

IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT

SUIT NO. FHC/PH/CS/ 08/2021

BETWEEN:

1. CHIEF (ENGR.) BALA CHARLES ASELEMI
2. CHIEF ILAYIRA CHARLES ASELEMI
3. MR. ROYAL JEREMIAH GODWILL  
[For themselves and representing the  
Omaraka Community of Abua Central  
in Abua/Odual Local Government Area  
of Rivers State]

.....PLAINTIFFS

AND

1. TRANSMISSION COMPANY OF NIGERIA PLC
2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC

.... DEFENDANTS

TO: 1. TRANSMISSION COMPANY OF NIGERIA PLC of No. 10 Trans-Amadi Industrial Layout, Rumuomasi, Port Harcourt and 2. PORT HARCOURT ELECTRICITY DISTRIBUTION PLC of No. 42 Obi Wali Road, Rumuigbo, Port Harcourt.

You are hereby commanded that within thirty days after the service of this writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in an action at the suit of (1) CHIEF (ENGR.) BALA CHARLES ASELEMI, (2) CHIEF ILAYIRA CHARLES ASELEMI and (3) MR. ROYAL JEREMIAH GODWILL and take notice that in default of your so doing, the plaintiff may proceed therein and judgment may be given in your absence..

Dated this 26<sup>th</sup> day of January, 2021.



  
REGISTRAR

## MEMORANDUM TO BE SUBSCRIBED IN THE WRIT

1B:- This writ is to be served within twelve calendar months from the date thereof or, if renewed, within six calendar months from the date of the last renewal, including the day of such date, and not afterward. The Defendant may enter appearance personally or by legal practitioner either by handing in the appropriate forms duly completed at the Registry of the Federal High Court of the Judicial Division in which the action is brought or by sending them to the Registrar by registered post.

**Endorsement to be made on the writ before issue thereof:**

### CLAIM

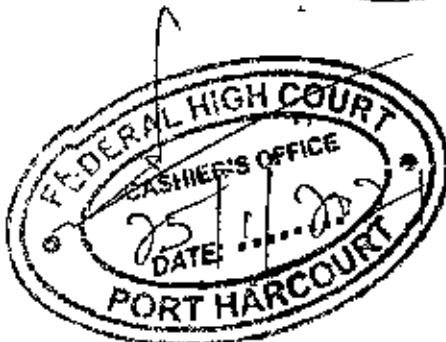
The plaintiffs claim against the defendants jointly and severally as follows:

1. A declaration that the plaintiffs are entitled to compensation from the defendants in respect of the plaintiffs' land at Omaraka community in Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria which is adversely traversed and affected by the defendants' electricity transmission lines (formerly National Electric Power Authority's electricity transmission lines but now inherited by the defendants) thereby rendering the land unsuitable for any development and/or useless for any other purpose.
2. The sum of One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1, 485,039,235) as compensation or damages for losses, disturbances, loss of use of land/loss of value of land and injurious affection suffered by the plaintiffs as a result of the defendants taking over part of the plaintiffs' land situate at Omaraka, Abua Central, Abua in Abua/Odual Local Government Area of Rivers State compulsorily and passing through it the defendants' High Tension (33KVA) electric power Transmission Line from Ahoada to Abonnema without payment of any compensation for the loss of use of the land, loss of value of the land, disturbances and other injurious affections from the said transmission line or in the alternative, the sum of ₦1, 485,039,235 being compensation for the loss of use of the said land and/or loss of value of the land.

This writ was issued by H. D. D. UWOM, ESQ. of Uwom, Wekulom & Co., NO. 27 Bende Street, Town, Port Harcourt, legal practitioners for the plaintiffs who reside at Omaraka community, Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria.



  
.....  
H. D. D. UWOM, ESQ.  
(Legal Practitioner)  
Uwom, Wekulom & Co.  
(Plaintiffs' Counsel)  
27, Bende Street, Town  
Port Harcourt  
08033131982, 08152661085  
harcourt.uwom@gmail.com  
harcourt.uwom@nigerianbar.ng



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.....PLAINTIFFS

AND

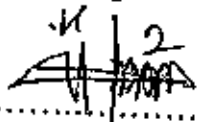
1. TRANSMISSION COMPANY OF NIGERIA PLC
2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC

.... DEFENDANTS

AFFIDAVIT OF VERIFICATION

I, MR. ROYAL JEREMIAH GODWILL, Male, Businessman, Nigerian citizen resident at Omaraka, Abua Central in Abua/Odual Local Government Area of Rivers State hereby make oath and state as follows:

1. That I am the 3<sup>rd</sup> plaintiff in this case and I have the consent of the other plaintiffs to swear to this affidavit.
2. That I hereby verify that the facts and endorsement on the writ of summons in this suit are in accordance with the instructions we (the plaintiffs) gave to our Legal practitioner (counsel) who is H. D. D. UWOM, ESQ. of Uwom, Wekulom & Co, 27 Bende Street, Town, Port Harcourt.
3. That I swear to this affidavit in good faith, conscientiously believing same to be true and in accordance with the provisions of the Oaths Act.

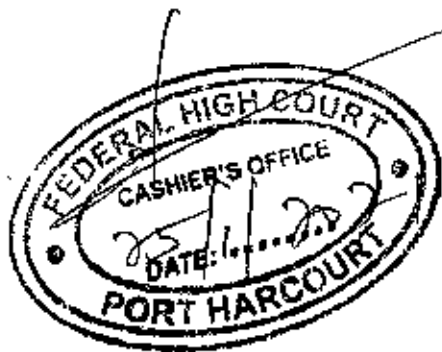
  
.....  
DEPONENT

Sworn to at the Federal High Court  
Registry, Port Harcourt this 25<sup>th</sup> day  
of Jan, 2021.

BEFORE ME



.....  
COMMISSIONER FOR OATHS



**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

SUIT NO. FHC/PH/CS/

/2021

**BETWEEN:**

1. CHIEF (ENGR.) BALA CHARLES ASELEMI
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3. MR. ROYAL JEREMIAH GODWILL  
[For themselves and representing the  
Omaraka Community of Abua Central  
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of Rivers State]

} .....PLAINTIFFS

**AND**

1. TRANSMISSION COMPANY OF NIGERIA PLC
2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC

} .... DEFENDANTS

**AFFIDAVIT OF NON-MULTIPLICITY OF ACTION ON SAME SUBJECT MATTER**

I, MR. ROYAL JEREMIAH GODWILL, male, businessman, Nigerian citizen resident at Omaraka village, Abua Central in Abua/Odual Local Government Area of Rivers State hereby make oath and state as follows:

1. That I am the 3<sup>rd</sup> plaintiff in this case and I have the consent of the other plaintiffs to swear to this affidavit.
2. That I verily state that there is no other action filed by us in the Federal High Court in Nigeria or any other court in respect of the same subject matter of this action (suit).
3. That this suit or action does not constitute a multiplicity of action on the same subject matter.
4. That I swear to this oath in good faith, conscientiously believing same to be true and in accordance with the provisions of the Oaths Act.

  
.....  
**DEPONENT**

Sworn to at the Federal High Court Registry,  
Port Harcourt this 25<sup>th</sup> day of Jan. 2021.



**ENDORSEMENT TO BE MADE ON A COPY THE WRIT FORTHWITH AFTER SERVICE**

This writ was served by me at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ on the defence  
by \_\_\_\_\_  
2021.

Endorsed the \_\_\_\_\_ Day of \_\_\_\_\_ 2021.

(Signed).....

Address.....

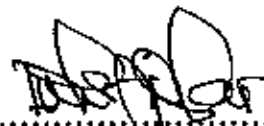
.....

Before the writ is issued the following certificate must be indorsed in it

The Registry, Federal High Court

In the.....Judicial Division

A sufficient affidavit in verification of the endorsement on this writ to authorize the seal thereof has been produced to me this \_\_\_\_\_ day of \_\_\_\_\_ 2021.



.....  
(Signature of Registrar)

**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

**SUIT NO. FHC/PH/CS/**

**/2021**

**BETWEEN:**

- |                                                                                                                                                                                                                                                                                                                                       |          |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------------|
| <ul style="list-style-type: none"><li><b>1. CHIEF (ENGR.) BALA CHARLES ASELEMI</b></li><li><b>2. CHIEF ILAYIRA CHARLES ASELEMI</b></li><li><b>3. MR. ROYAL JEREMIAH GODWILL</b><br/>[For themselves and representing the<br/>Omaraka Community of Abua Central<br/>in Abua/Odual Local Government Area<br/>of Rivers State]</li></ul> | <b>}</b> | <b>.....PLAINTIFFS</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------------|

**AND**

- |                                                                                                                                                                |          |                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------------|
| <ul style="list-style-type: none"><li><b>1. TRANSMISSION COMPANY OF NIGERIA PLC</b></li><li><b>2. PORT HARCOURT ELECTRICITY<br/>DISTRIBUTION PLC</b></li></ul> | <b>}</b> | <b>.... DEFENDANTS</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------------------|

**STATEMENT OF CLAIM**

1. The 2<sup>nd</sup> plaintiff is the traditional ruler (Uwema) of Omaraka Community in Abua Central, Abua/Odual Local Government Area of Rivers State of Nigeria. The 1<sup>st</sup> and 3<sup>rd</sup> plaintiffs are principal members of the said Omaraka Community. The 3<sup>rd</sup> plaintiff is also the Community Development Committee (CDC) Chairman of Omaraka Community. The plaintiffs were authorized by the Omaraka community aforementioned to institute this suit in a representative capacity (on behalf of the said Omaraka Community). The Resolution of the Omaraka Community which evidences this authorization will be relied upon at the trial.
2. The defendants are limited liability companies incorporated under the laws of Nigeria and are engaged in the business of, inter alia, generation, transmission/distribution of electricity (electric power/current) for profit in Nigeria. They succeeded to the rights, assets and liabilities of the National Electric Power Authority (NEPA, for short) and Power Holding Company of Nigeria Plc (PHCN, for short) which are now defunct. The 1<sup>st</sup> defendant has its office at No. 10 Trans Amadi Industrial Layout, Rumuomasi, Port Harcourt. The 2<sup>nd</sup> defendant has its office at No. 42 Obi Wali Road, Rumuigbo, Port Harcourt. PHCN succeeded to the assets and liabilities of NEPA which were later passed on by PHCN to the defendants (as its successors).
- 2(A). The defendants are sued because of loss of use of land, loss of value of land, disturbance and injurious affections suffered by the plaintiffs (Omaraka community) on their land situate at Omaraka community in Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria as a result of the (now defunct) NEPA and PHCN taking over compulsorily part of the plaintiffs' said land situate at Omaraka in Abua Central, Abua and passing through same the defendant's High

Tension (33KVA) electric power Transmission Lines from Ahoada to Abonnema, without payment of any compensation for the loss of use of the land, loss of value of the land, disturbances and other injurious affections arising from the said transmission lines. The defendants are the successors of NEPA/PHCN and thus inherited the rights, assets and liabilities of NEPA and PHCN.

