



**NIGERIAN ELECTRICITY REGULATORY COMMISSION**  
**ELECTRICITY THEFT AND OTHER RELATED OFFENCES**  
**REGULATIONS, 2014.**

DRAFT

**REGULATION NO: NERC-R-????**

**NIGERIAN ELECTRICITY REGULATORY COMMISSION .**

**In exercise of the Powers to make Regulations conferred by Section 96 (1) of the Electric Power Sector Reform Act (Act No. 6 of 2005), Section 94 (1)&(3) of the Act, and all other powers enabling it in that behalf, the Nigerian Electricity Regulatory Commission makes the following Regulations to deter the theft of electricity, theft and destruction of electricity supply infrastructure and penalties for such theft and or destruction.**

#### **ARRANGEMENT OF REGULATIONS**

Short Title and Commencement

1. Theft of Electricity
2. Theft of Electricity Lines
3. Damage to Electricity Infrastructure
4. Damage to Electricity Lines
5. Ascertainment of cost of damage under this Regulation
6. Punishment for Parties to Offences under Section 94 of the EPSR Act 2005
7. Punishment for Receiving Stolen Property

8. Interference with Meters or works of Licensee
9. Penalties not to affect other Liabilities
10. Penalty where works belong to Licensee
11. Offences of Companies
12. Compounding of Offences
13. Prima facie Evidence of Illegal use of Electricity and Theft of Electricity Lines and Materials and Infrastructure
14. Incentive Scheme
15. Disconnection of Electric Service
16. Liability of the Licensee
17. Severability Clause
18. Interpretations
19. Commencement Clause

**Citation**

## **ELECTRIC POWER SECTOR REFORM ACT**

**(No. 6 of 2005)**

### **REGULATIONS TO DETER THE THEFT OF ELECTRICITY, THEFT AND DESTRUCTION OF ELECTRICITY SUPPLY INFRASTRUCTURE, AND PENALTIES FOR SUCH THEFT AND OR DESTRUCTION.**

#### **FOR ELECTRICITY OFFENCES**

In exercise of the powers conferred by Section 94 (3) and 96(1) of the Electric Power Sector Reform Act, 2005 ("The Act") and all other powers enabling it in that behalf, the Nigerian Electricity Regulatory Commission ("The Commission") makes the following Regulations-

#### **1. Theft of Electricity**

- (1) Any person who willfully and unlawfully-
  - (a) taps, makes or causes to be made any connection with overhead, underground or - under water lines or cables, or service wires, or service facilities of a licensee: or
  - (b) tampers with a meter, installs or uses a tampered meter, current reversing transformer, shorting or shunting wire, loop connection, receives electricity supply by by-passing a meter, or uses any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in diversion in a manner whereby electricity is stolen or wasted: or
  - (c) damages or destroys an electric meter, apparatus, equipment, wire or conduit or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity, so as to abstract or consume electricity or knowingly use or receive the direct

benefit of electric service through any of the acts mentioned in paragraphs (a), (b) and (c) or uses electricity for the purpose other than for which the usage of electricity was authorized, so as to abstract or consume or use electricity shall be guilty of an offence under Sections 383 and 400 of the Criminal Code, Sections 286 (2) of the Penal Code and Section 1 of this Regulation, and shall be punishable with terms of imprisonment as applicable, provided under Sections 390 of the Criminal Code, Section 287 of the Penal Code or with imprisonment for a term of three years under this regulation or with fine or with both fine and imprisonment

Provided that where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use –

- (i) Does not exceed 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity.
- (ii) Exceeds 10 kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extend to five years and with fine not less than six times the financial gain on account of such theft of electricity:
- (iii) Provided that in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use exceeds 10 kilowatt, such person shall also be debarred from getting any supply of electricity for a period which shall not be less than three months but shall extend to two years and shall also be debarred from getting supply of electricity for that period from any other licensee.

Provided further that if it is proved that any artificial means or means not authorized by the Commission or licensee exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been willfully and unlawfully caused by such consumer.

2 (1).Without prejudice to the provisions of the Criminal Code, Penal Code, EPSR Act 2005 or any other Commissions Regulations, the licensee, may, upon detection of such theft of electricity, immediately disconnect the supply of electricity;

Provided that only such officer of the licensee as authorized for the purpose by the Commission or any other officer of the licensee of the rank higher than the rank so authorized shall disconnect the supply line of electricity.

