. Eskom used to have three auditors, two were let go one remained and only in this last year has identified irregularities and a qualified audit. I guess the question does arise of whether this might and should've arisen earlier. Again let's just understand that the consequences of all of these are massive to Eskom's financial viability and its ability to continue to provide reliable and effective and cost effective services to power our economy. Chair I will end with recommendations and just a final comment. The most important thing that this committee will do is ultimately in your findings and recommendations and clearly your immediate task is to probe breaches of laws and regulations and to expose individual acts of corruption. Where these are clear it will need to recommend prosecution and forward the relevant details to the national prosecuting authorities who will be have to be held to account. This enquiry is a unique opportunity to force implicated individuals to answer under oath and publicly here to widely publicised incidents of administrative and financial malfeasance and blatant corruption. But arguably and equally important task is the... and fundamental task of the committee will be to expose the way in which the board and executive appointments and directives have been subsumed by a political project that serves a narrow and corrupt elite. And to make recommendations of how Eskom's governance can be reformed and strengthened in the future. We know a great deal of work has already, actually, already been initiated by Cabinet under the guidance of the Deputy President around governance of state-owned enterprises and we hope we can draw on this. So finally, Chair to conclude, may I say this. There've been threats against individuals who've made who will be making submissions to this committee and also whistle blowers. South Africa in many ways is at the crossroads. Do we want to live in fear of a small corrupt elite who are plundering public resources?

[00h56:34]

Or do we want to consolidate and fulfil the development goals of our constitutional democracy so that more and more of our people can benefit? South Africa's South Africans fought a long and bitter war against colonialism and then apartheid. We cannot lie down now in the face of another minority who are destroying our public institutions, our state-owned companies, our economy and the prospects and the ability for us to alleviate poverty. If we are to transform our economy and society, we will need greater transparency and we will need the areas that we've covered were ready to be exposed, and governance improvements recommended. My academic colleagues and I, collectively involved in the State Capacity Research Project, will continue to examine how we came to be where we are today and how we might build a better future. Many other organisations, projects, journalists, individuals in South Africa, who are committed to doing the same, and will support the work of your Committee. This is arguably the most important inquiry that...in Parliament's history. It certainly involves billions more than have been investigated before and at stake is the integrity of our State and our institutions. South Africans are watching the work of this committee. We wish you courage, integrity, purposefulness in your conduct of the inquiry, and ultimately that you would make recommendations around holding individuals to account as well as how we might strengthen governance of key institutions such as Eskom, going forward. I thank you for your attention Chair.

**Ms Daphne Rantho** - Thank you very much Professor. I am not sure if there is anyone from your colleagues that wants to add on what you have just presented. If there is no one then I will now give over to the Members of Parliament to respond. I will give each Member to ask question directly and the Professor will respond. I'll give each member 10 minutes to do that and the response from the Professor. It will go on like that. Thank you very much. Honourable Mazzone.

[00h58:56]

**Honourable Mazzone** - Thank you very much Chairperson. And thank you Professor. And thank you to your team for this incredibly comprehensive document. I think that what you have added to our Committee is invaluable and not only on behalf of this Committee, but on behalf of South Africa, I thank you for this kind of information. Professor, you were part of the...the 'War Room' that was instated during the time of the load-shedding. Now, for some reason and I'd like to state I've been on this Committee since 2011, so I've been through Minister Gigaba going into Minister Brown. At the time of...of the setting up of the 'War Room', it became very clear that we as a Committee were not going to be informed as to what was taking place in that 'War Room'. And many documents were sent to that 'War Room' via various Members of Parliament when concerns became apparent. Because, in our dealings going through annual statements, also with whistle-blowers coming to us as Members of Parliament, things became patently obvious that...that there was a large deal of corruption taking place and...and there was a reason that things were being kept specifically from the public enterprises portfolio committee because one thing I can say is that it's always been a robust committee that had no problem in engaging in very difficult conversations to have in parliament. At this stage various charges were laid against certain individuals and they were reported to the War Room. And I think probably what shocked me the most was the way the War Room was making recommendations but those recommendations weren't coming to us as parliament and certainly weren't coming to us as the public enterprises portfolio committee which has oversight over the entity of Eskom. Professor can you tell us, in that War Room were you aware of these issues that were being sent to you from the public enterprises committee, were these issues actually brought to you as a War Room? Why was the War Room wrapped up because clearly you were wrapped up before your work was finished? I personally think that your War Room should still be in existence. This is a continuous problem and I'd like to know from your perspective, and I don't want to put you in a position where you talk out perhaps against any confidentiality agreements that you've signed, but, you know, I'd just like to understand why the War Room was wrapped up in sort of ...it looked like it just tapered off and you weren't allowed to finish your duties. Professor I think you've given us in a nutshell the big problems that exist here, but I'd like your opinion as someone who's investigated this together with Ms Gadino and your colleagues extensively; do we not think that one of the issues that we should be interrogating very, very carefully is why, and as you know this is a phased enquiry we're starting off with Eskom, we'll go with Transnet and then we'll go with Denel, why certain names appear continuously across the entire spectrum of public enterprises. Now in your document the name of Salim Essa appears continuously. A frightening thing is that the name Salim Essa will appear continuously when we investigate Transnet and will appear continuously when we investigate Denel. You said in your presentation to us that people rotated and the Eskom board rotated continuously; I think it's very, very worrying that there was a rotating door between the public enterprises,

[01h02:56]

that CEOs when the heat got a bit too high was simply swapped from one entity to the next and I think at that point government should have stepped in and said clearly, you know, if something's gone wrong at Transnet you can't make it right by putting them in Eskom or by putting them in Denel. And this constant rotation of the same people through the public enterprises has just perpetuated what we now view as, what I believe was made the Oxford term of the year, 'state capture'. And one has to ask, when the executive looked at this certainly a reasonable person, or reasonable people would have said there has to be something very strange and very concerning going on here because if you could see it and we could see it and every South African could see it; certainly the executive looked at this and said right, you know, there is a massive problem here. Now we know that the executive was untrustworthy in terms of their ability to present us with information because you yourself know that in a parliamentary question asked

[01h04:17]

to Minister Lynne brown about the relationship with Eskom and Trillian, she lied blatantly. We can't even say it was a massaging of the truth as sometimes we say in parliament because we say that to call someone a liar is unparliamentarily. It was a blatant lie and I know because I was the one who was lied to. It was an answer to my question. Now had that question not been asked and had the Pandora's Box not been opened at that point we have to assume that Eskom would never have come clean and told us that this work was happening. So my question and perhaps it's slightly unfair because it does put you in a position where, you know, I'm asking you to read the crystal ball; but how many more Pandora's boxes are we going to open as we go along. And I suppose that's why this investigation is so essential; it's our job to unlock all these Pandora's boxes. But as you sit here today and you give us advice and you've asked us to be courageous and determined, is there anything else besides what is blatantly obvious that you and your team can suggest to us that we need to open, that we haven't looked at thoroughly enough? Because we have done a lot of investigation, and do you suggest that going beyond this and when we go into the other public enterprises you foresee another issue that we need to interrogate; something like the way the Trillian issue became such public knowledge. And then Professor my last question to you and your team. I am amazed that money can change hands in such a way that we've become immune to the term 'millions' because we so used to dealing with the term 'billions'; but one has to ask, 'where has the money gone?' Because it certainly is very difficult to trace in terms of companies that they're linked to because we know there are so many what we call 'post box enterprises' that were developed. Now the question is if banks systematically started closing Gupta company linked firms accounts down, that money had to go somewhere. Now R5 billion, R6 billion is a little bit too much money to hide under a mattress; in your opinion where do you think that money has gone? And how do you think that money was allowed to leave the shores of South Africa? Thank you Chair.

**Ms Daphne Rantho** - Professor, can you respond to those.

[01h07:05]

**Professor Anton Eberhard** - Honourable Mazzone thank you for those questions. The first one around the War Room. Remember the War Room was set up in the midst of load shedding and a crisis around that and was set up essentially to assist Eskom to move as quickly as possible to restore supply security as well as bring in other resources and that was our focus. I have no memory of any submissions from parliament landing up in the War Room. But I would highlight what I said in my earlier presentation that it is deeply regrettable that investigations and reports that were being undertaken at the time in particular the Dentons report, and you would have seen how extensive the Dentons report is; it's not just on individual acts of corruption, it's a systematic review of what had gone wrong at Eskom, that report was not tabled to the War Room. Now I think a question needs to be asked of the minister and department why that was not the case. I think it's a legitimate question of whether that report was ever tabled in cabinet; it was an extremely important report. And remember there were three versions of it; a very heavily redacted version which surfaced, a semi redacted version which circulated, but the original report with names of companies and individuals in it has never surfaced. It exists and I guess this committee would have the powers of subpoenaing that report. You asked and you've mentioned why is it that we see the same individuals appearing and we see a kind of recycling of individuals and I think this feeds into our core thesis or our core hypothesis that we put up there that what we are seeing is not a number of individual acts of corruption but what we have experienced is a systematic political project to benefit a politically connected elite. And the way in which that is being done and facilitated have been through these brokers such as the Gupta family and Mr Essa who repeatedly surfaces. In many ways, and it's interesting that your first enquiry is in Eskom because many of these issues is as you've mentioned started in Transnet and so what was learnt in Transnet in many ways was carried on applied in Eskom. How many more

[01h10:10]

Pandora's boxes? There're definitely more, and what we've tried to do in our booklet because we ran out of time in that final section which is entitled "Still in the shadows and often not in the light", we've given you some headings of areas that we think need further investigation, and there'll be more. And then following the money I guess is the most important question because this is the missing piece so far. There was really important reporting around the Transnet locomotive deal with clear evidence that came out of the Gupta leaks of kickbacks and flows of money to certain companies via Hong Kong etc. This is the area that much more investigation would be required to really understand what would happen and I guess is in essence the remit and responsibility of the law enforcement and prosecuting authorities.

