



NIGERIAN ELECTRICITY REGULATORY COMMISSION

ORDER NO. NERC/136

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION (NERC)

ORDER DIRECTING THE COMMENCEMENT OF THE TRANSITIONAL STAGE ELECTRICITY MARKET (TEM)

PREAMBLE:

1. The Market Rules for the Transitional and Medium Term Stages of the Nigerian Electricity Supply Industry (NESI), as amended, were approved in 2009 by the President, Federal Republic of Nigeria, as provided for in Section 26(2), Electric Power Sector Reform Act (EPSRA), 2005. Since the beginning of the reform of the Power Sector, there has been a steady growth, subsequently accelerated by the Road Map launched by the current administration in 2010. Today, the reform and the privatization have propelled the Sector towards the attainment of the Conditions Precedent for the Transitional Stage Electricity Market (TEM).
2. TEM is defined in Rule 6.1.2 of the Market Rules as *“characterised by entry of new generation, contract based arrangements for electricity trading and the introduction of competition”*.

FACTS:

3. Rule 7 of the Market Rules states that *“These Rules shall come into effect upon confirmation by the Commission that the events and circumstances set out or referred to in Appendix 2 (the “Conditions Precedent”) have been satisfied, or at such other date as the Minister may specify.”*
4. Appendix 2 of the Market Rules lists these Conditions Precedent (CPs) for the TEM as:

- a. *passage of the Electric Power Sector Reform Act;*
 - b. *establishment and commencement of operations of the Commission;*
 - c. *development, implementation and testing by the System Operator, of the systems and procedures required to implement the Grid Code;*
 - d. *development, implementation and testing by the Market Operator, of the systems and procedures to implement the Market Rules for the Transitional Stage;*
 - e. *approval of the Grid Code and the Market Rules;*
 - f. *formalisation of the trading arrangements (vesting contracts) between the companies that will participate in the Transitional Stage Market;*
 - g. *publication by the Commission, of a list prepared to the best of its knowledge, stating in respect of the initial market, the names and addresses of each Licensee, including interim Licensees, and of each other person then entitled to become a Participant at the date of publication, subject, in each case, to compliance by such Licensee or other person, with all relevant procedures and legal requirements;*
 - h. *publication of the initial transmission Usage Charge by the Commission;*
 - i. *publication of the initial System Operation and Market Administration Charge by the Commission;*
 - j. *constitution of the initial Dispute Resolution Panel, and the Initial Stakeholder Advisory Panel;*
 - k. *approval of the Grid Code by the Minister and implementation of the provisions of the Grid Code; and*
 - l. *approval of the Market Rules by the Minister and implementation of the provisions of the Market Rules applicable to the Transitional Stage;*
 - m. *notification by the Market Operator of the initial the Market Operator Payments Calendar pursuant to Rule 31.7.7; and*
 - n. *the satisfaction of such other conditions, if any, as are specified in the order of the Minister approving these Rules in relation to the commencement thereof.*
5. It is to be noted that the rebalancing and establishment of a cost-reflective tariff was subsequently accepted by the NESI as an additional CP to TEM effectiveness.
 6. The Commission in collaboration with all critical stakeholders (particularly the Ministry of Power, the Transmission Company of Nigeria (TCN), Nigerian Bulk Electricity Trading Plc (NBET), the distribution companies (Discos), the generation companies/ independent power producers (Gencos/IPPs), the Presidential Task Force on Power and the Bureau of Public Enterprises worked to ensure the achievement of all the CPs stated above. This was carried out through regular meetings of the "Transition Steering Group" (TSG), the body constituted by the Commission on 24th February 2011 to monitor and ensure the execution of actions necessary to ensure attainment of the CPs outstanding at the time.

7. The table below indicates the progress made against the CPs:

S/n	CPs for the transitional stage	Status
1	Passage of the Electric Power Sector Reform Act	Done
2	Establishment and commencement of operations of the Commission	Done
3	Approval of the Grid Code and the Market Rules	Done
4	Publication by the Commission of the names and addresses of each licensee	Done
5	Publication of the Initial Transmission Usage Charge by the Commission	Done
6	Publication of the Initial System Operation and Market Administration Charge by the Commission	Done
7	Constitution of the Initial Dispute Resolution Panel, and the Initial Stakeholders Advisory Panel	Done
8	Formalization and effectiveness of trading arrangements (contracts) between participating companies	Sufficiently Fulfilled
9	Notification by the Market Operator of the Initial Market Operator Payments Calendar	Done
10	Development, implementation and testing by the SO, of the systems and procedures required to implement the Grid Code	Satisfactory for TEM Commencement
11	Development, implementation and testing by the MO, of the systems and procedures to implement the Market Rules	Done
12	The satisfaction of such other conditions, if any, as are specified in the order approving the Market Rules	Not Applicable
13.	Effectiveness of a cost-reflective tariff	Done

8. From the above, CPs have been attained to the satisfaction of the Commission. The formalization and effectiveness of all trading arrangements have substantially been fulfilled.

CONSIDERATIONS:

9. The Commission has completed a review of the MYTO-2 tariff regime and, following due process has issued a new Distribution Tariff Order (known as MYTO-2.1) to take effect from 1st January 2015.
10. The Commission determines that the level of completion of all Conditions Precedent is sufficient to justify the evolution of the NESI by the commencement of the Transitional Stage Electricity Market on terms as ordered herein below.

ORDER:

11. **THEREFORE**, upon due consideration of the foregoing, and pursuant to the powers conferred on the Commission under Section 32, EPSRA, 2005 and Section 7, Market Rules (as amended), **IT IS HEREBY ORDERED** as follows:
 - a. The Commission confirms that the CPs set out in Appendix 2 to the Market Rules and subsequently agreed to be necessary for effectiveness of TEM have been fulfilled to its satisfaction;
 - b. With effect from Sunday, 1st February 2015, the amendments to the Market Rules, the application and enforcement of the said Market Rules (as amended) shall be in full force and effect;
 - c. With the effectiveness of the Market Rules (as amended), the Transitional Stage Electricity Market (TEM) shall commence with effect from the same date, to wit, Sunday, 1st February 2015;
 - d. Accordingly, the Rules for the Interim Period between Completion of Privatization and the start of the Transitional Electricity Market (as amended) shall cease to have effect from midnight, Saturday, 31st January 2015;
 - e. TEM will commence with such trading arrangements as have been formalized and fully completed via fulfillment of Conditions Precedent in the various contracts between market participants.
12. The Commission shall publish a TEM Implementation Order on the conditions subsequent to the commencement of TEM and other aspects of its implementation.

IT IS FURTHER ORDERED that the Orders made hereinabove shall take effect from Sunday, 1st February 2015 and all relevant Market Participants, Service Providers and the Nigerian Bulk Electricity Trading Plc (NBET) shall comply thenceforth with the said Orders.

Dated this 29th day of January 2015



**Dr. Sam Amadi
Chairman/CEO**



**Dr. Steven Andzenge
Commissioner (Legal, Licensing &
Enforcement Division)**