



**NIGERIAN ELECTRICITY REGULATORY COMMISSION**

**METER ASSET PROVIDER REGULATIONS 2018**

**REGULATION NO: NERC-R-112**



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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 enabling powers; the Commission makes the following Regulations:

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## GENERAL

**1. Commencement**

1. These Regulations shall come into effect on the 8<sup>th</sup> day of March 2018.
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.
3. The provisions of these Regulations shall be enforced by the Commission from the 3<sup>rd</sup> day of April 2018.

**2. Objectives**

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

**3. Interpretation**

1. Unless otherwise specified in these Regulations:
  - a. Words importing any one gender include 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.
- 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.

2 In these Regulations, unless the context otherwise requires:

**“Act”** means the Electric Power Sector Reform Act no. 6 of 2005, as may be amended from time to time.

**“Applicant”** means a person that has submitted a request to the Commission for “No Objection” for the provision of meters and metering services to Distribution Licensees under these Regulations.

**“Capital Cost”** means the cost of the meter, meter accessories, financing costs, return on investment, communication infrastructure costs, installation costs, testing and certification of the metering system and all associated cost.

**“Commission”** means the **Nigerian Electricity Regulatory Commission** established by the Act.

**“Cost of the Meter Asset”** means the cost of the meter, meter accessories and all associated costs of meter installation plus a return on investment.

**“Customer”** means any end user who is contracted to receive electricity supply from a Distribution Licensee.

**“Distribution Licensee”** means a person that has been issued a distribution licence under section 67 of the Act.

**“Licence Terms and Conditions”** means the terms and conditions of licences under the Act including terms and conditions on the metering of customers in NESI authorised and approved by the Commission under section 67 - 71 of the Act.



**“Maintenance Cost”** means the 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.

**“Meter”** means a device that measures the amount of electric energy consumed by a customer.

**“Meter Asset Provider” (MAP)** means a person that is granted a permit by the Commission to provide metering services which may include meter financing, procurement, supply, installation, maintenance and replacement.

**“Metering Code”** means the code of the Commission that regulates metering systems in NESI.

**“Metering Service Agreement” (MSA)** means an agreement entered into between the Distribution Licensee and MAP on the provision of metering services.

**“Metering Service Charge”** means periodic payments made by an electricity customer to cover the cost of metering services.

**“Metering Service Provider” (MSP)** means a person issued a certificate by the Commission under the Guidelines for Certification of Metering Services Providers and Related Matters.

**“NESI”** means the Nigerian Electricity Supply Industry.

**“No Objection”** means an authorisation issued by the Commission to qualified Applicants for the purpose of participating in a Distribution Licensee's procurement process for the provision of meters and metering services.

**“Permit”** Means a permit granted by the Commission under this Regulation.

**“Regulations”** means these Meter Asset Provider Regulations or any other specific regulation made pursuant to section 96 of the Act.

**“Service Level Agreements” (SLA)** means a contract between the Meter Asset Provider and the Distribution Licensee which defines the level of service that the Distribution Licensee expects the MAP to provide to customers.





**“Successful Applicant”** means a person that is successful in the Distribution Licensee's procurement process and has submitted an application to the Commission for a permit to become a MAP

**“Tender Auditor”** means a firm or consortium of firms appointed by the Commission to audit the procurement process of a Distribution Licensee's engagement of a MAP.

**“Vending Platform”** means the system comprising software and hardware required to sell electricity to customers.



## METER DEPLOYMENT AND REPLACEMENT

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### 4. Metering Obligations

1. The Distribution Licensee is responsible for meeting its metering targets as specified by the Commission from time to time.
2. The metering gap for all Distribution Licensees was reported at 4,740,275 meters as at December 31, 2017. This is projected to significantly increase upon the conclusion of the ongoing customer enumeration exercise .
3. All Distribution Licensees shall engage the services of MAPs in accordance with the provisions of these Regulations towards meeting its metering targets specified by the Commission.
4. Eligible Customers being served under the Eligible Customer Regulations may engage MAPs to ensure proper energy accounting.



