



NIGERIAN ELECTRICITY REGULATORY COMMISSION

**ELIGIBLE CUSTOMER REGULATIONS
2024**

REGULATION NO. NERC-R-001-2024

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NIGERIAN ELECTRICITY REGULATORY COMMISSION

In the exercise of the powers conferred on the Nigerian Electricity Regulatory Commission (the "Commission") by Section 11 of the Electricity Act 2023 as amended and all other enabling powers, the Commission hereby issues the following Regulations.

ARRANGEMENT OF SECTIONS

CHAPTER I

General

1. Short Title
2. Commencement
3. Objectives
4. Application of these Regulations

CHAPTER II

Criteria for Customer Eligibility

5. Criteria for Customer Eligibility
6. Classes of Eligible Customer
7. Metering Requirements
8. Contractual Requirements
9. Financial Requirements

CHAPTER III

Supply of Power to Eligible Customers

10. Supply of Power to Eligible Customers

CHAPTER IV

Procedure for Grant of Eligible Customer Status

11. Application documents
12. Obtaining Commission's Approval

CHAPTER V

Rights and Obligations of Eligible Customer and Supplier

13. Rights of the Eligible Customer
14. Obligations of the Eligible Customer
15. Rights of the Supplier
16. Obligations of the Supplier

CHAPTER VI

Rights and Obligations of Service Providers

17. Rights and Obligations of the Transmission Service Provider
18. Rights and Obligations of the System Operator
19. Rights and Obligations of the Market Operator
20. Rights and Obligations of the Distribution Service Provider

CHAPTER VII

Switching Rules

21. Approval of Request to Switch Supplier
22. Switching to Distribution Licensee
23. Procedure for Switching Supplier

CHAPTER VIII

Access to Transmission and Distribution Networks

24. Access to Transmission and Distribution Networks

CHAPTER IX

Pricing and Cost of Supply

25. Pricing
26. Power Consumer Assistance Fund
27. Rural Electrification Fund
28. Abuse of Market Power

CHAPTER X

Competition Transition Charge

29. Competition Transition Charge

CHAPTER XI

Metering, Billing, and Settlement

- 30. Metering, Billing and Settlement

CHAPTER XII

Balancing

- 31. Treatment of Energy Differences
- 32. Settlement of Imbalances

CHAPTER XIII

Supplier of Last Resort

- 33. Supplier of Last Resort
- 34. Failure Events

CHAPTER XIV

Miscellaneous

- 35. Information on Suppliers and Eligible Customers
- 36. Dispute Resolution
- 37. Application of other Regulations
- 38. Amendment or Repeal
- 39. Interpretation

CHAPTER I

GENERAL

1. Short Title

These regulations may be cited as Eligible Customer Regulations 2024

2. Commencement

1. These Regulations shall come into force on the date it is approved by a resolution of the Commission.
2. These Regulations shall be signed by the Chairman of the Commission, who shall cause the seal of the Commission to be affixed thereon.

3. Objectives

The objective of these Regulations is to bring to effect the provisions of the Electricity Act ("EA") 2023 (as amended) relating to eligible customer transactions, pursuant to the declarations of the Commission and to provide standard rules for achieving the following:

- a. Facilitate competition in the supply of electricity, promote the rapid expansion of generation capacity, and opportunities for improvement in the quality of supply.
- b. Encourage third-party access to transmission and distribution infrastructure as a precursor to full retail competition in the Nigerian electricity market.
- c. Allow licensed generation companies with uncontracted capacity to access unserved and underserved customers thus improving the financial liquidity of the electricity industry.
- d. Enhance the stability and operational efficiency of generation companies arising from the flatter load profiles of eligible customers and possibly lower technical losses, depending on the required network interconnection.

- e. Guide distribution licensees in filing applications to the Commission for the approval of Competition Transition Charge ("CTC"), pursuant to the provisions of Sections 12 and 13 of EA 2023.

4. Application of these Regulations

These Regulations shall govern the supply of electricity to Eligible Customers and the filing of applications to the Commission for the approval of Competition Transition Charge pursuant to Sections 11, 12, and 13 of the EA 2023.

