ORDER NO: NERC/2026/062A

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION REVISED ORDER ON SUCCESSOR DISTRIBUTION COMPANIES' UTILISATION OF EARNED NON-ADMIN OPERATING EXPENDITURE

TITLE

1. This regulatory instrument may be cited as the *Revised Order on Successor Distribution Companies' ("DisCos") Utilisation of earned Non-Admin Operating Expenditure.*

COMMENCEMENT

2. This Order shall take effect from 4 September 2026 and may be amended or revoked by subsequent Orders issued by the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission"). This Order applies to Successor DisCos and is without prejudice to any regulatory instruments for monitoring revenue utilisation that may be issued by a state regulator to her respective licensee.

BACKGROUND

3. The Multi-Year Tariff Order ("MYTO") 2007 methodology for the determination of DisCos' Revenue Requirement and applicable tariff provides that investors fully recover only efficient operating and maintenance costs to cover routine and administrative expenses ("OpEx"), earn fair market-based returns on invested assets ("Return on Capital") and provide for asset replacement ("Depreciation") over their useful life ("Return of Capital"). As a result, the disaggregated building blocks used in determining the revenue requirement of DisCos are as follows:

   a. Admin OpEx
   b. Fixed and Variable OpEx components
   c. Returns of investment (Depreciation)
   d. Returns on investment

4. For the purpose of this instrument, the building block components listed in paragraph 3(b) – (d) i.e. Fixed and Variable OpEx, Depreciation and Returns on investment are hereafter referred to as "Non-Admin OpEx". Y.A.

5. All allowances in utility rate making are subject to prudent review as well as 'used and useful' tests to ensure utilities are only able to recover prudent and acceptable expenditures from customers through tariffs. In line with global regulatory best practices, these allowances, including CapEx provisions, are subject to retroactive reviews by the Commission to ensure compliance with extant instruments and to facilitate regulatory claw-back where necessary.

6. Pursuant to the provisions of MYTO 2024 for DisCos, which became effective in January 2024, and the monthly Supplementary Orders issued thereafter, DisCos are mandated to utilise their approved revenue requirements to ensure continuous service improvement, undertake network maintenance, repairs and expansion as required.

7. Historically, DisCos have experienced challenges in generating sufficient revenues to cover their Admin OpEx. However, evidence has shown that recent measurable improvements in Aggregate Technical, Commercial and Collection loss reduction have resulted in some DisCos earning sufficient revenues to cover their Admin OpEx fully while also earning a significant portion of other revenue requirement building block components.

8. Section 28(b) of the Regulations on Procedure for Electricity Tariff Reviews 2024 provides that: ***"without prejudice to the provisions in these regulations, the Commission may elect to conduct an open-book review (based on available records and data) for the determination of prudent costs, revenue recovery and tariffs of a licensed network provider/operator as may be deemed necessary by the Commission"***.

9. Pursuant to the provision above, the Commission in April 2026 undertook a review of DisCos' utilisation of earned Non-Admin OpEx for the 2025 market cycle. The review revealed that although many DisCos did not recover sufficient revenues to meet their upstream market obligations, a few of the DisCos recovered revenues which exceeded their upstream market obligations thereby allowing the latter group to recover significant portions of other revenue requirement building block components.

10. The Commission has noted the challenges faced by DisCos in accessing external financing, as a result it is imperative that Non-Admin OpEx is deployed for network improvement and expansion to ensure improved reliability of supply. This Order provides a framework for the utilisation of earned Non-Admin OpEx by the DisCos towards essential CapEx projects aimed at improving the quality, reliability and sustainability of supply to end-use customers.

LEGAL BASIS

11. Section 34(1) of the Electricity Act 2023 ("EA" or the "Act") mandates the Commission to create, promote, and preserve an efficient electricity industry, ensure optimal utilisation of resources for the provision of electricity services and ensure that prices charged by licensees are fair to consumers and are sufficient to incentivise investments.

12. Section 116(2) of the EA provides that DisCos are to fully recover only the efficient cost of their business activities and earn a reasonable return on the capital invested to send economically efficient signals. DisCos' approved tariffs are required to provide incentives for continuous improvement in service quality through technical and economic efficiencies.

OBJECTIVE

13. This Order seeks to:

a. Enforce DisCos' compliance with the capital investment obligations contained in their respective tariff Orders.

b. Accelerate the delivery of end-to-end feeder-based rehabilitation across DisCos to improve quality of power supply to end-use customers.

c. Support the delivery of reliable power supply to customers through the application of funds for the reinforcement and expansion of the distribution systems.

d. Utilise available DisCo funds to augment ongoing CapEx interventions in the distribution sub-sector of the NESI e.g. World Bank Distribution Sector Recovery Program ("DISREP") and Presidential Metering Initiative ("PMI").

IMPLEMENTATION

14. Pursuant to the objectives stated in paragraph 13 and the urgent need to ensure that DisCos utilise all available resources for the execution of adequate projects to resolve constraints limiting quality of supply to end-users in the NESI, the Commission hereby ORDERS as follows:

A. DisCos shall open and maintain a dedicated CapEx Provision account to fund the implementation of approved PIP projects.

B. Effective from the August 2026 market cycle, DisCos' revenue after the settlement of current upstream invoices and remittance of Admin OpEx for the current market cycle shall be applied as provided in the table below:

Y.A.

Utilisation (%) of Successor DisCos' earned Non-Admin OpEx

	Aug 2026 – Jan 2027 Market Cycles		From Feb 2027 Market Cycles	
	DisCo without Market Debts (%)	DisCo with Market Debts (%)	DisCo without Market Debts (%)	DisCo with Market Debts (%)
Payment to NBET for outstanding debt*	N/A	25	N/A	25
Payment to MO for outstanding debt*	N/A	25	N/A	25
Remittance to CapEx Provision Account	50	25	60	30
Remittance to DisCo Operation Account	50	25	40	20
	100	**100**	**100**	**100**

* **In instances where DisCos have outstanding debt to either NBET or MO, but not both, the % share due to either shall be remitted to the dedicated CapEx Provision Account.**

C. DisCos shall ensure that all funds accrued in the dedicated CapEx Provision account are used solely to finance end-to-end eligible projects subject to the Commission's approval following the procedures set out below:

  i. Identify and prepare eligible end-to-end projects along state boundaries.

  ii. Obtain a "No Objection" for eligible projects from the Commission.

  iii. Undertake the procurement process and seek the Commission's "No Objection to Award Contract". The request shall clearly specify the milestones and conditions for disbursement throughout the project.

  iv. Ensure execution of the contracted work in accordance with the approved conditions and disbursement milestones.

  v. Submit quarterly progress report to the Commission no later than 15 days after the end of each quarter.

D. DisCos with outstanding upstream settlement obligation shall within 180 days from the issuance of the initial Order, finalise their reconciliation with NBET and the Market Operator ("MO") and agree a payment plan subject to the approval of the Commission.

EFFECTIVE DATE

15. This Order shall be effective from 4 September 2026.

Dated this 4th day of September 2026

04/09/2026   04/09/26

Musiliu O. Oseni, PhD
Chairman

Yusuf O. Ali, PhD
Vice Chairman