

COMMUNIQUE ISSUED AT THE END OF THE FOURTH NATIONAL COUNCIL ON POWER (NACOP), HELD AT THE BANQUET HALL, GOVERNMENT HOUSE, BENIN CITY EDO STATE FROM 23RD – 27TH JULY, 2018

The 4th edition of the National Council on Power (NACOP) was held in Benin City, Edo State from 23rd to 27th July, 2018 with the theme: “Increasing Access to Electricity through Improved Power Infrastructure”. The Council was presided by the Honourable Minister of Power, Works and Housing, Babatunde Raji Fashola, SAN ably represented by the Permanent Secretary (Power), Louis O. N. Edozien. Council members from 30 States of the Federation were in attendance.

2. Council noted that out of thirty-two (32) resolutions made at the 3rd NACOP, only Ten (10) were implemented. The Council also noted the efforts made by the Implementation Task Team and recommended that the Task Team members should physically visit the concerned stakeholders in all the States of the Federation to enable full implementation of the decisions of the 3rd and 4th NACOP by the different stakeholders

3. A total number of four hundred (400) delegates drawn from the public and private sectors participated at the Council meeting.

4. A total number of 59 memoranda on different topical issues pertaining to power were received from Stakeholders and Seven (7)

presentations were made by experts on Power at the plenary sessions as follows:

- i. Increasing Power Generation Output through Zungeru Hydroelectric Project;
- ii. The Rural Electrification Fund and Its Role towards Off-Grid Development in Nigeria;
- iii. Technical Standards and Safety in The Power Sector;
- iv. Regulatory Interventions to Facilitate Delivery of Power to Customers/End Users;
- v. Manpower and Capacity Building Support for the Overall Success of Improved Power Delivery;
- vi. Transmission Rehabilitation and Expansion Program; and
- vii. Distribution Infrastructure: Critical to Power Delivery to End User.

5. The 59 Memoranda received by different stakeholders were exhaustively discussed under the following six (6) Working Technical/Thematic Groups and recommendations were made to the Council:-

- i. Power Generation;
- ii. Eligible Customers;
- iii. Capacity Building;
- iv. Distribution Expansion Programme;
- v. Transmission; and
- vi. Mini-Grid Development in Nigeria

6. At the Executive Session, the Council considered issues, observations and recommendations made by the Thematic/Technical Committees as

contained in the Reports laid before it, and took key decisions as well as gave directives for implementation with time lines. Among the key decisions taken are:

A

On ensuring effective Implementation of the Power Sector Recovery Programme (PSRP) Council noted that:

- (i) Federal Executive Council (FEC) approved the Power Sector Recovery Programme (PSRP) and it is being implemented;
- (ii) NBET has contracted power capacity of 13,000MW;
- (iii) Generation and Transmission available capacity is 7,300MW;
- (iv) The present off take by the Discos is about 5,000MW;
- (v) That the generation forecast presented at 3rd NACOP were: 2016 - 4,500MW; 2019 - 9,000MW; 2020 - 10,000MW; and 2030 - 30,000MW;
- (vi) That the existing NBET Contracts backed by PRG and PCOA enable private investment in the sector but present challenges due to the obligations placed on FGN for what are supposed to be commercial contracts;

B

On the report on the update status of the implementation of the decisions at the 3rd NACOP meeting held in 2017 in Jos Plateau State;

- (vii) Council noted the importance of the continued progress on resolutions of NACOP in 2017 on electricity theft. Letters were sent to the two chambers of the National Assembly to include protection of whistle blowers to cover energy theft and vandalism in the NESI. Resolution 19.6 (xix) of 2017;
- (viii) Council noted that letters were written to NERC for the implementation of the decision but no response has been received. Resolution 22.6 (xxii);
- (ix) Council renewed its earlier decision in 2017 3rd NACOP that the 3 tiers of Government should collaborate to resolve all issues concerning Right of

Way (way leave) for all Power Projects and enjoined the State government to intervene to resolve Land and Line related issues such as way leave and compensation negotiation which currently hinders completion of TCN projects in the States;

(x) Council enjoined State Governments to support TCN in the construction of Transmission Lines and substations by acquiring the Right of Way and handing over to TCN free and as well resolve unencumbered rights of way;

(xi) Council directed TCN to make available its Transmission, Rehabilitation and Expansion Plan (TREP) to all the States of the Federation within one month;

(xii) Council advised the Edo State Government to obtain a comprehensive status report on the project in Ugo from NDDC and based on the Report, submit its a request to the Honourable Minister of Power Works and Housing for intervention.

