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## NIGERIAN ELECTRICITY REGULATORY COMMISSION

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ORDER NO. NERC/15/0011

**BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION (NERC)**

**SUPPLEMENTARY ORDER ON 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) 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 and amended in 2014 ("The Market Rules").
2. Following the declaration of the Transitional Electricity Market ("TEM") on 1<sup>st</sup> February, 2015, via its Order No. 136 of 30<sup>th</sup> January 2015 ("the TEM Order"), the Commission deems it necessary to issue this Supplementary Order ("this Order") to provide for the effective administration and operation of TEM in accordance with the various Rules, Codes and Orders that pertain thereto.
3. This Order shall be read in conjunction with the TEM Order, the Market Rules and the Grid Code (hereinafter referred to as "the Ruling Documents").
4. In the event of a conflict between any provision of this Order and the Ruling Documents, the Ruling Documents shall take precedence.

**CONSIDERATION**

5. The Commission recognizes that although the Conditions Precedent set out in Appendix 2 of the Market Rules have been sufficiently satisfied to warrant the NESI's

transition to TEM, further market development work needs to be done to develop the Market after TEM.

6. The Commission also recognizes that while stakeholders expected that the entire NESI would operate by contracts in TEM, it has been observed that some Market Participants have not concluded the formalities that will make their contracts effective. Such market participants shall not be permitted to delay market evolution as envisioned by the EPSR Act 2005.
7. This Order provides the framework for addressing the operational aspects of the TEM in which some market participants do not have effective contracts.

**ORDER:**

8. **THEREFORE**, upon due consideration of the foregoing, and pursuant to the powers conferred on the Commission by Section 32(1)(a) of the EPSRA and Section 7 of the Market Rules, **IT IS HEREBY ORDERED** as follows:
  - a. Trading arrangements between the parties that are yet to fulfill the requirements for participation in TEM and/or made effective shall continue on the following terms:
    - i. The licensed generation companies presently owned by Niger Delta Power Holdings Plc (hereinafter referred to as "NIPP Plants") whose privatization transactions are yet to be completed shall enter into short-term Power Purchase Agreements (PPAs) with NBET, whereby NBET shall be obligated to pay for delivered energy and delivered capacity to the grid. These short-term PPAs shall run for an initial term of six (6) months following the commencement of TEM, and may be renewed or extended subject to the approval of the Commission.
    - ii. As from the effective date of each relevant PPA, each NIPP Plant shall invoice NBET based on Market Operations' settlement statement for its metered energy and capacity in accordance with the provisions of the Market Rules regarding payments to market participants with effective contracts.
    - iii. On a monthly basis, a maximum of 300MW of energy from the NIPP plants shall be used to serve existing supply obligations to International Customers at the price subsisting with those customers. The balance of energy from NIPP shall be sold to the market through the Vesting Contracts at the prevailing prices. This arrangement shall terminate on or before 31<sup>st</sup> December 2015, after which all energy

from NIPP shall be sold to offtakers through the Vesting Contracts at prevailing market prices. NBET shall ensure adequate commercial arrangements are in place and shall be responsible for any financial shortfalls that may arise from trading arrangements with International Customers.

- iv. Gencos without effective PPAs shall be paid for their Delivered Energy and Delivered Capacity by NBET (Delivered Capacity for the purposes of this Order means the Capacity equivalent of the energy delivered at the Genco's busbar).
- v. Discos that have not provided effective payment guarantees to NBET and the Market Operator (MO)/Transmission Company of Nigeria as required under their Vesting Contracts and the Market Participation Agreement shall have their revenues escrowed for remittance according to a payment waterfall to be approved by the Commission. The affected Discos shall be invoiced by the NBET and make payments for the full capacity and energy delivered. Also, full payments shall be made to the MO for wheeling charges, market administration, regulatory fees, ancillary services, NBET administrative charges and any other service provider fees. Financial shortfalls by Discos shall be repayable at NIBOR plus 10%
- vi. Discos without payment security to activate their contracts three (3) months after the commencement of TEM shall attract the appropriate sanctions except Kaduna Electricity Distribution Company that has been permitted to ensure that the vesting contract is effective within six (6) months from the commencement of TEM. Discos without payments security that accrue liabilities in two settlement cycles shall be sanctioned in accordance with the provisions of section 8 of the NERC Electricity Industry (Enforcement) Regulations 2014.
- vii. The Systems Operator (SO) shall reconcile the records of its dispatch Instructions to Gencos and Discos on a weekly basis. This shall include Ancillary services rendered to the grid by Gencos. The copies of the records shall be forwarded to the Commission and the MO at the end of every week.
- viii. All off-takers of energy at the 132Kv shall remain customers of the Disco. The Transmission Service Provider (TSP) shall cut off such off-takers who do not meet their payment obligations at the request of the relevant Disco. The TSP shall be responsible for the payment for

energy consumed by such customers if the TSP does not comply with such instructions.

