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THE NIGERIAN POWER SECTOR REFORMS: OVERCOMING POST-PRIVATIZATION CHALLENGES

"By 2020, the energy sector will be the major engine of the nation's sustainable social, economic and industrial growth, delivering affordable and constant energy supply efficiently to other sectors of the economy" – Nigeria's Vision 2020 National Technical Group on Energy

The journey so far

Given the perennial challenges evident through the electric power sector value chain in Nigeria, and more importantly in appreciation of the successes of privatization recorded by countries, which had hitherto faced similar challenges, the Federal Government of Nigeria commenced the privatization of its electric power sector. This article reviews the Nigerian electric power sector privatization, identifies the challenges emanating from the process, and recommends solutions to these going forward.

Prior to the privatization, the government owned and operated a vertically integrated company, known as the National Electric Power Authority (NEPA). NEPA was a creature of statute, specifically established to exercise unilateral control over generation, transmission and distribution of electricity in Nigeria. Like other state corporations which performed abysmally, NEPA's efforts at achieving steady supply of affordable power to homes and businesses, were frustrated by needless bureaucracy and official corruption. The dismal supply of electric power from the grid soon resulted in the stunted growth of the overall economy.

Some of the challenges that confronted NEPA included:

- shortage of electric power supply to meet the ever-increasing demand;
- non-payment of utility bills by a large percentage of consumers;
- loss of the already insufficient electric power due to dilapidated, obsolete and poorly maintained infrastructure;
- shortage of gas supply for thermal stations and low water levels for hydro stations;
- uneconomically high operating costs, especially of maintenance of the available power generation plants and other requisite infrastructure, equipment and machinery;
- scarce foreign exchange to purchase spare parts to replace damaged parts; and the recurring vandalism of power installations.

Under NEPA's monopolistic operation and control, about half of Nigeria's population, of over 150 million people at that time, lived outside of grid connectivity. NEPA at that time generated approximately 3,718 MW out of estimated installed electricity generation capacity of 8,644 MW and distributed much less than it was generating. By comparison, South Africa, with a population of about 51 million, generated about 35,000 MW out of an installed electricity generation capacity of over 52,000 MW. With the state of power supply in the country, many micro, small and medium enterprises (MSMEs) as well as the industrial sector, became crippled.

Thus, it was not surprising that with the advent of democratic rule in 1999, the drive for a more efficient electric power sector intensified. To achieve the desired goal of an improved electric power sector through reforms, the Bureau of Public Enterprises (BPE), which replaced the defunct Technical Committee on Privatization and Commercialization (TCPC), was established at the same time as the National Council on Privatization (NCP). One year after, the Federal Government of Nigeria inaugurated the Electric Power Implementation Committee (EPIC). The EPIC drafted the National Electric Power Policy (NEPP) in 2001, which was the precursor of the Electric Power Sector Reform Act (the ***"EPSR Act"***) enacted in 2005.

The EPSR Act set the pace for power privatization in Nigeria and the resultant incorporation of the Power Holding Company of Nigeria Plc (PHCN), which was the initial holding company that assumed the assets, liabilities and employees of the defunct NEPA. Subsequently, 18 successor companies were hived off the PHCN and on 1st November 2013, 15 of the successor generation and distribution companies were successfully handed over to new owners.

As the Federal Government took decisive steps towards divesting from the power sector, Nigerians became hopeful and in turn, these steps encouraged public private partnership (PPP) which then further deepened the reforms. Government's issuance in 2010 of the Presidential Power Road Map provided the much needed boost to public confidence in the on-going process.

Though the privatization exercise was largely successful, profound challenges remain, which dampened the wide-spread expectation that the privatization of NEPA would bring an end to the incessant power outages in Nigeria.

Initial Challenges that dogged the Privatization Process

Many international investors were initially skeptical about participating in the power sector privatization because of the history of inefficiency and endemic corruption. Indeed, reputable international power companies, who possessed the requisite expertise and experience, declined any participation in bidding for any of the generation and distribution businesses. These international investors expressed genuine concerns, about the issues of transparency and sincerity on the part of Federal Government. Thus, only very few investors, who really understood the intricacies of the sector, participated in the privatization and fewer still, took over the control and management of the successor generation and distribution companies.

