

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY

IN THE ABUJA JUDICIAL DIVISION

HOLDEN AT ABUJA

AFFIDAVIT IN SUPPORT OF PETITION PENDING BEFORE A HEARING PANEL
CONSTITUTED BY THE NIGERIAN ELECTRICITY REGULATORY COMMISSION AS CASE
NO: NERC/01/000002/2008

I, Ntui Columbus, male, Nigerian, Staff of the Nigerian Electricity Regulatory Commission, do hereby make oath and state as follows:

1. That I am the Analyst (Legal) in the Legal, Licensing and Enforcement Division of the Nigerian Electricity Regulatory Commission ("the Commission") duly authorised by the Commission to make this affidavit on its behalf.
2. That the Commission with Headquarters at Plot 1099, First Avenue, CBD, FCT, Abuja, is a statutory body established pursuant to the Electric Power Sector Reform (EPSR) Act 2005, to regulate the electric power industry in Nigeria.
3. That the Commission has the statutory responsibility to ensure the safety, security, reliability, and quality of service in the production and delivery of electricity to consumers pursuant to S.32 (e) of the EPSR Act 2005.
4. That the Respondent is an electricity distribution company licensed by the Commission, Licence No **NERC/LC/032** to engage in the purchase and distribution of electricity in the FCT and its environs. The licence is hereby attached and marked 'Exhibit A'.
5. That the Respondent is subject to the terms and conditions of its Licence, the EPSR Act 2005, as well as the provisions of the Grid Code and Distribution Code being regulations issued by the Commission. The Grid Code and Distribution Code are hereby attached and marked Exhibit "B" and "C" respectively.
6. That by virtue of Section 75 of the EPSR Act 2007, and the provisions of the Business Rules Regulations No. NERC-R-0306, the Commission may carry out investigations or hearings into alleged violations of licence terms and conditions, rules or regulations, codes of conduct and licensees obligations under the Act.

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7. That the Commission has the powers to sanction any licensee for violating any provisions of the EPSR Act, rules or regulations, codes of conduct, terms and conditions of the license or licensees obligations under the Act.
8. That the Respondent, in accordance with the provisions of the EPSR Act 2005, the regulations as well as the terms and conditions of its Licence has an obligation to ensure that its installations are safe and not dangerous to customers and the public in general.
9. That Mr. Ahmadu Zubairu, Principal Manager in the Licensing & Enforcement Division of the Commission who incidentally lives on Sirakoro street, within the same location of the substation, informed me and I verily believe him that on the 18th of April 2007, he reported to the Commission that a little girl had been electrocuted at the sub-station of the Respondent situate at Blantyre Street, Wuse II, Abuja, and that the girl died shortly after the incident.
10. That the Commission immediately carried out a preliminary investigation into the incident the outcome of which seemed to suggest that the electrocution of the child was as a result of the failure of the Respondent to adequately secure the sub-station as provided in the Respondent's licence as well as the relevant regulations issued by the Commission.
11. That the Sub-station was unkempt, unsecured and a danger to the public. Attached herewith are pictures of the Sub-station marked Exhibits "D1-D7"
12. That in the course of the preliminary investigation, the Commission had a meeting with the officials of the Respondent on the 24th day of April 2007, at which the Respondent was directed to do the following;
 - i. Clear the bush and trees in the sub-station.
 - ii. Construct a barbed wire fence and fit a gate to separate the sub-station from the walkway.
 - iii. Carry out an audit of the Company's sub-stations in its area of operation and develop a program for securing them.
 - iv. Take stock of all their installed equipment and ensure the safety of life and property in accordance with existing regulations.

Minutes of the said meeting is attached and marked Exhibit "E"

13. That several letters were issued to the Respondent requesting compliance with the directives including obtaining a medical report on the deceased to no avail. Some of these letters are attached and marked Exhibits "F" and "G".
14. That instead, the Respondent in a letter to the Commission dated 31st July, 2007 claimed that the Company had:

- i. embarked on the enumeration of those compact units with a view to protecting them against intruders.
- ii. procured 50 feeder pillars which are being installed to replace the ones in bad condition.
- iii. commenced preparation for the enlightenment campaign to sensitize the Public on the danger of going too close to installations.

A copy of the said letter is attached and marked Exhibit "H"

15. That upon inspection of the sub-stations within the Respondents area of operation by the Commission, it was observed that they had not been secured to ensure the safety of life and property as directed by the Commission.

Attached herewith are pictures of the sub-stations taken in February, 2008 marked Exhibit "J1-8".

16. That I make this affidavit conscientiously and in good faith believing the contents to be true and correct and in accordance with the Oaths Act, 2004.



DEPONENT

BEFORE ME



COMMISSIONER FOR OATHS

25/2/08

Sworn to at the High court of
the Federal Capital Territory
Abuja this —day of —2008