

NERC's Revised Operating Expenditure Framework:

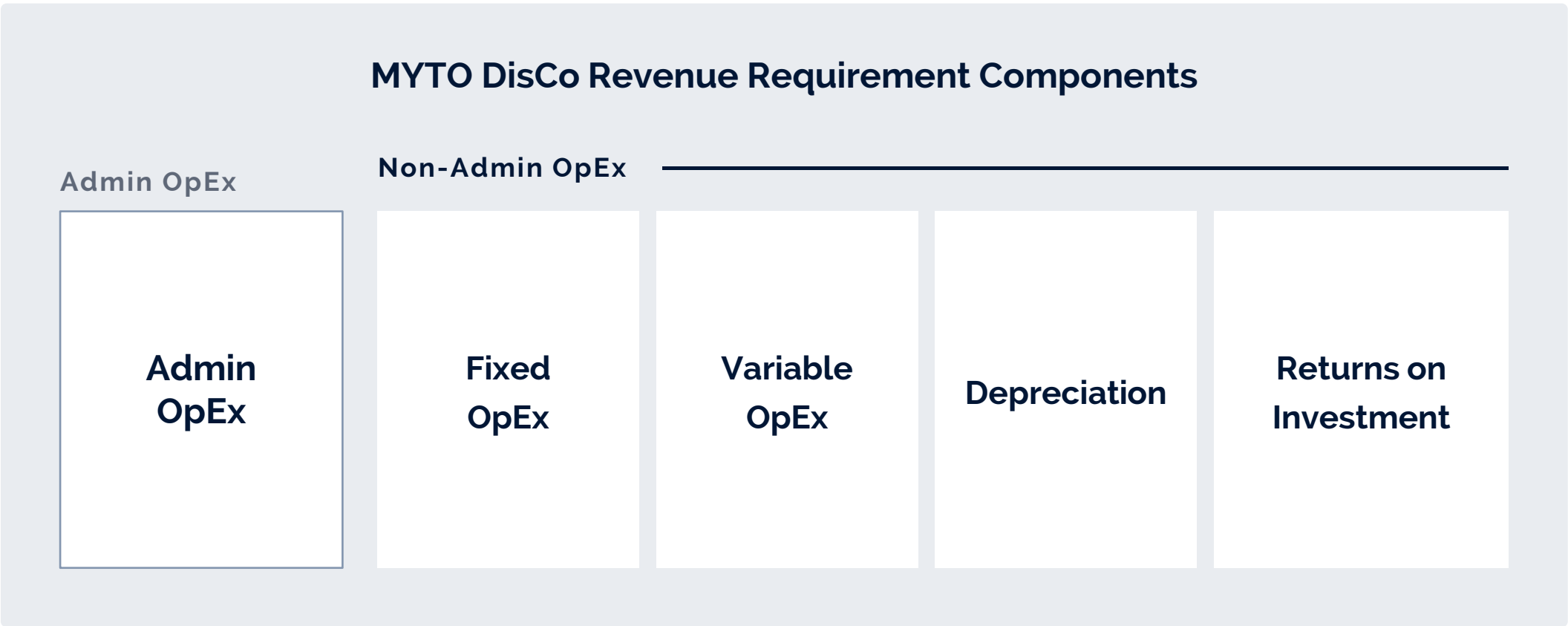
Implications for Cash Flow,
Investment and Compliance

Introduction

On September 4, 2026, the Nigerian Electricity Regulatory Commission (“NERC” or the “Commission”) issued Order No. NERC/2026/062A, titled the *Revised Order on Successor Distribution Companies’ Utilisation of Earned Non-Admin Operating Expenditure* (the “Revised Order”). The Revised Order revised and replaced the allocation framework established under Order No. NERC/2026/062 (the “Initial Order”), which the Commission issued on June 30, 2026, and took effect on July 1, 2026. It applies to Successor Distribution Companies (“DisCos”) and establishes a framework governing the utilisation of their earned Non-Administrative Operating Expenditure (“Non-Admin OpEx”).¹ Additionally, it operates without prejudice to regulatory instruments that may be issued by a state regulator for monitoring revenue utilisation by its respective licensee.²

