



NIGERIAN ELECTRICITY REGULATORY COMMISSION

DECISION IN THE COMPLAINT (PETITION) ON THE ILLEGAL AND EXHORBITANT ELECTRICITY CHARGES IN NICON TOWN ESTATE LEKKI LAGOS

Sometime in March 2009, the Commission received a Petition from Nicon Town Residents and Plot Owners Association (Petitioner) on illegal and exorbitant electricity charges in Nicon Town Estate, Lekki, Lagos.

The Petitioner alleged as follows:

1. A small clique of usurpers had taken over control of Nicon Town Management Company Plc (NTMC) using it to extort monies from the residents and plot owners for different services.
2. There was an outrageous and illegal tariff charge of N9.50k per kilowatt hour of consumption, plus a monthly charge of N2000.00 for “facility replacement/admin charge”.
3. There might be some collusion between PHCN Lekki and the Management Company to extort money from residents.
4. Nicon Town Management Company, Plc illegally demanded that all residents and plot owners of the estate should purchase electricity meters from its appointed agents (Ergon Utilities Ltd) at a cost of ~~N~~60, 000.00 (including installation) and N67, 000.00 each as share of connection fee to PHCN 33kv premium line.
5. The NTMC was sharing bills among tenants without considering various usage/consumptions.
6. NTMC’s High handedness/lack of communication with plot owners and residents
7. EEDC’s non-response to the Association’s letter concerning meter supply/installation
8. The resolve of the Association to stop paying bills after March, 2009 and to deal directly with Eko Distribution.
9. Doubts as to the authenticity of the bulk meter reading.

The petition (complaint) was forwarded to the respondent, Nicon Town Management Company (NTMC) and to the EEDC who in turn responded to the petition.

The Commission then caused an investigation into the complaints by sending a fact finding team to investigate the allegations. The investigation involved meeting with the Petitioners, the NTMC, officials of the Eko Electricity Distribution Company (EEDC) and inspection of electrical installations in Nicon Estate. Most of the issues raised in the petition were resolved except for issues bordering on non compliance with the provisions of the Electric Power Sector Reform (EPSR) Act, 2005, the licence terms and conditions and the Multi Year Tariff Order (MYTO).

Consequently, the Commission pursuant to Section 75 (2) EPRS Act 2005, issued a notice of intention to issue an Order dated 25th August 2005 (attached), to EEDC pursuant to S.75 (2) EPSR Act 2005 to Eko Distribution Company.

The notice further gave grounds upon which the Order will be issued, and directed that the observed contravention be rectified within 30 working days from the date of the issuance of the notice. The notice also gave EEDC the option of making representations to the Commission in respect thereof as well as an option of regularizing its position in certain respect by seeking the Commission's consent which it refused and ignored to utilize.

The 30 days timeline expired on October 5, 2009. In it's representation to the Commission by way of a letter dated 18th of September 2009, the EEDC failed and or neglected to comply with the issues raised in the Commission's notice of intention to issue Orders.

Rather, EEDC defended itself by stating as follows:

- (i) That NTMC is not an agent of EEDC but a Customer
- (ii) That the tariff charged NTMC for the period under review is N8.50kwh and that this is not against the approved tariff of the NERC for customers on R5.
- (iii) That they are not privy to the Agreement between NTMC and the residents for which NTMC demanded N67,000 and N60,000 as connection fees and meter fees respectively.
- (iv) That section II(i) of the National Electric Power Authority Act, cap 256 Laws of the Federation of Nigeria (LFN) 1990 (Nepa Act), section 98(1), 98(2), 98(5) of the EPSR Act, 2005 gives EEDC powers to distribute or supply electricity in bulk or otherwise to any person

Having reviewed the totality of the evidence before it, including submissions and representations made before it in the course of its investigations, the Commission HEREBY ORDERS as follows:

1. In accordance with the provisions of Sections 62, 67, 69 of the EPSR Act 2005, condition 17 of the terms and conditions of the Licence issued EEDC and the Commission's decision in the petition brought by Mrs Funke Adekoya (SAN) against VGC Management and Maintenance Company Ltd and EEDC (VGC case) in Case No. NERC/H/03/07.

EEDC should immediately take over the electricity distribution activities in the estate including the sale, distribution, installation and maintenance of meters and billing from the Nicton Town Management Company (NTMC).

However, in the event that EEDC intends to regularize the current arrangement with NTMC in the distribution of electricity in the estate or engage the services of any other person (s) in carrying out these activities, it should within seven (7) days from the date of this Order, and in line with the provisions of Section 69 (1) of the EPSR Act 2005, and Condition 9 of the Distribution Licence, seek the Commission's written consent to the arrangement.

2. The Commission found as a fact that NTMC directed residents/plot owners to purchase pre-paid meters at the cost of N60, 000.00 from its Agents, Ergon Utilities Ltd. This is illegal and unauthorized. Installation of revenue meters and vending of cards for electricity purposes is the responsibility of Distribution Companies (Discos) and these are activities incidental to the operation of electricity distribution licensees and are reserved for distribution licensees. Installation, maintenance and reading of meters, billing and collection are matters reserved for distribution licensees.

NTMC or its agent, Ergon Utilities Ltd is HEREBY ORDERED to desist forthwith from collecting the said sums or any sum whatsoever as cost of pre-paid meters, installation and maintenance of the pre-paid meters. It is further ORDERED that NTMC or its agent desist from reading meters, billing and collection of tariff unless with the Commission's consent in line with (1) above is sought and obtained. Under the National Pre-paid Metering Programme (NPPMP), the connection fee approved for single and 3-phase meter is N23,100.00 and N52,100.00 respectively. This includes connection and meter charges. In accordance with, Section 1.1.3. of Part 3 (Distribution Metering Code) and Condition 41 (1) of the Licence conditions, only the distribution licensees are empowered to engage in distribution activities and

installation, maintenance and reading of meters are thus categorized as distribution activities. EEDC cannot therefore legally transfer or delegate these obligations to NTMC or Ergon Utilities Ltd, without the consent of the Commission.

3. The Commission found as a fact that the tariff charged residents of Nicon Estate by NTMC within the period under consideration was an illegal and unauthorized sum of N9.50k/kwh (per kilowatt hour of consumption), N1.00k above the approved tariff rate of N8.50k.

The Commission hereby declares this to be illegal. The tariff to be charged the residents within the period under consideration up to and until there is a review in the tariff structure, should be N8.50k per kilowatt hour of consumption as provided for in the Multi Year Tariff Order (MYTO) released by the Commission and approved by the President of the Federal Republic of Nigeria.

4. The present billing format is illegal. Subject to the regularization of the arrangement between EEDC and NTMC in carrying out electricity distribution operations in the estate, the Commission shall advise on the procedure for calibration; provide a format bill that complies with the meter reading, billing, cash collection and credit management regulation.

The bill format shall clearly separate the electricity tariff from other charges.

THE OFFICIAL SEAL OF THE COMMISSION IS HEREBY AFFIXED THIS 28th DAY OF DECEMBER 2009.

SIGNED

MALLAM IMAMUDDEEN TALBA
ADMINISTRATOR/CEO