



**A KEYNOTE ADDRESS TO THE 2013 AKINDELANO LEGAL
PRACTITIONERS (ALP) SEMINAR SERIES**

**“Transforming the Nigerian Power Sector-Challenges
and Solutions”**

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I have the honour to deliver the 2013 keynote address to the Akindelano Legal Practitioners (ALP) Seminar Series, which is fast becoming a landmark gathering in our nation’s think-tank calendar. More so, I do appreciate that it is a manifest testimony to the paramount importance attached to the industry I regulate that has lead to the choice of this year’s theme, which is focusing on power.

We are all aware that one of the key indices in gauging the development of any nation is its electricity consumption per capita; as every facet of our social, economic and industrial development is linked to the availability and utilization of reliable electric power.

Lessons learnt from history are applied to prepare for a better future. In order to appreciate the problems in our power sector, so as to jointly proffer solutions to them, it is indeed appropriate that we have at least, a brief appraisal of the sector.

This, hopefully, will allow us to avoid the mistakes of the past that have put us where we are at present. We will also look at the options available to us that will enable us progress and attain the very necessary “adequate, safe, reliable and affordable electricity” supply for the industrial revolution and pleasurable living of dear our nation. We shall also look at the roles of the Nigerian Electricity Regulatory Commission; its achievements and challenges.

Reform without political will & discipline amounts to naught

As we are aware, the Present Federal Government is working assiduously hard to transform Nigeria’s electricity landscape.

The unalloyed commitment and unshakeable political will of President Goodluck Ebele Jonathan has enabled me as the sector regulator to focus on strengthening the multi-faceted institutions of our electricity supply industry. From generation

to transmission and unto distribution, the power sector is a massive and vast industry, with intricate and most times, complicated contractual, technical, infrastructural and other ancillary agreements. To this effect, there are a whole lot of internal and external actions being undertaken by the regulator, in order to ready the industry for the imminent advent of a fully corporatized Nigerian power **market.**

Positioning the new NESI for fiscal sustainability

Since January, among others, I have conceived and introduced an additional metering policy, to assist in eating into the large patch of the present unmetered power consumers. One of the most crucial statutory mandates of NERC under EPSRA, S.31, is to protect power consumers from potential predatory instincts of market players. Simultaneously, the regulatory body is saddled under S.76 of the EPSR Act, with the seeming opposing task of protecting and ensuring a decent earning for the investors. Now, note that the two stake-holding communities of consumers and investors have a mutually interest in the sectors wellbeing, but traditionally conflict on issues of tariff and revenue requirement. The only empirical and non-contentious way to eschewing suspicions of either exploitation, or shortchange from either of these parties towards the other, lies in the deployment of metering infrastructures, which are today, the only empirical means of gauging consumption and charges simultaneously. This explains my intensified efforts to make good my promise to meter the nation significantly in eighteen months. This development is following in the wake of the “fit and proper” person standard which I instructed be set for the industry going forward.

In readiness for post privatization, I have also within the course of this year, among others, set up a committee to draft an electricity offences code, as well as another, to establish the criterion for private contractors to operate as licensed agents of the NESI. These would help to stem the high rate of industry abuse and below-par services bedeviling the sector, thus assisting in setting it on the path to sustainability.

As the head of a Commission regulating a sector whose value today stands at over a staggering ₦300bn, with an anticipated upsurge value of over ₦ 1.5 tn by 2017, a sector that is experiencing the biggest, most profound and most expensive reform ever in Sub-Saharan Africa, I feel a fiercely urgent moral and ethical burden to protect the reform from the failings of previous privatization attempts we have witnessed. As an economic lawyer, with proven field experience, I have in my book titled “Privatization and the Public Good”, provided the panacea for a successful privation, and I am deploying all my experiences to make a success of this power sector reform.

The ongoing transformation of the sector will be good for the economy, and will boost a sector that has excellent potential for growth both in the short term and well into the future. It will be good for consumers, who will be better insulated from high and volatile fossil fuel prices, as well as anchor our country’s economic renaissance.

On the ecological side, the sectoral transformation, when completed, will help our nation to fundamentally change the ways in which we source, generate and consume solid energy. With the ever increasing threat and menace of Climate

Change surging upon us, I understand that it is not all about accelerated pursuit and expansion of our energy base so as to meet an equally accelerating demand, but crucially, it is important to develop a national culture of energy conservation. Most crucially, we must refrain from our habitual apathy towards the sort of plants we deploy to source energy. In effect, like citizens of countries across the world, we must be concerned about how green or environmentally friendly our power sources are. I have put in a most stringent and robust Environmental Impact Assessment (EIA) code to ensure that only lowest emission levels possible are permitted in the new NESI. The days of ecologically unfriendly and high CH₄ emitting plants shall soon be over in the Nigerian power sector. The NESI will surely lead the way in de-carbonizing our economy.

Preparing the regulatory landscape

The changing landscape of our electric power industry requires a paradigm shift in the administrative and management landscape of the sector. From the monopolization of all the industry segments via a vertically integrated service by NEPA, the subsequent de-corporatization of the erstwhile government power Authority has inevitably created sundry ancillary sectoral servicing units and businesses. In envisage of this division of services, the EPSRA 2005 foremost established NERC the sector regulator, to pen down the new industry standards, service delivery charter, fiscal discipline rules, etc, and also to restructure the flawed NEPA into a world class power industry.