**Ms Daphne Rantho** - Thank you Professor, Honourable Luyenge.

**Honourable Luyenge** - Thank you, thank you Chairperson. Let me first welcome the presentation by the Professor with a number of key questions and also to accept the situation that whatever the Professor is saying as per the expertise that exist in him and the institution that he works with, it brings legitimacy of which it's a correct source to refer to. As you Chairperson indicated when you were opening up this process you spoke on matters that relates to issues of fairness and in responding to the hypothetical question that says the governance of Eskom has been repurposed to facilitate large-scale ransacking and corruption by politically connected elite. Elite is a sizeable number which I believe Chairperson there is a number of individuals whose names have been mentioned which I also believe it won't be a train smash for us during this process to ask some of them to give their side of the story. Then my question would be to Professor. Is there any kind of information documented from maybe meetings and interactions with the individuals and as a result there are these activities that are corrupt in their showing, because maybe we might find ourselves obliged to maybe recommend a further investigation by an institution that is charged to do that because our own responsibility now is actually to, is a fact-finding mission. We are practicing what is called inquisitorial kind of an enquiry which we want more facts in order to enable us in execution of our duty we present and recommend to parliament to do something that we believe in on the basis of the provided facts.

[01h14:27]

When maybe these kinds of activities because predominantly between 2009 and now there is prominence of these activities. Now when you refer back to these entities like your Transnet which had been ailing at a particular point and when certain people came onboard it was reported or there was an indication that was saying there is a kind of improvement here. What has been the status before 2009 in as far as corrupt practices in as far as especially Transnet is concerned, including Eskom. On a collective basis if an institution is corrupt or an individual is corrupt we must be able to identify between a corrupter and a corruptee. Can you maybe give some indications maybe a list of the possible corrupters and corruptees so that when we go forward we know what to expect from whom. There are deliberate kind of activities like your Duvha notion where a particular company was actually awarded a tender. We must get an indication, further details as it relates to that, how does that happen in order for us to be able to see when these things continue to take place in front of us? Is it possible that a reliable employee or an official can put an object in a machine and then damage it and the benefit to address that will be going to an individual, to a collective, maybe if such is possible because seemingly you can see that there's something that is closer to that. Do we have now valid information and fact around that and also maybe decisions that are taken by this boards because there are common denominators in a number of issues here, starting from Eskom, Transnet and then you see that there are those individuals whose names are being mentioned constantly. But now is there any instance where a collective kind of a meeting was taken, because if a conglomerate of corrupt people coming together and determine as to

[01h17:53]

whether the basic method to loot that particular entity these are the processes that you must follow; is there any information that is closer to that or if these are individual practices of people trying to solicit riches out of being part of these institutions. So that we are able to say if we say Eskom is corrupt, Eskom is corrupt because the boards of Eskom are able to take decisions that culminate into being corrupt or any particular board or boards are also open to that kind of abuse of their power to take decisions collectively to loot or we deal with these individuals because seemingly these are individuals so that we don't paint a picture that says all entities and institutions are corrupt whilst it's individuals that we are able to mention, as you have heard. Enkosi... [Non-English]

**Ms Daphne Rantho** - Thank you honourable Luyenge. Honourable members I said everybody will be given 10 minutes to ask questions. I'm not going to give the Professor 10 minutes or 20 minutes to respond, but members will be given 10 minutes to ask questions. Thank you very much. Professor.

**Honourable Swart** - do you mean the Professor responds within that 10 minutes as well; that will normally be the case.

**Ms Daphne Rantho** - No, no, no you will be given your 10 minutes to question the Professor, then the Professor will respond after you 10 minutes, but I will cut you if you go beyond 10 minutes. Thank you.

[01h19:48]

**Professor Anton Eberhard** - Honourable Luyenge thanks for your questions. You ask very important questions around the relationship around corruptee and corruptor. Now we I think have substantive amount of evidence around tenders which went wrong. So tenders, and they're documented in this booklet; tenders where the technical and commercial staff of Eskom said this is the best technical solution and this is the best commercial solution but where we saw people in leadership positions in management and in the board in particular, but in some instances some interference from ministers as well, turning that around and then it clearly and favouring a particular outcome; so clearly the question then needs to be asked 'why was this done' and for what purposes and were those purposes corrupt. I guess this is going to be a very critical and important part of your enquiry because we know a lot about the individual instances; the Duvha boiler, T-systems, New Age, Koeberg steam generators, Trillian etc, but it's connecting the dots of why did certain board members become involved, why did ministers intervene at certain stages, why did they make changes to boards and management at certain particular instances and facilitate certain actions. So, and you asked the question about what meetings, you know, were there meetings to plan this, were there meetings to develop effectively what we're saying are not individual acts of corruption but is a systematic political project to repurpose governance to benefit a small elite through this. And then let me just say as an aside, you mentioned the many people at Eskom, let's recognise that there are many, many good men and woman working in Eskom who are extremely good professionals and are extremely good and committed at what they are doing and are very distraught at what's happening at a higher level. Just two adjacent questions you asked about what happened before 2009. We are not saying there was never corruption before 2009 almost certainly there were. But what we've seen is a gradual uptake and the scale of what is happening is unprecedented. You mentioned just in passing Duvha and seemed to imply that maybe the Duvha accidents were deliberate then people could get contracts. We have no evidence of that. It seems as though these were accidents or people through incompetence not doing the thing. We don't have, there's no evidence that has emerged this far of deliberate acts of sabotage at Duvha or Majuba or at any of the other accidents. Thank you.

[01h23:13]

**Ms Daphne Rantho** - Thank you Professor, I will now go on to Honourable Swart

**Honourable Swart** - Thank you Chairperson and thank you for the very helpful research and the book that you prepared; the questions that you prepared will be very helpful as the enquiry continues. What I just want to emphasise firstly is that we are committed, this will be a long process, we not fatigued, we are invigorated to shout from the rooftops what's been going on, and to further expose what other reports have exposed already. This is the process of oversight and maybe we have not fully fulfilled it in the past, but it is time for us and as you've said it, is a watershed moment and in my 18 years in parliament it's probably the most significant enquiry for us to embark upon. What I did want to just ask you is; we've got the historical issues that we're faced with and that is the dilemma obviously with an enquiry of this nature. Looking historically, but you've also pointed out what is happening at the present and what is happening in the next few weeks and I would ask you to also monitor that and if there's information that you'd like to further furnish us feel free to do that; chair with your permission, that is an accepted practice that if there are further issues. Obviously there's so much in your booklet but what strikes me is one or two major issues; is the impact on the economy and you refer to that on page 3 'The south African economy and prospects for economic development'. Would you be in agreement with a well-known economist who estimated – that's Eraj Abedian, that our economic growth should be round about 5% and due largely to state capture and rent-seeking we are looking at around 1%. Maybe not necessarily agreeing with the particular figures, but the impact that it has had given that Eskom holds the largest state guarantees and has drawn up...down a lot of that and we're talking about as my colleague indicated not millions but tens of millions of rand. Then I'd like you to, and it is an issue which we will also be interrogating, your comments on how funds of this nature are able to move around bank accounts and the Reserve Bank, surely the Reserve Bank would be aware of such large amounts leaving, whether it's leaving the country or not. And we've seen in all the reports and I've gone through a number of the reports, these massive figures moving around the country.