## PERMIT REQUIREMENTS AND PROCESS FOR QUALIFICATION AS A METER ASSET PROVIDER

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### 5. Application Requirements

1. Applicants shall submit the following documents:
  - a. Completed application form.
  - b. Certificate of incorporation and memorandum and articles of association.
  - c. Tax clearance certificates.
  - d. Certified audited financial statements for 3 consecutive years prior to the year in which the application is made.
  - e. Detailed resumes of Applicant's board of directors, management and technical staff.
  - f. Ten-year Business Plan.
  - g. Applicant relevant experience in asset finance, metering and other relating business.

### 6. Technical Requirements

The Distribution Licensee and the MAP shall comply with the Metering Code, the Guidelines for Certification of Metering Service Provider and Related Matters and other relevant Regulations.



## **7. Technology Requirements**

1. MAPs shall deploy, as minimum, technology and back-office systems that are capable of maintaining and retrieving records of financial, inventory, customer data and monitoring usage of deployed infrastructure on an on-line real time basis.
2. All technology systems deployed by MAPs shall be capable of interfacing into the vending platforms of Distribution Licensees. Evidence of applicable certifications shall be submitted at the time of submitting application to the Commission.

## **8. Procurement Process and Grant of Permit**

1. Distribution Licensees shall procure MAPs in line with the processes under Schedule 2 of these Regulations.
2. Distribution Licensees shall conclude the procurement process for the engagement of the first set of MAPs within 120 days from the 3<sup>rd</sup> day of April 2018. The engagement process for subsequent MAPs shall be completed within 120 days from the commencement of the procurement.
3. Applicants shall apply to the Commission for a “No Objection” in the first instance to signify their intention to participate procurement process for MAPs under this regulation. All applications shall be submitted in accordance with the requirements of Schedule 1 of these Regulations.
4. The Commission shall grant conduct due diligence on all Applicants for the purpose of granting “No Objection” to participate in the procurement process for MAPs.
5. The Commission shall engage the services of a Tender Auditor to audit the conduct and outcome of a Distribution Licensee's procurement process for the engagement of MAP.
6. Upon completion of evaluation of bids, the Successful Applicant shall submit an application for the grant of a Meter Asset Provider Permit to the Commission.
7. The Commission shall grant a Meter Asset Provider Permit to the Successful Applicant subject to compliance with the qualification criteria



provided in these Regulations.

8. A Meter Asset Provider Permit issued to an Applicant shall be specifically related to a successful procurement process with a Distribution Licensee. A MAP permit holder may acquire several of such permits under distinct procurement processes conducted by Distribution Licensee.
9. The tenure of a Meter Asset Provider Permit shall be for a period of 15 years in the first instance effective from the date of issuance by the Commission.
10. Subject to the Commission's approval of the procurement process and grant of a Meter Asset Provider Permit, the Distribution Licensee shall enter into Metering Service Agreement with the Successful Applicant.
11. A publication shall be placed by the Distribution Licensee in at least two (2) national newspapers providing information about the Successful Applicant, the monthly metering service charge and a detailed roll out plan.
12. The Commission shall convey its decision in respect of an application for a Meter Asset Provider Permit within 21 days of the submission of the required documentation.

## **9. Local Content**

MAPs shall source a minimum of 30% of their contracted metering volumes from local meter manufacturing companies in Nigeria. Further changes to the minimum local content thresholds shall be as specified in the NERC Local Content Regulations.



## RIGHTS AND OBLIGATIONS OF PARTIES

### 10. Rights of Distribution Licensees

1. Pursuant to the provisions of the Metering Code, Meter Reading, Billing and Collection Regulations, the Distribution Licensee shall have access to customer meters installed by the MAP.
2. Right to use data derived from customer meters for monitoring, billing planning and any other related activities.
3. Right to query data from customer meters for audit purposes and evaluating consistence, accuracy and integrity.
4. The Distribution Licensee shall treat cases of unauthorized access and meter tampering in accordance with existing laws and Regulations.
5. The Distribution Licensees shall include a metering service charge as a clear item on the billing of its customers provided with meters under an MSA with MAPs and shall be separate from the energy charge. The metering service charge shall be based on the outcome of the procurement process for the MAP and subject to the approval of the Commission.

