

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION

NERC/DIRECTIVE/146

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

To:

The Managing Director,
Port Harcourt Distribution Company,
No. 42 Obi Wali Road, Plot 65,
Port Harcourt.
River 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 Port Harcourt Electricity Distribution PLC (PHEDC) vide a Notice dated June 9, 2016, for non compliance with the provisions of the EPSR Act, 2005, Electricity Distribution Licence Terms and Conditions, and other Regulatory Instruments of the Commission.

SUMMARY OF FACT

1. In realization of the Commission's objectives of maximizing access to electricity services by promoting and facilitating consumer connections to distribution systems in both rural and urban areas as enshrined under Section 32 (1) (b) of the EPSR Act, 2005, the Commission directed that PHEDC submit quarterly reports to update its database on Distribution Network Expansion and Reinforcement across the distribution companies.
2. The Commission having observed that PHEDC failed, refused or neglected to submit the outstanding report on the quarterly added distribution network inventory, had made repeated demands for PHEDC to submit the Added Distribution Network inventory as contained in the templates earlier issued to PHEDC, indicating business unit/locations where these additions were deployed.
3. However, PHEDC Electricity Distribution Company (PHEDC) failed or refused to provide the Commission with the outstanding 2015 and 2016 quarterly reports in spite of repeated demands from the Commission.
4. Consequently, the Commission issued a Notice of Intention to Commence Enforcement (NICE) to PHEDC dated June 9, 2016 to "SHOW CAUSE" within Seven (7) days, why Enforcement Action should not be taken against PHEDC for violating:
 - **Section 63 (1) of the EPSR Act 2005** which provides that; *"A licensee shall comply with the provisions of its license, regulations, codes and other requirements issued by the Commission from time to time"*.

- **Condition 4 of the Terms and Conditions of the Distribution Licence** issued to PHEDC by the Commission; *“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”.*

FINDINGS

PHEDC despite the repeated demands to submit the Added Distribution Network inventory by the Commission failed to comply.

PENALTY

In view of the above findings, the Commission is convinced that you have committed the breaches mentioned above, and hereby directs as follows:

1. For failing to comply with the Terms and Conditions of licence, thus breaching the provision of Section 63 (1) of the EPSR Act, 2005, by failing to submit **3rd** quarter report in 2015. Consequently, the Commission hereby fines PHEDC **N10, 000.00 (Ten Thousand Naira) per day from July 15, 2015 to date (25/7/2016) giving a total of N3,760,000.00 (Three Million, Seven Hundred and Sixty Thousand Naira),**
2. By failing to submit **4th** quarter report in 2015, the Commission fines PHEDC **N10,000.00 (Ten Thousand Naira) per day, from October 15, 2015 to date (25/7/2016) giving a total of N2, 840, 000.00 (Two Million, Eight Hundred and Forty Thousand Naira,**
3. By failing to submit **1st** quarter report in 2016, the Commission fines PHEDC **N10, 000. 00 (Ten Thousand Naira) per day from January 15, 2016 to date (25/7/2016) giving a total of N1, 920, 000.00 (One Million, Nine Hundred and Twenty Thousand Naira.**
4. **The sum of Eight Million, Five Hundred and Twenty Thousand Naira (N8, 520, 000.00) shall be paid by PHEDC within two (2) weeks from the date of this directive.**

5. Failure to pay the fines within the stipulated time shall attract additional interest of 5% per day, until the total fine is paid.

BY DIRECTIVE OF THE COMMISSION

Dated this 25th day of July, 2016

Dr. Anthony Akah, mni
Ag. Chairman/CEO

Mrs. Olufunke Dinneh
General Manager
Legal, Licensing & Enforcement