C

On Increasing Access to Electricity through improved power infrastructure

(xiii) Council approved and mandated the Nigerian Gas Processing and Transportation Company (NGPTC) to domesticate and denominate the price for gas transitions in Naira.

(xiv) Council approved and mandated the Federal Government (FG) to look into all transactions in gas and power to be domesticated and dominated in Naira.

(xv) Council approved and mandated Central Bank of Nigeria(CBN) in consultation with the Federal Ministry of Finance and National Economic Council to make forex available to Gencos, Discos and Meters Assets Providers at CBN official rate in line with the Economic Recovery and Growth Plan (ERGP);

(xvi) Council approved that the pricing (non-domestic Supply Obligation gas) and regulation of gas is not directly under the purview of NERC and this poses some risks and challenges for the industry.

D

On the Workforce Audit for the power sector in Nigeria and the National Power Sector Training Policy and Framework:

(xvii) Council noted that the implementation of the Workforce Audit by NAPTIN is on-going and will be completed by next NACOP meeting and approved the circulation of the draft Training Policy to State Commissioners, industry operators, relevant stakeholders and regulators for consideration as a framework for NESI.

(xviii) Council approved that the relevant stakeholders submit their training requirements/needs to NAPTIN within six (6) months, who thereafter is to articulate, collate, design and develop programmes that will improve technical and non-technical training in the NESI.

(xix) Council approved and directed the Federal Ministry of Power, Works and Housing (Power Sector) & NAPTIN to collaborate with NUC & NBTE to review and amend the Tertiary Institutions Curriculum to include courses on renewable Energy, Energy Efficiency and other requirements of Vision 30:30:30.

(xx) Council approved that the training policy should include adequate training on industrial standards and new technologies

(xxi) Council encouraged NERC, Discos and other relevant agencies to intensify the dissemination of information on tariffs & safety through roadshows, workshops, town hall meetings and engagement with community groups.

E

On the Expansion and Stability of Transmission Infrastructure,

(xxii) Council noted that there were various issues concerning the 1x150MVA, 330KV/132/33KV Substation Project at Damaturu which was awarded 12 years ago, including contractor performance, and directed that the Yobe State Government should liaise with FMPW&H (Power Sector) and TCN for the early completion of the Projects.

(xxiii) Council noted that the construction of the extension of the 132KV transmission Line from Damaturu to Garin Alkali (Gashua) and Nguru with associated 2x60MVA, 132/33KV substation is on-going and directed that Yobe State Government should liaise with FMPW&H (Power Sector) and the TCN for the early commencement and completion of the Project.

(xxiv) Council noted that the projects on which memoranda were submitted by the Ondo State Government i.e. the 1x150MVA, 330/132/33KV Transmission Substation Project along Owo/Benin Expressway Akure, the 2x60MVA, 132/33KV Substation at Oke-Agbe Akoko in Akoko North West LGA are included in the Transmission Rehabilitation and Expansion Plan (TREP) of TCN and directed that the TREP be circulated for the support of Ondo State Government towards the timely completion.

(xxv) Council adopted the recommendation and directed the Ondo State Government to obtain a comprehensive status report from NDDC and based on the Report; make a request to the Honourable Minister of Power Works and Housing for intervention.

(xxvi) Council noted and adopted the recommendation on the upgrade of the existing 330KV single circuit transmission line to double circuit 330KV transmission line is included in the Transmission Rehabilitation and Expansion Plan (TREP) of TCN which will be circulated for the support of Ogun State Government in acquiring Right of Way towards the timely Completion of the Project.

(xxvii) Council noted and adopted the recommendation that the Project for the Construction of Onne-Yenogoa-Delta 330KV Double Circuit Transmission Line with the associated 2x150MVA, 330/132/33KV Transmission substation at Yenogoa and the 2x60MVA, 132/33kv transmission substations at Otuoke, Sagbama and Oporoma with their associated double circuit 132kv lines in Bayelsa State are included in the TREP of TCN and that all similar projects already included in the TREP should be circulated to Delta State as well as other States for support on completion of the project.

(xxviii) Council approved that Policy directive be given to TCN for the urgent construction of a 2x60MVA, 132/33kv Transmission substation and associated 20km Double Circuit 132kv transmission line at University of Benin, Edo State, as a pilot scheme and to consider similar connection to all other Federal and State Universities as part of its Transmission Rehabilitation and Expansion Program.

(xxix) Council enjoined State Governments to support TCN in the construction of Transmission Lines and substations by acquiring the Right

of Way and handing over to YCN free and as well resolve unencumbered rights of way.

(xxx) Council directed TCN to make available its Transmission, Rehabilitation and Expansion Plan (TREP) to all the States of the Federation within one month.

