



# NIGERIAN ELECTRICITY REGULATORY COMMISSION

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## CONSTITUTIONAL AMENDMENT AND THE ELECTRICITY ACT 2023: ENSURING ORDERLY TRANSITION AND COLLABORATION

The Nigerian Electricity Regulatory Commission (the “Commission” or “NERC”) wishes to express its gratitude for the timely assent of the new Electricity Act 2023 (“Act”) by His Excellency, President Bola Ahmed Tinubu GCFR. While the new Act consolidates and updates several specific laws relating to the Nigerian Electricity Supply Industry, the Act dovetails with the recent constitutional amendment (5th Alteration Act, 2023). Of particular reference is the grant of legislative autonomy to the federating states on matters relating to the generation, transmission, and distribution of electricity in their respective jurisdictions. This is a very significant development as we all strive towards the establishment of a sustainable electricity industry in Nigeria.

The Commission welcomes the passage of the Electricity Act 2023 noting that it supports the prospect of a wide range of new initiatives at the sub-national level. These landmark legislations mark a pivotal shift in the structure of the power sector and present the potential of bringing about positive developments needed for powering our economy to greater heights. The constitutional amendment and the passage of the Electricity Act 2023 signify a paradigm shift in the Nigerian power sector. It is envisaged that this new legislation will lead to a sustainable improvement in the Nigerian Electricity Supply Industry and the overall economic growth of the country.

The regulation of public utilities at the sub-national level introduced by the recent constitutional amendment and the Electricity Act 2023, while novel to Nigeria, has been successfully implemented in other jurisdictions including India, Australia, Canada, and the United States of America, where federal and state electricity regulation and markets are clearly delineated. The Commission recognizes the importance of learning from the experiences and lessons of these jurisdictions to navigate the potential challenges and maximize the benefits of the evolving power sector landscape. The Commission has identified the under-listed approach as key to maximizing the potential benefits of the provisions of the legislation.

**Collaboration:** We envisage that, in the short/medium term, all states of the Federation may establish public utility commissions charged with responsibility for regulating the electricity market within their respective jurisdictions. To ensure an orderly and successful transition, there is an imperative for the

collaboration of all stakeholders and the fostering of a harmonious working relationship. The alignment of efforts and resources towards the shared objective of providing efficient service to all electricity customers requires stakeholders to leverage on their collective expertise to drive progress and achieve the goals set forth by the new legislation. The following aspects of the transition are noteworthy:

**Delineation:** There is a need to provide further clarity and delineation of roles and responsibilities between the federal and state regulatory jurisdictions. The clarification shall assist in avoiding conflicts, overlaps, and regulatory uncertainty that may hinder the smooth functioning of the power sector with a consequential adverse impact on investors’ confidence. In establishing a clear framework and defining the scope of authority for each level of governance, the Commission aims to work with all stakeholders to create an environment that promotes efficient and effective sector governance thus benefiting investors and consumers.

**Orderliness:** An orderly transition process is required to minimize disruption and shock to market participants and consumers. In this regard, stability and clarity are vital for the confidence of existing players and the encouragement of new investors in the evolving market. The Commission recognizes the importance of working with all state governments on an orderly transition having regard to legacy reform issues and the novation of existing contractual commitments.

**Next steps:** In pursuit of bringing to effect the laudable provisions of the electricity industry laws and to facilitate a smooth transition, the Commission has scheduled a stakeholders workshop to hold in July, with key stakeholders including market participants, state government representatives, and other key interested parties. The workshop shall serve as a platform for open dialogue and collaboration, enabling participants to discuss and commence the development of a robust roadmap for a successful implementation of multi-tier electricity markets. This proactive approach shall allow the Commission and other stakeholders to gather valuable insights, address concerns, and ensure the smooth implementation of the provisions of the new legislation.

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*Management*  
**Nigerian Electricity Regulatory Commission**  
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