

ABA POWER LIMITED

PETITION

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION

IN THE MATTER OF:

Request for “No Objection” to the Petitioner’s Proposed Methodology for the application of NERC Order GL059

BETWEEN:

**Aba Power Limited
#8 Mary Slessor Street, Asokoro, Abuja, Nigeria**

PETITIONER

AND

**The Nigerian Electricity Regulatory Commission
1099 First Avenue, Central Business District, Abuja, Nigeria**

RESPONDENT

1. PREAMBLE:

1.1 The Petitioner, holder of distribution license NERC/LC/010, is proud to be working under the directives of the Nigerian Electricity Regulatory Commission (the “Commission”) to assist and resolve power shortages that plague this great nation. In particular, the Petitioner commends the Commission for its comprehensive and professional approach to sector regulation and the Petitioner will strive to meet the exigent goals set by the Commission under the various regulatory orders issued.

1.2 This petition is aimed at proposing a methodology that would be adopted by the Petitioner in applying NERC Order GL059 in areas where the order is silent and presumed to be at the discretion of the Petitioner. The Petitioner will assume that the honourable Commission has “no objection” to the methodology described herein if a response to the contrary is not received within a 45 days limitation period as specified in regulation NERC-R-036. The exigency of this petition is buttressed by the fact that the petitioner is in the final stages of negotiating long-term financing with multilateral lenders and to meet the schedule of these lending institutions, time is of great necessity.

2. **C4 DEMAND CHARGE:** The Petitioner observes that during the printing of Order GL059, there was a slipped decimal for the demand charge of Tariff C4 in years 2008 to 2013. The Petitioner intends to multiply this by ten to make it compatible with the demand charges of C3 and D3 to D5.

3. **TIME-OF-USE DISCOUNTS AND SURCHARGES.** In accordance with Section 76(2) of the EPSR Act, the Petitioner understands that the Commission wishes to encourage energy efficiency and rational use of our county's resources. The Petitioner will offer electricity price discounts in off-peak hours (for example midnight to 6:00am and on Sundays) and charge a supplement during times of maximum consumption (for example, 5:00pm to twelve midnight). In aggregate over the week, the average hourly tariff charged per customer would be precisely the tariff ordered by the Commission. This is particularly important to the Petitioner as its system load factor is estimated by independent experts to be around 50% vis-à-vis the 70% which is the core assumption in the derivation of the MYTO.

4. **SOCIAL SURCHARGE MANDATED BY STATE GOVERNMENT:**

The Government of Abia state is requiring extensive provision of street lights and other services from the Petitioner and has informed the petitioner that it may assess a levy on customers' electricity bills to be used to pay for electricity for street-lights. The social levy would be a small percentage of a customer's total electricity bill.

5. **INVOICING OF FIXED AND METER CHARGES TO CUSTOMERS WITH PRE-PAID METERS.**

The Petitioner assumes that it may divide the authorized monthly fixed-charge and meter fee by a customer's average monthly kWh consumption to convert the fixed charge into a kWh-based variable charge. This will make pre-payment more logical to our customers who other wise might purchase a pre-paid quantity of Naira only to find it consumed entirely by fixed charges for the month and the customer would not receive any electricity. There is a precedent for this as the Petitioner understands PHCN is using a similar system.

For example, the Commission's authorized R4 tariff for year 2009 is:

Fixed monthly charge:	N185
Meter charge	N2,469
Energy Charge	N9.4/kWh

If the customer's expected monthly consumption were 500kWh, the kWh charge for pre-payment would be: $(185+2469)/1000 + 9.4 = N12.0/\text{kWh}$. The estimated kWh consumption would be based on the previous months average.

6. **ASSIGNMENT OF TARIFF CODES:** The Order does not contain instructions as to how the different tariffs are to be assigned to different customers (for example, R1, R2, R3, etc). The Petitioner will implement the following rules which are related to those of PHCN and which would not be applied in a discretionary fashion.