[01h26:20]

We might need to also enquire from the Reserve bank has to how these, and other banks, how these bank accounts and how the amounts move. One of the ongoing issues that is of great concern and that is the issue relating to the generator at Koeberg and besides seeing it from an enquiry perspective, you also highlight the danger that the Koeberg generator tender presents – and now I'm asking you that specifically to unpack that slightly because we're living in the Western Cape. You've indicated on page 10 of your document; that the cost of the protracted..... goes beyond the 5 billion price tag of the RIVA bid given lead times for the manufacture of the generators the replacement will no longer be possible in the scheduled window raising concerns around reliability and nuclear safety. Now please, that's a key issue we need to understand the implication of what has become colloquially termed state capture on the Koeberg generator tender whether from a power perspective from an expert. Just please unpack that for us as well. The other issue relates to the Mckinsey Trillian issue and whilst a lot of this information is in the hands of the law enforcement bodies of South Africa, surely there are foreign law enforcement bodies like the Justice Department in America that would also be interested in this information where they have got jurisdiction in terms of their own legislation as well. To your knowledge has this been raised with, in particular the Mckinsey Trillian issue, with those law enforcement agencies in terms of their specific act which gives jurisdiction not only because Mckinsey's in America, but also in other areas where the dollar might be used or emails might be used that have a server in America. That whole issue of foreign law enforcement agencies that might be used as well because remember we've got the government on the one hand that is implicated and you've also got private companies that have been implicated and that is an issue which we will also be looking into at great length. Chairperson, the other

[01h29:00]

issue that I wanted to raise is the concern as I mentioned earlier about the historical perspective, but that there are journals and there's speculation that the pace of state capture is picking up in almost going towards the exposure, because the people involved are becoming very aware of what is being exposed in the media and in all the various reports; is that something that is of concern to you and if the reports are correct that I understand there's has been a cabinet reshuffle earlier this morning that there is a new nuclear ministry and that is the previous state security minister, is that a matter of concern to you as well? Chairperson, when we then also consider the issue relating to the Tegeta and the coal contracts. That has been dealt with by other portfolio committees and it is being dealt with. Would you like to comment on the issue relating to the National Treasury report on the Tegeta coal contracts that was discussed at length in the Public Accounts Committee and it now seems that the Minister of Finance wishes to withdraw that Treasury report? Is that an issue that we should be concerned about as well that it seems that there is concern about that information? And with a new Minister, to me doesn't make sense. I think there's sufficient information in that National Treasury report that we should be very aware of. One of the issues which is also a great concern, is the Optimum business rescue practitioners. You mention that in your report. That they filed a complaint in terms of the Corruption Act with the Hawks, alleging that payment had been directed elsewhere and not into Optimum's account to assist it with its liquidity as purported by Eskom. So do...my reading, I understand that the payment was actually not made to the business rescuers but it was actually made to...to other persons and can you unpack that Gupta-related persons? And when you look at that whole context of that particular contract, which we'll be looking into in greater detail, it seems there was a lot of Eskom's involvement. There is prima facie evidence that we will be unpacking. Are you aware of a guarantee that was granted by Eskom and is that normal practise? In My experience as a lawyer, that is unheard of for an SOE to grant a guarantee to another company for the purchase. And that purchase price does not seem to have gone to the business rescuers as it should have. Chair at that stage those are some of my questions. But rest assured that we will be taking this very seriously and this will be a lengthy process and we will get to the bottom. But this doesn't detract from the necessity of law enforcement agents to do what they are supposed to do. At the moment in South Africa, if you take the Public Protector's report, which is a part of that, has been taken on review- only the issue relating to the Commission of Enquiry. The factual findings have not been taken on review!

[01:33:05]

**Ms Daphne Rantho** - Thank you Mr Swart. [Overtalk]

**Honourable Swart** - Thank you Chair. [Overtalk]

**Ms Daphne Rantho** - [Overtalk] Your ten minutes is up.

**Honourable Swart** - Thank you.

**Ms Daphne Rantho** - Professor.

**Professor Anton Eberhard** - Chair I'll respond briefly. So Honourable Swart - firstly the issue of impact on economic growth. There's no question that Eskom is absolutely critical to our growth prospects both through providing a reliable and cost-effective electricity supply, but as we all understand, it also has huge impacts on contingent liabilities for National Treasury. So when our institutions are undermined in the way that they have through these kind of capture, rent-seeking, corruption activities, that has huge dangers and we need to understand those. And we can see what the contingent effect could be on lenders as well for other State-owned enterprises. You've raised again that issue of funds, which

[01h39:58]

Honourable Mazzone also raised. The banks, the Reserve Bank, the Financial Intelligence Centre, certainly must know a lot more than has been published. And it could well be, if this Committee has time, that there's the opportunity to probe a little bit more around where this money has gone. Koeberg, you're quite right that the delays in the tender and the court cases and the dispute about who gets the contract, have delayed the replacement of the Koeberg steam generators. And this is of concern. This is a nuclear power plant where you have to have the highest levels of engineering and safety standards. Those steam turbines are scheduled for replacement at a specific time. We are overdue and over-date. I actually spoke to a colleague at Koeberg just the other day, and he confirmed that that Areva contract is running very late on the replacement of those turbines. Trillion and then Mckinsey – your questions were mainly around Mckinsey. Yes, complaints have been raised in New York at the Securities Exchange by Corruption Watch around Mckinsey, and so this is being taken forward. We should just note, there was a press statement by Mckinsey International today, which provides more details on their side of the story on that contract. Is State capture escalating? I...I mean I think we can say that at least there's been some push...pushback. Key individuals, remember that were facilitating this, are no longer in place. But, it does seem as though there does seem to be an urgency in continuing or achieving as much rent-seeking as is possible in the period before 2019. I did see that we now...our State Security Minister is now our Energy Minister so this might have interesting implications for nuclear in particular.

[01:36:10]

The Tegeta coal contracts – National Treasury. Those National Treasury reports are very extremely thorough. They've been supported by PWC investigations. There's a huge amount of data, both on the Brakfontein coal contracts and also the Optimum story. And as I said earlier, this Committee could help bring these things to light by subpoenaing those reports and bringing them into the public domain. The concerns expressed by the Optimum business rescue practitioners around the payment. It seems to be quite clear what happened there. The pre-payment was motivated on the basis of Optimum investing in further coal-mining equipment to secure the coal supply to Eskom. There's no evidence that that money was used for that. Indeed all the evidence suggests that that pre-payment was used to purchase optimum although Eskom has claimed that that amount is effectively being repaid through...through coal supply now. And then the Guarantee that was made to... It was actually a guarantee, I think made to ABSA, against purchase of Optimum by...by Tegeta, that was offered. That's extremely unusual. I know of no other case where that's been. It wasn't actually used – it wasn't drawn down and that's now cancelled. But of course there's a cost. There's a cost to putting in place an instrument like that. So one could regard that as wasteful or unlawful expenditure.

**Ms Daphne Rantho** - Thank you Professor. And Honourable Singh.

**Honourable Singh** - Thank you Honourable Chairperson and thank you to the Professor and his team for this document here, which no doubt will assist us as we proceed over the next 12 to 18 months or so. There is no time frame that has actually been set. Professor I think it is important for us as a Committee and important for me as a Member of this Committee in asking questions later on of many witnesses that would come here, to establish bona fides. And I hope that you will treat this question in the manner that I'm asking it...you know without...there's no actual assertions or implications being made against you. You did state in the beginning that you've been working with the ANC. You started off by saying you've been working with the ANC. You've been involved in research for thirty-five years in the energy sector. Then you went on to say you're working with the ANC Government and SOE's. I'd just like to know, to what extent, what kind of work or services were you offering them? And at what point did you realise that possibly your advice and your participation in the 'War Room' has led to you and your team now coming

[01h39:39]

up with this kind of report? So that...that's the first question that I'd like to ask. And are you currently working with any other organisation or organisations involved in the energy sector...you know...in South Africa? The second question, through you Chairperson, is in your document you makes...you know... a number of...well there are a number of statements that are included. One refers to the cost of coal -190 rand per ton in 2011 to 400 rand per ton now. And we do know that as a fact. Now we've been told in our Portfolio Committee at some stage that this is largely due to the cost of transport. Now I don't know if your research has...has differentiated between the raw...the raw cost of the coal vis-a vis the additional cost that transport would've added to the 190 rand. In your document here on page 15 there are a number of also statements that are indicated. You've also spoken to them that Minister Zwane joins Rajesh Gupta in Switzerland, so-and-so was flown to Dubai at Gupta expense. But in your presentation you said: "allegedly". Now is there any facts that you can present to our Committee at some stage, which verify that these trips did take place? So that when we ask the witnesses whether they did fly from point A to point B, and for whatever purpose, we have some facts to back that up. The other question relates to the threats to whistle-blowers. Then you mentioned that there have been number of threats and I think as a committee we have to take serious note of that. Because we know what happened in the SABC ad hoc committee enquiry which I sat on where one journalist was...you know...threatened and she eventually passed on, whether directly or indirectly due to that. So I think in that case, those that are being threatened...and anybody who's listening here, need to take this matter South African Police Services as urgently as possible so investigations can start in that arena. Because we can't do much as a committee, you know...in terms of protecting them. Professor now there are huge figures here and I think one of my colleagues spoke, said you know we don't speak in millions anymore, we speak in billions.

