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NOTICE OF INTENDED MODIFICATION OF LICENCE NUMBER 048 FOR SUPPLY OF ELECTRICITY

(UNDER SECTION 43 AND 11 OF THE ELECTRICITY ACT, 1999)

1. INTRODUCTION

On 1st March 2005, the Authority granted to Umeme Licence No. 047 for Distribution of Electricity in Uganda ('Distribution Licence') and Licence No. 048 ('Supply Licence') for Supply Electricity in Uganda

In pursuance of its powers under Sections 43 and 11 of the Electricity Act, 1999 (the 'Act'), the Electricity Regulatory Authority hereby gives notice of its intention to modify the Supply Licence.

2. LEGAL FRAMEWORK AND CONSIDERATIONS FOR MODIFICATION OF THE LICENCE

The Authority has taken the following aspects into account in considering this matter:

- (a) The provisions of the Act and Regulations made thereunder, including, but not limited to:
 - (i) Section 43 of the Act which empowers the Authority to modify the terms and conditions of a licence if the benefits of the public interest of such modification significantly exceed the disadvantages of the licensee;

- (ii) Section 11 (2) (c) (ii) of the Act which mandates the Authority to ensure that licensees protect the interests of consumers in respect of the quality, efficiency, continuity and reliability of the supply services;
 - (iii) Section 11 (2) (h) of the Act which requires the Authority to promote continuity in the supply of electricity;
 - (iv) Section 37 of the Act which requires the Authority to *inter alia* consider the energy needs of the country, region, community; energy efficiency; policies of the Government and any other matter that the Authority may consider likely to have a bearing on the operations of the applicant;
 - (v) Regulation 5 (a) of the Electricity (Tariff code) Regulations, 2003 which stipulates that tariffs shall be based on accurate cost information provided by operators and a transparent formulation and review process;
 - (vi) Regulation 5 (d) of the Electricity (Tariff code) Regulations, 2003 which mandates that tariffs reflect the true cost of service and provide clear price signals to the consumers on the economic and efficient use of energy.
- (b) The provisions of the Licence, including, but not limited to:
- (i) Condition 7 which provides for Licence modification/amendment initiated by the Authority;
 - (ii) Condition 2.1 of the Distribution Licence which requires Umeme to ensure the reliable operation of the distribution Grid and to adopt such policies and programs that can enable it achieve a high level of quality and reliability of the distribution services; and,
 - (iii) Condition 3.1.1. of the Supply Licence, which establishes the requires that the retail tariff is set to provide the Licensee with incentives to reduce costs and operate efficiently;
 - (iv) Condition 2.1.5 of the Supply Licence which obliges the Licensee to take commercially reasonable measures, consistent with Prudent Utility Practices, to increase the operational and economic efficiency of the

Licensed Activity in order to assure the quality and reliability of delivered services for the benefit of consumers.

- (c) The application for modification/amendment of the Supply Licence submitted by Umeme on 5th April 2018 (currently under consideration by the Authority), pursuant to Section 44 of the Act and, the information submitted by Umeme thereto;
- (d) The policies of the Government of Uganda, including Government's policies for increasing access to electricity in the country.

The intended modifications are necessary to enhance operational efficiency and performance of Umeme and therefore, deliver additional value to the electricity supply industry in Uganda.

3. INTENDED MODIFICATIONS

3.1. Incentive framework for quality and reliability of supply

Principle of modification

The Authority intends to modify the Supply Licence to provide for an incentive based framework in respect to the minimum standards of reliability and quality of electricity supply. The framework will be implemented through an incentive based S-factor provided under the Tariff Methodology in Annex A of the Supply Licence ('Annex A').

3.1.1. Intended modification

The Authority intends to modify the formula for $DS_{y,q}$ (licensee's cost for providing distribution network and retail supply services for quarter "q" of the year "y"), under Clause 6 of Annex A, as follows:-

$$DS_{y,q} = [OPN_{y,q} + LP_{y,q} + IN_{y,q}] * [1 + S_{y,q}]$$

Where:

$S_{y,q}$ = The S-factor as computed in accordance with the formulae below:

At least 60 (Sixty) days prior to the effectiveness of any Retail Tariff, except with prior approval of the Authority, the Licensee shall submit and the Authority will approve a new set of minimum standards of reliability and quality of electricity supply, for the subsequent Tariff Year. In addition, the Licensee shall submit a report on its performance in respect of the minimum standards of reliability and quality of electricity supply for a twelve months period ending two months before the first day of the Tariff Year “y”.

