



**CONSULTATION PAPER ON THE REVIEW OF CUSTOMER PROTECTION
REGULATIONS IN THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY**

JULY 2021

1.0 Introduction

1.1 The Nigerian Electricity Regulatory Commission ("NERC" or the "Commission") is mandated by the Electric Power Sector Reform Act ("EPSRA" or the "Act") to, among other, maximise consumer access to electricity services, and ensure adequate supply of electricity at reasonable and fair prices to electricity consumers. Section 80 of the Act further provides for the Commission to develop the under listed customer protection related regulatory instruments in consultation with various stakeholders:

- a. Customer service standards;
- b. Customer complaints handling standards and procedures;
- c. Codes of practice for the provision of assistance to special needs customers, such as the blind or disabled, the elderly or severely ill;
- d. Procedures for dealing with, and assisting where necessary, customers who have difficulty in paying bills;
- e. Procedures for applying for electricity service; and
- f. Procedures for disconnecting non-paying customers or for those breach of other terms and conditions of an applicable tariff or contract.

1.2 Pursuant to section 80 of the Act, the Commission developed some customer protection regulations to protect the interests of consumers and provide safeguards for customers from being abused by the operators. The customer protection regulations (the "Regulations") govern the relationship between electricity distribution companies ("DisCos") and customers in the Nigerian Electricity Supply Industry ("NESI"). Among the customer protection regulations developed by the Commission are:

- i) Customer Complaints Handling: Standards and Procedures Regulations, 2006;
- ii) Meter Reading, Billing, Cash Collections and Credit Management for Electricity Supplies Regulations, 2007;
- iii) Customer Service Standard of Performance for Distribution Companies, 2007.
- iv) Connection and Disconnection Procedures for Electricity Services, 2007; and
- v) Methodology for the determination of Connection Charges for Electricity Supply 2012.

1.3 In view of the sector's development and changes to policy, regulatory and operational landscapes over a decade since the time when the above listed

regulations were issued, the Commission is desirous of reviewing the regulations to align them with the current market realities in order to ensure the interests of customers are adequately protected. It is noteworthy to mention that the Commission has also received proposals from the DisCos on the amendments to some sections of the regulations in consideration of the current state of the industry.

2.0 Purpose

2.1 This consultation paper seeks for stakeholders' comments on the proposed amendments to the following customer protection regulatory instruments:

- a. Customer Complaints Handling: Standards and Procedures Regulations 2006.
- b. Meter Reading, Billing, Cash Collections and Credit Management for Electricity Supplies Regulations 2007.
- c. Customer Service Standard of Performance for Distribution Companies, 2007.
- d. Connection and Disconnection Procedures for Electricity Services 2007.
- e. Methodology for the determination of Connection Charges for Electricity Supply 2012.

2.2 The Commission shall take into consideration the stakeholders' comments on this consultation paper as well as other pertinent comments that may be provided through stakeholder consultation workshops in finalising the review of the proposed amendments.

3.0 Legal Authority

3.1 Section 96 of EPSRA provides that *"the Commission may, make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Commission, are necessary or convenient to be prescribed for carrying out or giving effect to this Act"*.

4.0 Proposed Amendments to the Regulations

This section presents the proposed amendments to each of the regulations under consideration.

4.1 Connection and Disconnection Procedures for Electricity Services ("CDPES") Regulations 2007

These Regulations provide for the procedures to be undertaken by DisCos in connecting new customers, disconnecting and re-connecting a customer in the event of default, safety issues or at the instance of the customer. It highlights the responsibilities of the DisCo and those of customers in connecting or carrying out disconnection. Selected provisions of the regulations that are being proposed for amendment are as follows:

i) Section 5 1(d): Disconnection of Electricity Supply due to Non-Settlement of Bills

Section 5 1(d) of the regulations provides for disconnection of supply to customer's address when the customer has not paid the amount correctly billed for supply to that address by relevant date provided the period between the payment date and the date of disconnection is not less than 3 months. However, some stakeholders have raised concerns about the misalignment between the 3 months grace period and market settlement cycle. It has been argued that allowing customers to owe a utility for 3 months before disconnection affects the ability of DisCos to meet their payment obligations which often contributes to higher illiquidity in the sector.

In view of the aforementioned concern, section 5 1(d) of the regulations is proposed for amendment as follows:

Proposed Amendment:

"A DisCo may only disconnect supply to a customer's address when the customer has not paid the amount correctly billed for that account by the relevant payment due date, provided the period between the payment date and the disconnection date is not less than Ten (10) day after the payment due date".