The framework sits within NERC’s statutory mandate under the Electricity Act 2023 to promote an efficient electricity industry, ensure the optimal utilisation of resources for electricity services and provide a tariff framework that enables licensees to recover efficient costs while earning a reasonable return on invested capital.³ In this context, the Revised Order draws on the Multi-Year Tariff Order (“MYTO”) methodology, under which DisCo revenue requirements comprise, among other components, Admin OpEx, Fixed OpEx, Variable OpEx, Depreciation and Returns on Investment. Under the Revised Order, Fixed OpEx, Variable OpEx, Depreciation and Returns on Investment are collectively classified as Non-Admin OpEx.⁴

Importantly, the Revised Order followed NERC’s April 2026 open-book review of DisCos’ utilisation of earned Non-Admin OpEx for the 2025 market cycle. That review found that, while many DisCos did not recover enough revenue to meet their upstream market obligations, some recovered revenue beyond those obligations and therefore earned significant portions of other revenue-requirement components.⁵ Against this background, and having identified the difficulties DisCos face in accessing external financing, NERC introduced a more structured framework for deploying earned Non-Admin OpEx towards capital expenditure, operations, and, where applicable, outstanding market debts.⁶



How the Revised Allocation Framework Works

The Revised Order introduces a differentiated allocation framework based principally on whether a DisCo has outstanding market debts to the Nigerian Bulk Electricity Trading Plc ("NBET") and/or the Market Operator ("MO"). Importantly, the prescribed allocations apply to revenue remaining after settling current upstream invoices and remitting Admin OpEx for the relevant market cycle.⁷ The distinction between DisCos with and without market debts therefore determines how much of their earned Non-Admin OpEx may be retained for operations, committed to capital expenditure or applied towards outstanding market obligations.

For the August 2026 to January 2027 market cycles, a DisCo without market debts must allocate 50% of its earned Non-Admin OpEx to the dedicated CapEx Provision Account and the remaining 50% to its DisCo Operation Account. From February 2027, the allocation to the CapEx Provision Account increases to 60%, leaving 40% for the Operation Account.⁸ In practical terms, the framework progressively increases the proportion of earned Non-Admin OpEx that debt-free DisCos must reserve for capital investment.

The position differs for DisCos with outstanding market debts. Between August 2026 and January 2027, 25% of earned Non-Admin OpEx is allocated to NBET, the MO, the CapEx Provision Account and the DisCo Operation Account. From February 2027, the allocations to NBET and the MO remain at 25% each, while the CapEx allocation increases to 30% and the amount available to the Operation Account reduces to 20%.⁹ Where a DisCo is indebted to only NBET or the MO, the 25% share that would otherwise have been paid to the entity to which no debt is owed must instead be transferred to the CapEx Provision Account.¹⁰

Revised Allocation of Earned Non-Admin OpEx			
DisCos without market debts			
Aug 2026 – Jan 2027	CapEx 50%		Operation 50%
From Feb 2027	CapEx 60%		Operation 40%
DisCos with market debts to NBET and the MO			
Aug 2026 – Jan 2027	NBET 25%	MO 25%	CapEx 25% Op. 25%
From Feb 2027	NBET 25%	MO 25%	CapEx 30% Op. 20%
Indebted to only NBET or the MO: the 25% share for the entity not owed is transferred to the CapEx Provision Account.			

This allocation framework differs from the one that applied under the Initial Order. The Initial Order retained the differentiation between DisCos with outstanding market debts and debt-free DisCos. However, the portions of their earned Non-Admin OpEx they were to remit to the dedicated CapEx Provision Account varied. Under the Initial Order, debt-free DisCos were required to allocate 70% of their earned Non-Admin OpEx to the dedicated CapEx Provision Account, while retaining 30% for operations. DisCos with outstanding obligations to NBET and the MO were required to allocate 25% to NBET, 25% to the MO, 35% to the CapEx Provision Account, and 15% to their Operations Account. Where a DisCo only owed one of the two institutions, the share of the Non-Admin OpEx that would have been allocated to the other institution would be remitted to the CapEx Provision Account instead.¹¹

Ultimately, a DisCo's market debt position now has a direct bearing on the proportion of earned Non-Admin OpEx available for its operations and capital programme, making accurate debt reconciliation and cash-flow planning increasingly important under the Revised Order.

