



NIGERIAN ELECTRICITY REGULATORY COMMISSION
DRAFT METER ASSET PROVIDERS REGULATIONS 2017

REGULATION NO: XXX

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NIGERIAN ELECTRICITY REGULATORY COMMISSION

In exercise of the powers conferred on the Nigerian Electricity Regulatory Commission (“NERC or the Commission”) by section 96 of the Electric Power Sector Reform Act, and all other powers enabling it in that behalf, the Commission makes the following Regulations:

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CHAPTER I

GENERAL

1. Commencement

1. These Regulations shall come into effect on the date it is approved by a resolution of the Commission.
2. These Regulations shall be signed by the Chairman/Chief Executive of the Commission who shall cause the seal of the Commission to be affixed thereon.

2. Objective of these Regulations

1. The main objective of these Regulations are to provide standard rules to:
 - a. Encourage the development of independent and competitive meter services in the NESI.
 - b. Eliminate estimated billing practices in the NESI.
 - c. Attract private investment into a viable metering services industry.
 - d. Close the metering gap through accelerated meter roll out.
 - e. Enhance revenue assurance for the NESI

3. Interpretation

Unless otherwise specified in these Regulations:

1. Words importing any one gender include the other gender and the singular includes the plural and vice versa.
2. Words or expressions used in these Regulations but not defined shall have the same meanings respectively assigned to them in the Act.
3. 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.
4. 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. Definitions

In these Regulations, unless the context otherwise requires:

1. **“Act”** means the Electric Power Sector Reform Act 2005, as may be amended from time to time;
2. **“Commission”** means **The Nigerian Electricity Regulatory Commission** established by the EPSR Act;
3. **“Cost of the Asset”** means the cost of the meter, meter accessories and all associated costs of meter installation plus a return on investment.
4. **“Distribution Licensee”** means a holder of a distribution license issued under section 67 of the Act and any other holder of a distribution license issued by the Commission;
5. **Licence Terms and Conditions** mean the terms and conditions to which licences issued by the Commission under the Act are subject, including terms and conditions, prescribing the metering of customers in the NESI authorized and approved by the Commission under sections 76 of the act;
6. **“Meter”** means a device that measures and registers the integral active energy or reactive energy over a metering interval and may include a data recorder but shall be deemed to exclude instrument transformers;
7. **“Meter Asset Provider” (MAP)** means an entity that is granted a Permit to provide metering services which may include meter financing, procurement, meter tests, supply, installation, maintenance and replacement;
8. **“Metering Code”** means the code of the Commission that regulates metering systems in the network for the Nigerian Electricity Supply Industry;
9. **“Metering Service Agreement” (MSA)** means an agreement entered into between the Distribution licensee and the Meter Asset Provider to provide metering services.
10. **“Metering Service Provider” (MSP)** means a person certified by the Commission as defined in the *Guidelines for the certification of Metering Service Providers and related matters*;
11. **“NESI”** means the Nigerian Electricity Supply Industry;
12. **“Regulations”** include any Regulation made pursuant to section 96 of the act and all other subsidiary Regulations applicable to the Nigerian Electricity Supply Industry;

13. **“Service Level Agreements” (SLA)** means a contract between the Meter Asset Provider and the Distribution Licensee which defines the level of service expected from the Distribution Licensee to be provided by the MAP to the Customer.
14. **“Tender Auditor”** means a reputable firm or consortium of reputable firms appointed by NERC to audit the conduct and results of the distribution licensee’s procurement process for the engagement of a MAP.

CHAPTER II

Meter Deployment and Replacement

5. Metering Obligations:

1. The Distribution Licensee is responsible for meeting its metering targets as stipulated by the Commission from time to time;
2. The Distribution Licensee shall procure the services of MAP in accordance with these regulations to enable it meet its metering targets.

CHAPTER III

Licensing Requirements and Process for Qualification as a Meter Asset Provider

6. Statutory Requirements

1. Completed Application Form;
2. Certificate of Incorporation and Memorandum and Articles of Association, or Deed of Partnership, or Deed of Trust, etc (as applicable);
3. Tax Clearance Certificates for immediate past three (3) years (where applicable);
4. Certified Audited Financial Statements for immediate past three (3) years;
5. Detailed CVs of managerial and technical staff of the MAP;
6. Ten-year Business Plan

7. Technical Requirements

1. The Distribution Licensee and the MAP shall ensure compliance with all relevant provisions of the metering code, the guidelines for certification of MSP and related matters and other relevant Regulations.

