



**NIGERIAN ELECTRICITY REGULATORY COMMISSION
REGULATIONS FOR INDEPENDENT ELECTRICITY DISTRIBUTION
NETWORKS 2012**

REGULATION NO: 0212

NIGERIAN ELECTRICITY REGULATORY COMMISSION

In exercise of the Powers to make regulations conferred by Section 96(1) of the Electric Power Sector Reform Act 2005 (Act No.6 of 2005), the Nigerian Electricity Regulatory Commission makes the following regulations for Independent Electricity Distribution Network (IEDN) 2012.

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CHAPTER I

GENERAL

1. Short Title

These regulations may be cited as the NERC Regulations 2012.

2. Commencement

(1) These regulations shall come into force on the date on which they are approved by a resolution of the Commission.

(2) These regulations shall be signed by the Chairman of the Commission who shall also cause the seal of the Commission to be affixed thereon.

3. Interpretation

(1) In these regulations, unless the context otherwise requires:

“Act” means the Electric Power Sector Reform Act, 2005;

“Affiliate” means affiliate as defined in the Act.

“Business day” means a day other than a Saturday, a Sunday or a day which is lawfully declared as a public holiday by the Federal, State or Local Government in Nigeria

“Business Rules” mean the Nigerian Electricity Regulatory Commission (Business Rules of the Commission) Regulations, 2006 as amended;

“Commission” means the Nigerian Electricity Regulatory Commission (NERC);

“Common services” means an electricity distribution network service that ensures the integrity of the distribution system and benefits all users that cannot practically be allocated to users on an individual basis;

“Connection” means the electrical equipment and materials that allow the transfer of electricity between the distribution system and an electrical system that is not part of that network and includes any transformers or switchgear at the point of interconnection that are necessary for the transfer but does not include the lines and switchgear at the connection that form part of the transmission system;

“Connection Offer” means an offer received or made to connect electrical equipment and materials that allow the transfer of electricity between the distribution system and the generator or consumer

“Connection point” means an entry or an exit point on a distribution network;

“Connection services” means in respect of a connection, the establishment and maintenance of that connection;

“Disconnect” in respect of a connection, means to operate switching equipment so as to prevent the transfer of electricity through the connection;

“Distribution Code” means the code and guidelines for the Nigerian electricity distribution system, as approved from time to time by the Commission;

“Distribution Network” means any connection of cables, service lines and overhead lines, electrical apparatus/equipment and having design voltage of 33kv and below used to transport electric power on a distribution system

“Distribution System Operator” means an operator of the distribution system facilities consisting wholly or mainly of low voltage (less than 132kv) electric lines used for the distribution of electricity.

“Embedded IEDN” means an IEDN connected to a distribution network that is connected to the transmission system operated by the system operation licensee;

“Force majeure” means as defined by the parties in their agreement(s);

“Independent Electricity Distribution Network” or **“IEDN”** means a distribution network not directly connected to a transmission system operated by the system operator;

“Independent Electricity Distribution Network Operator” or **“IEDNO”** means an IEDN operator licensed by the Commission;

“Isolated off-grid rural IEDN” means an IEDN in a rural area which is not connected to a distribution network that is connected to the transmission system operated by the system operation licensee;

“Isolated off-grid urban IEDN” means an IEDN in an urban area which is not connected to a distribution network that is connected to the transmission system operated by the system operation licensee;

“Licence” means a licence granted by the Commission under the Act;

“Licensee” means any person who holds a licence issued by the Commission;

“Market Participant” means any person who has entered into a Market Participation Agreement with the Market Operator;

“Market Rules” means Market Rules for the Transitional and Medium Term Stages of the Nigerian Electrical Power Sector 2010 in force for the time being;

“Metering Code” means the Nigeria Metering Code approved by the Commission for use in measuring the flow of energy within the transmission and distribution systems in the Nigerian electricity supply industry;

“Other regulated activities” means activities either in generation, transmission, system operation, distribution or trading of electricity;

“Person” includes an individual, a company, partnership or any association of individuals, whether incorporated or not;

“Regulated Activity” means any activity in generation, transmission, systems operation, distribution and trading for which a licence is required;

“Rural Area” means any area of the country not existing within 10km from the boundaries of an urban area or city and which has less than 20000 inhabitants or population density is less than 200 per square kilometre and which is at least 20km from the nearest existing 11KV line.

“Successor Distribution Company” means a successor company that is granted a distribution licence under s. 67(1) of the Act;

“Technical Codes” means Grid Code, Distribution Code; Metering Code, Health & Safety Code and other codes approved by the Commission for the technical regulation of the electricity supply industry in Nigeria;

“Use of system services” means an electricity distribution network service provided to a user of the distribution system for the transportation of electricity that can be reasonably allocated to a user on an individual basis; and

“User” means any person using the distribution system of a licensee.

