

# LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF ELECTRICITY CONSUMER IN NIGERIA: AN APPRAISAL

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## ABSTRACT

*This work appraises the legal and institutional framework for the protection of electricity consumer in Nigeria with a view of identifying the most veritable mechanism for enforcement that will effectively and efficiently address consumer's rights infringement. Despite the legal and institutional framework for the protection of electricity consumer in Nigeria, consumers still suffer a lot of setbacks in relation to their rights. Where consumer rights are breached, they are not satisfactorily addressed by existing laws and regulatory agencies. Consumers who paid for prepaid meter suffer damages which may be social or economic. The inability of a consumer to revoke the contract of electricity carriage and entitle to immediate refund of full fare and damages in case of delay is a challenge. The objective of this thesis among others is to evaluate the legal and institutional framework for the protection of electricity consumer in Nigeria and to identify challenges of government implementation and enforcement of consumer rights. The research methodology adopted in this research work is basically doctrinal i.e., the use of Journals, articles, internet material, statutes, case laws, judicial authorities work from renounced authors etc. It is basically library use materials. The following findings among others were made; despite the legal and institutional for the protection of electricity consumer in Nigeria; consumer still suffers setbacks in relation to their rights. This work recommends among others as follows: there should be more awareness campaign by the consumer protection council of consumer rights and existing laws which can help victims to obtain compensation from manufacturer's electricity industry. Consumer protection council should be encouraged to use various channels for information dissemination in enlightened consumers in electricity industry and government should encourage more private participation in the electricity sector to boost competition and discourage the monopolistic practices of the existing companies.*

**Keywords:** Laws, Institutional, Framework, Electricity, Trading, Supply.

## INTRODUCTION

The Electric power Sector Reform Act 2005 chapter E7 laws of the federation of Nigeria 2004 (EPSRA) are the primary legislation that governs the Nigerian Electricity Supply Industry (NESI) and the NESI Value Chain (Including electricity generation, transmission, distribution, supply and trading). The EPSRA also established the NERC which is responsible for licensing and regulating persons engaged in the generation, transmission, system operation, distribution and trading of electricity. Moreover, the intent of the EPSRA is to protect electricity power consumer. Interestingly, in a bid to ensure that consumers are adequately protected, EPSRA

provides that NERC shall establish standards for compensation to consumers who do not enjoy regular power supply. Additionally, the EPSRA also provides for the establishment of the power consumer Assistance fund for purposes of subsidizing underprivileged power consumers as specified by the minister.

Although the idea of establishing a power consumer Assistance fund accords with the fundamental objective and directive principles of government to ensure that provision is made for public assistance in deserving cases or other conditions of needs, the various provisions regarding the fund however gives room for concern.

For instance, leaving the specification of the underprivileged members of the society to be subsidized to the unfettered discretion of the minister without indicative guidance can lead to an abuse of the subsidization process and possible management of the fund. In the same vein, the contribution by all consumer and eligible customer towards the Power Consumer Assistance fund is not only unfair but greatly at variance with the tenets of privatization intended to drive the sector.

It is obviously not reasonable for consumers, regardless of their class to contribute to fund, contribution to the fund should be based on the subsidy received from the federal government as provided for under the Act and from a specified percentage of the profit made by operators within the sector. Since the intent of the EPSRA is to protect electricity power consumer, it would perhaps be appropriate to determine whether these provisions are in line with the basic rights of consumers (Longla, 2008; Kanyip, 2001; Kanyip, 2001; Igweike, 2001).

### **An Overview of Consumer Rights**

The following are some of the rights of electricity consumer provided under EPSRA

1. Right to Safety
2. Right to be heard
3. Right to Information

Starting with right to safety, it is noted that S. 81 (1) (b) mandates the commission to provide such technical codes and manuals as may be required for the safe, reliable and efficient operation of the system. This to a large extent conforms to the fundamental principles of consumer rights and protection. Similarly, on the right to be informed, electricity consumers in the country are expected to be kept abreast of tariff methodology, changes in the tariff structure and other developments, while by virtue of S. 80 (1) (b) which provides for customer complainant handling Standards and procedures, it can be reasonably inferred that the Act with regards to safety, Information and hearing of Complaints align with 3 out of 4 pillars of consumers basic rights, while there seems to be no direct provision under the Act regarding the right to choose. In the same vein, even when the development of competition and market power is critically evaluated, whether at the pre-privatization and post privatization stages, there seems to be no indication that consumer rights to choose from competing operators in a particular geographical area would be guaranteed. Although, it may be argued that this is perhaps due to the nature of the sector which require capital intensive physical infrastructure from generation, through transmission to distribution, all of which may not in real terms be provided in multiples by different private interest for a particular geographical location such as to create competition and the right to choose (Garner, 2004; Dictionary, 2000).