CHAPTER II

CRITERIA FOR CUSTOMER ELIGIBILITY

5. Criteria for Customer Eligibility

Electricity customers that meet the conditions specified in the declaration of the Commission hereunder may apply for Eligible Status upon meeting the requirements stated in Sections 6 to 9 of these Regulations.

6. Classes of Eligible Customers

Pursuant to Sections 11(1 & 4) of EA, the Commission hereby specifies the classes of eligible customers as follows:

1. Point to Point Connection

An end-user whose average or planned consumption is not less than 6MWh/h over the course of 90 days (three months), that is directly connected or to be connected, vide a metered 33kV delivery point, to the generation facility of a generation licensee it intends to purchase electrical energy from under a distribution use of system agreement or has entered into a bilateral agreement with the approved distribution licensee operating in the area for the construction, installation, and operation of the distribution system required for the delivery of electrical energy.

2. New Connection to 33kV Network

An unconnected end-user whose planned average consumption is not less than 10MWh/h over the course of 90 days (three months), to be connected to a metered 33kV delivery point on the distribution network of a distribution licensee under a distribution use of system agreement or has entered into a bilateral agreement with distribution licensee for the construction, installation, and operation of the distribution system required for the delivery of electrical energy.

3. Existing DisCo's Customer Transitioning to Eligibility

An end-use customer whose average consumption is not less than 10MWh/h over the course of 90 days (three months), that is connected directly to a metered 33kV delivery point on the distribution network under a distribution use of system agreement for the connection and for the delivery of electrical energy.

4. Existing Customer Connected to Transmission Network

An end-use customer whose average consumption is not less than 20MWh/h over the course of 90 days (three months), that is connected directly to a metered 132kV or 330kV delivery point on the transmission network under a transmission use of system agreement for the connection and for the delivery of electrical energy.

5. New Connection to Transmission Network

An unconnected end-user whose planned average consumption is not less than 20MWh/h over the course of 90 days (three months), to be connected to a metered 132kV or 330kV delivery point on the transmission network of a transmission licensee under a transmission use of system agreement or has entered into a bilateral agreement with transmission licensee for the construction, installation, and operation of the transmission system required for the delivery of electrical energy.

7. Metering Requirements

An end-use customer seeking to attain Eligibility Status shall procure and install appropriate metering infrastructure at the trading point in compliance with the Metering Code and such meter shall have remote reading capability for the measurement of active power, reactive power, peak demand, and profiling of real load. The main metering system for an Eligible Customer shall be located at the connection point of the customer.

8. Contractual Requirements

Upon confirmation of Eligibility by the Commission, applicants for Eligibility Status shall fulfill the following contractual requirements as a condition for approval of eligibility status by the Commission:

- a. Submission of Power Purchase Agreement with the prospective Supplier.
- b. Submission of Transmission Use of System ("TUoS") agreement between the EC and Transmission Service Provider, where applicable.
- c. Submission of Distribution Use of System ("DUoS") agreement between the EC and Distribution Licensee, where applicable.
- d. Submission of CTC agreement between the EC and the DisCo, where applicable.
- e. Submission of a bilateral agreement (Project Execution Agreement) between the parties for the construction, installation, and operation of a transmission or distribution system to be used for the supply to the customer, where applicable.
- f. Submission of other agreements as may be prescribed by the Commission.

9. Financial Requirements

1. In line with Section 15.3.2 of the Market Rules 2014, all EC Applicants shall post a Letter of Credit or Bank Guarantee, as applicable, in favour of the Market Operator in accordance with the Market Rules to cover Market administration charges, TUoS charges and other charges as may be approved by the Commission.
2. All PPAs for EC transactions shall have provisions for "Take or Pay" obligations and Payment Securitisation.

CHAPTER III

SUPPLY OF POWER TO ELIGIBLE CUSTOMERS

10. Supply of Power to Eligible Customers

An Eligible Customer may procure energy from the under-listed licensees, provided that the licensee has tradable capacity beyond the already contracted volumes.

- i. A licensee issued a generation licence by the Commission pursuant to section 65 (1) of the Act.
- ii. A trading licensee issued a trading licence pursuant to section 69(1) of the Act.

