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CURRENT ISSUES IN THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY

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The estimated electricity need in Nigeria is 135,000 Mega Watts (MW) for a population of about 160 million. Nigeria achieved a record peak generation of about 4,300 MW in the year 2012, which is the culmination of the investment and reform in the electricity power sector in Nigeria in the past thirteen years, considering the peak generation in the year 2000 was a meagre 1,500 MW.

The Electricity Power Sector Reform Act (EPSRA) 2005 liberalised the electricity power sector in Nigeria, which hitherto was the exclusive preserve of the Federal Government of Nigeria (FGN) through the National Electricity Power Authority (NEPA). The Nigerian Electricity Regulatory Commission (NERC) under the power conferred by the EPSRA issued over 60 generation licences since inception in 2006, with many more in the pipeline. The essence of this article is to examine some of the recent developments in the Nigerian electricity sector vis-à-vis the investment opportunities.

The first assignment of the EPSRA was to provide for the formation of an initial holding company, which sounded the death knell of NEPA and ushered in the Power Holding Company of Nigeria (PHCN).

maintain a generation station for the purposes of generation and supply of electricity…" according to Section 64 of the EPSRA.

There are two broad forms of power generation, namely: on-grid and off-grid. On-grid generation refers to the supply of power by a generation company to the national grid. Off-grid refers to the supply of power by a generation company to targeted users off the national transmission line. Off-grid generation can be either captive generation or embedded generation. Captive generation refers to the generation of electricity exceeding 1 MW for the purpose of consumption by the generator, and which is consumed by the generator itself, and not sold to a third party. Embedded generation refers to the off-grid generation of electricity, distributed through an independent network to designated off-takers in a particular market. Hence, a local or state government or a conglomeration of local or state governments, or industrial and residential estates or a conglomeration of these estates can team up to generate electricity through embedded generation, and evacuated privately through an independent distribution network.

On-grid refers to the national grid, comprising of the successor generation companies, the National Independent Power Projects

Electricity generation seems to be the segment of the sector that has received the most attention from investors, and rightly so, considering the parlous state of the power available.

Furthermore, Section 8 of the EPSRA provided for the formation of successor companies, which threw up 18 companies in all: 7 generation companies (GenCos), 1 transmission, and 11 distribution companies (DisCos). All the successor companies, save the transmission company, were slated for privatisation, the latter being subject of a management contract. Section 8 of the EPSRA has been the basis of the establishment of the Nigerian Electricity Bulk Trading Plc., the bulk purchasing company established by the FGN, responsible for the purchase of power from the generators and sale to the distribution companies.

Bids for the other successor companies closed late in 2011, and the Bureau of Public Enterprises (BPE) chose the preferred bidders who are now at an advanced stage of taking over the successor companies upon the payment of the required 25% of the bid price for each of the privatised successor companies.

Section 62 of the EPSRA provides generally for the scope of services available to private investors in the power sector, namely: electricity generation, electricity transmission, system operation, electricity distribution, and trading in electricity. The provision of these services is subject to the granting of licences to such investors by NERC.

Electricity generation seems to be the segment of the sector that has received the most attention from investors, and rightly so, considering the parlous state of the power available. The obligations of a generation licence include to "construct, own, operate and

(NIPP), as sponsored by the Niger Delta Power Holding Company (NDPHC) and all other Independent Power Projects (IPPs) that evacuate their generated power to the national grid.

There are obvious challenges with power generation in Nigeria, underscored by the inability of most of the on-grid generation licensees to generate power since the grant of their licences. Some critics are wont to hold that NERC was ambitious in granting generation licences to all comers at the beginning of the liberalised power sector in Nigeria, but NERC has sorted out the problem by issuing a series of regulations to bring some sanity and seriousness to the Electricity Supply Industry (ESI) in Nigeria. The following are some of the regulations:

The **Permits for Captive Generation Regulations, 2008** in essence provides that a Captive Generation Permit holder must apply for and receive prior written consent of the Commissioner before supplying surplus power not exceeding 1MW to an off- taker, and where such holder intends to supply power exceeding 1MW to an off-taker, it must apply for a generation licence.