“Urban Area” means the boundaries of an area or city in any state of the federation as determined by the Governor of that state or the Minister in charge of the Federal Capital territory, as applicable, through the appropriate agency of the state or the territory.

- (2) Unless otherwise specified, in these regulations:
- (a) Words importing any one gender includes the other gender and the singular includes the plural and vice versa;

- (b) Words or expressions used in these regulations but not defined shall have the same meanings respectively assigned to them in the Act;
- (c) Any reference to a statute or statutory provision includes a reference to that provision as amended re-enacted or replaced and any regulations or orders made under such provisions from time to time; and
- (d) If the date on which an event is scheduled to occur by these regulations is a day which is not a business day, then the event shall be deemed to occur on the next business day.

4. Application of the Regulations

These regulations shall apply to all independent electricity distribution systems, and the owners, operators and users of the distribution systems.

CHAPTER II CHARACTERISTICS OF INDEPENDENT DISTRIBUTION NETWORKS

5. Structure/Arrangement

- a) An IEDN may be any one of the following:
 - (i) Isolated off-grid rural IEDN
 - (ii) Isolated off-grid urban IEDN
 - (iii) Embedded IEDN
- b) An IEDN may be required by the Commission to have a generator in its network
- c) Where an embedded IEDN does not have a generator it shall enter into service agreement with the distribution company supplying the IEDN electric power
- d) Where the embedded IEDN has a generator, the generator shall be regarded as an embedded generator in the Successor Distribution Company to which the IEDN is connected.

6. Geographical Delineation of Distribution Systems

- (1) The Commission may grant a licensee the exclusive right to construct, own, operate and maintain a distribution system in a designated geographical area within the area of operations of a Successor Distribution Company.
- (2) An applicant for an IEDN licence shall submit to the Commission an accurate description of its proposed distribution system, including geographical depiction.
- (3) The geographical depiction shall be in the prescribed form.

7. Participation in Other Regulated Activities

(1) An affiliate of the IEDN may be licensed to engage in other regulated activities provided the Commission is satisfied that the applicant will not abuse market power to the detriment of consumers or that appropriate safeguards exist to prevent such abuse.

(2) Pursuant to sub-section (1), the IEDN licensee and its licensed affiliate shall prepare separate accounts for each of its licensed activities as would be required under the Companies and Allied Matters Act as if each activity was carried on by a separate company.

CHAPTER III GRANT OF LICENCE AND MANDATORY CONDITIONS OF LICENCE

8. Conditions for Grant of a License

(1) The Commission may issue a licence to construct, own, operate and maintain, or to procure the construction, operation and maintenance of an independent electricity distribution system; provided that a licence shall not be issued unless the Commission is satisfied that

- a. there is no existing distribution system within the geographical area to be served by the proposed independent distribution system;
- b. where the infrastructure of an existing distribution licensee is unable to meet the demand of customers in the area, the IEDN Operator shall satisfy the following conditions before the issue of a licence:
 - i. Undertake in writing that the facility of the existing distribution licensee will not be used in its operations;
 - ii. There shall not be any parallel overhead lines to existing facility;
 - iii. Ensure the safety of equipment, workers and the public;
 - iv. The minimum distribution capacity of the IEDNO shall be 5,000kW;
 - v. Show the ability to provide generation capacity for the IEDN.

(2) Notwithstanding section 8(1) the Commission, in making a decision on an application for a licence for an independent electricity distribution system, shall consider if the grant of an IEDN license as proposed:

- a. Will maximise access to electricity services;
- b. Will reduce distribution congestion to the benefit of consumers;

9. Licence Application procedure

(1) All applications and related proceedings before the Commission for grant of an independent electricity distribution system licence shall be governed by the

Application for licences Regulations, including amendments and statutory re-enactments thereof.

(2) No person shall be eligible for grant of licence to construct, own, operate and or maintain an independent electricity distribution system unless it satisfies the requirements for Application for distribution Licence as stated in Schedule 1D of Application for Licences (Generation, Transmission, System Operations, Distribution and Trading) Regulations, 2010 or any amendment thereto.

(3) The Commission may consider the expansion plan of the existing distribution companies in assessing the application for IEDN licence.

10. Obligations of licensee

(1) The licensee shall, construct, operate and maintain its distribution system in accordance with the relevant technical Codes and standards.

(2) The licensee shall, during the validity of the licence, maintain insurance policies whose adequacy must be certified by the Commission.