Stakeholders are expected to comment on the proposed amendment especially on the appropriateness of the proposed 10 days grace period between the relevant payment due date and disconnection date.

ii) Section 10f: Disconnection due to non-payment of meter maintenance charge

Section 10f of the regulations protects customers from being disconnected if the outstanding payment is any payment other than payment for energy consumed. Specifically, the section states that: *A DisCo shall not disconnect a customer's supply of electricity where; (f) the only charge which the customer has not paid is a charge other than for sale of energy, such as meter maintenance charge.*

Pursuant to complaints by consumer groups about the appropriateness of meter maintenance charge to all customers at a time when majority of customers were not metered, the Commission issued Order NERC/11/0002/11 abolishing meter maintenance charge which will necessitate the expunging of section 10f from the original regulations. However, the utility has consistently argued that the removal of maintenance charge is not in line with global best practices and that the removal has put a strain on their ability to meet their market obligation. The utilities consider the removal unfair because they are obligated to pay fixed capacity charge to generation companies. They further argued that maintenance charge is not only applicable to meter maintenance but applies to the maintenance of all infrastructure provided by DisCos, including the networks already provided for servicing customers. An option may be to amend section 10f to limit the payment of maintenance charge to metered customers only or to expunge the section in consideration of Order NERC/11/0002/11. It is to be noted that if the maintenance charge is restored for metered customers only, the energy tariffs payable by the affected customers shall be downwardly adjusted to reflect the separate maintenance charge paid by the customers so that it does not provide the DisCos the opportunity to earn revenue in excess of the regulated thresholds.

Stakeholders are expected to comment on whether the section should be completely expunged in view of Order NERC/11/0002/11, or should be amended to limit payment of maintenance charge to metered customers only?

iii) Section 11: Penalties for Wrongful disconnection

Section 11 provides for penalties payable to customers by DisCos for wrongful disconnection of supply to the customer. The section reads that *"Any DisCo which disconnects a customer's supply in violation of this regulation commits an offence and is liable upon conviction to pay the customer a penalty"*. The penalties as specified in the Regulation are:

Residential - N1,000

Commercial - N1,500

Industrial - N2,000

The Commission has observed that due to changes in macroeconomic indices such as inflation and foreign exchange since the issuance of the regulations in 2007, the values of the penalties have significantly eroded and may not constitute adequate deterrence to DisCos to discourage wrongful disconnection. The Commission therefore is considering an amendment to section 11 of the regulations as follows:

"A DisCo which disconnects a customer's supply in violation of this regulations shall compensate the customer an equivalent of 100% of the customer's daily energy consumption or approved energy cap for every day the wrongful disconnection lasts". This shall be determined on the basis of the previous month's bill or consumption.

4.2 Meter Reading, Billing, Cash Collection and Credit Management for Electricity Services Regulations 2007

These Regulations provide the procedures for reading customers' meters, billing and collection as well as provision for security deposit payable by post-paid customers. The proposed amendments to the regulations are as follows:

i) Section 2(6)(b): Final Meter Reading

Section 2 6(b) of the regulations provides that "Where a new Customer has taken over but a meter reading was not obtained on the day the new Customer assumed responsibility, the total usage up to the point the meter reading is obtained shall be apportioned between the two Customers based on the average daily usage of the Customer who has vacated the premises, provided that for billing purposes, the date on which the Customer left the premises shall be used irrespective of the date of the reading".

The concern with the above provision is that whereas the regulations provides for a customer vacating the premises to notify the DisCo, there is no obligation for new occupant to inform the DisCos. This creates a challenge in deciding the cut-off date in billing the old and new customers. Where a customer with an outstanding bill fails to contact the utility before vacating a property which could be a deliberate attempt to evade the payment, this could pose a challenge in the implementation of the current provision.

In the event a property is left unoccupied for a period of time following the exit of the occupant, the DisCo may unknowingly continue to bill the property for the period that the property is unoccupied and transfer the bill to the new customer who might just move into the building. This may put a huge burden on the new occupant if the outstanding bill is to be apportioned between the old and the new occupant as currently provided in section 2 6(b).

