

**REPORT OF THE PUBLIC PROTECTOR IN TERMS OF SECTION 182(1)(b) OF THE
CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND SECTION 8(1) OF
THE PUBLIC PROTECTOR ACT, 1994**



**PUBLIC PROTECTOR
SOUTH AFRICA**

**REPORT NO. 08 OF 2025/2026
ISBN NUMBER: 978-0-6398572-7-5**

**INVESTIGATION INTO ALLEGATIONS OF UNDUE DELAY BY THE
FUNCTIONARIES OF ESKOM TO REMOVE AN ELECTRICITY POLE MOUNTED
INSIDE THE COMPLAINANT'S PROPERTY SINCE 2019**

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LIST OF ACRONYMS AND ABBREVIATIONS

ACRONYMS AND ABBREVIATIONS	DESCRIPTIONS
CoE	City of Ekurhuleni Metropolitan Municipality
Constitution	Constitution of the Republic of South Africa, 1996
Complainant	Mr Lizzy Sambo
Investigation Team	Investigation Team of the Public Protector
LV	Low Voltage
PFMA	Public Finance Management Act, 1999
Public Protector Act	Public Protector Act, 1994
Public Protector Rules	Rules relating to Investigations by the Public Protector and Matters Incidental Thereto, 2018 as amended
SCA	Supreme Court of Appeal

1. INTRODUCTION

- 1.1 This is a Report of the Public Protector issued in terms of section 8(1) of the Public Protector Act, 1994, which provides *that “The Public Protector may, subject to the provisions of subsection (3), in the manner he or she deems fit, make known to any person any finding, point of view or recommendation, in respect of a matter investigated by the Public Protector”*.
- 1.2. This report relates to an investigation into allegations of undue delay by the functionaries of Eskom to remove a hazardous electricity pole mounted inside the property of the Complainant since 2019.
- 1.3. The report is submitted in terms of sections 8(1) read with section 8(3) of the Public Protector Act, which empowers the Public Protector to make known the findings of an investigation, to affected parties for such persons to note the outcome of the investigation and to implement the recommendations, where applicable:
- 1.3.1. The Group Chief Executive of Eskom, Mr Dan Marokane
- 1.3.2. Ms Lizzy Sambo, the Complainant.
- 1.4. The Public Protector’s mandate is derived from section 182(1) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and the Public Protector Act, 1994 (the Public Protector Act), to promote accountability, transparency, and fairness in the public sector. The Public Protector continuously reviews and monitors the information gathered from complaints lodged with the office, with the view to identify the underlying root

causes of the problems, complaints or undesired events within relevant public institutions or authorities.

1.5. The aim is to formulate and establish corrective actions to at least mitigate, if not eliminate, those root causes and to produce significant long-term improvements in public administration.

1.6. The point of departure is that any complaint might be a symptom of an underlying organisational failure, *inter alia* in areas such as systems, procedures, and human error. By addressing the underlying deficiencies in the systems that are the causes of complaints, the Public Protector aims to reduce the number of individual complaints, in turn, working collaboratively with stakeholders to get the problems resolved and to provide constructive feedback that will enable it to address the root causes of complaints and prevent recurrence.

2. THE COMPLAINT

2.1. The complaint was lodged with the Public Protector on 18 March 2025, by Ms Lizzy Sambo (the Complainant). In essence, the Complainant alleged that:

2.1.1. The functionaries of Eskom mounted a hazardous electricity pole inside her property; and

2.1.2. She raised the complaint regarding the electricity pole mounted at her property with the functionaries of Eskom on numerous occasions; however, they failed to attend to the matter.

3. POWERS AND JURISDICTION OF THE PUBLIC PROTECTOR

- 3.1. The Public Protector is satisfied that the complaint falls within its competency to investigate as envisaged in section 182(1)(a) of the Constitution and section 6(5)(a) and (b) of the Public Protector Act, 1994 as it *prima facie* relates with the affairs of any institution in which the State is the majority or controlling shareholder or of any public entity as defined in section 1 of the Public Finance Management Act, 1999 (PFMA).