(xxxi) Council advised the Edo State Government to obtain a comprehensive status report on the project in Ugo from NDDC and based on the Report; submit its request to the Honourable Minister of Power, Works and Housing for intervention.

E

On the Expansion and Stability of Distribution Infrastructures and network,

(xxxii) Council approved that Policy directive be issued to National Council on Privatization to expedite action on the evaluation on States' pre-Privatization investments submitted to it by NERC in respect of shareholding.

(xxxiii) Council approved that Policy directive be issued to NERC to enforce regulations on meter tempering and by-pass.

(xxxiv) Council approved that Policy directive be issued to NERC to direct all DISCOS to comply with the Local Content and other provisions of the Meter Asset Provider Regulation other regulations and laws.

(xxxv) Council approved and encouraged State Governments, MDAs and others interested in investing in Distribution Infrastructure to consult with the respective DISCOs in the Planning, and implementation of the projects to ensure seamless take over on completion.

(xxxvi) Council approved that all State Governments that are willing to invest in distribution network comply with all existing NERC requirement and regulations on investment and in distribution network.

(xxxvii) Council approved that policy directive be issued to NERC to develop a regulation to DisCos where failed infrastructure is not rectified within the time prescribed in the EPSR ,States as well as the Communities

shall have the right to replace infrastructure and recover its reasonable investments from the DisCos.

(xxxviii) Council approved that Policy directive be issued to NERC to enact regulations that empower a community or State Government or private developer to take over distribution infrastructure that a Disco is unable or unwilling to energize and operate where the community, State Government or private developer is prepared to pay for the energy supplied from the grid at the wholesale price or is willing to provide alternative source of energy.

(xxxix) Council approved that Policy directive be issued to NERC to finalize work on and implement a cost reflective tariff in the market.

(xl) Council noted the need for and endorsed the amendment of the EPSR Act after 13 years of its operation to align its provisions with current needs and realities of the NESI and as well encouraged the National Assembly to take appropriate action after wide consultation.

(xli) Council approved that Policy directive be issued to NERC to intensify the stakeholder's engagement process for wider and deeper buy-in in regulatory functions.

(xlii) Council approved that a Policy directive be issued to NERC to effectively implement existing regulation on investment by State Governments and private investors in Transmission, Distribution and DisCos network during the post privatization period.

(xliii) Council approved the Policy Directive to NERC to make public DisCos five-year Distribution Expansion and Rehabilitation Plans of each DisCo currently under review to enable Mini-grid operators across the country know where they can invest.

(xliv) Council noted the EPSR Act, 2005 and the RESIP, 2016, and mandated equitable distribution of REF funds across the 6-geopolitical zones.

(xlv) Council noted the need to increase Rural Electrification Fund (REF) funding to adequately electrify more communities.

(xlvi) Council noted the importance of involving State REBs on project implementation involving their States.

(xlvii) Council approved that REA should focus on expanding the Rural Electrification Fund (REF) and deploying projects funded by the REF.

(xlviii) Council approved that a Policy directive be issued to NDPHC and TCN to complete all on-going Transmission and Distribution projects.

(xlix) Council approved that a Policy directive be issued to amend Power Purchase Agreements (PPAs) between Nigeria Bulk Electricity Trading (NBET) and GenCos to allow the sale of contracted capacity that is not utilized by Discos to eligible customers.

G

On the issues relating to ensuring safety and standards in the NESI

(i) Council approved that a Policy directive be issued to the Nigeria Custom Services (NCS) to liaise with the Standard Organisation of Nigeria (SON) and NEMSA to enforce regulations against the importation of fake Sub-standard Electricity equipment and materials.

(ii) Council approved that Policy directive be issued to NEMSA to ensure the implementation of its Guidelines on indiscriminate connection of Point Loads on 33KV Primary feeder lines to existing 33/11KV Injection Sub-stations provided, exempts cases where there is no 11KV lines and were Point Load connected does not jeopardize Integrity, Quality, and Stability of the Network. NERC should issue specific guideline on the basis for exemption from regulatory order or directive.

(iii) Council approved that NEMSA should ensure the enforcement of the banning of untreated wooden poles in the Nigeria Electricity Supply Industry (NESI).

(iv) Council noted that the 3rd edition of NACOP earlier took decision and approved that the resolution at the 2017 NACOP concerning the disconnection of Structures under the Power line is being implemented and to note the urgency in completing the disconnection as well as the

eventual demolition of the structures under the Power Lines (in the Right Of Way).

(liv) Council approved that NEMSA should ensure the enforcement of the banning of untreated wooden poles in electricity supply industry (NESI).

