



public enterprises

Department:
Public Enterprises
REPUBLIC OF SOUTH AFRICA

12 November 2009

**Address by the Minister of Public Enterprises to the National
Assembly on recent developments at ESKOM**

1. Mr Speaker, I would like to thank the House for the opportunity to account to it as Shareholder for ESKOM.
2. Regrettably, the past 14 days have been a turbulent time for Eskom and the economy, due to a breakdown in the relationship between the Board and its former CEO.
3. Unfortunately, the dispute did not remain an internal matter for the company to resolve in terms of its own governance framework, as it should have, but disturbingly, it entered the public domain through groups with their own political and vociferous campaign in support of one party against another. They provided undue pressure through a never-ending stream of public commentary that sometimes had no basis in fact or law, and only served to inflame and exaggerate an already complex and difficult boardroom matter. This is indeed lamentable.
4. As my colleague Minister Naledi Pandor commented yesterday the Boardroom of Eskom was politicised. This has wrongly painted an exaggerated image of a company in crisis. Yes, there was a breakdown in the critical relationship between the Board and CEO –

and this is indeed a serious matter. But the fact of the matter was that ESKOM and its operations continued. Lights went on, mines were mined, factories manufactured, the wheels of commerce and industry continued to turn, our homes were lit, and our food was cooked.

5. The timing of the debate was potentially damaging, as it happened at a time when the Minister of Finance was abroad raising funds from investors for Eskom. Fortunately, the reputational damage done to ESKOM was minimal as investors are well acquainted with Eskom's performance-- but those who want to make a political crusade out of boardroom politics need to reflect on the potential damaging consequences for a company such as Eskom and the economy of SA.
6. It is very disturbing to note that this matter also became a racial football, targeting certain individuals who I believe have integrity and only the best interests of the country at heart. Such racial slur, particularly directed at Mr Bobby Godsell, the former Chair of the Board, goes against what we fought for and codified in Kipton, and is also against the core values of our society and our Constitution – especially, the value and importance of non-racialism. I want to thank Mr Godsell for his exemplary leadership in the last 15 months.
7. In the midst of all of this I am very grateful for the sanity and sobriety that prevailed in important sectors of our country. Mr Speaker, let me say thank you to the ANC, COSATU and NUM and those people in our country who chose not to publicly enter this fray but to maintain their discretion in the interests of ESKOM and the country in these trying two weeks.

8. I look forward to further constructive engagement with trade unions on matters relating to ESKOM.
9. In this highly charged and volatile environment I felt it wise to maintain a prudent silence and to refrain from making public commentary, which would only serve to heighten tensions.
10. Instead my Deputy Minister and myself busied ourselves, tirelessly trying to reach an amicable settlement. Days and days of long hours and complex negotiations ensued. Our aim was to try and reach an amicable settlement that would resolve the matter in the best interests of Eskom and the country. Mr Speaker, I wish to acknowledge my colleague the Deputy Minister, Enoch Godongwana for his unflagging support, energy and effort in this matter. I also wish to thank the staff at the DPE and in particular the DG for their invaluable support.
11. We tried to pursue options of facilitation, mediation and arbitration, even a negotiated settlement. During this period, a demand arose that the Minister must provide “leadership”. As we were to discover, the subtext of this demand was in actual fact a demand that I, as Minister, override the Board and confirm a person in his position. As Minister, I refused to override the principles of corporate governance by imposing a person in the position of CEO without the authority of the law. The type of leadership I preferred to exercise was rather to work indefatigably behind the scenes to resolve the matter.
12. At a certain stage, the President’s office offered its assistance to break the deadlock and the Board was approached to delay its processes in a final attempt to resolve the matter.

13. This intervention was not taken lightly and was not done to undermine the Board but rather lend it support to resolve the dispute. Government's overriding concern was the strategic importance of ESKOM to the economy and to the country, and addressing the highly charged political environment that was creating the false notion that Eskom's operations were being compromised.
14. Let me say upfront, that this Government is completely committed to abiding by the principles of proper corporate governance in all of our relationships with the SOE.
15. As shareholder, the Articles of Association of Eskom allow me to appoint a CEO after consultation with the Board. The CEO then enters into a contract of employment with the Board, which is governed by the company and labour law. Included in that contract is the basis for termination of that relationship.
16. It would be inappropriate and illegal for a Minister to interfere in the contractual relationship, and might I add, I am not a signatory of the contract.
17. The right of either party to that contract can be asserted in a court of law, a right that this progressive government entrenched.
18. Mr Speaker, I am constitutionally obligated to operate within this legal framework – one which has due regard for our country's labour laws and the Companies Act. As Shareholder I am already attending to ensuring that we align our SOE with the King 3 report and the new Companies Act which is due to be implemented in mid 2010.
19. Let me stress, Mr Speaker, that the integrity of a Board is paramount. Boards are appointed by Government, and by law, are

obligated to govern the company with the support of senior management. The Shareholder oversees the functioning of the Board, to ensure that the Board and the company give effect to the strategic intent and objectives of Government.

20. Mr Speaker, I am now pleased to say the Board has moved in the last few days, in the interests of the company and the country, to finally resolve this matter in the following manner:

- a) Mr Maroga is no longer the CEO of Eskom. The search for a new CEO will now commence.
- b) Mr Mpho Makwana will act as Executive Chair of EXCO until a permanent CEO is appointed and he will be supported by two senior managers in the execution of the CEO functions. He will also act as an interim Chair.
- c) In addition, the Board is attending to the realignment of Board committees and composition thereof as well as the necessary delegations of executive functions.

21. I would like to firmly assure this House that we are on track to ensure that Eskom and all SOE have the capacity and support to carry out Government's strategic intent. And that I, as Shareholder, together with SOE management and SOE Boards, will always act within the rule of law and sound corporate governance principles.

22. So yes, ESKOM is on track. The lights are on, and it's most urgent priority – the revised MYPD application due to be submitted to the Regulator on 30 November 2009 has – and is feverishly –being attended to.

23. Mr Speaker, if there are any concerns about governance of parastatals in the country, let me assure everyone in the House that

this Ministry and the Boards of SOE have the full authority to govern their companies without unlawful or inappropriate interference – we say to them- ‘hell yes, you must govern’so let us get back to the business of building our economy.

I thank the House.

Ends