While this argument may appear sound and tenable, it is important to point out that in some other jurisdiction despite the existence of a single transmission network, different distribution companies co-exist within the same geographical location to guarantee consumers the right to choose. On the other hand in Nigeria, under the EPSR, it appears that the context of the development of competition for the electricity sector is simply turning over what hitherto was a public service to private interest and separating the regulatory body from operators in the sector; without necessarily creating an avenue for the dictates of market power or forces through multiple operators in a geographical location and thereby guaranteeing consumer right to choose. It is therefore submitted that the Act is lacking with regards to the right to choose as it pertains to consumer protection and that under the current dispensation, electricity consumers in the country will still be subject to the whims and caprices of the monopoly of the distribution successor companies to be created out of the power Holding Company of Nigeria (PHCN) (Asemah, 2010; Anyacho, 2007; Agba, 2012).

### **Electricity Power Sector Reform Act (Amendment) 2018**

The Electricity Power Sector Reform Act (Amendment) 2018 came on board as a result of the major challenges facing the Nigerian Electricity Industry. In a bid to address one of these challenges, a bill to amend the Electric Power sector Reform Act 2005 EPSRA or the principal Act to prohibit and criminalize estimated billing by Electricity Distribution Companies (DISCOS) as well as provide for compulsory Installation of prepaid meters to consumers has been proposed. This will ensure consumers pay for the actual energy consumed and prevent Discos from issuing electricity bills based on assumptions rather than facts. The Bill seeks to introduce new sections and amend some existing sections of the principal Act.

Also, the new sections of the Acts are essentially aimed at achieving the following objectives:

1. Prohibiting estimated billing and placing an obligation on Discos to install prepaid meters at consumers' premises within thirty (30) days of receiving an application and the regulated fee for the prepaid meter. The consumers will have the option to pay for prepaid meters through a credit Advance metering implementation Scheme. In addition, the bill makes it mandatory for all electricity charges or bills to be based on prepaid meters; and consumers are not required to pay any bill without the meters first being installed at their premises.
2. Placing an obligation on the Discos to inform the consumers in writing on the nature of the meter installed, tariff methodology and other services available to the consumer upon connection.
3. Criminalizing and providing a penalty for the issuance of estimated bills and failure of the Discos to provide prepaid meters after receiving an application and payment from a customer. All cases of illegal disconnection, refusal of the relevant distribution company to connect a customer after application, un-metering within thirty (30) days of a customer applying for a prepaid meter and estimated billing shall attract both civil and criminal liability and any officer found guilty shall be liable to a fine of N500, 000 (Five hundred thousand naira) or imprisonment for a term of 6 months or to both such fine and imprisonment as the court may deem fit.

In addition to the above, the Bill recommends six (6) months imprisonment or a fine of N 1, 000.000.00 (One million Naira) or both for any person who contravenes or frustrates the implementation of the Bill when enacted into law.

There is no doubt that having meters will guarantee accurate assessment of energy supplied and consumed. It will also aid the revenue collection of the Discos and resolve the irregularities associated with estimated bills. However, the practicality of enforcing or

implementing the provisions of this bill when passed into law without addressing some of the underlying problems that the Discos have faced in providing meters to consumers remains in doubt (Crowther, 1971; Consumer Protection for Africa, 1996).

It is estimated that 4,740,275 electricity customers in Nigeria were unmetered as at 31<sup>st</sup> December 2017. The Discos have funding or liquidity problems which they have largely attributed to their inability to charge cost reflective tariffs and this has hindered their ability to provide meters. They are also dealing with infrastructure challenges, energy theft and meter by passing. In addition, the multi-year Tariff order places some restrictions on the amount Discos can spend on capital expenditure.