Initial Order vs Revised Order

	Debt-free DisCos			DisCos owing NBET and the MO		
		(Revised Order)			(Revised Order)	
Account	Initial	Aug 26 – Jan 27	From Feb 27	Initial	Aug 26 – Jan 27	From Feb 27
CapEx Provision	70%	50%	60%	35%	25%	30%
DisCo Operation	30%	50%	40%	15%	25%	20%
NBET	–	–	–	25%	25%	25%
Market Operator	–	–	–	25%	25%	25%

Allocations apply to earned Non-Admin OpEx remaining after current upstream invoices are settled and Admin OpEx is remitted.

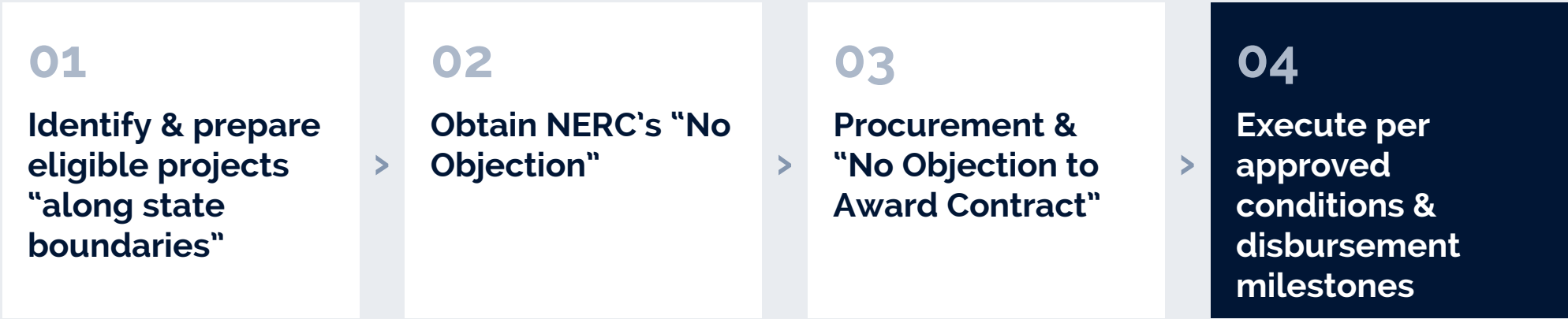
The CapEx Provision Account and Permitted Use of Funds

Beyond prescribing how earned Non-Admin OpEx is allocated, the Revised Order also restricts how amounts transferred to the CapEx Provision Account may be deployed. Each DisCo is required to open and maintain a dedicated CapEx Provision Account to fund the implementation of approved Performance Improvement Plan (“PIP”) projects.¹² Accordingly, amounts credited to the account are ring-fenced for these eligible projects and are not available for general operational expenditure.

Importantly, the presence of funds in the CapEx Provision Account does not, by itself, allow immediate deployment. The Revised Order requires the funds to be used solely for eligible end-to-end projects and subjects their utilisation to a defined approval and implementation process. A DisCo must first identify and prepare eligible projects “along state boundaries” and obtain NERC’s “No Objection”. It must thereafter undertake the procurement process and obtain a further “No Objection to Award Contract”, with the request specifying the applicable project milestones and conditions for disbursement. The project must then be executed in accordance with those approved conditions and disbursement milestones.¹³ One point to note is that the Order does not define what it means to prepare eligible end-to-end projects “along state boundaries”. We recommend that the Commission clarify this further to guide DisCos in identifying and preparing projects that meet this requirement.

The regulatory oversight continues after project commencement. DisCos are required to submit quarterly progress reports to NERC on the identification, preparation, approval, procurement and execution of eligible end-to-end projects, no later than 15 days after the end of each quarter.¹⁴ This approach aligns with the PIP framework, which links approved PIPs to the planning and implementation of DisCos’ capital investment initiatives. In practice, DisCos will need to align their project pipelines, procurement processes, and implementation timelines with the approval requirements governing access to the CapEx Provision Account, as delays in obtaining the necessary approvals may affect project execution timing.

