

## Dispute Resolution Mechanism for Electricity Supply Industry in Nigeria

BARAKAT ADEBISI RAJI  
TOHEEB AREMU JAMIU  
ADAMU IDRIS TANIMU

### ABSTRACT

*Many Nigerian artisans have been rendered inactive in their various callings. One of the reasons for this is the poor supply of electricity by the designated industry. Unfortunately, many of these artisans do not know where to go and lodge their complaints when they are served expensive electricity bills. Therefore, this paper is aimed at evaluating the legal framework for electricity supply dispute resolution in Nigeria. It also examines the effectiveness of this legal framework. This paper employs a quantitative research approach by using a survey design for data collection and descriptive statistics for data analysis of the 15 stakeholders who were surveyed. The review showed that a dispute resolution outlet is provided for customers who may wish to express their complaints about easy access and quick settlements. The finding also revealed that the industry has moved to other more result-oriented dispute resolution mechanisms such as mediation, arbitration, and conciliation, among others. There is a regulatory commission charged with the dispensation of justice on dispute resolution. However, what is left is public enlightenment to enable people to explore these available dispute resolution outlets in order to minimize the settlement period.*

*Keywords: Dispute resolution mechanism; Electricity; poor service; customers; Nigeria*

### INTRODUCTION

The electricity industry is among the sectors that contributes to the economic development of any nation. Electricity is considered a major epitome of economic development in the drive for industrialization, supply to homes and businesses with a dismal in Nigeria.<sup>1</sup> Despite having a far larger population, Nigeria generates less electricity compared to other major African countries and is yet to accelerate its power generation parallel to its growing population. For instance, South Africa which has a population of 48 million generated 35,000 megawatts (MW) out of an installed capacity of 52,000MW in 2015.<sup>2</sup> Electricity production in South Africa has reached 20,240-gigawatt hour (GWh) in March 2022, compared with the 18,494 GWh in the previous months.<sup>3</sup> In the past decade, Ghana has experienced severe electricity supply challenges costing the nation an average of US \$2.1 million in loss of production daily. This situation has developed even though installed generation capacity has more than doubled over the period; increasing from 1,730 MW in 2006 to 3,795 MW in 2016.<sup>4</sup> In the year 2018, Ghana had 4,889 MW of installed generation capacity, generating 16 terawatt-hours (TWh) of electricity annually.

Electricity demand in Ghana is satisfied by thermal generation (58%), hydroelectric generation (40%), imports (less than 2%), and solar (less than 1%).<sup>5</sup> Ghana has a target of generating at least 10% of its electricity from renewable technologies by 2030, where “renewable” does not include large hydro.<sup>6</sup> It is common knowledge that the electricity industry is vulnerable to various types of disputes ranging from the regionalized sale of electricity, disconnection, non-payment of bills, power-theft, among others.<sup>7</sup> Despite the fact that Nigeria generates electricity in commercial quantities for over a century, the quantum of electricity infrastructure development in the county is still brain-dead and power supply remains highly inadequate. These disputes have brought a lot of setbacks to the industry. This is because disputes, if not attended to, can lead to major crises. Low availability of power is currently a major obstacle facing the industry.<sup>8</sup> About 47% of Nigerians do not have access to grid electricity and those who do have access, face regular power cuts. In addition, the economic cost of power shortages in Nigeria is estimated at around \$28 billion - equivalent to 2% of its Gross Domestic Product (GDP).<sup>9</sup> According to Shubham Chaudhuri, World Bank Country Director for Nigeria identified the inability to create jobs in Nigeria is as a result of the unreliable power supply that has stifled economic activity and private investment, which

ordinarily would have assisted to lift 100 million Nigerians out of poverty.<sup>10</sup> Considering the economy situation and population growth, there is a critical need to drive higher power availability. Cheap and abundant availability of power is a prerequisite for economic development, with the potential to have a multiplier effect on growth.<sup>11</sup> The industry needs to shift their mode of disputes settlement to a better result-oriented dispute resolution mechanism due to the dockets of cases before the courts.<sup>12</sup> Citizens are seriously aggrieved due to the poor supply of electricity which sometimes cause loss of properties. There is a sentiment that the electricity industry cannot be sued because it is controlled by the government. Also, because litigation is a long process, it is in no position to take the industry to a more effective administration of justice. This paper, therefore, calls for enlightenment to educate citizens that electricity industry is a corporate body that can sue, and as well be sued using better result-oriented dispute resolution mechanisms to achieve fairness and justice.