Provided further that such officer of the licensee shall lodge a complaint in writing relating to the commission of such offence to the police station having jurisdiction in the locality the offence was committed within twenty-four hours from the time of such disconnection and to the Commission within forty-eight hours.

Provided also that the licensee on deposit or payment of the assessed amount or electricity charges as well as meeting other conditions in accordance with the provisions of this Regulation, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this clause, restore the supply of electricity within forty-eight hours of meeting such conditions.

2 (2) Any officer(s) authorized in this behalf by the Commission may-

(a) enter, inspect, and search any place or premises in which he has reason to believe that electricity has been, is being, or is likely to be used unlawfully; provided that such inspection or search shall be limited ONLY to the meter and related surroundings and devices. (b) search, seize and remove all such devices, Instruments, Wires and any other facilitator or article which has been, is being, or is likely to be used for unlawful use of electricity;

(c) examine or seize any books of account or documents which in his opinion shall be useful for or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts there from in his presence.

- (3) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list:

Provided that no inspection, search and seizure of any domestic places or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

- (4) In determining and assessing the financial gain on account of the theft as provided for in Section 1(1) (i) (ii) (iii) above, if on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer(s) comes to the conclusion that such a person is indulging in unauthorized use of electricity, he shall assess to the best of his judgment, the electricity charges payable by such a person or by any other person who benefited by such use.

ii. The result or Order of the assessment shall be served upon the person in occupation or possession or in charge of the place or premises either personally or by pasting same in the premises, and this shall be deemed good service.

iii. If the assessing officer(s) reaches to the conclusion that unauthorized use of electricity has taken place, it shall be presumed that the unauthorized use of electricity was continuing for a period of three months immediately preceding the date of inspection in the case of residential premises and 6 months for all other categories of services, unless the onus is rebutted by the person, occupier or possessor of such premises or place.

5. (1) A distribution licensee may deny service to a location with a history of unauthorized use if service has been disconnected in compliance with the provisions of the Commission's Disconnection Regulation in the location at least twice in the past two years, notwithstanding any other administrative rules or

statute if it is determined that denying service at the location would prevent the reoccurrence of the unauthorized use.

(2) A Customer who wants service reconnected to the location shall be required to;

(a) Provide evidence of property ownership, and before reconnection, pay the actual cost to repair the licensee's equipment and facilities in the location and all fees and deposits as approved by the Commission, including all charges due to the Utility for previous unauthorized use that occurred during his or ownership; or

(b) Provide a signed lease agreement that will indicate the identity of the tenant responsible for the previous unauthorized use.

(c) If the Customer could not provide the documentation and does not pay the charges for previous unauthorized use, the licensee could still reestablish service if the customer agrees to pay and pays additional fee for reestablishing service as approved by the Commission. (4The Provisions of the Criminal Procedure Code and Criminal Procedure Act relating to search and seizure shall apply, as far as may be, to searches and seizure under this Regulation

6. For the purposes of this Regulation, theft of electricity shall be a strict liability offence.

## **2. Theft of Electricity Lines (including Transmission lines) and Materials**

(1) Any person who willfully and unlawfully-

(a) cuts or separates, slits, severs, smelts, severs,, removes or takes away or transfers any electric line/ material or meter from any tower, pole, or from any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation whether or not the act is done for profit or gain: or



(b) Stores, possesses or otherwise keeps in his premises, custody or control, any electric line/ material or meter, equipment whether or not the act is committed for profit or gain or;

(c) loads, carries away or moves from one place to another with or without the use of a motor vehicle or other means of conveyance, any electric line/ material or meter from a tower, pole, any other installation or place of installation, or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located whether or not the act is done for profit or gain, is said to have committed an offence of theft of electric lines and materials contrary to the provisions of Section 383 of the Criminal Code, Section 286 of the Penal Code, Section 94 of the EPSR Act 2005 and under this Regulation and shall be punishable with terms of imprisonment as applicable provided under Section 390 of the Criminal Code, Section 287 of the Penal Code or Section 94 of the EPSR ACT 2005.

