



1. GHANA STANDARDS AUTHORITY FINES OIL MARKETING COMPANIES: GOVERNMENT SHOULD TAKE THE OPPORTUNITY TO IMPROVE ON CONSUMER PROTECTION.

The recent announcement by the Ghana Standards Authority (GSA) that some Oil Marketing Companies (OMCs) have violated ethics and standards, and resorted to cheating consumers at the pump, generated evidence to confirm the fears of many consumers of petroleum products. This also highlighted the need for the Standards entity to up its game in the protection of consumers.

ACEP warned at the beginning of the deregulated regime that strong regulations and standards

monitoring was critical to ensure healthy competition that does not compromise the safety, value and quality of petroleum products on the market for unsuspecting consumers. The consumer is now being told to beware of cheating OMCs. Ghanaians deserve stronger commitment from the GSA that product on the market meet approved standards at all times. This brings to focus the demand by the public for harsher punishment for culpable oil marketers.

ACEP recognises that, today, the GSA lacks the requisite technical

sophistication to protect the consumer. The laboratory of the Authority needs the government's urgent attention to enable it deliver on its mandate as far as the oil and gas sector is concerned. For some time now Tema Oil Refinery's (TOR) laboratory has become the standard bearer of the downstream oil and gas industry. This defeats the essence of separating business from monitoring of standards.

The GSA has been a credible institution in the sub-region, providing mentorship and testing of a wide range of products for surrounding countries. This credibility is eroding overtime with obsolete equipment



and weak staff strength. This is what has engineered the boldness of some OMCs to cheat consumers. Those OMCs know that GSA conducts biannual checks which in the face of the raging competition from the deregulation exposes consumers to unethical behaviour.

To ensure maximum protection ACEP recommends that;

- Government should take immediate steps to resource the GSA to perform its function of protecting consumers, in line

with chapter 2 (12)b of the NPP manifesto.

- The GSA should review its sanctions to make it more deterrent for OMCs to abuse set standards. This should include eventual exposure of individual service stations found to have violated service standards.
- Going forward, the National Petroleum Authority (NPA) should publicly name and shame brands whose franchises breach the industry's service codes. This will incentivize franchisors and

franchisees in the OMC business to internalize the consumer risks arising from their negligent and fraudulent operations.

- The GSA should undertake regular inspections (preferably on a monthly basis) at the pumps rather than the six-monthly exercise. This will increase compliance with industry standards among the OMCs and improve protection for consumers.

2. REGULATIONS ON THE NEW E&P LAW FOR OPEN CONTRACTING

At the inauguration of the Board of the Petroleum Commission, the Energy Minister reiterated government's commitment to open contracting. The Minister, at the ceremony, charged the Commission with the responsibility to ensure that the needed modalities are in place to activate the full implementation of the Petroleum (Exploration and Production(E&P)) Act, 2016 (Act 919).

The E&P Act was passed in August 2016 with promise to introduce transparency into the contracting process in the upstream sector of

the oil and gas industry. Section 10 of the law provides for open and competitive bidding process for the award of petroleum blocks. However, there is the need for regulations on how that section of the law may be implemented.

The challenge in the past was that regulations were never developed in the upstream sector. The PNDC law 84 was operational for more than three decades without regulations. It is therefore encouraging to note that the Ministry of Energy has already developed draft regulations on the new E&P law. With this in mind the Minister has challenged the Commission to "take steps to implement the new regime for allocating petroleum rights,

finalise regulations on competitive public tender process..."¹ ACEP welcomes this directive and will be tracking the process to ensure its quick implementation.

Notwithstanding, it is important for the Minister to acknowledge that the ultimate responsibility is on him to ensure that the E&P law is fully implemented. To this end, the Minister must ensure that the draft regulations are finalised as soon as possible to pave way for the Ministry's compliance with the competitive bidding provision in subsequent contracting. In the meantime, it is appropriate to impose a moratorium on new contracting until the regulations are passed.

