



ORDER NO.NERC/11/0002/13

THE NIGERIAN ELECTRICITY REGULATORY COMMISSION

INTERIM ORDER ON THE “FIT AND PROPER” REVIEW OF THE PRIVATISED ELECTRICITY LICENSEES

WHEREAS:

1. By virtue of section 69 of the EPSR Act 2005 and the Licence Terms and Conditions, the Commission is empowered to approve changes to the shareholding of entities licensed to engage in the business of generation, distribution, transmission, system operations and trading in electricity.
2. Accordingly, the Commission has by Order NERC: LLE/ACTC127 issued on 24th September 2013 outlined the procedure for obtaining approval of the Commission for assignment/ceding of a licence, transfer of undertaking or change in shareholding of licensed entities as provided for under Section 69 of the Act and in line with the NERC Guidelines and Assessment Criteria for Fit and Proper Persons for Corporate and Individual Participation in Regulated Electricity Undertakings;
3. The core investors in the PHCN successor companies are by virtue of this Order, the EPSR Act 2005 as well the license terms and conditions required to submit specified information and documents for approval of the Commission for the change in the shareholdings acquired by them in the respective licensees according to the prescribed procedure and criteria;

AND WHEREAS

4. The Commission has requested the core investors to submit the said information and documents on or before the deadline of 8th November, 2013 for assessment for the purpose of granting approval for the change in shareholding of the successor companies (the Licensees);

UPON due consideration of the authority conferred on the Commission under Sections 32, and 62 of the Electric Power Sector Reform Act, 2005, the NERC Guidelines & Assessment Criteria for Fit and Proper Persons for Corporate and Individual Participation in Regulated Electricity Undertakings, the NERC Order on the Procedure for Obtaining Approval of the Commission for Assignment/Ceding of a Licence, Transfer of Undertaking, or Change in Shareholding of Licenced Entities and the conditions stipulated therein and all other powers enabling it in that behalf;

AND UPON further consideration of the need to ensure continuity in the operations of the PHCN Successor Companies following the take-over by the core investors on November 1, 2013 and to avoid service disruption pending the decision of Commission on the required information and documents as resolved by the Commission during its Emergency Regulatory Meeting held on November 4, 2013,

THE COMMISSION HEREBY ORDERS THAT the proposed Boards and Executive Management of the core investors of the PHCN Successor Companies shall be permitted to assume office provisionally and to continue to carry out the functions of their respective offices as stipulated under the Licence Terms & Conditions until the approval of the Commission is granted or otherwise withheld for a change in shareholding in accordance with the provisions of section 69 of the EPSR Act, 2005.

The core investors of the PHCN Successor Companies who are yet to comply fully with the requirements of the Commission for approval for change in shareholding of Licensees shall do so on or before November 8, 2013 or be liable to sanctions.

For the avoidance of doubt, the status of the proposed Boards and Executive Management of the respective PHCN successor companies shall remain **PROVISIONAL** until the Commission grants or otherwise withholds approval to the change in shareholding as required by the EPSR Act 2005 and the relevant regulatory instruments.

BY ORDER OF THE COMMISSION

Signed this 6th day of November, 2013



Dr. Sam Amadi
Chairman/CEO