

Highlights Of The Reviewed Nigerian Electricity Regulatory Commission Distribution Myto-2015 Tariff And Its Impact On The Nigerian Electricity Supply Industry

Introduction

Pursuant to the powers vested in the Nigerian Electricity Regulatory Commission (NERC) by the Electric Power Sector Regulatory Act (EPSRA), NERC established a methodology for the Multi-Year Tariff Order (MYTO) on 26th April 2007 (revised on 20th March 2012) to regulate tariffs in the power sector. The methodology adopted by NERC is the building blocks approach which factors in fair rates of return on invested assets; return of capital over the useful life of assets; and efficient operating costs and overheads. The MYTO provides for a 15 year tariff path for the electricity industry with minor reviews bi-annually and major reviews every five years. Over the past eight years, the Nigerian Electricity Supply Industry (NESI) has experienced intermittent reviews of the tariff by NERC, for expedient reasons.

The most recent review of the MYTO is the “MYTO 2015” (issued on 21st December, 2015 and effective 1st February, 2016), which was issued in view of the concerns raised by Distribution Companies (DISCOs) that the penultimate Tariff Order (Amended MYTO 2.1 issued on 24th April 2015) was not cost reflective.

This Article will provide a background to the MYTO 2015, give highlights of the MYTO 2015, and identify the impact on the NESI.

MYTO 2015

Brief background

At the closure of the privatization process in November 2013 when most of the DISCOs were handed over to private operators, the Tariff Order in force was the MYTO 2. It was acknowledged by both NERC and private operators that the baseline Aggregate Technical, Commercial and Collection (ATC &C) Losses in the MYTO 2 were inaccurate and that the tariff was not cost-reflective. The implication is that the DISCOs’ were unable to pay their bills for power supplied by the Generation companies (GENCOs) post-handover, and this replicated down the value chain.

NERC, therefore, out of necessity issued the Interim Rules 2014 which governed how payments were made down the value chain until a more cost-reflective tariff based on reset ATC &C losses was issued. NERC issued the MYTO 2.1 effective 1st April, 2015, which increased tariffs across customer classes to as high as about 80-103% (though a class of Residential tariffs - R2 was frozen to prevent tariff shock). MYTO 2.1 resulted in a public outcry from consumer groups, petitions to NERC, and lawsuits against NERC.

In response to the outcry, NERC issued the Amended MYTO 2.1, under which the tariffs were reduced. By the Amended MYTO 2.1, NERC removed the collection losses component from the tariffs, stating that it was within the control of the DISCOs.

Congruently, DISCOs raised concerns about the Amended MYTO 2.1 that it was not cost-reflective and the DISCOs, therefore, issued notices of force majeure under their respective Performance Agreements. The DISCOs warned that the issue could ultimately lead to their insolvency and the NESI market collapse, amongst others.

Thus, there was a dire need to review the tariffs and NERC, on that basis, directed all DISCOs to engage their customers and stakeholders and prepare their respective tariff proposals for consideration. NERC considered each DISCO's tariff proposals and published the MYTO 2015.

Highlights of MYTO 2015

The following are the highlights of MYTO 2015:¹

- a) The tariff proposals submitted by each DISCO was adopted by NERC, in accordance with the Tariff Guidelines, 2015, and NERC published separate tariffs for each DISCO with a view to achieving cost reflectivity;
- b) MYTO 2015 is indexed for inflation, exchange rate, gas price and generation capacity projections; and allows the DISCOs to recover reasonable administrative, operational and maintenance costs. Note however that given the current dip in oil prices and the naira (benchmarked against the dollar), the current exchange rate and accessibility to foreign exchange remains an ongoing challenge.
- c) The following Table shows the changes made to the macro-economic indices in the MYTO 2015, as compared to the Amended MYTO 2.1.

