



## CONSULTATION PAPER ON PROPOSED REVIEW OF REGULATIONS FOR MINI-GRIDS 2016 August 2022

### 1.0 Background

1.1 The Nigerian Electric Power Sector Reform Act ("EPSRA") 2005 has, among its goals, the creation of sustainable efficient electricity market in Nigeria that will form the basis for sustainable development of the country. Thus, the EPSRA 2005 mandates the Nigerian Electricity Regulatory Commission ("Commission") to create, promote and preserve efficient industry and market structure and to ensure optimal resource utilization in the provision of electricity services, to maximize access to electricity services and ensure that prices charged are fair to consumers and sufficient for licensees to finance their activities.

EPSRA 2005 96(2)(i) also confers on the Commission, the responsibility of handling the regulatory treatment of rural electrification schemes and investments. The Commission's responsibilities include promotion of competition and fair market practices, protecting the interests of electricity consumers, ensuring cost recovery and adequate return on investments, ensuring best practices in power and service delivery, setting performance standards and monitoring their compliance; establishing the level and structure of tariffs.

In line with its National Renewable Energy and Energy Efficiency Policy ("NREEEP") and Sustainable Energy for All ("SE4ALL") action plan, Nigeria has set a renewable penetration target of 10% in the short term and 30% by the year 2030. Also known as vision 30-30-30, the plan proposes electricity generation targets of 30GW by 2030 with a 30% share of renewable energy.

Engagements between the Commission and the Nigerian Energy Support Programme ("NESP") on ways to enhance the regulatory framework for Mini-grids in Nigeria identified a need to shift towards a portfolio approach to Mini-grid applications whereby Mini-grids developers can simultaneously apply for Mini-grid permits for multiple Isolated or Interconnected sites. Additionally, the engagements also highlighted the need for proper monitoring and evaluation activities to track the development of the off-grid sector which is primed for major expansion and growth in the short-to-medium term.

Based on the above, the Commission is desirous of reviewing the Mini-grids Regulations, 2016 and performing the following;

1. A review of the regulation to allow for submission of simultaneous applications for portfolio of Mini-grid sites.
2. To define what portfolio of interconnected Mini-grids and isolated Mini-grids shall mean.
3. To further allow for submission of a single tariff application for a portfolio of Mini-grid sites.
4. To improve the quality and frequency of Monitoring and Evaluation reporting for Mini-grid installations across Nigeria.

## 2.0 Purpose

This document sets out, for consultation, proposed changes to the Mini-grid Regulations, 2016

2.1 In particular, we are setting out here for consultation on the following proposals:

- a. Inclusion of definition of Portfolio of Interconnected Mini-grids, and Portfolio of Isolated Mini-grids.
- b. Clarification that Mini-grid permit shall be issued for both Isolated and Interconnected Mini-grids.
- c. Provision for allowing submission of a single tariff application for portfolio of Interconnected or Isolated Mini-grids.
- d. Provision for allowing submission of combined report for portfolio of Mini-grids.
- e. Update to the Exclusivity and Tripartite Agreement templates.
- f. Inclusion and enforcement of Monitoring and Evaluation (M&E) mandates, including sample templates for feasibility studies and M&E reporting during operations.
- g. Amendments to relevant clauses/sections of the Mini-grid Regulations 2016 that will be needed to accommodate any changes to the overarching NESI framework.

2.2 The Commission will take into consideration responses to this document and other issues that may be raised through wider stakeholder consultation workshops before setting out its final decision on these issues.

## 3.0 Legal Authority

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 Amendment to the Regulation

This section provides proposed amendment to the Regulations under consideration

### 4.1 Definition of Portfolio of Interconnected and Isolated Mini-grids

Section 3(i) provides the definitions according to which terms and phrases used in the Mini-grid Regulations 2016 are to be construed.

Under this Section, a **“Mini-grid Permit”** is defined as a permit granted by the Commission to an Isolated Mini-grid Operator, who applied, for the construction, operation and/or maintenance and where applicable ownership of a Mini-grid.

The above definition should include reference to interconnected Mini-grid operators as well. Furthermore, Section 3 does not include definition for portfolio of interconnected or isolated Mini-grids.