Interestingly, international investors who braved the daunting and seemingly bleak Nigerian power sector by electing to participate in the bidding process, almost lost the appetite to continue as they found the dearth of vital information rather frustrating. The insufficiency of information stalled their ability to conduct deep and conclusive feasibility and viability studies. Specifically, prospective investors had difficulty conducting technical, commercial and legal due diligence in order to properly evaluate the assets, determine their true value and the precise state of affairs. Labour unions, in defence of their members in the sector, frantically denied bidders, the opportunity of inspecting the books and facilities of the unbundled PHCN.

Additionally, severance benefits projected to be payable to the former PHCN workers, which was initially estimated by the Federal Government at ₦ 400 billion, was undoubtedly, one of the early clogs in the wheel of progress of the privatization exercise.

Regrettably, and a clear mar on the entire privatization process, there were reports that most of the investors bemoaned taking over the generation and distribution assets of the relevant successor companies without conducting adequate due diligence on the assets. In truth, all of the privatized power companies and assets were acquired, based on assumptions, numbers and information issued by the federal government of Nigeria.
Similarly, international lenders who had the capacity to provide longer term and cheaper loans did not participate in the privatization, but elected to wait and provide only working capital to successful bidders, and/or refinance existing facilities. Consequently, many of the investors obtained more expensive and shorter term loans.

Issues which could not have been reasonably foreseen by the investors, given the inability to conduct proper due diligence, subsequently surfaced shortly after the required initial deposits had been paid to the BPE. These led to agitations for longer tax holidays and subsidy schemes, which had been guaranteed to PHCN under the Multi-Year Tariff Order (MYTO).

Minimal improvement despite privatization

Fundamental sectoral issues, such as inadequate gas supply and grid capacity, were not given due consideration prior to commencing and completing the privatization of the generation and distribution successor companies. The transmission company was not privatized and the ownership of the transmission systems and infrastructure, remain with the Federal Government, although, a management contract was signed by Manitoba Hydro of Canada.

Some progress had been recorded in relation to ring fencing gas produced by gas producers in Nigeria for the sole purpose of fueling the generation of power but the available gas remains insufficient and cannot match the volume of gas necessary to operate the relevant gas-fired power plants. Fundamentally, there exist legacy debt owed to gas producers and the Nigerian Gas Company limited. These companies were, therefore, reluctant to provide more gas to the privatized power generation companies, until all or some of these debts were settled.

Furthermore, due to the inability of the distribution companies to raise cheap funds, and given the pressure to repay loans obtained from financial institutions, the distribution companies have not been able to upgrade decaying basic infrastructure for effective and profitable take-off. Additionally, most of the distribution companies do not receive sufficient electric power for on-sale to consumers and consequently they are unable to recover any cost expended on upgrading or improving electricity distribution infrastructure or equipment.

The foregoing, together with the inability of the distribution companies to properly meter (also due to paucity of funds) have prevented the successor-companies from performing optimally such that the improvement in the electric power sector has been marginal.

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Indeed, it is estimated that an average spend of US $3.5 billion investment is required in the power sector per annum, over the next eight years, to achieve the target of having an available electric power supply of 40,000MW.

Post-privatization actions by the Federal Government

The Federal Government has taken some steps to provide funds to most of the privatized generation and distribution companies. Specifically, the Federal Government, on 2nd August 2014, extended a ₦213 billion (approximately US$1 billion) facility to power generation companies for the purposes of:

- settling certain legacy debts especially those incurred by suppliers of natural gas;
- paying off monies owed to certain electricity market participants from November 1, 2013; and
- defraying costs incurred by virtue of infrastructural (especially metering) upgrade by distribution companies.

From the ₦213 billion (approximately US$1 billion) set aside for the purposes mentioned above, ₦6 billion was preserved for meeting commitments to supply specific volumes of gas-for-power and to negotiate and execute bankable gas supply agreements with power plants. It is pertinent to note that the successor-companies are to repay the facility with a first-line charge on their revenues over a 10-year period and presumably, there is a moratorium on repayment of the credit facility by the companies until electricity supply improves across Nigeria. Though a laudable initiative, it is still unclear how this CBN intervention fund has improved the challenges presently being faced by players in the power sector.

Another commendable step taken by the Federal Government to combat the investors' fatigue and dissatisfaction, was the issuance of a new electricity tariff – a reset tariff order (MYTO 2.1) – which takes into account the CBN provided facility, current levels of energy output, the new baseline gas price and other variables that more closely reflect the true cost of running electricity businesses. It is pertinent to note that some aspects of the MYTO 2.1, which ought to have taken effect from July 1 was delayed, because of a court injunction obtained in that regard. In addition to the foregoing, gas prices in the Nigerian domestic market are now competitive; whilst transportation tariffs are now more profitable.

Responding favorably to these post-privatization actions of the Federal Government, more investors have expressed keen interest in investing in the sector, which hitherto had appeared miserably desolate.

Of special mention, is the challenge posed by the largely derelict state of Nigeria's transmission infrastructure. There have been complaints about the quality of the transmission infrastructure as well as the unnecessary inhibitions to, and interference with the management of the successor transmission company, which remains government owned; thus making it difficult for the management contractor to perform its duties under its management contract.

Whilst different options and strategies are being considered on how best to combat this seemingly insurmountable task of upgrading and generally overhauling the transmission system, the Federal Government has encouraged investors to embrace “embedded” power supply.

Embedded power supply is an arrangement between the power generation and distribution companies, where electricity is supplied to the distribution companies by the generation companies connecting directly to the distribution network of the distribution companies, without going through the transmission system network. This form of distributed generation has been used by many nations successfully, and appears to be a structure being considered by the current administration.

Measures for sustaining a continuing improvement of the Electric Power Sector

Though, it has been touted by the past administration, that one key achievement of the erstwhile President was the successful privatization of the Nigerian electric power and the improvement of power supply in the Country. It is clear, as shown in this article, that Nigeria is still years behind in achieving an adequately lit up nation, where power is steady and available to every community.

Though the steps taken by the Federal Government to address some of the huge hiccups, post-privatization, could be termed commendable by some, certain important points need to be taken into consideration such as the need for control to avoid abuse. Most importantly, better management of the transmission system and total overhaul of same, such that the grid becomes fully functional needs to be expedited, as it remains more beneficial to distribution companies to tap into a robust energy mix, instead of reliance on just one fuel type.

Further, the Federal Government should continue to provide support to, and encourage private sector investments in gas processing infrastructure. Harnessing the gas that is flared during oil production is long overdue to protect the ecosystem, make gas available for use in the industrial and electric power sectors and to boost our national income.

Additionally, to achieve sustainable development of the electric power sector in Nigeria, more energy sources like renewables should be utilized with tax and other fiscal incentives introduced to encourage the use of same.

The Energy Commission of Nigeria (ECN) projects that, Nigeria’s solar radiation of 3.5 - 7kmh/m2/day can help the country generate up to 30,000MW of electricity. There are also great potentials in harnessing Wind Power. All these should be developed to complement our reliance on natural gas and hydro power generation.

The role played by bulk purchasers (NBET), and the regulators (the Nigerian Electricity Regulatory Commission and the Nigerian Electricity Liability Management Company (NELMCO)) in sustaining our privatized power sector is key to the overall reforms in the sector. These institutions provide comfort to power companies and therefore boost investors’ confidence in the sector. These institutions, therefore, need government’s support from time to time to play their roles effectively and such support include non-interference from the Federal Government.

Due process and transparency must be strengthened, in all appropriate quarters where decisions are taken on licensing, subsidy, power-purchase-agreements, operational equipment procurements and metering etc. In similar vein, efforts must be made to improve on security of lives and property and by so doing, encourage a business-friendly atmosphere nationwide.

Conclusion

At any rate, after a critical analysis of the sector, it is our view that enormous opportunities abound in same. The opportunities include investing in provision of services, selling products that are useful in the sector, providing installation services amongst others.

Finally, the Nigerian electric power sector is still in the process of re-birthing and this is indeed a 'golden' moment to invest in Africa's most populous nation and biggest economy, which incidentally and arguably, boasts of the largest consumer market in Africa.