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Our reference number: 7/2-004618/19

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Mr Jabu Mabuza  
Chairman of Eskom  
Megawatt Park  
Maxwell Drive  
Sunninghill  
Sandton

Dear Mr Mabuza

**INVESTIGATION INTO ALLEGATIONS OF MALADMINISTRATION REGARDING  
THE IRREGULAR AWARDING OF CONTRACTS TO RENEWABLE ENERGY  
INDEPENDENT POWER PRODUCERS BY ESKOM**

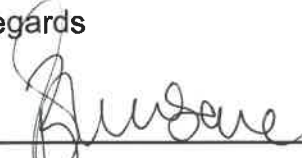
1. Kindly be informed that my office has received a complaint from Ms EP Phasha, on behalf of the movement called Anti-Poverty Forum (Complainant), relating to allegations of maladministration by Eskom and/or the Department of Energy / Public Enterprises regarding the alleged irregular and unlawful awarding of the contracts to the Independent Power Producers (IPPs).

2. The investigation of this matter is conducted in terms of Section 182 (1) of the Constitution of the Republic of South Africa, 1996 read with sections 6 and 7 of the Public Protector Act No: 23 of 1994.
3. In essence, the complainant alleges that the signing of the alleged contracts was improper and therefore unlawful.
4. The Complainant alleges that:
  - 4.1 Eskom Executives illegally and unlawfully entered into the Power Purchase Agreement (PPA) with the Renewable Energy Independent Power Producers (RE IPP), herein referred to as IPPs, at the expense of Eskom sales and savings for the maintenance of its own Power Plant;
  - 4.2 Eskom Executives were put under pressure by their political principals to sign the PPAs for the last 27 IPPs in April 2018;
  - 4.3 It is improper and unlawful for Eskom to sign PPAs for IPPs when they contribute to Eskom's negative Balance Sheet; and
  - 4.4 The Office of the Public Protector must investigate this matter and compel Eskom to cancel the PPAs for the IPPs as soon as possible, because Eskom is currently forced to pay R93 million a day to privately owned power producers. Complainant alleges in the above regard that:
    - 4.4.1 Eskom buys electricity from the IPPs at the rate of 223 cents per kWh but sells it to consumers at 89 cents per kWh resulting in Eskom absorbing the deficit of 133 cents per kWh resulting in a loss estimated at R21 billion per annum;
    - 4.4.2 It did not make sense to sign the PPAs with the IPP as the Renewable Energy Power does not work during load shedding as they depend on Eskom's power grid;
    - 4.4.3 Eskom was forced to approve the costly yet worthless twenty-year renewable energy contracts;

- 4.5 As a result of the alleged unlawful contracts, South Africa stands to lose an estimated amount of R1.4 trillion over the next period of 20 years; and
- 4.6 The major beneficiaries of the 27 IPPs are South Africa's leading banks, overseas investors and the Black Empowerment Companies that partnered with the local banks and overseas investors will only benefit between 20% and 30% while 70% would go to overseas investors.
5. **To assist me in expediting the investigation of this matter, kindly ensure that Eskom furnishes the following information and documentation:**
- 5.1 A comprehensive response to the foregoing allegations.
- 5.2 Provide the following documents relating to the alleged contract awarded to 27 IPPs in April 2018:
- 5.2.1 All tender documents, RFPs, RFQs, etc. if any;
- 5.2.2 All the memoranda, documents and submissions regarding the need for and approval of the alleged contract(s);
- 5.2.3 All communications regarding the IPPs, submissions and approvals between Eskom and the Departments of Energy and Public Enterprises as well as the National Treasury;
- 5.2.4 Letter(s) of appointment(s) of the IPPs concerned;
- 5.2.5 All quotations and documents submitted by the bidding companies in relation to the 27 IPP awarded contracts;
- 5.2.6 The relevant contract(s) between Eskom and IPPs;
- 5.2.7 The shareholders' compact and approval, if any;

- 5.2.8 The Supply Chain Management Policy of Eskom, legal prescripts and guidelines applied in the contract(s) concerned; and
- 5.2.9 Eskom's Delegation of Authority document(s).
6. Kindly provide the names, designations and contact details of all the officials of Eskom who were key in the procurement processes leading to the awarding of contracts to the 27 IPPs, as well as the names, designations and contact details of all key officials who represented the IPPs in the contracts concerned.
7. In addition to the above, I would appreciate your assistance in securing the co-operation and availability at all reasonable times when so required, of officials mentioned in paragraph 6 herein above.
8. I look forward to receive a comprehensive response and all the requested information and documentation at your earliest convenience, preferably **within fourteen (14) days** of receipt hereof, to enable me to expedite the finalisation of the investigation and issue a report.
9. Kindly be informed that enquiries relating to the matter being investigated may be directed to the Chief Investigator in the Communication and Stakeholder Management Branch, Mr Rodney Mataboge who can be contacted at 012 366 7015, [Rodneym@pprotect.org](mailto:Rodneym@pprotect.org) or alternatively my Personal Assistant, Mr Ephraim Kabinde at 012 366 7108 and [Ephraimk@pprotect.org](mailto:Ephraimk@pprotect.org).

Kind regards



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**ADV. BUSISIWE MKHWEBANE**  
**PUBLIC PROTECTOR OF**  
**THE REPUBLIC SOUTH AFRICA**  
DATE: 23/07/2019