3. The progenitor of the Omaraka Community aforementioned is one Oka who was one of the sons of Ogbo Abua. Ogbo Abua was one of the four (4) sons of Abua named (1) Ogbo Abua, (2) Emughan, (3) Otapha and (4) Okpeden. Abua is the progenitor of the Abua kingdom.
4. Oka lived with his father (Ogbo Abua) at a place called *Olokpoghan*, very close to Oghora village in the present-day Abua Central. Oka migrated from *Olokpoghan* and deforested a vast expanse of virgin land where he settled and exercised other acts of ownership and possession thereon. Oka first settled with his family on part of the said expanse of land called *Iloghi*.
- 4(a). Subsequently, Oka moved with his family from *Iloghi* and settled on another part of his said vast expanse of land called *Osoph-Omaraka*. The said subsequent settlement is the nucleus of the Omaraka community as it grew to become the present-day Omaraka Community in Abua Central. Oka deforested the said vast expanse of virgin forest/land (called the land of Omaraka) which is situate at Omaraka in Abua Central in Abua/Odual Local Government Area of Rivers State of Nigeria. Part of this land is the present-day Omaraka village/community in Abua Central where Oka settled. Oka built and settled on the said part of the land (the subsequent settlement) with his wife and family (sons and daughters). This settlement is the nucleus of the Omaraka village which was headed by Oka himself.
- 4(b). The said expanse of land deforested by Oka is very extensive and it shares boundaries with Odiabidi Community and Obele Community in the present-day Ahoada East Local Government Area of Rivers State. It also shares boundaries with Otari Community and Okoboh Community both in Abua in Abua/Odual Local Government Area of Rivers State.
5. Apart from settling on part thereof, Oka with his family exercised other acts of ownership and possession on the said expanse of land which he deforested. Such acts include farming, hunting, fishing in the swamps thereon, cutting of palm fruits, cutting of wood and sticks, milling of palm oil thereon, etc. Oka exercised these maximum acts of ownership and possession on the said land without let or hindrance. Under Abua native law and custom, the said acts of deforesting a virgin land and settling thereon as well as exercising acts of ownership/possession thereon vested title/ownership over the said land on Oka.
6. Oka begat IKIRI OKA (also called Oka for short as he was also named after his father Oka) the 1<sup>st</sup> son, IBOLO (the 2<sup>nd</sup> son) and ATAM (the 3<sup>rd</sup> son). IBOLO begat Adikoro and Okwodu (both sons). ATAM begat Okereke and Daniel (both sons).

7. Chief Ikiri Oka begat Nakpa Oka. Nakpa Oka in turn begat Aselemi Nakpa (also called Aselemi Okpana Abali). Aselemi Okpana Abali begat Charles Aselemi and Chief Onyenweazu Aselemi.  
Charles Aselemi begat Stephen Aselemi, Chief (Engr) Bala Charles Aselemi (1<sup>st</sup> claimant) and others. Onyenweazu Aselemi begat David Aselemi and others.
8. After the death of Oka, his first son (Chief Ikiri Oka) took over the headship/rulership of Oka family (which later developed to a community called the Omaraka community). In accordance with the applicable Abua native law and custom, as the headship of the Oka family (Omaraka Community) passed onto Chief Ikiri Oka, so also the said land of Oka became vested in him (Chief Ikiri Oka) and he held same in trust for himself and other members of the Oka family (Omaraka Community). Like his father, Chief Ikiri Oka and the Oka family (descendants of Oka) exercised similar acts of possession and ownership on the said land. Such acts include building/living, farming, fishing, cutting of wood, cutting of palm fruits, milling of palm oil, etc thereon.
9. After the death of Chief Ikiri Oka, the headship/rulership of the Oka family (Omaraka community) and the said land passed successively (after the death of each predecessor) to the following heads/traditional rulers of Omaraka community: (i) Nakpa Oka, (ii) Chief Aselemi Okpana Abali, (iii) Chief Onyenweazu Aselemi, (iv) Chief Stephen Charles Aselemi, (v) Chief David Onyenweazu Aselemi and (vi) Chief (Engr.) Bala Charles Aselemi (1<sup>st</sup> plaintiff) who is the present head/traditional ruler of Omaraka Community.
10. The said successive heads/traditional rulers of Omaraka community held the said land of Omaraka in trust for themselves and other members of Omaraka Community. The said heads/traditional rulers and other members of Omaraka Community exercised maximum acts of ownership/possession on the said land, such as farming, fishing, cutting of timber/firewood, carving of canoes, digging of water wells, fishponds, building, leasing portions, permitting people to build thereon etc.
11. Even as the Omaraka community permits people to farm, build, fish, hunt, harvest palm fruits, cut timber, etc. on the said land, the right of ownership over the land and the right of use over same belong to the community (Omaraka Community). The plaintiffs' Omaraka community own and hold the land under Abua customary law.
12. Between the years 2007 and 2014 the NEPA and later PHCN (the defendants' predecessors) successively entered onto the said land of the plaintiffs in the course of constructing the defendants' high tension (33KVA) electricity Transmission Line/right of Way from Ahoada to Abonnema. The NEPA cleared and took over compulsorily part of the said land of the plaintiffs that abuts the Ahoada – Abua-Degema Road which is the major Road that leads to Abua and in fact the entire Abua/Odual Local Government Area. The total Area of the plaintiffs' land so taken over by the NEPA/PHCN (without any prior acquisition thereof) is approximately 74,000 square meters or 7.40 hectares. The plaintiffs will rely on a survey plan of the affected area of

land drawn by a registered surveyor (Surv. I. E. Ogunu Briggs) who surveyed the said area of land on the instructions of the plaintiffs. A copy of the said survey plan is attached thereto.

- 12(a). Sometime in February, 2010 the plaintiffs contracted the said surveyor to survey the part of their land which is traversed by the NEPA and later PHCN (now the defendants') said high tension electricity transmission line/access route which passes through their community land and produce/provide them a survey plan showing it. There were many communities/families all from Abua/Odual Local Government Area of Rivers State affected by the said high tension electricity transmission line/access route (inclusive of the plaintiffs) that consulted the said surveyor to do the said survey and he did the job for them.
- 12(b). These communities/families (the plaintiffs inclusive) with their youths, Community Development Committee members and chiefs took the surveyor round their respective portions of land affected/traversed by the said high tension electric transmission line. Angular observations and measurements were taken accordingly of the affected areas of the lands from one family land to another and from one community land to another and the survey was carried out by the said surveyor. After the said survey which the surveyor carried out in the month of June, 2010, he (surveyor) produced survey plans showing the affected portions of the lands of the respective communities/families which he surveyed. The survey plan in respect of the affected land of the plaintiffs (Survey Plan NO. IEO/RS 004/2010-SHEET 5) will be relied upon at the trial.
- 12©. A breakdown of the survey particulars of the lands of some of the affected communities/families which the surveyor surveyed (inclusive of that of the plaintiffs) are as stated below:

| S/N | COMMUNITY NAME                                 | PLAN NO                    | AREA COVERAGE                |
|-----|------------------------------------------------|----------------------------|------------------------------|
| 1.  | Ogonokom 1 & 2 Community, Okpeden, Abua        | Sheet 1A<br>IEO/RS004/2010 | 7.00Ha + 4.40Ha =<br>11.40Ha |
| 2.  | Oleh Family Land, Omelema, Abua Central, Abua. | Sheet 2B<br>IEO/RS004/2010 | 6.34Ha                       |
| 3.  | Alli Family Land, Omelema, Abua Central, Abua. | Sheet 4A<br>IEO/RS004/2010 | 2.65Ha                       |
| 4.  | Omaraka, Abua Central, Abua.                   | Sheet 5<br>IEO/RS004/2010  | 7.40Ha                       |

H

Ha stands for or is abbreviation for Hectare.

13. NEPA and later PHCN cleared the said area of land, demarcated it by survey pillars and annexed it as their exclusive right of way. The said area of land is linear in shape, plain in terrain and firm in texture. On this area of land the NEPA/PHCN (now the

defendants) constructed cast-in-situ pad foundations, pinned with high head or high tension poles at regular intervals of about 100 meters which bear dangerous high tension cables and wires with numerous electrical joints, bars etc. These electrical cables, wires and transmission lines of the defendants (formerly of the NEPA and PHCN) which traverse the said area of the plaintiffs' land bear/transmit electric current (power) which is dangerous to human life.

The NEPA and PHCN (later succeeded by the defendants) have erected electricity poles and electric wires on the plaintiffs' said land. The erection of the poles and the electric wires (high tension electricity transmission lines) disturbs the plaintiffs (Omaraka community) from the usage of their said land. Before erecting the electric poles and electric wires on the land, the NEPA came and cut down the plaintiffs' trees, palm trees, coco-nuts, structures, etc. on the land. After cutting the economic trees, palm trees, coco-nuts, structures, etc. the NEPA paid for them. After this, the NEPA came to erect electric poles and to erect wires on the land.

