AJUMOGOBIA & OKEKE

Nigerian Energy Sector:

Legal & Regulatory Overview (2015)

INTRODUCTION

Nigeria has made a major transition from a vertically integrated, publicly-owned electricity network to a largely privately-owned unbundled electricity network, with the separation of the different segments of electricity business through a process called 'unbundling'. The reforms have moved Nigerian power sector from a state monopoly to a competitive electricity market. Prior to the 2005 reforms, Nigeria, with a population of 165 million people, and an average generation of about 3,800 megawatts (MW), had a low per capita consumption. Thus, Nigeria embarked on the liberalisation and privatisation of electricity sector.

Since 2005, there has been considerable achievement in the power sector, with the Nigerian Electricity Regulatory Commission (NERC) having licensed more than 20,000 MW of power that could potentially come to the grid in a few years. However, the licensees are yet to make real progress in executing their projects.

Legal Framework

- Electricity Corporation of Nigeria Ordinance (1950)
- Niger Dam Authority Act 1962
- National Electric Power Authority Act, Cap 256, Laws of the Federation of Nigeria (LFN) 1990 (as amended)
- Electricity Act, Cap 106, LFN(1990) (as amended)
- Constitution of the Federal Republic of Nigeria 1999, CAP C23, LFN (2004)
- Public Enterprises (Privatisation and Commercialisation) Act, CAP P38, LFN (2004)
- Environmental Impact Assessment Act (EIA), Cap E12 LFN (2004)
- Electric Power Sector Reform Act, No. 6 of 2005 (EPSR Act)
- National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No 25 of 2007
- Electric Power Sector Reform (Transfer of Assets, Employees, Liabilities, Rights and Obligations) Order No. 1 of 2006 (SC Order)
- National Domestic Gas Supply and Pricing Regulations
- National Domestic Gas Supply and Pricing Policy
- Roadmap for Power sector Reform of 2010 (Roadmap)

Public Authorities By Function

- **Federal Ministry of Power:** The Ministry has overall broad policy formulation.
- **The Nigerian Electricity Regulatory Commission (NERC):** The NERC carries out regulation and marketing of the electric/power sector.
- **Bureau of Public Enterprises and National Council of Privatization (BPE/NCP):** the

two agencies drive the reform and liberalisation of the power sector.

- **Nigeria Electricity Liability Management Company (NELMC)**: The NELMC was created as a Special Trade with bulk purchase and resale license to manage existing PPAs and new procurement of power in the transition.
- **Electricity Management Services LTD (EMSL):** The EMSL is to carry out consulting services and provide shared services, such as logistics and meter testing
- **National Power Training Institute (NPTI):** The NPTI is to provide world class training to support the utilities manpower
- **Nigerian Bulk Electricity Trading Company (NBET):** NBET is the bulk trader created to solve the major problem of bankability of electricity projects.
- **Transmission Company of Nigeria (TCN):** handles the transmission of electricity across Nigeria.
- **Central Bank of Nigeria:** The CBN has intervened in the revenue shortfall that followed the Pre-Transition sage by setting up a stabilization facility with disbursements conditional upon, among other things, a migration from the current tariff rate of Multi- Year Tariff Order 2 (MYTO2) to a new mYTO 2.1, which is more cost reflective.

Sources of Energy in Nigeria

Electricity production in Nigeria over the last 40 years has varied from gas-fired, oil-fired, and hydroelectric power stations, to coal-fired stations with hydroelectric power systems and gas-fired systems taking precedence. This precedence is predicated on the fact that the primary fuel sources (coal, oil, water, and gas) for these power stations are readily available. Nigeria is considered as one of the energy rich country in the world. Nigeria is rated among the top Oil Producer in Africa, second in natural gas reserve and estimated 2 billion metric tonnes of coal, especially the enormous coal reserves in Enugu area. In fact, Nigeria has the 10th largest reserves of oil and gas globally, consisting of 36.2 billion barrels of oil and 1.84 trillion cubic feet of natural gas[1].

Nigeria's current realities demonstrate that there is no better time to invest in Nigeria than the present, and with Nigeria's improving positive demographics and liberalisation of the investment environment since the advent of democratic rule, Nigeria has become one of the major emerging markets[2]. At present, the installed and available electrical capacity in the Nigerian generating stations shows that despite a total grid capacity of 5924.7 MW, only 4586 MW is available, i.e., 22% of the installed capacity was unavailable.