¹ See <https://www.ghanabusinessnews.com/2017/08/25/petroleum-commission-board-inaugurated/>



Provision of a public register of contracts is also a key transparency requirement under the E&P Act. The new Board and the Chief Executive of the Commission have a responsibility to ensure that the register is established as soon as the regulations are passed.

3. LNG AND FUEL SECURITY FOR THE POWER SECTOR

ACEP recently issued a paper to guide the policy decision of the government to supplement domestic gas supply with LNG. The key recommendation in that paper was that Ghana needs LNG to securitize gas supply for power generation and potential industrial demand for gas. The paper further cautioned that Ghana should pay attention to the dynamics of the LNG market to ensure that the country optimizes benefits from the decline in LNG price occasioned by increasing tradability of the commodity and the gas revolution in the global arena. To that extent, ACEP is of the opinion that LNG should not be sourced with pricing indexed to Brent Crude Oil, neither should the government tie itself to a long-term LNG price which has the potential to disadvantage the country in the face of the reality that LNG prices are expected to be stable

with potential to further decline. ACEP continues to bemoan the planning process, communication of strategies by government, and ultimate realization of value for money when finally, the decision is made on the commercial approach to LNG supply. ACEP appreciates the extent of work done by government to reduce risks and make savings on existing contracts, which run into billions of Dollars. However, it is not enough to allow suboptimal decisions against the reality that more savings could be made.

a. Ghana's MoU with Equatorial Guinea

Government, led by the president, recently signed a Memorandum of Understanding with the government of Equatorial Guinea for 15 years of LNG supply to Ghana. This government-to-government arrangement is encouraged by ACEP as a more appropriate alternative if it is well-structured with the required flexibility to respond to the demand, supply, and pricing trend in the LNG market, rather than indexing prices to Brent Crude Oil prices as seen in some LNG proposals to government. The challenge however is how the MoU will be activated and the commercial channel to do that. Government communications have so far fallen short of explaining to citizens how

the MoU will be operationalized. Ghanaians do not know which commercial entity will be responsible for the commercial contract that must follow from the signing of the MoU, especially given the recent history of GNPC's interest in the LNG business as the gas aggregator for Ghana, yet sidelined for a political solution to the supply of LNG as highlighted in the ACEP paper.

The fundamental question therefore arises; was the Equatorial Guinea deal a role reversal for state participation in the procurement of LNG, or the state is leading the business interest of private companies? Clarity is extremely important in this regard for citizens and industry watchers to know what government is actually doing. If the state negotiated on its own behalf, which entity will be the commercial vehicle: GNPC or Ghana Gas? In a similar vein, if it is private interest receiving the support of the state, which is not necessarily out of place, citizens ought to know.

It is also not clear whether the deal feeds into the ongoing negotiations with Blystard Energy Management (BEM), Quantum Power (GPR) and West Africa Gas Limited (WAGL). Without official communication to answer these questions, speculations abound, chief among which is the



supply of LNG to the Western corridor for onwards transmission to the middle part of the country. One can only hope that this is not the case. The demand scenario for Ghana shows extreme gas hunger in the east (Tema) with the opposite scenario in the west (Takoradi and Aboadze) due to domestic gas production in that enclave. This demands a careful analysis to ensure that gas supply from LNG is not reversed to Tema from the Western region at any point. This will amount to deliberate financial loss to the sector through transportation cost and may only justify unnecessary investment for another pipeline along the coast.

b. GPHA's move for an LNG facility

Ghana Ports and Harbors Authority (GPHA) recently joined the confusion in the planning process. The Authority recently put out a call for international tender to construct LNG handling facility at the Tema and Takoradi ports. This is surprising in the face of current negotiations by the Energy Ministry for a Floating Storage and Regasification Unit (FSRU) to regasify LNG for the market. The Energy Ministry is negotiating a 10-year Build Operate and Transfer (BOOT) agreement with BEM, WAGL and QPR. At least WAGL and QPR have proposed the construction of the needed infrastructure for the evacuation of

gas to demand centers. Why, then, is GPHA desperate for another facility (a 25-year BOOT arrangement) which bears no reflection on the projected gas needs of the country? Existing efforts by the Ministry of Energy to secure an FSRU negates any investment for another port infrastructure to regasify LNG.

