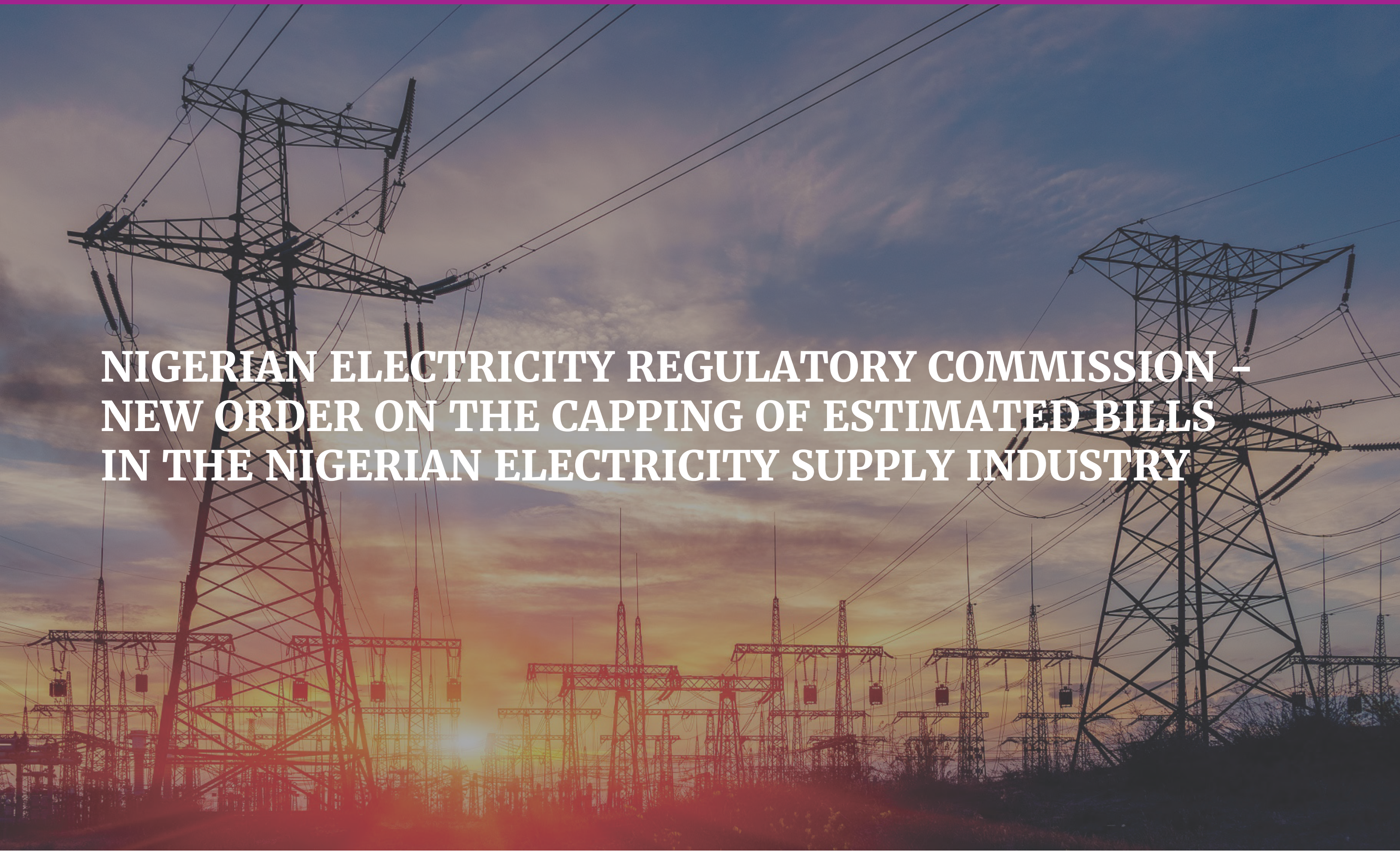

NIGERIAN ELECTRICITY REGULATORY COMMISSION – NEW ORDER ON THE CAPPING OF ESTIMATED BILLS IN THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY

Overview

The Nigerian Electricity Regulatory Commission ("NERC"), issued the Order on the Capping of Estimated Bills in the Nigerian Electricity Supply Industry (the "Order") on February 20, 2020. The Order repealed the NERC (Methodology for Estimated Billing) Regulations 2012 (the "Estimated Billing Methodology Regulations") and took effect from the date of its issuance.

The Order stipulates the maximum electricity consumption for which unmetered customers in the R2[1] and C1[2] tariff classes may be billed, based on the tariffs prescribed in the December 2019 Minor Review of the Multi-Year Tariff Order ("MYTO") 2015 and Minimum Remittance Order for the Year 2020, for each DisCo. The Order, thus, effectively caps the estimated billing charges which may be imposed by DisCos on unmetered customers within the affected tariff classes. The energy caps for the business units of each DisCo are stipulated in Schedule 1 to the Order. It should be noted, however, that the Order stipulates the maximum energy consumption for which these customers may be charged and precludes DisCos from making upward adjustments of estimated bills below the capped amount.

