



NIGERIAN ELECTRICITY REGULATORY COMMISSION

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION

NERC/DIRECTIVE/153

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

To:

The Managing Director,
Benin Electricity Distribution Company
No. 5 Akpakpava Street,
Benin City

BACKGROUND:

1. 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 BEDC vide a Notice dated June 8, 2016, for non compliance with the provisions of NERC Customer Complaints Handling: Standards and Procedures Regulation 2006.
2. Specifically, the Notice required BEDC to "SHOW CAUSE" within Ten (10) days, why Enforcement Action should not be taken against it for violating:

Section 11 (6) of the NERC Customer Complaints Handling: Standards and Procedures Regulation 2006 which states that "the Distribution Company 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 Directive of the Forum, or the reason for any delay in complying with the directives within five working days of the directive being implemented. This violation is contrary to **Section 63 of the 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."*

WHEREAS:

The Ten (10) days granted BEDC to "SHOW CASE" why Enforcement Action should not be commenced against BEDC expired on June 18, 2016 and BEDC has failed or neglected to respond to the manifest and flagrant breaches observed by the Commission.

STATEMENT OF FACTS

1. Existence of NERC Customer Compliant Handling: Standards and Procedures Regulation 2006 which mandates Distribution Companies to comply with the decisions of the Forum;
2. BEDC refused and or neglected to comply with the Forum's decision in respect of the following Complaints and also failed and neglected to report compliance and reason for delay in complying with the Forum directives in accordance with the NERC Customer Complaints Handling Standards & Procedure Regulation, 2006.
 - a. The Complaint from Mr. Ikponmwosa Ogiesoba Barry against fraudulent and estimated billing Meter (Case No: BEN/FO/NERC/004/2015) – The Forum gave its decision on April 14, 2016 and BEDC and decided that the customer should pay the sum of N16,636.00 out of the outstanding sum of N64, 911.30 owed to BEDC . It was also decided that the customer should get prepaid Meter under CAPMI within one month of the decision.
 - b. The Complaint from Mr. S.C. Ogoke Esq. against BEDC for conduct likely to cause breach of peace (Case No. BEN/FO/NERC/005/2016) – The Forum gave its decision on April 14, 2016, to the effect that, BEDC should make the necessary adjustment regarding the fixed charges paid by the customers in the affected communities – from May 1, 2014 to January 31, 2016 – make refunds to customers who paid in error and report back to Forum within one (1) month of this decision. BEDC was also directed to improve services to Electricity Consumers in its operational areas to reduce and ensure prompt Customer complaints, as well as restructure its Network for optimal performance.
 - c. The Complaint from Mr. F.E. Ubuane Esq, against arbitrary electricity bills (Case No: BEN/FO/NERC/010/2016) - The Forum gave its decision on April 14, 2016, and directed that; the energy consumption of the customer before he was placed on estimation should be taken as his true consumption pending when BEDC conclude its investigations and makes the necessary adjustment; all bills paid that were not reflected should be credited to the customer's account within one (1) month the decision; and the issue of treat to customer's life by BEDC officials should stop henceforth.

CONSEQUENTLY, IT IS HEREBY DIRECTED THAT:

1. For failing to comply with the Forum decision in respect of a complaint from Mr. Ikponmwoşa Ogiesoba Barry, thus breaching the provision of section **63 (1) of the EPSR Act , 2005**. Consequently, the Commission hereby fines **BEDC Ten Thousand Naira (N10,000) per day from the date of non-compliance (April 14,2016) to date (28/09/2016) giving a total of N1,670,000.00 (One Million, Six Hundred and Seventy Thousand Naira);**
2. For failing to comply with the Forum decision in respect of a complaint from Mr. S.C. Ogoke Esq. thus breaching the provision of Section **63(1) of the EPSR Act, 2005**. Consequently, the Commission hereby fines **BEDC Ten Thousand Naira (N10,000) per day from the date of non-compliance (April 14,2016) to date (28/09/2016) giving a total of N1,670,000.00 (One Million, Six Hundred and Seventy Thousand Naira);**
3. For failing to comply with the Forum decision in respect of a complaint from Mr. F.E. Ubuane Esq. thus breaching the provision of Section **63(1) of the EPSR Act, 2005**. Consequently, the Commission hereby fines **BEDC Ten Thousand Naira (N10,000) per day from the date of non-compliance (April 14,2016) to date (28/09/2016) giving a total of N1,670,000.00 (One Million, Six Hundred and Seventy Thousand Naira);**
4. Above notwithstanding, BEDC shall still comply with the Forum decisions.
5. **The sum of Five Million, Ten Thousand Naira (N5, 010,000.00) only shall be paid by Benin Electricity Distribution Company (BEDC) 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.**

BY DIRECTIVE OF THE COMMISSION

Dated this 28th day of September, 2016


Dr. Anthony Akah, mni
Ag. Chairman/CEO


Mrs. Olufunke Dinneh
General Manager
Legal, Licensing & Enforcement