



NIGERIAN ELECTRICITY REGULATORY COMMISSION

TOWARDS GREATER INDEPENDENCE FOR  
THE ELECTRICITY SYSTEM OPERATOR

June 2020

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## 1. OBJECTIVES OF THE STAKEHOLDER CONSULTATION

The Electric Power Sector Reform Act provides for the licensing of the successor transmission company initially charged with responsibility for the building and maintaining the physical national transmission network (often referred to as the “wire business” OR “Transmission Service Provider - TSP”) and the system operations function. It is envisaged that at a time when the electricity industry is substantially privatized, the Act provides that the holder of the license for the two distinct regulated functions (Transmission Company of Nigeria Plc) may transfer the system operations function to an Independent System Operator (ISO) on such terms and conditions to be decided by the Nigerian Electricity Regulatory Commission (“Commission”).

With the gradual transition to a contract-based electricity market whereby market participants are expected to be held accountable for their obligations under the industry contracts, the recent tariff Orders issued by the Commission and performance standards contained therein indicate an imperative to consider granting greater independence for the systems operator including the functional unbundling of the Transmission Company of Nigeria Plc into TSP and the ISO.

This consultation document is seeking for stakeholder input in advising the Commission on the

- (i) readiness of the electricity industry for the unbundling of the SO function to an independent system operator taking into consideration the stage of market development and the key technical prerequisites for an efficient ISO;
- (ii) recommend the degree of independence that may currently be granted to the systems operator without causing disruptions in market stability;
- (iii) Where the unbundling of the ISO function is considered appropriate, recommend a possible ownership model and governance structure; and
- (iv) Where the unbundling of the ISO function is considered premature, propose possible conditions precedent and timelines for a transition.

## 2. LEGAL CONTEXT

The Nigerian Electricity Regulatory Commission (“NERC”), under the provisions of the EPSRA 2004, has several objectives that include the creation and promotion of efficient market structures, ensuring the optimal utilisation of resources maximise access to ensure adequate and secure supply of reliable electricity. NERC is further required to undertake such activities as are necessary or convenient for giving effect to these objectives, including the promotion of competition and private sector participation, establishment of appropriate operating codes and standards, issuance of operating licenses and monitoring the operation of the electricity market.

Pursuant to the provisions of sections 32(2)(d), 65 and 66 of the EPSR Act, the Commission issued Transmission Service Provider (TSP) and System Operations (SO) licenses to the Transmission Company of Nigeria plc (TCN) as part of the transition of the electricity industry to compliance with the licensing requirements of the Act and economic regulation. The role of the System Operator provided under section 66(1) of the EPSRA are:

- a) Generation scheduling, commitment & dispatch;
- b) Transmission scheduling and generation outage coordination;
- c) Transmission congestion management;
- d) International transmission coordination;
- e) Procurement and scheduling of ancillary services and system planning for long term capacity;
- f) Administration of the wholesale electricity market including the activity of administration of settlement payments, in accordance with the market rules; and
- g) Such other activities as may be required for reliable and effective system operations

The EPSRA identifies the Transmission Service Provider (TSP) and System Operations (SO) activities as two separate regulated activities which may be performed by the successor company identified under section 25(b) of the Act. Pursuant to provisions of Section 26(7) of the Act, .... ***“At any time following the declaration of a substantially privatised market under section 24, the successor company identified in section 25 (b) may transfer the function of system operation to an independent system operator on such terms and conditions as the Commission may direct and on such transfer, the independent system operator shall be subject to the same powers and duties as have***

***been imposed on the transferring successor company under this Act in relation to system operation.”***

### **3.0 Greater role for SO and Current Discussion**

The EPSRA has articulated the broad functions of the system operator as indicated earlier in this document. Other required functions of the system operator include the following:

- (i) Enforcement of compliance with Grid Code and Market Rules
- (ii) Efficient cost allocation and effective market settlement;
- (iii) Nondiscriminatory access to transmission assets;
- (iv) Market efficiency and system reliability.
- (v) Draft and implement such Operating Procedures as may be required for the proper functioning of the Power System;
- (vi) Undertake system planning of generation capacity and transmission;
- (vii) Implement and supervise open access to the Transmission System in collaboration with TSP;
- (viii) Provide demand forecasts;
- (ix) Procurement of Ancillary Services;
- (x) Undertake real time operation and SCADA system;
- (xi) Management of system constraints (congestion), emergencies and system partial or total recovery; and
- (xii) Undertake coordination of regional Interconnectors

The holder of the SO license is expected to ensure neutrality and transparency in the management of the grid by strictly complying with the provisions of the Grid Code and the Market Rules as it affects all market participants. The SO and TSP licenses are currently bundled under the auspices of the TCN and there are concerns from market participants in respect of possible conflicts of interest on matters that affect the TSP.

### **4.0 Previous effort of NERC in granting greater independence to SO/MO**

In December 2013, NEXANT Consulting concluded an assurance study for NERC in preparation for the Transitional Electricity Market (TEM) and recommended that significant progress had been made to advance the electricity market to an operable TEM. The report considered that the operational and financial ring-fencing of the SO and MO functions within the corporate entity of the larger TCN for implementation as one of the early initiatives of the Transition Steering Group (TSG). However, the functional

delineation of the SO/MO function has blurred over-time though the market funds have remained under the administration of the Market Operator.

Noting that the ring-fencing framework was an interim measure in the absence of firm legal separation, the Commission published a draft Consultation Paper in May 2015 on the Terms and Conditions for the establishment of an ISO in May 2015. The initiative was not concluded on account of the eventual expiration of the tenure of the last Commission.

## 5.0 Governance Options:

Stakeholder opinion is being solicited in respect of the following models of granting the SO/MO function greater independence in the NESI.

### 5.1 Financial and Operational Ring- Fencing of the SO within TCN

The SO may continue to be a part of the corporate entity of the TCN but operating within the rules of the market and in such a manner as to ensure its operational and financial autonomy.

### 5.2 Independent Legal Entity

#### 5.2.1 Government (ISO owned by FGN)

The unbundled SO/MO function may be incorporated into a distinct legal entity wholly owned by the FGN with own staff, management and Board of Directors.

#### 5.2.2 Stakeholder owned ISO

The unbundled SO/MO where considered desirable may be wholly owned by market stakeholders including participants, customer groups and registered as non-profit entity e.g. PJM, CAISO, NYISO.

## 6. Funds of the ISO

The system operator, as one of the service providers for the NESI, is currently funded by the electricity market as part of the components of the tariff order. Where the unbundling of an ISO is considered appropriate, the annual budgets shall be approved in accordance with the provisions in the Market Rules.

## 7. Request for Stakeholder Input

Stakeholders are hereby invited to note the objectives of this Consultation Paper itemized in section 1 and submit comments to the Nigerian Electricity Regulatory Commission in hard copies OR email to: [iso@nerc.gov.ng](mailto:iso@nerc.gov.ng)

Your comments should please reach the Commission on or before the 5<sup>th</sup> of August, 2020.