(3) In the case of an embedded IEDN licensee whose distribution system is connected to the network owned and operated by a successor distribution company or the holder of a transmission license, the IEDN licensee shall comply with such directions as may be issued from time to time by the System Operator for maintaining the integrity of the network.

(4) The licensee shall comply with the Act, terms and conditions of the licence, the rules and regulations, as well as the decisions, orders and directions of the Commission.

(5) The licensee shall provide non-discriminatory open access to its distribution system for use by any other licensees; provided that it has the capacity to do.

(6) The licensee shall pay the licence fee in accordance with the Commission's Licence and Operating Fees Regulations, 2010 or such other regulations as may be in force by the Commission from time to time.

(7) The licensee shall comply with all other regulations, including the regulations specified by the Commission regarding utilisation of the distribution assets for a business other than distribution of electricity.

11. Accounts of the licensee

The licensee shall -

(a) Maintain separate accounting records for each business, including the business of utilizing the assets of the distribution system, in such form and containing such particulars as may be specified by the Commission and in

- accordance with the Companies and Allied Matters Act, 1990, as amended from time to time;
- (b) Prepare from such records, accounting statements for each financial year comprising a profit and loss account, a balance sheet and a statement of source and application of funds together with notes thereto and showing separately the amounts of any revenue, cost, asset, liability, reserve, or provision which has been either:
 - (i) Charged from or to any other business together with a description of the basis of that charge, or
 - (ii) Determined by apportionment or allocation between the various business activities together with a description on the basis of the apportionment or allocation; and
 - (c) Get the accounting statements prepared in accordance with foregoing clauses, duly certified by the Auditors in respect of each financial year, stating whether in their opinion the statements have been properly prepared and give a true and fair view of the revenues, costs, assets, liabilities, reserves reasonably attributable to the business to which the statements relate.

12. Inspection of accounts

Any person authorised by the Commission shall be entitled to inspect and verify the accounts of the licensee at any reasonable time and the licensee shall be under obligation to render all necessary assistance to the person so authorized for inspection of accounts.

13. Submission of information

The licensee shall submit such information, as required by the Reporting Compliance Regulations 2009 and any amendments thereto or such other regulations as may be in force from time to time.

CHAPTER IV OPERATION OF THE DISTRIBUTION NETWORK

14. Installation and maintenance of the distribution system

- 1) The licensee shall design, construct, commission, operate and maintain its distribution system and related facilities in compliance with the Technical codes and standards, terms and conditions of its licence and in accordance with any other standards of design, construction, and maintenance as may be prescribed by the Commission from time to time.
- 2) Where there is any inconsistency between these Regulations and the Technical Codes, the provisions of the Technical Codes shall prevail.

15. Network Losses

- 1) Good construction and maintenance practice shall be observed by the IEDN operator as provided in the Distribution Code to curtail network losses within allowable range as set out by the Commission.
- 2) Losses outside the MYTO limit shall not be passed through to the customer.

16. Interruption and curtailment

- 1) A licensee may interrupt or curtail the transfer of electricity to or from a connection or the provision of an access service in respect of a connection to the extent, and for such period of time, as the licensee considers is necessary:
 - (a) To carry out planned improvement, maintenance, testing or repair of that part of the distribution system which has the ability to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection;
 - (b) To carry out unplanned maintenance, testing or repair of that part of the distribution system used to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection, if the licensee considers that doing so is necessary to avoid injury to any person or material damage to any property or the environment;
 - (c) In the event of breakdown or damage to any part of the distribution system which has the ability to transfer electricity to or from the connection or the plant or equipment used to provide the access service in respect of the connection which affects the licensee's ability to transfer electricity to or from the connection or provide the access service; or
 - (d) If a *force majeure* event occurs which affects the licensee's ability to transfer electricity to or from the connection or to provide the access service.
- 2) A licensee shall —
 - (a) Give users at least 10 business days' prior notice of any planned maintenance, testing or repair that will require interruption to or curtailment of the transfer of electricity to or from, or the provision of an access service to, one or more of the user's connections under these regulations and must liaise with the user concerning the timing of that planned, maintenance, testing or repair; and
 - (b) Use reasonable endeavors to promptly notify a user of any unplanned interruptions to or curtailments of the transfer of electricity to or from, or the provision of an access service to, one or more of the user's connections under these regulations.

3) Subject to regulation 16 (2) a licensee has no responsibility to inform any person of any interruption or curtailment to the transfer of electricity to or from, or the provision of an access service to a connection.