It is right to mention that there have been prior regulatory interventions towards addressing the metering problem. For instance, NERC in 2012 introduced the credit advanced payment for metering implementation (CAPMI) programme. However, this programme did not achieve the desired result. In 2016, the NERC directed Discos to conclude the metering of all maximum electricity customers in their network on or before November 2016.

Furthermore, it is a matter of concern that the bill seeks to apply criminal sanction to any person who frustrates the implementation of the Bill when passed into law but does not define what amounts to frustration such ambiguity could lead to unintended draconian consequences. In conclusion, it is not in dispute that estimated billing needs to be eliminated. However, this objective may not be achieved by criminalizing or penalizing the Discos. Assisting the Discos overcome some of the challenges that have prevented them from complying with their metering obligations should precede any penalty or criminalization.

Notwithstanding the metering initiatives and interventions of the federal government including *via* the National Mass Metering programme (NMMP), estimation of unmetered end-use customer's tariff still looms large in the NESI. Under the NMMP, the mass metering of one (1) million customers was scheduled for October 2020 to April 2021. But as at March 2021 when the senate committee on power assessed the performance of the Nigerian Electricity Regulatory Commission (NERC) on the scheme, the committee gave NERC a thumb down. Although the regulator stated that only the N33.4 Billion out of the total sum of N59.2 billion (representing approximately 56.42 percent year marked for the NMMP has been released, the performance of the scheme was placed at a dismal 13%. The senate did not mince words in telling the NERC that the performance was unacceptable.

### **Federal Competition and Consumer Protection Act, 2018**

The presence of a strict vibrant and adequately enforced legal and regulatory regime for trade competitions is essential to the progress of any economy and growth of any market at whatever development stage. Sadly, the competition law regime in Nigeria has been grossly inadequate compared with the size and complexity of the country's economy. Save for provisions touching on competition issues in various legislations, like the investments and securities Act 2007, and the Nigerian communications Act 2003; amongst other laws, there was no comprehensive law or any coordinated effort towards addressing monopoly, price regulation, abuse of dominant position, and other anti-competition trade practices. This however, is not for lack of trying and indeed, there has been a previous attempt at enacting a national competition law (The Nigerian Law Reform Commission, 2006; Nigerian Law, 1987; Microsoft Encarta, 2009; Merriam-Webster, 1996). However the 2017 Bill did not see the light of day, due to major objections to some of its provisions by various stakeholders including the Nigeria Employer's Consultative Association.

This newly enacted competition and consumer protection Act (the “Act”) amongst other things, seeks to promote and maintain competitive markets in the Nigerian economy, protect and maintain the interests and welfare of consumers by providing competitive prices and product choices and prohibiting restrictive business practices that prevent competition or result in the abuse of a dominant position or market power. It is potential therefore to highlight the salient provisions of the Act and its potential impact on creating a healthy and competitive business environment in Nigeria.

The federal competition and consumer protection Act establishes the Federal Competition and Consumer Protection Commission (FCCPC) which is the body responsible for the implementation of the provisions of the Act. It is saddled with the responsibility for both administer and enforce the provisions of the Act. From time to time, the commission shall develop rules, guidelines and regulations that would ensure its effective implementation. By the provisions of the Act, the commission has the authority to make regulations: prohibit anti-competitive agreements, misleading, unfair, deceptive or unconscionable marketing, trading and business practices; authorizing, with or without conditions, prohibiting or approving of mergers of which notice is received (Day & Aaker, 1970; Abate, 1994).

The Act also establishes a Tribunal to adjudicate on matters arising from the implementation of the Act. The tribunal has the power to hear appeals or review decisions of the commission throughout the Federation. However, section 47 (2) provides that all appeals or request for review of a sector specific authority shall first be heard and determined by the commission before such appeals can be filled with the Tribunal. The Act further states that an order, ruling, award or judgment of the tribunal shall be binding on parties and shall be registered with the federal high court for enforcement purposes only.