Accessing the CapEx Provision Account



15 days

Quarterly progress reports to NERC are due no later than 15 days after the end of each quarter.

Implications for DisCo Cash Flow and Capital Planning

The allocation framework has a direct effect on the amount of earned Non-Admin OpEx available for a DisCo's immediate operational use. From February 2027, the share allocated to the DisCo Operation Account falls from 50% to 40% for DisCos without market debts and from 25% to 20% for indebted DisCos, while the corresponding CapEx allocations increase to 60% and 30% respectively.¹⁵ Consequently, stronger revenue recovery increases the funds available to DisCos, with allocations to both the Operation Account and the dedicated CapEx Provisions Account increasing proportionately, in line with the allocation percentages prescribed under the Revised Order.

This makes cash-flow planning increasingly important. DisCos should therefore reassess their operational budgets and existing commitments based on the portion of earned Non-Admin OpEx available to the Operation Account, particularly as the increased allocations take effect from February 2027. For indebted DisCos, mandatory allocations to NBET and the MO further affect the position; together, these account for 50% of earned Non-Admin OpEx where debts are owed to both entities.¹⁶ Accordingly, a DisCo's market debt position becomes an important factor in assessing the funds available for both ongoing operations and future investment.

At the same time, capital planning must be closely aligned with the regulatory framework governing the CapEx Provision Account. The Revised Order restricts the use of those funds to approved PIP projects and subjects deployment to NERC's approval, procurement and reporting requirements.¹⁷ This reinforces the importance of ensuring that priority capital projects are properly reflected in a DisCo's PIP and sufficiently developed to move through the approval process without avoidable delay. The PIP Guidelines similarly contemplate that approved PIPs will provide the basis for prioritising and monitoring DisCo capital investment initiatives.¹⁸

In practice, DisCos should treat operational budgeting, capital expenditure planning, and regulatory approvals as connected parts of the same financial planning process, rather than treating earned revenue as equivalent to unrestricted liquidity.

50% → 40%

Operation Account

DisCos without market debts,
from February 2027

25% → 20%

Operation Account

Indebted DisCos,
from February 2027

50%

NBET + MO combined

Where debts are owed
to both entities

Immediate Compliance Priorities for DisCos

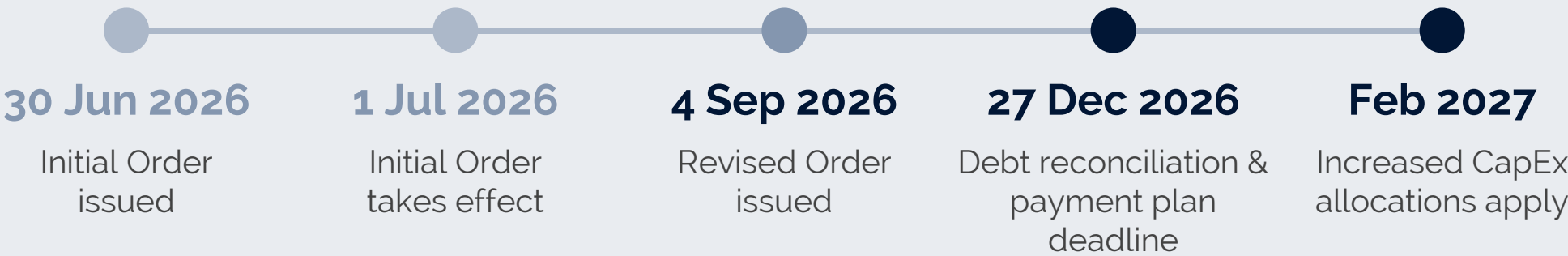
For DisCos, closer coordination between finance, regulatory and project teams is advisable to implement the Revised Order. As a first step, each DisCo should determine whether it has outstanding market obligations to NBET and/or the MO, since that position determines the applicable allocation of earned Non-Admin OpEx. DisCos should also ensure that the dedicated CapEx Provision Account is opened and maintained and that amounts credited to it are applied only in accordance with the project approval and disbursement process prescribed by the Revised Order.¹⁹

