



ORDER NO: NERC/2024/013

**BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION
ORDER ON REGULATORY INTERVENTION IN PORT HARCOURT ELECTRICITY
DISTRIBUTION PLC FOR NON-COMPLIANCE WITH THE ORDER ON CAPPING
OF ESTIMATED BILLS TO UNMETERED CUSTOMERS**

TITLE

1. This regulatory instrument may be cited as an *Order on Non-Compliance with Capping of Estimated Bills by Port Harcourt Electricity Distribution Plc* for the period January – September 2023.

COMMENCEMENT

2. This Order shall take effect from 12th February 2024 and shall remain effective until amended or revoked by subsequent Orders issued by the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission").

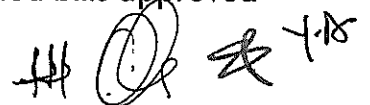
CONTEXT

3. Section 34(1)(d) of the Electricity Act 2023 ("EA 2023") mandates the Commission to "*ensure that prices charged by licensees are fair to consumers and are sufficient to allow the licensees to finance their activities and to allow for reasonable earnings for efficient operations*".
4. The end-use customer metering gap in the Nigerian Electricity Supply Industry ("NESI") stood at 61% as of December 2020 which led to a prevalence of estimated billing by the Electricity Distribution Companies ("DisCos"). In the absence of regulatory directives from the Commission, DisCos resorted to the estimation of unmetered customers through the reconciliation of Distribution Transformer ("DT") consumption. However, the Commission noted with concern that many of the DTs were unmetered which increased the probability of unmetered customers being overbilled by DisCos.

5. To protect unmetered customers from arbitrary billing, the Commission issued Order No/NERC/197/2020 – Order on the Capping of Estimated Bills in 2020 which made provisions for the capping of the estimated bills of unmetered customers based on the average consumption of metered customers on a feeder. Furthermore, in September 2022, the Commission issued the Order on Performance Monitoring Framework for DisCos (“the Order”) NERC/316-318, 319A-326A/2022. The Order which became effective 1st October 2022 provides for the seven (7) underlisted key performance indicators against which the PHEDC management’s performance is measured:
- i. Energy offtake relative to the available generation
 - ii. Revenue per unit of energy offtake
 - iii. Total collection relative to revenue requirement
 - iv. Compliance with feeder metering/API status
 - v. Service Base Tariff (“SBT”) Reporting
 - vi. Compliance with the Order on Capping of Estimated Billing
 - vii. Compliance with Forum decisions with respect to customer complaints
6. The performance indicator regarding the assessment of compliance with the Order on capping of estimated billing sought to ensure that the billing of PHEDC’s unmetered customers is compliant with the methodology and the energy caps issued monthly by the Commission. The Order provides that PHEDC is obligated to strictly comply with the monthly energy caps and that no unmetered customer shall be billed above the approved caps for the feeder serving the customer.
7. The enforcement actions provided in the Order on Performance Monitoring Framework for DisCos for non-compliance with the energy caps issued monthly by the Commission for each feeder are as follows:
- i. First instance of failure to meet monthly compliance: Issuance of a rectification directive (“RD”) to the DisCo by the Commission.
 - ii. Failure to meet the monthly compliance targets for three (3) months over two consecutive quarters (6 months): The Commission may take other enforcement actions including the withdrawal of current management’s “Fit and Proper” approval thereby disqualifying the affected staff from holding key management positions in PHEDC.

PERFORMANCE REVIEW

8. The performance review for the period January - September 2023 indicates that PHEDC failed to comply with the monthly caps on estimated bills approved

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by the Commission. Upon completion of the review, the Commission issued an RD stipulating a 14-day compliance deadline which expired on 18th August 2023. The RD also notified PHEDC that further regulatory action(s) shall be taken in accordance with the KPI Order for subsequent non-compliance. The continuous failure of PHEDC to adhere to the Commission's monthly caps for estimated billing has led to a significant over-billing of customers as outlined in Table 1.

Table 1: Energy Over-Billed from January - September 2023

Period	No. of Overbilled Customers	Overbilled Energy (kWh)	Overbilled Energy (₹)
Jan-23	222,193	88,443,243	5,430,415,146
Feb-23	16,500	6,315,956	387,799,709
Mar-23	226,313	85,852,801	5,271,362,009
Apr-23	46,923	16,301,242	1,000,896,273
May-23	45,311	15,950,195	979,341,965
Jun-23	48,381	18,205,494	1,117,817,348
Jul-23	-	-	-
Aug-23	-	-	-
Sep-23	-	-	-
Total		231,068,932	14,187,632,449

9. The Commission notes that PHEDC's persistent non-compliance with the Order on capping of estimated bills for the period January - September 2023 has led to widespread customer dissatisfaction which has aggravated customer apathy to pay their bills thereby contributing to the liquidity issues in the NESI.

OBJECTIVE

10. This Order seeks to –
- Ensure rectification of PHEDC's billing above the approved monthly caps and application of appropriate credit adjustments to the customers' accounts.
 - Ensure that PHEDC acts with diligence and integrity by promptly adjusting any estimated billing that exceeds the approved capping limit.
 - Strengthen transparency and accountability in the billing processes within the NESI.
 - Establish a framework to publicly disclose the list of beneficiaries from the rectification process which will empower customers to assert their rights and verify the accuracy of their bills.

ORDER

11. THE COMMISSION HEREBY ORDERS as follows –

A. Credit Adjustment for customers overbilled by PHEDC

- i. At the billing cycle for energy consumed in February 2024, PHEDC shall reconcile the accounts and issue credit adjustments for all customers that were over-billed between January – September 2023 based on the Commission’s assessment as contained in Schedule 1.
- ii. PHEDC shall submit its billing data for the February 2024 cycle (and any other relevant information) to the Commission as evidence of compliance with the provisions of section 11(A)(i) of this Order, no later than the 31st of March 2024.
- iii. PHEDC shall publish, in 2 (two) National dailies, citing the provisions of this Order, the list of credit adjustment beneficiaries (follow the sample contained in Schedule 1), and the same concurrently posted on its website, no later than the 31st of March 2024.

B. Regulatory deduction from PHEDC’s Revenue Requirement

- i. To forestall further non-compliance, a deduction of ₦1,418,763,245 which is equivalent to 10% of the Naira value of the total over-billing for the period January – September 2023 shall be applied to PHEDC’s annual OpEx over a rolling 12-month period during the next tariff review.
- ii. Notwithstanding the provisions of section 11(B)(i), and pursuant to the provision of section 34(2)(f) of the EA 2023, the Commission may deduct a greater percentage of the total over-billing from PHEDC’s admin OPEX where a non-compliance with capping Orders persists.

Dated this 8th day of February 2024



Sanusi Garba
Chairman



Dafe C. Akpeneye
Commissioner
Legal, Licensing & Compliance