



NIGERIAN ELECTRICITY REGULATORY COMMISSION

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION

NERC/DIRECTIVE/156

COMMISSION'S DIRECTIVE ON THE ISSUE OF NON-COMPLIANCE OF IBADAN ELECTRICITY DISTRIBUTION PLC WITH THE ELECTRIC POWER SECTOR REFORM (EPSR) ACT, 2005, DISTRIBUTION LICENCE TERMS AND CONDITIONS, AND OTHER REGULATORY INSTRUMENTS ISSUED BY THE NIGERIAN ELECTRICITY REGULATORY COMMISSION (NERC)

To:

The Managing Director/CEO
Ibadan Electricity Distribution Plc,
Capital Building
115, Ring Road
Ibadan, Oyo State

BACKGROUND:

Pursuant to Section 62 (7) of the EPSR Act 2005 and Regulation 5(1) (a) and 11 of the NERC Electricity Industry (Enforcement) Regulations 2014, the Commission commenced Enforcement Actions against Ibadan Electricity Distribution Plc (IBEDC) vide a Notice dated June 9, 2016, for non compliance with the provisions of the Electric Power Sector Reform Act, 2005, the Terms and Conditions of Electricity Distribution Licence, NERC Customer Complaints Handling: Standards and Procedures (CCHSP) Regulation, 2006, and other Regulatory Instruments of the Commission.

SUMMARY OF FACTS

1. To achieve its mandate to ensure the safety, security, reliability, and quality of services in the production and delivery of electricity to consumers, amongst others, the Commission developed the NERC Customer Compliances Handling: Standards & Procedure Regulation, 2006.



2. All Distribution Companies are obliged to comply with the NERC Customer Compliances Handling: Standards & Procedure (CCHSP) Regulation, 2006.
3. In accordance with this Regulation, where any Distribution Company and the Customers are unable to agree on the resolution of a dispute, either party may refer the complaint to the Forum office, within its operational area.
4. The Distribution Company shall also implement the decisions of the Forum within the time specified in the directives of the Forum.
5. The Distribution Company is also mandated to report its compliance with the directive of the Forum, or the reasons for any delay in complying with the directives of the Forum, to the Forum within Five (5) working days of the directive being implemented.
6. IBEDC refused and or neglected to comply with some Forum's decision, and also failed or neglected to report compliance and reasons for delay in complying with the Forums directives, in accordance with the NERC Customer Compliances Handling: Standards & Procedure Regulation, 2006:
7. Consequently, the Commission received several complaints directly from Electricity Customers in IBEDC's operational jurisdiction, based on which same was forwarded via letters dated October 7, 2015 and April 15, 2016, to IBEDC's CCU for resolution, in line with the CCHSP Regulation, 2006.
8. The Commission wrote reminders to IBEDC on the need to resolve these complaints and revert back to the Commission.
9. However, IBEDC failed or refused to comply with the Commission's request/directive to resolve the complaints in accordance with the provisions of the NERC Customer Compliances Handling: Standards and Procedure 2006.
10. Following the failure of IBEDC to comply with the request/directive, the Commission issued a Notice of Intention to Commence Enforcement (NICE) to IBEDC, dated June 9, 2016 to "SHOW CAUSE" within Ten (10) days, why Enforcement Action should not be taken against IBEDC for violating:
 - **Section 63 (1) of the EPSR Act, 2005** which provides that; *"A licensee shall comply with the provisions of his license, regulations, codes, and other requirements issued by the Commission from time to time"*.



- **Section 11 (6) of NERC Customer Complaints Handling: Standards and Procedures Regulations, 2006**, which provides that; *“The Distribution Licensee shall implement the decisions of the Forum within the time specified in the directives of the Forum. The Distribution Licensee shall also report its compliance with the directives of the Forum, or the reasons for any delay in complying with the directives of the Forum, to the Forum within Five (5) working days of the directives being implemented”*.
- **Condition 4 of the Distribution Licence Terms and Conditions** granted IBEDC by the Commission, which provides that; *“The Licensee shall furnish to the Commission, in such manner and at such times as the Commission may require, such information and shall provide and furnish to it such reports as the Commission may consider necessary in the light of the conditions or as it may require for the purpose of performing the functions assigned or transferred to it by or under the Act”*.
- **Condition 50 of the Distribution Licence Terms and Conditions** granted IBEDC by the Commission, which provides that; *“The Licensee shall comply with the Commission’s Regulation on Customer Complaints Handling: Standards and Procedures and other appropriate Regulations in resolving disputes arising between the Licensee and its Customers”*.

