

UTILITIES CHARGES COMMISSION ACT

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UTILITIES CHARGES COMMISSION ACT

An Act to establish the Utilities Charges Commission and for matters connected therewith.

[1992 No. 104.]

[30th December, 1992]

[Commencement.]

PART I

Establishment, membership, etc., of the Commission

1. **Establishment of the Utilities Charges Commission**

(1) There is hereby established a body to be known as the Utilities Charges Commission (in this Act referred to as "the Commission").

(2) The Commission shall be structured into various activity departments, as it deems appropriate for the effective discharge of its functions.

2. **Membership**

(1) The Commission shall consist of the chairman and the following other members, that is-

(a) the Permanent Secretary of-

- (i) the National Planning Commission representing the Presidency;
- (ii) the Ministry of Transport;
- (iii) the Ministry of Communications;
- (iv) the Ministry of Petroleum Resources;
- (v) the Ministry of Solid Minerals Development;

(b) a representative each of the following bodies, that is-

- (i) the Manufacturers Association of Nigeria;
- (ii) the Nigerian Labour Congress
- (iii) the Nigerian Association of Chambers of Commerce, Industry, Mines and Agriculture;
- (iv) the Academic Community;
- (v) the Nigerian Society of Engineers;
- (vi) the Nigerian Union of Journalists; and
- (vii) the Institute of Chartered Accountants of Nigeria.

(2) The members of the Commission shall be appointed by the President.

(3) The members of the Commission shall be appointed on part-time basis and shall be entitled to sitting allowance and such other allowances as may be determined by the Commission after consultation with the Federal Ministry of Finance.

(4) The supplementary provisions contained in the First Schedule to this Act shall have effect with respect to the proceedings of the Commission and the other matters mentioned therein.

[First Schedule.]

PART II

Secretary and other staff of the Commission

3. Appointment of executive secretary

(1) There shall be appointed by the President an executive secretary to the Commission who shall hold a rank not below that of a Permanent Secretary in the Civil Service of the Federation.

(2) The Executive Secretary shall assist the chairman in the execution of the policies of the Commission and the day-to-day running of the affairs of the Commission and shall carry out such other duties as may be required of him from time to time by the chairman.

(3) The Executive Secretary shall hold office for a period of five years and shall be eligible for re-appointment for one further term of five years, after which he shall vacate office.

(4) Subject to the provision of this section, the Executive Secretary shall hold office on such terms as to emolument and otherwise as may be specified in his letter of appointment.

4. Other staff of the Commission

(1) The Commission may appoint such other persons to be officers and servants of the Commission as it may deem fit.

(2) The remuneration and tenure of office of the officers and employees of the Commission shall be in accordance with what prevails in the public service of the Federation.

(3) Notwithstanding the provisions of subsection (1) of this section, officers and employees of the Commission may be appointed by the Commission by way of transfer or secondment from any of the public services in the Federation.

5. Service in the Commission to be pensionable

(1) Service in the Commission shall be approved service within the context of the Pensions Act.

[Cap. P4.]

(2) Officers and other persons employed in the Commission shall in respect of their service in the Commission be entitled to pensions, gratuities and other retirement benefits enjoyed by persons holding equivalent grades in the public service of the Federation.

(3) Nothing in this Act shall prevent the appointment of a person to any office in the Commission on terms which preclude the grant of a pension and gratuity in respect of that office.

PART III

Functions

6. Functions of the Commission

It shall be the duty of the Commission-

(a) to evaluate, on a continuing basis, trends in tariffs charged by any of the public utilities listed in the Second Schedule to this Act (in this Act referred to as "Scheduled Utilities") with a view to providing the Federal Government with such information as would enable the Federal Government to determine permissible increases;

[Second Schedule.]