1 Ibid. per Okala.
2 Afolabi Elebiju, Nigeria: Opportunity Beckons, ThisDay Lawyer, June 9th, 2015, at Page 9.

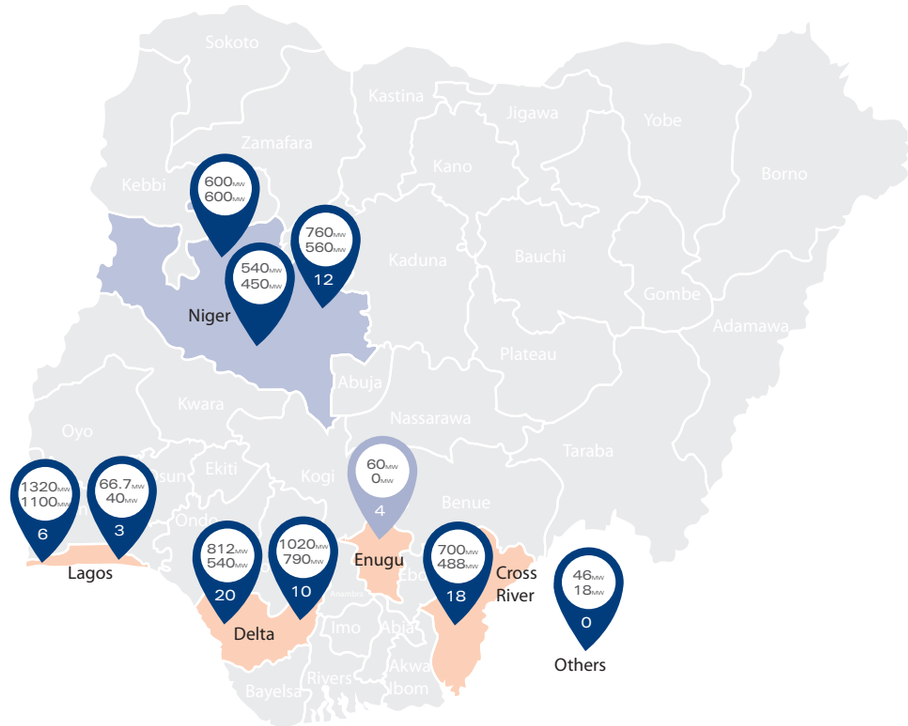


Table 1: Generating plants – grid stations (Source: Okoro & Madueme, 2004)[3]
*Inactive Plant

Reforms

The federal government in 2000 adopted a holistic approach of restructuring the power sector and privatising of business units unbundled from NEPA[4]. The reasons for reform were:

3 O.I. Okoro, and T.C. Madueme, Solar Energy Investments in a Developing Economy, Renewable Energy, Vol. 29, 2004, pp. 1599 -1610
4 O.O. Oyeneye, Socio-economic Influences on Policies of Power Deregulation, Proc. 20th National Conference of the Nigerian Society of Engineers (Electrical Division), October 6-7, 2004, pp. 1-15.

- Limited access to infrastructure and low connection rate.
- Inadequate power generation capacity.
- Inefficient usage of capacity.
- Lack of capital for investment.
- Ineffective regulation;
- High technical losses and vandalism.
- Insufficient transmission and distribution facilities.
- Inefficient use of electricity by consumers.
- Inappropriate industry and market structure.
- Unclear delineation of roles and responsibilities. The power sector privatisation reforms is evidence of the intent of the Nigerian government to facilitate private sector-led growth.[5]

Thus, the objectives of the Power Sector Reforms are:

- The overwhelming objective of the Electric Power Policy Statement (EPPS) is to ensure that Nigeria has an Electricity Supply Industry (ESI) that can meet the needs of its citizens in the 21st Century. This requires a fundamental reform at all levels of the industry
- Nigeria ESI must be such that it is able to: meet all current and prospective economically justifiable demands for electricity throughout the country, modernise and expand its coverage, and support national economic and social development, including relations with neighbouring countries
- The priority is to create efficient market structures, within clear regulatory frameworks, that encourage more competitive markets for electricity generation and sales (marketing), which, at the same time, are able to attract private investors and ensure economically sound development of the system.

The Reforms achieved the following:

- Unbundled the Nigeria Electricity Power Authority (NEPA) through 18 separate successor companies incorporated in the Power Holding Company of Nigeria (PHCN)
- Privatised the unbundled entities
- Established a regulatory agency - the Nigerian Electricity Regulating Commission (NERC)
- Established a rural electrification agency and fund
- Established Electric Power Consumer Assistance Fund.