To address this concern, new tenant/occupant should be required to register their information with the DisCos on moving into a new property. This is expected to address delinquency in the sector and bills abandoned by tenants. It is proposed that a new sub-section be inserted prior to an amended section 2 6(b) as follows:

"A new occupant of a premises shall contact the DisCo on their first day of moving into the premises which the DisCo shall take into consideration for billing of such customer. Where a new occupant fails to inform the DisCo of their commencement date, it shall be deemed to be a continuation of the old occupant regime and the new occupant shall take responsibility for the payment of any outstanding bills". The notification shall be in a format as approved by the Commission.

ii) New Provision:

Section 2(8): Final Meter Reading

This new section is being proposed to address the reoccurring problem of Landlord/Tenant bill settlement issues. The new section will read as follows:

For the purposes of billing and bill Settlement, the only recognised customer of a Distribution Company shall be the registered owner of the property (Landlord) or any person or organisation the landlord assigns responsibility to as indicated in the "Application for Electricity Supply and Agreement Form" submitted to the Distribution Company. There shall be a clear distinction between a property owner and the customer of electricity.

iii) Section 9(7): Adjustment of a Bill

Current Provision:

Section 9(7) reads "Where a Distribution Company has over-charged a Customer, it shall advise the Customer in writing, within five (5) working days of it becoming aware of the error and it shall repay the amount to the customer in accordance with his reasonable instructions, or if no reasonable instructions are received from the customer, by crediting the amount of the overcharge to the customer's next bill".

Proposed Amendment

"Where a Distribution Company has over-charged a Customer, it shall advise the Customer in writing, within five (5) working days of it becoming aware of the error and it shall repay the amount by crediting the exact amount of the overcharge to the customer's next bill".

iv) Section 9(9)(a): Adjustment of a Bill

Current Provision

Section 9(9)(a) reads "The amount to be recovered by a Distribution Company pursuant to sub-regulation (8) of this regulation shall be as follows:

AND.

If the undercharge is the fault of the Distribution Company through its failure to bill or correctly bill the Customer, it may only recover the amount undercharged in the three (3) months prior to the date on which it advises the Customer of the undercharge”.

Proposed Amendment

“The amount to be recovered by a Distribution Company pursuant to sub- regulation (8) of this regulation shall be as follows:

If the undercharge is the fault of the Distribution Company through its failure to bill or correctly bill the Customer, it may recover the exact amount undercharged for the established period of the undercharge but for not more than 3 months. (A customer should not be back billed for more than 3 months)”.

v) New Provision:

Section 15: Non-compliance with Approved Billing Methodology for Unmetered Customers

“Where it is established that a DisCo has not complied with the Commission’s approved methodology for billing unmetered customers, the DisCo shall refund the excess charges to the customer within the next billing cycle”

4.3 Customer Service Standards of Performance for Distribution Companies Regulation 2007

These regulations provide for the minimum service standards expected to be achieved by DisCos in the provision of electricity to end users. This covers issues of timelines for addressing technical faults and obligations with respect to replacement of faulty equipment.

i) New Provisions:

Section 9(1): Replacement of Faulty or Obsolete Meter

“A meter shall be considered faulty and not in compliance with the Distribution Metering Code (DMC) if it is determined that any part on that metering system does not comply with the DMC”.

“If a metering system fault occurs the DisCo shall provide urgent metering service to repair or replace the metering system as soon as is reasonably practicable and in any event within 2 working days of the report being communicated in writing to the DisCo”.

ii) Section 9(2): Treatment of Credit Reading Mode of Pre-Payment Meter

"If a prepayment meter is programmed to operate in credit mode, the customer should be notified prior to installation of the meter and the Disco shall be allowed to recover the outstanding at the next vending".

"If a prepayment meter reads in a credit mode without being programmed to do so and without the knowledge of the customer, the customer shall not be compelled to pay for the negative meter reading except payment as provided for in Section 9(a) of this Regulation. Additionally, such meters shall be considered faulty and should be replaced in line with the provisions of the Distribution Metering Code (DMC).

iii) Section 9(3): Default Energy Units or Credits

"if a newly installed meter is pre-programmed with certain default energy credits, the Distribution licensee shall notify the customer of the amount of energy units to be recovered at the next vending.

4.4 Customer Complaint Handling: Standards & Procedures Regulations 2006

These Regulations set the framework for complaints redress, customer focus structures, clear appeal processes and monitoring by the Commission.

i) Section 3(5) Establishment of CCUs

Current Provisions

Section 3(5) of the regulations provides that *"All complaints must be lodged firstly, in writing with the Customer Complaints Unit of the Distribution Licensee"*.