Section 6(9) of the Public Protector Act

- 3.2. Since the matter complained of occurred more than two years prior to the reporting to the Public Protector, section 6(9) of the Public Protector Act was considered. Section 6(9) of the Public Protector Act provides that:

“Except where the Public Protector in special circumstances, within his or her discretion, so permits, a complaint or matter referred to the Public Protector shall not be entertained unless it is reported to the Public Protector within two years from the occurrence of the incident or matter concerned.”

- 3.3. Accordingly, a discretion in terms of section 6(9) of the Public Protector Act was exercised¹ to entertain the complaint, based on the following *special circumstances* as envisaged in Rule 10(1) of the Public Protector Rules:²

Reasonable explanation for the delay in reporting the matter to the Public Protector

1 In *Gordhan and Others v Public Protector and Others* (36099/2098) [2020] ZAGPPHC 777 (17 December 2020) at para 46, the High Court in Pretoria held that, it is only where special circumstances exist, that complaints that are older than two years can be entertained, and that, the particulars of the special circumstances must be succinctly set out.

2 Rules relating to Investigations by the Public Protector and Matters Incidental thereto, 2018 as amended.

- 3.4. The Complainant has indicated that she has requested the functionaries of Eskom on numerous occasions to remove the electricity pole mounted inside her property, without any success.

Nature of the complaint

- 3.5. The nature of the complaint is profoundly serious, with potential grave consequences, as the electricity pole can fall anytime, damage the property or cause serious injury to human beings.

Information/ evidence that may be required by the Public Protector would still be readily available.

- 3.6. The Public Protector also formulated a reasonable view that the information/ evidence that may be required during the investigation would still be readily available to enable finalisation of the investigation, since Eskom has records of its infrastructure such as electricity poles.
- 3.7. Furthermore, the electricity pole in question was still available inside the Complainant's property at the time of lodgement of the complaint with the Public Protector.

Interest of justice and the opportunity to remedy potential prejudice

- 3.8. It is also anticipated that the investigation of the matter would be in the interest of justice, as it could provide an opportunity to address prejudice, potential danger and injustice, and if any, to remedy the same within the public administration.
- 3.9. Considering the above special circumstances, the Public Protector decided to exercise its discretion in favour of investigating this complaint.

- 3.10. Eskom is an organ of state, contemplated in terms of section 239 of the Constitution³ and its conduct amounts to conduct in state affairs. As a result, the complaint falls within the ambit of the Public Protector's mandate. The jurisdiction of the Public Protector to investigate the matter was not disputed.

4. ISSUE IDENTIFIED FOR INVESTIGATION

Based on the analysis of the complaint, the following issue was identified to inform and focus the investigation:

- 4.1 Whether the functionaries of Eskom unduly delayed removing an electricity pole mounted inside the Complainant's property, if so, whether such conduct constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution as well as improper prejudice in terms of section 6(5)(d) of the Public Protector Act.

5. INVESTIGATION

5.1. Approach to the investigation

- 5.1.2 The investigation was approached using an enquiry process that seeks to find out:

- (a) What happened?
- (b) What should have happened?

³ Organ of State' means any department of state or administration in the national, provincial or local sphere of government; or any other functionary or institution exercising a power or performing a function in terms of the Constitution or a provincial constitution; or exercising a public power or performing a public function in terms of any legislation but does not include a court or a judicial officer.

- (c) Is there a discrepancy between what happened and what should have happened, and does that deviation amount to maladministration?
- (d) In the event of impropriety and/or maladministration, what would it take to remedy the wrong or to place the Complainant as close as possible to where they would have been but for the maladministration or improper conduct.

5.1.3 The question regarding what happened is resolved through a factual enquiry relying on the evidence provided by the parties and independently sourced during the investigation. Evidence was evaluated and a determination made on what happened based on a balance of probabilities.

