



**THIS DAY INTERVIEW WITH MR. GEORGE ETOMI on 31st January, 2017
(Director, Eko Electricity Distribution Plc)**

1. Most electricity consumers do not really understand the functions of a power distribution company. In simple terms, can you explain what a power distribution company like Eko Distribution does?

As the name implies, the primary responsibility of a distribution company (DisCo) is to facilitate the supply of power using its distribution network to provide electricity to customers within its franchise area (area of operations). It is also responsible for ancillary services such as the operations and maintenance of the distribution network, customer connections, installation, maintenance and reading of meters, billing and collection etc. The power that is distributed by the Disco is received from Power Generation Companies (GenCos) via the transmission lines operated by Transmission Company of Nigeria (TCN). It is important to note that DisCos are neither the generation nor the transmission company but are merely the last mile operator that completes the process of power supply from source to the end user. It also plays the critical role of collecting the revenues associated with the power supply on behalf of all operators within the value chain and subsequently remits to each party its allocated portion.

2. Nigerians heaved a sigh or relief when PHCN was unbundled and many thought that Nigerians would eventually do away with candles. Contrary to these expectations, electricity supply appears to have gone from bad to worse. As the core investor in Eko DISCO, what seems to be the intractable problem with power supply in Nigeria? Lately, electricity supply has dwindled to an all time low, not only in Lagos but all over the country. What is responsible for this and what are the Discos doing to rectify the problem?

The unbundling of PHCN and subsequent divestment was a timely and pragmatic policy decision by the Federal Government to attract private sector capital and expertise in order to improve access to electricity, availability of electricity and overall quality of service. However, the transition towards reliability and viability of the power sector has been fraught with challenges that are not insurmountable



but requires significant funding and systematic operational improvements that can only be achieved over a significant period of time. It is important to stress the huge capital outlay and timing requirements to resolve the notoriously common issues of increasing generation capacity, diversifying our energy mix, strengthening and expanding transmission network infrastructure to evacuate available power, distribution network reinforcements and extension, metering, customer enumeration, tackling electricity theft etc. The lists may seem extensive but the reality is that a prioritised, sequenced and synchronised implementation of all the identified solutions to these issues with all the sector players working off an integrated action plan will yield the desired results.

The drop in power generation in recent times is attributed to several interdependent factors. The power sector in Nigeria relies heavily on two primary feedstock for power generation. It is water in the case of Hydro Plants and Gas in the case of thermal plants. The thermal plants provide about three-quarters of the energy generated. Therefore, this near sole dependence on Gas invariably means that when there is any form of supply disruption, the ripple effect is a dip in power supply. These supply disruptions can be due to payment/liquidity challenges within the sector or pipeline vandalism. Due to the aforementioned liquidity challenges, generation companies find it difficult to pay for gas supplied to them. This is occasioned by the fact that the Discos are unable to pay the bulk trader (NBET) due to the non-existence of cost reflective tariffs and as such, the bulk trader who purchases power from the Gencos to sell to the Discos is unable to, in turn, remit payments to the Gencos.

The price of gas is a pass-through cost from the gas suppliers to the generators who in turn pass the cost to the distribution companies on a monthly basis. The distribution companies are, however, unable to pass this cost to end users for two reasons. The first being that due to the low state of generation, customers are not willing to pay higher tariffs which should ideally reflect any increase in gas prices. Secondly, whilst the generators by virtue of their respective Power Purchase Agreements with NBET, pass through gas costs on a monthly basis following purchase, the tariffs for distribution companies regulated by the National Electricity Regulatory Commission and as such cannot automatically pass on this cost to consumers. This creates a huge shortfall for the distribution companies which accrue interest and a resultant inability to meet their payment obligations to other stakeholders in the power value chain. The second factor affecting gas availability for power generation is the recurrent vandalism of the gas pipelines. Any shortfall in the supply of gas will affect the amount of power that



can be produced which will in turn affect the stability of the grid and may occasion grid collapses.

Rectification of the problem goes beyond the distribution level. The Disco on their part have been exploring other power procurement options, such as, embedded generation to supplement grid power.

3. Does Eko Distribution have a blueprint to solve the lack of adequate electricity supply in its constituency and indeed, in Nigeria as a whole? What really is the problem and why has it been so difficult to tackle? Majority of Nigerians feel that those involved in the Power Sector from Government to Transmission to Distribution and the other stages involved, have their work cut out for them, but it seems that no real progress has been made in solving the problem so far.

As earlier mentioned, the lack of adequate electricity supply has to be solved on a national level. Eko Disco is exploring power procurement options but must operate within the confines of the law and the regulatory environment. The electricity industry is highly regulated and any options we are exploring must be relayed to and approved by the Nigerian Electricity Regulatory Commission (NERC).