4) If a licensee notifies a user of any interruption to or curtailment of the transfer of electricity to or from, or the provision of an access service to, a connection (under this regulation or otherwise), then the user shall —

- (a) Comply with any reasonable requirements concerning the interruption or curtailment set out in the notice; and
- (b) If the connection is an exit point, shall use all reasonable endeavours to ensure that the persons taking a supply of electricity through the connection also comply with those requirements.

17. General Provision for Connection to Customers

- 1) An IEDN shall sign connection agreement with every user who accepts to connect to the IEDN.
- 2) In providing new connection, the IEDN shall connect and install the relevant customer meter as provided in the Regulations for Connection & Disconnection Procedures for Electricity Services.
- 3) For new customer connections, the provision of meters shall be the responsibility of the IEDN.
- 4) Connection charge to customers shall be at the rate approved by the Commission
- 5) The IEDN shall provide, for Commission review and approval, the connection charges for each class of customer and that such connection charges shall be cost based.
- 6) Provision of service by a licensed IEDN shall be disconnected at the request of a customer.
- 7) In the addition to the regulations in this section, the procedure for connections and disconnection shall be as prescribed in Connections and Disconnections Procedure for Electricity Services Regulations.
- 8) In off-grid rural and off-grid urban IEDN, the IEDNO shall be responsible for the procurement, certification, installation, and maintenance and vending of all meters in its network. The licensee shall prepare meter maintenance schedule as approved by the Commission.

- 9) In embedded IEDN, the successor distribution company connected to the embedded IEDN shall be responsible for the procurement, certification, installation, and maintenance and vending of all meters in the embedded IEDN.

18. General Provision for Connection of Embedded Generator

- 1) For every 20MW generating unit, a 33kv medium distribution voltage shall be utilized for evacuation to the IEDN.
- 2) Embedded generating unit(s) above 5MW shall comply with the provisions of the Grid Code
- 3) Embedded generating units of more than 1MW but lower than 6MW shall be connected on 11kV networks of the IEDN
- 4) Embedded generating units of 6MW or more shall be connected on 33kV networks
- 5) The Distribution licensee shall publish its policies, procedures, technical requirements, commercial arrangements, connection procedures and the standard charges associated with the connection of a generating unit to its distribution system.
- 6) The general requirements for connection of an embedded generator are as specified under Part 2 Section 4.14 of the Distribution Code generating unit, and any additional requirements which may be specifically applicable to the generator, and as approved by the Commission.
- 7) The IEDN Licensee shall discuss the general requirements for connection of generators to the distribution networks specified under Part 2, Section 4.14 of the Distribution Code and any other requirement which may be applicable to IEDN and approved by the Commission.
- 8) An IEDN licensee shall be relieved of its obligation to connect an EG unit in the event that the Embedded Generator is unable or unwilling to fulfil the general requirements as set out in these regulations.
- 9) In the event of being aware of a breach of these Regulations, the Distribution Licensee shall notify the Commission, the Generator and any other directly affected parties, of the breach and shall advise the EG of the Distribution Licensee's policy and procedures for handling disputes.
- 10) The generator or any one directly affected may also report such breach to the Commission once aware of the breach of these Regulations.

- 11) The technical requirements at the connection point shall be as provided in Part 2, Section 4 of the Distribution Code.
- 12) The Distribution Licensee shall comply with Appendix 4 of the Distribution Code, and the Health and Safety Code approved by the Commission.
- 13) In addition to the above listed requirements, operators of Renewable Energy Power System shall ensure that where storage is not required, flexible generation shall exist to allow the intermittent and uncertain power to be absorbed into the network on a priority basis.
- 14) During commissioning, the generator shall provide the IEDN licensee with a written test report and proof of compliance with provisions of the Distribution Code, Metering Code and the Health and Safety Code.

19. Safety and Security of Distribution System

- (1) If a licensee is satisfied that it is necessary, for reasons of public safety or the security of the distribution system, the licensee may direct a user to do any one or more of the following —
 - (a) establish or remove a connection ;
 - (b) disconnect a connection;
 - (c) Take a plant or equipment out of service;
 - (d) Call a plant or equipment into service; or
 - (e) Commence operation of any plant or equipment or maintain, increase or reduce generation or absorption of active or reactive power output by any plant or equipment;
 - (f) Shut down or vary operation of any plant or equipment;
 - (g) Shed or restore load; or
 - (h) Do any other act or thing necessary to be done to give effect to this provision.
- (2) A direction under regulation 19(1) shall specify the period within which the direction must be complied with and for how long the direction must be complied with.
- (3) If a person is directed to do something under regulation 19(1) but does not comply with the direction, then the licensee may authorize any of its employees or any other person to carry out that direction and the person to whom the initial direction was issued must do all such things as that person is requested by the authorized person to do in order to assist the authorized person to carry out that direction.
- (4) Nothing in this Regulation shall limit any power or right conferred by any other law or by agreement on a licensee or user.