(2) If a person having been convicted of an offence punishable under sub-section (1) and is subsequently convicted for the same offence, he shall be liable for the second or subsequent offence to a term of imprisonment which shall not be less than five years but which may extend to seven years and shall also be liable to a fine which shall not be less than Five Hundred Thousand Naira

### **3. Damage to electricity infrastructure**

(1) Any person who willfully and unlawfully

(a) Destroys, damages or removes any electricity infrastructure; or

(b) Otherwise prevents or obstructs the delivery of electricity by means of the infrastructure shall be guilty of an offence under Section 451 of the Criminal Code, Section 326 of the Penal Code and Section 94 of the EPSR Act 2005. and shall be punishable upon conviction with terms of imprisonment provided under

Sections 451 of the Criminal Code, Section 334 of the Penal Code or Section 94 of the EPSR Act 2005 as applicable.

(2) Any person found guilty of an offence under subsection (1) of this section shall, on conviction be liable-

(a) in the case of an offence under paragraph (a) of subsection (1) of this section, to a fine of two times the value of any such infrastructure as might have been destroyed, or to both such fine and imprisonment provided under the relevant law arraigned; or

(b) in the case of an offence under paragraph (b) of subsection (1) to a fine of N500,000 or to a term of imprisonment provided under the relevant law arraigned, or to both such fine and imprisonment.

#### **4 Damage to electricity lines, etc**

(1) Any person who willfully and unlawfully-

(a) Destroys, damages or removes any electricity lines; or

(b) Destroys or damages any transmission line or removes anything connected therewith; or

(c) Destroys or damages any distribution line or removes anything connected therewith; or

(d) Otherwise prevents or obstructs the transmission or distribution of electricity through the transmission or distribution line, shall be guilty of an offence under Section 451 of the Criminal Code, Section 326 of the Penal Code and Section 94 of the EPSR Act 2005, and shall be punishable upon conviction to a term of imprisonment provided under Section 451 of the Criminal Code, Section 334 of the Penal Code or Section 94 of the EPSR Act 2005 as applicable. In the case of ;

i. Damage or obstruction of a transmission line, an option of fine of not less than One Million Naira or to both fine and imprisonment.

- ii. Damage or obstruction of a distribution line, an option of fine of not less than Five Hundred Thousand Naira or to both fine and imprisonment

#### **5. Ascertainment of cost of damage under this Regulation**

For the purposes of this Regulation, the certificate issued by the relevant licensee (and certified by NERC) stating the cost of the damaged item, shall be conclusive evidence as to the cost of the removed or destroyed electricity distribution line, transmission line or anything connected therewith.

#### **6. Punishment for parties to offences under Sections 383, 390,400,451 of the Criminal Code, Sections 286, 326, 334 of the Penal Code and Section 94 of the EPSR Act 2005, or this Regulation (Aiding and Abeting)**

(1) Any person who-

(a) aids, counsels, abets or procures any person to commit an offence under Sections 383, 390, 400, 451 of the Criminal Code, Sections 286, 326, 334 of the Penal Code, Section 94 of the EPSR Act 2005 or under this Regulation; or

(b) conspires with any person to commit an offence under Sections 383, 390, 400, 451 of the Criminal Code, Sections 286, 326, 334 of the Penal Code, Section 94 of the EPSR Act 2005 or under this Regulation,

whether or not he is present when the offence is committed, shall be deemed to be guilty of the offence as a principal offender and shall be liable to be prosecuted in accordance with the laws referred to in this Regulation and shall upon conviction be liable to the same penalty as if he had committed the offence.

(2) Without prejudice to any penalty or fine which may be imposed or prosecution which may be initiated under this Regulation or any other law for the time being in force, if any employee of the licensee enters into or acquiesces in any agreement or otherwise, to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity, lines, infrastructure or destruction thereof is committed, such

officer shall be punishable with imprisonment for a term which may not be less than six years or with fine or both.

#### **7. Punishment for receiving stolen property**

Any person who receives any electric lines or materials or infrastructure in parts or in whole, knowing or having reasons to believe the same to be stolen property, shall be guilty of an offence under Section 427 of the Criminal Code, Sections 317, 318,319A of the Penal Code and Section 94 of the EPSR Act 2005 and this Regulation and shall be punishable upon conviction with a term of imprisonment as provided under Section 427 of the Criminal Code, Section 317,318 319 of the Penal Code or Section 94 of the EPSR Act 2005 as applicable.