14. Before the NEPA came, the plaintiffs were using the land for planting crops and building of houses. The plaintiffs later decided to make a layout of the land and to lease/sell them out in plots to willing buyers. The plaintiffs had not started the layout before the NEPA came. The NEPA officers said the affected part of the land then belonged to the NEPA and no further action or work should be carried out by the plaintiffs on the affected land.
15. The said dangerous high voltage (tension) electric transmission lines run parallel to each other. The transmission lines are extended on top of the poles. There are pillars in which poles are buried on the land. The plaintiffs could not (and still cannot) work under these high voltage electric lines which are dangerous to life. The transmission lines make some howling noise. For safety reasons, one could not work under them. The land is traversed by the abovementioned transmission lines thus making the affected portions unsuitable for further development.
16. The defendants by the erection of the transmission lines, are now in permanent occupation of about 7.40 hectares (74,000 square metres) of the plaintiffs' land. The said occupation is such that has rendered the land useless either for further development or for any other purpose. As a result, the plaintiffs have been barred permanently and completely from the use of their land. The plaintiffs have suffered loss of use of the land as a result.
- 16(A). The plaintiffs further contend that the defendants are liable to pay fair and just compensation for the plaintiffs' land injuriously affected by their said transmission lines.
17. The plaintiffs' land injuriously affected by the defendants' transmission lines is about 7.40 hectares (74,000 square metres) in area. At the time the cause of action accrued, the market value of one plot of land in and around plaintiffs' land at Omaraka community, Abua Central, Abua was ₦ 7,500,000 (Seven Million, Five Hundred Thousand Naira).

This is confirmed by the market survey that was carried out by the professional estate valuer that was engaged by the plaintiffs.

18. As a result of the dangerous nature of the electric current/power borne/transmitted by the electric wires/cable of the defendant that traverse the affected area of the plaintiffs' land coupled with the annexation of the area by the defendant as its exclusive right of way, the plaintiffs are no longer able to use the said area of land. The plaintiffs have thus been permanently deprived of the right of use of the said area of land.
19. The land area abutting the Ahoada - Abua Road is of commercial value as people hitherto bought and use portions thereof for petrol station, mortuary and other commercial businesses/ventures. As a result of the annexation of the said area of land by the electrical materials/current brought onto it by the defendant, the plaintiffs have been permanently deprived/prevented from selling/leasing same to businessmen for the said businesses.
20. Similarly, because of the dangerous nature of the electric wire/current being-transmitted/borne by the defendant's facilities on the said affected area, builders/developers and other land users have to keep a good distance away from the said area of the land. The result is that a large portion of the remainder of the plaintiffs' land which abuts the affected area (defendant's right of way) has to be left as a buffer zone which is not to be used/built on, so as to maintain a good distance from the dangerous facilities of the defendants in its right of Way.
21. Even as the defendant virtually conscripted/took the said area of the plaintiffs' land compulsorily, it did not acquire same from the plaintiffs neither did it pay compensation therefore to the plaintiffs in respect of their rights/interests in the land, loss of use of the land, the injurious affection thereto as a result of the said acts of the defendant. The defendant merely paid compensation for some of the crops and houses that were on the land but failed/refused to pay for the rights on the land such as loss of use of the land, injurious affection, etc. The plaintiffs through their solicitors (Uwom, Wekulom & Co) of Ekpu-Ogbo Chambers, wrote to the defendant demanding the payment of adequate compensation to them. The defendant, however, failed to comply with the said demand. The said solicitors' letter is pleaded.
22. The plaintiffs consulted a registered surveyor & valuer (Chima J. Osimiri) who did a valuation of the losses suffered by the plaintiffs and the amount of compensation due to the plaintiffs as result of the aforementioned losses which resulted from the said acts of the defendant on the plaintiffs' land. The valuation report of the said valuation puts the amount of the said compensation due the plaintiffs at One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1, 485,039,235). The valuation report is pleaded and a copy is attached hereto.
23. The said surveyor and valuer/his team carried out inspection of the site on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> March, 2010. Further visits were made on 10<sup>th</sup> and 11<sup>th</sup> April, 2012, 12<sup>th</sup> April 2013, 12<sup>th</sup> May, 2014, 26<sup>th</sup> June, 2015, 21<sup>st</sup> September, 2016, 21<sup>st</sup> October, 2017 and 21<sup>st</sup>

February, 2018. During the last days of inspection, they physically counted the indigenes of the community, the population of which they used in the computation of the disturbance and injurious affection.

#### **23(A) GENERAL CONSIDERATION**

The valuation report was prepared on the understanding that Ogonokom Community has an unencumbered interest in the geographical area occupied or owned by them and so can engage in economic activities within the aforesaid area. In other words, their right to the use of the aforesaid land associated with their community is free from onerous or unusual charges and restrictive covenants. That is to say, that the community's right to the use of the land cannot be challenged or restricted by any person(s) whatsoever.

The plaintiffs engaged the services of a registered land surveyor who surveyed and determined the dimension of their communal land affected. Thus, the Survey Plan NO. IEO/RS 004/2010-SHEET 5 (produced by the said surveyor) was relied upon in assessing/valuation for the plaintiff's community.

The defendant has paid for most of the surface rights in the form of economic crops, trees, structures, shrines and other venerable objects found on the land, except a few, belonging to individuals and families, without paying for the value of loss of land. Consequently, the surface right head of claim was not considered in the assessment of the plaintiff's community's claim.

#### **23(B) SITUATION**

The aforesaid communal land of the plaintiffs situates at Omaraka Community, Abua Central in Abua-Odual Local Government Area of Rivers State. Of prime importance, it is parallel to the tarred Ahoada-Abua road up to Ogonokom community beginning from Ahoada where the high tension electric line in question joins with the one that emanated from Edo-Delta-Bayelsa States lines respectively.

#### **23© DESCRIPTION**

The site which is linear in shape, is plain in terrain and firm in texture and covers a total area of 74,000 square meters or 7.40 hectares or thereabout. On the affected land or traversed line are found cast-in-situ pad foundations, pinned with high tension poles at regular intervals of about 100 meters and finished with high tension cables and wires, with numerous electrical joints, bars, etc.

**24. VALUATION:-** The Basis of the said valuation is the Open Market Value. The valuation was prepared in accordance with the provisions of the Oil Pipelines Act of 1956 which presuppose an open market value as follows:

- a. Value of surface rights such as economic crops and profitable trees, buildings or structures, shrines, venerable objects etc. found on the land,
- b. Any Disturbance and Injurious Affection suffered by the land owners.
- c. Loss of value of land or interest in land:

d. Disturbance & Injurious Affection.

No person farms/fishes under the high tension electric line or NEPA electric line for fear of death by electrocution or other allied health hazards.

25. In the same vein, no person(s) or corporate bodies build under the high tension line for obvious health implications. Of recent, over 60 persons met their Waterloo at zoo area of Port Harcourt, because the high tension line wire sparked and got dislodged from its original point and fell on the road and claimed several lives via electrocution. The above situation was worsened by the massive down pour of that fateful day. In which case, the rain water became infested. Professionally speaking, these variables-net population, income loss and capitalization rate (yield) are usually used in computation of disturbance and injurious affection.

Yp means years purchase and acts as a multiplier to derive the capital value.

Thus, the Valuer's computation for the loss of farming rights, have taken into consideration the net population of the community and income loss. This is calculated in perpetuity; hence the damage is permanent and irreparable.

|                      |   |                        |
|----------------------|---|------------------------|
| Income loss per head | = | ₦9,600                 |
| Population           | = | 911 people             |
| Total income loss    | = | ₦9,600 x 911           |
|                      | = | ₦8,745,600             |
| Yp in perp @ 3%      | = | 33.33.                 |
| Total                | = | <u>₦291,490,848.00</u> |

26. **Value of land taken:-** Total land area taken is 74,000 square metres or 7.40 hectares. It is a verified fact that business outlets such as fuel stations, super market and other commercial ventures are always desirous to locate or set up their businesses on the busy and accessible roads such as Ahoada-Abua road.

The valuer's market surveys revealed that a plot of undeveloped land within the neighbourhood measuring 465 square metres is exchanged for ₦7.5m, (₦7,500,000) with the vendee's additional responsibility of perfecting the title, fulfilling the traditional requirements i.e.  $74,000 \div 465 = 159.1397849$  plots.  $159.1397849$  plots x ₦7.5m = ₦1,193,548,387. Thus, the assessed sum for this sub-head is ₦1,193,548,387.

27. **SUMMARY OF VALUES:**

|                                       |   |                        |
|---------------------------------------|---|------------------------|
| (i) Disturbance & Injurious Affection | = | ₦291,490,848.00 plus   |
| (ii) Loss of value of land taken      | = | ₦1,193,548,387         |
| Total                                 | = | <u>₦1,485,039,235.</u> |

**CONCLUSION:** In the Estate Surveyors and valuer's own professional opinion, the total value of loss claimable by the plaintiffs against the defendants in respect of the aforementioned losses from the said electric power transmission line, is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1, 485,039,235).

28. WHEREFORE, the plaintiffs claim against the defendants jointly and severally as follows:

1. A declaration that the plaintiffs are entitled to compensation from the defendants in respect of the plaintiffs' land at Omaraka community in Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria which is adversely traversed by the defendants' electricity transmission lines (formerly National Electric Power Authority/PHCN Electricity transmission lines but now inherited by the defendants) thereby rendering the land unsuitable for any development and/or useless for any other purpose.
2. The sum of One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1, 485,039,235) as compensation or damages for losses, disturbances, loss of use of land/loss of value of land and injurious affection suffered by the plaintiffs as a result of the defendants taking over part of the plaintiffs' land situate at Omaraka, Abua Central, Abua in Abua/Odual Local Government Area of Rivers State compulsorily and passing through it the defendant's High Tension (33KVA) electric power Transmission Line from Ahoada to Abonnema without payment of any compensation for the loss of use of the land, loss of value of the land, disturbances and other injurious affections from the said transmission line or in the alternative, the sum of ₦1, 485,039,235 being compensation for the loss of use of the said land and/or loss of value of the land.

Dated this 22<sup>nd</sup> day of 2021.



  
H. D. D. UWOM, ESQ.  
(Legal Practitioner)  
Uwom, Wekulom & Co.  
(Plaintiffs' Counsel)  
27, Bende Street, Town  
Port Harcourt  
08033131982, 08152661085  
harcourt.uwom@gmail.com  
harcourt.uwom@nigerianbar.ng

For Service on:

**The 1<sup>st</sup> defendant**

No. 10 Trans Amadi Industrial Layout,  
Rumuomasi, Port Harcourt.

**The 2<sup>nd</sup> defendant**

No. 42 Obi Wali Road,  
Rumuigbo, Port Harcourt.