8. Technology Requirements

1. Minimum technology/back-office requirements. The MAP must have sufficient resources to deploy technology capable of maintaining and retrieving records of financial, inventory, customer data and deployed infrastructure on an on-line real time basis sufficient for regulatory and statutory reviews.
2. The technology-type deployed by the MAP shall be capable of being integrated to the Distribution Licensee's vending platform. Evidence of applicable certifications shall be required

9. Licensing and Procurement Process

1. The procurement process for the engagement of the MAP shall be as provided in Schedule 1 of these Regulations.
 2. The Distribution Licensee shall conclude the procurement process for the engagement of MAP within 120 calendar days of coming into effect of these Regulations.
 3. The Commission shall engage the services of a tender auditor to audit the conduct and results of a distribution licensee's procurement process for the engagement of the MAP.
 4. Upon completion of evaluation of bids, the successful bidder shall submit an application for the grant of a Meter Asset Provider license to the Commission.
 5. The Commission shall grant a license to the successful bidder subject to satisfactory compliance with the minimum qualification criteria and procurement processes provided in these Regulations.
 6. The tenure of MAP license shall be 15 years in the first instance.
 7. Subject to the Commission's approval of the procurement process and grant of a Meter Asset Provider license, the Distribution Licensee shall enter into Meter Service Agreement with the successful bidder.
 8. A publication shall be placed by the distribution licensee in at least two national newspapers stating the name of the successful bidder licensed by the Commission to provide meters, the number and cost of such meters and the deployment period.
- 10. Local Content Requirement:** The MAP shall source not less than 40% of its contracted metering targets from local meter manufacturing/assembling companies in Nigeria.

CHAPTER IV

Rights and Obligations of Parties

11. Rights of the Distribution Licensee

1. Access to customer Meters by the Distribution Licensee:
 - a. The Distribution Licensee shall be granted access to the meter to enable it carry out its operations.
 - b. Such access rights to customer meters shall be subject to the general conditions in the Metering Code, Meter Reading Billing and Collection Regulations and any other applicable Regulation of the Commission.
2. Right to use of data derived from customer meter for billing and planning purposes.
3. Right to query data output from the meter where such data is found unacceptable.
4. The Distribution Licensee shall treat cases of meter tampering and energy theft in accordance with existing Regulations and laws.

12. Obligations of the Distribution Licensee

1. Plan and execute a transparent and competitive procurement process to engage a qualified Meter Asset Provider.
2. Enter into a Meter Service Agreement (MSA) with selected MAPs for the deployment of a specified number of meters within the tenure of the agreement.
3. Develop and agree on a meter deployment plan to meet its metering targets as stipulated by the Commission.
4. Provide a payment security acceptable to the MAP in line with the terms of the MSA.
5. Provide relevant information in a timely manner to the MAP to enable it carry out its duties.

13. Rights of the MAP

1. Ownership of the asset throughout the useful life of the asset.
2. Receipt of periodic repayments as shall be specified in the MSA.
3. Access to customer premises to enable it carry out its operations with respect to the meter, subject to the general conditions in the Metering Code, Meter Reading, Billing and Collection Regulations and any other applicable Regulations of the Commission.

14. Obligations of the MAP to the Distribution Licensee

1. Provide detailed information on metering systems deployed in line with the terms of their engagement.
2. Obtain necessary tests, certifications and approvals for meters to be deployed in line with the MSA.
3. Engage only certified metering service providers to be used in deploying meters in line with the MSA.

15. MAP reporting Key Performance Indicators (KPIs)

1. The MAP shall agree on KPIs with the Distribution Licensees.
2. These KPIs shall form part of the Service Level Agreements which are to be filed with the Commission at the point of application for a licence. The provisions of the Meter Reading Billing and Collections Regulation and the Metering Code will be the benchmark.

16. Rights of the Customer

1. Every customer shall have a meter installed to ensure proper energy accounting.
2. If a metering system fault occurs, the MAP shall provide urgent metering services to repair or replace the meter and its accessories within two (2) working days as stipulated in the Metering Code.
3. The Customer shall have the right to have his meter repaired or replaced in line with the relevant provisions of the Metering Code.
4. Where there is a dispute, the customer has a right to fair resolution in accordance with the Metering Code and other applicable Regulations.

17. Obligations of the customer

1. Customers shall ensure the safety of the meter equipment, and shall not tamper with or remove it, nor permit access thereto except by duly authorised staff or agents of the MAP/Distribution licensee.

18. Customer Financing: Where the customer chooses the option of self financing of the meter:

1. The Distribution Licensee shall provide the customer with authorisation specifying the amount to be paid for installation of a meter after inspection of the customer's premises;

2. The customer shall pay to the MAP the full price of the meter as specified in the Distribution Licensee's authorisation;
3. The MAP shall supply and install such meter at the premises of the customer within 21 working days of the Customer's payment;
4. The Distribution Licensee shall own such meters and shall repay the customers through energy credits over a period not exceeding 5 years.

CHAPTER V

Agreements between Parties

19. Meter Service Agreement

1. The Distribution Licensee and the Meter Asset Provider shall enter into a Meter Service Agreement which shall provide for:
 - a. The number of meters to be installed by the MAP to the Distribution Licensee's network over an agreed timeframe;
 - b. Repayment for the Cost of the Asset covering a period of 15 years, to allow full recovery over the technical useful life of the asset;
 - c. Indexation provision over the tenure of the MSA to address variability in applicable macro-economic conditions.