Key issue to consider here is in the event a customer is unavoidably absent to lodge a complaint, can a delegate act on his behalf? The only potential demerit here is that a third party may not necessarily have access to all the information needed by the utilities and thus could misrepresent the customer. The Commission hereby proposes as follows:

Proposed Amendment

"All complaints must first be lodged in writing by the customer or his representative, with the Customer Complaints Unit of the Distribution Licensee and acknowledged by the Customer complaints officer of the DisCo".

ii) Section 3(6) Establishment of CCUs

Current Provision:

Section 3(6) of the regulation provides that "A complaint may also be lodged through email to the respective Customer Complaint Units email address which shall be published".

The intention here is to recognise other channels of lodging complaints and to ensure effective monitoring by both the Commission and the Discos. It will also afford electricity customers more options and convenience for lodging their complaints which can be effectively tracked for prompt resolution.

Proposed Amendment:

"A complaint may also be lodged through email and any other medium that the Disco has put in place for receiving complaints such as a call centres, social media platform, etc. The email address and other contact details of the distribution licensee shall be published".

iii) Section 3(8): Establishment of CCUs

Current Provision:

Section 3(8) of the regulation provides that "All complaints shall be resolved, and the customer notified expeditiously, but in any case, within 15 working days of the written complaint being received by the CCU. Where additional time is required however, for example to test the accuracy of the meter, the customer must be notified within 15 working days of receipt of the complaint of the actions being taken and every 15 working days until the complaint is resolved".

Stakeholders should note that this section is recommended to be split into two and includes emphases on the timelines established in the Customer Service Standards Regulations 2007 for the resolution of different categories of faults.

Proposed Amendment:

Section 3(8)(i)

"All complaints shall be resolved in line with the provisions of the Customer Service Standard Regulations (CSS), and the customer notified expeditiously, but in any case, within 15 days of the written complaint being received by the CCU; Except where the complaint bothers on meter accuracy and bill reconciliation in which case the complaint shall be resolved within one-month billing cycle".

Section 3(8)(ii)

"Where the complaint is not resolved within the first 15 days, the Distribution licensee shall notify the customer in writing with reason(s) requesting for another 15 days maximum during which period the complaint shall be resolved".

iv) Section 3 (9)

Current Provision:

Section 3(9) reads "Any Customer dissatisfied with the outcome of the handling of his complaints(s) by the Customer Complaint Unit or encounters delay/failure in the handling of such complainant(s) may refer his/her complaint(s) to the Forum".

Key question here is that should a timeline of 30 days be the maximum allowable time for CCUs to handle a complaint before an appeal is made to the forum? This proposed amendment clarifies the period prior to an appeal and aligns it with the timelines in the CSS Regulations.

Proposed Amendment:

"Any Customer dissatisfied with the outcome of the handling of his complaint(s) by the Customer Complaint Unit of the DisCo may refer his complaint(s) to the Forum at the expiration of the maximum allowable 30 days".

v) Section 4(3)

Current Provision:

Section 4(3) reads "The Forum shall consist of five part-time members who shall be reputable men and women living in the operational area of the Distribution licensee".

Proposed Options of Amendment:

The Commission is seeking stakeholder views on the current set-up of the Forum offices. The options being considered are as follows:

- *Option A: Increase the number of members.*
- *Option B: Reduce the number of members.*
- *Option C: Documents only process*
- *Option D: Inclusion of other professionals (retired judges, lectures etc) as forum members*

vi) Section 6 (1)

Current Provision:

Section 6(1) reads *"Subject to other provisions of these Regulations, the Forum shall have jurisdiction to entertain customer complaints within the entire operational area of the Distribution Licensee provided however, that the Forum shall not hear complaints on offences as specified in Sections 93 and 94 of the EPSR Act"*.

Due to the demography and geography of some states the Commission seeks to give flexibility to the Forum to enable it conduct hearings, inspections and meetings in locations closest to the complainant.

Proposed Amendment:

Subject to other provisions of these Regulations, the Forum shall have jurisdiction to entertain customer complaints within the entire operational area of the Distribution Licensee and to hold meetings / hearings and inspections at any location within it as approved by the Commission provided however, that the Forum shall not hear complaints on offences as specified in Sections 93 and 94 of EPSRA.

vii) New Provisions:

Section 10 (1)(v)

"Subject to other provisions of this regulation, the Forum may conduct recorded virtual meetings and hearings if the need arises".

