

Eskom RCA Application

Midrand

FEBRUARY 2020

Ted Blom



Time for Power Revolution

Agenda

- Eskom incapacitated
- Nersa Governance
- Corruption rife & BIGGER than Eskom admits
- RCA is Unconstitutional
- Recommendation

Time for Power Revolution

Eskom incapacitated

- 16000 surplus staff since 2008 (50%)
- Presidential Interference – “No Retrenchments”
- Therefore prima facie inefficiencies since 2008

Time for Power Revolution

CAPETALK
567AM



[Home](#) [Features](#) [News](#) [Shows](#) [Podcasts](#) [Competitions](#)

[Home](#) → [Politics](#)

Eskom audit found 16,000 staff too many and 'govt said ok, don't touch them'

6 February 2020 10:56 AM by [Barbara Friedman](#) Tags: [Eskom](#) • [Sikonathi Mantshantsha](#)

Share This: [f](#) [t](#)

Eskom's new spokesperson Sikonathi Mantshantsha acknowledges the power utility's workforce is bloated.

Once the power utility's biggest critic, now Eskom's new spokesperson Sikonathi Mantshantsha chats to Kieno Kammies about load shedding.

“The first thing to acknowledge is that we regret all of this inconvenience that this load shedding is causing to the economy and to the people of South Africa.”

Time for Power Revolution

Nersa Governance

- MYPD/RCA never audited
- RAB never audited
- **What will new Medupi & Kusile RAB be?**
- Nersa has never conducted a formal statutory audit to test compliance
- Eskom invoices to munics NOT compliant in many instances
- Eskom denies NERSA locus in arbitration cases

Time for Power Revolution

Corruption rife & BIGGER than Eskom admits

- Previous admission CFO was “couple of Million”
- Eskom MYPD div Deloitte > R300m fraud
- SIU > R139 bn
- Tegeta R4bn + R10bn
- Eskom Gloats over 2 arrests?

Time for Power Revolution

Runaway costs

Gordhan: You are paying 4 times more for electricity because of stealing at Medupi and Kusile

Jan 22 2020 19:56 Pieter du Toit

fin24



South Africans are paying up to four times more for electricity than a decade ago – and that's to finance stealing and cost overruns at the Medupi and Kusile power stations.

Public Enterprises Minister Pravin Gordhan called numbers and statistics comparing Eskom of a decade ago with present-day Eskom "atrocious", saying tariff increases over that period mean ordinary South Africans are paying four times more than they used to.

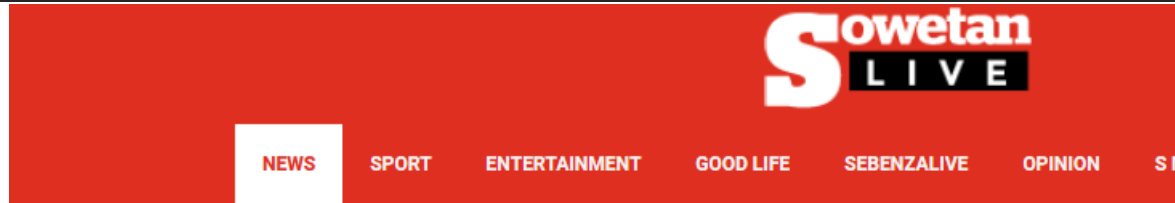
- [Subscribe to Fin24's newsletter here](#)

"The numbers are atrocious. The amount of electricity Eskom produces is marginally higher. The demand is falling by about 1% per year. The cost of electricity has gone up more than four times. How could you sell the same amount (of electricity) but you're earning four times more than ten years ago?"



Public Enterprises Minister Pravin Gordhan

Time for Power Revolution



Mining Industry Research Resource Hub
[Access Free Reports >](#)

SOUTH AFRICA

R3.7bn Eskom contract with Gupta mine Tegeta set aside: SIU claims huge win

BY IAVAN PIJOOS - 21 February 2020 - 14:44



Time for Power Revolution

RCA is Unconstitutional

- Retrospective repricing is NOT contractually defensible
- Removes contracting certainty
- End customer unable to recoup
- NOT fair & Equitable practice

Time for Power Revolution

RCA is Unconstitutional

According to the principle of the rule of law, state authority can only be exercised legally if authorised in terms of a law, which must be clear and preannounced and may not amount to any arbitrary conduct. Furthermore, any decisions or actions taken by a state authority, including an organ of state, must comply with the principle of legality. The principle of legality requires that there must be a rational relationship between the law or conduct on the one hand and the achievement of a legitimate (government) purpose on the other. Under the principle of the rule of law (section 1 (c) of the Constitution), any government action or **a decision must not only be legal but must also be rational**. The test for rationality depends on the facts and circumstances of each case and will be determined objectively. In conjunction with the principle of the rule of law, the Constitution in the Bill of Rights also provides for the right of Just Administrative Action. **According to section 33 of the Constitution, everyone has the right to administrative action that is lawful, reasonable and procedurally fair**. National legislation must further give effect to this right and must impose a duty on the state to give effect to the rights in subsections 1 and 2 of section 33. Based on section 33, Parliament has enacted the Promotion of Administrative Justice Act 3 of 2000, which has a direct and important influence on the decisions of NERSA. The Constitution also determines certain basic values and principles that should govern the public administration in South Africa. Section 195 determines that the Public Administration must be governed by the democratic values and principles enshrined in the Constitution, including principles such as efficiency, economic and effective use of resources, services that are provided fairly, and principles such as accountability and transparency. Such principles also apply to organs of state (see section 195 (2) (b) of the Constitution). Finally, section 237 of the Constitution requires that all constitutional obligations must be performed diligently and **without delay**.

Time for Power Revolution

Independent power supplies for power independence

- Lots of noise – little legislation
- “Not instant coffee’ – Min Mantashe

Recommendation

Scrap these RCA applications until we see a full

NERSA Forensic Report

&

Fundamental Restructure

of Sector

Thank you

Ted Blom

082 857 2534

Ted.Blom@MiningandEnergy.co.za