5.1.4 The Supreme Court of Appeal (SCA) remarked that it is the Public Protector's duty to actively search for the truth and not to wait for parties to provide all of the evidence as judicial officers do. In the case of *the Public Protector v Mail and Guardian*⁴ the SCA stated that, "*The Public Protector is not a passive adjudicator between citizens and the state, relying upon evidence that is placed before him or her before acting. His or her mandate is an investigatory one, requiring pro-action in appropriate circumstances*".

5.1.5 In this case, the factual enquiry primarily focused on whether or not there was undue delay by Eskom in removing the electricity pole mounted inside the Complainant's property.

5.1.6 The enquiry regarding what should have happened, focuses on the law or rules that regulate the standard that should have been met by the

⁴ The Public Protector v Mail & Guardian Ltd (422/10) [2011] ZASCA 108 (1 JUNE 2011) at para 9.

functionaries of Eskom in ensuring that the electricity pole mounted inside the Complainant`s property is removed, without undue delay.

5.2. Investigation Process

5.2.1 The investigation into the complaint was conducted in accordance with section 182(1) of the Constitution and sections 6 and 7 of the Public Protector Act.

5.2.2 The investigation process commenced on 04 April 2025, and it included an assortment of approaches such as consultation with the Complainant, inspection *in loco*, an exchange of correspondences with the functionaries of Eskom, analysis of the relevant documentation and consideration and application of the relevant laws, regulatory framework and prescripts.

5.3. Key Sources of Information

5.3.1 Correspondence and documents

5.3.1.1. Complaint form from Complainant to the Public Protector, dated 18 March 2025;

5.3.1.2. Notice of investigation in terms of Rule 23(1) issued by the Public Protector to the Group Chief Executive, Mr Dan Marokane, dated 04 April 2025; and

5.3.1.3. A response received from Mr Bandile Jack (Mr Jack), General Manager: Gauteng Cluster of Eskom, to the Investigation Team of the Public Protector (Investigation Team), dated 21 May 2025;

Inspection in loco

- 5.3.1.4. Inspection in loco was conducted on 18 March 2025 and on 17 June 2025 by the Investigation Team at the Complainant's property;

Legislation and other prescripts

- 5.3.1.5. Constitution of the Republic of South Africa, 1996;
- 5.3.1.6. Electricity Regulation Act, 2006;
- 5.3.1.7. Public Finance Management Act, 1999;
- 5.3.1.8. Public Protector Act, 1994; and
- 5.3.1.9. Rules relating to Investigations by the Public Protector and Matters Incidental Thereto, 2018 as amended.

Case Law

- 5.3.1.10. *Gordhan and Others v Public Protector and Others*; and
- 5.3.1.11. *Public Protector v Mail & Guardian Ltd.*

6. DETERMINATION OF ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAWS AND PRESCRIPTS

- 6.1. **Whether the functionaries of Eskom unduly delayed removing an electricity pole mounted inside the Complainant's property, if so, whether such conduct constitutes improper conduct as envisaged in section 182(1)(a) of the Constitution as well as improper prejudice in terms of section 6(5)(d) of the Public Protector Act.**

Common cause

- 6.1.1 The Complainant is a resident of Etwatwa in the East Rand, within the City of Ekurhuleni Metropolitan Municipality (CoE).
- 6.1.2 In 2019, Eskom electricity pole was mounted inside the Complainant's property as part of its electrification programme in the area of Etwatwa in the East Rand.

Issues in dispute

- 6.1.3 The issue for the Public Protector's determination is whether the functionaries of Eskom acted improperly by installing an electricity pole inside the Complainant's property and delayed removing it, since 2019.

Complainant's version

- 6.1.4 The Complainant asserted *inter alia* that:
- 6.1.4.1 The functionaries of Eskom mounted a hazardous electricity pole inside her property, which is situated right in front of her kitchen wall and door;
- 6.1.4.2 The electricity pole made it difficult for her to move freely in and out of the kitchen door and/or around the property and the matter was reported to the functionaries of Eskom on numerous occasions; however, they failed to attend to the matter.

