

# Are You an Electricity Customer in the Electric Power Sector?

## Here Are Some of Your Rights

The Nigerian journey to a competitive private sector-led electricity market has been bedeviled with a number of challenges ranging from inadequate generation, inadequate infrastructure, inadequate transmission of power to inefficient distribution of electricity to consumers.

Generally speaking, consumers (residential, commercial and industrial) are at the receiving end of the efficiency and the problems appear endemic in spite of the fact that the sector is now substantially in the hands of the private sector. Added to the inefficiency is the poor treatment consumers go through, in the hands of some electricity distribution companies ("DisCos"), in particular.

Consumers face several challenges including estimated billing, poor customer service and complaints handling, failure of obligation to repair or replace equipment and infrastructure that should be restored by the DisCos; with one example being consumers having to purchase transformers without any refund by the relevant DisCo.

Pursuant to Section 80 of the Electric Power Sector Reform Act, 2005, the Nigerian Electricity Regulatory Commission (NERC) is empowered to issue regulations to protect consumers (also referred to, herein, as consumers). Specifically, NERC has issued a number of regulations to protect consumers and these regulations relate to handling of customer complaints, connection and disconnection procedures, customer service standard of performance amongst others.

This paper, thus, highlights some of the rights of consumers and the protection availed them by the regulatory regime. Ignorance of these protections, in many cases prevents consumers from seeking redress or seeking to enforce such rights. Before highlighting these rights, it is pertinent to note that there are currently reviews going on in connection with the rules which have created some of these rights to improve same. Hence, the specific details of some of these rights may change in the coming months.

### Consumer Rights:

#### Purchase, Repairs and Replacement of Equipment:

Where there is any damage to a DisCo's equipment, it is not the responsibility of electricity customers or community to buy, replace or repair same. By virtue of standards and regulations issued by NERC, it is the responsibility of the DisCos to replace electricity transformers, poles and related equipment used in the supply of electricity.

NERC places the responsibility of procurement of power equipment used in the supply of electricity on the DisCos and not on consumers. Many consumers are clearly unaware that the repair or replacement of such equipment is the responsibility of the relevant DisCos and will usually go ahead to repair or replace same.

From a practical standpoint, it may well be the case that consumers or communities replace such equipment rather than wait for the relevant DisCo. In those situations, there should be an arrangement for the consumers or communities to recover such costs whether through a discounting of their electricity bills or some other mutually agreeable modes. In many cases, the relevant standard set by NERC is for the repairs or replacement to be done within 48 hours.

#### Mass Disconnection of Electricity Supply:

It is not unusual for a DisCo to disconnect the electricity supply of a whole community due to a default of, or a wrongdoing by one or a few consumers in that community. Question is whether a DisCo can legally do this. It will appear that the case is that they cannot legally do that, unless the whole community is in default. The NERC Connection and Disconnection Procedures ("NERC Connection Regulations"), provide in succinct details, the circumstances under which a DisCo is allowed to disconnect a customer from the supply of power.



Specifically, the NERC Connection Regulations contemplate that a customer may be disconnected **ONLY** in the events that (a) a customer has not paid the amount correctly billed for that supply address provided by the customer (b) has connected illegally (c) taking action which puts the supply of electricity to others in jeopardy/ makes same unsafe or (d) where a customer's meter cannot be read for 3 consecutive months. It further provides for the prerequisites before such disconnection can take place.

Further, the DisCo Licence Terms and Conditions provide that a DisCo shall not lessen or discontinue the supply of electricity to a customer except in the case that the customer has failed to comply with conditions of supply and has failed to remedy such default within a period of fourteen (14) days of notice to do rectify such default.

A careful reading of the NERC Connection Regulations and the DisCo Licence Terms and Conditions reveals that DisCos are precluded from resorting to self-help, by unilaterally de-energizing paying/ non-defaulting customer(s) in a bid to 'punish' certain customer(s).

Other than the circumstances aforementioned, a DisCo cannot disconnect the electricity supply of a consumer or group of consumers.

#### When you Rent a Property and there is an outstanding electricity Bill:

Generally, a tenant vacating a premises is required to inform the DisCo which supplies electricity to the premises and obtain a final meter reading so that all electricity invoices or bills, can be settled. It is pertinent that landlords are aware of this and new tenants too, such that upon agreeing to take over a premises they should immediately notify the DisCo so that they (the tenant in particular) do not inherit unpaid electricity bills. What I typically do as a lawyer is to push the responsibility to pay pre-existing bills (including electricity) to the landlord, in the tenancy or lease agreement.

That is a standard provision in any tenancy or lease agreement I review for clients and I think it is something every lawyer reading this article should consider doing when reviewing tenancies or leases. NERC is currently seeking to improve the rules in relation to the foregoing. For now, if you are a new tenant, prior to signing your lease or tenancy, ensure (i) that you have sufficient protection in your tenancy or lease and (ii) you notify the DisCo

which supplies electricity to your new premises that you are taking over the tenancy of same. Trust you find this portion of the article particularly useful.

#### When You Receive "Crazy" Estimated Billing by DisCos:

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 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 (customers with a single phases or three-phases who utilize the grid connected premises exclusively for residential purposes) and C1 (customers with a single phase or three-phases who utilize the grid connected premises for any purpose other than exclusively as a residence or a factory for manufacturing goods) 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 of the DisCos.

The Order thus effectively caps the estimated billing charges which may be imposed by DisCos on unmetered customers within the affected tariff classes. However, it should be noted 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. When you do receive an estimated bill and want to complain, it is pertinent that you review and then know the energy cap (kWh) for your DisCo, Business unit and Tariff class. If the energy (kWh) you are billed is higher than what is indicated in the Order for your DisCo, Business unit and Tariff class, THEN report to the Commission by visiting NERC's website, filling the necessary form, attaching the relevant bill with your form number written on the bill before uploading your bill.

#### Conclusion:

Electricity customers or consumers have several rights (and of course, responsibilities). Many consumers suffer because they are not aware of these rights and because they are not aware, they do not take steps to enforce same. What I have done here is to highlight a few of these rights and I do hope that this piece will lead to more consumers seeking to find out what their rights are, and further enquire from their advisors, ways to enforce same.

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