5 Afolabi Elebiju, Nigeria: Opportunity Beckons, ThisDay Lawyer, June 9th, 2015, at Page 9.

Other key components of the electric power sector reform bill include:

- Powers of the NERC to regulate tariffs and quality service and powers to oversee the industry effectively.
- Powers of NERC in relation to anti-competitive behaviour, including mergers and acquisitions licensed electricity companies.
- Institutional and enforcement requirement of the regulatory regime.
- Requirement for licensing by the NERC of the generation companies system operator, transmission services, distribution companies and trading companies that will be created from the restructuring and unbundled of NEPA
- Legislative authority to include special conditions in licenses.
- Provision relating to public policy interest in relation to fuel supply environmental laws, energy conservation, management of scarce natural resources, promotion of efficient energy, promotion of renewable energy and publication of reports and statistics.
- Providing a legal basis with necessary enabling provisions for establishing, changing, enforcing, and regulating technical rules, market rules and standards.

COMPONENTS OF THE REFORM PROGRAMME

The National Electricity Power Policy (NEPP) and the Electric Power Sector Reform Act 2005 (EPSR) provide for the development of Nigeria electricity market. Wholesale competition was recommended for Nigeria to assist in monopoly control and cost insensitivity. Thus, the reforms broke NEPA's monopoly and paved the way for the entry of independent power producers (IPPs).

The restructuring adopted a two - pronged approach for power sector revitalisation towards a holistic reform-structural, organisational, institutional issues, i.e. (a) to foster choice and competition and (b) to establish clear roles and responsibilities. This covered the Federal Government's policy direction, monitoring and evaluation of implementation and performance; the private sector's participation in operations; and the Regulatory Commission's power of licensing, technical and economic regulation.

Prior to November 2013, the 10 successor companies that sent power to the national grid, and the 11 companies that sell power to consumers, were all owned by the government. In Nigeria, today, these companies are privately owned, and the transmission company is now under the management of the private sector. The reform entailed NEPA being unbundled into seven generation companies (GenCos), one transmission company (TransysCo) and eleven distribution companies (DisCos), an arrangement expected to encourage private sector investment particularly in generation and distribution.

As to the Market Reform Model, the type of Market proposed entails competitive wholesale market and retail competition in the long term, multi-buyer model—(hybrid during a transition period), private sector driven, cost reflective market structure, which encourages full competition in the long term, and involving a market operator to be in ring-fenced semi-autonomous entity during the transition.

Both the NEPP & EPSR Act make provisions for development of the market - a competitive market guaranteed by the Act, Policy and Market Rules and for the creation of an independent electricity regulator.

The Nigeria Electric Power Policy (NEPP)

The National Council on Privatisation (NCP) has issued the Nigeria Electric Power Policy (NEPP). The NEPP is premised on ensuring sustainable improvement in electricity supply through enhanced commerciality. The objective is to create a new electricity industry that is based on rules that are enforced by an independent regulator. The regulator will be mandated to ensure that 'efficient operators recover prudent costs'. This cost recovery is hinged on efficiency.

The NEPP was encoded in legislation through the Electric Power Sector Reform Act 2005. With the EPSR Act, Nigerian power sector reform achieved institutionalisation. The standard text in policy reform is that until the reform is codified in an Act of Parliament, the gains of the reform remain reversible. In the Nigerian experience, the institutionalisation of proposals of the NEPP in an Act of Parliament secured the reform from the turbulence of politics.

Creation of the Power Holding Company of Nigeria PLC (PHCN)

As of 2005, Nigeria had only the now defunct NEPA responsible for generating, transmitting and distributing electricity, in addition to the responsibility for regulating itself. However, in January 2004, the PHCN was created, with a pruned-down management team at the headquarters.

The ESPR Act 2005 translated NEPA into the newly incorporated Power Holding Company of Nigeria (PHCN) Plc – comprising of 18 separate successor companies that took over the assets, liabilities and employees of NEPA, and responsible for the generation (6 companies), transmission (a company) and distribution (11 companies). Nigeria now has different successor companies to the PHCN, generating, transmitting and distributing electricity as well as an independent Commission responsible for regulating the sector. The individual managers of the unbundled segments are expected to enjoy some level of autonomy[62], with TransCo being government owned and managed by system operators, (SO) and transmission operators, (TO).

6 F.N. Okafor, Modelling the Ancillary Services in Deregulated Power Networks of Developing Economics, 6th International Conference on Power System Operation and Planning (ICPSOP), May 2226, Cape Verde, 2005, pp. 222-227.

Creation of the Nigerian Electricity Regulatory Commission (NERC)

In November 2005, the Nigerian Electricity Regulatory Commission (NERC) was inaugurated and charged with the responsibility of tariffs regulation and monitoring of the quality of services of the PHCN. Before the reform, tariffs in the Nigerian electricity industry were depressed by government order. The old NEPA was barred by decree from increasing tariffs, even when the cost of supply of electricity had increased. The result was underproduction of electricity and the absence of investment in the network. Ultimately, it led to inevitable collapse of the system. Cost reflective tariff is critical to any sustainable success we may have with the power sector reform. But, the idea of cost reflective tariff is controversial and politically explosive.

