

PUBLIC UTILITIES REGULATORY COMMISSION



Order in Respect of:

**Sections 3, 11, 24 of the
Public Utilities Regulatory Commission Act, 1997 (Act 538)
And Regulations 39 & 45 of the
Public Utilities Regulatory Commission (Consumer Service)
Regulations, 2020 (L.I. 2413)**

Directed to: Electricity Company of Ghana Limited

15 April 2024

Order No: PURCECG022024**THIS ORDER IS DIRECTED TO**

1. Electricity Company of Ghana Limited (ECG);
2. The Board Members of ECG for the period 1 August 2023 to 18 March 2024;

In respect of:

1. Non-compliance with the Cash Waterfall Mechanism;
2. Non-compliance with regulatory request for data; and
3. Non-compliance with the Public Utilities Regulatory Commission (Consumer Service) Regulations, 2020 (L.I. 2413).

THE ORDER IS ISSUED UNDER:

Sections 3, 11 and 24 of the Public Utilities Regulatory Commission Act, 1997 (Act 538), and Regulations 39 and 45 of L.I. 2413.

1. BACKGROUND

By Order PURCECG012024 dated 18 March 2024, the Public Utilities Regulatory Commission (PURC) issued directives to the ECG for compliance by dates stated in that Order, in respect of the following:

No.	Item	Date for Compliance
1	Tariff Revenue Allocation under the Cash Waterfall Mechanism (CWM)	March 25, 2024
2	Provision of Regulatory Audit Data and Submission of Information Related to Operational Matters	March 27, 2024
3	Provision of other Regulatory Audit Data	April 2, 2024

2. COMPLIANCE BY ECG

By the expiry of the stated deadlines, and following the Commission's validation, ECG's compliance with the above orders was as follows:

Order Number	Details of Order	Compliance Status	Remarks
1	Tariff Revenue Allocation		
	Compliance with the Cash Waterfall Mechanism (CWM) through payment of allocation of tariff revenue as prescribed and allocated by the CWM Committee.	Not Complied	<ul style="list-style-type: none"> ECG partially complied with the CWM by making payments for March 2024. ECG is yet to pay the shortfalls from August 2023 to February 2024.
2.1	Provision of Regulatory Audit Data		
a	Submission of copies of all Government directives to ECG for the purchase of fuel for power generation from August 2023 to date.	Complied	Documents submitted and under review.
b	Submission of the total amount of fuel ECG procured for power generation from August 2023 to date, together with fuel supply contracts, invoices, details of fuel quantities, cost, dates and volumes delivered and all pertinent details.	Complied	Documents submitted and under review.
c	Submission of details of all bank accounts and investment accounts currently operated by ECG.	Not complied	<ul style="list-style-type: none"> ECG submitted details of 61 bank accounts to the Commission together with instructions to the banks to furnish the Commission with the requested details. By the expiry of the deadline, the Commission had received details of 36 out of the 61 accounts.
d	Monthly bank and investment statements corresponding to each account showing balances for the period August 2023 to date.		
2.2	Submission of Information Related to Operational Matters		
a	Detailed Incident Reports of power outages for the period January 01, 2024 to date;	Complied	Documents submitted and reviewed.
b	The volume of load curtailed for each power outage incident, energy not served and number of customers affected segregated into the various customer categories;	Complied	Documents submitted and reviewed.

Order Number	Details of Order	Compliance Status	Remarks
c	Copies of ECG publications informing the general public of power outages from 1 January, 2024 to date.	Not Complied	ECG publications submitted did not cover all incidents of planned outages for the period 1 January 2024 to date.
2.3	Submission of Information Related to Outages Attributed by ECG to 630 Overloaded Transformers During Peak Hours		
a	Ratings and current loadings of the overloaded distribution transformers.	Complied	Documents submitted and reviewed.
b	GPS location of all overloaded distribution transformers.	Complied	Documents submitted and reviewed.
c	Ratings of the new transformers to be installed in each location.	Complied	Documents submitted and reviewed.
d	Timelines and duration for injection of transformers for each location.	Complied	Documents submitted and reviewed.
e	Load management timetable corresponding with the timelines and duration for each transformer injection.	Not Complied	No document submitted.
f	Evidence of publication of 2.3e above to consumers.	Not Complied	No document submitted.

3. FINDINGS OF THE COMMISSION

3.1 Non Compliance with CWM

As indicated, ECG partially complied with the Commission's Order by honouring its obligations under the CWM (Category B) for March 2024. An amount of GHS446,283,706.29 to be paid by ECG for August 2023 to February 2024 however remains outstanding.

