FGN Approves Fresh Privatisation of Key Infrastructure Assets; Opens New Opportunities for Investors

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Background

As part of its drive to accelerate development and economic growth, the Federal Government of Nigeria (FGN) through the National Council on Privatisation (the **NCP**), announced on Monday that it is placing some government-owned assets back on the market through a fresh round of privatisations and contract renegotiations expected to commence shortly. The assets involved in this latest move include the Afam power plants (1-5), Yola Electricity Distribution Company (**YEDC**) and the Lagos International Trade Fair Complex (**LITFC**) as well as other key infrastructure assets in various parts of the country.

For private sector players looking to invest in the power and infrastructure space, this development presents an interesting opportunity. It is expected to pave the way for the entry of fresh financial, technical and managerial expertise to own and/or operate key public facilities that had previously witnessed private sector involvement through concessions or acquisitions, but were adjudged by the NCP to be performing sub-optimally. This update provides a brief overview of key highlights of the NCP's resolution.

Afam Power Plants

The Afam power plants are a group of gas-fired thermal power generating facilities with a combined installed capacity of about 987.2MW, located in the gas rich Rivers State. The asset is held by Afam Power Plc (one of the successor companies of the unbundled PHCN) which has a subsisting generation license valid till September 2027.

The Bureau of Public Enterprises had in 2013 agreed the sale of Afam Power Plc to the Taleveras consortium through a share acquisition. However, following a three-year stall in the process, Taleveras withdrew from the deal in accordance with the terms of the share sale agreement. In the event, the NCP has approved the re-opening of the Afam asset for investment by other interested investors.

Given its proximity to fuel sources and access to transmission networks, this opportunity should be of interest to power sector participants involved in or considering the Nigerian market. Pending further details from the NCP, it remains uncertain what form the new privatisation effort will take, though early indications from industry sources are that it will again be structured as an equity investment. It is also unclear whether the documentation structure and risk allocation mechanics will be similar to the first wave of power privatisations (the PHCN assets) or that adopted for the NIPP assets.

YEDC

YEDC is the electricity distribution company covering 4 states in Northern Nigeria with a combined area of approximately 195,000km2 and an estimated 2-3 million households forming part of a customer base that also includes a significant agribusiness industry.

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As part of the initial round of power asset sales, YEDC was formally handed over in November 2013 to a consortium of investors led by Integrated Energy Distribution and Marketing Company (IEDMC).

As a result of operational difficulties arising from insurgency in the region, IEDMC declared force majeure as permitted under the acquisition documentation, following which a negotiated settlement of $87.8 million was agreed with the FGN. Subsequently, the FGN took over YEDC and appointed a technical team to steer the affairs of YEDC in the interim.

With the insurgency problems now more or less non-existent, the NCP has authorised the launch of a new privatization exercise for YEDC. Further, the significant population of the North-Eastern region covered by YEDC's distribution network could make this an attractive investment at the right price and tariff levels.

LITFC

The LITFC, covering an area of about 800 acres, is the premier international trade fair complex in Nigeria and home to some of the biggest trade associations in the country. Among other things, the Lagos Chamber of Commerce Annual Trade Fair, considered a key forum for trade and business promotion in Africa with over 100,000 exhibitors and visitors from all over the world, holds at the LITFC. The LITFC is located in Ojo, Lagos state with a road network under development and a 27km rail road with thirteen stations to link the LITFC to the heart of Lagos.

In 2008, the FGN granted a concession of the LITFC to a private investor. However, owing to concerns over the concessionaire's performance, alleged breaches of the concession contract and unpaid indebtedness to the FGN by the concessionaire, the NCP has now revoked the concession with a view to replacing the concessionaire. This proposed privatization – in the absence of any disputes arising from the revocation, opens an exciting opportunity for interested investors.

Conclusion

Given the FGN's intention to commence the privatisation of these assets presently, it is envisaged that the BPE will soon be seeking expressions of interest from private investors. Indeed, the NCP's announcement presents another interesting opportunity worth considering for investors looking to invest in Nigerian infrastructure assets. While the legacy issues surrounding some of the assets might require some creativity to navigate, with the support of experienced advisers, many of the risks associated with these assets can be mitigated or otherwise allocated in a manner that protects investors and ensures an appropriate return.