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Will liberalizing the Nigerian Electricity Power Sector Solve the Problem of Shortage of Capacity?

Felix Ayanruoh
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Abstract:
The liberalization of the Nigerian electricity sector and monopolistic business model was initiated at a time when the sector was plagued by capacity shortage, poor performance, and inefficiencies. The driving force of liberalizing the sector is to improve economic efficiencies. While the objective of liberalization in an excess capacity country like the United States is to reduce prices and provide for choices, liberalization in a capacity short country like Nigeria is to attract investments to meet demand requirements.

The purpose of this paper is to examine the movement to liberalize the electricity power sector in Nigeria. It reviews the forces behind the reform and analyzes steps that should be taken to achieve the goals of attaining liberalization. The paper will also answer the important question, whether liberalization alone can solve the problem of capacity shortage in the Nigerian electricity sector. In attempting to answer the question, the paper begins with an historic analysis of the Nigerian electricity reform. The paper will also focus on the legal and regulatory framework of the sector in order to lay the contextual foundation for the benefits of liberalization.

The paper concludes that liberalizing the Nigerian electric power sector cannot, by itself, lead to attainment of the objective of sufficient capacity. Unless and until systemic obstacles to the implementation of liberalization reforms – to wit, corrupt practices, mismanagement, inefficient tariff model, and political strife – are successfully addressed, the problem of under-capacity is likely to remain intractable.

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</tr>
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<tr>
<td>BPE</td>
<td>Bureau of Public Enterprises</td>
</tr>
<tr>
<td>CBN</td>
<td>Central Bank of Nigeria</td>
</tr>
<tr>
<td>CIA</td>
<td>Central Intelligence Agency</td>
</tr>
<tr>
<td>ECN</td>
<td>Electric Corporation of Nigeria</td>
</tr>
<tr>
<td>EFCC</td>
<td>Economic and the Financial Crimes Commission</td>
</tr>
<tr>
<td>EPIC</td>
<td>Electric Power Sector Implementation Committee</td>
</tr>
<tr>
<td>EPSR</td>
<td>Electric Power Sector Reform Act</td>
</tr>
<tr>
<td>FGN</td>
<td>Federal Government of Nigeria</td>
</tr>
<tr>
<td>ICPC</td>
<td>Independent Corrupt Practices and Other Related Offences Commission</td>
</tr>
<tr>
<td>IPP</td>
<td>Independent Power Projects</td>
</tr>
<tr>
<td>KWh</td>
<td>Kilo Watts per head</td>
</tr>
<tr>
<td>LFN</td>
<td>Laws of the Federation of Nigeria</td>
</tr>
<tr>
<td>MAN</td>
<td>Manufacturers Association of Nigeria</td>
</tr>
<tr>
<td>MW</td>
<td>Megawatt</td>
</tr>
<tr>
<td>MW/h</td>
<td>Megawatt per hour</td>
</tr>
<tr>
<td>MYTO</td>
<td>Multi-Year Tariff Order</td>
</tr>
<tr>
<td>NASSI</td>
<td>National Association of Small Scale Industries</td>
</tr>
<tr>
<td>NCP</td>
<td>National Council on Privatization</td>
</tr>
<tr>
<td>NEPA</td>
<td>National Electric Power Authority</td>
</tr>
<tr>
<td>NEPP</td>
<td>National Electric Power Policy</td>
</tr>
<tr>
<td>NERC</td>
<td>Nigeria Electricity Regulatory Commission</td>
</tr>
<tr>
<td>NESCO</td>
<td>Nigeria Electric Supply Company</td>
</tr>
<tr>
<td>NNPC</td>
<td>Nigeria National Petroleum Corporation</td>
</tr>
<tr>
<td>PHCN</td>
<td>Power Holding Company of Nigeria</td>
</tr>
<tr>
<td>PWD</td>
<td>Public Works Department</td>
</tr>
<tr>
<td>REA</td>
<td>Rural Electrification Agency</td>
</tr>
<tr>
<td>TCPC</td>
<td>Technical Committee on Privatization and Commercialization</td>
</tr>
<tr>
<td>USD</td>
<td>United States Dollar</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