In solving the trend of low generation, cooperation is needed from all players across the value chain with the Ministry spearheading the process. To start, the following measures should be considered amongst others

- an adequate gas pricing framework needs to be put in place;
- the Government needs to take a concerted effort to resolve and put a stop to the gas pipeline vandalism;
- tariffs have to be cost reflective with adequate cost recovery mechanisms in place to ensure that costs that are passed along the value chain are recoverable within a timeframe that will make all parties whole;
- the transmission network needs to be upgraded and maintained to avoid incessant system collapses and grid instability;
- the regulator needs to put in place a strict regulation that will address the menace of electricity theft which robs legal customers of available electricity.



4. Why is it so difficult for the Discos to effectively distribute power?

The problem most distribution companies face is not a difficulty in distributing power but the lack of adequate power available for distribution. For example, the regulatory framework governing Disco tariffs (i.e. Multi Year Tariff Order) projects generation at 5465MW, however, actual generation has hovered around 3632MW on average and lately below 2000MW. With the attacks on gas pipelines and system collapses, actual generation figures drop down further. Discos can only distribute the amount of power made available which, at present, is grossly insufficient to enable them recover costs based on projected generation and not actual generation. It is in our best interest to distribute all the available power as our revenues depend on it. Besides power is not a product that can be hoarded.

5. There is this buck passing between distribution companies and the Government especially as it concerns power generation. When there is no power, the Government tends to blame distribution companies. Where should the blame really lie?

Distribution Companies do not generate power but only distribute the available power generated by the generating companies. There must be a clear understanding of the distinct roles of GenCos, TCN and DisCos. Simply put, GenCos generate power which is transported by TCN to Discos who distribute to customers. It is evident that supply of power is dependent on each entity efficiently carrying out its role for power to get to the consumer due to the interconnected nature of the sector. DisCos cannot distribute power that is not available. As earlier stated, solving the generation bottlenecks in the Nigerian power sector has to be a national initiative with key input and cooperation from all stakeholders. As they are the face of the industry, the DisCos always bear the brunt of the issues as they are the point of connection between the power sector and the end users (customers).

6. The outlook for the power sector appears bleak, do you foresee a brighter future for the sector?

Whilst I foresee a bright future for the power sector based on the huge dependence and importance of electricity for economic development, it is important that the appropriate policies are put in place to guide each segment of



the value chain which must complement each function within the respective value chain.

The Regulatory Regime in the Nigerian Electricity Supply Industry (NESI) has been quite unstable and has resulted in huge investment losses across the value chain. The regulatory environment has to be made attractive for investment in order to overcome and dilute the plethora of structural, operational and financial challenges the industry has encountered since takeover.

These challenges include but are not limited to non-cost reflective tariffs, shortage of power supply, high levels of unpaid electricity bills, huge metering gap, dilapidated and poorly managed network infrastructure, policy somersaults, delays in getting regulatory approvals and the lingering political risk have made it difficult to raise capital to fund critical projects, etc.

The Government needs to develop an appropriate gas pricing framework, invest in the development and upgrade of the transmission network, put in place policies that will trigger regulatory certainty, maintain the independence of the regulator which is key for attracting investment/financing for the industry, approve the implementation of cost reflective tariffs and provide support to the segment of the value chain that needs such support in order to achieve the ultimate purpose of cost recovery for the investors and affordability for the customers, etc.

It is only when such steps are taken that there can be any form of meaningful improvements in the sector.

7. Does power generation through solar energy pose a threat to the survival of your company? If so, Why?

To the contrary, solar energy does not pose a threat but actually represents an excellent opportunity for the Discos and the power sector at large. Firstly, it will contribute to the diversification of our energy mix for power supply which will reduce our near sole dependence on gas for power generation and the frequent supply disruptions due to pipeline vandalisation. Secondly, it eliminates the huge capital required to build gas pipeline infrastructure to transport gas from the gas fields to power plants located across the country. Thirdly, it helps to bridge the current power supply gap and expand our capability to connect more off grid customers.

8. Let us look at the legal framework under which distribution companies operate. Are the laws hindering the operations of distribution companies? In what ways?

I would say that the legal and regulatory framework governing Discos operations, whilst generally sound, require a comprehensive review due to varying and contradictory provisions which in effect has created an unstable and uncertain regulatory environment sending the wrong signals to local and international investors and inhibits performance improvements and commercial viability. A case in point is the mismatch between the contractual terms of the PPA's and MYTO which is exacerbating the liquidity crisis in the sector.

