



NIGERIAN ELECTRICITY REGULATORY COMMISSION

Press Statement:

Unsolicited Applications for Generation Capacity: The “Nigerian Electricity Regulatory Commission (NERC) Regulations for the Procurement of Generation Capacity 2014”

In accordance with the provisions of section 96 of the Electric Power Sector Reform (EPSR) Act, 2005, The Nigerian Electricity Regulatory Commission (NERC) made the “Regulations for the Procurement of Generation Capacity, 2014”. This was the culmination of a consultative rule-making process, as required by the Commission’s Business Rules. The process started in 2012.

These Regulations were made to ensure that licenses are issued upon the reasonable expectation that the purposes for which licenses are issued are met. The background to this necessary was the fact that since inception in 2006, the Commission had issued over 80 new entrant IPP licenses, of which much less than were being actively developed. The Regulations came into effect on February 11, 2014 and provide for the processes to be used by a Buyer in procuring additional electric generation capacity. The Regulations:

- establish a systematic, transparent and competitive process that provides reasonable assurance that a buyer procures additional generation capacity at least cost to consumers,
- ensure that the firms contracted to provide new capacity have the necessary technical expertise, financial resources and industry experience,
- minimize opportunities for speculative license applications, financial manipulation, fraud or corruption, and
- facilitate the involvement of the private sector in the provision of generation capacity on the basis of rules that provide certainty,

transparency and fairness of the procurement process and outcome.

The Regulations in Section 5.2 prohibit, unless otherwise approved by the Commission for good cause, the solicitation of bids or proposals for the provision of generation capacity outside the application of the Regulation and the entry into any contract involving the purchase of electrical output of any generation facility to which the Regulations apply.

Transactions exempt from the application of the Regulations, per section 5.3 include:

- Small scale power plants generating 10MW or less,
- Purchase of occasional electricity supply from a self-scheduling generator,
- Any procurement by a Buyer under any agreement entered into prior to the coming into force of these Regulations, including pending applications,
- Any procurement by a Buyer under any option or other right to acquire generating capacity or electricity, subject to the approval of NERC, where such option or other right had been granted prior to the coming into force of these Regulations, notwithstanding the date of exercise of the option or other right.

In order to define “good cause” in clear unambiguous terms and the sort of applications for generation capacity which may be considered under this head, the Commission passed resolutions in line with due process, defining “good cause” to include the following:

- **Renewable and Alternative Power** – Renewable energy based power projects such as solar, wind, biomass or small hydro which require no fuel supply agreement and in respect of which feed-in-tariffs have been approved with no capacity charge component;
- **Environment-related Projects**- i.e. where a guaranteed fuel source for the generation of power may be a solution to waste disposal challenges, e.g. a sawmill desirous of using saw dust for biomass power, a sugar factory using bagasse for power generation or a landfill generating power from landfill gas etc.
- **Grid Stability** – As the country runs on one transmission grid and its stability is paramount to the development of the NESI, the siting of a plant in an area which will contribute to maintaining

stability of the grid may be acceptable to the Commission as a project which is developed for “good cause”. This may however only be done with the involvement of the System Operator (SO) after the carrying out of stability studies.

- **Excess Generation** – Companies with existing Captive Power Generation Permits intending to sell and supply their excess power to the national grid. The relevant NERC Regulation has already stipulated that a licence is required if the excess capacity is above 1MW. This includes off-grid generation companies with available excess capacity which can be utilized to increase supply to consumers.
- **Available Fuel Source** – Companies with available fuel provided that such companies undertake competitive procurement and take efficient price.

In accordance with the provisions of these Regulations, the Commission has stopped the further processing of license applications with the exception of those coming under the “good cause” provision as determined by it.

Notwithstanding the above provisions, before an application for license may be received at the Commission, it must be in conformity with the requirements of the “NERC Application for Licenses (Generation, Transmission, System Operations, Distribution and Trading) Regulations 2010” in the specified form and with the specified information.

Potential investors in the Nigerian Electric Power Sector are expected to adhere strictly to the provisions of NERC Application for Licenses, (Generation, Transmission, System Operations, Distribution and Trading) Regulations, 2010 as well as the NERC Regulations for the Procurement of Generation Capacity 2014 as the Commission commits to the provision of processes and mechanisms for the effective regulation of the sector and the provision of safe, adequate, reliable and affordable electricity to consumers.

In accordance with these Regulations, the Nigerian Bulk Electricity Trading Company Plc (“NBET”) has been directed by the Commission to commence necessary preparation, in collaboration with parties including the System Operator, Market Operator, Transmission Services Provider and the Gas Aggregation Company of Nigeria, for the first electricity Power Purchase Agreement procurement round expected to be undertaken no later than June in 2015.

While this process is underway, the Commission will continue to process license applications that were filed before these Regulations came into force. Furthermore, negotiations between the NBET and new entrant IPPs are also ongoing and the Commission expects that final tariff approval will be given and construction will proceed for at least one, possibly two, of these new entrants well before year end 2014.

Finally, the Commission commits itself to the strict but fair application of this Regulation in such a manner as to guarantee that, first, henceforth there shall be guaranteed increases in electrical generation capacity annually contracted for; second, that these new capacities shall be between buyers and sellers who each have the technical, financial and managerial capacity to enter into Power Purchase Agreements (PPAs); and, third, that these PPAs shall be procured via open, transparent and competitive means designed to guarantee that the tariff paid by the end consumer is reasonable, prudent and cost-effective.

Thank you.



Dr. Sam Amadi
Chairman/CEO
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