**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

**SUIT NO. FHC/PH/CS/**

**/2021**

**BETWEEN:**

1. CHIEF (ENGR.) BALA CHARLES ASELEMI
2. CHIEF ILAYIRA CHARLES ASELEMI
3. MR. ROYAL JEREMIAH GODWILL

[For themselves and representing the  
Omaraka Community of Abua Central  
in Abua/Odual Local Government Area  
of Rivers State]

} .....PLAINTIFFS

**AND**

1. TRANSMISSION COMPANY OF NIGERIA PLC
2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC

} .... DEFENDANTS

**LIST OF PLAINTIFFS' WITNESSES**

1. MR. ROYAL JEREMIAH GODWILL
2. MR. CHIMA JACK OSIMIRI
3. SURV. IBAMA ELIJAH OGUNU BRIGGS

Dated this 22<sup>nd</sup> day of January, 2021.



  
.....  
**H. D. D. UWOM, ESQ.**  
(Legal Practitioner)  
Uwom, Wekulom & Co.  
(Plaintiffs' Counsel)

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**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

**SUIT NO. FHC/PH/CS/**

**/2021**

**BETWEEN:**

1. CHIEF (ENGR.) BALA CHARLES ASELEMI
2. CHIEF ILAYIRA CHARLES ASELEMI
3. MR. ROYAL JEREMIAH GODWILL  
[For themselves and representing the  
Omaraka Community of Abua Central  
in Abua/Odual Local Government Area  
of Rivers State]

} .....PLAINTIFFS

**AND**

1. TRANSMISSION COMPANY OF NIGERIA PLC
2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC

} .... DEFENDANTS

**WRITTEN STATEMENT ON OATH OF MR. CHIMA JACK OSIMIRI  
(PLAINTIFFS' WITNESS)**

I, Mr. Chima Jack Osimiri, adult male, Christian, citizen of the Federal Republic of Nigeria, residing at NO.89A Echue Street, Mile 2 Diobu, Port Harcourt Rivers State do state as follows:-

1. That the evidence I shall give in this case shall be truth, the whole truth and nothing but the truth and hereby depose as follows:-
2. That I am a corporate member of the Nigerian Institution of Estate Surveyors and Valuers (ANIVS). My membership number is M – 1388. I am also registered with the Estate Surveyors and Valuers Registration Board of Nigeria. My registration number is A – 1289.
3. I have a Bachelor's degree (B. Tech) in Estate Management 1989 from Rivers State University of Science & Technology, Port Harcourt and Master's Degree (M.Sc.) in Estate management from University of Lagos, Akoka-Lagos in 2005.
4. I have a composite experience of about 31 years, having entered the Estate Surveyors & Valuers Profession in the year 1989.
5. I worked with Messrs Muri Adi & Associates, a firm of Estate Surveyors & Valuers of 158 Taiwo Road, Ilorin – Kwara State from 30<sup>th</sup> October, 1989 – 20<sup>th</sup> December, 1991 and Messrs Ben Alamina & Partners, Chartered surveyors & Valuers, 3<sup>rd</sup> Floor, Orosi House, NO. 28 Forces Avenue, Old GRA, Port Harcourt from 6<sup>th</sup> January, 1992 – 31<sup>st</sup> March, 2001 before I resigned my appointment to set up my practice.

6. I am, therefore, the principal consultant of Messrs Chi Osimiri & Partners, Estate Surveyors & Valuers, where I have been carrying on my professional practice.
7. I know the parties in this suit.
8. The plaintiffs retained services of my said firm and me sometime in the year 2010 to appraise the amount of compensation claimable by their community, sequel to the taking over of their interest in land by the defendants (formerly National Electric Power Authority and Power Holding Company of Nigeria PLC, respectively referred to as NEPA and PHCN, for short who were succeeded by the defendants), for their High Tension Electric Power Line Access Coverage.
9. The land in question situates within the Omaraka Community, Abua Central in Abua-Odual Local Government Area of Rivers State and measures 6,800 square metres or 0.68 hectares.
10. That I with my colleagues in the office eventually went to inspect the aforesaid land on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> March, 2010. Further visits were made on 10<sup>th</sup> and 11<sup>th</sup> April, 2012, 12<sup>th</sup> April 2013, 12<sup>th</sup> May 2014, 26<sup>th</sup> June 2015, 21<sup>st</sup> September 2016, 21<sup>st</sup> October 2017 and 21<sup>st</sup> February 2018 respectively. During the last days of inspection, we physically counted the indigenes of the community, the population of which we used in the computation of the disturbance and injurious affection.
11. That thereafter I prepared a valuation report in respect of the land, copies of which I handed over to the plaintiffs. If I see a copy of the aforesaid valuation report I can identify it.
12. The plaintiffs consulted our firm of estate surveyors & valuers (Chi Osimiri & Partners where I am the principal consultant) who did a valuation of the losses suffered by the plaintiffs and the amount of compensation due to the plaintiffs as result of the aforementioned losses which resulted from the said acts of the defendant on the plaintiffs' land. The valuation report of the said valuation puts the amount of the said compensation due to the plaintiffs at One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1,485,039,235). The said valuation report will be relied upon at the trial.
13. We (the surveyors and valuers) carried out inspection of the site on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> March, 2010. Further visits were made on 10<sup>th</sup> and 11<sup>th</sup> April, 2010. During the last days of inspection, we physically counted the indigenes of the community, the population of which we used in the computation of the disturbance and injurious affection.
14. A breakdown of the said valuation report and the findings is as follows:

**(A) GENERAL CONSIDERATION**

The valuation report was prepared on the understanding that Omaraka Community has an unencumbered interest in the geographical area occupied or owned by them and so they can engage in economic activities within the aforesaid area. In other words, the community land is free from onerous or unusual charges and restrictive covenants. That

is to say, that the community's right to the use of the land cannot be challenged or restricted by any person(s) whatsoever.

The plaintiffs engaged the services of a registered land surveyor who surveyed and determined the dimension of their communal land affected. Thus, the Survey Plan NO. **IEO/RS 004/2010-SHEET 5** (produced by the said surveyor) was relied upon in assessing the losses/valuation for the plaintiff's community.

The defendant has paid for most of the surface rights in the form of economic crops, trees, structures, shrines and other venerable objects found on the land, except a few, belonging to individuals and families, without paying for the value of loss of land. Consequently, the surface right head of claim was not considered in the assessment of the plaintiff's community's claim.

**(B) SITUATION**

The aforesaid communal land of the plaintiffs is situate at Omaraka Community, Abua Central in Abua-Odual Local Government Area of Rivers State. Of prime importance, it is parallel to the tarred Ahoada-Abua road up to Ogonokom community beginning from Ahoada where the high tension electric line in question joins with the one that emanated from Edo-Delta-Bayelsa States lines respectively.

**© DESCRIPTION**

The site which is linear in shape, is plain in terrain and firm in texture and covers a total area of 74,000 square meters or 7.40 hectares or thereabout. On the affected land or traversed line are found cast-in-situ pad foundations, pinned with high tension poles at regular intervals of about 100 meters and finished with high tension cables and wires, with numerous electrical joints, bar, etc.

**(D) VALUATION**

The Basis of Valuation is the Open Market Value. The valuation is prepared in accordance with the provisions of the Oil pipelines Act of 1956 which presupposes an open market value as follows:

- (i) Value of surface rights such as economic crops and profitable trees, buildings or structures, shrines, venerable objects etc. found on the land.
- (ii) Any Disturbance and Injurious Affection suffered by the land owners.
- (iii) Loss of value of land or interest in land.

**(1) Disturbance & Injurious Affection:-**

- (i) No person farms/fishes under the high tension electric line or NEPA electric line for fear of death by electrocution or other allied health hazards.  
In the same vein, no person(s) or corporate bodies build under the high tension line for obvious health/security implications. Of recent, over 60 persons met their Waterloo at zoo area of Port Harcourt, because the high tension electric line wire sparked and got dislodged from its original point and fell on the road and claimed several lives via electrocution. The above

situation was worsened by the massive down pour of that fateful day. In which case, the rain water became infested.

- (ii) In our profession of the Estate Surveyors & Valuers, the following variables, viz: -net population, income loss and capitalization rate (yield) - are usually used in computation of disturbance and injurious affection.

Yp means years purchase and acts as a multiplier to derive the capital value. Thus our computation for the loss of farming rights, have taken into consideration the net population of the community and income loss. This is calculated in perpetuity, since the damage is permanent and irreparable.

|                   |   |                     |
|-------------------|---|---------------------|
| Income loss per   | = | ₦9,600              |
| Population        | = | 911                 |
| Total income loss | = | ₦9,600 x 911        |
|                   | = | ₦8,745,600          |
| Yp in perp @ 3%   | = | <u>33.33</u>        |
|                   | = | <u>₦291,490,848</u> |

(2) **Value of land taken:-**

Total land area taken is 74,000 square metres or 7.40 hectares. Business outlets such as fuel stations, super market and other commercial ventures are always desirous to locate or set up their businesses on the busy and accessible roads such as Ahoada-Abua road.

Our market surveys revealed that a plot of undeveloped land within the neighbourhood measuring 465 square metres is exchanged for Seven Million and Five Hundred Thousand Naira (₦7.5m) with the vendee's additional responsibility of perfecting the title, fulfilling the traditional requirements.

The value of the said affected land of the plaintiffs is as follows:

Total Number of plots is  $74,000 \div 465 = 159.1397849$  plots.

Total value is  $159.1397849 \times ₦7.5m = ₦1,193,548,387$ .

Thus, the assessed sum for this sub-head is ₦1,193,548,387.

(3) **Summary of Values:**

- |      |                                     |                         |
|------|-------------------------------------|-------------------------|
| (i)  | Disturbance & Injurious Affection = | ₦291,490,848            |
| (ii) | Loss of value of land taken         | = <u>₦1,193,548,387</u> |
|      | Total                               | = <u>₦1,485,039,235</u> |

(4) **Conclusion:**

In our professional opinion as Estate Surveyors & Valuers, the total value of loss by the plaintiffs is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1,485,039,235).

13. Consequently, the compensation value of land taken and loss of incomes from farming business occasioned by the traverse of high tension electric power line access coverage in plaintiffs' community as at the date of valuation is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1,485,039,235).

14. That I swear to this affidavit in good faith, conscientiously believing same to be true and in accordance with the provisions of the Oaths Act.