#### THE LEGAL FRAMEWORK USED FOR ELECTRICITY DISPUTES IN NIGERIA

The most common among the legal tools use for electricity dispute settlement in Nigeria is litigation. Court proceedings take lengthy time and decisions take several years, however, many of the electricity disputes require urgent and lesser time for their settlements.<sup>13</sup> More than 10,000 cases, include those of electricity disputes, are awaiting decisions in the superior courts of records in Nigeria. A State High Court in Ughelli, Delta State, declared the issuance of 'very high and exorbitant' estimated electricity bills to residents of Ughelli town by the Benin Electricity Distribution Company (BEDC) as "wrongful" and "illegal". The Judge, J. Edun, declared as illegal and contrary to the provisions of the law the issuance of "very high, unreasonable, and exorbitant" electricity bills on the claimants and other customers in the community.<sup>14</sup> Frequent power outages in both the federal and state high courts in Lagos have also become an embarrassment for the judiciary. In some cases, the power outage last for days shutting down judicial activities in the courts and leaving lawyers scrambling for excuses to angry clients regarding why their cases have stalled.<sup>15</sup> Despite the crucial roles of the judiciary, the judicial process is often painstakingly slow and leaves much to be desired. This has made many people lose confidence in using the courts as it is mostly believed that delayed

justice is denied justice.<sup>16</sup> This and some other reasons facilitated the search for more effective modes of dispute resolution mechanisms. Hence, the emergence of exploring other alternative dispute resolution mechanisms that can work within the time frame required to resolve electricity disputes given the exigency of the electricity supply in the country. For example, the applicability of the time limit for arbitration proceedings has been stated in the Arbitration Act in 2019 as follows:

"The award in matters other than international commercial arbitration shall be made by the arbitral tribunal within a period of twelve months from the date of completion of pleadings under sub-section (4) of section 23."<sup>17</sup>

However, by virtue of sub section 3 of section 29A, this period of 12 months may be extended by the consent of the parties for another 6 months. Impliedly, arbitration proceedings are said to be within the period of 18 months. In case of mediation, it is recommended that parties should at most settle their disputes within 60 to 90 days.<sup>18</sup> Given the nature and the size of the disputes occurring in electricity industry, it is desirable to use mediation. Where a party refuses to participate or discontinues to participate in mediation process, he or she may elect or be referred to arbitration panel for a binding decision through arbitration process. Parties combine mediation and arbitration processes for resolution of dispute depending on the nature of the dispute and for fear of non-compliance of outcome of mediation process while opting for litigation as the last resort.

#### DIFFERENCE BETWEEN LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION (ADR)

The alternative dispute resolution (ADR) processes are constitutionally approved in addition to the court proceedings in the Nigerian Electricity Industry. This has enabled corporations, individuals, and states to negotiate freely and settle their disputes amicably. Alternative dispute resolution is generally faster and less expensive because there is far less discovery and sometimes without appeal. While litigation is more time consuming, expensive and cumbersome, the ever-increasing number of cases in courts have occasioned congestion of cases awaiting trials and delay in their determination. The average contract-based lawsuit takes a minimum of approximately two years to resolve in court of first instance, another two years at the Court of Appeal,

and four years minimum at the Supreme Court. The average duration of similar cases in arbitration can be as short as five or six months. If the extra 18 months of delay will impact positively on the relationship between the parties and the economic health of either party, then arbitration is worthy of adoption to be included in the contract.

In addition, the complexity of court litigation often tends to increase costs which parties naturally would want to avoid. However, monetary claims can easily be settled amicably without going to court for a redress. Consequently, alternative dispute resolution mechanisms have been developed such that disputes are settled within a reasonable time than litigation. Arbitration helps parties in the selection of a judge with expertise in the area of the dispute and submission to a jury with such expertise.