(b) to advise the Federal Government on guidelines within which increases in tariffs should be confined by Scheduled Utilities;

(c) to design and develop an adequate information system relating to the Scheduled Utilities and their tariff charges;

(d) to keep charges and tariffs under constant surveillance and propose measures-

(i) to regulate tariff charges;

(ii) to prevent undue exploitation of consumers by Scheduled Utilities;

(e) to study requests from consumers, the public and private utility providers on charges in utility rates and make appropriate recommendation in relation thereto;

(f) to recommend to the Federal Government the prevailing public utilities rates;

(g) to undertake any other activity likely to assist in the performance of the functions conferred on the Commission pursuant to this Act;

(h) to do anything which in the opinion of the Commission is calculated to facilitate the carrying out of the functions of the Commission under this Act; and

(i) to examine and advise on any matter referred to it by the Federal and State Governments, concerning any of the functions conferred on it by or pursuant to this Act.

7. Approval to increase rates, etc.

(1) As from the commencement of this Act, a Scheduled Utility intending to vary or increase its charges, tariff or rates shall first seek the Commission's approval for such permissible increase.

(2) A person who contravenes the provisions of subsection (1) of this section commits an offence under this Act and is liable on conviction to a fine of HI 0,000.

8. Complaint by persons

A person aggrieved by any tariff or rate imposed or services provided by a Scheduled Utility may forward his complaint in writing to the Commission which shall inquire into the cause and circumstances of the complaint and endeavour to bring about a settlement.

9. Power of Commission to initiate investigation into rates, etc.

For the purposes of this Act, the Commission may on its own initiative-

- (a) initiate an investigation into the rates, charges or services, provided by any public utilities supplier;
- (b) determine the manner by which a complaint is to be made;
- (c) set up such technical committees as it deems fit to investigate any complaint and report back to the Commission.

10. Principles to be considered

The Commission in fixing any rate or coming to a decision shall consider-

- (a) the broad principles relating to costs, the need to eliminate waste and ensure that consumers are not made to absorb avoidable costs; and
- (b) the rate of return on capital invested by a Scheduled Utility.

11. Guidelines and enforcement

- (1) The Commission may from time to time and shall when so directed by the President, prepare guidelines on any question relating to tariff charges or permissible increase or services of any description provided by any Scheduled Utility or to returns on capital invested in any form of property owned by any such Scheduled Utility.
- (2) Guidelines prepared pursuant to subsection (1) of this section, shall be submitted to the President who may direct such action thereon as he may consider fit in the circumstances.
- (3) When the President directs the enforcement of any matter pursuant to this section, it shall be the duty of the Commission to implement any such direction.
- (4) The Commission shall give public notice in any manner as it may determine of any matter required to be enforced pursuant to this section.
- (5) A person who contravenes any guideline issued under the provisions of this section commits an offence and is liable on conviction to a fine of HI 0,000 or imprisonment for two years or to both such fine and imprisonment.

12. Power to obtain information

- (1) For the purpose of carrying out the functions conferred on the Commission under this Act, the Executive Secretary or any other officer of the Commission authorised in that behalf-
 - (a) shall have a right of access at all reasonable times to records of any Scheduled Utilities listed;
 - (b) may by notice in writing served on any person in charge of any such Scheduled Utilities require that person to furnish information on such matters as may be specified in the notice.
- (2) It shall be the duty of any person required to furnish any information pursuant to subsection (1) of this section to comply with the notice within a reasonable period of time.

13. Offence

- (1) If a person required to furnish any information pursuant to section 12 of this Act

fails to furnish the information as required under that section, he commits an offence and is liable on conviction to a fine of ₦10, 000 or imprisonment for two years or to both such fine and imprisonment.

(2) If a person in purported compliance with a requirement to furnish information as aforesaid, knowingly or recklessly makes any statement therein which is false in a material particular, he commits an offence and is liable on conviction to a fine of ₦ 10,000 or imprisonment for two years or to both such fine and imprisonment.

(3) A person who willfully obstructs, interferes with, assaults or resists an officer of the Commission in the execution of his duties under this Act or who aids, induces or abets any other person to obstruct, interfere with, assault or resist the officer, commits an offence and is liable on conviction to a fine of ₦ 1 ,000 or imprisonment for a term not exceeding six months or to both such fine and imprisonment.