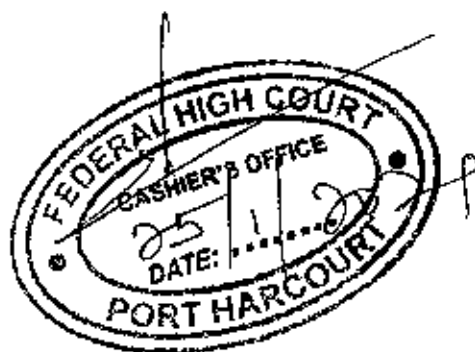
*[Signature]*  
DEPONENT

Sworn to at the Federal High Court Registry, Port  
Harcourt this *25<sup>th</sup>* day of *Jan.* 2021.

BEFORE ME



.....  
COMMISSIONER FOR OATHS



**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

**SUIT NO. FHC/PH/CS/**

**/2021**

**BETWEEN:**

- 1. CHIEF (ENGR.) BALA CHARLES ASELEMI**
- 2. CHIEF ILAYIRA CHARLES ASELEMI**
- 3. MR. ROYAL JEREMIAH GODWILL**  
[For themselves and representing the  
Omaraka Community of Abua Central  
in Abua/Odual Local Government Area  
of Rivers State]

} .....PLAINTIFFS

**AND**

- 1. TRANSMISSION COMPANY OF NIGERIA PLC**
- 2. PORT HARCOURT ELECTRICITY  
DISTRIBUTION PLC**

} .... DEFENDANTS

**STATEMENT ON OATH OF SURV. IBAMA ELIJAH OGUNU BRIGGS  
(PLAINTIFF'S WITNESS)**

**1, IBAMA ELIJAH OGUNU BRIGGS** adult, male, Christian, a Licensed Surveyor and Nigeria citizen resident at NO. 103/104 Aggrey Road, Port Harcourt, Rivers State of Nigeria do hereby make Oath and state as follows:

- 1.** That I am a registered land Surveyor with the Surveyors Council of Nigeria and have been licensed by the said council to practice and operate as a land Surveyor in Nigeria. I am a registered member of the Surveyors Council of Nigeria and the Nigerian Institution of Surveyors. I hold a Bachelor of Science Degree (B.Sc) in Surveying from the California State University in the United States of America. I graduated in 1983.
- 2.** I have been practicing as a Surveyor since I graduated. I worked as a Civil Servant (Surveyor) with the Rivers State Civil Service in the Survey Department of the Rivers State Ministry of Lands and Surveys, where I rose to the position of Deputy Surveyor General of the said Department. I retired from the said service as Deputy Surveyor General in the month of February, 2009. Since after my retirement, I have been engaged in private practice as a registered Surveyor in my office at I.F. Ogunu and Associates (Surveyors and Engineers).
- 3.** That I knew the plaintiffs through their lawyer (H. D. D. Uwom, Esq.). Sometime in February, 2010 the plaintiffs contracted me to survey their land which is traversed by the defendants' [formerly their predecessors National Electric Power Authority (NEPA) and Power Holding Company of Nigeria PLC (PHCN)] high tension electricity transmission line/access route which passes through their community and produce/provide them a survey plan showing it.

4. There were 13 affected communities/families all from Abua/Odual Local Government Area of Rivers State affected by the said high tension electricity transmission line/access route (inclusive of the plaintiffs) that consulted me to do the said survey and I did the job for them.
5. These communities/families (the plaintiffs inclusive) with their youths, CDC members and chiefs took me round their respective portions of land affected/traversed by the said high tension electric transmission line. Angular observations and measurements were taken accordingly of the affected areas of the lands from one community to another and the survey was carried out by me.
6. After the said survey which I carried out in the month of June, 2010, I produced survey plans showing the affected portions of the lands of the respective communities/families which I surveyed. The survey plan in respect of the affected land of the plaintiff will be relied upon at the trial and a copy thereof is attached hereto.
7. A breakdown of the survey particulars of the lands of some of the affected communities/families which I surveyed (inclusive of that of the plaintiffs) are as stated below:

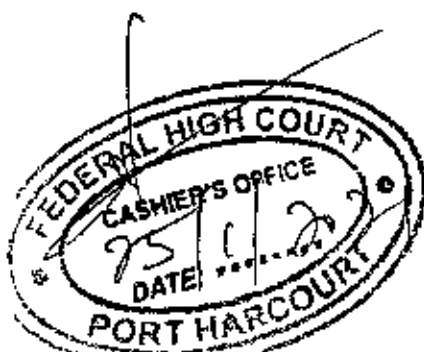
| S/N | COMMUNITY NAME                                 | PLAN NO                    | AREA COVERAGE                |
|-----|------------------------------------------------|----------------------------|------------------------------|
| 1.  | Ogonokom 1 & 2 Community, Okpeden, Abua        | Sheet 1A<br>IEO/RS004/2010 | 7.00Ha + 4.40Ha =<br>11.40Ha |
| 2.  | Oleh Family Land, Omelema, Abua Central, Abua. | Sheet 2B<br>IEO/RS004/2010 | 6.34Ha                       |
| 3.  | Alli Family Land, Omelema, Abua Central, Abua. | Sheet 4A<br>IEO/RS004/2010 | 2.65Ha                       |
| 4.  | Omaraka, Abua Central, Abua.                   | Sheet 5<br>IEO/RS004/2010  | 7.40Ha                       |

Ha stands for or is an abbreviation for hectare.

8. That I swear to this statement on oath in good faith, conscientiously believing same to be true and in accordance with the provisions of the Oaths Act.

  
DEPONENT

Sworn to at the Federal High Court Registry,  
Port Harcourt this 25<sup>th</sup> day of *Jan*, 2021.



**IN THE FEDERAL HIGH COURT OF NIGERIA  
IN THE PORT HARCOURT JUDICIAL DIVISION  
HOLDEN AT PORT HARCOURT**

**SUIT NO. FIIC/PH/CS/        /2021**

**BETWEEN:**

- |                                                                                                                                                                                                                                                                                                                                       |   |                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------|
| <ul style="list-style-type: none"><li><b>1. CHIEF (ENGR.) BALA CHARLES ASELEMI</b></li><li><b>2. CHIEF ILAYIRA CHARLES ASELEMI</b></li><li><b>3. MR. ROYAL JEREMIAH GODWILL</b><br/>[For themselves and representing the<br/>Omaraka Community of Abua Central<br/>in Abua/Odual Local Government Area<br/>of Rivers State]</li></ul> | } | <b>.....PLAINTIFFS</b> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------|

**AND**

- |                                                                                                                                                                |   |                        |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------|
| <ul style="list-style-type: none"><li><b>1. TRANSMISSION COMPANY OF NIGERIA PLC</b></li><li><b>2. PORT HARCOURT ELECTRICITY<br/>DISTRIBUTION PLC</b></li></ul> | } | <b>.... DEFENDANTS</b> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------|---|------------------------|

**STATEMENT ON OATH OF MR. ROYAL JEREMIAH GODWILL**

I, MR. ROYAL JEREMIAH GODWILL, male, businessman, Nigerian citizen resident at Omaraka, Abua Central in Abua/Odual Local Government Area of Rivers State hereby make oath and state as follows:

- 1. That I am a principal member and the Community Development Committee (CDC) Chairman of Omaraka Community in Abua Central, Abua/Odual Local Government Area of Rivers State of Nigeria. The 2<sup>nd</sup> plaintiff is the traditional ruler (Uwema) of our Omaraka community and I (the 3<sup>rd</sup> plaintiffs) am a principal member of the said Omaraka Community. We (the plaintiffs) were authorized by the Omaraka community aforementioned to institute this suit in a representative capacity (on behalf of the said Omaraka Community). The Resolution of the Omaraka Community which evidences this authorization will be relied upon at the trial.
- 2. The defendants are limited liability companies incorporated under the laws of Nigeria and are engaged in the business of, inter alia, generation, transmission/distribution of electricity (electric power/current) for profit in Nigeria. They succeeded to the rights, assets and liabilities of the National Electric Power Authority (NEPA, for short) which is now defunct, which were passed to the Power Holding Company of Nigeria PLc (PHCN, for short) who in turn passed the said rights and liabilities to the defendant. The 1<sup>st</sup> defendant has its office at No. 10 Trans Amadi Industrial Layout, Rumuomasi, Port Harcourt. The 2<sup>nd</sup> defendant has its office at No. 42 Obi Wali Road, Rumuigbo, Port Harcourt. PHCN succeeded to the assets and liabilities of NEPA which were later passed by PHCN to the defendants.

- 2(A). The defendants are sued because of loss of use of land, loss of value of land, disturbance and injurious affections suffered by the plaintiffs (Omaraka community) on their land situate at Omaraka community in Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria as a result of the (now defunct) National Electric Power Authority (NEPA) and PHCN (the predecessors' of the defendant) taking over compulsorily part of the plaintiffs' said land situate at Omaraka in Abua Central, Abua and passing through same the defendant's High Tension (33KVA) electric power Transmission Lines from Ahoada to Abonnema, without payment of any compensation for the loss of use of the land, loss of value of the land, disturbances and other injurious affections arising from the said transmission lines. The defendants are the successors of NEPA and PHCN and thus they inherited the rights, assets and liabilities of NEPA which the defendants inherited from PHCN.
3. The progenitor of the Omaraka Community aforementioned is one Oka who was one of the sons of Ogbo Abua. Ogbo Abua was one of the four (4) sons of Abua named (1) Ogbo Abua, (2) Emughan, (3) Otapha and (4) Okpeden. Abua is the progenitor of the Abua kingdom.
4. Oka lived with his father (Ogbo Abua) at a place called *Olokpoghan*, very close to Oghora village in the present-day Abua Central. Oka migrated from *Olokpoghan* and deforested a vast expanse of virgin land where he settled and exercised other acts of ownership and possession thereon. Oka first settled with his family on part of the said expanse of land called *Iloghi*.
- 4(a). Subsequently, Oka moved with his family from *Iloghi* and settled on another part of his said vast expanse of land called *Osoph-Omaraka*. The said subsequent settlement is the nucleus of the Omaraka community as it grew to become the present-day Omaraka Community in Abua Central. Oka deforested the said vast expanse of virgin forest/land (called the land of Omaraka) which is situate at Omaraka in Abua Central in Abua/Odual Local Government Area of Rivers State of Nigeria. Part of this land is the present-day Omaraka village/community in Abua Central where Oka settled. Oka built and settled on the said part of the land (the subsequent settlement) with his wife and family (sons and daughters). This settlement is the nucleus of the Omaraka village which was headed by Oka himself.
- 4(b). The said expanse of land deforested by Oka is very extensive and it shares boundaries with Odiabidi Community and Obele Community in the present-day Ahoada East Local Government Area of Rivers State. It also shares boundaries with Otari Community and Okoboh Community both in Abua in Abua/Odual Local Government Area of Rivers State.
5. Apart from settling on part thereof, Oka with his family exercised other acts of ownership and possession on the said expanse of land which he deforested. Such acts include farming, hunting, fishing in the swamps thereon, cutting of palm fruits, cutting of wood and sticks, milling of palm oil thereon, etc. Oka exercised these maximum acts of ownership and possession on the said land without let or hindrance. Under Abua native law and custom, the said acts of deforesting a virgin land and settling thereon as well as

exercising acts of ownership/possession thereon vested title/ownership over the said land on Oka.