However, litigation can be resorted to when there is need to recover a huge loss which cannot be obtained by mutual agreement of the parties. Parties resort to litigation where arbitration fails to get their dispute resolved. This is what was established in the cases of National Nigerian Petroleum Corporation (NNPC) v Lutin Investment Ltd & Anor (2006) JELR 47375 (SC). These companies, Lutin and NNPC, submitted a business dispute in 1993 to binding international arbitration but the case did not get to Supreme Court until 2006 while the final award came on May 2, 2017. The case was not finally determined until 2007. This, among other reasons has led to the search for other alternative dispute resolution mechanism that are faster and more effective. Arbitration administrative costs, fees for arbitrators and other related costs are increasingly expensive thereby making things difficult for parties to contractual agreement to settle their disputes. This calls for a review in the cost and time spent in the hearing of arbitration cases. Despite all odds, arbitration is still the current considered alternative in the electricity industry until lately when people are agitating for mediation which yet is to be popularly used.

#### THE USE OF LITIGATION FOR ELECTRICITY BILL DISPUTE RESOLUTION IN NIGERIA

The prevalent use of litigation for the dispute resolution of electricity bill issues is a common practice in the electricity industry. Litigation provides more legal certainty compared to other non-litigation processes. Private individual(s) or company (ies) often resort to court to seek redress

when they are served with outrageous bills or other related matters by the electricity industry. Delays occasioned through the court process has led to the search for other alternative settlement modes that are more effective and timeous. The result of litigation is usually adversarial and severe on the business relations among parties. Moreover, the unsuccessful party sometimes is compelled to reimburse both his own legal costs in addition to what has been accrued to the successful party (ies).<sup>19</sup> Delay in electricity dispute resolution usually result in loss of business and huge money on the part of individual or company. The individual or company, as the case may be, will be compelled to look for alternative in order to remain in business with their customers. There are lots of electricity cases awaiting the decisions of courts. Some of which have been there for a period not less than three years. Example of such case is that of Nigeria Electricity Power Authority (NEPA) v Alli.<sup>20</sup> This case commenced in 1977 but was not finally determined until 1992. Similarly, the case of Nigerian Electricity Regulatory Commission (NERC) v Eko Forum commenced on the 4th of April 2014 is still pending.<sup>21</sup> The NERC's appeal panel has adjourned the case between Mayfair Gardens and Eko Electricity Distribution Company (EKEDC) indefinitely, stating that they would inspect the entire Mayfair Gardens electrical infrastructure before making a ruling on the matter. The reason for this is that judges are overwhelmed with lots of cases they cannot handle within reasonable time. The hearing and resolution of cases are oftentimes determined by the preparedness and willingness (attitude) of the parties concerned which invariably beyond their control.

Globally, this traditional method of dispute resolution is gradually paving way to alternative dispute resolution techniques such as negotiation, arbitration, mediation, among others.<sup>22</sup> Undoubtedly, the administration of justice through regular courts is usually besieged with delays, technicalities, procedural and evidential rules, and the high cost of litigation.<sup>23</sup> The emergence of arbitration technique with other alternative dispute resolution methods is an attempt to combat delays and assure a faster dispensation of judgement.<sup>24</sup> Additionally, the complexity of court proceedings tends to increase in cost which disputants are naturally anxious to reduce. Parties are also compelled to pay for filing of processes and the services rendered by their counsels, which eventually affect their cash flow.

Apart from being time-consuming and cumbersome, parties exchange pleadings and this take time to do. Oftentimes, parties hide documents, party or counsel refuses to enter appearance, causing unnecessary adjournment, intentional delay thereby frustrating the other party involved. Hence, an affordable and cost-effective disputes resolution method is needed. Mediation technique is less cumbersome and most preferred in the resolution of electricity disputes in other clime because it is found to be more effective and time saving than litigation.

#### ADVANTAGES AND WEAKNESSES OF LITIGATION

Litigation has a binding effect on parties to disputes over other alternative dispute resolution mechanisms. It will be advantageous to use litigation for the settlement of complex disputes. For instance, litigation is more desirable where the property of a customer is seriously damaged as a result of negligence on the part of the electricity industry. In this case, ADR process may not be adequate to give sufficient compensation in term of what has been lost. A company which loses a machine worth a billion naira as a result of high voltage electricity supply may prefer to seek redress in court than go for arbitration process despite the length of time involved as well as the cost of the processes. The reason for this is that such a company will hope to get justice that will return the company to its status quo ante bellum and nothing less. In order to free the dockets of cases before the judges, courts encourage the use of ADR mechanisms nowadays while litigation be considered as the last resort. This does not abrogate or deplete the power of litigation as a means of dispute settlement. Hence, the reason for alternative processes such as mediation and arbitration are to enable them achieve a quick dispensation of justice.