### **The Rights of a Consumer under the Federal Competition and Consumer Protection Act of Nigeria 2018**

The Federal Competition and Consumer Protection Act, 2018 (FCCP Act) which was enacted recently has copious provisions in Part XV for Consumers Rights from sections 114-133 of the Act and they include the following:

1. Right to be given information in plain and understandable language: A consumer is entitled to be given information in plain and understandable language where such is required to be given by an undertaking (this includes a seller, supplier, distributor, importer and a manufacturer). The test of whether information is in plain and understandable language is the reasonable man's test of the standard of persons which the information is disseminated to.
2. Right of disclosure of prices of goods and services: The prices of all goods and services must be displayed clearly so a consumer can take notice of it. An undertaking must also not require a consumer to pay a price higher than that displayed for the good or service.
3. Right to adequate trade description and to have products labeled: A trade description is any description, statement or indication as to the number, quantity, and quality i.e. of goods. An undertaking is mandated to ensure that trade descriptions are applied to goods either directly, in close proximity or by any commercial communication and that they are labeled appropriately for the benefit of a consumer. An undertaking shall not supply a trade description which is misleading or likely to mislead a consumer or which is false.
4. Right to disclosure of second-hand or reconditioned goods: Any person who offers to sell goods that are second hand or have been reconditioned, rebuilt or remade must clearly notify the consumer of the nature of the goods.
5. Right to be given adequate information of every transaction: A consumer must be provided with a written record of every transaction by the undertaking. This record should contain the business details

- of the undertaking, the full details of transaction, tax payable etc.
6. Right not be given a condition before making a purchase: A consumer must not be given a condition to fulfill first before entering into any transaction with the undertaking or a third party for the supply of goods and services.
  7. Right to cancel advance reservation, booking or order: The consumer reserves the right to cancel advance reservation, booking or order for goods and services. The supplier or service provider may require the consumer to pay a fee upon cancellation but such fee must be fair and not excessive, taking the transaction into consideration.
  8. Right to reject goods before completing the transaction: A consumer has the right to reject goods displayed in open stock before completion of the transaction.
  9. Right to goods corresponding with samples and descriptions: Where a consumer cannot examine goods offered by a supplier and the consumer relies on the samples and description offered by the Supplier. Upon ordering of the goods, they must correspond in all material aspects with the sample and description offered by the supplier. This is especially relevant to e-commerce and internet marketing.

Consumer rights are provided for in Part XV Consumers' Rights from sections 114-133 of the Act provides for consumer rights. The FCCP Act promotes three main objectives- protection of business owners, consumers and allows free and fair competition between business owners in the market place; thus promoting economic efficiency. In conclusion, the FCCP Act is a welcome initiative to create a level playing field in the Nigerian market place and ensure that our economy regains its efficiency as well as protect consumers in Nigeria.

### **The Nigerian Electricity Management Service Agency Act (Nemsa Act) 2015**

In May 2015, the National Assembly recently enacted a bill to establish the Nigerian Electricity Management Services Authority (NEMSA). According to section 1 (3) the NEMSA is intended to take over the management of a company called the Electricity Management Services Limited (the EMSL). A governing board was also be established for the Authority, the powers of the board shall be to, make broad policy and oversee the affairs of the Authority, provide policy guidelines for carrying out the functions of the Authority, approve the payment to the staff of the Authority such remunerations and allowances as are approved, approve appointment, promotion and discipline of management staff and do such things as are necessary and expedient for the efficient performance of the functions of the Authority.

The Act is enacted to carry out the functions of Electrical inspectorate services for the NESI which includes:

- a) To ensure that all major electrical materials and equipment used in Nigeria are of the right quality and standards
- b) To ensure the power systems and networks put in place have been properly executed before use, to ensure that such systems are capable of delivering safe, reliable and sustainable electricity supply to consumers nationwide
- c) To specify technical standards for electrical plants, electric lines and connectivity to the grid; To specify safety requirements for construction, operation and maintenance of electrical power plants, transmission system, distribution networks and electric lines
- d) To specify the conditions for installation of meters for transmission systems, distribution networks and supply of electricity
- e) To carry out the duties of inspecting engineers for inspection testing and certification of all categories of electrical installation in the NESI
- f) To provide comprehensive technical support services that will guarantee the efficient production and delivery of safe and reliable power supply and enhance efficient service delivery industry-wide
- g) To provide sustained technical inspection, testing and certification of all electrical material, equipment, power systems, networks (generation, transmission and distribution), electrical installations etc. to be used in the power sector, to ensure a stable system to deliver safe, reliable, regular power supply,

guarantee safety of lives and property and avert loss of lives and property in the NESI etc.

