

IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT ABUJA

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

I, Charity W. Jiya, female, Nigerian, staff of the Abuja Electricity Distribution Plc, do hereby make oath and state as follows:

1. That I am the Manager (Legal) in the Legal Services Department of the Abuja Electricity Distribution Plc (“the Company”) duly authorized by the Company, as Respondent, to make this counter-affidavit on its behalf.
2. That the Respondent, with Headquarters at No. 1 Loma Mansa Street, Wuse Zone 4, Abuja is incorporated under the Companies and Allied Matters Act, 1990.
3. That the Respondent is an electricity distribution company licensed by the Petitioner to engage in the purchase and distribution of electricity in the FCT and its environs.
4. That the Respondent, as a Licensee, is subject to the terms and conditions of its license, the EPSR, Act, 2005, as well as the provisions of the Grid Code, Distribution Code and other Regulations developed and issued by the Petitioner in consultation with the Respondent.
5. That the Petitioner should take notice of the fact that the approved Grid and Distribution Codes were released four months after the accident had occurred.
6. That the Respondent admits Section 75 of the EPSR Act, 2005 gives the Petitioner power to enforce the terms and conditions of the License.
7. That the Respondent admits Section 81(2) of EPSR, Act, 2005 provides that standards, codes and manuals (Grid Code and Distribution Code inclusive) issued by the Petitioner shall be binding on the licensee(s) and the terms and conditions of the license provide that the Company shall ensure that its installations are safe and not dangerous to customers and the public in general.
8. That on the 18th of April, 2007 Mr. Ahmadu Zubairu, a staff of the Petitioner, who lives on Sirakoro Street, reported to the Respondent through a phone call at 6 pm that a little girl had been electrocuted at the Sub-station of the Company situated at Blantyre Street, Wuse II, Abuja.

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REVENUE OFFICER - 70
F.C.T. HIGH COURT OF JUSTICE
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9. That upon receipt of the information from Mr. Ahmadu Zubairu, the Wuse Business Unit, through its Service Manager, Engr. Bashir Maikudi, rushed to the scene of the incident. The area was cordoned off and safety/protective devices were immediately reinforced.
10. That a formal report of the incident was addressed to the Chief Executive Officer of the Respondent in a letter by the Petitioner dated 19th of April, 2007. The letter is hereby attached and marked "Exhibit A"
11. That the letter was received barely 15 hours after the incident had occurred. The Respondent was not allowed the 24-48 hour period to file a formal report to the Petitioner.
12. That upon receipt of the phone call from Mr. Ahmadu Zubairu, the Business Manager, Wuse also made a formal report of the incident to the Chief Executive Officer in a letter dated 19th of April, 2007. The letter is hereby attached and marked "Exhibit B."
13. That the Respondent agrees that on 24th April, 2007 the Chief Executive Officer of the Respondent in company of the Business Manager, Wuse held a meeting at the instance of the Petitioner.
14. That the minutes of the meeting is not a true and fair reflection of the deliberations that took place during the meeting. The second to the last sentence on paragraph 5, does not reflect what the speaker said. The mother of the deceased was traced to the Maitama General Hospital and their house at Mpape by our staff.
15. That the minutes of the meeting were not circulated, no opportunity was given for correction and adoption and the Respondent only got to see it when the petition was received.
16. That the Respondent has substantially complied with the directives of the Petitioner arising from the meeting held on 24th of April, 2007 and has taken the following actions:
 - i. The Sub-station in question has since been cleared and secured..
 - ii. Barbed wire fencing and gate as additional barrier to unauthorized personnel have been constructed.
 - iii. Defraying sundry costs for the medical expenses and funeral rites of the deceased.
 - iv. The mother of the deceased has been offered employment with the Respondent. Copies of employment letter and other relevant documents are attached and marked "Exhibit C."

- v. The replacement of bad/damaged/vandalized Feeder Pillars in the network within the limits of funds available. Copy of the list is attached and marked "Exhibit D."
- vi. The installation of burglar proof doors on Feeder Pillars with vandalized/damaged doors. Copy of the list is attached and marked "Exhibit E."
- vii. The Respondent has undertaken the Company's Asset's Audit, particularly in Wuse Business Unit and a programme has been put in place for replacement/securing of all dangerous Sub-stations Feeder Pillars.
- viii. An inventory of the Respondent's assets is on hand and as much as possible, we are making efforts.
Copies of photographs of some of the actions taken are attached and marked "Exhibit F"

17. That the Respondent had caused an investigation into the circumstances surrounding the electrocution. The report of the investigation was duly communicated in a letter dated 31st July, 2007 to the Commissioner (Engineering, Standard and Maintenance). A copy of the letter is attached and marked "Exhibit G."
18. That the outcome of the preliminary investigation carried out by the Petitioner was not made available to the Respondent. The report is of interest to us and would have assisted us in making fair comments with regards to some of the conclusions reached.
19. That a joint visit was undertaken to the scene of the accident by officials of the Petitioner and Respondent, which did not in any way suggest that live HV/LV bus bars electrical circuits were left open.
20. That the Respondent denies any responsibility for obtaining a medical report. We do not consider a directive to the Respondent to produce the medical report fair in the circumstance.
21. The parents of the deceased, who took her to the hospital, were entitled to request for the medical report from the hospital.
22. That the parents of the deceased, who took her to the hospital, were ordinarily expected to have requested for a medical report from the hospital.
23. 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, 2006.