#### ADRS COMMONLY USED FOR RESOLUTION OF CIVIL CASES IN NIGERIA

The most commonly used ADR for civil cases in Nigeria is arbitration. This is because arbitration award is binding on the parties and enforceable at the law court. Arbitration process is regulated by the Arbitration and Conciliation Act (ACA) Laws of the Federation of Nigeria (LFN) 2004 and also enshrined in the Lagos State Arbitration Law, 2009.<sup>25</sup> An

arbitration clause is found in most of the contractual agreements executed between contracting parties and it is a settled law that parties to an agreement containing an arbitration clause must first comply with this clause before going to court. Where a party to such an agreement clause approaches a court contrary to the arbitration clause, the other party is empowered to apply for a stay of proceeding, and the court, upon the fulfilment of the relevant conditions will stay the action as provided by Sections 4 & 5 of the Arbitration and Conciliation Act (Ltd, 2021).<sup>26</sup> For example, arbitration is used for preparing agreement such as transfer of land ownership, for business settlement, among others.

Other ADR mechanisms include mediation, which is commonly used for family disputes, rent disputes, insurance claims, real estate matters, and any commercial dispute that would otherwise find its way to the court. Mediation process has transformed into a more structured process and within a legislative framework.<sup>27</sup> The Nigerian Arbitration and Conciliation Act Cap A18 Laws of Federal Republic of Nigeria (LFN) 2004, (the "Act") an adoption of the UNCITRAL Model Law on International Commercial Arbitration was enacted in 1988.<sup>28</sup>

#### THE USE OF MEDIATION PROCESS FOR RESOLUTION OF ELECTRICITY DISPUTES IN NIGERIA

The use of mediation is still at its infancy stage in the Nigerian electricity industry. It is yet to be popularly used because of the lack awareness on the part of its advocates. Government has played its part by establishing ADR Centres in all the states that request for it. For instance, in Lagos state, there are mediation Centres as well as multi-court door services connected to courts staffed with trained mediators.<sup>28</sup> The proactive intervention by the Lagos state citizen mediation Centre averted the brewing tension between the official of the Ikeja Electricity Distribution Company (IKEDC) and residents of Lasori-Abuja-Ifelodun Estate community in Ikorodu area of the state, Nigeria. The community has earlier petitioned the Citizen's Mediation Centre (CMC), a directorate of the state Ministry of Justice, requesting for an immediate intervention over an outrageous estimated billing by IKEDC to residents of the community. There is also a well-established and functional ADR Centre in Kano state, Nigeria.

#### CONSTITUTIONAL PROVISION OF LITIGATION FOR ELECTRICITY SUPPLY DISPUTE RESOLUTION IN NIGERIA

Litigation is the oldest mechanism which has been provided for dispute resolution arising from all types of commercial transactions. This has been provided for in the Nigerian constitution (The 1999 constitution of the federal republic of Nigeria) (As amended).<sup>29</sup> The power to hear and determine civil cases relating to commercial transactions have been vested in the hands of both the federal and state courts, as well as the industrial court.<sup>30</sup> Disputes such as cases where existing customers' meters are no longer functional, customers whose meter reading cannot be read by the Electricity Distribution Company (EDC) due to inaccessibility occasioned by locked doors or customers not being at home at the time of reading the meter, the presence of dogs or other wild animals on the premises, or customers without meters: where customers have paid but are yet to be provided with meters, among others are heard and determined at the state high courts. The question as to who bears the liabilities of the outstanding electricity bills on a recently vacated property between the old tenant/landlord or new tenant/landlord after taking possession is not a new one. This question arose once again in the matter between *Mr. Sunday Babalola v Eko Electricity Distribution Company (EKEDC) Plc* wherein the court found that the claimant who had just acquired the property was not entitled to pay the outstanding electricity bill consumed by the former occupant of the said building.<sup>31</sup>

#### CONSTITUTIONAL PROVISIONS FOR ARBITRATION AND ALTERNATIVE DISPUTE RESOLUTION MECHANISMS IN NIGERIA

Section 19(d) of the 1999 constitution of the federal republic of Nigeria provides for the settlement of disputes by arbitration, mediation, conciliation, negotiation, and adjudication.<sup>32</sup> This shows the efficacy of arbitration and other alternative dispute resolution mechanisms in the resolution of disputes. Unfortunately, many of the citizenry do not give cognizance to their existence and resort to litigation instead. These other forms of settlement mechanisms are provided to serve as compliments to the jurisdictions conferred on the courts by the constitution.<sup>33</sup> This unawareness was demonstrated during the interview conducted in the course of this

work.<sup>34</sup> In fact, many individuals are not even aware of the existence of alternative dispute resolution Centres and their locations in the country.