This new provision seeks to allow the Forum leverage on technology to hold hearings and meetings as need arises.

viii) Section 12 (4)

Unless the Forum decision has been appealed against, any default in implementing the decision within the stipulated timeline by the Distribution Licensee shall attract the following administrative charges daily until the decision is implemented:

- a. Connection, reconnection, disconnection & access N10,000
- b. Metering (New/replacement/check meters/repair/bypass) -N10,000
- c. Transformer (Repair/upgrade/voltage/replace) N10,000
- d. Billing (Payment, reconciliation etc) N10,000
- e. Customer Classification (SBT) – fine/compensation in line with the provisions of the applicable Tariff Order
- f. Safety issues – N10,000

This new provision seeks to establish a framework for enforcement of Forum ruling as well as improve trust and perception of the redress mechanism in accordance with Section 63(1) and 75(4) of the EPSRA and Condition 2 of the Terms and Conditions of Distribution license.

4.4 Methodology for the determination of Connection Charges for Electricity Services 2012

These Regulations provide standards and methodology for the determination of connection charges for electricity supply to customers to ensure that it is delivered in a safe, secure and efficient manner. This Regulation applies to all electricity connections to customer's premises within the NESI.

i) Section 7 (2)

Section 7 (2) reads *"Customers requiring connection to their residences or premises shall be responsible for the procurement of connection materials, while the Distribution Licensee shall be responsible for the connection from the available supply to the customer's metering point"*.

Proposed Amendment:

"Customers requiring connection to their residences or premises shall be responsible to pay the approved connection charges as approved by the Commission, while the Distribution Licensee shall be responsible for the connection from the available supply to the customer's metering point".

ii) Section 8 (1)

Section 8(1) reads *"The Distribution Licensee shall within 48 hours of the provision of the requisite materials in the right quantity and quality by the Customer, effect Connection of supply to the customer's residence or premises"*.

Stakeholders should note that the payment of connection charge by customers required by the distribution company as approved by the Commission was first introduced in Section 1(c) of the CDPES regulations 2007. However, following complaints by a section of stakeholders on the payment of connection charge to DisCos, the Commission initiated wider stakeholder consultation on the issue. The Commission subsequently resolved to discontinue the payment of connection charge to DisCos. Thus, a customer seeking connection is responsible for the purchase of connection materials and hands them over to DisCo for connection.

It is noteworthy that a section of stakeholders (especially the operators) have argued for the restoration of connection charge on account of the concern that customers often buy substandard materials which may constitute safety hazards and also affect the quality of service. They also argue that purchase of connection materials by customers encourages the proliferation of unauthorised access ("illegal connection"). Some DisCos have advocated that restoration of connection charge will enable them connect customers with 'branded cabling and equipment' which could make the detection of unauthorised access ("illegal connection") easy.

The matter for consultation is, should Section 7 (2) and all the relevant sections be amended to reflect the current realities in view of the aforementioned concerns? Or should it be retained as is?

Proposed Amendment:

"The Distribution Licensee shall within 48 hours of the payment of connection charges by the Customer, effect Connection of supply to the customer's premises".

5.0 Response to consultation

Stakeholders are enjoined to note the following in making their kind responses/observations & comments:

NERC has prepared this document to facilitate open consultation and has provided the areas for the proposed amendments. Accordingly, the Commission fixes 21 days from the publication of this notice for comments, objections, inputs/contributions and representations on the Customer Protection Regulations from all stakeholders and the General Public.

Respondents may propose either modifications or alternatives to the proposals, assumptions and expectations expressed by NERC for further consideration by the Commission. A Public hearing on the proposed review will be held at the expiration of the response period.

Respondents could also propose other changes to the existing customer protection regulations that are not included in this consultation paper. The full regulations can be found on the Commission's website via the link below:

<https://nerc.gov.ng/index.php/library/documents/NERC-Orders/>

At the end of the consultation process, the Commission's decision on the proposed amendments to the Regulations will be issued in an Official Gazette in accordance with section 96(4) of the Act.

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All reactions, comments, contributions, queries and further enquiries should be sent for consideration of the Commission to info@nerc.gov.ng OR cpr@nerc.gov.ng with copies to:

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DATED THIS ^{16th}..... DAY OF JULY 2021


Sanusi Garba
CHAIRMAN