6. Oka begat IKIRI OKA (also called Oka for short as he was also named after his father Oka) the 1<sup>st</sup> son, IBOLO (the 2<sup>nd</sup> son) and ATAM (the 3<sup>rd</sup> son). IBOLO begat Adikoro and Okwodu (both sons). ATAM begat Okereke and Daniel (both sons).
7. Chief Ikiri Oka begat Nakpa Oka. Nakpa Oka in turn begat Aselemi Nakpa (also called Aselemi Okpana Abali). Aselemi Okpana Abali begat Charles Aselemi and Chief Onyenweazu Aselemi.

Charles Aselemi begat Stephen Aselemi, Chief (Engr) Bala Charles Aselemi (1<sup>st</sup> claimant) and others. Onyenweazu Aselemi begat David Aselemi and others.

8. After the death of Oka, first his son (Chief Ikiri Oka) took over the headship/rulership of Oka family (which later developed to a community called the Omaraka community). In accordance with the applicable Abua native law and custom, as the headship of the Oka family (Omaraka Community) passed onto Chief Ikiri Oka, so also the said land of Oka became vested in him (Chief Ikiri Oka) and he held same in trust for himself and other members of the Oka family (Omaraka Community). Like his father, Chief Ikiri Oka and the Oka family (descendants of Oka) exercised similar acts of possession and ownership on the said land. Such acts include building/living, farming, fishing, cutting of wood, cutting of palm fruits, milling of palm oil, etc thereon.
9. After the death of Chief Ikiri Oka, the headship/rulership of the Oka family (Omaraka community) and the said land passed successively (after the death of each predecessor) to the following heads/traditional rulers of Omaraka community: (i) Nakpa Oka, (ii) Chief Aselemi Okpana Abali, (iii) Chief Onyenweazu Aselemi, (iv) Chief Stephen Charles Aselemi, (v) Chief David Onyenweazu Aselemi and (vi) Chief (Engr.) Bala Charles Aselemi (1<sup>st</sup> plaintiff) who is the present head/traditional ruler of Omaraka Community.
10. The said successive heads/traditional rulers of Omaraka community held the said land of Omaraka in trust for themselves and other members of Omaraka Community. The said heads/traditional rulers and other members of Omaraka Community exercised maximum acts of ownership/possession on the said land, such as farming, fishing, cutting of timber/firewood, carving of canoes, digging of water wells, fishponds, building, leasing portions, permitting people to build thereon etc.
11. Even as the Omaraka community permits people to farm, build, fish, hunt, harvest palm fruits, cut timber, etc. on the said land, the right of ownership over the land and the right of use over same belong to the community (Omaraka Community). The plaintiffs' Omaraka community own and hold the land under Abua customary law.
12. Between the years 2007 and 2014 the NEPA and later PHCN (the defendants' predecessors) entered onto the said land of the plaintiffs in the course of constructing the defendant's high tension (33KVA) electricity Transmission Line/right of Way from Ahoada to Abonnema. The NEPA and PHCN cleared and took over compulsorily part of the said land of the plaintiffs that abuts the Ahoada – Abua-Degema Road which is the

11. NEPA cleared the said area of land, demarcated it by survey pillars and annexed it as their exclusive right of way. The said area of land is linear in shape, plain in terrain and firm in texture. On this area of land the NEPA (later PHCN) and now the defendants constructed cast-in-situ pad foundations, pinned with high head or high tension poles at regular intervals of about 100 meters which bear dangerous high tension cables and wires with numerous electrical joints, bars etc. These electrical cables, wires and transmission lines of the defendants (formerly of the NEPA and PHCN) which traverse the said area of the plaintiffs' land bear/transmit electric current (power) which is dangerous to human life.
12. The NEPA/PHCN (now defendants) have erected electricity poles and electric wires on the plaintiffs' said land. The erection of the poles and the electric wires (high tension electricity transmission lines) disturbs the plaintiffs (Omaraka community) from the usage of their said land. Before erecting the electric poles and electric wires on the land, the NEPA (later PHCN) came and cut down the plaintiffs' trees, palm trees, coco-nuts, structures, etc. on the land. After cutting the economic trees, palm trees, coco-nuts, structures, etc. the NEPA/PHCN paid for them. After this, the NEPA/PHCN came to erect electric poles and to erect wires on the land.
13. Before the NEPA came, the plaintiffs were using the land for planting crops and building of houses. The plaintiffs later decided to make a layout of the land and to lease/sell them out in plots to willing buyers. The plaintiffs had not started the layout before the NEPA came. The NEPA officers said the affected part of the land then belonged to the NEPA and no further action or work should be carried out by the plaintiffs on the affected land.
14. The said dangerous high voltage (tension) electric transmission lines run parallel to each other. The transmission lines are extended on top of the poles. There are pillars in which poles are buried on the land. The plaintiffs could not (and still cannot) work under these high voltage electric lines which are dangerous to life. The transmission lines make some howling noise. For safety reasons, one could not work under them. The land is traversed by the abovementioned transmission lines thus making the affected portions unsuitable for further development.
15. The defendants by the erection of the transmission lines, are now in permanent occupation of about 7.40 hectares (74,000 square metres) of the plaintiffs' land. The said occupation is such that has rendered the land useless either for further development or for any other purpose. As a result, the plaintiffs have been barred permanently and completely from the use of their land. The plaintiffs have suffered loss of use of the land as a result.
16. The plaintiffs further contend that the defendants are liable to pay fair and just compensation for the plaintiffs' land injuriously affected by their said transmission lines.
17. The plaintiffs' land injuriously affected by the defendants' transmission lines is about 7.40 hectares (74,000 square metres) in area. At the time the cause of action accrued, the market value of one plot of land in and around plaintiffs' land at Omaraka community, Abua Central, Abua was ₦ 7,500,000 (Seven Million, Five Hundred Thousand Naira).

This is confirmed by the market survey that was carried out by the professional estate valuer that was engaged by the plaintiffs.

26. As a result of the dangerous nature of the electric current/power borne/transmitted by the electric wires/cable of the defendant that traverse the affected area of the plaintiffs' land coupled with the annexation of the area by the defendant as its exclusive right of way, the plaintiffs are no longer able to use the said area of land. The plaintiffs have thus been permanently deprived of the right of use of the said area of land.
27. The land area abutting the Ahoada - Abua Road is of commercial value as people hitherto bought and use portions thereof for petrol station, mortuary and other commercial businesses/ventures. As a result of the annexation of the said area of land by the electrical materials/current brought onto it by the defendant, the plaintiffs have been permanently deprived/prevented from selling/leasing same to businessmen for the said businesses.
28. Similarly, because of the dangerous nature of the electric wire/current being-transmitted/borne by the defendant's facilities on the said affected area, builders/developers and other land users have to keep a good distance away from the said area of the land. The result is that a large portion of the remainder of the plaintiffs' land which abuts the affected area (defendant's right of way) has to be left as a buffer zone which is not to be used/built on, so as to maintain a good distance from the dangerous facilities of the defendants in its right of Way.
29. Even as the defendant virtually conscripted/took the said area of the plaintiffs' land compulsorily, it did not acquire same from the plaintiffs neither did it pay compensation therefore to the plaintiffs in respect of their rights/interests in the land, loss of use of the land, the injurious affection thereto as a result of the said acts of the defendant. The defendant merely paid compensation for some of the crops and houses that were on the land but failed/refused to pay for the rights on the land such as loss of use of the land, injurious affection, etc. The plaintiffs through their solicitors (Uwom, Wekulom & Co) of Ekpu-Ogbo Chambers, wrote to the defendant demanding the payment of adequate compensation to them. The defendant, however, failed to comply with the said demand. The said solicitors' letter will be relied upon.
30. The plaintiffs consulted a registered surveyor & valuer (Chima J. Osimiri) who did a valuation of the losses suffered by the plaintiffs and the amount of compensation due to the plaintiffs as result of the aforementioned losses which resulted from the said acts of the defendant on the plaintiffs' land. The valuation report of the said valuation puts the amount of the said compensation due the plaintiffs at One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (₦1,485,039,235). The valuation report will be relied upon.
31. The said surveyor and valuer/his team carried out inspection of the site on 19<sup>th</sup>, 20<sup>th</sup> and 21<sup>st</sup> March, 2010. Further visits were made on 10<sup>th</sup> and 11<sup>th</sup> April, 2012, 12<sup>th</sup> April 2013, 12<sup>th</sup> May, 2014, 26<sup>th</sup> June, 2015, 21<sup>st</sup> September, 2016, 21<sup>st</sup> October, 2017 and 21<sup>st</sup>

February, 2018. During the last days of inspection, they physically counted the indigenes of the community, the population of which they used in the computation of the disturbance and injurious affection.

32. The plaintiffs engaged the services of a registered land surveyor who surveyed and determined the dimension of their communal land affected. Thus, the Survey Plan NO. IEO/RS 004/2010-SHEET 5 (produced by the said surveyor) was relied upon in assessing/valuation for the plaintiff's community.

The defendant has paid for most of the surface rights in the form of economic crops, trees, structures, shrines and other venerable objects found on the land, except a few, belonging to individuals and families, without paying for the value of loss of land.

33. The aforesaid communal land of the plaintiffs situates at Omaraka Community, Abua Central in Abua-Odual Local Government Area of Rivers State. Of prime importance, it is parallel to the tarred Ahoada-Abua road up to Ogonokom community beginning from Ahoada where the high tension electric line in question joins with the one that emanated from Edo-Delta-Bayelsa States lines respectively.