Private persons who seek redress from court on electricity bill matters never attempted other forms of alternative dispute resolution mechanisms because of the fear of the lack of enforcement of alternative dispute resolution award,<sup>35</sup> while others believe that the electricity industry is as big as the government itself that cannot be sued. Hence people prefer to let go than to have issues with the industry, especially the downtrodden ones in the country. Clients such as fashion designers sometimes look for alternative means of providing electricity to enable them to meet the quest of their customers. They tap electricity supply from their neighborhood when there is a blackout at their end in order to provide for their family. However, people who have solar device are no longer having issues with power supply hence, free exorbitant bill charges.

#### METHODOLOGY

This paper employs a quantitative research approach by adopting a survey research method. Survey questionnaires were distributed to 57 respondents. Respondents for this work were selected from customers across Ilorin, Kwara State, Nigeria. The questionnaire was designed to encapsulate questions relevant to the legal framework for electricity power supply dispute resolution in Nigeria. Hence, the industry stakeholders such as the legal practitioners, fashion designers, petty traders, architects, engineers, welders, head teachers, professors, contractors and stylists were the respondents to the questionnaire distributed. From the total number of 57 questionnaires administered, 45 were useable and analyzed. Descriptive statistics were used for analyzing the collected data. As such, a descriptive analysis was employed to analyze the study.

#### KEY INFORMANTS

The purpose of the study is to gain an in-depth insight into holistic view of the customers of the electricity industry communicative negotiation process used for dispute resolution. As such, ten groups of customers were purposively selected to be interviewed. These consist of three legal practitioners, three academicians, three engineers, three architects, seven stylists, eleven petty traders, three teachers, four welders, and eleven tailors and fashion designers.

1. Legal Practitioners
2. Academicians
3. Contractors
4. Engineers
5. Architect
6. Stylists
7. Petty traders
8. Principal
9. Welders and
10. Tailors and fashion designers

The essence of the interview was to get full knowledge of the most preferred settlement mode used for the resolution of electricity disputes in Nigeria and the reason for such. These informants consist of people who frequently use electricity in their various endeavors. Data collected from these categories of people is adequate for this kind of research based on saturation in qualitative research.

TABLE 1. The profile of informants involved in the study

S/N	Informants	Expertise /Discipline	Interview Duration
1.	Professor	Academician	1hr. 3mins
2.	Senior Advocate of Nigeria (SAN)	Private Practitioner	1hr. 35mins
3.	Contractors	Private Practitioner	0hr.45mins
4.	Engineer	Private practitioner	0hr. 49mins
5.	Architect	Private practitioner	0hr. 51mins
6.	Stylist	Private practitioner	0hr. 41mins
7.	Petty Traders	Business Proprietor	0hr. 57mins
8.	Principal	Head Teacher	1hr. 45mins
9.	Welder	Private Practitioner	1hr. 00mins
10.	Tailor/ fashion designer	Private Practitioner	1hr. 10mins

#### INTERVIEW DESIGN AND DATA COLLECTION

This study conducted an in-depth face-to-face interview with each of the informants. The interviews were guided by a list of questions prepared for the interviewees. Nevertheless, the interviewer provided the good grounds for the informants to speak freely

and provide explicit answers to the questions. The questions were targeted mainly to ask about the informants' point of views and understanding of the most preferred dispute resolution mechanism suitable for the resolution of electricity disputes in Nigeria. Additionally, the interviewer presented ten open-ended interview questions (see Table 2) that are aligned with the highlighted research objectives.