The **Generation and Procurement Regulations 2012**, provides for the processes to be used by a Buyer in procuring additional electricity capacity. The Regulations, inter alia establish a transparent and competitive process that provides reasonable assurance that additional electricity is produced at the least cost to consumers, and ensure that the firms contracted to experience to carry the defined generation project to a successful completion.

The **Regulations for Embedded Generation 2012,** provides the rules guiding the embedded generation –"the generation of electricity that is directly connected to and evacuated through a distribution system which is connected to a transmission network operated by a Systems Operations Licensee." The Regulations apply to all embedded generators licensees, applicants for embedded generation licences and prospective embedded generators

The essence of these Regulations is to provide for the operation of independent power distribution networks by new distribution companies, which, in essence, allows communities and even state governments to provide distribution networks on an off-grid basis, especially to hitherto inaccessible areas

The **Independent Electricity Distribution Network Regulations 2012** applies to all independent electricity distribution systems, and the owners, operators and users of the distribution systems. The essence of these Regulations is to provide for the operation of independent power distribution networks by new distribution companies, which, in essence, allows communities and even state governments to provide distribution networks on an off-grid basis, especially to hitherto inaccessible areas.

NERC has also been able to break the tariff hoodoo that dogged NEPA and PHCN for so long by employing the Multi Year Tariff Order (MYTO) under Sections 76 of the EPSRA, which provides for the periodic adjustment of the electricity tariffs. The philosophy behind MYTO is to operate the ESI in such a way that ensures that the investors in electricity in Nigeria make a reasonable return on investments (ROI) where they run their businesses in an efficient way that does not pass the cost of inefficiency or penalties to the consumers.

NERC has adjusted the tariff twice, since the enactment of the EPSRA, as it is keen on establishing a cost-reflective tariff regime that will sustain the operators on the one hand, and on the other hand attract investors into the sector.

The recent establishment of the Nigerian Bulk Electricity Trading Plc. (NBET) under the EPSRA is a welcome development. The Bulk Trader will be responsible for the acquisition of power from the Independent Power Producers and resell the power to the distribution companies and other eligible customers (as defined by EPSRA) during the transitional period of the sector reform and until such a time when it shall be declared that the there is a competitive electricity market in Nigeria. NBET is a special purpose vehicle employed by the FGN to ensure that a credible and economically viable company stands in the gap for the successor DisCos and GenCos by executing bankable power sector agreements, such as power purchase agreements, fuel supply agreements, and more importantly the vesting contracts.

The establishment of the Nigerian Electricity Liability Management Company (NELMCO) too will go a long way in assuaging the fears of the investors who are taking over the successor companies, confident in the assurance that the legacy issues of the NEPA and PHCN era will not scupper their investments.

Notwithstanding the aforementioned, investors are not falling over themselves to invest in Nigeria for obvious reasons. In the first place, the consensus is that it is too early in the day to state that private investment in the electricity sector is a safe bet due to issues relating to the general corruption in the system, especially with the controversies that surround some aspects of the privatisation exercise. Secondly, the reform represents an uncharted terrain with untested umpires. The Transmission Company of Nigeria Management contract saga is all too fresh in the consciousness of investors where the FGN purportedly and unilaterally terminated the management contract of the preferred manager for being in contravention of the Public Procurement Act. All the entities established under the EPSRA will struggle to remove the toga of an FGN appendage, instead of the independent institutions they ought to be.

There is no doubt that Nigeria has the potentials to achieve a competitive electricity market where the investors and the consumers are in a win-win situation, but the currencies needed to purchase this ideal are time, patience and political will.

Editor's Note

News that 24 foreign airlines may stop operations in Nigeria due to the non-approval of the 2013 summer flight schedule by the Federal Government of Nigeria (FGN) does not bolster confidence of investors in Nigeria. Granted the FGN may work out a last-minute solution, such kamikaze approach to governance discourages foreign investors who are more familiar with forward planning. The recommendation by the International Monetary Fund (IMF) on the scrapping of the Asset Management Corporation of Nigeria (AMCON) can deal a mortal blow to government reforms by justifying the misgivings on government-created special purpose agencies or corporations.

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