The EPSR Act 2005 isolated the NERC from the direct control of the government bureaucracy. Nigeria now has a cost reflective tariff, with voluminous traffic in foreign and local investment in the electricity market. The NERC is an independent agency, and it fixes the tariff after due process and consultation with all stakeholders; and because the tariff is a product of scientific and technical analysis and modelling, NERC is insulated from the vagaries and anxieties of politics. The stability and credibility of the methodology for determining the Multi-Year Tariff Order, MYTO gives assurance to investors to continue to come to the Nigerian electricity market. As long as the regulatory landscape remains insulated from political manipulation, and as long as the regulation of the Nigerian electricity market remains legitimate and credible, foreign and local private sector investments will continue to flow into the Nigerian electricity market. Opportunities abound in the Nigerian electricity market, as the new owners of the distribution companies; DISCOs are committing themselves to better service delivery.

ESTABLISHMENT OF THE ROADMAP FOR POWER SECTOR REFORM OF 2010 (ROADMAP)

With the decline in electricity generation capacity in an ever increasing population, and with no visible plan to commensurately increase generating capacity, electric power demand increasingly overshot available supply. By year 2000, the problem sent Nigeria into electricity supply crisis, which caused the Federal Executive Council (FEC) in year 2001 to approve the National Electric Power Policy (NEPP), which called for fundamental changes to ownership, control and regulation of the power sector.

The implementation of the Nigeria Electricity Market is to be carried out through a gradual process of increasing competition designed in a Roadmap divided into four (4) stages:

- Pre-Transitional
- Transitional Market Stage: Characterized mainly as competition for the market;
- Medium-Term Market Stage: Characterized by full wholesale competition for the market and in the market; and
- Final Market Stage: Open to full wholesale competition and retail competition.

The key features of the Contracting Framework are dependent on the stage of the unbundling. During the Transition, the Vesting Contracts involve the Intermediate Step to move from integrated utility to fully competitive market and are designed to ensure an orderly transition.

Trading Arrangements in Transition demand that all trading are through contracts, the NBETCO [ST] will assume existing IPPs and eventually sign new PPAs, and the NBETCO and other Gencos will have vesting contracts with respective Discos. (The contracts will become Special Contracts on privatization).

Unbundling of PHCN

Across the world, countries are unbundling their ESI. Only the network elements of electricity transmission and distribution are natural monopolies. Thus, in contemporary power sectors, both electricity generation and sales/marketing of electricity are potentially competitive activities.

Unbundling will lead to technology developments. In contemporary power sectors, Combined Cycle Gas Powered Generators: has increased the gains from introducing competition into generation. Further, Modern Computing has brought improvements in transmission & system dispatch, which allows for the introduction of short-term and contract markets in bulk power. Therefore, such markets encourage the introduction of private management methods and private investment as well as fostering the privatization of existing assets the intention is that the reforms would introduce these now widely applied developments to Nigeria.

The PHCN's incorporated successors in the unbundling process are given in Table 2.

Generating Companies (GENCOs)	Transmission Companies (TRANSCOs)	Distribution Companies (DISCOs)
Kainji Power Plc.	Transmission Company Of Nigeria	Eko Electricity Distribution Co. Plc.
Shiroro Power Plc.		Ikeja Electricity Distribution Co. Plc.
Ughelli Power Plc.		Ibadan Electricity Distribution Co. Plc.
Sapele Power Plc.		Benin Electricity Distribution Co. Plc.
Afam Power Plc.		Abuja Electricity Distribution Co. Plc.
Geregu Power Plc.		Port-Harcourt Electricity Distribution Co. Plc.
		Enugu Electricity Distribution Co. Plc.
		Kaduna Electricity Distribution Co. Plc.
		Kano Electricity Distribution Co. Plc.
		Jos Electricity Distribution Co. Plc.
		Yola Electricity Distribution Co. Plc.

Table 2: PHCN PLC's Successor Companies

7 Titus Olugbenga Koledoye, Abdul-Ganiyu A. Jumah, and D.A. Phillips, THE CURRENT AND FUTURE CHALLENGES OF ELECTRICITY MARKET IN NIGERIA IN THE FACE OF DEREGULATION PROCESS, EIE's 2nd Int'l Conf. Comp., Energy, Net., Robotics and Telecom.| eieCon2012, at Pages 30-36