34. The site which is linear in shape, is plain in terrain and firm in texture and covers a total area of 74,000 square meters or 7.40 hectares or thereabout. On the affected land or traversed line are found cast-in-situ pad foundations, pinned with high tension poles at regular intervals of about 100 meters and finished with high tension cables and wires, with numerous electrical joints, bars, etc.

35. **Value of land taken:-** Total land area taken is 74,000 square metres or 7.40 hectares. It is a verified fact that business outlets such as fuel stations, super market and other commercial ventures are always desirous to locate or set up their businesses on the busy and accessible roads such as Ahoada-Abua road.

The valuer's market surveys revealed that a plot of undeveloped land within the neighbourhood measuring 465 square metres is exchanged for ₦7.5m, (₦7,500,000) with the vendee's additional responsibility of perfecting the title, fulfilling the traditional requirements i.e.  $74,000 \div 465 = 159.1397849$  plots.  $159.1397849 \text{ plots} \times ₦7.5\text{m} = ₦1,193,548,387$ . Thus, the assessed sum for this sub-head is ₦1,193,548,387.

### 36. SUMMARY OF VALUES:

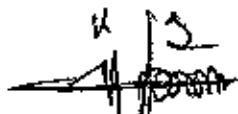
|                                         |                         |
|-----------------------------------------|-------------------------|
| (i) Disturbance & Injurious Affection = | ₦291,490,848.00 plus    |
| (ii) Loss of value of land taken =      | ₦1,193,548,387          |
| Total =                                 | <u>₦1,485,039,235</u> . |

In the Estate Surveyors and valuer's own professional opinion, the total value of loss claimable by the plaintiffs against the defendants in respect of the aforementioned losses from the said electric power transmission line, is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira ( ₦1,485,039,235).

37. WHEREFORE, we the plaintiffs claim against the defendants jointly and severally as follows:

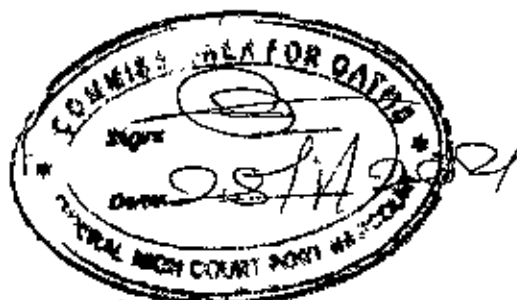
1. A declaration that the plaintiffs are entitled to compensation from the defendants in respect of the plaintiffs' land at Omaraka community in Abua Central, Abua in Abua/Odual Local Government Area of Rivers State of Nigeria which is adversely traversed by the defendants' electricity transmission lines (formerly National Electric Power Authority/PHCN Electricity transmission lines but now inherited by the defendants) thereby rendering the land unsuitable for any development and/or useless for any other purpose.
2. The sum of One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (N1, 485,039,235) as compensation or damages for losses, disturbances, loss of use of land/loss of value of land and injurious affection suffered by the plaintiffs as a result of the defendants taking over part of the plaintiffs' land situate at Omaraka, Abua Central, Abua in Abua/Odual Local Government Area of Rivers State compulsorily and passing through it the defendant's High Tension (33KVA) electric power Transmission Line from Ahoada to Abonnema without payment of any compensation for the loss of use of the land, loss of value of the land, disturbances and other injurious affections from the said transmission line or in the alternative, the sum of N1, 485,039,235 being compensation for the loss of use of the said land and/or loss of value of the land.

38. That I swear to this affidavit in good faith, conscientiously believing same to be true and in accordance with the provisions of the Oaths Act.

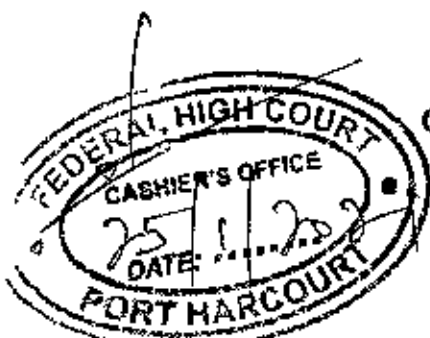
  
.....  
DEPONENT

Sworn to at the Federal High Court Registry, Port  
Harcourt this 28<sup>th</sup> day of Jan. 2021.

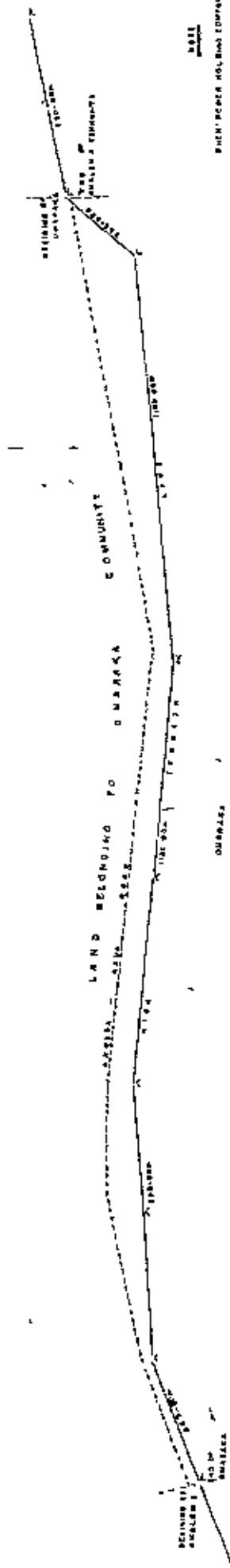
BEFORE ME



.....  
COMMISSIONER FOR OATHS



PLAN SHEETING  
 OHARAKA COMMUNITY LAND  
 PHON HIGH TENSION POWER-LINE ACCESS COVERAGE  
 AT  
 AREA-ODUAL LOCAL GOVT AREA  
 RIVERS STATE  
 ORIGIN-NATIONAL  
 SCALE-1:5000  
 AREA-7.40 Hm



1:5000

PHON HIGH TENSION POWER-LINE ACCESS COVERAGE

PHON HIGH TENSION POWER-LINE ACCESS COVERAGE  
 AREA-ODUAL LOCAL GOVT AREA  
 RIVERS STATE  
 ORIGIN-NATIONAL  
 SCALE-1:5000  
 AREA-7.40 Hm

PLAN SHE

PHON HIGH TENSION POWER-LINE ACCESS COVERAGE



# CHI OSIMIRI & PARTNERS

(Estate Surveyors & Valuers, Plant and Machinery Valuers, Feasibility and Viability Appraisers, Facilities Managers, Estate Developers & Estate Managers/Agents)



## ADDRESS:

#13 Ikwerre Street,  
Behind Mile 1 Police Station,  
P. O. Box 5767, Port Harcourt.

Tel.: 084-335655,  
08033094975  
08035814163

## IN OFFICE:

DFLE OGUNSEMOYO B Tech. (Est. Mgt.) MBA Finance)  
MAGNUS OZOMA OND (Est. Mgt.)

CHIMA J. OSIMIRI, B.Tech. (Est. Mgt.), Postgraduate Diploma  
(Rural Land Use & Dev.) MBA (Finance) M Sc (Est. Mgt.) AHWS, RSV  
(Principal Consultant)

1<sup>st</sup> May, 2019

## Our Ref.:

Date:

The Representatives of  
Omaraka Community, Abua Clan,  
Abua-Odual Local Government Area,  
Rivers State.

Dear Sir,

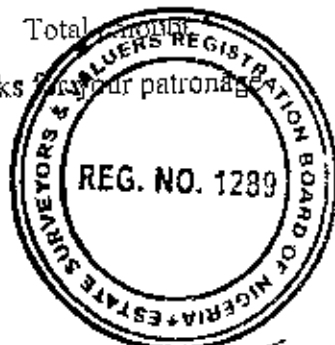
RE: VALUATION REPORT FOR COMPENSATION PURPOSES  
TAKEN OVER AND OCCUPATION OF THE LAND AS A RIGHT OF WAY BELONGING TO  
OMARAKA COMMUNITY, ABUA CLAN, ABUA-ODUAL LOCAL GOVERNMENT AREA, RIVERS  
STATE BY NATIONAL ELECTRIC POWER AUTHORITY POWER (NEPA) NOW SUCCEEDED BY  
PORT HARCOURT ELECTRICITY DISTRIBUTION PLC AND TRANSMISSION COMPANY OF  
NIGERIA PLC.

Through their counsel- H. D. D. Uwom Esq of MESSRS UWOM, & WEKULOM & CO.  
EKPU-OGBO CHAMBERS, Barristers & Solicitors of No. 27 Bonde Street, Port Harcourt,  
the firm of MESSRS CHI OSIMIRI & PARTNERS, Estate Surveyors & Valuer was  
instructed by the Representatives of the aforesaid Omaraka Community of Abua Clan in  
Abua-Odual Local Government Area of Rivers State. The purpose was to undertake a  
valuation exercise of their interest in land, sequel to the taken over and occupation of their  
land as a right of way by the then National Electric Power Authority (NEPA) now succeeded  
by Port Harcourt Electricity Distribution Plc and Transmission Company of Nigeria Plc  
which resulted in permanent loss of use of the land and destruction of Economic trees,  
Economic crops (Surface rights), Injurious Affection etc as depicted in the survey plan No  
IEO/RS004/2010(SHEET 5) made by surveyor I. O.E. Briggs (a Registered Surveyor).

Having received the brief and undertaken the necessary inspections and surveys on the dates  
stated herein, we wish to report that the damages suffered by the Omaraka Community are as  
follows:-

|       |                                     |   |                          |
|-------|-------------------------------------|---|--------------------------|
| (i)   | Surface Rights                      | = | paid for                 |
| (ii)  | Disturbance and Injurious Affection | = | 291,490,848.00           |
| (iii) | Loss of Value of land               | = | 1,193,548,387.00         |
|       | Total                               |   | <u>N1,485,039,235.00</u> |

Thanks for your patronage



Signed

Yours faithfully,  
For: CHI OSIMIRI & PARTNERS -  
Esq. Chima Jack Osimiri,  
(Principal Consultant)

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VALUATION REPORT FOR COMPENSATION PURPOSES  
RE: TAKEN OVER AND OCCUPATION OF THE LAND AS A RIGHT OF WAY  
BELONGING TO OMARAKA COMMUNITY, ABUA CLAN, ABUA-  
ODUAL LOCAL GOVERNMENT AREA, RIVERS STATE BY NATIONAL  
ELECTRIC POWER AUTHORITY POWER (NEPA) NOW SUCCEEDED  
BY PORT HAROURT ELECTRICITY DISTRIBUTION PLC AND  
TRANSMISSION COMPANY OF NIGERIA PLC.