Nigerian has one of the most problematic electricity sectors in the world, with an estimated installed electricity generation capacity of 8,644 MW, and available capacity of only approximately 3,200 MW1, to cater for the needs of a population of about 160 million. By comparison, South Africa, with a population of about 50 million, has an installed electricity generation capacity of over 52,000 MW.2

The United States Central intelligence Agency (“CIA”), in its World Fact-book reports on per capital electricity consumption in kilo-watts (KWh) for 2009, ranked Nigeria 178th with 106.21 KWh per head, lagging behind South Africa (4,921.26); Libya (3,281.87); Iraq (1,377.75); Gabon (900.00); Ghana (283.65); Cameroon (176.01); and Kenya (124.68).3

The historic gap between the demand for electricity and the available capacity has led to widespread power shortage and inefficiency and, consequently, self-generation of power by both industrial and residential consumers. The Manufacturers Association of Nigeria (“MAN”) and the National Association of Small Scale Industries (“NASSI”) have estimated that their members spend an average of about two billion naira (about $12 million) per week on self-power generation.4 To this end, the Nigerian power sector presents immense opportunities for private investment in the electricity power sector. This paper will focus on the generation segment.

The poor performance of the electricity power sector in Nigeria has been a significant barrier to private investment in the country and to overall development and economic growth. The sector’s market structure, like most economies of the developing world, is dominated by the state-owned power entity - National Electric Power Authority (“NEPA”) - in a monopolistic, vertically integrated business model.5

The dissatisfaction with the performance of NEPA led to a growing question of the theoretical and empirical justification for its involvement in the electricity power sector. However, from the heuristic perspective of international energy specialists familiar with the challenges of the electricity power sector in developing economies, the driving force behind liberalization in the Nigerian electricity power sector can be summed up as follows:6

- Low capacity generation of electricity output

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1 Bureau of Public Enterprises, Power Generation (Status and Outlook), Presentation at the Nigeria Power Sector Investment Forum (Jan. 27 2011), http://www.bpeng.org/Electric_Power/Pages/default.aspx
2 Id.
4 Id.
• Poor performance of the state owned power entity – NEPA in terms of high costs, inadequate expansion of access to electricity service for the population and unreliable supply.
• Inability of NEPA to finance new investment and or/maintenance of existing infrastructure.
• Corruption and mismanagement.
• Need to remove subsidies to the sector in order to release resources for other pressing public expenditure needs.
• The desire to raise immediate revenue for the government through the sale of assets from the sector and
• Inadequate machinery for effective billing and collection of bills.

In analysing the liberalization of a capacity-deficient electricity power sector, Bacon and Besant-Jones noted that the process must involve capacity building and establishment of an economically viable electricity power sector. With specific regard to the Nigerian electricity power sector, they proposed that the reform process should include the following elements:
• Mandating NEPA to operate according to commercial principles.
• Introduction of competition.
• Restructuring of NEPA’s supply chain to enable full liberalization. This entails unbundling NEPA’s business structure into several generators and distributors enterprises.
• Privatization of the unbundled electricity generators and distributors under dispersed ownership, to encourage private investors and operators to bring in financial resources and technical and managerial expertise to correct NEPA’s deficiencies
• Development of economic regulation that is independent from government and industry capture.
• Restricting government’s role on policy formation and execution.

The first section of this paper will examine the historical background of the Electricity power sector prior to liberalization.

The second section will attempt to critically analyse the forces behind the liberalization of the sector, and will briefly examine the legal and regulatory framework of a liberalized electricity power sector.

The third section will evaluate the liberalization process and discuss the steps which must be taken to achieve meaningful and effective liberalization of the sector.

The paper concludes with the proposition that it will take more than liberalization of the electricity power sector to solve the problem of capacity shortage. The political willingness of government to eradicate corrupt practices from the energy supply chain, the restoration of political tranquillity in the major oil producing areas of the Niger Delta, and better husbandry of the public finance are indispensable components of a comprehensive solution.

