ORDER No. NERC/GL/186/2019

BEFORE THE NIGERIAN ELECTRICITY REGULATORY COMMISSION
IN THE MATTER OF THE DECEMBER 2019 MINOR REVIEW OF MULTI YEAR TARIFF ORDER 2015 AND MINIMUM REMITTANCE ORDER FOR THE YEAR 2020 FOR EKO ELECTRICITY DISTRIBUTION COMPANY PLC

Title

1. This regulatory instrument may be cited as **THE DECEMBER 2019 MINOR REVIEW OF MULTI YEAR TARIFF ORDER ("MYTO") 2015 AND MINIMUM REMITTANCE ORDER FOR THE YEAR 2020**.

Commencement and Termination

2. This Order supersedes other Orders issued on the subject matter; and shall take effect from 1st January 2020 and shall cease to have effect on the issuance of a new Minor Review Order or an Extraordinary Tariff Review Order by the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission").

Context

3. The Commission, pursuant to sections 32 and 76 of the Electric Power Sector Reform Act ("EPSRA"), issued the MYTO – 2015 Tariff Order in December 2015 to address, amongst other objectives, the provision of cost reflective tariffs thus ensuring that prices charged by licensees are fair to consumers, and are sufficient to allow licensees that operate efficiently to recover the full cost of their activities, including a reasonable return on the capital invested in the business.

4. Section 17 of the MYTO – 2015 Order provides for the biannual Minor Review of tariffs taking into consideration changes in exogenous variables outside the control of electricity distribution companies ("DisCos") in line with the requirement of the MYTO Methodology (Amended). The Minor Review variables are Nigerian and United States inflation rates, NGN/USD foreign exchange rates, gas prices and available generation capacity.

5. This Order is issued to reflect the impact of changes in the Minor Review variables in the determination of cost reflective tariffs and relevant tariff and market shortfalls for the years 2019 to 2020. It determines the minimum remittances payable by Eko Electricity Distribution Company Plc ("Eko DisCo" or "EKEDC") in meeting its market obligations based on the allowed tariff.

Objectives

6. The objectives of this Order are to –

   a. Reflect the impact of changes in the Minor Review variables for the period 2019 – 2020 for the determination of cost reflective tariffs; and to ascertain revenue shortfalls in view of the differential between such tariffs and allowed tariffs in the Nigerian Electricity Supply Industry ("NESI").

   b. Develop and implement a framework to manage revenue shortfalls for the year 2020 through a minimum market remittance requirement to account for differences between

cost reflective tariffs and allowed tariffs in the settlement of invoices issued by the Nigerian Bulk Electricity Trading Plc ("NBET") and the Market Operator ("MO").

c. Establish the interim payment arrangements, reaffirm the payment securitisation requirement and flow of funds from DisCos to NBET and the MO.

d. Steer the market to gradual activation of market contracts in line with the requirements of the Transitional Electricity Market ("TEM").

e. Reaffirm the obligation of core investors in DisCos under the Performance Agreement and Share Purchase Agreements executed with the Bureau of Public Enterprises ("BPE").

Minor Review of MYTO – 2015 Tariff Order

7. This Order has taken into consideration the actual changes in relevant macroeconomic variables and available generation capacity as at 31st October 2019 in updating the operating MYTO-2015 Tariff Order for 2019 in line with the provisions of the MYTO Methodology (Amended). Projections were made for the variables for year 2020 and beyond based on best available information. The Commission shall make necessary adjustments at the time of the next minor review or Extra-Ordinary Tariff Review.

8. The relevant data on the following Minor Review variables were obtained from the Central Bank of Nigeria ("CBN"), National Bureau of Statistics ("NBS"), System Operations ("SO") Division of the Transmission Company of Nigeria Plc ("TCN") and NBET for the update of the MYTO-2015 Financial Model –

a. Inflation: The actual average monthly inflation rate of 11.3% for the period January to October 2019 was used for this review in line with the MYTO Methodology.

b. Exchange Rate: In line with the provisions of the Regulation on Rate Review for NESI, CBN official exchange rates were used in this review. The MYTO - 2015 provides for a premium of 1% above the CBN rate as transaction cost and this was applied in the current review. The applicable NGN/USD exchange rate for 2020 is computed as NGN306.90 +1% premium = NGN309.97.

c. US rate of inflation: The data on the US rate of inflation was obtained from the website of the US Bureau of Labor Statistics (http://www.bls.gov) for the year under review. The actual average monthly inflation rate of 1.8% for the period January to October 2019 was applied for the review and the projection for 2020 was based on October 2019 inflation rate.

d. Gas Price: The price of natural gas for the power sector has been regulated since the inception of MYTO in 2008. The Commission has maintained the gas price of US$2.50/MMBTU and gas transportation cost of US$0.80/MMBTU for this review. However, some generation companies had contracted different gas prices outside the regulated rates as provided in their respective Gas Sale Agreements ("GSAs").