For purposes of this formulae, the System Average Interruption Duration Index (SAIDI), Customer Average Interruption Duration Index (CAIDI) and System Average Interruption Frequency Index (SAIFI) shall constitute the minimum standards of reliability and quality of electricity supply.

The S-factor shall be computed by comparing the approved/target and the actual performance in respect of the minimum standards of reliability and quality of electricity supply for the Tariff Year ‘y-1’ based on the rating as follows;

- (a) Above Average Performance (Greater than 7.5% below target) – would be worth 5 quality points on either SAIFI, SAIDI, or CAIDI
- (b) Dead Band Performance (+ or – 7.5% deviation from target) – would be worth 0 quality points on either SAIFI, SAIDI or CAIDI, and
- (c) Below Average Performance (Greater than 7.5% above target) – would be worth -5 Quality points on SAIFI, SAIDI, or CAIDI.

The overall S-factor score is derived by a summation of the score on SAIDI, SAIFI and CAIDI so that if;

- i. SAIFI, SAIDI, and CAIDI is -5, then $S_{y,q} = 0.25\%$
- ii. SAIFI, SAIDI, and CAIDI is -10, then $S_{y,q} = -0.4\%$
- iii. SAIFI, SAIDI, and CAIDI is -15, then $S_{y,q} = -0.50\%$
- iv. SAIFI, SAIDI, and CAIDI is 0, then $S_{y,q} = 0.00\%$
- v. SAIFI, SAIDI, and CAIDI is 15, then $S_{y,q} = +0.5\%$
- vi. SAIFI, SAIDI, and CAIDI is 10, then $S_{y,q} = +0.4\%$
- vii. SAIFI, SAIDI, and CAIDI is 5, then $S_{y,q} = +0.25\%$

SAIFI – this index is designed to give information about the average frequency of sustained interruptions per customer over a predefined area.

$$SAIFI = \frac{\text{Total number of Customer interruptions}}{\text{Total number of Customers served}}$$

(Expressed in numbers of interruptions (Duration > 5 minutes) per Year)

SAIDI - this index is referred to as customer minutes of interruption and is designed to provide information about the average time that customers are interrupted

$$SAIDI = \frac{\text{Sum of all Customer interruption Durations}}{\text{Total number of Customers served}}$$

(Expressed in minutes)

CAIDI – this index represents the average time required to restore service to the average customer per sustained interruption. It is the result of dividing the duration of the average customer's sustained outages (SAIDI) by the frequency of outages for that average customer (SAIFI)

3.1.2. Effect of intended modification

3.1.2.1. Public Interest

Frequent and long power outages/interruptions impose a cost on consumers in terms of the cost of energy not supplied. It is, therefore, in public interest to provide for a framework that will provide an incentive to the licensee to improve reliability of supply.

Introduction of the incentive based framework is intended to:

- (a) improve quality, efficiency, continuity and reliability of the electricity supply services;
- (b) Reduce power outages which cause consumers to resort to alternative and expensive sources of supply;
- (c) Facilitate increased demand/consumption of electricity;
- (d) Increase productivity and minimize production losses for electricity consumers; and,
- (e) Reduce the tariff through increased power consumption as a result of reduced outages.

3.1.2.2. Impact on licensee

- (a) The Licensee will earn a financial reward for achieving the targets;
- (b) The Licensee will incur a financial penalty for failing to achieve the targets;
- (c) The Licensee will be required to prioritize investments in the network to improve reliability of electricity supply, which investments are funded by the electricity consumer; and,
- (d) The Licensee may be required to restructure its operations towards reducing the frequency and duration of power outages.

In the opinion of the Authority, the public interest benefit of implementing the intended modification significantly exceeds the disadvantages of the licensee.

3.2. Power Supply Price (R_q) reconciliation.

3.2.1. Principle of modification.

The reconciliation of the power supply costs must ensure that the consumer pays for costs that are fair, accurate, reasonable, approved by the Authority and prudent, in accordance with the principles of tariff determination as provided in the Electricity Act and Electricity (Tariff Code) Regulations.