2. HISTORICAL ANALYSIS

7 Id. at 3.
2.1 Pre-liberalization framework

The evolution of Electricity production in Nigeria started in 1896 when electricity was first produced in Lagos, with a total generation capacity of 60KW. The first electric utility company, Nigeria Electric Supply Company (NESCO) was established in 1929 with the construction of a hydro station in Northern Nigeria. In 1946, the Nigerian government’s electricity undertaking was established under the jurisdiction of the Public Works Department (PWD) to take over the responsibility of electricity supply in Lagos, Nigeria.

In a bid to coordinate the distribution and development of electricity, the legislative council of the government of Nigeria established a central body known as Electricity Corporation of Nigeria (“ECN”) in 1950.

Following the independence of Nigeria and the increasing demand for electricity, the Niger Dams Authority (“NDA”) was created in 1962 to oversee the development and management of Hydro Power stations given the vast water resource of the nation. The electricity produced by NDA was sold to ECN for distribution and sales at utility voltages. Other bodies like Native Authorities and the Nigerian Electricity Supply Company (NESCO) had licenses to produce electricity in some part of the county. In 1968, Kainji Hydroelectric Power Station was commissioned.

In April 1972, the operation of ECN and NDA were merged in a new organization known as the National Electric Power Authority (NEPA). This was a wholly and vertically integrated monopoly utility to be responsible for generation, transmission and distribution of electric power.

2.2 First Phase of Power Reform

The Nigerian power sector witnessed a major change with the promulgation of the Privatization and Commercialization decree No.25 of 1988. The main objective was to privatize and commercialize state owned entities. The decree established the Technical Committee on Privatization and Commercialization (“TCPC”) as the secretariat for the implementation of privatization reform. Its functions included, inter alia, review of the activities of state-owned entities including NEPA. After some deliberation, the TCPC discovered that the failures of these entities was a result of misuse of monopoly powers, mismanagement, and corruption, and therefore recommended the commercialization of NEPA. The Act mandated the creation of a commercial and self-accounting authority (NEPA) with the authority to develop and maintain an efficient, coordinated and economical system of electricity power supply in Nigeria.

Following enactment of the Public Enterprises Act of 1999, the Bureau of Public Enterprises (“BPE”) was created to replace TCPC. The Public Enterprises (Privatization and the Commercialization) Act in 1999 granted the BPE the power to change emphases from

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9 See supra note 5.
commercialization to encouraging core investors, and promoting foreign investment in the privatization program.

3. LIBERALIZATION

3.1 Nigeria Electric Power Policy\textsuperscript{11}

Despite the reforms discussed in the preceding sections of this paper, the Nigerian electricity power sector continued to experience low electricity supply. Mindful of the necessity of power supply to economic development, the Federal Government commissioned a study on transforming the power sector in 1999. The study resulted in the adoption of the National Electric Power Policy (NEPP) in March 2001. The Policy set the following as critical objectives for Nigeria’s electric power sector:

- Ensure that the power sector attracts private investment both from Nigeria and from overseas
- Drafting of a new Electricity law to provide the legal framework for the reform Agenda
- Establishment of an independent regulatory agency
- Development of a wholesale electricity market
- Establishment of a consumer assistance fund to ensure the efficient and targeted application of subsidies to less privileged Nigerians
- Establishment of a Rural Electrification Agency (“REA”) to manage the rural electrification fund.

3.2 Electric Power Sector Reform Act 2005\textsuperscript{12}

Recognising the need for a complete overhaul of the electricity power sector, and pursuant to NEPP a comprehensive Electricity Bill was enacted in 2005 replacing existing legislations governing the electricity power sector. The enactment of the Electric Power Sector Reform Act on August 8, 2005 (EPSR) created a new legal and regulatory framework for the sector.