As an illustration, a residential customer with a single phase in the Lekki business unit of the Eko Electricity Distribution Company Plc would have a monthly energy cap of 238kWh and a tariff of N24.00 per kWh, as such their monthly estimated billing would be capped at N5,712.00.[3]

The Order also prescribes a new deadline of April 30, 2020 for the metering of all customers in all other tariff classes. Upon the expiration of this date, the Order exempts customers within tariff classes, other than R2 and C1, from paying estimated bills issued by the DisCos, and prohibits DisCos from disconnecting any such customers who refuse to settle estimated bills. In effect, upon the expiration of the deadline, DisCos will be forced to supply electricity to these customers, for free, until the effective installation of meters on their premises.

As a means of protecting the interest of DisCos from any customers who refuse the installation of meters in preference of the much lower capped estimated billing, the Order empowers DisCos to disconnect from the distribution network, any customer who rejects the installation of a meter.

Where an installed meter becomes faulty and the DisCo is unable to procure a replacement within two (2) working days, the DisCo is permitted to issue estimated bills based on the customer's average billing for the last three (3) months, until the replacement of the meter.

Finally, NERC also stipulated its intention to periodically review the performance of DisCos in the deployment of meters, as well as to undertake quarterly reviews of vending records and supply availability for the purpose of reviewing the energy caps prescribed in the Order.

1 Customers with a single phases or three-phases who utilise the grid connected premises exclusively for residential purposes.

2 Customers with a single phase or three-phases who utilise the grid connected premises for any purpose other than exclusively as a residence or a factory for manufacturing goods.

3 The monthly estimated billing cap is obtained through multiplying the monthly energy cap by the tariff

Comments

Research conducted by NERC shows that at June 2019, only Three Million, Eight Hundred and Eleven Thousand, Seven Hundred and Twenty-Nine (3,811,729) out of Eight Million, Eight Hundred and Eighty-One Thousand, Four Hundred and Forty-Three (8,881,443) DisCo customers were metered[4]. This leaves the metering gap at a staggering rate of fifty-seven per cent (57%).

The Order is the latest in a series of regulations and directives issued by NERC in its drive to close the metering gap to assure revenues for DisCos and guarantee customer satisfaction by ensuring that customers are only charged for the amount of electricity actually consumed. The main objectives of the Order are, therefore, centred on expediting the deployment of meters under the Meter Asset Provider ("MAP") Regulations and effectively ending the practice of arbitrary estimated billing by DisCos. The MAP Regulations came into force on April 3, 2018, with the target of metering all DisCo customers within three (3) years by creating a system for the licensing third-party MAPs to supply, install and maintain meters for DisCos' customers and also created a contractual framework for agreements between DisCos and MAPs. However, nearly two years after its implementation, the MAP Regulations have not been effective and over half of DisCo customers remain unmetered.

The Order, if stringently enforced, will be a step in the right direction by the NERC, the low energy cap should serve as an effective disincentive to estimated billing by DisCos, thus compelling DisCos to scale up efforts to ensure the prompt metering of all customers. The Order will especially be lauded by customers and other stakeholders who argue that DisCos have deliberately flouted NERC's directives on the metering of customers in a bid to maximise earnings from estimated billings, as they enable some DisCos to guarantee revenues by imposing arbitrarily high electricity bills on customers.

That said, it is also possible that DisCos, completely abandon (by almost not supplying them electricity at all), unmetered customers and still charge them the minimum estimated charge (profitably). It may have been better to ensure that, regardless of the circumstance of each DisCo, they supply a minimum volume of electricity to customers in every area covered by their franchise. To serve as a really punitive measure, the volume of electricity that must be supplied by each DisCo, should be set at a higher volume than the value of the minimum estimated charge.

However, other underlying barriers to the effective metering of customers still remain. DisCos are still limited by financial constraints arising from the existence of legacy debts, lack of cost-reflective tariffs, power theft and tariff-bypassing, which curtail their ability to adequately fund the supply and maintenance of meters to customers. Additionally, issues such as the increase in customs duties payable on the importation of meters and the lack of adequate funding affected licensed MAPs who were unable to pass on the increased cost to the consumers.

4 These figures were obtained from the The NERC Quarterly Report for the Second Quarter of 2019.

For more information on this Briefing, please contact

Ayodele Oni. Ph.D
Partner
ayodele.oni@bloomfield-law.com

Oluyinka Ogboye
Associate
oluyinka.ogboye@bloomfield-law.com