- b. The Supervisory Control and Data Acquisition (SCADA) infrastructure at 132kV and 330kV level that are yet to be implemented by TCN/System Operations are hereby deemed to be a Condition Subsequent (CS) and not necessary for the commencement of TEM. However, the SO shall ensure completion of all infrastructure installation within 18 months of the commencement of TEM.
- c. The 'Baseline Remittance' principle introduced in the Interim Rules shall no longer apply. Full payment of quantities settled by the MO and based on invoices issued to Discos by NBET and Service Providers shall be required from all participants from the commencement of TEM. Any liabilities arising from non-compliance with this provision shall attract interest at NIBOR plus 10%.
- d. The MO shall ensure that arrangements are in place to fully develop all outstanding aspects of its market settlement IT platform and its Automatic Meter Reader technology within nine (9) months of the commencement date of TEM.
- e. The Commission in keeping with the provisions of the Market Rules and Grid Code has approved applications by Market Participants for derogation of compliance by certain grid meters with the requirements of the Metering Code. Market Participants shall be duly notified of the Commission's approval and the time extended for compliance with the said Rules and Code.
- f. The MO's Settlement Statements shall contain the quantity of energy recorded at each metering point. The MO's Settlement Statements shall not include contract prices or invoice amounts for energy and capacity.
- g. At the end of each settlement cycle every Genco's metered imports will be netted off against its metered exports; that is, deduction of the power it consumed from the power it injected into the grid network respectively.
- h. In the event that a Genco has imported more energy than it has exported, the charge rate to be applied for the excess of imported energy and capacity will be the greater of either that Genco's tariff or the weighted average cost of generation for the month.
- i. The settlement for Gencos' import energy shall in view of the provisions of this Order exclude fees that apply to retail tariff such as, NERC Regulatory Charges, MO charges, Systems Operations charges, ancillary services TSP charges and NBET Administration charges.



- j. As provided by law, all Hydro Generators are required to pay 10% of their revenue in every payment cycle to Hydro Producing Area Development Commission (HYPADEC). This charge was calculated in the Multi Year Tariff Order (MYTO 2) as a percentage of the Gencos Wholesale Contract Price. Given that HYPADEC is yet to be operational, NBET is by this Order directed to open an interest-bearing escrow account with its payment agent bank to preserve these funds. Balances and income earned and carried forward on this account are to be reported to the Commission not later than 2 (two) working days after every payment to Hydro Generators. This escrow account shall continue to be maintained pending the full operation of HYPADEC.
- k. The MO shall settle the financial surpluses or deficits arising from TSP's management of the Transmission Loss Factor (TLF) between TSP and the eleven (11) Discos as follows:
- i. The Settlement Statement (or other document approved by the Commission) will state the actual aggregate TLF for the settlement cycle;
  - ii. The MO shall apportion the positive or negative difference between the actual TLF and 8.05% to the respective Discos in line with their percentage of total consumption;
  - iii. In the event that the actual TLF is in excess of 8.05%, each Disco may net off the amount due to it from the TSP, as a deduction from TSPs wheeling charges for the cycle;
  - iv. In the event that the actual TLF is below 8.05%, each Disco will pay its portion of the differential to TSP, in addition to the Disco's wheeling charge for the cycle.
  - v. The amount to be paid by each Disco will be calculated by applying a charge rate which is equivalent to the weighted average cost of energy and capacity for the settlement cycle; or any other amount approved by the Commission.

**IT IS FURTHER ORDERED** that the Orders made hereinabove takes effect from Sunday, 1<sup>st</sup> February 2015.

Dated this 18<sup>th</sup> day of March, 2015



**Dr. Sam Amadi**  
Chairman/CEO



**Dr. Steven Andzenge**  
Commissioner  
Legal, Licensing & Enforcement