In addition to assuming the functions of the EMSL, other functions of the authority include the issuance of competency certificates/electrical installation licences to qualified electrical personnel and contractors working in NESI and enforcing all statutory technical electrical standards and regulations amongst others. The authority has the right of access to all premises and the records of any institution or establishment material supply and installation and where the notice is served on any institution such an institution is required to furnish information on such matters as may be specified by the notice.

There are two opposing reactions in relation to the passing of this bill; the seventh Senate expressing optimism believed that the new NEMSA Act would help remedy the current power outages experienced in the country and would also boost the electricity industry and ensure technical standardization which in turn would curb domestic fires. Advocates of the bill have expressed the view that the establishment of NEMSA will also afford the Nigerian Electricity Supply Industry (NESI) the opportunity to develop its technological capacity in the area of enforcement of technical and safety standards, inspection, testing and certification responsibilities. This will ensure that the right technical specifications, standards and quality of materials and equipment are used in the generation and delivery of electricity supply to consumers. Furthermore, it will enhance the efficiency and guarantee safety of lives and property in the NESI.

### **The Institutional Framework: Nigerian Electricity Regulatory Commission**

NERC is an Independent regulatory body with authority for the regulation of the electric power industry in Nigeria. NERC was formed in 2005 under the Obasanjo administration's economic reform agenda through the electric power sector reform Act, 2005 for formation and review of electricity tariffs, transparent policies regarding subsidies, promotion of policies that are efficient and environmentally friendly, and also forming and enforcing of standards in the creation and use of electricity in Nigeria. NERC was primarily instituted to regulate the tariff of power generating companies owned or controlled by the government, and any other generating company which has a license for power generation and transmission of energy, and distribution of electricity.

Furthermore, NERC was instituted by (EPSR) to initiate, promote and preserve efficient energy market structures for optimal utilization of energy resources for electricity services. The commission is to improve access to energy services by boosting and empowering consumer connections to distribution systems in both Countryside and city areas and to guarantee a stable supply of electricity to consumers. However, the commission has not been efficient in this regard as several communities in Nigeria have not had constant power supply, and some have not been connected to the National grid for electricity supply.

### **Rights of Electricity Consumers**

1. Right to electric service and accurate electric meter billing
2. All new electric connections must be done strictly on the basis of metering before connection. That is, no new customer should be connected without a meter first being installed.
3. Customer who elects to procure meter under the credited advance payment for metering implementation (CAPMI) scheme must be metered within 60 days, failure in which the electricity customer will neither be billed nor disconnected by the electricity distribution company

4. Right to transparent electricity billing. Unmetered customer should be issued electricity bills strictly based on NERC's Estimated billing methodology.
5. Rights to contest any electricity Bill. Any unmetered customer who is disputing his/her estimated bill has the right not to pay the disputed Bill, but pay only the last undisputed bill as the contested bill go through the dispute resolution process of NERC.
6. Right to be notified in writing ahead of disconnection of electricity service by the electricity distribution company serving you.
7. Right to prompt investigation of complaints arising from your electricity service.
8. It is not the responsibility of electricity customers or community to buy, replace or repair electricity transformers, poles and related equipment used in supply of electricity.

### **The Corresponding Obligations Include:**

- i. Pay bills for electricity consumed
- ii. Provide requirements for connection as stipulated by NERC and Disco
- iii. Vigilant protection of electrical installations
- iv. Cordiality towards electricity workers
- v. Customer compliance to the requirements of the Distribution code
- vi. Pay for electricity used within the stipulated time frame.
- vii. Ensure receipt of monthly electricity bills if not on prepaid meters and lodge a complaint to the Disco serving you, should you not get your bills
- viii. Ensure that metering and other electrical equipment within your premises belonging to the Disco not tampered with, or by-passed.
- ix. Notify the Disco serving you of any tampering or bypass of electricity installations.
- x. Notify the disco serving you of any outstanding electricity bill before moving into new premises.

In Collorary, NERC is saddled with the responsibility to ensure an efficiently manage electricity supply industry that meets the yearnings of Nigerians for stable, adequate and safe electricity supply.