Present And Future Electricity Generation Infrastructure Plan In Nigeria

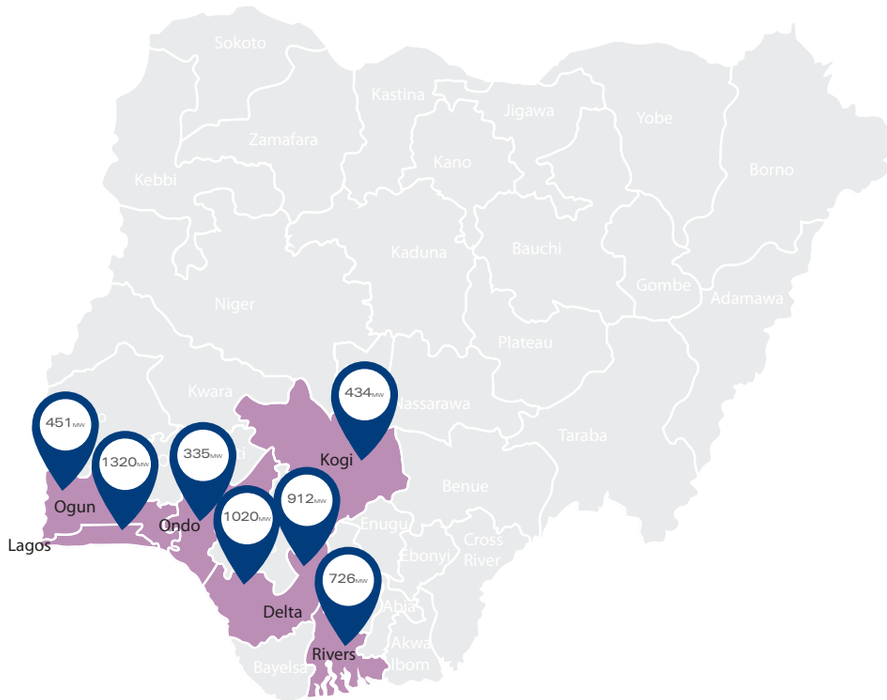
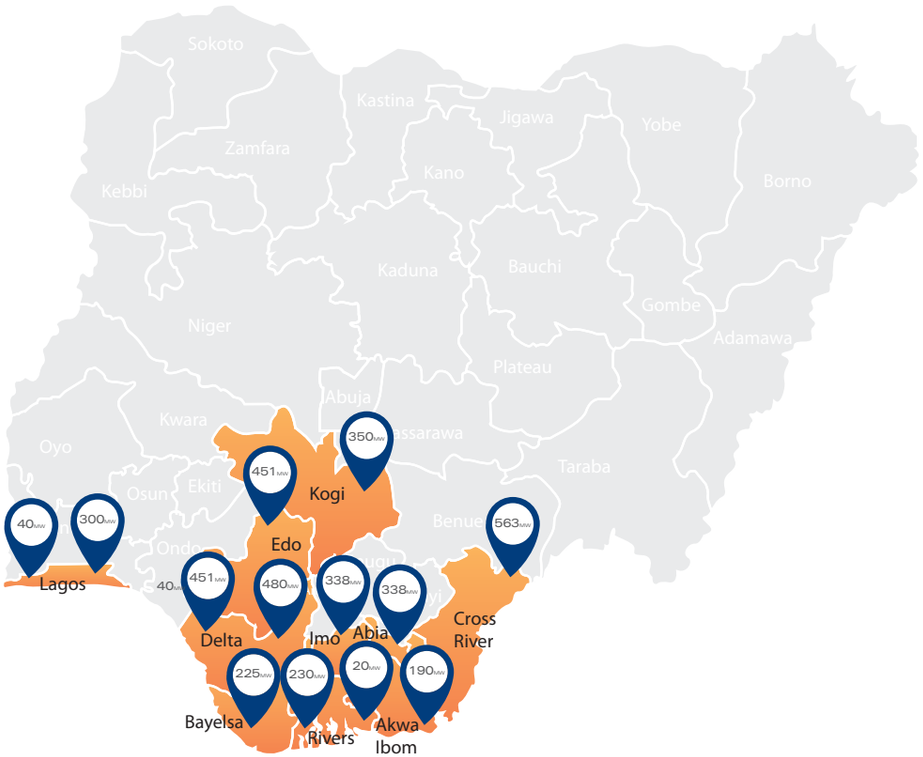