S/N	MINOR REVIEW VARIABLES	AMENDED MYTO 2.1	MYTO 2015
1.	Inflation	13%	8.3%
2.	US Rate of Inflation	3%	0.2%
3.	Exchange Rate	₦178	₦198.7 - \$1
4.	Gas Price	\$2.30	Gas Price - \$2.50 Transportation - \$0.80
5.	Generation Capacity Projections	5,556 MW	2016 – 5,465 MW 2017 – 7,199 MW 2018 – 8,999 MW 2019 – 10,493 MW 2020 - 11, 383 MW

- d) The R2 Tariffs freeze applicable under the previous tariff orders (for single and three phase lines for Residential Customers) no longer applies. DISCOs are held accountable for performance from 2015 and any revenue shortfall as a result of the R2 tariff freeze will be recovered in the MYTO 2015;
- e) MYTO 2015 allows for an under-recovery of DISCO revenue requirements in the first few years and an over-recovery in the subsequent years;
- f) The collection loss component of the verified ATC&C losses (less debts of Ministries, Departments and Agencies of the Federal Government), has been reinstated in the retail tariffs, in line with the Performance Agreements executed by all DISCOS. In addition, the DISCOs are expected to commence their ATC&C loss reduction trajectory from January, 2016;

¹ <http://www.nercng.org/index.php/document-library/2015-Tariff-Review/>

- g) The fixed charge component of the tariffs for all DISCOs was removed and rebalanced to the energy charge;
- h) NERC will now recognise prudent tariffs agreed between the DISCOs and Embedded Generators, IPPs and power developers ;
- i) The tariffs for consumer categories (save for tariffs applicable to R1 Consumers – lowest level residential customers) were revised in accordance with reclassifications proposed by the DISCOs; and
- j) Each DISCO is to be held accountable for stipulated service improvements stated in the Performance Agreement.

Effects of MYTO 2015

1. Reactions by Consumers to the Tariff Shock

One of the lawsuits instituted upon the issuance of MYTO 2.1 resulted in an order of a court on 28th May 2015, not to increase the tariffs until the matter is decided by the court. This matter is still pending.

The Nigerian Labour Congress protested MYTO 2015, based on the court injunction referenced above; and the fact there is no improvement in power supply.

In reaction to the protests, the Nigerian Senate on 16th February, 2016 passed a resolution requesting DISCOs to suspend the implementation of the new electricity tariffs (MYTO 2015); pending the outcome of a public hearing on the issue. However, such resolution of the Senate is not binding, as the EPSRA which empowers NERC to set tariffs was enacted by the Senate; and to vary such power of NERC, the Senate would have to amend the EPSRA, which has not been done.

Furthermore, the under-recovery/over-recovery of the revenue requirement strategy in the 10 year plan, which is expected to minimize the impact of the tariff shock to the customers, will only achieve the purpose if electricity supply improves significantly in the over-recovery periods.

2. Shortfall in Revenue

Following the removal of collection losses from the Amended MYTO 2.1, the sector was running on a deficit of about N18–N20 billion a month. This shortfall subsists as DISCOs are expected to have an under-recovery of their revenue requirement in the first few years under MYTO 2015 in order to minimize the tariff shock to the customers.

3. Ensuring Viability of the DISCOs

Clearly the Discos require a lot of investment to achieve improvements to their networks and meet their loss reduction targets. NERC acknowledges that these investments are required to ensure that the viability of the DISCOs and can be achieved under MYTO 2015. This may however be a challenge in the early years of the tariff given the under-recovery in the first 2-3 years of the tariff. This therefore presents an opportunity for low cost investment/funding in

DISCOs that would bridge the gap in the early years by providing for DISCOs' capital expenditure. Lenders and Investors would, however, need to be comfortable with the certainty of the tariff and DISCO revenues.

4. Improvement in the Value Chain (Gas, Generation and Transmission)

DISCOs, GENCOs, and the Transmission Company of Nigeria (TCN) are all co-dependent and the activity (or otherwise) of one has an effect on the other. Presently, generation capacity is very low with the daily average energy dispatched at about 3682MW; gas availability is insufficient and the transmission infrastructure is weak as the grid wheeling capacity for now is about 5,300MW. Investments to improve the value chain, though may not immediately result in cheaper tariffs, but will ultimately lead to steady supply of electricity and acceptable tariffs.

5. Fulfillment of Contractual Obligations

It is expected that the revised tariff will enable DISCOs meet their obligations under their respective performance agreements and industry agreements. This in turn should have a spin off effect on contractual and financial obligations down the value chain (Gencos, Gas suppliers, and the TCN). More importantly, the ability of the bulk trader (Nigerian Bulk Electricity Trading Company Plc.) to issue bank guarantees to GENCOS to guarantee their power supply is hinged on a cost-reflective tariff and the viability of the DISCOS.

CONCLUSION

MYTO 2015 is a step in the right direction, as it is the closest tariff to cost-reflective that the NESI has ever had. However, a lot still needs to be done to see the DISCOS through the short term liquidity constraints they would still face in the coming years.

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