



**BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION**

**IN THE MATTER OF A PETITION FOR THE REVIEW OF THE 2016 – 2018  
MINOR REVIEW OF MULTI YEAR TARIFF ORDER AND MINIMUM  
REMITTANCE ORDER FOR THE YEAR 2019**

**TAKE NOTICE** that pursuant to section 74 of the Electric Power Sector Reform Act ("EPSRA") and the terms and conditions of electricity distribution licences issued to the distribution licensees ("DisCos") by Nigerian Electricity Regulatory Commission (herein referred to as "NERC" or the "Commission") a notice of intention to cancel distribution licences ("Cancellation Notice") dated 8 October 2019, was issued to the licensees listed below for breach of the provisions of EPSRA, terms and conditions of their respective distribution licences and the 2016 – 2018 Minor Review of Multi Year Tariff Order ("MYTO") and Minimum Remittance Order for the Year 2019 (hereinafter called the "Minor Review and Minimum Remittance Order") –

1. Abuja Electricity Distribution Company Plc ("AEDC").
2. Benin Electricity Distribution Company Electricity Plc ("BEDC").
3. Enugu Electricity Distribution Company Plc ("EEDC").
4. Ikeja Electric Plc ("IE").
5. Kaduna Electricity Distribution Company Plc ("KAEDCO").
6. Kano Electricity Distribution Company Plc ("KEDCO").
7. Port Harcourt Electricity Distribution Plc ("PHEDC")
8. Yola Electricity Distribution Company Plc ("YEDC").

*[Handwritten signatures]*

1. The aforementioned DisCos were required to **SHOW CAUSE** in writing within 60 days from the date of receipt of the Cancellation Notice as to why their licences should not be cancelled in accordance with section 74 of EPSRA.

2. The Commission notes that the following DisCos have filed petitions challenging the Minor Review and Minimum Remittance Order pursuant to section 50 of EPSRA and the NERC (Business Rules of the Commission) Regulations 2006 (the "Business Rules") -

	DisCo	Date of Filing
a.	Abuja Electricity Distribution Company Plc	21 October 2019
b.	Benin Electricity Distribution Company Plc	21 October 2019
c.	Eko Electricity Distribution Company Plc ("EKEDC")	21 October 2019
d.	Enugu Electricity Distribution Company Plc	21 October 2019
e.	Ikeja Electric Plc	21 October 2019
f.	Kaduna Electricity Distribution Company Plc	21 October 2019
g.	Kano Electricity Distribution Company Plc	21 October 2019
h.	Port Harcourt Electricity Distribution Plc	22 October 2019
i.	Ibadan Electricity Distribution Company Plc ("IBEDC")	25 October 2019

3. YEDC did not file a petition against the Minor Review and Minimum Remittance Order and IE withdrew its petition by a letter (IE/REG/001.001) dated 28 October 2019 by electing to rely on their letter dated 18 October 2019 **SHOWING CAUSE** with grounds against the cancellation of their licence and seeking the Commission's audience to discuss "*lasting and sustainable*" resolution of the issue.

4. The Commission notes further that besides IE no other recipient of the Cancellation Notice has provided a direct written response to the Cancellation Notice.

5. The Commission has reviewed the petitions filed by the DisCos and notes that they are materially similar as common grounds have been raised in all the petitions in addition to specific grounds that are peculiar to each DisCo.

6. The Commission has also observed that the prayers sought in the petitions basically mirror themselves as the petitioners have sought the common prayers listed below, along with some additional prayers that are specific to each DisCo's petition -

- a. Recognition of 2015 and 2016 as force majeure years and making of adequate provision for CAPEX to reduce the petitioner's ATC&C loss level.
- b. Compel NBET to comply with the generation cost assumptions in the minor review order.
- c. Allow MDA debts to be deductible from NBET invoices.
- d. Reflect the inter-bank exchange rates in the tariff assumptions.
- e. Suspend the minimum remittance order pending the implementation of cost reflective tariffs.

7. One of the principal objectives imposed on the Commission by section 32 of EPSRA is the *"the creation, promotion and preservation of efficient industry and market structures, and ensuring the optimal utilisation of resources for the provision of electricity services"* and in the activity of tariff regulation section 76 of EPSRA places an obligation on the Commission to ensure that electricity prices and tariff methodologies *"allow a licensee that operates efficiently to recover the full costs of its business activities, including a reasonable return on the capital invested in the business"*.

8. In compliance with section 41 of EPSRA and section 17 of the Business Rules the Commission has resolved that the petitions shall be heard by a panel of 4 commissioners with the Vice-Chairman serving as Chairman of the panel.

9. In addition to addressing the issues raised in the petitions, the petitioners would also be required to address the issue of *"optimal utilisation of resources"* and *"efficient operation"* of the utilities at the public hearing of their respective petitions.

10. The petitioners would be required to address the following issues in justification of the principles of *"prudence"* and *"used and useful"* at the public hearing -

- a. Customer enumeration
- b. General procurement practices
- c. Related party transactions
- d. Directors' fees and expenses
- e. Technical partners
- f. Material and contingent liabilities

- g. Utilisation of intervention funds received from the Federal Government.
- h. Efforts to date to address customer complaints and improvement of overall willingness to pay for services.
- i. Analysis of capital and recurrent expenditure.
- j. Metering and billing of maximum demand customers.
- k. Metering and billing of MDAs
- l. Payments for technical and management fees.
- m. Purchase and utilisation of foreign exchange.
- n. Remittances on market obligations from date of takeover to date.

11. The petitions shall be heard at the Commission's Hearing Room on the 4<sup>th</sup> Floor of the NERC Headquarters Building, Plot 1387 Cadastral Zone A00, Central Business District, Abuja.

12. All petitions shall be heard over a period of 4 days from 6 – 8 November 2019 and 11 November 2019 in accordance with the schedule below –

	DisCo	Hearing Date	Time
a.	AEDC	6 November 2019	9am – 12pm
b.	BEDC	6 November 2019	2pm – 5pm
c.	EKEDC	7 November 2019	9am – 12pm
d.	EEDC	7 November 2019	2pm – 5pm
e.	IBEDC	8 November 2019	9am – 12pm
f.	KAEDCO	8 November 2019	2pm – 5pm
g.	KEDCO	11 November 2019	9am – 12pm
h.	PHEDC	11 November 2019	2pm – 5pm

13. The hearings shall be open to the general public and scanned copies of all petitions filed shall be available on the Commission's website.

Dated this 30<sup>th</sup> day of October 2019



Dafe C. Akpeneye  
Commissioner