The main provisions of the Act include the following:

- Creation of the initial Holding Company (PHCN) to assume the assets, liabilities and employees of NEPA.\textsuperscript{13}
- Unbundling of PHCN into successor companies and ensuring greater operational autonomy.\textsuperscript{14}
- Market development.\textsuperscript{15}
- Privatization of successor companies which empowers the Bureau to undertake this responsibility.\textsuperscript{16}
- Establishment of the Nigeria Electricity Regulatory Commission (NERC).\textsuperscript{17}

\textsuperscript{11} Presidential Task Force on Power, at \url{http://www.nigeriapowerreform.org/index.php/policy-framework}.
\textsuperscript{12} Electric Power Sector Reform Act (2005).
\textsuperscript{13} See id. § 1-7.
\textsuperscript{14} See id. § 8-23.
\textsuperscript{15} See id. §§ 25, 82.
\textsuperscript{16} See id. § 24.
\textsuperscript{17} See id. Part III.
• Establishment of the Rural Electrification Agency and Fund to provide access to electricity to the rural areas as well as fund rural electrification projects, respectively.\(^18\)

• Power Consumer assistance fund to bridge the funding gaps for the low income earners.\(^19\)

The EPSR provides for an investment-friendly environment for potential investors in the power sector by transforming the integrated structure of the sector into vertically unbundled segments: Generation, Transmission and Distribution. The Act envisions a phase shift in the reform process, providing a necessary impetus to the sagging momentum for generation reforms in the country. As part of the process, a wider mandate for power market regulation was established.

### 3.3 Regulatory Framework

The Nigerian Electricity Regulatory Commission (NERC) is the sole regulatory body in charge of the Nigerian electricity power sector. This body was established as an independent and self-funding regulator to undertake both the technical and economic regulation of the Nigerian electricity sector.\(^20\) NERC is made up of a chairman and vice chairman appointed from among seven commissioners.

Some of the functions and powers of NERC include:\(^21\):

- Ensure orderly development of competitive power market
- Ensure efficient, safe and adequate production of electricity
- Promote competition and private sector participation
- Protect consumers and the public interest
- Evolve standards and codes that measure with international best practice
- Evolve stable and equitable rates – cost reflective + reasonable profit
- Settle disputes amongst industry participants
- Ensure expansion of access to rural and urban dwellers
- Establish and administer the consumer assistance fund for subsidizing underprivileged consumer.

NERC price regulation is structured pursuant to the Multi-Year Tariff Order (“MYTO”). This is a 15-year tariff path for the electricity power sector with minimal reviews each year according to prescribed criterion - inflation, exchange rate and gas prices.\(^22\) The NERC regulation also mandates significant reviews every five years intended to take into account input from all relevant stakeholders, including investors.\(^23\)

### 3.4 Presidential Roadmap to Power Sector Reform\(^24\)

After five years of implementation of the 2005 Reform Act, the Nigerian government on August 2010 established a Presidential Task Force on Power (“Presidential Roadmap”) to

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\(^{18}\) See id. § 88 – 92.

\(^{19}\) See id. § 83 – 87.

\(^{20}\) See id. § 31.

\(^{21}\) See id. § 32.

\(^{22}\) See id. §76.

\(^{23}\) See id. §76(9)

address challenges that largely seemed to stall the liberalization process in recent years. The Nigerian electricity power sector continues to experience power shortages, poor operational performance and a lack of foreign investors among others. Some of the reasons adduced for the Roadmap include delivery of reliable electricity service, the absence of a sustained and deliberately deployed long term power development strategy, under exploitation of the nation’s abundant energy endowments and the absence of adequate implementation of reforms.

Some key highlights of the Roadmap include:
- Removing obstacles to private sector investment
- Divestiture of the PHCN successor companies
- Reforming the fuel to power sector
- Establishment of an Appropriate Pricing Regime.

The roadmap also identified the tariff system as a very important factor in attaining the aims and objectives of the electricity power sector liberalization process.

4 NIGERIAN ELECTRICITY POWER SECTOR CAPACITY OUTPUT

Electricity power is crucial to economic growth, and the expansion of the Nigerian economy will rely heavily on the availability of quality infrastructural facilities, including electricity. Electricity generation in Nigeria in 2008 was 7,011.6 MW, consisting of 72.9% of thermal power and 27.1% of hydro-power. The Power Holding Company of Nigeria (PHCN) accounted for 85.3% of total generation while Independent Power Projects (IPPs) accounted for 14.7%. Total electricity consumption was 2,108 MW per hour (Mw/h).\(^{25}\) Nigeria’s estimated available capacity from the grid of approximately 3,200 MW meets only approximately one third of the estimated current demand for power from the grid. As demand for electricity in Nigeria is expected to more than double in the next 10 years, an even greater supply gap would be created in the future without some form of market intervention and fundamental reform of the power sector.