9. What are your views about metering? The DISCOS are alleged to be tactically and deliberately avoiding making smart meters available to Nigerians, thereby encouraging negative billing. What is the true position of things?

It is in the best interest of Discos to meter all customers in order to guarantee revenues. Although meters are very expensive to procure, DisCos are, however, working within the confines of the limited MYTO approved CAPEX to provide meters to customers. As earlier stated, the industry is highly regulated and even the allowed revenue component for metering is insufficient to meter a quarter of the DisCos' customer base. This is further impacted by the non-existence of cost reflective tariffs which means that Discos cannot collect up to their allowed revenue and are unable to fully cover their costs.

10. NERC has come to state categorically that Nigerians should reject bills. Meters are unavailable, so how does this impact on the relationship between DISCOS and consumers?

There is a general misconception that DisCos generate greater revenue from estimated bills. This is not the case. Estimated bills actually create losses for DisCos in the sense that a customer might have consumed more energy in a given month but given the fact that the customer's bill would be estimated based on the average consumption pattern in the respective area; the DisCo is unable to assess the actual energy consumption for the month in question. It is also important to state that the computation of estimated bills is based on the estimated billing



methodology formulated by NERC which provides the formula to be utilised in estimating a customer's bill.

As earlier stated, it is in the best interest of DisCos to meter all their customers to guarantee revenues that can be accessed for business operational performance. Discos are in full support of the abolishment of estimated bills which actually create losses for the businesses. However, this support is hinged on the need for the existence of cost reflective tariffs factoring sufficient CAPEX provisions that will enable DisCos meter their respective customers via varied financing options. At present, the present state of the tariff is a deterrent to securing adequate funding, coupled with the unstable and uncertain regulatory environment.

- 11. Last year, the DSS raided members of the Judiciary resulting in the arrest and prosecution of some Judges and even a Senior Advocate. As a senior lawyer and the pioneer Chairman of the Section on Business Law of the NBA, do you think that this was the right way to go about it? Do you believe that this move by Government has had a positive effect on the Judiciary and the legal profession as a whole? What advice can you give Government on further steps to take?**

I believe most senior members of the legal profession and other human right advocates agree in the main that the raid on the homes of the judges in question was completely unnecessary and wrong. It does very little for the morale of judges if they can be given such degrading treatment on the suspicion of being corrupt. At their level, they could have been invited either directly or through the NJC to come answer to any questions. Given the importance of the role Nigeria plays in Africa and the rest of the world, it is important that we take actions that set the right example for others to follow. Corruption is bad, more so corruption in the judiciary, but it is far more important to fight this scourge within the rule of law. Even though the wheel might turn too slowly for those looking for rapid results in the fight against corruption, the protection granted to all citizens in the constitution requires that we respect their right to fair hearing and dignity. It is therefore important that we strengthen our institutions so they can deal with not just the symptoms of corruption but also the root causes. Institutions will ensure that the fight against corruption is sustained. In the particular case of the Judiciary, it is also imperative that Judges perform their duties to uphold the law without fear, intimidation or harassment.

12. You have been the arrowhead in sensitising Nigerian lawyers on the globalisation of legal services. You are also a Special Advisor to the International Trade in Legal Services Committee of the Bar Issues Commission of the International Bar Association. How would you assess the preparedness of Nigerian Lawyers for this eventuality and what more should we be doing?

I do not agree that Nigerian lawyers are not prepared for the globalisation of legal services. There is still a lot to be done for us to fully integrate into a globalised legal services regime, however, to put things in perspective it is important for us to understand what has been done so far.

- The hot topic for the maiden conference of the SBL in 2006 was the Globalisation of Legal Practice in Nigeria – The WTO Initiative. Discussants came from the public and private sectors, including representatives of multinational companies, law firms, the Federal Ministry of Justice and the Federal Ministry of Commerce.
- One direct outcome of the conference was the setting up in 2007 of the NBA Working Group on the WTO by Chief Olisa Agbakoba SAN, the then President of the NBA with the primary objective of enforcing and enhancing sensitisation amongst Nigerian lawyers about the globalisation of legal services.
- The working group organised two workshops, one in Abuja and the other in Lagos, where papers were delivered by resource persons. One major accomplishment of the group was the preparation of the draft rules on the formalities for foreign practitioners to practice in Nigeria.
- Again, it was a topic of discussion in the 2007 and 2008 SBL Conferences. In fact, in 2008, there was a preconference meeting of African Bar Leaders on the subject and it was specifically designed to have Africa articulate its position on the issue.
- Recently, the NBA organised a meeting of African Bar Leaders where I addressed them on this subject and emphasised the importance of Africa opening its doors to each other for the free flow of legal services in the continent.
- Most recently, I was part of an IBA team that visited Zimbabwe to prepare the law society of Zimbabwe for the globalisation of legal services