TABLE 2. Interview Questions

S / N	Research Objectives	Interview Questions
1.	To explore the legal framework used for resolution of disputes among electricity companies, business owners and other consumers like house owners or tenants etc. in Nigeria.	<ol style="list-style-type: none"> <li>1. What is the mode of settlement use for electricity disputes in Nigeria?</li> <li>2. What other mode of dispute settlement open to customers other than litigation?</li> <li>3. What is the significance of this option to electricity disputes?</li> </ol>
2.	To determine the most preferred mode of dispute settlement for electricity disputes between the electricity companies and the consumers	<ol style="list-style-type: none"> <li>4. Which dispute settlement mode do you practice in your organization</li> <li>5. What is your evaluation of mediation mechanism as a mode of dispute settlement?</li> <li>6. What is the acceptable dispute settlement method would your organization prefer for your electricity dispute?</li> </ol>

### ETHICS CONSIDERATION

The research ensures total compliance with the conventional research ethics. Free consents were obtained from all informants prior to their participation, and they were informed about the nature of the study. Each informant was served with a research information sheet that explained the objectives and significance of the study. Additionally, the interviewees were assured of their anonymity and of the confidentiality of the interviews and that the collected data would always remain confidential. Moreover, the findings of this study were reported in such a way that the informants could not be identified either by their name or by their organization. Finally, participation in this study was voluntary. As such,

all the interviewees were informed of their right to withdraw from the study either before or after the data collection.

### FINDINGS

This paper finds it necessary to examine the effectiveness of the legal instruments in the management of disputes in the electricity industry of Nigeria. The result presented in Table 3 below revealed that most of the respondents, 64% chose not effective when asked of their perception towards the available legal instruments in resolving electricity disputes in Nigeria electricity industry. 20% of the respondents perceived the effectiveness, while 16% were undecided.

TABLE 3. Perceived Effectiveness of Legal Framework for Dispute Resolution

Respondents	Frequency	Percentage (%)
Effective	9	20
Not effective	29	64
Undecided	7	16
Total	45	100

Disputes are inevitable in the electricity industry because it deals with essential services to man. Some of the conflicts occurring in the electricity industry usually range from customers who have been previously issued meters complaining of the inactivity of such meters or customers whose meter cannot be read. Some complaints also come from meter readings which the Electricity Distribution Company could not obtain (EDC) due to inaccessibility occasioned by locked doors, gates or customers not being at home at the time of reading the meter, presence of dogs or other wild animals or reptiles on the premises, etc. In contrast, another complaint may come from customers who have paid but been provided with meters. State High Court has been vested in hearing all civil matters, including commercial transactions such as electricity disputes.

Unfortunately, due to the number of case dockets before judges of this court, many electricity cases are being protracted. However, due to a lack

of knowledge about the other forms of alternative dispute resolution mechanisms, people are left only with the option of taking electricity disputes to court for resolution even though it is time and cost consuming. The following table and chart explain the stakeholders' perception of the effect of the court process in the electricity industry in Nigeria. Respondents were asked based on their experience to classify litigation techniques for the resolution of electricity disputes according to their level of satisfaction. Table 4 revealed that 20% (9) of the respondents were satisfied with litigation as a means of electricity dispute resolution. Meanwhile, on the other hand, 20% (9) of the respondents vehemently showed that they were highly dissatisfied with litigation for electricity dispute resolution. Impliedly, the rate of high dissatisfaction among respondents could be because of what the respondents have lost financially in the cause of employing litigation for resolving electricity disputes.

TABLE 4. Litigation as a means of electricity dispute resolution

Response	Frequency	Percentage (%)
Highly satisfactory	6	13
Satisfactory	9	20
Dissatisfactory	21	47
Highly dissatisfactory	9	20
Total	45	100

Table 5 below revealed that 3 (7%) respondents preferred litigation as a resolution process for electricity disputes. On the other hand, 8 (18%) respondents preferred arbitration for disagreement in the Electricity in Nigeria. These findings indicated the quest of the stakeholders to resort to alternative dispute resolution mechanisms which can serve the industry effectively should any dispute occur despite the existing legal framework put in place to resolve their disputes. It has been found that

alternative dispute resolution mechanisms are more cost-effective and will be more preferred because of the nature of the industry. When conflicts are left unattended, they later generate into more complex disputes. This averment has been supported in the study work of Kristensen in 2020.<sup>36</sup> The respondents highly welcomed the use of alternative dispute resolution mechanisms that can impact projects effectively by disposing any kind of dispute.