Current electricity generation is from either gas-fired or hydro power plants. Most assets are owned by state-owned companies, though some private investors have been able to establish IPPs following recent legislative reforms. The charts below set forth the current power generation assets in Nigeria.

**Existing Government Owned Power Stations — Gas-Fired:**

<table>
<thead>
<tr>
<th>Name of Generation Company</th>
<th>Year of Const.</th>
<th>Location</th>
<th>Installed Capacity (MW)</th>
<th>Available Capacity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  EGBIN POWER PLC</td>
<td>1986</td>
<td>Egbin, Lagos State</td>
<td>1320</td>
<td>1100</td>
</tr>
<tr>
<td>2  GEREGU POWER PLC</td>
<td>2007</td>
<td>Geregu, Kogi State</td>
<td>414</td>
<td>276</td>
</tr>
<tr>
<td>3  OMOTOSHO POWER PLC</td>
<td>2007</td>
<td>Omotosho, Ondo State</td>
<td>304</td>
<td>76</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>Name of Generation Company</th>
<th>Year of Const.</th>
<th>Location</th>
<th>Installed Capacity (MW)</th>
<th>Available Capacity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>OOLORUNSOGO POWER PLC</td>
<td>2008</td>
<td>Olorunsogo, Ogun State</td>
<td>304</td>
<td>76</td>
</tr>
<tr>
<td>5</td>
<td>DELTA POWER PLC</td>
<td>1966</td>
<td>Ughelli, Delta State</td>
<td>900</td>
<td>300</td>
</tr>
<tr>
<td>6</td>
<td>SAPELE POWER PLC</td>
<td>1978</td>
<td>Sapele, Delta State</td>
<td>1020</td>
<td>90</td>
</tr>
<tr>
<td>7</td>
<td>AFAM(IV-V) POWER PLC</td>
<td>1963/01</td>
<td>Afam, Rivers State</td>
<td>726</td>
<td>60</td>
</tr>
<tr>
<td>8</td>
<td>CALABAR THERMAL POWER STATION</td>
<td>1934</td>
<td>Calabar, Cross River State</td>
<td>6.6</td>
<td>Nil</td>
</tr>
<tr>
<td>9</td>
<td>OJI RIVER POWER STATION</td>
<td>1956</td>
<td>Oji River, Achi, Enugu State</td>
<td>10</td>
<td>Nil</td>
</tr>
<tr>
<td></td>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td><strong>5,004.6</strong></td>
<td><strong>1,978</strong></td>
</tr>
</tbody>
</table>

*Source: Nigerian Bureau of Public Enterprises*

**Existing Government Owned Power Stations — Hydro Plants:**

<table>
<thead>
<tr>
<th></th>
<th>Name of Generation Company</th>
<th>Year of Const.</th>
<th>Location</th>
<th>Installed Capacity (MW)</th>
<th>Available Capacity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>KAINJI/JEBBA HYDROELECTRIC PLC – Kainji Power Station</td>
<td>1968</td>
<td>Kainji, Niger State</td>
<td>760</td>
<td>480</td>
</tr>
<tr>
<td>2</td>
<td>KAINJI/JEBBA HYDROELECTRIC PLC – Jebba Power Station</td>
<td>1985</td>
<td>Jebba, Niger State</td>
<td>540</td>
<td>450</td>
</tr>
<tr>
<td>3</td>
<td>SHIRORO HYDROELECTRIC PLC</td>
<td>1989</td>
<td>Shiroro, Niger state, Nigeria</td>
<td>600</td>
<td>450</td>
</tr>
<tr>
<td></td>
<td><strong>TOTALS</strong></td>
<td></td>
<td></td>
<td><strong>1,900</strong></td>
<td><strong>1,380</strong></td>
</tr>
</tbody>
</table>