### 11. Obligations of the Distribution Licensee

1. Develop a meter deployment plan towards the achievement of its metering targets stipulated by the Commission.
2. Plan and execute a transparent and competitive procurement process for the engagement of MAPs that will supply and install meters within their franchise area
3. Execute a Metering Service Agreement with successful MAPs for the deployment of meters based on the Distribution Licensee's meter



deployment plan.

4. Provide a payment structure and security acceptable to the MAP in line with the terms of the MSA.
5. Provide relevant information to the MAP in a timely manner to enable it carry out its obligations under the contract.
6. Timely disbursement in full to MAPs the aggregated metering service charge paid by all customers supplied with meters under an MSA.
7. Liability for the payment of applicable metering service charge for customers affected by a prolonged service outage exceeding two weeks.
8. The metering service charge paid by all customers shall be ring-fenced in a dedicated account for the purpose of timely payment to MAPs.

## **12. Rights of the MAPs**

1. Legal ownership of the meter asset until fully amortized through payment of a metering service charge by beneficiary customers.
2. Right to be paid in full the aggregated metering service charge paid by customers during the billing cycle.
3. Access to customer premises to enable it carry out its operations with respect to the meter asset in compliance with the Metering Code, Meter Reading, Billing and Collection Regulations and any other applicable Regulation of the Commission.
4. MAPs shall be granted access to viewing rights to the vending platform associated with meters asset supplied under the MSA

## **13. Obligations of the MAP to the Distribution Licensee**

1. Conformity with all specifications for the meter asset and the standard of installation.
2. Obtain all necessary certifications and approvals for meters in line with



extant codes, regulations and industry requirements.

3. Engage only certified meter service providers for the deployment of meters in line with the provisions of the MSA.

#### **14. Obligations of the MAP to Customer**

1. Periodic inspection of meters to ensure integrity and reading accuracy. Where required, the MAP shall arrange for the testing and calibration of customer meters in line with the provisions of the metering code.
2. The MAP shall repair or replace faulty meters within two (2) working days of being notified of such faults.
3. Where a MAP fails to repair or replace a meter within two (2) working days of a report by the customer or Distribution Licensee, the customer shall not be liable for the payment of metering service charge for the billing period unless such delays were as a result of inaccessibility to the customer's premises.
4. In the event of a prolonged delay in repairing or replacing a defective meter asset, the Distribution Licensee and MAP shall agree on an appropriate compensation to the Distribution Licensee for loss of revenue.
5. The MAP shall perform its obligation to customers according to service standards set out in a Service Level Agreement (SLA) with the Distribution Licensee.

#### **15. MAP Key Performance Indicators (KPIs)**

1. A Service Level Agreement shall be executed between the MAP and Distribution Licensee to provide for Key Performance Indicators (KPIs) for the MAP.
2. The scope and responsibility for meter maintenance activities and revenue protection shall be as agreed between the parties under the MSA/SLA.
3. The KPIs agreed between the parties to the SLA shall be filed with the Commission. The provisions of the Meter Reading, Billing and





Collections and the Metering Code shall be the basis for benchmarking.

## **16. Rights of the Customer**

1. All customers are eligible for the installation of an appropriate meter to accurately determine energy consumption and to provide for energy accounting.
2. In line with the provisions of the Metering Code, a customer's meter shall be repaired or replaced by the MAP within two (2) working days.
3. A customer meter shall be repaired or replaced at no additional cost within the amortization period of the asset unless the damage was as a result of the willful action of the customer. Where there is a dispute on the responsibility for the damage of a meter asset, the customer has a right to fair resolution in line with the Metering Code and other applicable Regulations and the MAP shall provide a meter pending the resolution of the dispute.
4. Where it is established that the customer willfully damaged a meter, the MAP shall replace the meter based on an upfront payment by the customer or other mutually agreed terms of payment.
5. Where the MAP is unable to provide a replacement meter within a billing period, an average of the last three (3) months billing/vending shall be applied for the purpose of determining customer's energy consumption.
6. Where a customer relocates within the franchise area, the customer shall apply to the Distribution Licensee for the transfer of services including applicable credits for energy.