FINDINGS

IBEDC responded to the Commission’s Notice via a letter dated June 28, 2016. However, after a careful review of the response, the Commission finds some of the responses grossly inadequate and misrepresenting, on the following grounds:

- a) IBEDC has not complied with most of the Forum decisions, in respect of installation of Transformers and energizing of the Communities, as contained in the attached schedule.
- b) IBEDC had claimed unavailability of funds, capital intensive nature of such projects and non viability of the projects as some of the reasons for non compliance. However, the Commission notes that some of this Forum decisions date as far back as 2014, 2015 and till date and IBEDC is yet to even commence the implementation of some of the Forum decisions.

- c) IBEDC also failed to comply with the timeline within which to implement the Directives of the Forum, as well as the Reporting Compliance Obligation, as stipulated in the CCHSP Regulation, 2006.
- d) Where IBEDC is not satisfied with the Forum directives, IBEDC could have appealed to the Commission within the timeframe, as stipulated in the CCHSP Regulations, 2006.

PENALTY

In view of the above findings, the Commission is convinced that you are in violations of the provisions enumerated above, and hereby directs as follows:

1. For failing to comply with the Licence Terms and conditions, and other Regulatory Instruments, **which is a breach under Section 63 (1) of the EPSR Act, 2005, IBEDC is hereby fined Ten Thousand Naira (N10, 000) per day, from February 23, 2015 (being the date the first Directive was given by the Forum) till the date of this Directive.**
2. For failing to implement the Directives of the Forum within the stipulated timeline, **which is a breach under Section 11 (6) of the CCHSP Regulation, 2006, IBEDC is hereby fined Ten Thousand Naira (N10, 000) per day, from February 23, 2015 (being the date the first Directive was given by the Forum) till the date of this Directive.**
3. For failing to provide the Commission with the requested information, **which is a breach under Condition 4 of the Distribution Licence Terms and Conditions, IBEDC is hereby fined Ten Thousand Naira (N10, 000) per day, from February 23, 2015 (being the date the first Directive was given by the Forum) till the date of this Directive.**
4. For failing to comply with the Commission's Regulation on Customer Complaints Handling: Standards and Procedures and other appropriate Regulations in resolving Customer disputes, **which is a breach under Condition 50 of the Distribution Licence Terms and Conditions, IBEDC is hereby fined Ten Thousand Naira (N10, 000) per day, February 23, 2015 (being the date the first Directive was given by the Forum) till the date of this Directive.**



5. This gives a total Fine of Twenty-One Million, Two Hundred Thousand Naira (₦21, 200,000.00), which shall be paid by IBEDC within two (2) weeks from the date of this directive.
6. Failure to pay the fines within the stipulated time shall attract additional interest of 5% per day, until the total fine is paid.
7. The Fines imposed notwithstanding, IBEDC is shall comply with all the Directives of the Forum.
8. IBEDC is hereby directed to communicate to the Commission, its Transformer implementation roll-out plan, and the date of commencement, within two (2) weeks from the date of this Directive.