20. Interconnection and Boundary Delineation

- (1) Each licensed IEDN operator shall operate in the geographical area specified in its license.
- (2) A licensed IEDN operator may enter into agreement to provide open access to a licensed generator, distributor or transmission company which shall be approved by the Commission in line with the provisions of standard network agreements.
- (3) Where augmentation or interconnection with the facilities of:
 - (i) Transmission System is required, the System Operator shall coordinate the scheduling of such activities with all licensees that would be impacted by such activities,
 - (ii) Larger Distribution System is required, the distribution licensee of the larger size (in KVA) Distribution System shall coordinate the scheduling of such activities with all licensees that would be impacted by such activities,
 - (iii) Another IEDN of similar size (in KVA) is required, the IEDN giving access coordinates operations
- (4) The agreement in clause 3 above shall be subject to the approval of the Commission.

CHAPTER V COMMERCIAL ARRANGEMENT

21. Determination of Tariffs and Other Charges

- (1) The tariffs and other charges due to a licensee for distribution services shall be determined in accordance with the methodology for determination of distribution tariffs adopted by the Commission under section 76 of the Act and in force from time to time.
- (2) Notwithstanding regulation 21(1), a licensee may propose to the Commission, charges, tariffs and tariff methodologies outside the limit of the methodology developed in accordance with section 76 of the Act in force, and the Commission may consider the application of such tariffs, charges and methodologies where there are special circumstances requiring it to do so.
- (3) Where an IEDN Licensee cannot undertake the re-enforcements and extension needed to evacuate the power generated into the network, the Connection Agreement shall provide for the recovery of the cost incurred by the Embedded Generator for any re-enforcements or extension executed based on an agreed timeline.

- (4) Where users of the IEDN contribute to the provision of the distribution infrastructure such contribution shall be taken into account in the determination of the end use tariff.
- (5) Where a generator supplies electric power to an IEDN, the procurement process shall be competitive and in accordance with the provisions of the bulk power and ancillary services procurement guidelines approved by the Commission.
- (6) Feed-in-Tariff to be determined by the Commission shall apply to renewable power supply system connected to an IEDN.
- (7) Where the situation warrants, the parties agree and upon proper documentation, the Commission may grant consent to a distribution licensee to appoint an Embedded IEDN as agent to undertake part of the Distribution licensee's regulated functions.
- (8) Eligible customers connected to an IEDN shall pay a Distribution Use of System Charge to the IEDNO.

CHAPTER VI MISCELLANEOUS

22. Procedure for Securing Compliance with Licences

- (1) Where the Commission, on the basis of material or evidence in its possession is satisfied that the licensee is contravening, or is likely to contravene, the terms and conditions of licence, it shall serve an Order to the licensee to do, or not to do, such things as are specified in the Order for the purpose of rectifying or avoiding any contravention or threaten contravention of any term or condition of the licence.
- (2) The Order shall specify the period within which the licensee shall rectifying or avoid the contravention or threaten contravention of the term or condition of the licence.
- (3) Upon expiry of the period specified in the Order, if no compliance is achieved, the Commission shall proceed to enforce the Order through the enforcement mechanism established by it.

23. Proceedings before the Commission

All proceedings before the Commission under these regulations shall be governed by the Business Rules of the Commission as may be amended from time to time.

24. Complaint Procedure

- (1) All customer complaints shall be resolved in accordance with the Commission's Regulation on Customer Complaints: Standard and Handling Procedure.

- (2) Unresolved customer complaint by the IEDN shall be referred to the forum office within the closest proximity to the IEDN operational area.
- (3) Provisions of the regulations on Customer Services standard of Performance for Distribution Companies relating to Reconnections of supplies and metering services shall apply to the IEDN.

25. Dispute Resolution

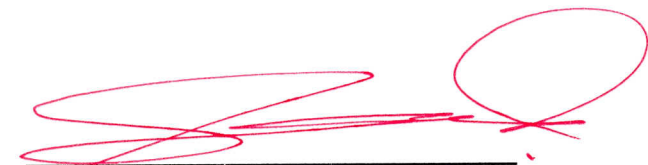
Disputes between market participants shall be resolved in line with the dispute resolution mechanism established by the Commission under Rule 43 of the Market Rules

26. Amendment or repeal

The Commission may amend or repeal, in whole or in part, the provisions of these Regulations.

SIGNED BY THE ORDER OF THE COMMISSION

On this 7th day of March 2012



Dr. Sam Amadi
Chairman/CEO