Project planning should likewise be reviewed against existing PIPs. In particular, DisCos should confirm that priority projects intended to benefit from the CapEx Provision Account are properly reflected in their PIPs and are sufficiently developed to obtain NERC's required approvals. They should also maintain appropriate internal controls to track inflows, approvals, disbursements, and project implementation, particularly given the requirement to submit quarterly progress reports within 15 days after each quarter ends.²⁰

For DisCos with outstanding upstream settlement obligations, debt reconciliation is an additional priority. The Revised Order requires such DisCos, within 180 days from the issuance of the Initial Order (i.e. by December 27, 2026)²¹ to finalise reconciliation with NBET and the MO and agree a payment plan subject to NERC's approval.²² Accordingly, early alignment of debt management, capital planning and regulatory reporting will be important to maintaining compliance with the new framework.

The Revised Order provides no express penalty for non-compliance with its provisions. However, DisCos should not construe this as an exemption from their obligations under the Revised Order or as a bar to the Commission taking enforcement action under its broader regulatory framework. DisCos should therefore prioritise aligning their activities with the Revised Order's provisions.

Key Dates Under the Framework



Conclusion

The Revised Order introduces a more structured approach to the utilisation of earned Non-Admin OpEx by prescribing how relevant revenues are to be allocated, ring-fencing specified amounts for approved capital expenditure and linking the treatment of funds to a DisCo's market debt position.²³ In doing so, the framework brings cash-flow management, capital planning and regulatory compliance into closer alignment.

For DisCos, the Revised Order's practical significance therefore extends beyond the percentage allocations themselves. Effective implementation will require careful coordination of operational budgets, market debt obligations, PIP projects and NERC approval processes, particularly as the revised allocation percentages take effect from February 2027. At the same time, reconciling outstanding upstream obligations and continuing reporting obligations attached to CapEx projects will require clear internal controls and planning to support compliance.²⁴

Ultimately, the Revised Order means that DisCos must now treat the deployment of earned Non-Admin OpEx as an integral part of financial planning, capital investment and regulatory compliance.

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For further information on the issues discussed in this article,
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Endnotes

1. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure, Order No NERC/2026/062A (4 September 2026) paras 1–2, 10, 14.
2. *ibid* para 2.
3. Electricity Act 2023, ss 34(1)(a), 116(2).
4. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) paras 3–4.
5. NERC Regulations on the Procedure for Electricity Tariff Reviews in the Nigerian Electricity Supply Industry 2024, reg 28(b); Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) paras 8–9.
6. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) paras 13–14.
7. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) para 14(B).
8. *ibid*
9. *ibid*
10. *ibid*
11. 'DisCos Kick against NERC's New Order Mandating CapEx Provision Account' (THISDAYLIVE, 14 July 2026) <https://www.thisdaylive.com/2026/07/14/discos-kick-against-nercs-new-order-mandating-capex-provision-account/> accessed 10 October 2026.
12. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) para 14(A).
13. *ibid* para 14(C)(i)–(iv).
14. *ibid* para 14(C)(v).
15. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) para 14(B).
16. *ibid*.
17. *ibid* paras 14(A), 14(C).
18. Nigerian Electricity Regulatory Commission, Guidelines for the Preparation of Performance Improvement Plans (PIP) by DisCos 2.
19. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) paras 14(A)–(C).
20. *ibid* paras 14(A), 14(C); Nigerian Electricity Regulatory Commission, Guidelines for the Preparation of Performance Improvement Plans (PIP) by DisCos 2.
21. The Initial Order No. NERC/2026/062 was issued on June 30, 2026 and came into effect on July 1, 2026. Emmanuel Addeh, 'Despite DisCos' Protest, NERC Pushes Forward with New OpEx Spending Order' (THISDAYLIVE, 7 September 2026) accessed 10 October 2026.
22. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) para 14(D).
23. Nigerian Electricity Regulatory Commission, Revised Order on Successor Distribution Companies' Utilisation of Earned Non-Admin Operating Expenditure (n 1) paras 14(A)–(C).
24. *ibid* paras 14(B), 14(C)(v), 14(D).



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