



ORDER No. NERC/196/2020

ORDER ON THE TRANSITIONAL ACCOUNTING TREATMENT OF TARIFF RELATED LIABILITIES IN THE FINANCIAL RECORDS OF PARTICIPANTS IN THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY

Title

1. This regulatory instrument may be cited as the **Order on the Transitional Accounting Treatment of Tariff Related Liabilities in the Financial Records of Participants in the Nigerian Electricity Supply Industry.**

Commencement and Termination

2. This Order shall take effect from the market settlement cycle of January 2020 and shall cease to have effect on the issuance of an Order of the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission") directing distribution licensees ("DisCos") to settle their market invoices in full.

Context

3. The Commission is mandated by section 32 (1) (b) of the Electric Power Sector Reform Act ("EPSRA") "*to create, promote, and preserve efficient industry and market structures and to ensure the optimal utilisation of resources for the provision of electricity services*".
4. The Commission has continued to pursue the development of a financially sustainable electricity market that serves the needs of customers with adequate, reliable and affordable electricity supply for the socio-economic development of Nigeria.
5. A key objective of the Commission under EPSRA is the promotion of private sector investment in the Nigerian Electricity Supply Industry. However, the incidence of tariff deficits in the market has over the years resulted in the accumulation of tariff related liabilities in the financial records of DisCos thereby impeding on their creditworthiness.

6. One of the key objectives of the Power Sector Recovery Program ("PSRP") is the removal of historical tariff related liabilities from the financial records of DisCos. This Order seeks to resolve the continued accumulation of future tariff related shortfalls during the transition to cost reflective tariffs and to prevent the accrual of new liabilities in the financial records of DisCos.
7. In recognition of the variance between the tariffs approved by the Commission and actual end-user tariffs payable by rate payers, the 2019 Minor Review of MYTO 2015 and Minimum Remittance Order for the Year 2020 has prescribed a payment threshold for all DisCos on invoices issued by the Nigerian Bulk Electricity Distribution Company Plc ("NBET"). This payment shall be made by DisCos in accordance with the timelines provided in the Market Rules and securitised by unencumbered payment guarantees. The deferred payment portion of the invoices issued by NBET shall only be tariff - related revenue deficits and shall be offset upon payments to generation companies ("GenCos") by NBET on a draw down from the multiple funding sources in the PSRP financing plan.

Objectives

8. The objectives of this Order are to -
 - a. Provide a guideline for the transitional accounting treatment of tariff-related liabilities in the financial records of market participants.
 - b. Ensure that no new tariff-related liabilities accrue in the financial records of DisCos.
 - c. Maintain the creditworthiness of the balance sheet of DisCos for the purpose of raising capital towards the improvement of electricity networks and service delivery.
9. **THE COMMISSION HEREBY ORDERS as follows -**
 - A. NBET shall continue to invoice DisCos for energy and capacity in accordance with the provisions of their respective vesting contracts and other directives of the Commission.
 - B. All NBET invoices shall clearly indicate -
 - i. The amount immediately payable by the DisCo in accordance with the 2019 Minor Review of MYTO 2015 and Minimum Remittance Order for the year 2020.

A series of five handwritten signatures in blue ink, arranged horizontally. The signatures vary in style, with some being more stylized and others more legible. The last signature on the right appears to be 'NAA'.

- ii. The amount due and payable by the Federal Government of Nigeria from multiple funding sources in the PSRP financing plan.
- C. All DisCos shall settle invoices received from NBET in full as adjusted by the applicable tariff shortfall and the 2019 Minor Review of MYTO 2015 and Minimum Remittance Order for the year 2020.
- D. The unpaid tariff - related portion of the NBET invoice shall temporarily remain in the books of the DisCos as a liability until same is paid to GenCos from the Payment Assurance Facility ("PAF") or other funding sources in the PSRP financing plan. There shall be no interest on this liability pending the payment to GenCos by NBET.
- E. NBET shall apportion funds drawn under PAF or other funding sources in the PSRP financing plan to DisCos in accordance with the minimum remittance threshold approved by the Commission and issue credit notes to the DisCos in the same amount confirming that the liability has been defrayed.
- F. The unpaid portion of the NBET invoice that is not directly attributable to the tariff deficit shall be recovered by NBET through the payment guarantee provided by the DisCo.
- G. The settlement of NBET's liability to the Central Bank of Nigeria by the Federal Ministry of Finance, Budget and National Planning for the principal and interest on PAF and its supplementary funding under PAF-X shall have a commensurate impact on the associated indebtedness of NBET.

Amendment

- 10. The Commission may from time to time amend this Order by making a supplementary Order that will supersede the provisions of the extant Order.

Dated this 28th day of January 2020



James A. Momoh
Chairman



Dafe C. Akpeneye
Commissioner
Legal, Licensing & Compliance