*Source: Nigerian Bureau of Public Enterprises*

**Independent Power Projects:**

<table>
<thead>
<tr>
<th></th>
<th>Name of Generation Company</th>
<th>Location</th>
<th>Installed Capacity (MW)</th>
<th>Available Capacity (MW)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>AES POWER STATION</td>
<td>Egbin, Lagos State</td>
<td>224</td>
<td>224</td>
</tr>
<tr>
<td>2</td>
<td>SHELL AFAM VI POWER STATION</td>
<td>Afam, Rivers State</td>
<td>650</td>
<td>650</td>
</tr>
<tr>
<td>3</td>
<td>AGIP OKPAI POWER</td>
<td>Okpai, Delta State</td>
<td>480</td>
<td>480</td>
</tr>
<tr>
<td>4</td>
<td>ASG IBOM POWER STATION</td>
<td>Akwa Ibom State</td>
<td>155</td>
<td>76</td>
</tr>
<tr>
<td>5</td>
<td>RSG TRANS AMADI POWER STATION</td>
<td>Port Harcourt, Rivers State</td>
<td>100</td>
<td>24</td>
</tr>
<tr>
<td>6</td>
<td>RSG OMOOKU POWER</td>
<td>Omoku, Rivers State</td>
<td>1150</td>
<td>30</td>
</tr>
</tbody>
</table>
In an attempt to increase capacity NERC on December 6, 2011 issued 20 new licenses to independent Power Producers to increase electricity generation in the sector. These IPPs are expected to add 6,258 MW of electricity to the national grid over the next 3 years.26

5 AN EVALUATION OF THE LIBERALIZATION PROCESS

It is readily apparent, from the preceding tables, that supply of electricity has remained stubbornly inadequate through the years. In order to better evaluate the impact of the reform process, it is imperative to take a closer look at the major changes and challenges since liberalization.

In a nutshell, liberalization has not enjoyed the predicted success. The challenges facing the sector can be summed up as both institutional and regulatory. Some have argued that, for liberalization to attain its objectives, the government must have political will and also allow for a captive-free regulation regime.

Nigeria like many countries of the world provides subsidies for the electricity power sector explicitly or implicitly, to producers and consumers. Justifications for their use vary from social welfare protection, job creation, the encouragement of new sources of energy supply, and economic development to energy security. Consequently, the government is faced with

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formulating a tariff structure to incentivise power generation and distribution on the one hand and social implication of market determine by subsidies for those at an economic disadvantage position on the other. The government should be concerned with the effect of subsidies to increase of output capacity, and the encouragement of private participation.

It is undeniable that Nigeria has one of the lowest electricity rates in the world, not simply because of a lack of efficiency or healthy competition in the sector but because of subsidies and the reluctance of government to authorise tariff revision. The resultant effect of such policy includes poor funding, inefficiency, poor state of infrastructure and most importantly the dearth of private sector participation. The right policy approach to adopt is getting market signals right so that prices can reflect to the true cost of producing and consuming power. Consequently, there should be a cost reflective tariff model. A cost reflective tariff regime is seminal to the recovery of expansion and efficiency in the sector.

It is important to note, however, that empirical research on reforms in most developing countries has provided empirical evidence that corruption discourages private investment, retards growth and inhibits poverty reduction efforts.\(^{27}\) In the energy sector for example, the delivery of energy moves from generation to transmission, to wholesale distribution and finally to retail distribution. Corruption can occur anywhere along the line. In generation, for example, it can occur in the licensing stage – government officials might be tempted to ask for kickbacks in the issuance and renewal of generation licences. Also, contracting for Power Purchase Agreement with state entity including payments for power generation can attract corrupt practices.\(^{28}\)

Furthermore, management of public finance is crucial to sector performance. For this reason, there are frequent attempts to explore vulnerabilities on both the expenditure and revenue sides of public finance. Due to the intricacies involved, budget management is frequently afflicted with inefficiencies and corruption. This can take the form of diversion of budgetary allocations towards activities that have greater potential for kickbacks, bribery, and fraud or theft.\(^{29}\) In the energy sector for example, this can occur in both the legislative and executive arm of government – budgetary approval process for the electricity power sector in the allocation of subsidies, procurement etc.