Review of Basic Assumptions

9. Table 1 below provides a summary of the Minor Review assumptions for the year 2019 and the projections for 2020.

Table 1: Eko DisCo's Minor Review Assumptions 2019 – 2020

Eko DisCo Minor Review Assumptions 2019 - 2020: EKEDC			
Parameter	Unit	Actual	Projection
		2019	2020
PA Effectiveness	PA Year	3	4
Loss Target	%	14.2%	11%
Nigerian Inflation	%	11.3%	11.3%
US Inflation	%	1.8%	2.1%
Exchange Rate ₦/$	₦	310.0	310.0
Energy Delivered to DisCo	GWh	3,311	3,252
Generation Cost	₦/kWh	23.0	21.5
*Transmission & Admin Cost	₦/kWh	7.8	8.3
Allowed Transmssion & Admin Cost	₦/kWh	3.99	3.7
End-User Cost Reflective Tariff	₦/kWh	48.78	47.0
End-User Allowed Tariffs	₦/kWh	28.3	28.3
Tariff Shortfall	₦'000,000	58,263	54,007
Market Shortfall	₦'000,000	(58,592)	N/A
Bal. Due To/(From) DisCo	₦'000,000	(329)	N/A

**** This represents the full transmission and administrative cost of service providers. The prior Minor Review and Minimum Remittance Order had frozen the rates applied in generating MO invoices at the same rates prior to the issuance of the order***

DisCo Remittance Waterfall

10. The Federal Government's updated Power Sector Recovery Program ("PSRP") does not envisage an immediate increase in end-user tariffs until 1st April 2020 and a transition to full cost reflectivity by end of 2021. In the interim, the Federal Government has committed to fund the revenue gap arising from the difference between cost reflective tariffs determined by the Commission and the actual end-user tariffs payable by customers in line with the following –

    a. All DisCos are obligated to settle their market invoices in full as adjusted and netted off by applicable tariff shortfall.

    b. In the determination with compliance to the minimum remittance threshold in this Order, the Commission shall consider verified receivables from MDAs for the settlement period and DisCo's historical collection efficiency for MDAs.

    c. The Commission shall hold the TCN responsible for deviations from the economic dispatch Order that adversely impact on the base weighted average cost of wholesale of energy.

    d. All FGN intervention from the financing plan of the PSRP for funding tariff shortfall shall be applied through NBET and the MO to ensure 100% settlement of invoices issued by Market Participants.

    e. Under this framework, the minimum market remittance by EKEDC is determined after deducting the revenue deficit arising from tariff shortfall from the aggregate NBET and MO market invoices. EKEDC shall be availed the opportunity to earn its revenue requirement only upon fully meeting the following obligations and subject to efficient operations:

        i. Repayment of CBN-NEMS facility.

ii. 100% settlement of MO invoice based on the tariffs applied by the MO in determining respective invoices prior to this Order. Effectively, this Order places a freeze on the tariffs of TCN and administrative charges until April 2020 at the rates applied in generating MO invoices for the period of January – October 2019.

iii. Full settlement of 43% of NBET's monthly invoices being the minimum remittance threshold prescribed in this Order.

f. EKEDC shall be held liable for relevant penalties/sanctions where it fails to meet the minimum remittance requirement in any payment cycle in accordance with its obligations to the MO and NBET; and the provisions of the Market Rules and Supplementary TEM Order.

g. EKEDC shall provide and maintain an adequate, unconditional, unencumbered and irrevocable standby letter of credit covering three (3) months invoice based on the minimum payment obligations to the MO and NBET.

h. The table below provides the minimum remittance threshold for EKEDC.

Table 2: EKEDC's Remittance Waterfall for the Year 2020

Eko Disco's Minimum Remittance Table - 2020			
Head	**Subhead**	**₦,000,000**	**Remarks**
Revenue Required - 2020	**NEMSF**	**1,032**	CBN - Loan
	Genco Invoice	**68,970**	Projected Annual Generation cost
	TCN & Admin Services	**26,934**	Projected Annual TCN and Admin Services cost
	Disco	**38,704**	Approved recovery of capital and operating expenses
	Total	**135,639**	Annual Revenue Required by EKEDC in 2020
Allowed Recovery		**65,798**	60% Being Amount recoverable through allowed end-user tariffs of EKEDC in 2020
Tariff Shortfall		**48,479**	40% Being the difference between EKEDC's revenue requirement and its allowed recovery
Application of Fund	**NEMSF**	**1,032**	1st - Line Charge on Collection as per loan Agreement
	NBET Minimum Remittance	**29,865**	Being Minimum Remittance Obligation of 43% of NBET's Monthly Invoices in 2020. Full settlement to be supplemented by the FGN intervention funds.
	MO Minimum Remittance	**12,031**	Being Minimum Remittance Obligation of 100% of MO's monthly Invoices frozen at the rates (₦/kWh) applied in generating MO invoices for the period of January – May 2019. Full settlement to be supplemented by the FGN intervention funds
	Disco	**38,704**	Being opportunity availed the DisCo to earn its revenue requirement based on its efficient operations and upon full settlement of the minimum remittances to NEMSF, NBET and MO.
	Total	**81,632**	