#### **8. Interference with meters or works of licensee**

- (1) Anyone who willfully or unlawfully-
  - (a) connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line; or
  - (b) reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected; or
  - (c) lays or causes to be laid or connects any works for the purpose of communicating with any other works belonging to a licensee; or
  - (d) maliciously injures any meter, indicator or apparatus belonging to a licensee or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from accurately registering,

Shall be guilty of an offence and shall be punishable upon conviction with a term of imprisonment which may not exceed three years, or with fine which may not exceed One Million Naira or with both fine and imprisonment.

**9. Penalties not to affect other liabilities**

The penalties Imposed under this Regulation shall be in addition to, any liability in respect of payment of compensation or, in the case of a licensee, the suspension and/or cancellation of its licence which the offender may have incurred.

**10. Penalty where work belongs to Licensee**

This Regulation shall, so far as it is applicable, be deemed to apply also when the acts made punishable thereunder are committed by or of works belonging to the Licensee.

**11. Offences of Companies**

(1) Where an offence under this Regulation has been committed by a legal entity (company, partnership, firm, corporation, association, etc), including a government-owned or –controlled corporation, every person who, at the time

the offence was committed, was in charge of and/or was responsible to the legal entity as well as the entity shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proved that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

## 12. **Compounding of Offences**

(1) Notwithstanding the provisions of the Criminal Code, Penal Code, CPA Criminal Procedure Act( and CPC (Criminal Procedure Code), or any extant laws, the Commission may direct any person who has committed an offence of theft of electricity to pay a sum of money to the affected Licensee or legal entity by way of compounding of the offence as specified in the table below:

<b>TABLE</b>	
Nature of Service	Rate at which the sum of money for Compounding to be collected per Kilowatt (KW)/H or part thereof for Low Tension supply

	and per Kilo Volt Ampere of contracted demand for High Tension.
1	2
1. Industrial Service	One Million Naira
2. Commercial Service	Five Hundred Thousand Naira
3. Agricultural Service	Two Hundred Thousand Naira
4. Other Services	Four Hundred Thousand Naira

Provided that the Commission may by Official Gazette, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set free and no proceedings shall be instituted or continued against such consumer or person in Court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Commission or an officer authorized in this behalf shall be deemed to amount to an acquittal within the meaning of **Section 181 (1) of the Criminal Procedure Act**

(4) The Compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

**13. (1) Prima Facie Evidence of illegal use of electricity and theft of Electricity, lines and materials and infrastructure**

(a) Any of the following circumstances shall constitute prima facie evidence of illegal use of electricity::

(i) The presence of a drilled hole on the glass cover of the electric meter, or at the back or any other part of said meter;

(ii) The presence inside the electric meter of any elements that could result in the inaccurate registration of the meter's internal parts to prevent its accurate registration of consumption of electricity;

(iii) The existence of any wiring connection which affects the normal operation or registration of the electric meter;

(iv) The presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph, or computerised chart, graph or log;

(v) The presence in any part of the building or its premises which is subject to the control of the consumer or on the electric meter, of a current reversing transformer, jumper, shorting and/or shunting wire, and/or loop connection or any other similar device;

(vi) The mutilation, alteration, reconnection, disconnection, bypassing or tampering of instruments, transformers, and accessories;

(vii) The destruction of, or attempt to destroy, any integral accessory of the metering device box which encases an electric meter, or its metering accessories; and

(viii) The acceptance of valuable consideration in any form whatsoever by any officer or employee of the licensed owner or the making of such an offer of valuable consideration to any such officer or employee for not reporting the presence of any of the circumstances enumerated in subparagraphs (i), (ii), (iii), (iv), (v), (vi), or (vii) hereof: Provided however, that the discovery of any of the foregoing circumstances, in order to constitute prima facie evidence, must be attested by a law enforcement agent or a duly authorized staff, inspector or agent of the Commission.



- (b) Where it is found that a customer is involved in any or all the circumstances that constitute a prima facie evidence of illegal use of electricity, the person shall be subjected to the following:
- (i) the immediate disconnection by the Disco of supply of power to such person in accordance with the Connection and Disconnection Procedures of the Commission and reporting the incident to the Police for investigation or forwarding a request to the Attorney General of the Federation for the filing of information in Court upon establishing the veracity of the complaint made by the Disco;
- (c) The unlawful possession, control, or custody of electric power transmission or distribution line/material by any person, shall be prima facie evidence of the offence of theft of electricity lines and materials and the person shall be subjected to the following:
- (i) The immediate seizure or confiscation of such line/material from the person in possession, control or custody thereof and reporting same to the Police for investigation
- (a) An incident shall constitute prima facie evidence only if it is admitted by the consumer concerned, or attested by a volunteer, a law enforcement officer or a duly authorised representative of the Commission.