14. Offence by bodies corporate, etc.

Where an offence under this Act is committed by a body corporate, firm or other association of individuals-

(a) every director, manager, secretary, or other similar officer of the body corporate;

(b) every partner or other similar officer of the firm;

(c) every trustee of the body concerned;

(d) every person concerned in the management of the affairs of the association;
and

(e) every person who was purporting to act in any such capacity as aforesaid, shall severally be guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

PART IV

Financial provisions

15. Funds

The Commission shall establish and maintain a fund consisting of such moneys as may in each year be appropriated by the Federal Government for the purpose of the functions of the Commission under this Act.

16. Accounts and audit

(1) The Board shall, before 30 September in each year, cause to be prepared an estimate of the expenditure and income of the Commission during the next succeeding year and when approved by the Secretary to the Government of the Federation, the estimates shall be forwarded for approval by the Federal Government.

(2) The accounts of the Commission shall be audited annually by an auditor appointed by the Board from the list and in accordance with guidelines supplied by the Auditor-General for the Federation.

17. Annual reports

The Commission shall prepare and submit to the President not later than the 31 st day of December in each year, a report of the activities of the Commission during the immediately preceding year, and shall include in that report a copy of the audited accounts of

the Commission for that year and the auditor's report thereon.

PART V

Miscellaneous

18. Regulations

The Commission may with the approval of the Federal Government make regulations for carrying into effect the provisions of this Act.

19. Interpretation

In this Act unless the context otherwise requires-

"Commission" means the Utilities Charges Commission established by section 1 of this Act;

"functions" includes powers and duties.

20. Short title

This Act may be cited as the Utilities Charges Commission Act.

SCHEDULES

FIRST SCHEDULE

[Section 2 (4).]

Proceedings of the Commission

1. The Commission may make standing orders regulating its proceedings or of its committees.
2. The quorum of the Commission shall be five and the quorum of any committee of the Commission shall be determined by the Commission.
3. At any time while the office of the chairman is vacant or the chairman is in the opinion of the Commission temporarily or permanently unable to perform the functions of his office, a member of the Commission duly appointed by the Commission shall perform those functions and references in this Schedule to the chairman shall be construed accordingly.
4. (1) Subject to the provisions of any applicable standing orders, the Commission shall meet whenever summoned by the chairman; and if the chairman is required so to do by notice given to him by not less than three other members, he shall summon a meeting of the Commission to be held within 21 days from the date on which the notice is given.

(2) At any meeting of the Commission, the chairman, or, in his absence, any member duly appointed by the Commission, shall preside at that meeting.

(3) Where the Commission wishes to obtain the advice of any person on a particular matter, the Commission may co-opt such person as a member for such period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.
5. (1) The Commission may appoint one or more committees to carry out on its behalf any of its functions as the Commission may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Commission and not more than one third of those persons may be persons

who are not members of the Commission; and a person other than a member of the Commission shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.

(3) A decision of a committee of the Commission shall be of no effect until it is confirmed by the Commission.

6. The fixing of the seal of the Commission shall be authenticated by the signature of the chairman or of some other person or member authorised generally or specifically by the Commission to act for that purpose.

SECOND SCHEDULE

[Section 6 (a).]

List of Public Utilities

- (a) National Electric Power Authority (NEPA);
- (b) Nigerian Telecommunication Ltd. (NITEL);
- (c) Nigerian National Petroleum Corporation (NNPC);
- (d) Nigeria Airways (Domestic Operations);
- (e) Nigerian Railway Corporation;
- (f) Ferry Services Organisations;
- (g) Nigerian Ports Authority;
- (h) Road Transportation Organisations;
- (i) Nigerian Postal Services (NIPOST);
- (j) such other public utilities as may be determined, from time to time, by the Commission.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation