Nigeria
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Power sector reform and opportunities for investment

The Federal Government of Nigeria estimates that despite about $2 billion being injected into the power sector every year for two decades, Nigerians spend about five- to 10-times more on self-generated electricity than they do on grid-generated electricity. At the moment, Nigeria is capable of generating only about 3,500MW of electricity to serve its population of about 150 million people. This is far less than what South Africa generates with a grid-based generating capacity of 40,000MW for 50 million people. It was against this backdrop that the government enacted the Electric Power Sector Reform Act in 2005 to create an enabling framework for private-sector participation, pursuant to which the Power Holding Company of Nigeria (PHCN) and its successor companies were established.

In August 2010, the government unveiled plans to divest the successor companies through privatisation and concession. It revealed plans to privatise thermal generating plants and distribution companies by a core investor sale of at least 51% of the government's equity to reach its target of 40,000MW by 2020. Under this proposal, the private sector will be involved in power generation, while state governments in Nigeria will be responsible for providing infrastructure for distribution and may own minor shares in privatised companies. Concessions to operate hydro generating plants will be granted for a period of between 20 and 25 years.

The government directed the National Electricity Regulatory Commission (NERC) to undertake a review of the pricing regime to ensure that consumers pay for electricity at a rate commensurate with services received. The reform also led to the incorporation of the Bulk Electricity Trading Company (BETC) to negotiate power purchase agreements within the industry, with a provision that the government may, where necessary, provide credit enhancements to the Company. Given the interest this reform has generated among domestic and international investors, it is necessary to highlight the regulatory framework for investing in the sector.

The NERC reserves the power to fix a consumer tariff reflective of licencee cost, issue operating licences and regulate companies operating within the Nigerian power sector. Foreign investors can own up to 100% of the shares of any Nigerian company, except in the oil and gas sectors. The Nigerian Investment and Promotion Commission Act 1995 grants foreign investors unconditional transfer privileges, in any freely-convertible currency, of dividends and profits, payments in relation to foreign loans, and the remittance of proceeds from sale or liquidation of any enterprise or interest attributable to foreign investment. Similarly, a company may qualify for tax holidays for up to seven years where it obtains pioneer status for establishing new or specialised enterprises under the 1995 Act. To operate in Nigeria, foreign companies must first register with the Corporate Affairs Commission.

The challenge of securing long-term and competitively priced funding to finance investments is always prominent in an emerging market economy. The government estimates that about $3.5 billion each year is required in power generation for a period of 10 years, with correspondingly large investments required in other parts of the supply chain. It has approved some incentives including credit enhancement through government risk guarantee, tax waivers, ring-fencing of labour liabilities, and import duty exemptions on equipment. There is also the World Bank Partial Risk Guarantee, which together with the foregoing, makes investing in this sector a viable venture.

Complementary reforms in the upstream fuel-to-power sector and gas industry are expected within the course of the year. In the meantime, it is anticipated that investors may find it difficult to secure appropriately priced funding and will require the commitment of domestic and international lenders.

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