Table 3a: Thermal Stations for Divestiture

Total Capacity of Thermal Station for Divestiture: 5062MW

Table 3b: Thermal Generating Stations



Total: Installed Capacity of Thermal Generation Station: 22,171MW

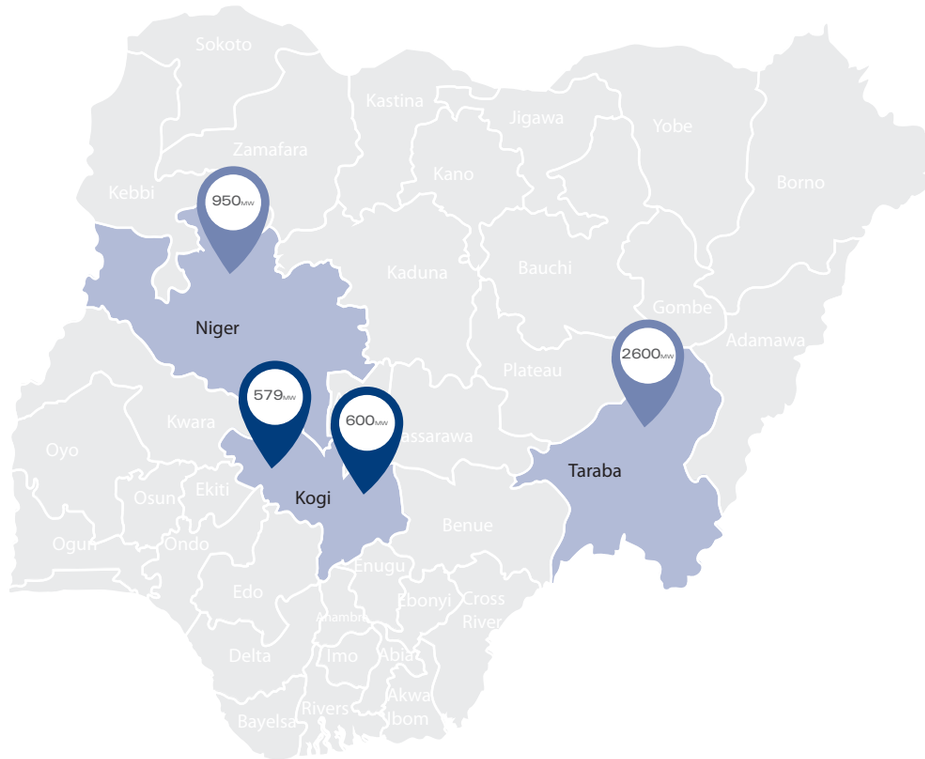


Table 3c: Table of Hydro-Generating Stations

Total Installed Capacity of Hydro-Generating Stations: 5,488MW
Current Total Generation Infrastructure in Nigeria: 27,659M

The Pre-Transitional Stage

November 2013 marked the end of the Pre-Transitional Stage, and the beginning of another. It was the end of the era of structural transition. Structurally, the template of a competitive private electricity market was set. The Pre-Transitional Stage had commenced with the sale of the successor companies, and having completed the privatization process, and the next stage is Transitional Stage. With the Minister of Power's Declaration, Nigeria moved to the Transitional Electricity Market (TEM)—which is the stage of full bilateral trading in electricity, where market participants will transact on the basis of their contract. Trading by contract will mark the formal beginning of a competitive electricity market.

The Post- Privatization Era: Transitional Electricity Market (TEM) Stage

This is the stage of development of the Nigerian power sector that would witness the transition from a government controlled ad administered structure to a contract based, private sector driven competitive electricity market. The liberalization and privatization of electricity sector in Nigeria marks the end of a phase in the reform of the power sector. But, it also marks the beginning of another phase. It ends the phase of structural transformation of the sector, and marks the beginning of the phase of cultural and technical transformation.

On 29 January, 2015, following the execution of documentation for CBN-NEMSF, pursuant to Section 32 of EPSRA, the NERC by an order declared, 1 February for the commencement of TEM after satisfying itself that all the conditions had been satisfied.

In February 2015, the CBN made available a N213 billion (about US$1.8 billion) Nigerian Electricity Market Stabilisation Facility (CBN-NEMSF) at a concessionary interest of 10% per annum on a reducing balance basis to the Nigerian power sector. According to the CBN Regulation, the purpose of the CBN-NEMSF was to settle outstanding payment obligations due to Market Participants, Service Providers and gas suppliers that accrued during the Interim Rules Period (Interim Rules Debt or IRP Debt), as well as Legacy Gas Debt of the PHCN generation companies owed to gas suppliers and the Nigerian Gas Company (NGC) which had been transferred to the Electric Liability management Company (NELMCO) (the Legacy Gas Debt).

The Medium Term

After the TEM, the market moves to the Medium Term, when hopefully there will be adequacy of supply in the market, and the generation component of the market will be fully deregulated, and prices will be on the basis of willing buyer willing seller.

The Final Long Term

The end of structural reform is the beginning of cultural reform. The problems that crippled the electricity industry are not just technical. There are also adaptive. They are partly problems of values and governance.