3.2.2. Intended Modification

The Authority intends to modify the definition of R_q in the formulae for the Power Supply Price ($PSP_{c,q}$) provided under the Clause 3 of Annex A, as follows:

$$R_q = PSP_{A\ q-1} - PSP_{E\ q-1}$$

Where;

R_q = reconciled amount

$PSP_{A\ q-1}$ = total Power Supply Price revenue based on actual parameter values in the previous quarter_{q-1}

$PSP_{E\ q-1}$ = total Power Supply Price revenue based on target tariff parameters of Distribution Loss Factor, percentage of energy consumed within

customer class, percentage of energy consumed within customer class during time of use period, parameter values in the previous quarter_{q-1}

$$PSP_{A,q-1} = \sum_{i=1}^n \sum_{j=1}^n LF_A * Cons_{(A)i} * TOU_{(A)i,j} * PSP_{TC,q-1} * HVE_{A,q-1}$$

$$PSP_{E,q-1} = \sum_{i=1}^n \sum_{j=1}^n LF_E * Cons_{(E)i} * TOU_{(E)i,j} * PSP_{TC,q-1} * HVE_{A,q-1}$$

Where;

| | |
|------------------|--|
| $LF_A =$ | Actual Distribution Loss Factor in % |
| $LF_E =$ | Actual Distribution Loss Factor in % |
| $Cons_{(A)i} =$ | Actual share of consumption for each consumer category i in % |
| $Cons_{(E)i} =$ | Target share of consumption for each consumer category i in % |
| $TOU_{(A)i,j} =$ | Actual share of consumption of each consumer group i in each time of use j, in % |
| $TOU_{(E)i,j} =$ | Target share of consumption of each consumer group i in each time of use j, in % |
| $HVE_{A,q-1} =$ | Total energy purchased by the Licensee from UETC for the previous quarter q-1 |
| $PSP_{TC,q-1} =$ | Prevailing PSP tariff in Shs/kWh |

Where;

$$PSP_{TC,q-1} = PSP_{c,q} * (1 - TUCF_y)$$

3.2.3. Effect of intended modification

3.2.3.1. Public Interest

Costs that are not accurate or reasonable impose an unnecessary burden on the electricity consumer.

The modification is intended to:

- (a) Ensure that electricity consumers pay fair and reasonable tariffs consistent with the maintenance of a financially and operationally sustainable Electricity Supply Industry;
- (b) Ensure that the method used in the R_q computation is accurate;
- (c) Ensure that there will be a PSP reconciliation only when the actual outturn by the Licensee in respect of the tariff parameters are different from the assumptions used in the determination of the retail tariff (as included in Annex A);
- (d) Promote sustainability of the Electricity Supply Industry by ensuring that the reconciliation enables the Licensee to meet its payment obligations under the Powers Sales Agreement ('PSA') Uganda Electricity Transmission Company Limited ('UETCL');
- (e) To support the incentive based framework which constitutes the premise for tariff determination.

Further, the methodology will ensure that the Licensee does not claim a reconciliation amount when the actual parameters are the same as those assumed during tariff determination (as included in Annex A).

3.2.3.2. Impact on licensee

- a) The Licensee will benefit from the security/ guarantee of availability of adequate funds to meet its payment obligations under the PSA with UETCL;
- b) The Licensee will be compensated for power purchase costs only to the extent of the parameters used in the determination of the tariff as included in Annex A; and,
- c) The licensee will not be able to recover costs that are indeterminate and not provided for in the tariff parameters.

In the opinion of the Authority, the public interest benefits of implementing the intended modification significantly exceed the disadvantages of the licensee.

3.3. Minimum Connection Requirements

3.3.1. Principle of modification.

The Government of Uganda has established a number of policies, initiatives and strategies for purposes of increasing access to electricity. Therefore, it is imperative that a framework is put in place to enable the Licensee fast track the operationalization of Government's initiatives/strategies.

3.3.2. Intended Modification

The Authority intends to modify Clause 1.10 of Annex A by:

- a) Deleting the Clause 1.10 in its entirety and replacing it as follows:

“Before the end of the 7th (Seventh) year, and the 14th (Fourteenth) year after the Transfer Date, the Licensee shall submit and the Authority will approve a new set of DOMC amounts, Minimum New Customer Connection Targets, TUCF and DL figures appearing in Schedule A-5 and for the LF figures appearing in Schedule A-4, which will be established for each year of such respective seven (7) and six (6) year periods.”

- b) Modify Schedule A-5 of Annex A by inserting after the row for Target Uncollected Debt Factor (TUCF), the row for Minimum New Customer Connection Targets.

3.3.3. Effect of intended modification

3.3.3.1. Public Interest

The modification is intended to:

- a) Facilitate accelerated access to electricity, in line with the Government of Uganda Policy; and,
- b) New connections will result in increased consumption of electricity and ensure financial sustainability of the Electricity Supply Industry.

