

TRANSMISSION COMPANY OF NIGERIA(TCN)

INDEPENDENT SYSTEM OPERATOR

ORDER NO: TCN/ISO/MO/2019/005

BEFORE THE MARKET OPERATOR, INDEPENDENT SYSTEM OPERATOR,
TRANSMISSION COMPANY OF NIGERIA

IN THE MATTER OF NON-COMPLIANCE WITH THE CONDITIONS OF MARKET RULES
AND MARKET PARTICIPATION AGREEMENTS.

WHEREAS:

1.The Independent System Operator, on behalf of the Market Operator, entered into a Market Participation Agreement with Kano Electricity Distribution PLC (KEDCO) on the 6th of February 2015.

2.In the signed Market Participation Agreement, KEDCO agreed to at all times be compliant with the provisions of Clause 3.2 reproduced below:

The Participant shall in accordance with the provisions of the Market Rules, Grid Code, Metering Code and the Market Procedures be compliant at all times, particularly by:

- i. Providing metering information in a timely manner and in the approved format in accordance with the Metering Code and the market procedures.
- ii. Security Deposit when so required of an amount established by Market Operator to serve as a form of guarantee of payment for all amounts due from the Participant to the Market Operator.
- iii. Settling in a timely manner any payment due

3. KEDCO failed to increase their Security Cover in accordance with Section 15.3.3 of the Market Rules, thereby breaching Section 45.3.1(c) of the Market Rules which is reproduced below:

45.3.1 This Rule 45.3 shall apply to any Participant in respect of which any of the following Events of Default have occurred if:

(d) the Participant fails to renew the Security Cover required from each Participant under these Rules within the time specified in that regard by the Market Operator;

4. KEDCO was notified of the default of Market Rules 45.3.1 (c) via a NOTICE OF EVENT OF DEFAULT (NED/2019/005) dated July 9, 2019. It was required to remedy the default in line with Section 45.3.3 of the Market Rules reproduced below:

45.3.3 Where an Event of Default has occurred in relation to a Participant, the Market Operator shall:

(a) issue to the Participant a Default Notice specifying the alleged default and requiring the Participant to remedy the default within such time as may be specified in the Default Notice, which time shall not be more than the longer of:

(i) 5 days; or 2 Business Days; and / or

(ii) make a claim upon the Security Cover maintained by the Participant for such amount as the Market Operator determines represents the amount actually owed by the Participant to the Market Operator, or which forms its contingent liability to the Market Operator under these Rules and the Grid Code.

5. The Event of Default of Section 45.3.1 (c) committed by KEDCO could have been remedied by applying the dictates of Section 45.3.5 (b) of the Market Rules which states that:

45.3.5 A Participant may remedy an Event of Default referred to in Rule 45.3.1, where the Default Notice relates to payment of amounts due to the Market Operator under these Rules, including Rules 45.3.1(b) to 45.3.1(d), 45.3.1(h) and 45.3.1(i) to 45.3.1(n), as follows:

(a) by paying all monies due for payment by it under these Rules and the Grid Code, together with any Default Interest calculated in accordance with Rule 38.11 and any costs and expenses determined by the Market Operator to have been incurred by it by reason of the default; and

(b) by providing additional Security Cover which complies with the requirements of Rule 15.3.3.

6. Market Rules 45.3.7, produced below, dictates what should happen to participant that do not remedy their Event of Default within the time stated in the Default Notice letter written to participant:

45.3.7 If an Event of Default is not remedied within the time specified in the Default Notice or within such longer period as may be agreed to in writing by the Market Operator, the Market Operator may issue to the Participant, with a copy to the Transmitters and Distributors to whose systems the Participant is connected, a notice indicating its intention to issue:

(a) a Suspension Order to the Participant, suspending or restricting all or any of the Participant's rights to participate in the Market Operator Administered Market; or

(b) the Suspension Order referred to in paragraph (a) and a Disconnection Order to TSP or any other Transmitter, or Distributor to whose Transmission System or Distribution System the Participant is connected, directing the disconnection of the relevant Facilities or equipment of the Suspended Participant;

7. In line with Section 45.3.7 of the Market Rules KEDCO was issued a "Notice of Intent to Issue Suspension Order (NIISO/2019/005)" dated July 15th, 2019 indicating the intention of the Market Operator to suspend KEDCO from the Market Operator Administered Market and restrict some of its rights in the Market Operator Administered Market. KEDCO was also reminded of its right pursuant to Section 45.3.8 to either request for a hearing before the Market Operator to show cause why the Market Operator should not issue a Suspension Order or Disconnection Order against it.