Government should note that reducing cost through proper planning is central to the sustainability of the power sector, and a key requirement for the implementation of the "Power Generation Sector Improvement Project" of the MCC II.

4. THE SALE OF MAJORITY STAKE IN VRA THERMAL PLANTS

The reality dawned on many Ghanaians when the Ministry of Finance recently advertised Request for Proposal (RFP) for a Transaction Advisor(s) for the disposal of some stake in specified thermal plants owned by Government/Volta River Authority (VRA). This decision was disclosed in the budget and appropriated by Parliament.

For those who have followed discussions on the restructuring of the power sector under the current political regime, government's policy

on agencies in the power sector has evolved significantly. In the president's State of the Nation Address, the position of government was to list GRIDCo and VRA on the Ghana Stock Exchange. ACEP criticised that position and offered the following proposals: *"GRIDCo is a strategic nexus of the power sector with control over the entire transmission system, which makes it a critical national security infrastructure. Government should continue to control and own GRIDCo 100%. On VRA, our proposal is that government should consolidate*

*all hydro generation under VRA and separate all the thermal plants into a subsidiary of VRA Holding Company. Government can then list the thermal subsidiary on the Ghana Stock Exchange".*²

By the time budget was read, the position of government had changed to consolidating all hydro generation plants under VRA and creating a holding company for the management of the thermal assets. ACEP welcomed this position and further stressed the need for the new company to remain a subsidiary of VRA. ACEP's arguments was that the ingestion of private interest will

² See <http://www.acepghana.com/press/586/>



improve operational efficiency of the thermal plants and ultimately return it to a profitable business. The profitability of the thermal subsidiary of VRA will provide a stable cash flow for VRA in the periods of low water levels in the dams as has been experienced since 2014.

In the recent RFP, the idea of a subsidiary has emerged which again increases hope that VRA will still be part of the ownership structure of the new thermal company. The Transaction Advisor will be responsible for guiding government on the best option to take in this regard. Citizens and other stakeholders who have alternative proposals must be interested in catching the attention of the transaction advisor.

ACEP has faced criticism from sections of the public for making our position known on the restructuring of the VRA, including an open letter addressed to the Executive Director. What those people forget is that the

decision to sell or not to sell is not owned by ACEP. It is government's decision which has received approval of the representatives of the people (Parliament). ACEP's role is to help shape government policy by applying global and contextual knowledge which the Centre is convinced about. There may be many others who are also interested in shaping policy and engaging government with alternatives that may not necessarily align with ACEP's position. Within the context of a jet-speed process, those individuals will better help the policy making process by directing their views to government to have their voices heard in time.

The reasons given by government for offloading shares of the thermal plants are not exactly the same as that of ACEP, but the objective of improving operations aligns. Government says *"over the years, we allowed the VRA to stray into the provision of energy through thermal plants. The long and short of it is that we want the VRA*

to focus on what it is best at doing; management of the hydro plants. That is what traditionally they have been good at" (Hon. Kwaku Kwarteng on Citi FM). This is not entirely the case. The Volta River Authority (VRA) has not been able to manage the thermal plants because of the pseudo-political management which tends to be more powerful than VRA's management. The hydro plants are managed better because there is less procurement to attract the appetite of politicians, and not because there are better hydro engineers than thermal engineers at VRA. That notwithstanding, the operations of the dams have also suffered political interference which often leads to over drafting of the water.

Decoupling the management of VRA hydro from that of thermal with the latter being a PPP subsidiary of VRA is an option that will remove political interference and lead to increased efficiency of the new company.