3.3.3.2. Impact on licensee

- a) The Licensee may be required to restructure its operations and/or implement programs to accelerate connections, in line with Government Policy; and,
- b) New connections will result into increase in the customer base and therefore, increase in the revenues of the Licensee.

In the opinion of the Authority, the public interest benefits of implementing the intended modification significantly exceed the disadvantages of the licensee.

3.4. Continuity of Electricity Supply

3.4.1. Principle of modification

Pursuant to Section 11 (2) (h) of the Act, the Authority is required to promote continuity of electricity supply.

3.4.2. Intended Modification

The Authority intends to modify the Supply Licence to provide for Licence Condition No. 14 as follows:-

- “ 14.1. The Licensee shall within the five (5) years preceding expiry of the Term and on an annual basis thereafter, submit to the Authority, the following information:-*
- (a) A Report on the status of the Network;*
 - (b) A Report on training and transfer of knowledge and skills to the local community;*
 - (c) A Report on the Governance and Management structure of the licensee;*
 - (d) Employee Pay roll, including details of wages paid to each employee and other employment details;*
 - (e) An updated Asset Register;*
 - (f) List of insurance policies in respect of the Licensed Activity, and;*
 - (g) A Report on compliance with Environmental obligations.*
- 14.2. The Licensee shall within the three (3) years preceding expiry of the Term, undertake a comprehensive Environmental Audit of the entire the Distribution network, in accordance with the environmental laws.”*

3.4.3. Effect of intended modification

3.4.3.1. Public Interest

The modification is intended to:

- (a) Ensure continuity of electricity supply;

- (b) Ensure the integrity of the Distribution Network at the end of the Licence Term; and,
- (c) Ensure the technical, economic, financial and legal competence of the distribution segment at the end of the Licence Term.

3.4.3.2. Impact on licensee

The licensee is already required to report on the licensed activities in a manner prescribed by the Authority. Therefore, the proposed modifications do not create any onerous responsibilities for the Licensee.

In the opinion of the Authority, the public interest benefits of implementing the intended modification significantly exceed the disadvantages of the licensee.

3.5. Formulae for adjusting the portion of Net Operating and Maintenance Fees (DOMC) attributed to cost incurred United States Dollars

3.5.1. Principle of modification

Consumers are expected to pay for tariff /costs that are fair, accurate, and reasonable incurred by the Licensee for provision of electricity supply.

Adjustment for; the USD (Foreign Currency) content of the Licensee's DOMC, Producer Price Index published by the United States Bureau of Labour Statistics, and the exchange rate of the Ugandan Shilling against the US Dollar results in double provision and cost duplication.

3.5.2. Intended Modification

The Authority intends to modify the definition of the Formulae for adjusting the portion of the Net Operating and Maintenance Fees (DOMC) attributed to costs incurred in United States Dollars Section 6 of Annex A, as follows:

$$EOM_{y,q} = \left[DOMC_y * EC_y * \left(\frac{INI_{eq}}{INI_{er}} \right) \right] * QXR_{y,q}$$

~~INI_{E,y,q} = The Producer Price Index for finished goods Less Food and Energy, series ID WPUSOP3500, for the month preceding quarter q in year “y” as calculated and published by the United States Bureau of Labor Statistics, or its replacement.~~

~~INI_{E,R} = The Producer Price Index for finished goods Less Food and Energy, series ID WPUSOP3500, as of the Effective Date as calculated and published by the United States Bureau of Labor Statistics, or its replacement.~~

3.5.3. Effect of intended modification

3.5.3.1. Public Interest

The modification is intended to ensure that the electricity consumers are not unfairly and unreasonably charged for; costs under the USD (Foreign Currency) content of the Licensee’s Net Operating Costs, Producer Price Index, and the exchange rate of the Ugandan Shilling against the US Dollar.

3.5.3.2. Impact on licensee

The proposed modification will divest the Licensee of any undue revenue.

In the opinion of the Authority, the public interest benefits of implementing the intended modification significantly exceed the disadvantages of the licensee.

4. NOTICE

TAKE NOTICE THAT pursuant to **Sections 43, 11 (1), 11 (2) (f)** of the Act and **Condition 7.2** of the Licence, the Electricity Regulatory Authority hereby invites all interested parties and/or stakeholders to view the Intended Modification at the Electricity

Regulatory Authority Resource Centre on Plot 15, Shimoni Road, Nakasero, Kampala between 8:30am and 4:30pm during working days.

Any representations or objections in respect of the Intended Modification may be made by **30th January 2019**, to **the Secretary** of the Electricity Regulatory Authority at the address above.

Dated this 9th day of January 2019

MANAGEMENT