



ORDER No. NERC/GL/195/2019

**BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION
IN THE MATTER OF THE 2019 MINOR REVIEW OF MULTI YEAR TARIFF ORDER 2015
AND MINIMUM REMITTANCE ON MARKET OPERATOR'S INVOICE
FOR THE YEAR 2020 FOR THE TRANSMISSION COMPANY OF NIGERIA PLC**

Title

1. This regulatory instrument may be cited as the December 2019 Minor Review of Multi Year Tariff Order ("MYTO") and Minimum Remittance on Market Operator's (MO) Invoice for the Year 2020.

Commencement and Termination

2. This Order supersedes other Orders issued on the subject matter and shall take effect from 1 January 2020 and shall cease to have effect on the issuance of a new Minor Review Order or an Extraordinary Tariff Review Order by the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission").

Context

3. The Commission pursuant to sections 32 and 76 of the Electric Power Sector Reform Act ("EPSRA" or the "Act"), issued the MYTO - 2015 Tariff Order in December 2015 to address, amongst other objectives, the provision of cost reflective tariffs thus ensuring that prices charged by licensees are fair to consumers, and are sufficient to allow licensees that operate efficiently to recover the full cost of their activities, including a reasonable return on the capital invested in the business.
4. Section 17 of the MYTO - 2015 Order provides for the biannual Minor Review of the tariffs taking into consideration changes in exogenous variables outside the control of electricity distribution companies ("DisCos") and the Transmission Company of Nigeria Plc ("TCN") in line with the requirement of the MYTO Methodology (Amended). The Minor Review Variables are Nigerian and United States inflation rates, NGN/USD foreign exchange rates, gas prices and available generation capacity.

5. This Order is issued to establish the minimum payment threshold of Market Operator's ("MO") invoice payable by the 11 electricity distribution companies ("DisCos") for the year 2020 and prescribe compliance with economic dispatch order by the System Operator ("SO"), within the technical limitations of the national grid with a view to achieving optimal weighted average cost of wholesale energy and grid stability.

OBJECTIVES

6. The objectives of this Order are to:
 - a. Reflect the impact of changes in the Minor Review variables on the DisCos' and TCN's Revenue Requirements for 2020 for the determination of cost reflective tariffs; and to ascertain revenue shortfalls in view of the differential between such tariffs and allowed tariffs and determine the minimum remittance threshold on monthly invoices issued by the MO.
 - b. Develop and implement a framework to manage future revenue shortfalls for year 2020 through a minimum market remittance requirement to account for differences between cost reflective tariffs and allowed tariffs in the settlement of invoices issued by the Nigerian Bulk Electricity Trading Company Plc ("NBET") and the MO.
 - c. Establish the interim payment arrangements; reaffirm the payment securitisation requirement and flow of funds from DisCos to NBET and the MO.
 - d. Steer the market to gradual activation of market contracts in line with the requirements of the Transitional Electricity Market ("TEM").
 - e. Reaffirm the obligation of the SO Division of TCN to comply with the dispatch merit order prescribed in the 2019 Minor Review (MYTO financial model) towards ensuring compliance with the projected generation cost in the Vesting Contract executed between NBET and the DisCos as well as the PPAs executed between NBET and the generation companies ("GenCos").

MINOR REVIEW OF MYTO-2015 TARIFF ORDER FOR THE DISCOS

7. This Order has taken into consideration the actual changes in inflation, forex rates, gas prices and available generation capacity over the period January 1, 2019 to October 31, 2019 in updating the operating MYTO - 2015 Tariff Order for 2019 in line with the provisions of the MYTO Methodology (Amended). Projections were made for the variables for year 2020 and beyond based on best available information from statutory agencies. The Commission shall make



necessary adjustments at the time of the next minor review or Extra-Ordinary Tariff Review.

8. The data on the relevant Minor Review variables were obtained from the Central Bank of Nigeria ("CBN"), National Bureau of Statistics ("NBS"), SO Division of TCN and NBET for the update of the MYTO - 2015 Financial Model:
 - a. Inflation: The actual average monthly inflation rate of 11.3% for the period January to October 2019 was used for this review in line with the MYTO Methodology.
 - b. Exchange Rate: In line with the provisions of the Regulations on Rate Review for Nigerian Electricity Supply Industry ("NESI"), CBN official exchange rates were used in this review. The MYTO - 2015 provides for a premium of 1% above the CBN rate as transaction cost and this was applied in the current review. The applicable NGN/USD exchange rate for 2020 is computed as $\text{NGN}306.90 + 1\% \text{ premium} = \text{NGN}309.97$.
 - c. US rate of inflation: The data on the US rate of inflation was obtained from the website of the US Bureau of Labor Statistics (<http://www.bls.gov>) for the year under review. The actual average monthly inflation rate of 1.8% for the period January to October 2019 was applied for the review and the projection for 2020 was based on October 2019 inflation rate.
 - d. Gas Price: The price of natural gas for the power sector has been regulated since the inception of MYTO in 2008. The Commission has maintained the gas price of US\$2.50/MMBTU and gas transportation cost of US\$0.80/MMBTU for this review. However, some generation companies had contracted different gas prices outside the regulated rates as provided in their respective Gas Sale Agreements ("GSAs").
 - e. Capital Expenditure Allowance for TCN: The Commission has revised the capital expenditure ("CAPEX") allowance for TCN to MYTO-2 level. The MYTO Methodology provides for the revision available generation capacity and associated CAPEX required to evacuate and distribute the revised available capacity during Minor Reviews. Whereas the CAPEX provided to TCN in MYTO-2015 Order was to support the evacuation of the average projected generation of 5,465MW in 2016 to 10,493MW in 2019, actual average generation remained between 3,500MW to 4,000MW during the same period. The Commission shall make appropriate adjustments to the rate base of TCN on completion of valuation of the assets of the company taking into consideration actual addition to fixed assets by both TCN and the Niger Delta Power Holding Company Ltd.



