

ORDER ON TRANSITION TO COST REFLECTIVE TARIFFS IN THE NIGERIA ELECTRICITY SUPPLY INDUSTRY; THE DISTRIBUTOR'S DILEMMA

On 31 March 2020, the Nigerian Electricity Regulatory Commission (NERC) issued the NERC Order No: NERC/198/2020 also known as the “Order on the Transition to Cost Reflective Tariffs in the Nigerian Electricity Supply Industry”. This Order provides a framework for the transition to cost reflective tariffs within the Nigerian Electricity Supply Industry (NESI).

The Order was made, pursuant to the NERC Regulations on procedure for Electricity Tariff Reviews in the NESI 2014 (Tariff Review Regulation) and in response to the applications made by the electricity distribution companies (Discos) for review of the end-user tariffs as a means of creating financial sustainability with tariff support available to the less privileged lifeline end-use customers only.

Through this Order, the NERC explained the rationale for the suspension of the implementation of a new electricity tariff which was scheduled to commence on 1 April 2020. According to NERC, the Order was made in compliance with President Muhammadu Buhari’s decision to grant moratorium for certain Federal Government funded facilities throughout the period of the global economic crisis. Some of the beneficiaries of this grant of moratorium are power generation, transmission and distribution companies among others.

In accordance with the requirements of the Power Sector Recovery Programme (PSRP) approved by the federal government, 11 Discos submitted Performance Improvement Plans (PIPs) to NERC for consideration. Indeed, before issuing the Order, NERC held consultations and public hearing with customers of the 11 Discos and they expressed a willingness to pay appropriate tariffs provided there would be guaranteed hours of service, good quality power supply and adequate metering.



Summary of the Order

- (a). The December 2019 Minor Review of the Multi Year Tariff Order (MYTO) 2015 and Minimum Remittance Order for the Year 2020 which proposed an increase in end-user tariffs by 1 April 2020 has been suspended till 30 June 2020.
- (b). All Discos are expected to submit the revenue recovery and financial sustainability plans to the NERC not later than 21 April 2020. In addition to this, a detailed plan for the attainment of full recovery of prudent costs and allowed return on capital (Revenue Requirement) shall be submitted not later than 30 June 2020.
- (c). The Discos are expected to submit Performance Improvement Plans based on the key objective of improvement in service for end-use customers and transiting to full revenue recovery.
- (d). All future tariff reviews shall be based on consultations between the Discos and customer clusters with firm commitments on rates and quality of service. The service pacts shall include a compensation mechanism for end-use customers to address the Disco's failure to deliver on performance targets.
- (e). All Discos are expected to disengage their respective service areas and/or customers in accordance with the quality of service and supported by a proposal for service reflective tariff classes that shall be graduated by quality of service.
- (f). All Discos are expected to, no later than 30 June 2020, provide smart meters at 11kv and 33kv feeders level with capability of sending real time or near real time data to the Commission.
- (g). The Federal Government of Nigeria would provide tariff support payments to each Disco to cover the difference between cost-reflective tariffs and the tariffs approved by NERC during the transitional period until 30 June 2021.
- (h). Discos are expected to raise financing for the required investment in distribution infrastructure by using revenues earned from ring-fenced service as security for the loans. Discos are also to explore the possibilities of engaging in third party electricity supply arrangements such as sub-franchising areas within their networks and embedded generation.

Concerns of the Discos

The tariff increase will not be implemented unless an Order to that effect is passed, this serves as a source of concern to the Discos as cost of obtaining loans, third-party funding and repayment during the transition period is not guaranteed.

The COVID-19 pandemic has adversely affected the Discos' ability to provide meters to end-use customers in compliance with the guidelines made by this Order.

With continued lockdown in many developed nations, it may become impracticable for the Discos to fully supply the end-user with meters before 30 July 2020 as the pandemic has impacted on the availability of imported components for local assembly of meters.

It is interesting to note that while the Commission acknowledged the adverse effect of the pandemic on the economy and the consequential impact on the average Nigerian, the Order did not make any provisions for the costs Discos incur for providing electricity to the customers, the cost they intended to recoup with the proposed adjustment in tariffs.

The suspension of increased tariff implementation has made it difficult for Discos to pay the Nigerian Bulk Electricity Trading Company (NBET) and Gencos in full as collections do not cover the increased cost associated with transmitting electricity thereby occasioning what is referred to as market shortfall.

It has also introduced new challenges for Discos especially with respect to their obligations towards the improvement of the NESI such as upgrading their network (through rehabilitation, repair or replacement of dilapidated assets), metering customers for accurate reading of their electricity consumption and procurement of additional generation capacity off-grid.

Conclusion

The Order is timely as it seeks to address the various concerns raised by the different stakeholders within the NESI. It should also cushion the effect of the pandemic on the average Nigerian during the lockdown imposed by the Federal Government.

In a bid to cushion the effect of the Order on the Discos, the Federal Government promised the Discos tariff support payments during the transition period. However, with so much uncertainty globally, there is no doubt that the current economic situation might impact on the essential parameters for determining electricity tariffs in the NESI such as inflation, exchange rates and metering cost which may bring about a further review of electricity tariffs in Nigeria sooner rather than later.

For more information, please contact:



Olayemi Anyanechi
Managing Partner
E: o.anyanechi@seftonfross.com



Oluwamayowa Daodu
Associate
E: o.daodu@seftonfross.com

or email us at: info@seftonfross.com



[seftonfross](https://twitter.com/seftonfross)



[seftonfross](https://www.linkedin.com/company/seftonfross)



[seftonfross](https://www.seftonfross.com)

© Sefton Fross 2020

This material is for general information only and is not intended to provide legal advice.
For further information, please contact us via our contact channels.