Nigerian Bulk Electricity Trading Company, NBET

The NBET was created to provide the status of a credit-worthy offtaker with which the Gencos can confidently contract given that many investors within the power market were not willing to take on the credit risk of the Discos (which are presently not viewed as credit worthy).[8] It was thus set up to purchase power from the Gencos under Power Purchase Agreements (PPAs) and, in turn, to sell to the Discos under Vesting Contracts (VCs). NBET was highly capitalised and in addition, there is the possibility of Gencos that meet the requirements, obtaining a partial risk guarantee from the World Bank and the African Development Bank securing the payment obligations of NBET to such Gencos[9].

Independent power producers in the new Nigerian electricity market could not secure financing, because of the lack of creditworthiness of the Nigerian electricity market. The creation of the Nigerian Bulk Electricity Trading Company, NBET solved a major problem with bankability of electricity projects.

Until the creation of NBET, project developers failed to convince investors and financial advisors to lend them money for project development. The simple reason for the refusal was that the Nigerian electricity industry was bankrupt with huge debts arising from unpaid services and poor tariff collection. Until NERC unlocked the tariff policy from bureaucratic control, no substantial investment could be made in the Nigerian power sector. The market is ready.

14 Aniekpan Ukpanah, Nicholas Okafor and Tega Agbosah, The Nigerian Power Sector Privatisation and the Declaration of a Transitional Electricity Market (2005) at Page 277.

15 Ibid

TAX INCENTIVES FOR INVESTMENT IN THE POWER SECTOR IN NIGERIA

There are numerous incentives provided in various Nigerian tax laws such as the Nigerian Investment Promotion Commission Act, Cap N117 LFN (2004) (the NIPC Act) and the pioneer status under Industrial Development (Income Tax Relief) Act, Cap I7 LFN (2004), (IDITRA). A pioneer certification exempts qualifying companies from payment of income taxes for a period not exceeding 5 years. It also grants accelerated capital allowances after the expiration of the tax holiday and tax exempt dividends, amongst others.

In addition, Section 80(3) of the Companies Income Tax Act, Cap C21, LFN 2004, (CITA), provides that dividend received after deduction of tax prescribed shall be regarded as 'franked investment income' to the recipient company and shall not be charged to further tax as part of the profits of the recipient company. Further, under Section 80(4) of CITA, where the recipient company of dividends is a foreign company (i.e. not registered in Nigeria) the tax withheld will represent the final tax payable by the foreign recipient company.

In 2012, the Federal Government, with a view to encouraging foreign direct investment, has released certain regulations providing various tax reliefs to companies in the form of the Companies Income Tax (Exemption of Profits) Order 2012 issued by the President which confers three categories of tax relief on companies doing business in Nigeria. These are:

1. Employment Tax Relief (ETR), which exempts a company from income tax on 5% of its assessable profits in an assessment period, provided 60% are employees without any form of work experience, and must have a minimum of 10 employees.

2. Work Experience Acquisition Programme Relief (WEAPR), which grants exemption from income tax on 5% of assessable profits, provided the company retains five new employees for a minimum of two years from the year in which they were employed.

3. Infrastructure Tax Relief (ITR), which grants income tax exemption on 30% of cost incurred in providing infrastructure or facilities such as roads, water and electricity of a public nature.

Another incentive available to investors in the power sector is that available to investors in the power sector. The recent move by the Federal Government of Nigeria to increase

the power generation capacity has led to the privatisation of the power sector. Most companies interested in power generation are taking advantage of Nigeria's abundant gas reserves and are setting up gas-fired plants. Thus, companies involved in the utilisation of gas are entitled to incentives including but not limited to an initial tax-free period of three years, renewable for an additional period of two years, accelerated capital allowances and tax-free dividends during the tax period.

In addition, Section 5 of the Customs and Excise Tariffs etc, (Consolidation) Act Chapter C49 Laws of the Federation of Nigeria (2004), as well as the Presidential Order contained in the 2012 Budget Speech by which machinery, equipment and spare parts imported into Nigeria by an industrial establishment engaged in power generation that utilises gas, are exempted from customs duties.

Also, Item 8 of Part I of the First Schedule to the Value Added Tax Act, Cap V-1, Laws of Federation, 2004 (VAT Act) also provides that plant, machinery and equipment purchased for utilisation of gas in downstream petroleum operations are exempted from VAT.

DISPUTE RESOLUTION

The Electric Power Sector Reform Act, No. 6 of 2005 (EPSR Act) makes specific provisions for proceedings of the NERC, decisions and orders of the NERC, the duty of NERC to give notice to interested parties, and when the NERC may consult experts on technical questions or when questions of law may be referred to the High Court.

In this regard, under Section 45 of the EPSR Act, the NERC is empowered to conduct its proceedings, consultations and hearings at its headquarters or at any other place in Nigeria, and shall make regulations for the discharge of its functions and for the conduct of its proceedings, consultations and hearings, including procedures for the participation of licensees, consumers, eligible customers and other persons.