20. Service Level Agreements between Parties

1. The Distribution Licensee and the MAP shall enter into Service Level Agreements specifying the following responsibilities:
 - a. Timeframe for meter installation;
 - b. Minimum installation standards;
 - c. Maintenance;
 - d. Periodic Meter Reading;
 - e. Meter replacements;
 - f. Meter testing and certification;
 - g. Unauthorised access and tampering;

- h. Indemnity on faulty installations;
- i. Specifications;
- j. Data management and exchange of information;

21. Key Performance Indicators

1. There shall be an agreed set of key performance indicators between the Distribution Licensee and the MAP.

22. Insurance and Disaster Recovery Plans

1. The MAP shall take necessary measures to insure and secure all metering equipment it deploys as provided in the MSA.
2. The Distribution Licensee shall ensure frequent back up of relevant data to ensure integrity of the metering system.

CHAPTER VI

Cost Structure and Payment Security for the Meter Asset Provider

- 23. Capital Cost:** The cost of the meter, meter accessories, and costs associated with the installation, testing and certifying the functionality of the metering system.
- 24. Maintenance Cost:** Planned or unplanned recurring costs required to support the ongoing operation of the metering system, Meter reading and inspection as may be agreed between the parties. Where applicable, costs associated with monitoring of meter tampering and bypass shall be as agreed by the parties.
- 25. Payment Security:** The Distribution Licensee shall within 30 days of grant of Permit by the Commission to the successful bidder, issue a payment security in any of the following forms:
 1. Cash on deposit in an interest bearing escrow or trust account maintained at a bank or other financial institution acceptable to the MAP, provided that the terms of deposit will include a condition that the funds are payable to the MAP upon demand; or
 2. An irrevocable direct pay Letter of Credit, or other guarantee of payment that shall be executable on demand to the interest of the MAP, provided by a bank or financial institution acceptable to the MAP; or

3. An unconditional and irrevocable guarantee of payment on demand to the MAP by any bank or financial institution acceptable to the MAP.
- 26. Repayments:** The Distribution Licensee shall make periodic payments to cover the cost of meters installed by MAP as agreed by both parties. In the event of default, the MAP shall call upon the payment security provided.

CHAPTER VII

Applicability of these Regulations

27. Applicability

1. These Regulations shall apply to all Distribution Licensees, MAPs and Customers and all types of end-user customer meters within the NESI. The Regulations shall not override metering contracts entered into by Distribution licensees prior to its coming into effect.

CHAPTER VIII

Miscellaneous

- 28. Prohibition:** The Distribution Licensee, its Directors and their spouses and children are prohibited from setting up, owning shares or holding Directorship and senior management positions in the MAP Company.
- 29. Dispute Resolution:** Disputes between parties in connection with these Regulations shall be resolved in line with the provisions of their respective Agreements (where applicable).
- 30. Application of other Regulations.** The provisions of all other Regulations, Rules and Codes of the Commission shall also be applicable to the extent of their relevance.
- 31. Amendment or Repeal.** The Commission may from time to time amend or repeal, in whole or in part, the provisions of these Regulations.
- 32. Submission of Agreements.** The Distribution Licensee shall submit to the Commission copies of all agreements entered into with the MAP.
- 33. Capping of Unmetered Customers Bills.** The Commission shall within 90 days of the approval of these Regulations, develop an order on capping of unmetered customers bills to address the issue of estimated billing in the NESI.

SCHEDULE 1 – PROCUREMENT REQUIREMENTS

1. Notice of Solicitation

1. A Distribution licensee shall declare a metering gap stating their intention to meter certain areas and requesting for prospective Meter Asset Providers to express interest for the provision of meters and metering services.

2. Criteria for Qualification

1. A Distribution licensee shall determine, subject to the guidelines contained in these Regulations, the information that must be provided by interested potential bidders in order to be pre-qualified in the solicitation process. Bidders must submit an Expression of Interest ("EOI") in accordance with the published EOI requirements, which shall include the following minimum general criteria: technical expertise, financial capability and experience in the metering business.

3. Publication of Invitation for EOIs

1. A Distribution Licensee shall request for Expressions of Interest in at least three Nigerian newspapers and the licensee's website, published in English.

4. Evaluation of EOIs Received by a Licensee

1. A Distribution Licensee shall review and evaluate the qualification of potential bidders who have submitted EOIs and notify all bidders of its determinations, including bidders that fail to satisfy the established criteria for becoming Qualified Bidders.
2. Unsuccessful bidders shall be informed in writing by a Distribution Licensee of the reasons for its disqualification of their bids. A Licensee shall publish the names of each Qualified Bidder.

5. Requests for Bid Documents

1. A Distribution Licensee shall prepare Bid Documents with specifications for meters and metering services in accordance with the Metering Code and all other relevant Regulations and orders of the Commission.

6. Issuance of Bid Documents

1. A Distribution Licensee shall issue a Bid Document to each Qualified Bidder.

7. Final Bid Evaluation, letter of offer and grant of a licence

1. Upon final evaluation of the bids, the Distribution Licensee shall issue a letter of offer to enter into MSA for the provision of metering service to the successful bidder.

2. The Distribution Licensee shall execute an MSA with the successful bidder upon:
 - a. Grant of a license by the Commission; and
 - b. Submission of a performance bond by the MAP.