### **Standard Organization of Nigeria 1971**

Standard organization of Nigeria (SON) is the government agency responsible for setting and maintaining standards for products imported into and manufactured in Nigeria. SON also collaborates with NERC to ban inefficient electrical appliances in Nigeria.

In march 2020, the standards organization of Nigeria and the Nigerian electricity regulatory commission have concluded plans to strengthen existing collaboration to promote increased local content in the production of electrical materials, personnel and facilitate export of certified made in Nigeria products.

Functions of the Organisation subject to section 5 (1) of the act, the Organisation shall carry out the following functions:

- a. To organize tests and do everything necessary to ensure compliance with standards designated and approved by the Council.
- b. To undertake investigations as necessary into the quality of facilities, materials and products in Nigeria, and establish a quality assurance system including certification of factories, products and laboratories;
- c. To ensure reference standards for calibration and verification of measures and measuring instruments;
- d. To compile an inventory of products requiring standardization;
- e. To compile Nigerian standards specifications;
- f. To foster interest in the recommendation and maintenance of acceptable standards by industry and the general public;



- g. To develop methods for testing of materials, supplies and equipment including items purchased for use of departments of the Government of the Federation or a State and private establishments;
- h. To register and regulate standards marks and specifications;
- i. To undertake preparation and distribution of standards samples;
- j. To establish and maintain such number of laboratories or other institutions as may be necessary for the performance of its functions under this Act;
- k. To compile and publish general scientific or other data

The organization shall undertake such research as may be necessary for the performance of its functions under this Act and for that purpose it shall have power to make use of research facilities available in other institutions, whether public or private upon such terms and conditions

### **Federal Ministry of Power, Works and Housing**

Ministry of Power, Works and Housing is an arm of the Federal government of Nigeria with the responsibilities of providing social amenities such as Power over Ethernet across the country. The Ministry in discharging this mandate is guided by the provisions of the laws provided under National Electric Power Policy (NEPP) of 2001, the Electric Power Sector Reform (EPSR) Act of 2005, Rural Electrification Implementation Strategy Plan 2016 and the Roadmap for Power Sector Reform of August 2010. The mandate of the industry is primarily to formulate and implement the policy of the federal government of Nigeria with respect to:

1. Generation, distribution and transmission of power nation-wide (power).
2. Road transport, highways construction and rehabilitation; highways planning and design; monitoring and maintenance of federal roads and bridges nationwide; provision of infrastructure, survey and mapping of the nation's internal and international boundaries (works).
3. Provision of habitat and affordable housing for Nigerians (housing).

They also generate, distribute and transmit electricity nationwide, facilitate the provision of adequate and affordable housing for all Nigerians in both urban and rural areas in secure, healthy and decent environment through access to a functional Nigerian road.

### **The Court**

The Court is an institutional framework that decides electricity matters and restores justice to the electricity consumers in Nigeria in a case of hike in tariff price, illegal disconnection and many other things. Nigeria situation appears to be going from bad to worse in its power sector. Sometime ago, a federal high court sitting in Lagos annulled the recent increase in electricity tariffs, threatening billions of investments in the sector, and billions more in potential investments.

For decades, Nigeria's power sector has been operating on a tariff structure that does not reflect the true cost of what it takes to generate a kilowatt of electricity. Prices for cost inputs in the power sector value chain were mostly fixed by the government and did not reflect market realities. The Buhari government is already under intense pressure for some of their wobbly economic policies. The decision of the court helps them as much as it hurts them. The court has basically given them an escape route to get out of an unpopular tariff hike decision that was hurting their ratings in the eye of Nigerians. On a flip side, it has further puts them in a precarious situation as the trust deficit with foreign investors continues to deteriorate. All

Nigerians want is stable power supply backed by metering. Unfortunately, this cannot happen with a tariff that is not cost reflective and the heightened activity of militants in the creeks.

The court also provides a peaceful way to decide disputes that electricity consumers with discos can't resolve in Nigeria.

The four cardinal functions of a court include the following:

- i. Due process function which protects the individual rights
- ii. Crime control function which helps in the punishment and removal of criminals
- iii. Rehabilitation function which helps in treatment of offenders
- iv. Bureaucratic function helps to speed up efficiency.