Section 47 requires that the NERC shall hold public hearings on matters which the Commission determines to be of significant interest to the general public. Where the Commission is required to, or otherwise decides to, hold a hearing, all persons having an interest in such a matter shall, as far as reasonably practicable, be notified of the questions at issue and given opportunities for making representations if they so wish.

In carrying out NERC's functions, Section 48 of EPSR Act states that when any matter arises which entails the consideration of any professional or technical question, the NERC may consult such persons as may be qualified to advise thereon.

Further, Section 49 of EPSR Act also states that if any question of law arises from an order or decision of the NERC, the NERC may, on its own initiative or at the request of any person directly affected by such order, reserve that question for the decision of the High Court, and that where a question has been reserved to the High Court, the NERC shall state the The Electric Power Sector Reform Act, No. 6 of 2005 (EPSR Act) makes specific provisions for proceedings of the NERC, decisions and orders of the NERC, the duty of NERC to give notice to interested parties, and when the NERC may consult experts on technical questions or when questions of law may be referred to the High Court.

Of particular importance is Section 50 of the EPSR Act which gives a right of appeal and re-hearing to any person who is aggrieved by:

(a) a decision of the Commission not to issue a licence;
(b) any term or condition of a licence issued to him, or a refusal by the Commission to specify a term or condition in a licence;
(c) a refusal by the Commission to renew a licence;
(d) any amendment of a licence or a refusal by the Commission to amend a licence;
(e) the cancellation of a licence;
(f) the grant or refusal by the Commission to grant any approval or authority in terms of this Act;
(g) the outcome of any arbitration or mediation by the Commission of a dispute between licensees;
(h) a decision of the Commission with respect to prices or tariffs;
(i) any other decision of the Commission; may apply to the Commission for review of the decision, order or refusal.

Under Section 50(2), the NERC may, reconsider, vary or rescind its decisions before issuing a final decision, in accordance with such procedures as the Commission may establish; provided that such review or reconsideration shall be completed within sixty days of the date it is requested.(f) the grant or refusal by the Commission to grant any approval or authority in terms of this Act;
(g) the outcome of any arbitration or mediation by the Commission of a dispute between licensees;
(h) a decision of the Commission with respect to prices or tariffs;
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Arbitration

Nigeria is home to some of the world's most respected Arbitrators and practitioners; with a number of arbitral bodies represented in the country. The Arbitration & Conciliation Act and the Arbitration Law of Lagos State are the main statutes with the Lagos Court of Arbitration at the International Centre for Arbitration and ADR as the preferred choice.

CONCLUSION

The reform continues to target increase in the generation, transmission and distribution capacity of power in Nigeria, albeit, in stages.

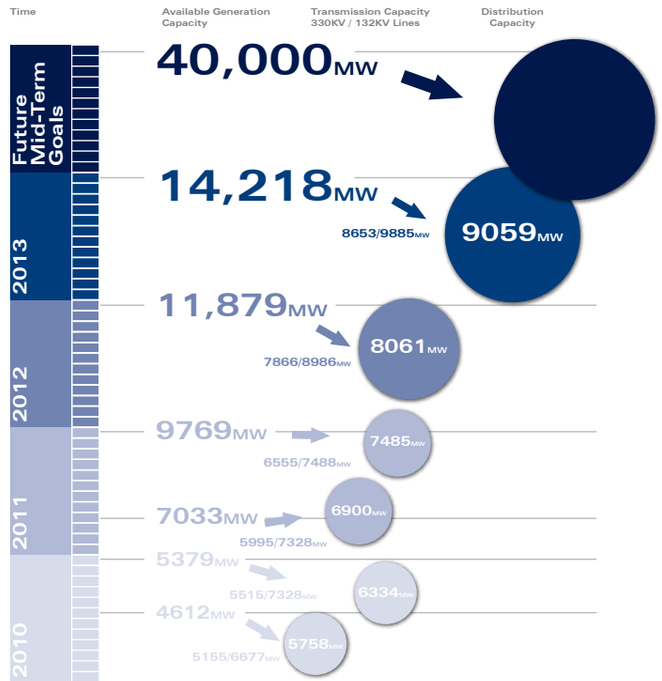

Table 4: Targeted Increase in Generation, Transmission and Distribution Capacity

In conclusion, there are enormous investment opportunities in Nigeria in the power sector. Nigeria stands to benefit in the form of employment opportunities; transfer of technical manpower; Research and Development; public revenues; improved services; and reduced tariffs.

DISCLAIMER:

This legal overview is intended to provide only general, nonspecific legal information as at July 2015 and does not purport to give a legal opinion or advice on specific facts or situations. You should consult and seek legal advice from Nigerian qualified legal practitioners before engaging any matters contained in this publication.

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