GEPLAW Focus

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AN OVERVIEW OF THE NIGERIAN ELECTRICITY REGULATORY COMMISSION-UNIFORM SYSTEM OF ACCOUNTS REGULATIONS, 2018

INTRODUCTION

The Nigerian Electricity Regulatory Commission (NERC) regulation on Uniform System of Accounts (USoA regulation) came into effect on the 8th of March 2018, with the main objective of implementing the Uniform System of Accounts Guidelines 2014 within the Nigerian Electricity Supply Industry (NESI). The regulatory framework seeks to achieve the objective of providing a uniform accounting format or template for the filing of all accounting reports required by NERC based on information extracted from the accounting ledgers of Licensees.

The underlying goal of this regulation is to foster accountability and transparency in the accounting framework of the NESI through the effective monitoring of the financial flows by NERC.

The USoA regulation applies to all entities licensed under Part IV of the Electric Power Sector Reforms Act (“the Act”). Such licensees include generation, transmission, system operation and distribution licensees who are now required by virtue of the regulation to file Regulatory Accounting Reports (RAR) in accordance with the format prescribed by NERC.

Specifically regulation 7 of the USoA Regulation, provides that:

> *All Licensees shall file Regulatory Accounting Reports with the Commission in accordance with the format provided in Schedule III (Reporting Templates) of the USoA Reporting docket on the Commission's website.*

The regulation provides for both electronic and hard copy filing by the Licensees within the format provided on NERC's website.

REGULATORY ACCOUNTING REPORTS (RARs)

The regulation makes it a requirement for all Licensees to file Regulatory Accounting Reports (RARs) periodically. Section 8 of the USoA rules prescribes a uniform financial year end for all licensees to prepare their statutory financial statements in line with the Companies and Allied Matters Act (CAMA) as well as for filing of the RARs under the USoA rules. Thus, the financial year end of 31st December similarly applies with regard to the period of time for filing of RARs under the USoA regulation.

In order to ensure compliance with the provision of the regulation, the Regulatory Accounting Reports (RARs) filed with the NERC shall be signed by the Chief Executive Officer (CEO) and Chief Financial Officer (CFO) of the Licensees. Additionally, the filed Regulatory Accounting Reports (RARs) shall disclose the name, position and contact details of an accounting officer from the Licensee Company who shall be responsible for responding to any enquiries from the NERC regarding the Regulatory Account Reporting (RAR) (Sections 9 and 11 respectively).

PERIODIC REPORTS

Section 10(1) lists the reports to be filed by the Licensees to include:

1. a monthly report;
2. a quarterly report;
3. an annual report;
4. the statutory report (required by CAMA); and
5. a statement reconciling the RARs and the statutory report.

The section also provides for specific dates on which the reports are to be filed with the Commission, thus it becomes imperative for the regulatory compliance officials of the Licensees to pay special attention to such stipulated dates, in order to avoid non-compliance or delay in filing which will incur attendant sanctions.

APPOINTMENT AND DUTIES OF AUDITORS

The Licensees are required to appoint auditors in line with the provisions of CAMA who would be responsible for auditing the RAR and other reports of the Licensees and also provide independent opinion on the RARs. However, regardless of how the auditor is appointed either at an annual general meeting or by the directors of the Licensees, the regulation requires that the Licensees have a duty to notify the Commission within 14 days of the appointment of the auditor or any changes thereafter (Sections 12 & 13 respectively).

The appointed auditor on the other hand has a duty to prepare a work plan prior to the audit which shall be reviewed by NERC, who shall either approve or disapprove same.

The same auditors responsible for auditing the financial statement of the Licensee can also be eligible for appointment as auditors to audit the RARs (Section 17).

DISQUALIFICATION OF AUDITORS

Section 15 of the USoA regulation permits NERC to reject the appointment of any auditor whose appointment falls short of the provisions of CAMA. An auditor may also be disqualified for failing to submit an adequate audit work plan in line with the provisions of Section 14 of the USoA regulation.

In any event, where an auditor is disqualified, the Commission reserves the right to appoint another auditor or to refer the matter to the shareholders of the licensee company to appoint another auditor (Section 15(2)).

Thus, where it is improbable to summon a shareholders meeting in a timely fashion for the appointment of an auditor, the regulation empowers NERC to exercise such right of appointment.

The legal implication of these overriding powers conferred on NERC when exercised may run counter to the provisions laid down in CAMA which is an Act of the National Assembly and therefore remains superior to the regulation of NERC. Advisedly therefore it will be in the best interest of NERC to always refer to the shareholders of the Licensees for such appointments.

It is worthy of note that the NERC's right and obligation to carry out a periodic inspection of the Licensees is preserved in Section 18 of the USoA regulation while Section 19 itemises the accounting and financial records to be kept by the Licensees, which records are to be maintained for a period of six (6) years from the date of completion of the transaction (Section 20).

ACCOUNTING CONVENTION

All RARs are to be prepared in line with the Historical Cost Convention, the NERC Regulations and relevant provisions of CAMA. However the provisions of the regulation shall prevail in the event of any inconsistency with the principle of the Historical Cost Convention in the treatment of items under the RARs (section 21). This provision also gives overriding status to the regulation above CAMA in the event of inconsistencies.

CONCLUSION

In the final analysis, the USoA regulation reflects a determined effort by NERC to improve transparency in the Nigerian Electricity Supply Industry (NESI). Many stakeholders have often argued back and forth about the financial and accounting opacity of the NESI. The introduction of a uniform system of accounting rules for all Licensees in the industry therefore presents a viable way in addressing the alleged opacity. It however remains to be seen if NERC possesses an adequate and efficient mechanism required to verify the returns made to it which is not specified in the regulation.

WE ARE HERE TO GUIDE YOU UNDER THIS REGULATION IN THE NESI

At GEP we keep a close watch on the developments within the energy space and we are able to ensure that your business navigates the compliance and regulatory requirements to achieve optimal results, given our wealth and depth of experience in the legal and regulatory environment within the energy sector.

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