Also court gives justice to the people, interprets and applies laws, guards the constitution and other legal frameworks that seek to protect the Nigerian citizens.

### **Nigeria Atomic Energy Commission**

The Nigeria atomic energy commission (NAEC), as created by the act 46 of 1976 (as amended by Cap N 91 LFN, 2004), is the national focal agency charged with the responsibility for the promotion of the development of atomic energy and for all matters relating to the peaceful use of atomic energy. The main responsibilities of NAEC are:

- i. Create a framework for the use of atomic and nuclear energy for peaceful purposes in Nigeria.
- ii. streamline, harmonize, promote and co-ordinate research and development activities for capacity building and infrastructure development in nuclear technology
- iii. Fast- tracked and catalyse the process of development of nuclear power plant for electricity generation in Nigeria, in partnership with the private sector, and put in place comprehensive a man power development programme.

The NAEC is also saddled with the responsibility to construct and maintain nuclear installations for the purpose of generating electricity.

Section 2 of the NAEC Act provides for the Functions of the Commission and they include the following:

- a) prospect for and mine radioactive minerals;
- b) Construct and maintain nuclear installations for the purpose of generating electricity;
- c) Produce, use and dispose of atomic energy and carry out research into matters connected with the peaceful uses of atomic energy;
- d) Manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport and dispose of any radioactive substances;
- e) make arrangements with universities and other institutions or persons in Nigeria for the conduct of research into matters connected with atomic energy or radioactive substances and to make grants to universities or other institutions or persons engaged in the production or use of atomic energy or radioactive substances or in research into matters connected with atomic energy or radio- active substances;
- f) Educate and train persons in matters connected with atomic energy and radio-active substances;
- g) Advise the Federal Government on questions relating to atomic energy.

### **Nigeria Bulk Electricity Trading Company Plc.**

The Nigerian Bulk Electricity Trading (NBET) Plc. is the manager and administrator of the electricity pool in the Nigerian electricity supply industry (NESI). It was incorporated on the 29th day of July 2010 and is 100% owned by the Federal Government of Nigeria.

In line with the “*Roadmap to Power Sector Reform*” of August 2010, and, in fulfillment of the requirements of EPSRA, the Nigerian Bulk Electricity Trading PLC, (NBET) aka the Bulk Trader, was incorporated on July 29, 2010 as the SPV for carrying out, under license from NERC, the bulk purchase and resale function contemplated by the EPSRA. As such NBET has been set up to engage in the purchase and resale of electric power and ancillary services from independent power producers and from the successor generation companies. Nigerian’s deficient power sector supply has been a challenge that the past three presidential administrations have steadfastly sought to address. In 2001, the federal Government, in a bid to address the deficiency in power sector supply, adopted the National Electric power policy for the reform of the sector. Following suit, the Electric Power Sector Reform Act (EPSRA), was passed into law in March 2005. A key thrust of the sector from public to private sector.

In furtherance of this goal, the Act saw the creation of the Power Holding Company of Nigeria (PHCN) which assumed the assets, Liabilities and employees of the erstwhile Nigeria Electricity Power Authority (NEPA); the subsequent unbundling of PHCN into 18 successor companies, the establishment of the Rural Electrification Agency (REA) and the provision for the establishment of two special purpose vehicles (SPVs) to undertake electric power trading and management of extant liabilities respectively. NBET was incorporated on July 29, 2010, in line with the Roadmap to Power Sector Reform and, in fulfillment of the requirements of Electric Power Sector Reform Act (EPSRA), 2005 for a “*trading licensee holding a bulk purchase and resale license*” to “*engage in the purchase and resale of electrical power and ancillary services from independent power producers and from the successor generation companies*”. NBET's power purchase agreements (PPAs) with independent power producers are backed by credit enhancement instruments offered by the Federal Government of Nigeria.

The following are the core objectives of the commission;

1. To put in place an effective transaction environment which minimizes risk and allocates it fairly to the parties best able to manage it?
2. To implement a procurement process that is transparent and will result in the economic procurement of needed power.
3. To have all existing and new power capacity under contract by 2016, although the commercial operation dates when this capacity comes on line may be latter.
4. To ensure efficient settlement in the short term until this function is subsumed under the Market Operator.
5. To become sustaining as soon as practical thereby minimizing the cost to the Federal Government of Nigeria
6. To be ready to novate contracts and wind up as soon as the suppliers are ready to take on their own procurement.
7. To enter into contracts that are well structured and managed in a manner that precludes recourse to any credit guarantee instrument.