(lv) Council approved that Policy directive be issued to NERC, GenCos, TCN and Eligible Customers to comply with the requirement that Discos issue letters of Non indebtedness to all prospective Eligible Customers.

(lvi) Council approved that Policy directive be issued to NERC that where there is a substantial reduction in the Distribution load due to loss of key customers as a result of Eligible Customer regulation, there is need to amend the load allocation formula accordingly.

(lvii) Council approved that Policy directive be issued for a framework to be put in place to ensure open access to Transmission and Distribution networks by eligible customers.

(lviii) Council to note that 2,000 MW of available capacity of Gencos is not utilized by Discos and approved that a target be set for 1000 Mega Watts of it be contracted to eligible customers as quickly as possible.

(lvix) Council approved that a Policy directive for the development of a framework/methodology for computation and payment of Competitive Transition Charges (CTC), Transmission Use of System Charges (TUoSC), Distribution Use of System Charges (Duos) and tariff adjustment accordingly.

(lx) Council approved that a Policy directive be issued for the Market Operator to develop a balancing mechanism in line with the provisions of the market rules and for NERC to approve same and amend the market rules accordingly.

(lxi) Council approved that a Policy directive be issued for NERC to expedite action on the development of a framework that will allow visibility

and transparency of revenue sharing structure pending full implementation of market contracts.

(Ixii) Council approved that a Policy directive be issued for the Honourable Minister of Power, Works and Housing to send a strong recommendation to the Federal Executive Council (FEC) for implementation on the subject of Board representation in DisCos.

H

On enhancing the regulatory functions of NERC

(Ixiii) Council approved that a Policy directive be issued to NERC to amend Clause 15 of MYTO 2015 Tariff Order of each DisCo to:

(a) Bulk Power Procurement (Open Book) and willing buyer arrangement:

(b) NERC should recognize prices agreed between Distribution Companies (DisCos) and Meter Asset Providers where applicable or Transmission Providers or embedded generators or other Independent Power Producers; and targeted customers or eligible customers, where such tariff is higher than MYTO benchmark and the Commission is satisfied that the consumers affected have consented to the arrangement and the costs to be recovered by such higher tariff are prudent and relevant.

(Ixiv) Council approved that a policy directive be issued to Nigeria Electricity Regulatory Commission (NERC) to ensure that prudent costs of testing and certification of metering infrastructure by NEMSA is captured in the MAP regulation cost structure.

(Ixv) Council approved that Policy directive be issued to NERC to ensure transparency in the procurement process of MAP by the DisCos to make it work by putting in place a robust framework for monitoring and enforcement mechanism for MAP and that the FMPW&H (Power)

should embark on Public Sensitization and awareness creation on the implementation of MAP to all stakeholders.

(Ixvi) Council mandated CBN in consultation with the Federal Ministry of Finance and National Economic Council to make forex available to GenCos, TCN, Discos and Meter Asset Providers at CBN official rate in line with Economic Recovery and Growth Plan (ERGP).

(Ixvii) Council noted the difficulties in accessing finance for Mini-grid Project development using renewable energy and approved that the FMPWH (Power Sector) should encourage local and international Development Banks operating in Nigeria and Central Bank of Nigeria (CBN) to support commercial banks in providing credit lines for mini-grid project development in Nigeria.

(Ixviii) Council approved and directed FMPWH (Power Sector) and its Agencies to give priority attention to data collection and management using the existing central database management system in the Ministry, including data on renewable energy, particularly solar.

(Ixix) Council noted the desirability of expanding local production of solar cells and its components and approved that the FMPWH (Power Sector) should fully support NASENI, Usman Dan Ford University, Obafemi Awolowo University, and any other University involved in search programme as well as other investors that may be interested in this regard.

(Ixx) Council approved and encouraged the Standards Organisation of Nigeria (SON), Nigeria Electricity Management Agency (NEMSA), Nigerian Electricity Regulatory Commission (NERC) and NASENI to collaborate in confirming the appropriate solar panel standard and procedures for Certification Compliance.

(Ixxi) Council noted the existence of uncompleted Small and Medium Hydropower Plants (SMHP) projects at different levels of

implementation across the country, the growing demand for power in various rural communities across the country and the difficulties private mini-grid developers (including Government Companies) are facing in accessing unserved and underserved communities for the purpose of implementing Mini-grid projects due to resistance from DisCos contrary to the provisions of Mini-grid Regulation, 2017.

(Ixxii) Council noted that FMPWH (Power Sector) in collaboration with Infrastructure Concession and Regulatory Commission (ICRC) had developed and implemented a framework for competitive procurement for concession of Small and Medium Hydro Plants(SMHP) dams for power generation. The FMPWH (Power) should review the previous SMHP facilities and consider implementing the concession framework with private developers.