BY DIRECTIVE OF THE COMMISSION

Dated this 5th day of August, 2016



Dr. Anthony Akah, mni
Ag. Chairman/CEO



Mrs. Olufunke Dinneh
General Manager
Legal, Licensing & Enforcement



SUMMARY OF THE LEVEL OF COMPLIANCE OF IBADAN DISCO ON FORUM DIRECTIVES

S/N	CASE NO	COMPLAINANT	FORUM DIRECTIVE	NERC ASSESSMENT
1	IBFO/00/07/2013	Ibafo Community Development Association	Forum ruled on 23rd February, 2015 that IBEDC should devise a palliative measure to ensure power supply in the community. Forum gave IBEDC 6 weeks to report back.	Non compliance as IBEDC did not report back on actions taken.
2	IBFO/96/11/2014	Apieye Chambers	Forum ruled on 23rd February, 2015 that IBEDC should devise a palliative measure to ensure power supply in the community. Forum gave IBEDC 6 weeks to report back.	Non compliance as IBEDC did not report back on actions taken.
3	IBFO/34/04/2014	Recherche Initiative	Forum ruled on 23rd February, 2015 that IBEDC should provide the community with a transformer and then report back within 8 weeks.	Non-compliance as IBEDC has not installed the transformer.
4	IBFO/67/07/2014	Word Soul Winning Evangelical Ministry	Forum ruled on 23rd February, 2015 that IBEDC should place complainant's community project on priority list and report back to the forum in 4 weeks.	Non-compliance as IBEDC has not reported back to the Forum. IBEDC claimed to be reviewing the market viability and cost of the project more than a year after the decision.
5	IBFO/27/01/2014	Ecreon-Egbe Semijeje Atikori Ijebu-Igbo & Oke	Forum ruled on 24th February, 2015 that IBEDC should	Non-compliance by IBEDC. Transformer was not energized and

		Alaafia	ensure that the transformer is energized and report back in 4weeks IBEDC did not energize the transformer as instructed and did not report back to the forum.	neither did IBEDC report back to the Forum. The community had to contribute money to purchase the transformer themselves.
6	IBFO/51/06/2014	Binukonu Farayi Landlords	The Forum ruled on 24th February, 2015 that IBEDC should put the community on priority list to ensure they are connected and then report back in 2 weeks. The community is not yet connected to the grid	Non-compliance as IBEDC did not report back to the Forum.
7	IBFO/101/12/2014	Mazi Ibe	The Forum ruled on 24th February, 2015 that IBEDC should make necessary adjustment in order to resolve the complaint and then report back in a week.	Non compliance - IBEDC neither resolved the billing issues nor reported back to the Forum.
8	IBFO/161/05/2015	Onisade CDA	The Forum ruled on 29 th June, 2015 that IBEDC should report the findings in ensuring electrification to the community in 4 weeks.	Non-compliance. IBEDC has not reported back to the Forum on their findings.
9	IBFO/112/01/2015	Odo-Oba, Yejide, Elere, Boluwaji,	The Forum ruled on 30 th June, 2015 that	Non-compliance by IBEDC as the community

		Idi-Ope, Sanyo, Academy Community	IBEDC should ensure improvement of power supply to the community, ensure constant communication with the community and then report back in 4 weeks.	is still in total darkness and IBEDC did not report back to the Forum.
10	IBFO/139/04/2015	Iyedi Tuntun CDA	The Forum ruled on 30 th June, 2015 that IBEDC should place the community on priority list for replacement of transformer and then sort out all billing issues. Forum directed that IBEDC should report the adjustment process to the forum in 8 weeks.	Non-compliance - IBEDC is yet to resolve the billing issues.
11	IBFO/71/07/2014	Oloke Express CDA	The Forum ruled on 20 th October, 2015 that IBEDC should look into the matter and then report back to the forum in 4 weeks.	Non compliance as IBEDC has not reported back to the Forum.
12	IBFO/014/10/2013	Bishop Akinyele Church Road/Bode Kumapayi Area	The Forum ruled on 20 th October, 2015 that IBEDC should visit the community and report their finding to the forum within two weeks.	Non compliance - IBEDC did not report back to the Forum.
13	IBFO/11/09/2013	Odan Community	The Forum ruled on 20 th October, 2015 that IBEDC should find a solution to the complaint by carrying out a survey on the	Non-compliance - IBEDC as they failed to report back to the Forum.