The sum total of all these is that Nigerian lawyers are more informed on the subject and understand that the globalisation of legal services need not be a one-way traffic as was originally feared. Through this sort of enlightenment activities,



we have demonstrated that Nigerian law firms can be trusted to undertake sophisticated legal work, either by themselves or in collaboration with foreign law firms. No doubt there is still a lot of work to be done. It is important to understand that we can work with foreign law firms to the extent that it helps develop standards for delivery of legal services here and to ensure that Nigerian lawyers are well remunerated for the work they do. Thankfully, a lot of our members now hold senior government positions and we must continue to lobby them to support the effort to build sophisticated and enduring law practices in this country. The challenge is for us to ensure we continue with the relentless pursuit of excellence by ensuring that our practices answer to best global standards.

13. The Nigerian Bar Association has just won a very important case against SCUML on regulating the remuneration of Nigerian lawyers. What is your opinion of that judgement and what SCUML sought to do?

I had mixed feelings about this case right from when it was instituted. I can understand that the NBA, being a self-regulatory body, does not wish to be regulated by another body outside of the profession. However, the only time this victory will make good sense is when the NBA can prove that it can hold its members to high ethical standards in the performance of their jobs. Such high ethical standards will automatically pass the SCUML test. This was the case in Canada when their Bar Association also kicked against their being required to register with their own equivalent of SCUML. In their own case, the Judge who heard the matter agreed with them that their rules of professional conduct set such high standards of practice that it made it superfluous for Canadian lawyers to register with another body. It, therefore, means that the NBA through its disciplinary machinery must prove that they can hold lawyers accountable. Failing to do this could easily be interpreted, locally and internationally, that Nigerian lawyers do not want to be partners in the global fight against corruption. In my time as Chairperson of the SBL, we engaged with the EFCC, NFIU & SCUML so we could build trust lines amongst ourselves in the general quest to rid Nigeria of corruption. We made tangible progress. One of such, was the setting up of a special advisory body made up of members of the designated non-financial institutions and SCUML, to look at cases involving professionals so they could get high quality advice in dealing with them. Also a number of us attended the EFCC training school in Karu, Abuja, and that gave us the opportunity to understand



each other better. The problem with appearing to be antagonistic is that it deprives members of the legal profession the opportunity to fully understand the obligations imposed on them by the various national and international anti-corruption laws. I recall a meeting Bar leaders had with the then Governor of the Central Bank and now the Emir of Kano, Sanusi Lamido Sanusi, to protest the requirement by CBN advising banks to block the accounts of designated non-financial institutions who failed to register with SCUML. In that meeting he explained that it was important for Nigerian lawyers to identify with the global fight against corruption as not doing so could, amongst other things, affect Nigeria's rating in international financial circles. Those classified as designated non-financial institutions i.e. lawyers, accountant, jewellers, hoteliers etc. had been identified as weak links in the global fight against corruption. Happily, the current president, AB Mahmoud SAN, has the fight against corruption within the profession and upholding of professional standards as one of his cardinal programs. This is most welcome. I advise that the NBA should work in collaboration with the various Anti-Corruption Agencies so that we can be seen as partners in the global fight against corruption.

14. Kindly, share the vision of your foundation, the M & G Etomi Foundation?

This foundation was set up by my twin brother, Mike and I, for the purpose of helping break the harsh cycle of poverty in Nigeria, with a particular focus on the Niger-Delta, by creating various programs and activities to teach the value of self-empowerment and improvement. We spent our early years in Okrika, Rivers State, where, growing up as children, we swam in very clean waters and generally prepared meals from ingredients grown in our backyards. All these changed during and after the civil war when a lot of the oil installations were bombed and as we can see now are being vandalised. This has led to massive environmental degradation and neglect, which has slowly but surely impoverished otherwise hard working people. We thought one way we could help was to concentrate on educating women and children on the importance of skills acquisition to enable them lift their families out of the debilitating poverty cycle. In our own little way, we have trained or retrained hundreds of such people directly and through our coalition partners. In some cases, not only do they learn skills, we also give them initial start-up capital so that they can instantly apply the skills they have acquired. The foundation is registered both in the US and Nigeria and it is over 10 years in existence. It has strived to create hope where there has been despair, and



upright living in place of crime. We also support foundations that share the same values with us all over the Country and indeed the world. We both feel fulfilled doing this for humanity.