Inspection in loco by the Public Protector Investigation Team

- 6.1.5 On 18 March 2025, the Investigation Team conducted an inspection *in loco* at the Complainant's property at Etwatwa East within the City of Ekurhuleni Metropolitan Municipality (CoE) to verify the allegations or the complaint.
- 6.1.6 Upon inspection, the Investigation Team observed a wooden electricity pole with cables or wires joined on it, mounted very close or within centimetres of the Complainant's kitchen wall and door.
- 6.1.7 The photograph below was taken by the Investigation Team on the day of the inspection *in loco* and it depicts the location of the electricity pole to the Complainant's house:



Picture 1: Image of the electricity pole mounted in front of the Complainant's kitchen
Eskom's version

- 6.1.8 A Notice in terms of Rule 23(1) of the Public Protector Rules was issued to the Group Chief Executive of Eskom, Mr Dan Marokane on 04 April 2025, inviting his response to the allegations.
- 6.1.9 A response dated 21 May 2025, was received from Mr Jack, the General Manager of the Gauteng Cluster of Eskom. Mr Jack responded as follows:

-
- 6.1.9.1 On 08 April 2025, Eskom officials conducted an on-site inspection following a complaint submitted by the Public Protector;
- 6.1.9.2 The Eskom investigation confirmed that a pole had been installed within the Complainant's property, prompting a thorough review to determine the circumstances and to find a resolution;
- 6.1.9.3 The findings of the above-mentioned investigation by Eskom determined that the electricity pole and its accompanying stay wire were placed too close to the Complainant's kitchen door, creating a potential tripping hazard;
- 6.1.9.4 At the time of installation, the Complainant's house had not yet been extended. The existing Eskom midblock network, including its infrastructure layout, was inherited from the local municipality;
- 6.1.9.5 The action taken by Eskom was to revise the Low Voltage (LV) network layout and to reposition the line along the boundary wall;
- 6.1.9.6 The Complainant granted Eskom a wayleave to install the electricity pole at the new boundary location;
- 6.1.9.7 All necessary documentation was completed and the relocation was successfully executed on 16 April 2025;
- 6.1.9.8 Eskom had no record of this issue being reported to them before the Public Protector raised the complaint on 04 April 2025; and
- 6.1.9.9 The Complainant has been informed of Eskom's reporting channels for future concerns.

Further engagement with the Complainant

- 6.1.10 On 22 May 2025, the Investigation Team contacted the Complainant to inform her of Eskom's response and to verify if the electricity pole had been relocated away from her kitchen door and wall as submitted by Eskom. The Complainant confirmed to the Investigation Team that the issue had been resolved, and the pole had been removed by Eskom and was now mounted along the boundary wall and away from the kitchen door and wall.
- 6.1.11 The Complainant further shared the photograph below with the Investigation Team as proof that the electricity pole has been removed:



Picture 2: Electricity pole has been removed from the Complainant's property

Second Inspection in loco by the Investigation Team

- 6.1.12 During the inspection conducted at the Complainant's property on 17 June 2025, the Investigation Team confirmed that the electricity pole was removed from the front of the Complainant's kitchen door and relocated along the boundary wall by the functionaries of Eskom.
- 6.1.13 The Complainant further gave an affidavit to the Investigation Team, dated 17 June 2025, expressing her satisfaction and confirming that the pole was

removed by functionaries of Eskom on 16 April 2025 and relocated along the boundary wall, thus eliminating the potential danger.

Applicable Law

Constitution of the Republic of South Africa, 1996

- 6.1.14 Section 24 guarantees everyone a right to an environment that is not harmful to their health or well-being.
- 6.1.15 Section 195(1)(e) requires public administrators to respond to people's needs.
- 6.1.16 Section 237 requires that all constitutional obligations must be performed diligently and without delay.