[01h41:58]

Has your research team in any way, having due regard to the amount involved in corruption, ever thought about what would electricity really cost the South African public if this kind of corruption didn't take place within the...the...within Eskom which is the main supplier of electricity to the South African population? And linked to that there has been recently reports of tension between a bringing on independent power producers on to the strip. Do you think that there's been any impact on what's happening in Eskom vis-a-vis bringing on more independent power producers? And lastly, you know this enquiry could take us I don't know how long. We've got to do a thorough job. But in the meanwhile there could be people sitting within this organisation that could influence the...the enquiry that's taking place. Have you thought about, or your team thought about any such individuals, you might want to share it with us later on. Any such individuals who you think may need to be removed or suspended whilst this enquiry is continuing so that they don't influence what happens within the organisation as we move forward. Thank you Chairperson.

**Ms Daphne Rantho** - Thank you Honourable Singh. Professor.

**Professor Anton Eberhard** - Honourable Singh when the ANC was unbanned in 1990, clearly it didn't have an energy policy or a program of what it would be doing when it came into government. And it was a period in which there were extraordinary important discussions around what needed to change. I...in my introduction gave just one statistic of how...of how electrification access was skewed. And so we began at that period to start doing the...the modelling and the viability analysis of what these programs might look like, so that as a new democratic government was formed, there could be a program in place. And I think we worked extremely constructively and that period contributed to the Energy Policy White Paper, etcetera. But to come to your question - do we work with...with other organisations? We work broadly across the sector. So I've worked, I think almost with all stakeholders in the sector.

[01h44:30]

I mean an example, just last week I co-hosted an event with the South African National Energy Association, etcetera. So it's very important for us that our research, which is hopefully evidence-based, has a broad impact on a sector as a whole. You mentioned my involvement in the War Room. I don't think anything that I was privy to there has fed directly into the work that we doing now. Most of this investigation is to do with more recent events that we've uncovered. How important is the issue of coal in the in the increases of price...coal price increases? So historically Eskom built its power stations on top of very large coal mines and coal was conveyed... conveyor belts directly into the mine. And as that has changed, as we have seen the increase of smaller contractors and more distributed and greater reliance on road transport, there's no question that this has contributed to the increases in prices. But it also is the fact that some of the production costs of these smaller mines is higher than some of these historical cost-plus large mines. Trips and evidence? There's a huge amount of evidence now available through the Gupta leaks which confirms many of these trips and meetings and have not been denied publicly by the participants. For example the trip by Minister Zwane to Switzerland has been recognised. Impact on electricity prices of all of this and corruption? Again no question. If we've seen that in almost all instances that these corrupt procurements that I've mentioned in this booklet, have resulted in higher prices. And ultimately this adds to Eskom's cost basis and ultimately has it worked its way into electricity price. Remember that our electricity prices have increased 400% in a decade. You could argue... is corruption the biggest driver? Maybe not. I think that the cost and time overruns on the big capital expansion programme, Medupi and Kusile are arguably the biggest impact. But what we're seeing now in coal and refurbishment...other areas is clearly having an impact.

[01:47:14]

You ask interestingly around is there any relationship to all these events that we've talked about and IPP's? And I mentioned in that final section in 'Still in the Shadows' that Mr Koko in particular has played a very specific role in colluding with the Coal Transporters Forum and has argued very vociferously against the introduction of IPP's, often presenting information which is inaccurate. It's now the case that IPP's, particularly renewable energy wind and solar, are the newest new option that Eskom has. They're cheaper than, and this is documented because we see the actual contracted and bid prices. So these are real. These are fixed prices for over 20 years. They are cheaper than Eskom's average cost and they are half the cost of Eskom's new coal. So, why...the question is why is Mr Koko and others played this role? What kind of interest does he have the in the coal sector that he has not been able to have within the IPP sector are questions? It should I think, relevant to this, and it's not stressed often enough - in contrast to what is happening at Eskom, the procurement programme, run by the Department of Energy and National Treasury for renewable energy IPP's, is 92 projects, 190 billion rand, there's not being one accusation of impropriety or collusion or corruption. This is probably the most, the cleanest procurement programme and the largest public-private procurement program run by Government. I think that was...did I cover everything?

**Honourable Singh** - Chair the one question on the...well the SAPS where you were not here at that time. Because you know it's come up in the SABC committee as well. And I think anybody who is going to come here or who feels threatened male stripper must take their reports to South African Police Service. The question about suspending anybody within the organisation while in police concern...conflicts of interest.

**Professor Anton Eberhard** - So we've mentioned that a lot of evidence has come to light around people directly involved in many of these procurement exercises. The minister and the Board have being extremely slow to act.

[01h49:50]

There are still people there that are not suspended and on the basis of the kind of evidence that has emerged in the G9, The Oliver Wyman, The Bowman's Report, and others, it's frankly inexplicable that actions have not been taken yet.

**Ms Daphne Rantho** - Thank you Professor. We now go to Honourable Gungubele.

**Honourable Gungubele** - Thank you Honourable Chair. Prof I think your presentation, if I had to echo other members, indeed it creates a platform to have a quality, inquiring mind. One accepts that not every question will come from you, but this information assists in listing important questions. But because we in this inquisitorial process, we want to leave a report when we reach conclusions - they must stand on their own in our absence. Now the question of causalities between behaviours and... between certain instances and certain behaviours, becomes critical in terms of finding useful connections. For instance...I hope to be very short. For instance ...my questions will be like schoolchild-type of questions. There is a Minister at a particular point in time, who comes in and overhauls the Board. And it is suggested that it intentions to achieve a, b, c, d. and the other Minister at her own time, does something similar. Why I'm saying my questions could be 'schoolchild questions' would be, under normal circumstances Ministers do these things. When a Minister takes over, there would be a reason why the Minister changes the Board. And when you change the Board, it is not always because this Board is going to produce good results. You might be having good intentions but the results deliver to the contrary. That's why, when we speak about the illness of the motive, causalities in terms of information, is going to be very, very useful. Because you want to say – If I say Minister Malusi Gigaba had ill intentions in doing a, b, c, here is the platform of facts that make me say that. It applies to both. The case that is straightforward is where a Minister says "...deny a contract with Trillion", and it ends up that the contract exists. There's something wrong that the Minister must clarify there. But I'm talking about the situation where the...somebody from the contractor can argue generalisation. It goes further, following the same trend. There's where it is said Chairperson Tsotsi, suspend four officials, allegedly as a result of the President's instruction. It is important to have a sense of where is that based. Because when you are the head of the State that will always happen. I remember when I was a mayor, when I appoint senior officials, it was said I had a relationship with a particular executive. And where I was sitting, I had good intentions. I am deliberately playing what you call...'devil's what-you-call'...'devil's advocate'. [Non-English]

[01:54:41]

I'm trying to follow this pattern. If you go to Melrose Arch on T-Systems – if it is said there was a meeting in Melrose Arch, I guess the linkage there is between – you'll correct me – where Collin Matjila would have sabotaged an IT tender, it appears that conditions were being created in one way or another for T-Systems, instead of earning their contract continuing. But I am more curious about this meeting in Melrose what-you-call ... in Melrose Arch, are we able to pick something so that we can say this meeting did take place. The other things are....I'm just working on the pattern of these aspersions which to me upfront Prof I want to tell you there's a lot of relationship, circumstantial between this people and bad things happening at Eskom, but I want to strengthen the causalities by asking these questions. When you say for instance on the board about six of them Gupta related, where do we base that? Where do we base that? I'm also curious Prof about the in the chronology; there's a very useful chronology of facts that are done here. I found them to be very informative. But there's one curiosity I have. In 2014, what is this significance of Koko taking over group technology and commercial; I'm trying to check what is the narrative there because in 2014 there's a list of issues here raising where Collin Matjila is being appointed as acting CEO subverting a recommendation, are you able to share with us that recommendation? If not, it's fine, but I'm just curious because at some point in time it's going to be useful cause where it is said

[01h56:58]

‘Tsotsi appoints Collin Matjila as an acting CEO subverting a board recommendation’. I think I’ve tried to learn to answer this, and I want to assume that because the education one gets from your information or with an intention to articulate the methodology of repurposing. What seems to be consistent is centralisation of power and determining the types of people who are deployed. And you seem to be making the point that those people’s skills at times have got no competence to be in the positions in which they are. If the Prof wouldn’t mind it would be useful to get one or two evidence of that. If you don’t mention it you can say to us to refer to a particular document. Otherwise where I’m sitting...all I’m trying to do Prof is that...we want to be... we want to reach a conclusive, we want to reach a factual conclusion. I know factual conclusions sometimes are circumstantial, sometimes they are clear facts that you can point with your finger; but there’s a lot of relationship here between interventions and bad things, but I’m saying, in some areas are you able to take us further so that somebody can put a finger at a factual dynamic that makes you to say there’s a causal relationship. Thanks.