PREPARED FOR:-

THE REPRESENTATIVES OF  
OMARAKA COMMUNITY, ABUA CLAN,  
ABUA-ODUAL LOCAL GOVERNMENT AREA,  
RIVERS STATE.

BY:

CHI OSIMIRI & PARTNERS,  
ESTATE SURVEYORS & VALUERS,  
NO. 13 IKWERRE STREET,  
BEHIND MILE 1 POLICE STATION,  
P.O. BOX 5767, PORT HAROURT  
G. S. M NOS:- 08035814163, 08033094975, 08097540809

**VALUATION REPORT FOR COMPENSATION PURPOSES**  
**RE: TAKEN OVER AND OCCUPATION OF THE LAND AS A RIGHT OF WAY**  
**BELONGING TO OMARAKA COMMUNITY, ABUA CLAN, ABUA**  
**ODUAL LOCAL GOVERNMENT AREA, RIVERS STATE BY NATIONAL**  
**ELECTRIC POWER AUTHORITY POWER (NEPA) NOW SUCCEEDED**  
**BY PORT HARCOURT ELECTRICITY DISTRIBUTION PLC AND**  
**TRANSMISSION COMPANY OF NIGERIA PLC.**

## **1.0 RECAPITULATION OF INSTRUCTION**

Through their counsel- H. D. D. Uwom Esq of MESSRS UWOM, & WEKULOM & CO. EKPU-OGBO CHAMBERS, Barristers & Solicitors of No. 27 Bende Street, Port Harcourt, the firm of MESSRS CHI OSIMIRI & PARTNERS, Estate Surveyors & Valuer was instructed by the Representatives of the aforesaid Omaraka Community of Abua Clan in Abua-Odual Local Government Area of Rivers State. The purpose was to undertake a valuation exercise of their interest in land, sequel to the taken over and occupation of their land as a right of way by the then National Electric Power Authority (NEPA) now succeeded by Port Harcourt Electricity Distribution Plc and Transmission Company of Nigeria Plc which resulted in permanent loss of use of the land and destruction of Economic trees, Economic crops (Surface rights), Injurious Affection etc as depicted in the survey plan No IEO/RS004/2010(SHEET 5) made by surveyor I. O.E. Briggs (a Registered Surveyor).

Having received the brief and undertaken the necessary inspections and surveys on the dates stated herein, we wish to report that the damages suffered by the Omaraka Community are as follows:-

## **2.0 PURPOSE OF APPRAISAL:-**

The purpose of reconnaissance survey was to ascertain that the incident actually took place and to have general overview of the effects on surrounding land which constitutes the farming ground where they eke out their living. The inspection was aimed at obtaining a detailed data of the various heads of claim considered imperative for the computation of this claim. The report is therefore prepared as a guide to determining the worth of the damages and losses occasioned to the native residents (the Omaraka Community), who consulted us, as a result of the taken over of their land and interest in land.

### 3.0 DATES OF INSPECTION:-

We inspected the areas affected by the incident on 19<sup>th</sup>, 20<sup>th</sup>, 21<sup>st</sup> March, 2010. Further visits were made on 10<sup>th</sup> and 11<sup>th</sup> April, 2012, 12<sup>th</sup> April 2013, 12<sup>th</sup> May, 2014, 26<sup>th</sup> June, 2015, 21<sup>st</sup> September, 2016, 21<sup>st</sup> October, 2017 and 21<sup>st</sup> February, 2018 respectively. During the last days of inspection, we physically counted the indigenees of the Omaraka Community, which we used in the computation of Disturbance and Injurious Affection.

### 4.0 GENERAL CONSIDERATION

The valuation report was prepared on the understanding that Omaraka Community has an unencumbered interest in the geographical area occupied or owned by them and so can engage in economic activities within the aforesaid area. In other words, their right to the use of the aforesaid land associated with their community is free from onerous or unusual charges and restrictive covenants. That is to say, that the community's right to the use of the land cannot be challenged or restricted by any person(s) whatsoever.

The plaintiffs engaged the services of a registered land surveyor who surveyed and determined the dimension of their communal land affected. Thus, the Survey Plan NO. IEO/RS004/2010-SHEET 5 (produced by the said surveyor) was relied upon in the assessing/valuation for the plaintiff's community.

The defendant has paid for most of the surface rights in the form of economic crops, trees, structures, shrines and other venerable objects found on the land, except a few, belonging to individuals and families, without paying for the value of loss of land. Consequently, the surface right head of claim was not considered in the assessment of the plaintiff's community's claim.

### 5.0 SITUATION:-

The aforesaid communal land of the plaintiffs situates at Omaraka Community, Abua Central in Abua-Odual Local Government Area of Rivers State. Of prime importance, it is parallel to the tared Ahoada-Abua Road up to Ogonokom Community beginning from Ahoada where the high tension electric line in question joins with the one that emanated from Edo-Delta-Bayelsa States lines respectively.

#### **6.0 DESCRIPTION:-**

The site which is linear in shape, is plain in terrain and firm in texture and covers a total area of 74,000 square meters or 7.40 hectares or thereabout. On the affected land or traversed line are found cast-in-situ pad foundations, pinned with high tension poles at regular intervals of about 100 meters and finished with high tension cables and wires, with numerous electrical joints, bars, etc.

#### **7.0 TITLE:-**

During our numerous inspections/surveys we discovered that our clients are the owners of the interests in land and their claims to the interest in land was not disputed by any neighbouring Communities, families and individuals. The imputation therefore is that they have an unquestionable right (title) to the use and occupation of the land, belonging to them and so they are entitled to claim prompt compensation.

#### **8.0 VALUATION:-**

The Basis of the said valuation is the Open Market Value. The valuation was prepared in accordance with the provisions of the Oil Pipelines Act of 1956 which presupposes an open market value as follows:

- (a) Value of surface rights such as economic crops and profitable trees, buildings or structures, shrines, venerable objects etc. found on the land,
- (b) Any Disturbance and Injurious Affection suffered by the land owners.
- (c) Loss of Value of Land or Interest in Land

#### **8(B) DISTURBANCE & INJURIOUS AFFECTION.**

No person farms/fishes under the high tension line or NEPA line for fear of death by electrocution or other allied health hazards.

In the same vein, no person(s) or corporate bodies build under the high tension line for obvious health implications. Of recent, over 60 persons met their Waterloo at zoo area of Port Harcourt, because the high tension line wire sparked and got dislodged from its original point and fell on the road and claimed several lives via electrocution. The above situation was worsened by the massive down pour of that fateful day. In which case, the rain water became infested. Professionally speaking, these variables-net population, income loss and capitalization rate (yield) are usually used in computation of Disturbance and Injurious Affection.

YP means years purchase and acts as a multiplier to derive the capital value. Thus, the valuer's computation for the loss of farming rights, have taken into consideration- the net population of the communities and income loss. This is calculated in perpetuity; hence the damage is permanent and irreparable.

|                      |   |                         |
|----------------------|---|-------------------------|
| Income Loss per head | = | ₦ 9, 600                |
| Population           | = | 911 people              |
| Total income loss    | = | ₦ 9,600 x 911           |
|                      | = | ₦ 8,745,600             |
| YP in perp @ 3 %     | = | 33.33.                  |
| Total                | = | <u>₦ 291,492,848.00</u> |

### 8(C) VALUE OF LAND TAKEN:-

Total land taken is 74,000 square metres or 7.40 hectares. It is a verified fact that business outlets such as fuel stations, super market and other commercial ventures are always desirous to locate or set up their businesses on the busy and accessible roads such as Ahoada-Abua Road.

The valuer's market surveys revealed that a plot of undeveloped land within the neighbourhood measuring 465 square metres is exchanged for ₦ 7.5m, as at 2012 (₦ 7, 500,000) with the vendee's additional responsibility of perfecting the title, fulfilling the traditional requirements. i.e.  $74,000 \div 465 = 159,139,784.9$  plots.  $159,139,784.9$  plots x ₦ 7. 5m = ₦ 1, 193,548,387. Thus, the assessed sum for this sub-head is ₦ 1, 193,548,387

### 9.0 SUMMARY OF VALUES:-

|     |                                     | ₦                           |
|-----|-------------------------------------|-----------------------------|
| (a) | Surface Rights                      | = Paid for                  |
| (b) | Disturbance and Injurious Affection | = ₦ 291,490,848.00          |
| (c) | Loss of Value of land               | = ₦ 1,193,548,387.00.       |
|     | Total amount                        | = <u>₦ 1,485,039,235.00</u> |

### 10.0 CONCLUSION:-

In the Estate Surveyor's and Valuer's own professional opinion, the total value of loss claimable by the plaintiffs against the defendants in respect of the aforementioned losses from the said electric power transmission line is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand and Two Hundred and Thirty Five Naira (₦ 1,485,039,235.00).

## 11.0 CERTIFICATION

This valuation report is confidential and is made for the purpose for which it is prepared. The use of it by any person for any other purpose is beyond our responsibility and we disown liability for any such use.

The report has been undertaken in accordance with the professional standards of the Nigerian Institution of Estate Surveyors & Valuers (NIESV) and Estate Surveyors and Valuers' Registration Board of Nigeria (ESVARBON), of which the undersigned is a corporate member with these membership and Registration particulars (M-1388 and A-1289).

The compensation Value of the worth of the damages coupled with the Disturbance and Injurious Affection representing the damages and losses suffered as a result of the incident occasioned by NATIONAL ELECTRIC POWER CORPORATION (NEPA) now Port Harcourt Electricity Distribution Plc and Transmission Company of Nigeria is One Billion, Four Hundred and Eighty Five Million, Thirty Nine Thousand, Two Hundred and Thirty Five Naira (N1,485,039,235.00).



Signed: *[Signature]*

ESV. CHIMA JACK OSIMIRI  
(PRINCIPAL CONSULTANT)

For: CHI OSIMIRI & PARTNERS

DATED 18<sup>th</sup> DAY OF MAY, 2019