TABLE 5. Preferred Process for Dispute Resolution in the Electricity Industry in Nigeria

Response	Frequency	Percent
Through ADR Process	32	71
Arbitration	8	18
Litigation	3	7
Undecided	2	4
Total	45	100

The litigation process is said to have caused a lot of setbacks to the electricity business in which large sums of money have been spent on filing and administrative charges before their cases are even slated for hearing and finally determined. In most cases, parties devote much money to employ the services of lawyers; pay for transport, accommodation (where need be) and other miscellaneous charges throughout the court proceedings. This frequently push people away from seeking redress when electricity issue arises. The primary means for resolving electricity matters is through litigation in which judges' rule on the subject matter of the dispute after hearing from both parties. Berkoff (2021) pointed out that litigation is not always the best option because it is expensive and frequently protracted for years.<sup>37</sup>

## CONCLUSION

The result obtained in this study indicated that litigation is mainly used while few people resort to arbitration for dispute resolution in the Nigerian electricity industry; the use of which has not

brought the desired objectives to customers and the community. Other alternative dispute resolutions that are more effective and time enduring have not been utilized to resolve electrical issues. The findings established the inefficacy of the legal framework used for electricity dispute resolution. The difference between efficacy and its inadequacy shows a need to bridge the gap. There appears to be a problem of the inability of clients to pay for lawyers' service compared to the size of the matter involved.

Furthermore, this finding reflected that the rating of litigation and arbitration for electricity dispute resolution is very poor, hence the need to overhaul the existing legal framework for electricity dispute resolution in Nigeria. Processes such as mediation, conciliation, negotiation, ombudsman, among others, need to be introduced and employed to supplement the existing ones. It has been argued that the long winding process of litigating and arbitrating are the limitations of the two mechanisms which consequently inhibits the business progression of this industry.

Other alternative dispute resolution which are more effective and time enduring have not been utilized for the resolution of electricity issues. The deficiencies and ineffectiveness of the legal framework used for electricity dispute resolution identified in this study shows that there is a need to bridge this gap. Also, there appears to be a problem of the inability of clients to pay for lawyer's service compared to the size of the matter involved.

Similarly, the industry has changed hands more than three times because of low returns to the investors. Invariably, disputes relating to electricity usually gulp money and consume time. However, today's world has shifted from adversarial methods to interest-based dispute resolution mechanisms with equitable functions in the electricity industry. This paradigm shift has given rise to the demand for an amicable mode of settlement in the electricity industry in Nigeria. The result obtained in this paper indicates that litigation is mostly used while few people resort to arbitration, but these have not brought the desired results to customers and the community at large. There is every indication that mediation process would be more desirable to the industry because of the nature and the size of disputes which usually occur in the electricity industry in Nigeria. Hence the need to introduce mediation process for effective resolution of disputes occurring in the electricity industry in Nigeria. Conclusively, disputes are inevitable in the electricity industry due to the number of reasons and factors which have been discussed in the earlier part of this paper. What is germane in this regard is that parties concerned should try and study all the available dispute resolution mechanisms, know how they work to enable them choose appropriate one suitable for speedy resolution of any given dispute without breaking up the relationship the industry and her customers. The choice of choosing the appropriate mechanism matters to enable uninterrupted supply of electricity supply and regular electricity supply bill. For instance, there should be dispute resolution board members who will be monitoring the supply of electricity and the bill charges serve on customers from time to time to enable the control of disputes and avoidance of risk in the electricity industry in Nigeria.

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- <sup>33</sup> O. Olatoke, (SAN) was of opinion that his clients have never sought of ADR because it is expected that party suing should ask for making recourse to ADR mechanism and not the defendant to whom he is representing. The least cast has been heard over three years and still awaiting trial.
- <sup>34</sup> Mr. Suleiman Olarenwaju Babakebe (Esq), A Legal Practitioner at Ghalib Chamber, here in Ilorin, Kwara state, was interview on why he prefers using litigation to resolve electricity matters for his clients. His response was that he prefers litigation because of lack of enforcement of the ADR award, because one needs to make recourse to court should the award fails to be respected which amount to long procedure.
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- Barakat Adebisi Raji (Corresponding Author)  
Senior Lecturer  
Department of Jurisprudence and International Law,  
Faculty of Law,  
University of Ilorin.  
Nigeria  
Email: babraj2007@gmail or raji.ba@unilorun.edu.ng.
- Toheeb Aremu Jamiu  
Research Assistant  
Department of Jurisprudence and International Law  
Faculty of Law  
University of Ilorin  
Nigeria  
Email: toheebjammy@gmail.com
- Adamu Idris Tanimu  
Lecturer  
Department of Public Law  
Bauchi State University  
Nigeria  
Email: adamutnimu90@gmail.com