**Ms Daphne Rantho** - Professor.

**Professor Anton Eberhard** - So Honourable Gungubele, you ask I think really, really seminal questions here because this is exactly the potential that this committee has now is to establish those causal relationships and to bring evidence to light. You have the opportunity to ask people if they were in the room, if they met and why and for what purpose. So, you know all of those issues of for example Mr Tsotsi taking instructions from the President when he suspended those four people. If he gets called to this committee, ask him. Ask him about that particular issue. If it’s meetings in Melrose Arch, ask Mr Collin Matjila if whether he met Mr Essa and T-systems. So a lot of this...some of this evidence has emerged from journalists, some of it emerges from Gupta leaks, but some of it has emerged from direct interviews that have been done with.

**Ms Daphne Rantho** - [Inaudible]

[02h00:00]

**Honourable Gungubele** - The reason I’m asking this question is that Collin Matjila might say that ‘didn’t take place’.... Mr Tsotsi might say ‘I was never instructed by the President’ therefore there must be a source of this information because we maybe if in calling Matjila we might be calling the wrong person. In calling Tsotsi we might be calling the wrong person. That’s the- [inaudible]

**Professor Anton Eberhard** - So and I... hope your evidence leader will you assist the committee in the way that this information has built up because there’s generally more than one persons’ and people know. Again you asked, I think, a pertinent question around substantiating statements like six board members were connected to the Guptas one way or another, so this has been reported extensively and the direct links between individual members and either Gupta businesses or Gupta associates has been documented there and in fact it led to the resignation of some of those members later through conflicts of interest.... You talked a little bit about also evidence that some board members not necessarily qualified so again, you know, one can factually support this case. I mean I drew the distinction between the boards that were in place after ’94 until 2009, so in our birth of our democracy we actually had extraordinarily good boards and you can see them you can see these were people that were directly involved in the power sector or had directly been involved in running large corporations. So their skills and competencies and experience were there. When you look at the board that was appointed by Minister Gigaba in 2010, when you run down the list maybe one or two or three, you could say ‘yes I can see’ the reason why this person is appointed but frankly for the rest one couldn’t. And again with Minister Brown, Minister Brown’s board that she’s brought in 2014 there was only one person on that

[02h02:19]

board that had any prior experience and connections with the power sector. But generally so your core point around needing to draw, firstly to be factually based and to have greater evidence in what we're doing and then to draw the causation around why this happened and how the repurposing was planned is exactly, I think, the... job of the committee going forward and I think having it- calling the appropriate people here really gives you the opportunity to bring to light some of this.

**Ms Daphne Rantho** - Thank you Professor. We'll now go over to Honourable Marais.

**Honourable Marais** - Thank you Chairperson. I will be more brief than the others... I want to start off by saying that Eskom actually belongs to everybody sitting in this room today and people outside this room because state enterprises are being built by taxes of the tax payer and the revenues... being done by those state enterprises. So everybody sitting here have a personal interest in what's going on in all state-owned enterprises. So I first want to start off by saying and that is a very important slide that you used and I think some people could have missed it. The importance of Eskom and I want to repeat what you said there. It's the largest state-owned enterprise with revenues. Three times Transnet, people don't... three times Transnet and six times the SAA. With assets around 710 billion, it is not a million, it is a billion and very lucrative contracts flowing from that coal purchases with 50 billion. So it's not strange that the most important state-owned enterprise is being targeted by some people. So let's go back, and that's very important, is in the sense of what happened because we had national and provincial government elections in 2014 and then President Zuma was elected as the President in the national assembly and it's actually very, very, important which person will be appointed as the minister of public enterprises because the value that it is actually within state-owned companies. So... if we go back, in March 2014 and that just- but just before the May elections Mr Brian Dames was the CEO and that he actually resigned at that point in time or go on pension as you wish.

[02h05:45]

Now the three most important people that will play a role, a strategic role in all state-owned enterprises would be always be the Minister, the CEO and the Chairman of that specific board is that triangle. Now, then Minister Brown was then appointed in after the May elections by President Zuma as the minister of public enterprises. Now in April 2015, Mr Brian Molefe was appointed as the CEO of then Eskom. In your view, would you agree that it was one of the most strategic and structured appointments for contracts to follow to benefit specific companies and individuals with that specific appointment with the CEO. And, you know, I look very carefully at your recommendations at the end of your slides as far as your recommendations is concerned and I fully agree that it's actually the task of this committee to take it obsolete to the end. Furthermore I'm questioning... so what happened along the way with the most lucrative maintenance contracts within Eskom? And you can actually take the thing back to Transnet as well... in mind, who is the CEO or was the CEO of Transnet as such. So.... I would like to see a view of those issues I've raised. And then one thing I definitely concur with you, I would love to have the original, the original Denton report.

**Ms Daphne Rantho** - Thank you Honourable Marais. Professor?

**Professor Anton Eberhard** - Sorry could I just get that last point, the... the what report?

**Ms Daphne Rantho** -The original...

**Professor Anton Eberhard** - Original! Ok, sorry...

**Ms Daphne Rantho** - ... Dentons report.

[02h08:10]

**Professor Anton Eberhard** - Honourable Marais, your first point is clearly well taken that Eskom is by far the largest state-owned enterprise and so it has not been a surprise that this has been a target for rent-seeking. You have highlighted in particular the role, the importance of when Mr Brian Molefe became CEO at Eskom and it is an important moment as we've seen. Of course there were incidents before of what was happening but we did see a real escalation after his appointment and we've documented in some detail for example, around, particularly around coal deals for the Guptas. How he overturned recommendations of previous agreements. And the previous public protector has documented in some detail the frequency of contacts between Brian Molefe and the Gupta family, so, so it's clearly something to be probed more. And I'm glad your last point that you've raised the issue of maintenance contracts. I think we still don't know enough about this. It's a huge expenditure in Eskom, it's a sort of after coal would be the second largest operating expense and we've had some sort of hints about what's going on there but I think more needs to be investigated around those contracts, who they went to etc. Thank you.

**Ms Daphne Rantho** - Thank you very much, Professor. Honourable Tseli.

**Honourable Tseli** - Profes..... if you can just try and assist in taking me through the process that was followed to collect information that led to us producing the booklet... Linked to that one will be, I see the one that you are presenting is volume 3. If I were to look at volume 2 and 1 what would be the difference? What, which information... what kind of information will I find in this book that is not there in the other volumes and such things. Obviously your, the process of your research is to collect that information was through a process of people voluntarily coming to the researchers and those that are in the process of you collecting that information, you realise that you can go to witness A to assist you in putting together this information. I'm aware it might not be possible for now to try and distinguish those that voluntarily came to you and those that you went to on the business of the information that you've collected but as I'm saying it might be useful for us to know in terms distinguishing the people that you interviewed. The.... you spoke about the 400% increase of electricity..... I missed that part, was it in the last... since 2009? [Answer off mic] Ja, ja, to date. And I'm interested in knowing the.... what is it that you found to be problematic? [Answer of mike] ... And in your view, what would have been a justified increase of electricity in that regard?...

[02h12:33]

Already one of the Honourable members spoke about... the documents which might be in your position together with your researchers to substantiate some of the issues that you are raising today. It is an issue that might be very helpful... in terms of people who..... who interviewed during the process of putting together this booklet.... I'm interested in knowing the... extent to which all this issues affected the audit opinion of the company in the last 10 years. I only managed to capture the recent one, I think you spoke about qualified audit opinion recently or something like that. But I'm interested in knowing the trend and the impact that all this issues that you are raising might have impacted on the audit opinion. If you can just try and take further..... the 2.1 billion fine to Glencore, I missed that part as well. Just take it further and elaborate... a bit... It might be very useful. You indicated Professor... that... the... maintenance contracts have improved tremendously in the.... financial sustainability of the company through less extent, something. Nut you also indicated that you're not sure whether this contracts were clean. I'm interested in you elaborating a bit on this particular aspect, not being sure if the contracts were clean. The second last one, if you have- do we have written submissions by those who were interviewed or in the main people were just presenting orally to you in terms of the issues that they know to be happening in the company during the period that you, you spoke about. The last one, I'm sure you might have, you were here earlier, while you were saying there's a stage where people who are implicated are going to be

[02h16:05]

given the opportunity to state their, their side. And indicate that 'I'm implicated' and this is the correct version that 'I know'. Already there is this booklet that is out. Are we, if convinced, together with yourselves that some of the issues as raised in the booklet does not necessarily represent a true picture. Are we ready to go back and review some of these things? Thanks.