8. KEDCO responded to the "Notice of Intent to Issue Suspension Order (NIISO/2019/005)" dated July 15th, 2019 within the 5 days or 2 Business Days stipulated by the Market Rules and requested for a hearing before the Market Operator to show cause why the Suspension Order, the Disconnection Order, or both, as the case may be, should not be issued.

9. The Market Operator constituted a three-member panel of Market Operator Institution staff, the Market Operator Enforcement Panel (MOEP), to adjudicate at the hearing requested by KEDCO.

10. The hearing was scheduled to hold on July 19, 2019 where a team of Market Operator Compliance Officers prepared to argue before the MOEP for the suspension of KEDCO based on KEDCO's being in default of Market Rules 45.3.1 (c) and not remedying it within the stipulated time.

11. KEDCO neither appeared before the MOEP nor indicated in writing the reason for failing to appear on July 19, 2019.

12. The MOEP reviewed the earlier submission of the Market Operator Compliance Officers and thereafter recommended the suspension of KEDCO from Market Operator Administered Markets.

13. Market Rules 45.3.9 states that:

Where the Participant does not, or notifies the Market Operator that it will not, request a hearing pursuant to Rule 45.3.9, or in the event that it requested a hearing, then upon the conclusion of such hearing in accordance with Rule 45.3.10 the Market Operator may:

(a) issue a Suspension Order to the Participant suspending or restricting all or any of the Participant's rights to participate in the Market Operator Administered Market;

(b) issue the Suspension Order referred to in Rule 45.3.9(a) and issue, with notice to the Participant, a Disconnection Order to the TSP or any other Transmitter or Distributor to whose system the Participant is connected, directing Disconnection of the relevant Facilities or equipment of the Suspended Participant from the Transmission System or the Distribution System to which they are connected; or

(c) make such other order as it considers appropriate.

14. Market Rules 45.3.12 further states that:

The Market Operator may do one or more of the following to give effect to a Suspension Order issued pursuant to this Rule 45.3:

(a) instruct the System Operator to reject any Nomination submitted by the Suspended Participant;

(b) withhold payment of any amount otherwise due to the Suspended Participant under these Rules and the Grid Code; or

(c) make such further order or issue such directions to the Suspended Participant as the Market Operator determines appropriate.

And Market Rules 45.3.13 also states:

45.3.13 Upon issuing a Disconnection Order to any Transmitter or any Distributor pursuant to Rule 45.3.9(b), the Market Operator, or the Transmitter or Distributor to whose system the Facilities or equipment of the Participant is connected, shall upon the later of the date and time specified in the Disconnection Order or the expiry of the period specified in Rule 43.3.2, and subject only to Rules 45.3.14 to 45.3.17, disconnect the Facilities or equipment of the Suspended Participant to whom the Disconnection Order applies. The Transmitter or Distributor, as the case may be, shall not reconnect such Facilities or equipment until such time as it receives the notice referred to in Rule 45.3.18, and shall reconnect such Facilities or equipment on the date and at the time specified in such notice. No costs associated with Disconnection and re-connection shall be borne by the Market Operator.

15. Based on Markets Rules 45.3.9, 45.3.12 and 45.3.13, the Market Operator hereby orders as follows:

(a) That Kano Electricity Distribution Company is hereby suspended from Market Operator Administered Markets.

(b) The restriction of Kano Electricity Distribution Company intake from the grid through a Disconnection Order to the Transmission Service Provider to disconnect some facilities of

KANO Electricity Distribution Company until the Event of Default stated in NIISO/2019/005 is remedied.

BY THE ORDER OF THE MARKET OPERATOR

DATED THIS 21st DAY OF JULY 2019

Engr. E.A. EJE

MARKET OPERATOR