Tariff Code assignments:

R1	<25 kWh per month
R2	<50 kWh per month
R3	<100 kWh per month
R4	<500 kWh per month
R5	<2000 kWh per month

7. **CUSTOMERS REQUIRING NON-INTERRUPTIBLE POWER SUPPLY:** The Petitioner will have some customers that require highly reliable and stable power supply (for example factories with computerized production equipment or banks and communications companies with sensitive equipment). The Petitioner intends to approach such customers on a bilateral basis and offer them extra stability and reliability, where technically feasible, in return for a tariff premium. It is common in the private utility business outside of Nigeria to charge a reliability premium.

8. **SALE OF EXCESS CONTRACTED POWER:** In accordance with the rules of the Commission, the Petitioner will sign a PPA with Geometric Power Aba Limited ("GPAL") as its power supplier. At times the minimum-take of contracted power may exceed the Petitioner's demand. The Petitioner assumes that Commission would have no objection to the Petitioner selling this power to "eligible" customers and transporting it on the power grid owned by TCN. The sale of this excess power will assist and alleviate the power shortages that plague our country and avoid wastage of this important electricity resource. The World Bank has been discussing with the Petitioner, for the provision of a Partial Risk Guarantee (PRG) to guarantee the sale of excess power to Government owned discos.

9. **CONCLUSION:** The management, staff and contractors of the Petitioner are excited to be initiating operations and to be contributing towards the Commission's noble aspirations that will make Nigeria a better place to live. We respectfully request your due consideration of the above points that will help realize our mutual vision of reliable power through effective regulation.

ABA POWER LIMITED

AFFIDAVIT IN SUPPORT OF PETITION

**BEFORE THE NIGERIAN ELECTRICITY REGULATORY
COMMISSION**

IN THE MATTER OF:

Request for "No Objection" to the Petitioner's Proposed Methodology for the Application of NERC Order GL059

BETWEEN:

**Aba Power Limited
8 Mary Slessor Street, Asokoro, Abuja, FCT**

PETITIONER

AND

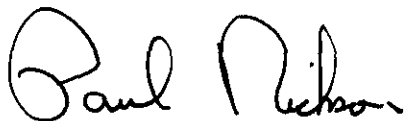
**The Nigerian Electricity Regulatory Commission
1099 First Avenue, Central Business District, Abuja Nigeria.**

RESPONDENT

Affidavit in Support of Petition

I, Mr. Paul Nickson, male, adult, residing at 8 Mary Slessor Street, Asokoro, Abuja, do hereby make oath and state as follows:

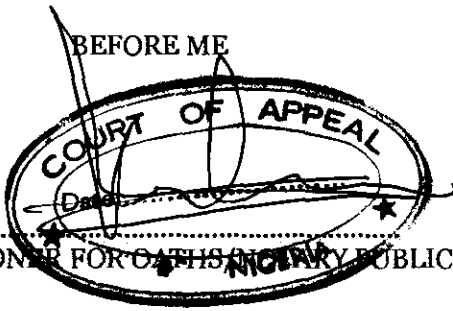
- 1. That I am the CEO of the Petitioner and I am duly authorized by Aba Power Limited, the Petitioner, to make this Affidavit on its behalf.**
- 2. The statements made in paragraphs 1 to 9 of the Petition herein now shown to me and marked with the letters "PAN" are true to my knowledge and the statements made in paragraphs 1 to 9 are based on information and I believe them to be true.**

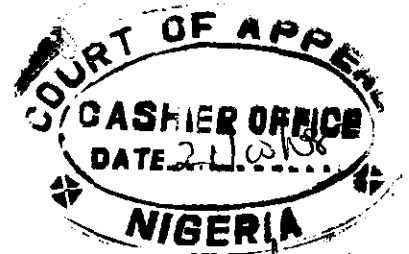


Mr. Paul Nickson
CEO of APL

DECLARED AT Abuja, FCT, 21st Oct 2008

THIS 21st..... DAY OF OCTOBER 2008

BEFORE ME

.....
COMMISSIONER FOR OATHS AND NOTARY PUBLIC


COURT OF APPEAL
CASHIER OFFICE
DATE 21.10.08
NIGERIA

pd wde ker
N/o 2007239388