## **17. Obligations of the Customer**

1. The Customer shall provide access for the provision of meters for their premises in line with the installation requirements of the Distribution Licensee. A customer shall be denied service by a Distribution Licensee on account of refusal to allow for the installation of a meter by a MAP.
2. The Customer shall ensure the safety of the meter and shall not tamper with or remove it, nor permit access thereto except by duly authorized



staff of agents of the MAP or Distribution Licensee.

3. Upon the installation of a meter by a MAP, the Customer has an obligation to pay for metering service charge through the Distribution Licensee at the time of payment for energy unless financed upfront in full by the Customer. The payment for metering service charge by the Customer to the MAP shall cease upon full amortization of the meter asset over its technical life assumed in the procurement process for the MAP.
4. Where a Customer fails to pay for metering service charge in any given month or months, the cumulative metering service charge shall be deducted upon the subsequent payment.
5. In line with guidelines for asset enumeration by Distribution Licensees, customers' meters are associated with feeders and distribution transformers and shall not be moved by customers.

## **18. Customer Financing of Meters**

1. Where a Customer elects to pay for a meter asset upfront under this Regulations, such a Customer shall not be liable for the payment of metering service charge through the Distribution Licensee.
2. The amount payable to the MAP by a Customer electing to pay upfront shall be the efficient cost of the meter asset and its installation cost as determined by the procurement process for the MAP conducted by the Distribution Licensee.
3. The MAP shall install the meter at the premises of the Customer within ten (10) working days of the receipt of full payment by the Customer. The authorization by the Distribution Licensee to pay for the meter shall only be issued after certifying the readiness of the premises for a safe and secure installation of the meter asset.



## AGREEMENTS BETWEEN PARTIES

### 19. Metering Service Agreement

1. The Distribution Licensee and the MAP shall enter into a Metering Service Agreement which shall provide for:
  - a. The number of meters to be installed by the MAP in the Distribution Licensee's network over an agreed period.
  - b. Recovery of the Cost of Meter Asset plus a reasonable return over a period of 10 years.
  - c. An acceptable form of securitization of the metering service charge and timely payments to the MAP.
  - d. Indexation provision over the tenure of the MSA to address variability in applicable macro-economic indices.
  - e. Meter specifications.
  - f. Any other provisions agreed by the parties.
2. Service Level Agreements between Parties
  - a. The Distribution Licensee and the MAP shall enter into Service Level Agreements specifying the following standards and responsibilities:
    - i. Timeframe for meter installation.
    - ii. Minimum installation standards.
    - iii. Maintenance.
    - iv. Periodic Meter Reading.
    - v. Meter replacements.
    - vi. Protection against unauthorized access/tampering.
    - vii. Key Performance Indicators.
    - viii. Data management and exchange of information.
    - ix. Compensation for meter bypass and tampering by agents of the MAP.
    - x. Any other service standard

### 20. Insurance and Disaster Recovery Plans

1. The MAP shall insure the meter assets and secure all metering equipment



deployed in accordance with the MSA.

2. The Distribution Licensee and the MAP shall ensure frequent back up of relevant data to ensure integrity of the metering system.



## COST STRUCTURE AND PAYMENT SECURITY FOR THE METER ASSET PROVIDER

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### 21. Cost Structure

The cost structure of Metering Service Charge covers the cost of providing the meter asset and the ongoing costs of operating and maintaining the meter. The cost structure provides a transparent way of billing metering costs so that Customers only pay for own metering services.

### 22. Payment Security

1. Distribution Licensees shall within thirty (30) days of the execution of the MSA issue a payment security in any of the following forms:
  - (a) An irrevocable direct pay Letter of Credit or other forms of security executable on demand to the interest of the MAP and provided by a bank and in a form acceptable to the MAP;
  - (b) A back-office structure mutually agreed between the parties under which all payments for metering services by Customers at the time of vending are ring-fenced to a dedicated account established for the purpose of securing payment to the MAP;
  - (c) A securitization framework that may be developed in collaboration with financial institutions such as DFIs, Central Bank of Nigeria, Infrastructure Bank, etc;
  - (d) Any other payment security structure as may be agreed between the parties.
2. A Distribution Licensee may create a variance account for the purpose of levelising payments to MAP arising from bulk or irregular purchase of energy credits by Customers.