(Ixxiii) Council approved that NERC should develop and enforce a simplified methodology for determining a fair and transparent Distribution Use of Service (DUoS) tariff that DisCos can charge Mini-grid Developers for using DisCos networks in unserved and underserved areas where Mini grid can be developed.

(Ixxiv) Council noted the presence of many uncompleted electrification projects nationwide and also directed FMWPH (Power Sector) to coordinate with State Governments, Ministry of Water Resources and other Agencies to review all uncompleted projects and hydro power facilities for inclusion in a schedule of investment opportunities that can be concessional to investors using provisions of the Rural Electrification Strategy and Implementation Plan (RESIP) 2016 and the Competitive Concession Framework developed by the Ministry and ICRC.

(Ixxv) Council noted the existence of uncompleted Small and Medium Hydropower (SMHP) power project at Ikpoba River Dam, Edo State and the prevalence of dilapidated and broken electricity poles in Edo State as well as other States across the Country, and the need for

DisCos and NERC to make public the DisCos' 5year expansion Plans as well as DisCos Network Rehabilitation Plans to enable Mini-grid Developers and other stakeholders know areas with potentials for Mini-grid development.

(lxxvi) Council noted the efforts of State Governments in attracting investments to the Power Sector.

(lxxvii) Council approved the FMPWH (Power), Federal Ministry of Finance (FMF), NBET and (NERC) issue a clear statement on requirements for execution of Partial Risk Guarantee (PRGs) and Put Call Option Agreement (PCOAs) with new Independent Power Plants (IPPs).

(lxxviii) Council noted painfully that Distribution Subsector (Companies) have not performed at the same level as the Generation and the Transmission Subsectors (Companies).

(lxxix) Council noted that almost every performance matrix supervised by NERC and Bureau for Public Enterprise (BPE) in respect of the DisCos have failed to achieve Operational Targets.

(lxxx) Council noted and advised that Complaints about the poor performance of DisCos in terms of quality, termly response and estimated billing by consumers and other stakeholders are increasingly negative.

(lxxxii) Council noted and advised that the sales agreement under which BPE sold the assets to new owners will be due for renegotiations in November 2018. Council therefore considered and approved that Policy directive be given to BPE who is the Government representative in the sales agreement to renegotiate the agreement with full consideration.

(lxxxii) Council noted and advised that State Governments continued to make significant investment in the Distribution Infrastructure within the States to improve Power supply cum services delivery.

(lxxxiii) Council noted and advised that State Governments should continue to make these investments because they have socio-political and economic obligations to their citizens.

(lxxxiv) Council noted and advised that Federal Government should also take decision to invest in Distribution Infrastructure to ensure that service quality improves.

(lxxxv) Council noted that the Distribution Companies seemed to be emboldened by the various Sales Performance Agreements (SPAs) which they signed with the BPE and has therefore given them monopoly status to operate and has aggravated their non-performance which should not be so.

(lxxxvi) Council noted and advised that in order to allow competition so as to improve service quality, any re-negotiations in November 2018 should allow credible and well resolved Investors and Industry players to participate and compete in the Distribution Subsector.

(lxxxvii) Council noted and advised that SPAs should empower consumers to choose their Distribution Service Providers and the jurisdictions of the DisCos in terms of corridor of energy supply should be reviewed in such a way that they will be much more effective in Operational Investments and Performance.

(lxxxviii) Council noted and advised that Smart Technologies that would propel the DisCos to perform better should be suggested before November 2018 date for the review of SPAs.

(lxxxix) Council approved that in order to help the DisCos break even and perform better the MYTO 2 tariff should be reviewed upward to allow for efficiency;

(xc) Council approved that in view of the need for stakeholders to be fully involved in the process of assessment of DisCos' performances and renegotiation of SPAs in November 2018, and to stick to

confidentiality clause in the Sales Agreement, it was resolved that the shareholders' Agreement used by the BPE and the Performance Agreement with the DisCos should be sent to the Honourable Commissioners in the States under Classified "Top Secret" to enable them have critical studies before the Stakeholders engagement at a date to be determined in September 2018.

10. Council expressed its profound appreciation to the Government and the good people of Edo State for hosting the 4th Edition of the National Council on Power (NACOP) and directed that a meeting of the Council be convened later in the year to resolve issues of the State that will host the 5th NACOP next year and other unresolved issues.

Planning, Research and Statistics Department
Federal Ministry of Power, Works and Housing (Power Sector)

26th July, 2018