NBET purchases electricity from the Generating Companies through Power Purchase Agreements (PPAs) and sells to the Distribution Companies through Vesting Contracts. The Generating Companies include the privatized PHCN successor companies, the Niger Delta Power Holding Companies (NIPPs), the already existing Independent Power Producers (IPPs) and the new IPPs.

The commission priorities include:

- a. Management and administration of the financial flows for the physical supplies on the network.
- b. Operation of a competitive market that encourages efficient value discovery for commodity and capacity.

- c. Promotion of a contracts-based market that allocates risks efficiently to parties responsible for them.
- d. Formulation and advisory on policies for efficient system settlement and least possible cost incentives for maintaining the transportation network within its acceptable energy, frequency responses and voltage tolerances.

### **Nigerian Electricity Liability Management Company**

The Nigeria electricity liability management company (NELMCO), is a special purpose entity created by the federal government of Nigeria and saddled with the responsibility of managing the liabilities and non-core assets of the defunct power holding company of Nigeria (PHCN).

NELMCO is a product of the electricity power sector reform, with a very specialized role to play, in ensuring the success of the reform. NELMCO was incorporated on August 21st, 2006 as a limited liability company, under the Companies and Allied Matters Act (1990) (CAMA).

As one of the successor companies created under EPSRA and consistent with the directive of NCP, NELMCO was designated to assume responsibility for all of the PHCN liabilities leading up to the November 1, 2013 handover of the companies, as well as the management of the non-core assets of the companies, prior to disposition of same.

#### **The Mandates of Nelmco Includes**

1. Stranded Debts: To assume and administer the stranded debts and non-core assets of PHCN pursuant to the provisions of EPSR Act 2005.
2. Non-Core Assets: To hold the non-core assets of PHCN, sell or dispose of or deal in any manner for the purpose of financing the payment of debts or other related matters.
3. Pension: To assume and manage pension liabilities of employees of PHCN. Now Transferred to PTAD.
4. PPA Debts: To take over the settlement of PHCN's Power Purchase Agreement (PPA) debts obligations, legacy debts and any other liabilities as may be determined by the National Council on Privatisation within NESI from time to time.
5. Attaining Goals: To do all such other things as are incidental or may be thought conducive to the attainment of the above objectives or any of them.
6. Selling Assets: To sell, let, mortgage, dispose of, deal in any of the property or non-core assets of the company as may be expedient with a view to promoting its objects.

NELMCO Ensures that during power reforms new owners has no debt overhang. For instance in 2014, the managing director of Nigeria Electricity Liability Management Company (NELMCO), Dr Sam Agbogun, says measures have been put in place to prevent new investors in the power sector from suffering any debt overhang. After privatization of the power holding company of Nigeria (PHCN) in November 2013, there have been complaints of poor power supply in most states, a development blamed on lack of finance to acquire needed infrastructure to boost supply. The NELMCO boss told reporters that pensioners of the defunct PHCN were being verified, with a view to settling outstanding backlog of pension owed the disengaged workers. In a nutshell, NELMCO has a very unique and sensitive responsibility.

### **CONCLUSION**

Despite the legal and institutional framework for the protection of electricity consumer in Nigeria, consumer still suffers a lot of setbacks in relation to their rights. Where consumer rights are bleached, they are not satisfactorily address by the existing legal and institutional framework.

Consumers who pay for metres and there was a long delay or refusal to supply the metres to them suffer damages which may be social or economic. The inability of consumer to revoke the contract and entitlement to immediate refund of full fare and damages is a serious challenge. Where consumer rights are breached, they are left vulnerable, in most instances without any information or when information is provided no satisfactorily.

## Recommendations

The work recommended as follows:

- i. Electricity Distributions Company should as a matter of law curtailed estimated bill.
- ii. The legal institutional framework should be strengthened.
- iii. There should be enlightenment campaign informing consumers of their right
- iv. There should a special court with the mandate of appraising consumers' issues in the electricity industries in Nigeria.

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