**Proposed amendment/addition.** The following definitions are being proposed to be amended and added to Section 3(i):

**““Mini-grid Permit”** means a permit granted by the Commission to an Isolated or Interconnected Mini-grid Operator, who applied, for the construction, operation and/or maintenance and where applicable ownership of a Mini-grid or portfolio of Mini-grids”

**““Portfolio of Interconnected Mini-grids”** means a set of Interconnected Mini-grids as determined by the Mini-grid Operator for which Tripartite Agreements with the same Distribution Licensee have been signed, and which are submitted simultaneously for Permit approval to the Commission.”

**““Portfolio of Isolated Mini-grids”** means a set of Isolated Mini-grids as determined by the Mini-grid Operator for which any one Mini-grid within the set has a maximum distance of 80km to another Mini-grid within the set, and which are submitted simultaneously for Permit approval to the Commission.”

Stakeholders are expected to comment on the proposed addition of this section.

## 4.2 Isolated Mini-grids larger than 100 kW of Distributed Power and up to 1 MW of firm Generation Capacity

Section 7 provides that the Commission may grant a permit for an Isolated Mini-grid upon certain conditions being met, these include

- Confirmation that based on the Distribution Licensee's expansion plans approved by the Commission, the Mini-grid activities will not interfere with the expansion plans into the designated Unserved Area,
- Written consent of the Distribution Licensee of the intended area where the proposed operational area of the Mini-grid Developer will be within the five-year expansion plan of the Distribution Licensee.

**Proposed addition.** The following sub-section is proposed to be added to Section 7 to ensure Distribution Licensee's timely response to Mini-grid Developer's request for confirmation or consent:

"Confirmation and consent as per Section 7.1.(b) and (c) shall be provided by the Distribution Licensee within four (4) weeks from the day of receipt of request for the same by the Mini-grid Developer. Failing which a confirmation or consent would be deemed to have been provided by the Distribution Licensee"

Stakeholders are expected to comment on the proposed addition of this section.

## 4.3 Permit for Interconnected Mini-grid

Section 9 provides the process for the approval of a Tripartite Contract by the Commission and Section 10 provides the application procedure for a Permit, but neither clarify that a Permit shall be issued for Interconnected Mini-grids as well. Proposed amendments below aim to clarify that the approval of an interconnected mini-grid application is dependent on both the Commission's approval of the tripartite agreement and its issuance of a permit to the developer.

**Proposed amendments.** Section 9(1) proposed to be amended as follows:

"For an Interconnected Mini-grid, the Connected Community, the Mini-grid Developer and the Distribution Licensee have to sign a Tripartite Contract which becomes binding for all parties upon approval by the Commission. The Commission may approve the Tripartite Contract and grant a Permit mentioned in Section 6(2) upon the fulfilment of the following conditions:"

Section 10(2) is amended as follows:

"The Commission shall issue a Permit pursuant to Section 7 or Section 8 or approve a Tripartite Contract and issue a Permit pursuant to Section 9 to an applicant within a maximum period of 30 days from the date of receipt of complete documentation.

- Application proceedings related to Section 7, Section 8 and Section 9 are described in Annex 5. Where Annex 5 deviates from the Regulation, the Regulation shall prevail.”

Stakeholders are expected to comment on the proposed amendment.

#### 4.4 Reporting requirements for inspection of accounts

- Section 13 provides for reporting for Mini-grid permit holders but does not provide for a combined report for portfolio of Mini-grids. Section 13(2) states that the Mini-grid
- Permit Holder shall provide reports in the form prescribed in Annex 4 to the Commission at least once every two years in accordance with Annex 6.

**Proposed Amendment.** Section 13(2) is proposed to be amended as follows to allow for reporting on a portfolio of Mini-Grids:

“The Mini-grid Permit Holder shall provide reports in the form prescribed in Annexes 4 and 6 to the Commission for each Mini-grid or a combined report for a portfolio of Mini-grids at least once every year.”

Stakeholders are expected to comment on the proposed amendment.

#### 4.5 Mini-grid Operation Under a Permit

The heading of Chapter IV delineates operation of a Mini-grid under a Permit, whereas the sections in the chapter have provisions for both a Mini-grid Permit Holder and Mini-grid Operator.