To meet the PURC Benchmark Collection Ratio of 98%, ECG should have collected tariff revenue of approximately GHS8,817,493,508.57 based on the company's declared sales. To satisfy the temporary measures agreed under the CWM, ECG was expected to collect GHS7,000,000,000.00, to be allocated to the sector players along the electricity supply value chain (Categories A and B).

However, the total tariff revenue ECG declared to the CWM to be allocated to both Category A and B beneficiaries was GHS4,871,044,395.12. Of this amount, GHS446,283,706.29 to be allocated to Category B beneficiaries remains unpaid by ECG.

3.2 Provision of Regulatory Audit Data

The Commission is in the process of analysing data submitted by ECG relating to fuel purchases for power generation.

As far as financial data submitted by ECG is concerned, the Commission found that details of ECG's bank accounts submitted were incomplete, contrary to the Order.

3.3 Submission of Information Related to Operational Matters

The Commission established from its analysis of data submitted by ECG that there were 4142 outages to consumers within ECG's operational areas between January and March 2024. Out of this number, 165 representing 3.98% of the total outages were ECG planned outages. Further analysis showed that of the 165 ECG planned outages, 40 were supported by public notices, while there were no notices for the remaining 125 outages. Further, 38 of the 40 notices did not comply with the requisite three-day statutory notice prescribed under Regulation 39 of L.I. 2413. This indicates that in 163 instances of planned outages, ECG did not comply with the law.

3.4 Outages Attributed by ECG to 630 Overloaded Transformers

The Commission requested data on ECG transformers to validate public statements made by ECG attributing system-wide outages in the distribution network to transformer overloads.

Analysis of the data submitted showed that out of 715 transformer details submitted, 31 were loaded less than 70%, 595 were loaded between 70-100% and 89 were loaded above 100%.

The data submitted by ECG was further compared to the total outage data provided by ECG for the period January to March 18, 2024. The Commission established that 647 outage incidents occurred between 7 pm and 11 pm. Of these 647 outage incidents, only 3 were planned outages relating to transformers. The analyses showed that the majority of the outages between 7 pm to 11 pm were as a result of load management operations by GRIDCo and faults unrelated to overloaded transformers.

ECG's attribution of the outages between 7 pm and 11 pm to transformer overload was therefore not factually accurate.

The causes of these outages are the subject of investigations already being undertaken by the Commission.

4. DECISION OF THE COMMISSION

4.1 Sections 3, 11 and 24(3) of Act 538 provide as follows:

"Section 3. Functions of the Commission

The functions of the Commission are as follows (include):

- c. to protect the interest of consumers and providers of utility services;
- f. to promote fair competition among public utilities;
- g. to conduct studies relating to the economy and efficiency of public utilities;
- l. to perform other functions that are incidental to the foregoing.

Section 11. Provision of Adequate Service

A public utility licensed or authorized under a law to provide utility service shall

- a. maintain its equipment and property used in the provision of the service in a condition that enables it to effectively provide the service;
- b. make the reasonable effort that is necessary to provide to the public a service that is safe, adequate, efficient, reasonable and non-discriminatory; and
- c. make the repairs, changes, extensions and improvements in or to the service that are necessary or proper for the efficient delivery of the service to the consumer.

Section 24(3) Returns and Information

Where required by the Commission on reasonable notice, a public utility shall deliver to the Commission the contracts, reports of engineers, documents, books, accounts and any other records in the possession or control of the public utility and relating to its property or service or affecting its business, or copies verified in the manner specified by the Commission."

4.2 Regulation 39 of LI 2413 provides as follows:

"Interruption of Supply of Service

39. (1) A public utility may interrupt service to a locality or service to a consumer for the purpose of carrying out planned maintenance, repair or installation of new equipment.
- (2) Except in a situation of an emergency, the public utility shall not interrupt a service unless the public utility notifies affected consumers of the intended interruption and the approximate duration.
- (3) The notification by the public utility shall be by way of
- (a) a public notice;
 - (b) directly by telephone, electronic mail, or satellite phone broadcast; or
 - (c) any other appropriate information technology system.

- (4) The public notice shall be given for a period of not less than three working days before the interruption of service.
- (5) A public utility that interrupts service to a locality or to a consumer shall restore the service after the period stipulated by the public utility.”