#### **14 . Incentive Scheme. –**

An incentive scheme by way of monetary reward of a minimum of N10,000.00 (Ten Thousand Naira) and above shall be given to any person who reports to the

Commission or the Nigerian Police or other law enforcement authorities any act which constitutes a violation of this regulation.

#### **15 . Disconnection of Electric Service**

A Distribution Licensee may disconnect the electricity supply of a customer without prior notice or order of a court or the Commission, and deny restoration of same on the occurrence of the following:

(a) When the owner or occupier of the premises or someone acting on his behalf commits any of the acts specified in Section 19(a) hereof ;Provided that:

(i) a written notice or warning was issued upon the first discovery;;

(ii) electric service shall be immediately restored upon the deposit of the amount representing the differential billing by the person denied the service, with the consent of the licensee.

#### **16. Liability of the licensee**

(a) Where a court acquits an accused person, the amount deposited shall be credited against future billings, with legal interest thereon chargeable against

the licensee. This shall be without prejudice to any criminal, civil or administrative action that such person may be entitled to under existing laws, rules and regulations;

(b) Where the offence is committed by, with the knowledge or consent of, or in connivance with an officer or employee of the licensee concerned, such officer or employee shall, upon conviction, be punished forthwith and dismissed from the employment of the licensee and disqualified from holding employment in any public or private utility

(c) Where a licensed owner knowingly permits or has knowledge of the commission of offence provided herein and fails to prevent the same, or was otherwise guilty of negligence in connection with the commission thereof, the licensed owner shall be made to pay a fine not exceeding triple the amount of the "differential billing".

(d) Where the violation is committed by a partnership, firm, corporation, association or any other legal entity, including a government-owned or – controlled corporation, the penalty shall be imposed on the Chief Executive Officer, or Manager of the entity who shall be deemed to have knowingly permitted, failed to prevent or was otherwise responsible for the commission of the offence.

17. **Severability Clause.**

If one or more provisions contained in this Regulation are held or found to be invalid, illegal, or unenforceable in any respect, the provision(s) shall be given effect to the extent permitted by law and the invalidity, illegality, or unenforceability of any provisions shall not affect the validity of the remaining provisions of this Regulation.

## 18. Interpretations

Unless the context indicates otherwise, capitalised words used in this Regulation, shall have the corresponding meaning set out below:

**“Act”** means the Electric Power Sector Reform Act, 2005, or any amendment thereof

**“Commission”** means the Nigerian Electricity Regulatory Commission

**“Company”** means a body corporate and includes a firm or other association of individuals;

**“Competent Authority”** means chairman, commissioner or such other officer of the Commission designated from time to time for the purpose by the Commission in accordance with these Regulations

**“Complaint”** means and includes a written statement in which a person raises an issue about a matter in respect of which the Commission is empowered to act upon by the Act or Regulations

**“Current Bill”** means the latest monthly bill served by the licensee

**“Current rate”** means the average rate of electricity per kilowatt hour as reflected in the current bill

**“Days”** means working days, excluding Saturdays, Sundays and public holidays declared by the Federal Government of Nigeria

**“Differential billing”** means as defined in the estimated billing methodology

**“Electrical materials”** means as is defined in the Grid, Distribution and Metering Codes

**“Licensee”** means any person who holds a licence issued under Part IV of the Act;

**“Month”** means a calendar month

**“Officer”** means a staff or authorized representative of the Commission

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

**“Regulations”** means the NERC Electricity Theft and other Related Offences Regulations, 2013

- i. Words importing any one gender includes the other gender, and the singular includes the plural and vice versa.
- ii. Words or expressions used in these Regulations but not defined unless the context otherwise requires shall have the same meanings respectively assigned to them in the Act.

19. Commencement Clause: – This Regulation shall come into force on the date on which it is published in the Official Gazette.

The Commission may amend or repeal the provisions of this Regulation.

Citation: This Regulation shall be cited as the **Nigerian Electricity Regulatory Commission’s Electricity Theft and other Related Offences Regulations, 2013**

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