



NIGERIAN ELECTRICITY REGULATORY COMMISSION

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ALLEGATIONS OF FRAUDULENT PAYMENTS OF NGN2bn TO THE OLORUNSOGO AND OMOTOSHO POWER PLANTS BY THE NIGERIA BULK ELECTRICITY TRADING PLC

1. The attention of the Nigerian Electricity Regulatory Commission ("NERC" or the "Commission") has been drawn to the allegations of fraudulent payments to the Olorunsogo and Omotosho power plants by the Nigeria Bulk Electricity Trading Plc. ("NBET") as widely reported in the press and other news media.
2. The attention of the Commission has also been drawn to disagreements between NBET's Managing Director, Dr. Marilyn Amobi, and 2 employees of the organization – Mallam Waziri Bintube (General Manager/Chief Financial Officer) and Mallam Abdullahi Sambo (Deputy General/Head Internal Audit) – that arose shortly after Dr. Amobi's resumption of office in August 2016.
3. The Commission considered the initial issues in contention between Dr. Amobi and the two employees to be an internal governance matter between employer and employee that fell within the scope of NBET's Board to address and a letter conveying the Commission's position on the matter was sent to government.
4. The matter has since escalated from being a purely internal governance issue when the two employees wrote a letter dated 28 September 2018 to the Honourable Minister of Finance with a whistleblowing report requesting for urgent intervention to stem fraud in NBET. This letter was also copied to the Secretary to the Government of the Federation, Honourable Minister of Power, Works & Housing, Economic and Financial Crimes Commission ("EFCC"), Independent Corrupt Practices and Other Related Offences ("ICPC"), Dr. Amobi and NERC.
5. The whistleblowing report highlighted 15 allegations of corrupt activities against the person of the Managing Director, Dr. M Amobi which may be categorized as "Market & Regulatory", "Procurement" and "Internal Governance". The report contained 14 allegations of internal governance/procurement issues and introduced a new allegation of corruption in electricity market settlement activities as follows –

"Monthly over-invoicing of about N2billion to Olorunsogo and Omotosho generating plants contrary to NERC's Order that where there is no active gas supply agreement (GSA) and gas transportation (GTA), capacity and energy number must be equal. Accumulated over-invoicing as at December 2017 was in excess of N30billion. Meanwhile, other thermal plants were being treated in line with the NERC Order. NBET's heads of Legal and Power Procurement who ought to have defended the company colluded with Dr. Amobi to perpetrate the over-invoicing regime"
6. The Commission initiated the conduct of an investigation of the alleged N2Billion over payment by NBET to Olorunsogo and Omotosho power plants pursuant to the powers of the regulator to approve Power Purchase Agreements NBET executes with generation companies and the imperative to maintain the integrity of the electricity market. The Commission's overriding objective, is therefore, to provide clarity to investors, lenders and other stakeholders on whether the management of NBET engages in fraudulent or inappropriate practices in the discharge of its statutory responsibility to the Nigerian electricity supply industry.
7. The independent investigation conducted by the Commission focused on the allegation of corruption relating to the purported over invoicing of about N2Billion in the monthly market settlement payments due to the aforesaid 2 power plants on 18th and 19th February 2019. The Board of NBET has been requested to refer other allegations to relevant agencies for review.
8. The Nigerian Electricity Supply Industry ("NESI") is a very technical industry that is dependent on back-to-back intra-industry agreements between the various tiers of the value chain and back-to-back inter-industry agreements that exist between the upstream tier of thermal generators and gas suppliers.
9. NBET entered into Power Purchase Agreements (PPAs) with Olorunsogo Power Plc and Omotosho Power Plc with effective dates of 24 December 2013 and 20 August 2014 respectively. These PPAs govern the purchase of power from the 2 power plants and were approved by the Commission.
10. In conducting the investigation, the Commission interviewed top management of NBET who are involved with the management of PPAs, as well as the petitioners, Mallam Waziri Bintube and Mallam Abdullahi Sambo

- over a period of two days.
11. The findings of the Commission's investigation are as follows –
 - a. All payments made by NBET to the 2 power plants were in accordance with the terms of the PPAs.
 - b. NBET and the 2 power plants executed appropriate waivers in accordance with the terms of the PPAs to address Condition Precedents.
 - c. Payments made by NBET to the 2 power plants were done in compliance with the NERC TEM Order pursuant to the provision that sanctity of existing agreements be maintained.
 - d. Payments to the 2 power plants, in compliance with the terms of the PPAs, were effected by Mr. Rumundaka Wonodi during his tenure as the Managing Director of NBET, Mallam Waziri Bintube during his tenure as Acting Managing Director of NBET and continued by Dr. Amobi upon her assumption on duty as Managing Director of NBET.
 - e. It is noteworthy that Mallam Waziri Bintube provided legal justification for the payments to these 2 power plants vide an email dated 17 August 2016 to the Permanent Secretary (Power) of the Ministry of Power, Works & Housing wherein he stated that "for Olorunsogo and Omotosho PPAs, their capacity payments are based on the minimum capacity of 161.8MW in the first 2 contract years and 186.3MW from the third contract year onward. The minimum capacity was arrived at using their gas quantities and the government assured them of guaranteed gas supply during the privatization. It is important to note that NERC approved the minimum capacity and the PPA for Olorunsogo and Omotosho. So at the moment, these IPPs get paid their minimum capacity if they are constrained by both gas supply and transmission".
 - f. Mallam Waziri Bintube and Mallam Abdullahi Sambo were unable to substantiate any claims of over invoicing to the tune of N2Billion each month by NBET in the payments to these 2 power plants; and they refused to admit that raising false allegations which they could not substantiate of over payment of N2Billion each month by NBET to the two Power plants, constituted a crime during their interviews; and could also not provide further evidence to substantiate any form of inappropriate payments being made to these two power plants as they had alleged.
 12. These unfounded allegations by Mallam Waziri Bintube and Mallam Abdullahi Sambo have brought NESI into disrepute and weakened investor confidence in a sector where different agencies of government have been working collaboratively to address sector issues for the overall public good and in the interest of Nigeria.
 13. All stakeholders should ensure that they rely on evidence-based investigation before reporting on this matter and apply a keen sense of diligence to the treatment of the issue of allegations of corruption that Mallam Bintube and Mallam Abdullahi raised in order to ensure that the public gets a fair and balanced reporting.
 14. The Commission has given Mallam Waziri Bintube and Mallam Abdullahi Sambo the opportunity to provide written submissions of their oral presentation to substantiate their claims.
 15. The Commission hereby confirms that capacity payments to the Olorunsogo and Omotosho power plants by NBET are in line with the Power Purchase Agreement executed between the contracting parties and the provisions of the Supplementary TEM Order by the Commission. The public is therefore advised to discountenance the allegations of inappropriate payments to the Omotosho and Olorunsogo power plants
through the reported over invoicing of N2Billion in the payment of monthly capacity charges by NBET.

Dated this 26th day of February 2019

Management
Nigerian Electricity Regulatory Commission