4.3 Based on the above findings and statutory provisions, the Commission has DETERMINED AS FOLLOWS:

4.3.1 Allocation of Tariff Revenue Collected

In addition to honouring its ongoing obligations under the CWM, ECG shall pay the amount of GHS446,283,706.29 to the Category B beneficiaries under the CWM. The amount represents actual revenue collected by ECG, declared by ECG to the CWM, and approved by the CWM Standing Committee for payment from August 2023 to February 2024, but which remains unpaid.

Timeframe For Compliance: ECG shall pay the amount of GHS446,283,706.29 before or by 30th April, 2024. In the event of failure to pay by the said date, the Board Members and Management of ECG shall be held liable.

4.3.2 Monthly Bank Statements

For failure to submit details of all bank accounts to the Commission by the stated date, the Commission hereby imposes an initial regulatory charge of 3,000 penalty units on ECG in accordance with Regulation 45 of LI 2413, amounting to Thirty-six Thousand Ghana Cedis (GHS36,000).

Timeframe For Compliance: ECG shall pay the initial regulatory charge of GHS36,000 to the Commission on or before 22 April 2024. Thereafter, for every working day that the requested details remain outstanding, ECG shall pay an additional regulatory charge of 3,000 penalty units, calculated daily until the date of compliance.

4.3.3 Notification and Publication of Planned Outages

- i. For failure to comply with the 3-day statutory notice required under Regulation 39 of L.I. 2413, the Commission in accordance with Regulation 45 of L.I. 2413, hereby imposes a regulatory charge of 3,000 penalty units on ECG for each of the 163 breaches, amounting to Five Million, Eight Hundred and Sixty-Eight Thousand Ghana Cedis (GHS 5,868,000.00).
- ii. The Commission has determined that having regard to the nature of ECG’s ownership and business, the imposition of the penalty of Five Million, Eight Hundred and Sixty-Eight Thousand Ghana Cedis (GHS 5,868,000.00) on ECG would be counter-productive, as payment from ECG’s revenue would have a rebounding adverse effect on quality of service and consumers who pay tariffs to the company.

- iii. For that reason, in the interest of justice and to protect the interests of consumers, the Commission shall hold the Board Members of ECG who were in office between 1 January to 18 March 2024 liable for the payment of the Five Million, Eight Hundred and Sixty-Eight Thousand Ghana Cedis (GHS 5,868,000.00). These Board Members were at all material times responsible for providing strategic direction to ensure the provision of safe, adequate, efficient, reasonable and non-discriminatory service to consumers.
- iv. **Timeframe For Compliance:** The Board Members of ECG in office between 1 January to 18 March 2024 shall pay the regulatory charge of Five Million, Eight Hundred and Sixty-Eight Thousand Ghana Cedis (GHS5,868,000.00) into a dedicated fuel account under the joint control of the Ministry of Energy and the Ministry of Finance on or before 30th May, 2024. The Commission will validate compliance in tandem with its Cash Waterfall validation reports and periodic regulatory monitoring.

5. EFFECT OF NON-COMPLIANCE

Non-compliance with this Order shall be enforced by the Commission under Section 32 of Act 538.

This Order is without prejudice to any additional directives the Commission may issue with respect to the above matters.

Signed by the Public Utilities Regulatory Commission

MR. EBO B. QUAGRAINIE




CHAIRMAN

DR. ISHMAEL ACKAH



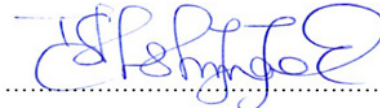
COMMISSIONER/EXECUTIVE SECRETARY

MRS. DORA OPPONG



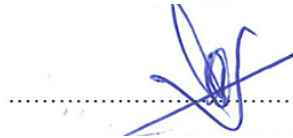
COMMISSIONER

MR. ISHMAEL EDJEKUMHENE



COMMISSIONER

MR. PATRICK NYARKO



COMMISSIONER

DR. YAW ADU-GYAMFI



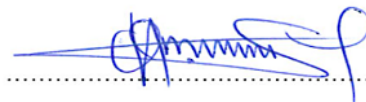
COMMISSIONER

PROF. JOE AMOAKO-TUFFOR



COMMISSIONER

DR. KWABENA NYARKO OTOO



COMMISSIONER

Certificate of Service

I Theodora Brestu of the Electricity Company of Ghana hereby certify by signature hereunder that I was duly served with the Order of the PURC PURC022024 this 15th day of April 2024

Theodora Brestu

Signature