			environment to see how the community can be energized. They are to report back within 4 weeks.	
14	IBFO/58/06/2014	Unity Avenue CDA	The Forum ruled on 20 th October, 2015 stating that IBEDC should take steps to provide transformer in the community and then report back in 6 weeks.	Non compliance - IBEDC did not report back to the Forum on steps taken to provide transformer in the community.
15	IBFO/57/06/2014	Iyanu-Oluwa Itesi Dada CDA	The Forum ruled on 20 th October, 2015 stating that IBEDC should take steps to provide transformer in the community and then report back in 3 weeks.	Non compliance - IBEDC has not reported back to the Forum on steps taken to provide a relief transformer in the community.
16	IBFO/61/07/2014	Alade owo/Aba Nla Landlords	The Forum ruled on 20 th October, 2015 stating that IBEDC should take steps to do the installation and then report back in 4 weeks	Non compliance - IBEDC has not reported back to the Forum on steps taken to provide a relief transformer in the community.
17	IBFO/28/03/2014	Pasada & Chief T.K. Animashaun	The Forum ruled on 20 th October, 2015 giving IBEDC 1 week within which to restore electricity in the community	Non compliance - IBEDC has not restored electricity supply to the community several months after the Forum's decision to do same.
18	IBFO/136/04/2015	Ifesowapo Landlords & Landladies Association	The Forum ruled on 20 th October, 2015 stating that IBEDC should take steps to provide transformer in the community and then report back in	Non compliance - IBEDC has not reported back to the Forum on steps taken to provide a transformer in the community.

			6 weeks.	
19	IBFO/48/06/2014	Ifelodun Landlords Association	The Forum ruled on 21st October, 2015 instructing IBEDC to include the community's name in their next transformer roll out.	IBEDC has complied by placing the community on their transformer roll out scheme commencing soon. No need for further enforcement action.
20	IBFO/135/03/2015	Ifeoluwatedo Landlords & Landladies Association	The Forum ruled on 21st October, 2015 instructing IBEDC to upgrade the community's existing transformer. *The transformer has not been upgraded as instructed by the forum.	Non compliance as transformer has not been upgraded by IBEDC. Enforcement action may commence.
21	IBFO/49/06/2014	Orisumbare Olasupo Landlord & Landladies Association	The Forum ruled on 21st October, 2015 giving IBEDC 3 weeks to investigate the case of the transformer alleged to have been taken away by IBEDC officials. * IBEDC has not given any report to the forum as instructed.	Non compliance - IBEDC was given 3 weeks within which to investigate the case and report back to the Forum but IBEDC failed to report back to the Forum.
22	IBFO/193/10/2015	Anthony Orimoloye	The Forum ruled on 16 th December, 2015 stating that IBEDC should reconcile customer's account. * A 3-phase prepaid meter was installed but reconciliation of account has not	Non compliance with the directive of the Forum for the Account to be reconciled by IBEDC.

			been made. customer is not fully satisfied.	
23	IBFO/73/08/2014	Isokan Ifeloju Landlords Association	The Forum ruled on 17 th December, 2015 stating that IBEDC should conduct an inspection in the community and the report back to the forum on a solution to the low supply.	Non compliance - IBEDC did not report back to the Forum.
24	IBFO/207/10/2015	Eku In General CDA	The Forum ruled on 17 th December, 2015 gave IBEDC 4 weeks to do its investigation and then report back to the forum on whether the electrification request is tenable.	Non compliance - IBEDC did not report back to the Forum and has not electrified the area.
25	IBFO/227/12/2015	Prof. Olusegun Ekundayo	The Forum ruled on 17 th February, 2016 stating that IBEDC should refund the amount paid by customer for CAPMI meter since he was metered on the free meter roll out plan. Forum also ordered IBEDC to check customer's account and then rectify the accrued estimated billing. customer was metered under the free meter roll out scheme but refund for capmi meter paid for has not been made.	Non compliance - IBEDC is yet to refund customer for the amount paid under CAPMI.

26	IBFO/20/12/2013	Owodunni Landlords Association	The Forum ruled on 20 th October, 2015 giving IBEDC 4 weeks within which to act and install the requested transformer.	Non compliance - IBEDC has not installed the Transformer.
27	IBFO/118/02/2015	Gabriel Ejiyooye	The Forum ruled on 30 th June, 2015 stating that IBEDC should meter the customer and report back in 4 weeks.	Full compliance by IBEDC as customer has been metered. No need for further enforcement action.
28	IBFO/122/02/2015	Pegba, Ifedapo Temidire Landlord Association	The Forum ruled on 29 th June, 2015 stating that IBEDC should supply electricity to the community and report back in 3 weeks. Forum's decision was not complied with. Electricity was connected to the community through community effort.	Non compliance by IBEDC.