Capacity Payment

11. The average tariff for EKEDC was determined considering the projected energy to be delivered to it based on its percentage load allocation in the Vesting Contract. The Commission hereby directs that NBET shall hereafter invoice for capacity charge and energy to EKEDC based on its load allocation and metered energy respectively.

12. Where it is established that TCN is unable to deliver EKEDC's load allocation, TCN shall be liable to pay for the associated capacity charge. Where EKEDC fails to take its entire load

allocation due to constraints in its own network, EKEDC shall be liable to pay the capacity charge as allocated in its vesting contract.

Effective Date

13. This Order shall be effective from 1st January 2020.

Dated this 31st day of December 2019

James A. Momoh
Chairman

Dafe C. Akpeneye
Commissioner
Legal, Licensing & Compliance

Appendix: 1 Energy Charges ₦/kWh

Category	Class		2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Residentia	R1		4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
	R2S		15.20	24.00	24.00	24.00	24.00	24.00	38.61	39.08	39.64	39.18
	R2T		15.20	25.79	25.79	25.79	25.79	25.79	49.07	49.66	50.38	49.79
	R3		27.68	29.00	29.00	29.00	29.00	29.00	50.42	51.04	51.77	51.16
	R4		27.68	29.00	29.00	29.00	29.00	29.00	50.42	51.04	51.77	51.16
Commerci	C1S		18.48	24.00	24.00	24.00	24.00	24.00	39.57	40.05	40.62	40.15
	C1T		18.48	30.00	30.00	30.00	30.00	30.00	49.42	50.02	50.74	50.14
	C2		25.72	36.00	36.00	36.00	36.00	36.00	56.16	56.84	57.66	56.98
	C3		25.72	36.00	36.00	36.00	36.00	36.00	56.16	56.84	57.66	56.98
Industrial	D1S		20.75	24.00	24.00	24.00	24.00	24.00	42.66	43.18	43.80	43.28
	D1T		20.75	30.00	30.00	30.00	30.00	30.00	49.67	50.27	51.00	50.40
	D2		26.97	36.00	36.00	36.00	36.00	36.00	57.12	57.81	58.65	57.96
	D3		26.97	36.00	36.00	36.00	36.00	36.00	57.12	57.81	58.65	57.96
Special	A1S		19.86	24.00	24.00	24.00	24.00	24.00	39.67	40.15	40.73	40.25
	A1T		19.86	24.28	24.28	24.28	24.28	24.28	39.67	40.15	40.73	40.25
	A2		19.86	24.28	24.28	24.28	24.28	24.28	39.67	40.15	40.73	40.25
	A3		19.86	24.28	24.28	24.28	24.28	24.28	39.67	40.15	40.73	40.25
Lighting	L1		15.25	23.52	23.52	23.52	23.52	23.52	38.31	38.78	39.34	38.88

Appendix: 2 Customer Classification

The customer classification remains the same until the next major or extra-ordinary tariff review when EKEDC may (if required) propose and make amendments to the customer classification.

	Customer Classification	Description	Remarks
1	**Residential**		A consumer who uses his premises exclusively as a residence - house, flat or multi-storeyed house where people reside.
	R1	Life-Line (50 kWh)	
	R2	Single and 3-phase	
	R3	LV Maximum Demand	
	R4	HV Maximum Demand (11/33kV)	
2	**Commercial**		A consumer who uses his premises for any purpose other than exclusively as a residence or as a factory for manufacturing goods.
	C1	Single and 3-phase	
	C2	LV Maximum Demand	
	C3	HV Maximum Demand (11/33kV)	
3	**Industrial**		A consumer who uses his premises for manufacturing goods including welding and ironmongery.
	D1	Single and 3-phase	
	D2	LV Maximum Demand	
	D3	HV maximum Demand (11/33kV)	
4	**Special**		Customers such as agriculture (agro-allied enterprises involving processing are excluded), water boards, religious houses, Government and teaching hospitals, Government research institutes and educational establishments.
	A1	Single and 3-Phase	
	A2	LV Maximum Demand	
	A3	HV Maximum Demand (11/33kV)	
5	**Street Lighting**		
	S1	Single and 3-phase	