A close examination of Nigerian electricity sector reforms suggests that corruption was a major factor in the cycle of failure, inefficiencies and capacity shortage. It is a public fact that the Nigerian society is plagued with serious corruption, hence the creation of the Economic and the Financial Crimes Commission (“EFCC”) and the Independent Corrupt Practices and Other Related Offences Commission (“ICPC”) to fight this vice. The EFCC until recently was very effective in fighting graft and financial crime in Nigeria.

The current investigation by the Nigeria legislature into the abrogation of oil subsidy and the privatization of state owned entities has brought to light the issues of corruption and mismanagement raised by Campos and Pradhan as a catalyst to power sector reform. The investigation revealed serious graft issues by both government officials and private participants in the petroleum industry. The legislature cited a government-sponsored investigation on oil subsidies (conducted by the accounting firm of KPMG) which revealed


\(^{28}\) Id.

\(^{29}\) Id.
that between 2007 and 2009 alone, the Nigeria National Petroleum Corporation (“NNPC”) – a government owned entity misappropriated subsidy claims to the tune of N28.5 billion, and unaccounted for. The investigations also discovered that fraudulent practices by government agencies fuelled a five-fold rise in spending on gasoline subsidies in the past three years. However, the same government is probably paying more than 2 trillion naira ($12.6 billion) to importers of fuel, to cover the difference between market costs and state-regulated prices for last year.30

Furthermore, Nigeria’s Senate panel investigating the privatisation of government entities found that illegal and fraudulent acts were carried out by government officials in the sale of government entities. There were cited instances where very top government officials acquired and paid little or nothing for some of these entities.

A peaceful end to the violent struggle for resource control in the Niger Delta region (where oil and gas, the major sources of power generation is obtained) can also be a catalyst to capacity increase in the electricity power sector. There have been reported cases of acts of sabotage on crude and condensate evacuation pipeline system which caused serious and protracted interruptions to the gas supply to power plants. Although, the roadmap to reform recommended both increased physical security measures to prevent condensate theft and good community relations, it is my opinion that it will take more that these recommendations. As stated above, the real solution is the government’s political will to eradicate corrupt practices from both the government and private sector in general, so that communities such as the Niger Delta develop trust in government and perceive themselves to be beneficiaries of a fair share of the precious resources exploited from the region.

6 CONCLUSION

The liberalization of an electricity power sector can be a cumbersome process whose impact can be viewed as both short-term as well as long-term in nature. At the same time, the success or failure can only be measured by past mistakes and corrective measures. The concerns about the liberalization process in capacity-short countries have centred on the process followed, the transition management and the final destination of the reform process.

As will be readily apparent from the foregoing discussions, a tremendous amount of effort and resources - both institutional and regulatory - have been brought to bear to adopt Bacon and Besant-Jones’s prescriptions on liberalization as a panacea for capacity deficiency electricity power sector. Yet, the problems persist. The question, then, is why? It is the author’s opinion that at every stage of the liberalization process a constant theme is the issue of corruption. Clearly, the leadership and the very entities charged with policy implementation have collectively failed to recognize - or just as likely, abdicated responsibility for - this endemic and corrosive social problem. For example, TCPC (which later become BPE) was itself indicted by the Nigerian Senate for corruption of the privatization process. Ironically, TCPC itself had relied on “corruption” as one of the reasons recommending the privatization of NEPA.

30 Nigerian Parliament Probes ‘Largest Fraud’ in $12.6 Billion Fuel Subsidies
To advance the liberalization process towards its laudable objectives, this author offers the following recommendations:

- A robust and radical reform in the sector demonstrating changes to improve and strengthen both the regulatory and institutional framework to enhance accountability and minimize corruption;

- Elimination or minimization of concerns about security of supply of gas associated with resource control agitation in the Niger Delta region.

- Adequate incentives for investors and a climate of predictability, through consistency in formulation and execution of policy.

- The country should immediately establish a permanent, special unit of the EFCC - dedicated to the Petroleum and Electricity Power sector, with independent powers of investigation, arrest, and prosecution in all instances of corruption in the sector, without recourse to the Ministry of Justice. Such a draconian approach is justified: after all, this sector is the lifeblood of the nation.
References