**Ms Daphne Rantho** - Professor.

**Professor Anton Eberhard** - Thank you, Honourable Tseli. Our process of getting information and producing this document is, I think, pretty much follows standard research practices so the- we have reviewed available documentation. We have looked back at the kind of analysis that we've been doing on Eskom for a long time. We have relied quite heavily on the work done by investigative journalists and so it has been an extraordinary amount of facts- evidence accumulation analysis done by journalists especially on the Gupta leaks and this is unique about what's happening in this period. We've never had any independent source of documentation now which supports a lot of what has been put forward. And then of course there are many of these documents and reports that are- have been made available and that are available on the internet, mentioned the Dentons report and others. But it would be important, I think, as part of this enquiry's process is that these are subpoenaed officially are officially and in the public domain. You- we of course supplemented our research with interviews with individuals. I think, many of these are sensitive. We undertook to keep those interviews confidential and.... Some of those people, I'm sure, would be appearing before the committee but we're not in a position to make public or disclose who those individuals were or directly their contributions. You've asked... you've mentioned that we've had a number of versions, this is the third version so we are updating the work as we go along and

[02h18:56]

we'll continue to do so including your very last question. If we find there's anything wrong in the booklet we will update it and correct it. What kind of things have changed between version 1 and 3? Not very much... I mean, for example, on the governance page Minister Brown has appointed another acting CEO so he's there. A lot more has appeared around the McKinsey Trillian issue so we expanded that quite substantially as well and just updated and corrected a few others and we'll continue to do that. You said more details on the electricity price increase. So 400% increase in electricity price over 10 years is very unusual, I mean, this is a extremely high increase and it's had a major impact first on our economy under consumption etc. I think I've already alluded to what have been the main drivers, mainly been the Capex programme, the Medupi and Kusile which were over budget and over time and this has added massively to Eskom's finance costs but we're also seeing other areas of expenditure like coal, like the refurbishment contracts that are contributing to this. What should the price increase have been? Not much more than inflation. I mean, it's a remarkable thing if you compare Eskom prices are doing this [makes hand gesture] but if you look at the prices from contracts from renewable energies IPPs they're doing the opposite. We have seen a 78% decrease in solar PV prices over the last 4-5 years. So Eskom's price increases are out of sync with what's happening with new technologies. You asked about the audit opinion and I'm glad you asked about that. It is... it's most striking finding was the 3 billion rand of irregular expenditure which they could not find any documented evidence but it's a very extensive setup of qualifications and I would urge you to look at Eskom's most recent financial annual report. There're a number of statements there by the audit to give rise to many concerns and the question we ask is, is it only this year that these concerns have arisen or were these issues there before? You remember I raised the issue that The New Age (TNA) contract was the auditors wanted to make this a reported irregularity and there was a lot of to-and-fro around this. And these issues are seminal because they effect the finance providers' commitment to continue to lend to Eskom or to withdraw their funding as we've seen in the case of SAA.

[02h22: 05]

The debt providers are no longer willing to rollover the finance for SAA. If this were the case in Eskom, it would have extraordinarily devastating impacts not just for the utility but for the economy as a whole. You asked for more clarification on the 2.1 billion issue around Glencore. So you remember that..... As soon as Brian Molefe came in as acting CEO one month later he, well he immediately stopped negotiations with Glencore around revisiting the contract to enable the company to be financially viable. And in addition to that he imposed this 2.1 billion rand fine on Optimum around them supposedly not, and I think there is some evidence, not meeting coals quality specifications. It was a retrospective fine but it placed intolerable pressure on the company that was already under difficulty and already triggered a kind of going into business rescue and severely impacted on its liquidity. The interesting fact is, once Glencore was sold to the Guptas' Tegeta, the 2.1 billion fine was reduced to 570, I think, 77 is million is the number I remember. I've raised this issue of maintenance contracts, I don't want to this issue to out shadow all the other issues that we've raised here because the others are much more well- documented and arguably more significant. Just in terms of maybe some of the issues we don't know about, we've flagged the issue of maintenance, there's been a lot of maintenance on Eskom's power generation units in recent years and we've seen some of the benefits in that. So the performance of Eskom plant is actually starting to improve finally. But all we're saying is given everything else that's happened around Eskom, those contracts should be looked at. We have seen some instances, I mean, they're not directly related to maintenance but quality assurance where there definitely were very large and inflated contracts. People have been fired from Eskom around those issues, so we think in time that's something to look at but I think there're many more immediate issues in this booklet that we could focus on. Mr Tseli, Honourable Tseli is that everything you've raised, I hope.

[02h24:45]

**Honourable Tseli** - No, no, no I'm satisfied. That's it.

**Ms Daphne Rantho** - Thank you Professor. Honourable Nobanda.

**Honourable Nobanda** - Thank you Chairperson. Through you Chairperson, Professor what would be your normal processes of appointing a board member? My second question would be on the shareholder. With the shareholder mandate, does it include having a say on procurement? And if so, up to what level? How far? The third on is on this rotation of CEOs. When exactly did this start, with rotation of the CEOs, whether it was from Eskom to Transnet – Transnet to Denel or whatever and... how long would the CEO serve as a CEO before rotation or this rotation was done only when you had different hiccups within the- within the SOE? The other one was on your investigation from 2009 but I think you answered that one. The 30 million corporate plan. Would this be amount be your normal standard amounts for..... presenting a corporate plan? And from your presentation the four main coals, I don't know whether you call them mines or suppliers, it's your Anglo's, South 32, Glencore and Exxaro. Seeing that Glencore is the one that's being getting most of these tenders, what's happening with the other three and how has this affected them?.... Can you also assist me with a breakdown in percentage regarding coal provided by Guptas' and other mines? My last one would be the appointment of the Optimum, is it Optimum Coal Mine or is it Optimum Holdings, something like that? And it's sale? When was it appointed to Eskom... to deliver the coal at Eskom? And when was it sold? Thank you.

[02h27:34]

**Ms Daphne Rantho** - Thank you Honourable Nobanda. Honourable ... [Laughter] ... Professor...

**Professor Anton Eberhard** - Chair. Honourable Nobanda, thanks for those detailed questions around governance because, I think, these are exactly the issues that will start helping you to make good recommendations. So I mentioned just in passing that a lot of really good work has been done under the Deputy President, under remit from the Cabinet around relooking at the way our SOEs are governed, how board appointments are made and it would be, I think, very helpful to have access to those. Essentially what they tried to do is to codify and make more explicit and transparent the way in which board members are appointed. Because what we see very clearly in this period 2009 to 14 and then 14 to now is an extremely untransparent process, it's not clear on what criteria informed the appointment of these particular board members. So at a minimum one would want to have a set of criteria around what kind of experience and qualifications and skills sets one would want on boards. And then on the actual appointment process to be more transparent with advertisements nominations committee and a clear set of proposals through to the minister. It also seems although the minister has responsibilities for these appointments that often it seems as though the actual appointments are being made elsewhere. What role should the shareholder play around procurement and at what kind of approval levels? Eskom has a very clear delegation of authority systems that's very clear at what level people are allowed to sign off certain contracts, how many signatures are required, at executive level, executive procurement committee level, board tender committee level, board level. Formally the shareholder, in other words, the minister or her department have no direct role in those approvals. Although, I guess, its good politics around very big procurements at least that these gets discussed and that the ministry is aware of what's going on. But in principle you would want the shareholder to set a set of policies and a set of performance targets for the utility which should be monitored but the shareholder should have an arm's length relationship around actual procurement issues. And so it's for this reason that I raised a number of issues in this booklet where we see apparently by direct intervention by ministers' in procurement issues. You talked about the 30 million rand payment for a corporate plan for Trillian and payment was made to

[02h30:50]

Trillian. I think what has come out recently through the Trillian whistle blower that I think they had maximum of three employees at that time during which this work was done and she herself and her affidavit that has been published said that, "there was no evidence that this work was actually done by Trillian itself." So there're questions about the legitimacy of that payment. You raise the issue of the four dominate players of the coal business, Anglo, Exxaro, Glencore and South 32 which used to be BHP, and I think it is a matter of concern and you didn't express the concern but I've heard it from many that affectively coal supplied to Eskom was concentrated amongst these four majors. I think there are historical reasons for that. I explained that the power stations are built on top of these large coal mines. They are extremely capital intensive to develop and so it's not unusual internationally that you'd see these very large coal mining companies developing these very big mines. But as we also say in this booklet, Eskom's procurement offers the opportunity to diversify suppliers and to bring in more black-owned companies and it's been quite successful in around this. The only issues that we've raised in this booklet is a done through under due influence and is there corruption and does this result in inflated contracts? You ask what percentage of coal supplied by Gupta linked coal mines. We... I don't know that but it would not be... it would be certainly much less than 10% and a much smaller number probably. And then your last question around Optimum was? ... What is your last question around Optimum?... Oh... Yes...