### **23. Payment for Metering Services**

Distribution Licensee shall make regular periodic disbursement to the MAPs for metering services in line with the provisions of the MSA.



## APPLICABILITY OF THESE REGULATIONS

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### **24. Applicability**

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



## TRANSITIONAL ARRANGEMENTS

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### **25. Transitional Arrangements**

1. Pursuant to the tariff reset in the year 2018, only meters installed by Distribution Licensees by December 31, 2018 shall form part of the Regulatory Asset Base.
2. Any further deployment of meters beyond December 31 2018 under a subsisting contract entered by Distribution Licensee shall be structured under the MAP regulatory framework. Customers provided with meters under such arrangement shall pay a monthly metering service charge and appropriate energy tariff reflecting the financing structure.
3. Distribution Licensees shall present to the Commission for approval additional customer classes disaggregating customer tariffs based on the mode of financing of the meter asset installed on their premises.

### **26. Prohibition of Related Party Transactions**

The Distribution Licensee, its core investors, subsidiaries, affiliates, directors and their relatives are prohibited from setting up, owning shares or holding directorships and senior management positions in the MAP.

### **27. Dispute Resolution**

All agreements entered into by parties further to these Regulations shall contain appropriate dispute resolution clauses for settlement of disputes by arbitration.

### **28. 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.



## MISCELLANEOUS

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### **29. Amendment or Repeal**

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

### **30. Filing of Agreements**

Distribution Licensees shall file with the Commission, copies of all agreements entered into with MAPs.

### **31. Capping of Unmetered Customers Bills**

The Commission shall within 120 days of the commencement of these Regulations issue an Order on the capping of the bills of unmetered Customers to address the issue of estimated billing in NESI.

### **32. Conflict with other Regulations or Codes**

These Regulations shall prevail in the event of conflict with any other Regulation or Codes with respect to the subject matter of these Regulations.

### **33. Health and Safety Regulations**

All parties affected by these regulations are to comply with all statutory health and safety regulations.



## SCHEDULE 1

**APPLICATION FOR “NO OBJECTION”**

1. It is mandatory to provide the following:
  - a. Completed application form.
  - b. Certificate of incorporation and memorandum and articles of association.
  - c. Tax clearance certificates.
  - d. Certified audited financial statements for 3 consecutive years prior to the year in which the application is made.
  - e. Detailed resumes of Applicant's board of directors, management and technical staff.
  - f. Ten-year business plan.
  - g. Details of the Applicant's relevant previous experience. .
  - h. VAT Registration Certificate.
  - i. Copies academic and professional qualifications of staff.
  - j. Proof of warehousing facilities for metering systems.
  - k. Proof of ability to secure funds for the procurement of metering systems.
  - l. Proof of previous relevant experience of the applicant.



## SCHEDULE 2

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### PROCUREMENT REQUIREMENTS

1. **Notice of Solicitation**

A Distribution Licensee shall request for competitive proposals for the provision of meters and metering services from interested bidders who have obtained a “No Objection” from the Commission for this purpose.
2. **Publication of Invitation for Eols**

A Distribution Licensee shall request for Expressions of Interest in at least 2 Nigerian newspapers and the Licensee's website.
3. **Bid Documents**

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.
4. **Issuance of Bid Documents**

A Distribution Licensee shall issue a bid document to each bidder that has obtained a “No Objection” from the Commission for provision of meters and metering services.
5. **Bid Evaluation, award of contract and grant of a Permit**
  1. Upon evaluation of the bids, the Distribution Licensee shall issue an offer letter 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 Permit by the Commission; and
    - b. Submission of a performance bond by the MAP.

**THE  
COMMISSION  
SEAL**

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**THE COMMON SEAL OF  
NIGERIAN ELECTRICITY REGULATORY COMMISSION  
was affixed pursuant to the Order of the Commission on the 8<sup>th</sup> Day  
of March 2018**



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SANUSI GARBA  
**VICE CHAIRMAN**