I shall not bore you with too many in-house technical mechanisms my administration has put in place to ensure the emergence of a fit for purpose,

world class power sector. Therefore, I have listed a few of our recent achievements and milestones here;

- The Licensing of over 32 Independent Power Producers (IPPs) with an expected power injection of about 12,000MW into the national grid. About nine of the IPPs are currently in operation
- Development of technical codes, standards and regulations to ensure safety, reliability and quality in electricity supply
- Monitoring of the progress of licensed IPPs.
- Launching of the industry Health and Safety Manual
- Codification of the Health and Safety Manual
- Train-the-trainer workshops on the Health and Safety Manual for industry operators organized in different parts of the country
- Development & smooth deployment of the Multi-Year Tariff Order (MYTO2) which is industry cost- reflective.
- Workshops on understanding MYTO held for industry stakeholders in different parts of the country
- Approval of Market Rules and training of Industry Operators
- Development and release of industry Trading Arrangements
- Licensing of the Bulk Trader and facilitation of provision of the World Bank partial risk guarantee
- Development of model PPAs and Vesting Contracts
- Development of four Regulations on consumer protection
- Power Consumer Assemblies in various parts of the country
- Resolution of several consumer complaints through spot visits and other dispute resolution mechanisms within the Commission

- Regular investigation of electrocution cases and other accidents in the industry
- Development of KPIs for monitoring technical, consumer and safety performances in power stations, transmission stations and distribution units
- Monitoring of MYTO2 implementation
- Constitution and inauguration of Grid, Distribution and Metering Panels
- Constitution of the Initial Stakeholder Advisory Panel (ISAP)
- Constitution of the Transition Steering Group (TSG)

Some lingering challenges

The Electric Power Sector is undoubtedly the most challenging in Nigeria. It is entangled with so many challenges bordering around technical, political, moral/ethical, financial, even bureaucratic.

The following are some of the challenges we have been trying to overcome through the various regulatory instruments and interventions mentioned above:

- Facilitating adequate and sustainable investments across the industry especially from the private sector.
- Establishing credibility and legitimacy amongst industry stakeholders and to consumers especially the Distribution Companies – Corporatization, autonomy, signing of performance contracts for the about to be completed privatization
- Bridging the gap between production and demand of electricity, effective and efficient wheeling and distribution to customers –

completion of all generation, transmission and distribution projects to enhance capacities and initiating of new ones

- Ensuring adequate, reliable and quality gas supply to the power plants
- Reducing general consumers' frustration due to inadequate supply, unresponsiveness and unsympathetic attitude of the operators
- ensuring that Nigerian power consumers enjoy the benefit of forum offices we recently established for customer complaints redress (and possibly mobile courts)
- to ensure the enforcement of consumer regulations & protection through establishing of Zonal offices
- Cooperation among relevant institutions in the sector (e.g. having industry funded researches – like Nigerian Universities and Research Institutions etc) – Regular consultations and meetings between NERC / stakeholders and provision of direct funding for research & effective industry capacity building.
- Dealing with political implications of regulatory decisions (e.g.prompt payment of financial cost of resolution of labour issues, several other liability and debt profile matters)
- Sensitization and engagement of all stakeholders through Power Consumer Assemblies, meetings, workshops, seminars etc.
- Ensuring continuous implementation and sustainability of the power sector reform programme – development of strong and virile institutions and systems and ensure transparency in the conduct of the reforms

- Dealing with non-compliance with codes, standards, regulations and licensing terms & conditions by operators – Total reorientation required – engaging the operators on regular basis and educating them on the need to ensure compliance
- Arresting the high frequency and large number of accidents resulting to injuries and fatalities in the sector especially in the Distribution Sector – entrenching safety public awareness campaigns and performance monitoring of operators
- Successor Companies though unbundled remain fully owned by government do not exercise full autonomy, this has thwarted and frustrated a lot of our forward looking policies such as the eighteen month metering guideline, etc.
- The problem of financial viability of the distribution companies – improving the billing and collection efficiencies of the Distribution Companies and reducing the AT&CC losses. Also reducing the transmission losses
- Completion of all ongoing FGN generation, transmission and distribution projects (PHCN and NIPP) – effective monitoring of the projects under construction and removal of all bottlenecks to ensure timely completion

Finally

The Nigerian Electricity Regulatory Commission (NERC) in collaboration with other stakeholders is making all efforts to address the above numerous challenges and has already surmounted some of them while plans and strategies have been put in place to address those that are still lingering.

I will like to end this keynote address by urging participants to give deep and reflective thoughts on the ways to move the power sector forward in particular and the Nigerian economy in general. I believe that this gathering will spur us to ponder on some of the challenges enumerated facing the power sector and thus be able to proffer solutions to them.

All hands must be on deck to ensure that this time around, electricity is made available, reliable, safe and affordable to the teeming populace of Nigerians. Our doors are always wide open for support, consultations and constructive criticisms.

Thank you.

Dr. Sam Amadi.

Abuja, 2013