Electricity Regulation Act, 2006

- 6.1.17 Section 24(1) states that any asset belonging to a licensee that is lawfully constructed, erected, used, placed, installed or affixed to any land or premises not belonging to that licensee, remains the property of that licensee notwithstanding the fact that such an asset may be of a fixed or permanent nature.
- 6.1.18 Section 24(2)(c) states that an asset belonging to a licensee in terms of subsection (1) may only be validly disposed of or otherwise dealt with in terms of an agreement with the licensee.
- 6.1.19 In terms of section 26 a licensee may be held liable for damages arising out injury caused by negligence of the licensee, unless there is credible evidence to the contrary.

Analysis

- 6.1.19.1 The evidence before the Public Protector indicates that in 2019, the functionaries of Eskom mounted a hazardous electricity pole inside her property, which is situated right in front of her kitchen wall and door, creating a potential tripping hazard.
- 6.2. While the Public Protector acknowledges the contention by Eskom functionaries that at the time of installation, the Complainant's house had not yet been extended and the existing midblock network, including its infrastructure layout, was inherited from the local municipality, however, delay by Eskom to remove or relocate the electricity pole from the Complainant's property, after she had reported the matter was unreasonable.
- 6.2.1 Section 24 of the Constitution places an obligation on Eskom to ensure that the Complainant's right to a safe environment is not arbitrarily infringed and that there is no harm to her family's health or well-being.
- 6.2.3 The Complainant and the community at large expect to be protected against damage and injury posed to their health or well-being by public infrastructure, such as an electricity pole being installed inside the Complainant's property and its placement being very close to the kitchen wall and door.
- 6.2.4 Section 24 of the Electricity Regulation Act, 2006 prohibits any person, including the Complainant from removing or disposing of Eskom's electricity infrastructure, asset or pole on her own.
- 6.2.5 The Public Protector takes cognisance that through its intervention on 04 April 2025 Eskom removed the electricity pole from the Complainant's property on 16 April 2025, as soon as became aware of the situation.

6.2.6 In terms of section 195(1)(e) of the Constitution, Eskom officials were obliged to take reasonable steps to respond to the Complainant's needs and they addressed the complaint by relocating the electricity pole away from the property to a safer location along the boundary wall.

Conclusion

6.2.7 The investigation by both Eskom and the Public Protector confirmed the installation of the electricity pole within the Complainant's property, as supported by photographs taken on site during the site inspection.

6.2.8 Considering the swift response by Eskom, after being alerted by the Public Protector, it is apparent that the functionaries of Eskom had been unaware of existence of the electricity pole inside the Complainant's property, which was causing a potential danger and prejudice to anybody within the property, as it restricted their movement.

6.2.9 Eskom immediately acknowledged the safety concerns raised by the Complainant through the Public Protector and acted promptly by relocating the pole as well as resolving the matter on 16 April 2025.

7. INTERVENTION AND REMEDY

7.1. Upon being notified by the Public Protector on 04 April 2025, Eskom took appropriate steps to remove the electricity pole from the Complainant's property on 16 April 2025, thus eliminating the potential danger and resolving the complaint.

7.2. In the circumstances, the relocation of the electricity pole constitutes evidence of accountable and effective intervention by Eskom to ensure that a potentially dangerous electrical pole and prejudice to the Complainant are not left unattended.

7.3. As a result, the Public Protector takes cognisance of the immediate intervening action and decisive steps taken by functionaries of Eskom to prevent an occurrence of injury or damage, thus addressing prejudice, resolving the complaint and providing the necessary remedy as envisaged in section 182(1)(c) of the Constitution.

8. CONCLUSION

8.1. The Public Protector is satisfied that the complaint has been resolved and considers this matter as finalised.



ADV KHOLEKA GCALEKA
PUBLIC PROTECTOR
REPUBLIC OF SOUTH AFRICA
DATE: 30 JUNE 2025

Assisted by: Ms Kidibong Maduwa
Investigator: Gauteng Provincial Office