



NIGERIAN ELECTRICITY REGULATORY COMMISSION

ELIGIBLE CUSTOMER REGULATIONS IS STILL IN FORCE

ON ELIGIBLE CUSTOMER TRANSACTIONS

The attention of the Nigerian Electricity Regulatory Commission (“Commission”) has been drawn to news articles trending on both the electronic and print media reporting that the Eligible Customer Regulations (“ECR”) issued by the Commission in 2018 has been suspended. The articles further reported that the Transmission Company of Nigeria Plc (“TCN”) has been directed by the Commission to disconnect certain customers as a consequence of the suspension of the said regulations.

The Commission wish to state that the Eligible Customer Regulations (“ECR”) has NOT been suspended and at no time has the Commission issued a directive for discontinuation of service to any customer. The ECR was developed and approved by the Commission, pursuant to a declaration made by the Honourable Ministry of Power as provided under section 27 of the Electric Power Sector Reform Act (“EPSRA”). The regulations provide for conditions for the grant of eligibility status by the Commission. The Commission further issued the guidelines for filing for competitive transition charge (“CTC”) to account for loss of revenue by DisCos in compliance with section 28 of the Act. In this regard, electricity consumers across the country that comply with the provisions of the Eligible Customer Regulations may avail themselves of the bilateral contracting opportunities presented by the intent of the provisions in the EPSRA and the ECR.

The Commission has noted references to our letter to the Market Operator and being referred to as a directive for discontinuation of supply to certain customers. We wish to state that this was a straightforward directive of the industry regulator restraining the TCN from recognising unauthorised eligible customer transactions in the market settlement statement without the prior approval of the Commission. The Commission further directed all unauthorised EC transactions to revert to BILLING by the distribution companies (“DisCos”) operating in the franchise area where the customers are located but without disruption in supply until the customer is conferred with eligibility status pursuant to the requirement of the ECR. It is important to note that where the majority of these customers pursuing EC status have always been served through 132kV transmission lines, the billing of the customers resides with the distribution companies (“DisCos”) unless a customer elects to purchase energy under the framework of the ECR.

ON SEEKING ELIGIBLE CUSTOMER STATUS

The Eligible Customer Regulations was designed to provide a very simple process for securing eligibility status from the Commission for customer whose consumption is in excess of the minimum threshold of 2MWh/h over a period of one month. The key conditions for the grant of the EC status are as follows:

- Evidence of no indebtedness to DisCos: An eligible

customer applicant is obligated to show that it is not indebted to the existing supplier before it can be conferred with eligibility to switch a supplier of electricity. Many of the applicants for eligibility status are, however, unable to provide this evidence due to a pending settlement dispute with their respective DisCos.

- The supplier (GenCo OR trading licensee) to the potential eligible customer should possess an unencumbered generation capacity to sell to other customers.
- Evidence of an agreement with the supplier of last resort in compliance with sections 37 and 38 of ECR. This is to ensure a continuity of supply to the eligible customer, in the event of a disruption by the contracted GenCo.

The aforementioned conditions provided in the light-handed EC regulations issued by the Commission are designed to preserve the structure and orderliness of the electricity market while opening opportunities for competition and better service for consumers. Electricity consumers meeting the consumption threshold of 2MWh/h wishing to avail themselves of the opportunity of purchasing electricity from sources other than DisCos are encouraged to apprise themselves of the guiding regulations of the industry and not rely on the presumption of compliance. GenCos wishing to sell electricity to consumers under the eligible customer framework are mandatorily required to possess an unencumbered generation capacity for sale to other consumers.

The public is further invited to note that a number of eligible customer application before the Commission are stalled by the inability of either the applicants or their potential suppliers to fulfil the conditions precedent for grant of eligibility in compliance with sections 5, 6, 23, 37 and 38, and schedules 1A & 1B of ECR. These conditions are easily within the reach and control of the applicants and the potential suppliers. Other reasons constraining the grant of eligible customer status to some major consumers of electricity include various litigations and/or objections to applications filed with the Commission.

The Commission is committed to opening up the electricity supply industry for competition and new investments. We are committed to granting timely approvals to all applicants who have met the conditions for eligibility status as provided in the eligible customer regulations. We will, however, continue to be firm on orderliness and compliance with the regulations, Order and operating codes guiding the electricity industry.

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