**Proposed Amendment:** To amend the heading of chapter IV as a general chapter for Mini-grid Permit Holder and Mini-grid Operator, which shall read thus:

“CHAPTER IV MINI-GRID OPERATION UNDER A PERMIT OR REGISTRATION”

Chapter IV provides for activities a Mini-grid Permit Holder and a Mini-grid Operator should undertake during operation of a Mini-grid but does not include an obligation to undertake monitoring and evaluation activities and reporting of same to the Commission.

- **Proposed Addition.** The following section 20 is proposed to be added to the Mini-grid Regulation under Chapter IV to provide for monitoring and evaluation and reporting of same to the Commission:

## “20. Monitoring and Evaluation of a Mini-grid

- (1) To ensure the sustainability of the Mini-grid sector and enhance data-driven electrification planning, the Mini-grid Operator shall submit to the Commission a report of its monitoring and evaluation activities, in accordance with Annex 4B. These reports shall be provided not later than 45 days after the expiration of the prescribed period.”

Stakeholders are expected to comment on the proposed addition

### 4.6 Determination of tariffs and other charges

Section 20 provides how tariffs and other charges shall be calculated but does not provide that a single tariff application may be submitted for a portfolio of Mini-grid sites.

**Proposed addition.** The following sub-section is proposed to be added to Section 20 to allow for the submission of a single tariff application for a portfolio of Mini-grid sites. Note that Section 20 would now be Section 21 after the addition of a new Section 20: Monitoring and Evaluation of a Mini-grid:

“ For a portfolio of isolated or interconnected Mini-grids, an applicant may submit a single tariff application for the entire portfolio or individual tariff applications for each site under the Portfolio”

Stakeholders are expected to comment on the proposed amendment.

### 4.7 Exclusivity period and site reservation

Section 21(3) provides that the Commission shall not grant a Permit for a site for which an exclusivity agreement has been executed. However, it does not provide that a Permit shall not be granted for a site for which a Tripartite Contract has been executed.

**Proposed amendment.** Section 21(3), now (Section 22(3) after introduction of new Section 20: Monitoring and Evaluation of a Mini-grid) is proposed to be amended as follows:

“The Commission shall not grant a Permit to a Mini-grid Developer for a certain site, where an exclusivity agreement or Tripartite Contract has been executed in respect of that site by a different Mini-grid Developer, for the duration of such exclusivity agreement or Tripartite Contract.”

Stakeholders are expected to comment on the proposed amendment.

## 4.8 Tripartite Contract

Annex 11 provides a sample format for the Tripartite Agreement.

Proposed Amendment. The Tripartite Contract has been amended to clarify that the cost of any repairs, improvements or expansions of the distribution network undertaken by the Mini-grid developer shall be taken into account in the calculation of the compensation payable to such Mini-grid developer upon termination of the contract. Amendments and additions have also been made with respect to sale of electricity, termination, force majeure, and dispute resolution clauses. A copy of the proposed Tripartite Contract is attached to this Consultation Paper.

Stakeholders are expected to comment on the proposed amendment.

## 5.0 Response to Consultation

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

NERC has prepared this document to facilitate an open consultation and has provided areas for the consultation. Accordingly, the Commission fixes 21 days from the publication of this notice for comments, objections, and representations on the Mini-grid Regulations from all stakeholders and the general public.

Respondents may also propose other changes to the existing Mini-grid Regulations that are not included in this consultation. A Public hearing on the proposed review will be held at the expiration of this 21 days' response period. The full Regulations can be found on the Commission's website via the link below:

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At the end of the consultation process, the Commission's decision on the proposed amendments to the Regulations for Mini-grids 2016 will be issued in an Official Gazette and shall fix the date on which the amended Regulations shall come into operation.

All reactions, comments, queries, and further enquiries should be sent for consideration by the Commission to [mini-grid@nerc.gov.ng](mailto:mini-grid@nerc.gov.ng), with copies to:

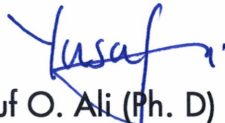
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DATED THIS 13 DAY OF SEP 2022



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Commissioner (Planning, Research, and Strategy)