**Honourable Nobanda** - The appointment of Optimum and its sale.

[02h33:01]

**Professor Anton Eberhard** - Yes I remember now. So Optimum has been around for a long time it wasn't always owned by Glencore, it was owned by previous companies. Glencore bought it a number of years ago. As I've said then increasingly got into financial difficulties because it's costs of mining was increasing but it had this fixed price and then it went into this issue of business rescue and then was bought by Tegeta and there's a long story in here about what was done to facilitate its purchase. Thank you.

**Ms Daphne Rantho** - Thank you Professor. Honourable Kwankwa..... Oh, oh sorry Honourable Kwankwa, honourable Nobanda.

**Honourable Nobanda** - The Chair. Professor did not answer one question. On the rotation of the CEOs, ya, you forgot that one.

**Professor Anton Eberhard** - So sorry about that. But there is no formal policy around rotating CEOs at all and in fact it's not a particularly good practice. I mean, you want a CEO to be there and to learning the job and performing. I mean, we heard instances in the past where CEOs in Eskom were there for 10 or 11 or 12 years. I mean, the fact that we have six; 6 CEOs in 3 and half years under Minister Brown is unprecedented and we've never had this and you can understand how enormously disruptive this is. Moving, rotating CEOs between state-owned enterprises there's no standard practice there at all. So the circumstances that led to Mr Molefe coming across from Transnet and Mr Anoj Singh coming across from Transnet to Eskom, I think, probably need to be interrogated. Thank you.

**Ms Daphne Rantho** - Honourable Kwankwa.

**Honourable Kwankwa** - Thank you very much Chairperson. Mine really is to appreciate the presentation and the booklet that we have received. Chair let me apologise to you before I make my comments. The reason why we keep going up and down is because as you know that your President has reshuffled the Cabinet once again. And you know I told someone in one of the radio interviews is that I'm very careful not to comment on these things since they have become the norm. Because I might just

[02h35:35]

comment while myself I have been reshuffled so I have to confirm with my President whether I was still the chief whip and the DP of the party before I commented... you never know. So, Chairperson I think what Honourable Gungubele said earlier is an important point. How I view this presentation from where I'm sitting and this booklet is that it gives us, it equips us with the necessary information we need as we go ahead and do our investigation, the inquiry into this entire process. And indeed the, what I pick up here is that you have the causal link that you spoke about and the Professor said that yes we have to check, even though he didn't put it in these words, that not only the causal link but the direction of the causation whether it's unidirectional or bidirectional. That's what I got from what you say. To establish whether indeed this is the direction of the causation as he has put it here. But Prof. I want to ask you a question. I think it is a question that you have answered already but maybe I want more details around it, where the one that has to do.... with rent-seeking and corruption having resulted in electricity tariffs increasing by more than 400% over the past decade. Is it at all possible to say I understand and that you cited a number of contributing factors to the electricity price tariff increase? But is it possible to... to calculate it with some degree of precision at the amount that, the amount of that increase could be attributed to corruption? I'm asking you this question because remember every single year we have to sit here in Parliament and debate as commanding tariff price increases on an annual bases if we are able to get a sense of how much of that would be attributed to corruption then it would be, to some extent, easier to tackle the debate but you can't get a precise figure but an estimate that we could use for

[02h37:41]

instance would go a long way towards assisting us as politicians when we fight that battle on an annual bases. There's another issue here, if you look at page six of this booklet. You talk about exposing the in 3 billion rands in irregular expenditure and right at the bottom you talk about rebuilding and reinforcing governance, good governance at Eskom including true reviewing systems of appointment and the structure of the utility. Are there any specific programmes that you propose us around the improving the structure of the utility because remember part of what we are trying to do here would be to make recommendations on issues of governance in particular at Eskom. And if the good proposal builds around how the utility itself can be restructured it means it would also need to consider that as we make our proposals on issues of good governance at Eskom. You have, you've spoken and this on page seven for example you talk about the 'War Room' and the lack of effectiveness of that 'War Room'. Yes I think we are going to talk about that as you go into further detail on these investigations but what interested me here was the issue around the interviews for example you said some of the research was done via interviews. I don't whether, Chairperson, I'm out of order you will correct me here. Would it be a crime if some of the people you interviewed were willing to make written submissions on some of the issues that we've picked up from the booklet itself? To help provide us with more information because I think that one of the Honourable members, I can't remember who, I think it was Honourable Tseli, who raised the issue around the people who the Professor may have interviewed. To assist us with information whenever the need arises around some of the questions that you have here, Chairperson. And I think the question that Honourable, Honourable Gungubele raised earlier; I think it was just an example to say if we are saying '6 out of 8 appointees were Gupta aligned' as a committee we'd need back up evidence that does not only apply to the issue around the board members. But some of the so-called I would like to classify them as allegations which are contained in the document to make it easier for us to investigate and interrogate some of these issues as we proceed and go forward. I was happy with your impute towards the end where at one point I thought you were defending the major players in the coal industry. But your issue you said more towards the end was it's not the drive towards transformation that is an issue; it's the

[02h40:28]

manner in which it was done that was problematic because it was not in line with any policy or loss. Thank you very much.

**Ms Daphne Rantho** - Thank you Honourable Kwankwa. Honour- Professor...

**Professor Anton Eberhard** - Thank you Chair and thank you Honourable Kwankwa. So... just this issue [laughter] I'm really sure that the electricity price seems to come up a lot and I know the regulator currently is looking at her application form from Eskom. So just to repeat what I've said already, I think the main driver of this very steep price increase has been the way in which Eskom has executed its capital programme. So its major new coal fired power stations Medupi, Kusile, Ingula are more than twice over budget and are seven years late. You have to add your interest during construction to your Capex and this has massively driven up finance costs. But we have said within that this is a very large expenditure item and there's some evidence that some of those contracts would have been more expensive if they had needed to be and frankly to answer your question we don't have the number, we haven't done the calculation of to what extent does rent-seeking and in corruption added to the electricity price and maybe that is something we should try to qualify in more detail. Thank you for picking up this issue of restructuring. I've tried to be a little cautious about it and focus. We have to shine the light on those that have been involved in these rent-seeking corruption activities. We need to think about improving governance but there is a third level that you've very astutely picked up and that is does what happens,

[02h42:24]

what does, what has happens tell us something about what how we should change the structure of this industry to make it less likely in the future. So we have to recognise as South Africans that is the structure of our electricity sector which is vertically integrated, generation, transmission and distribution, all in one company. Publicly owned with a dominant position is now very unusual in the world. This is not the way most countries organise their industries. At a minimum they would separate out the generation bit and bring some competition between state-owned generation and IPPs. Now, that has potential efficiency advantages but in terms of the subject of this committee it also has some implications. Because these would be much more focused businesses, on the one hand hopefully with better management and governance but it would be much more transparency about what's happening around prices costs because there would be a degree of competition. So in my own view as an academic, I think that there are now very, very, strong arguments also to be thinking about restructuring of the sector and also about following best practice internationally. The issue of the interviews has come up before. I've mentioned that they were done confidentially but this should not inhibit the committee because you will have the opportunity to call these people and also through your own investigations and your evidence led to be held to interview appropriate peoples. So I think all the relevant, you have the powers to bring the relevant information to light. And then, point well taken in we've acknowledged that already in that let's provide more evidence from what might seem allegations in the booklet, for example allegedly 6 of the 8 appointment board appointments under Brown have links to the Gupta family or their associates. The evidence is there and this is well documented but that additional information needs to be brought to the committee, I appreciate that. Thank you.

**Ms Daphne Rantho** - Thank you Professor. Do you still have questions that you want to make follow-ups? No, no, no, not to members, I'm asking Honourable Kwankwa.

**Honourable Kwankwa** - No it's sorted.... It's just a concluding remark Chair; I'm finishing my 10 minutes... If I may? No, no, no...

[02h45:00]

**Ms Daphne Rantho** - You're left with one minute.

**Honourable Kwankwa** - Oh, I'm left with one minute. I'm used to debating in threes so the one minute is a lot. Chairperson, I think, Prof on a much broader scale, I think, you spoke about rent-seeking. For an example, in your introductory amongst you spoke about rent-seeking a lot and if you look at, the way I see it, if you extend it a bit further than Eskom is that. There is a collision of rent-seekers out there working obviously between the state and the private sector but you also have a culture of patronage and clientelism that has taken root. It means that as we try as we seek to address these problems we need to also look at them at a broader scale but the starting point should be Eskom, I agree with you. Thank you very much.

**Ms Daphne Rantho** - Thank you Honourable Kwankwa. I don't think he needs your response on that Professor. Honourable Carter.

**Honourable [?]** - Thank you Chairperson. Just firstly Professor from about, I just also want to say once again thank you to you and your team for your presentation as well as this really handy booklet equipping us as members as well as South Africans. Now, you've replied to the question of Honourable Swart's specifically with respect to what is your view with Minister David Mahlobo's appointment as the new Minister of Energy. I just want to, if we look at Gigaba as Treasury and David Mahlobo as Energy, what does it mean to nuclear and to South Africa.