REVIEW OF BASIC ASSUMPTIONS

Table 1 below provides a summary of the actual and projected indices for years 2019 and 2020.

Table 1: Actual and Projected Indices for Years 2019 and 2020

Parameter	Unit	Actual 2019	Projection 2020
Nigerian Inflation	%	11.30%	11.30%
US Inflation	%	1.80%	2.10%
Exchange Rate ₦/\$	₦	310	310
Energy Delivered to Disco	GWh	26,978	29,565
*Generation Cost	₦/kWh	23	21.5
**Cost-Reflective TCN and Admin Tariff	₦/kWh	7.8	8.3
Allowed TCN and Admin Tariff	₦/kWh	3.99	3.7
Revenue Required	₦'000,000	209,740	244,844
Allowed Recovery	₦'000,000	107,551	109,389
Tariff Shortfall	₦'000,000	102,189	135,455

**The projected generation cost for 2019 was ₦19/kWh. The actual weighted average cost of wholesale energy (and capacity) as invoiced by NBET was ₦23/kWh arising from a deviation from the simulated dispatch order in the 2019 Order.*

*** This represents the full transmission and administrative cost of service providers. The prior Minor Review and Minimum Remittance Order had frozen the rates applied in generating MO's invoices at the same rates prior to the issuance of the Order.*

Market Remittance Waterfall

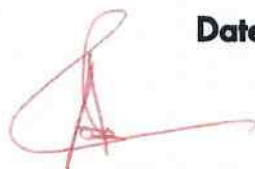
9. The Federal Government's updated Power Sector Recovery Program ("PSRP") does not envisage an immediate increase in end-user tariffs until 1st April 2020 and a transition to full cost reflectivity by the end of 2021. In the interim, the Federal Government has committed to fund the revenue gap arising from the difference between cost reflective tariffs determined by the Commission and the actual end-user tariffs payable by customers in line with the following -
 - a. All DisCos are obligated to settle their market invoices in full as adjusted and netted off by applicable tariff shortfall.
 - b. The Commission shall hold the TCN financially responsible for deviations from the economic dispatch Order that adversely impact on the base weighted average cost of wholesale of energy as invoiced by NBET.

- c. All DisCos shall be liable for payment of capacity charge computed on the basis of their pro-rata load allocation in the Vesting Contracts executed with NBET.
- d. TCN shall be liable for the payment of capacity charge arising from its inability to deliver required energy based on the MYTO load allocation to a DisCo.
- e. All FGN intervention from the financing plan of the PSRP for funding tariff shortfall shall be applied through NBET and the MO to ensure 100% settlement of invoices issued by Market Participants.
- f. Under this framework, the minimum market remittance by all DisCos is determined after deducting the revenue deficit arising from tariff shortfall from the aggregate NBET and MO market invoices. All DisCos shall be availed the opportunity to earn its revenue requirement only upon fully meeting the following obligations and subject to efficient operations:
 - i. Repayment of CBN-NEMS facility.
 - ii. 100% settlement of MO invoice based on the tariffs applied by the MO in determining respective invoices prior to this Order. Effectively, this Order places a freeze on the tariffs of TCN and administrative charges until April 2020 at the rates applied in generating MO invoices for the period of January - October 2019.
 - iii. Full settlement of NBET's monthly invoices as adjusted in their respective minor review and minimum remittance Order.
- g. All DisCos shall provide and maintain an adequate, unconditional, unencumbered and irrevocable standby letter of credit covering three (3) months invoice based on the minimum payment obligations to the MO and NBET.

Effective Date

This Order shall be effective from 1st January 2020.

Dated this 31st day of December 2019



James A. Momoh
Chairman



Dafe C. Akpeneye
Commissioner
Legal, Licensing & Compliance

APPENDIX 1:
PROJECTED MERIT ORDER DISPATCH OF PROJECTED GENERATION

Ranking	Genco	Average Available Capacity Declared in 2019 (MWh/h)	Average Capacity of Energy Dispatched in 2019 (MWh/h)	Proposed Merit Order Dispatch for 2020 (MWh/h)
1	Hydro	876	877	876
2	AFAM VI (SHELL)	499	174	399
2	OKPAI	472	162	378
3	AZURA	436	258	349
4	Omotosho & Olorunsogo	372	278	298
5	NIPP	736	737	720
6	Other IPPs	198	199	187
7	Successor Thermal	930	934	879
	Total	4,519	3,619	4,086