[02h46:35]

I want to also just reiterate what Honourable Singh said, where you noted that there is people and whistle blowers that have received threats. Has any of it been reported? And if it has been maybe just provide us with information but once again please reiterating what Honourable Singh said, if there is any threats then please report it to the authorities. Professor, what are the consequences for our socio-economic development moving forward given what has transpired? Eskom, from to date, how much damage do you believe has been done to South Africa? And do you, I'm not going to get into the cost implications and increase and the 19% that could lead to a 27% increase in electricity supply, but do you believe if we did not have a grand scale of corruption, that we do have, that it would ever be necessary to have increases of that magnitude? You also stated that Eskom capture project is benefiting the elite. Who in your opinion are these elites? And can you and your team identify them? Then if we look at your enquiry booklet, the timeline speaks to the period 2013 to 2017 but what is in your view on how far back does the corruption actually go? Especially in terms of the emergency coal and diesel contracts. In the state capture project that extends beyond Eskom. Is there a recipe that is discernable, a mythology that is generally being applied in laying the foundation for an environment for looting? What is also of concern, I mean, we look at audits and we say that corruption is happening but we all know that audits are sampled. What in your view, do you believe is the real scale of corruption, taking into consideration that amounts of 10 million rand and 20 million rand and even 100 million rand is actually not audited, but how much bigger could the problem really be? Given what is in the public domain including the public protectors' report, your academic report for Amabhungane as well as other emails. Would you have reasonably expected that government agencies such as the MPAs, SAPS and Hawks would have reacted by now and have made inroads? Thank you, Chair.

**Ms Daphne Rantho** - Thank you. Professor.

[02h49:41]

**Professor Anton Eberhard** - Thank Honourable member. Just on the issue of nuclear, let's be mindful that the procurement of possible new nuclear power has not been Eskom's responsibility until recently. So this was the responsibility of the Department of Energy and so we have not covered this in any detail. All I can do is say that from my research and academic position is that a new nuclear fleet would be extremely difficult to finance with our current fiscal situation and so it would be very hard to see this happening in the short term but I don't want to comment much beyond that. And just in terms of the threats to whistle blowers and to people in the sector, we know, I know, that threats have been made to individuals, death threats including two people within Eskom, and.... I'm sure some of those have been reported to the authorities. What has been the damage to all this to our socio-economic prospects and I tried to lay this out in my introductory remarks. These are profound; I mean we have to understand that when we undermine our core institutions and our core state-owned enterprises then we are undermining our ability as a developmental state and to meet our developmental objectives and goals. And just more broadly what this does to the investor climate in this country and hence our growth prospects and employment creation constraints and ultimately poverty alleviation. All of these things add up. I'm hopeful, Chair, that this ultimately can be turned around. I mentioned earlier that of the many good men and women in the institution like Eskom. Eskom employs more than 40 000 people, there're extraordinary individuals there. If we are able to reform the governance of Eskom and its executive management, which is, are so unfortunately the issue now, I think at least in the institution of Eskom particularly if we consider some of these restructuring issues that we mentioned, there's a way forward.

[02h52:14]

Can I identify the elite that have benefitted? Well, perhaps just refer you to the inside and back covers of the report. How far does the corruption go back? And I think again this is an important point because we should not think that there was never corruption in the past. Eskom has also been through ... extraordinary difficult times previously and in our longer term research, not in support of this committee, this is certainly, these are certainly issues that we will look at, you know, and what is it in the history of Eskom and the way the sector has been structured and governed that has maybe created even the seeds of what has become possible here. And this environment for looting is as you put it. The scale of what is happening, it's interested me that remarks have come from a number of the Honourable members around, you know, what are the financial flows? What is the size of what is happening here? And I think we have to say at this stage that we simply don't know and would hope that in time as in your last point you said that the prosecuting authorities would start making progress in this area and that we, that more is uncovered, ultimately. Thank you, Chair.

**Ms Daphne Rantho** - Thank you Professor and thank you Honourable members, you behaved very honourably today. You stick to your time and others even went lesser than the time allocated to them but I think if we can keep on like this for the rest of the enquiry period we will do very well. And it is really very highly appreciated, your behaviour. I know you sometimes don't but today you've shown the other side of yourselves and that is very good. Professor, in this research book you have launched on the 30<sup>th</sup> September... Has anyone come forward to dispute your research or anyone came with different information that you- different to you what you have or have you been in any way been challenged in a court or are you expected to be in court sooner than you think with all of what you have produced out of this book? The other thing that I would wish to ask you Professor, when a board of a certain company or entity take a decision and that decision is against the principle or the policies of the company, which I think you have raised a certain concern on the decision of the board of rotating of the CEOs which might impact on the running of the company? If such a decision or the board takes such a decision that you think is un- it's against policies or it's against a constitution or it's against whatever law that is there?

[02h56:15]

What can we because seemingly whatever decision the board is taking, for example the board of Eskom, when the board of Eskom takes a decision, we as a committee..... maybe we take too long to dispute that decision or we don't dispute the decision at all, what impact does it have within the company? If that decision is been taken and it's irrational. I those are the- oh! Within the, maybe I'm repeating what the other members have said but I just wanted to check. The period before 2007 when the built programme have started, I think the built programme started in 2007 in Medupi and Kusile and Ingula when that built programme has starting. You are saying the 400% that the Eskom has increased its tariffs, it's too much. But there are these big project that Eskom has been under, has been doing, do you think or in your own opinion it was wrong for them to actually increase their tariffs? And where would they be getting the money to build those big projects? Because when I thought they were increasing their tariffs they're actually mediating or the cost that are between the built programme and what they have in their purse. Thank you very much.

**Professor Anton Eberhard** - Thank you Chair. Would I expect to be in court? I very much hope not. We've as researchers have tried to be very careful and to ensure that everything in this booklet is defensible and is evidence based and I think that we have good sources for all the information that is in this booklet.

[02h58:28]

Has anyone contradicted us? Not in any fundamental point, we've had some pushback of interpretation of companies. For example NT Systems, NT Systems have said that Eskom said that they could save 1 billion rand. They disagree they thought they would not be able to save that much money or McKinsey have- are trying to defend their role in these issues, but it would be more around new answers in interpretation as opposed to facts. We've had no contradiction of fact. But as researchers we, we are open to being and as academics open to truth and if further facts emerge we will modify our book as we go along. I think you raised a set of issues which are important around the way in which legislation, regulations, policies, rules etc within Eskom have been followed or not and how they've been broken and I think it would be very important as this investigation and proceeds is to have support for the committee, and I know that there are those that are willing to do this around legal support, around helping the committee to develop a clearer understanding in which instances were these rules and regulations and laws breached? Because they have a profound effect on corporate governance and what goes on in Eskom and fixing what we need to go and what needs to happen in the future. I mean in the booklet we've given some examples of direct, direct actions so that are directly outside the delegation responsibilities within Eskom, breaches of the PFMA etc and it would be useful to document those. And then just to your last point around Eskom prices and related to that Eskom needs to be able to fund the new build. I'm in complete agreement with you that Eskom needs to be financially sustainable, in other words ultimately its tariffs need to be able to cover its costs but its costs need to be efficient as well and that's the problem. That we as I've mentioned repeatedly, specifically in its capital expansion programme Medupi, Kusile and Ingula, these costs are now amongst the highest in the world for these kinds of plants. But let's not, it's not just its capital programme, you know, as we've been saying its operational expenses really need to be scrutinised much more carefully by the regulator, by the way I was also at one stage on the board of the regulator a long time ago. I know the challenges around this bit. South Africans, I think, are very much looking to know so at the moment to be interrogating Eskom's costs in a much more vigorous way. Thank you, Chair.

**Ms Daphne Rantho** - Thank you very much Professor and members. We are not going to have a second bite. We have run out of time. We will be, we will close our discussion or our engagement now. But I would like to thank Professor Eberhard and your team for your valuable input to assist the committee in

[03h02:25]

the enquiry. Your hard work is appreciated on producing this reference book. We appreciate the overview it provides on what is very complex in this very complex matter because this is your own Eskom enquiry. It's very complex; it's very big, actually. The information presented here today raises serious allegations of abusing state resources in what appears to have been supported by senior figures in Eskom's governance structures. This abuse of state resources affects every single South African. As you have raised the issue of the increase because when Eskom increases its tariffs, it affects even the person who is not working. The most underprivileged person gets affected by it. While the task ahead is difficult, the committee is confident that we will be able to discharge our constitutional duties without fear, favour or prejudice and this is in the best in stressed of accountability. Therefore Professor, we value what you have presented to us we will take note of every response that you have given us in our questions and we will take this forward. I think you have made our work at least a little bit easier going forward. Thank you very much. Thank you to the media, thank you to the South Africans that have joined us. The meeting stands adjourned..... There's tea and coffee and... [Inaudible]

[03h04:17 - End OFAUDIO]