CHAPTER IV

PROCEDURE FOR GRANT OF ELIGIBLE CUSTOMER STATUS

11. Application Documents

The Applicant and Supplier shall provide documentary evidence to the Commission showing completion of the preconditions in Chapter II and the provision of supporting documents listed in Schedule I of these Regulations. For ease of administration, the process of obtaining approval for eligibility shall be as provided in Section 12.

12. Obtaining Commission's Approval

The application process for the approval of eligibility status shall be in three stages as provided below.

12.1 Stage 1: Review of Eligibility

The applicant shall be required to file the under-listed documentation for review and confirmation of eligibility before proceeding to execute the necessary agreements.

- a. Licence/Permit Application Form.
- b. Letter of intention to switch supplier, where applicable.
- c. Evidence of the applicant's load profile confirming the metered energy consumption over one year preceding the date of application. For an applicant without a consumption history, the connected load analysis of the facility shall be taken and reviewed after six months after the commencement of operations.
- d. Evidence of uncontracted capacity from the prospective supplier.
- e. Connection Point/Voltage Level.
- f. Evidence of a three-month switch-over/exit notice to the DisCo, where applicable. A waiver may be allowed for force majeure events but is subject to verification by the Commission.
- g. Competition Transition Charge (CTC): Upon the receipt of the documentation in a-f above, the Commission shall notify the DisCo of the application and request for filing of an application for CTC.

12.2 Stage 2: Approval of Eligibility Status

The Applicant, upon confirmation of meeting the requirements for eligibility status, shall file an application to the Commission for Approval of Eligibility Status with the following documents:

- a. Submission of an initialled Power Purchase Agreement.
- b. Submission of an initialled TUoS Agreement and/or DUoS Agreement as may be required for the delivery of energy to the Eligible Customer.
- c. Submission of executed CTC agreement between the DisCo and the EC.
- d. Submission of initialled Supplier of Last Resort Agreement by the prospective supplier.
- e. Submission of initialled project execution agreement, where applicable.
- f. Submission of a letter of clearance for non-indebtedness or a Settlement Agreement for unpaid bills from a distribution company serving the applicant at the time of the application, where applicable. The DisCo serving the applicant for eligibility status shall respond to an official request for a letter of non-indebtedness by a prospective EC within 21 working days.

Where there is:

- i. a dispute between the parties on the state of indebtedness, either party can escalate the matter to the Commission upon the expiration of the initial 21 working days.
 - ii. no response from the DisCo on the state of indebtedness of the applicant within the 21 working days response window, it shall be deemed as "no debt" outstanding. The Commission shall proceed with the review of the application.
- g. The Commission shall verify and evaluate the application for eligibility and issue a decision no later than 30 working days from the date of filing complete documentation.

12.3 Stage 3: Issuance of Eligibility Status

Upon approval of the EC application by the Commission, the EC shall obtain and file the under-listed document(s) with the Commission prior to receipt of Eligibility Status and the commencement of the transaction.

- a. Evidence of payment of applicable regulatory fees
- b. Executed Market Participation Agreement
- c. Executed copies of the documents listed in Section 12.2 (a – e).

CHAPTER V

RIGHTS AND OBLIGATIONS OF ELIGIBLE CUSTOMER AND SUPPLIER

13. Rights of the Eligible Customer

1. Network Access

- a. Eligible customers shall be granted access to transmission and/or distribution network connection points for the purpose of delivering the contracted energy and capacity, pursuant to the execution of the TUoS and/or DUoS agreement as applicable, provided that such access shall not affect the fulfilment of the existing obligations.
- b. The right to access transmission and distribution networks and conditions of electric power network usage shall be subject to the general conditions for delivery and supply of electricity, Grid Code, Distribution Code, Metering Code, and any other Regulations of the Commission.

2. Condition for Connection of the Eligible Customer

- a. The minimum technical standards for connection shall be a turn-in/turn-out and not a Tee-off from the existing network.
- b. The minimum contracted take or pay capacity eligible for a connection to a 132kV transmission network shall be 20MW.
- c. The delivery of power to an eligible customer shall not be prioritized by the System Operator over an existing contractual obligation by market participants.
- d. Where there is a network constraint or congestion to the extent that an eligible customer transaction may affect the fulfilment of an existing contractual obligation, the Applicant or supplier shall be required to make necessary infrastructural investments to relieve the congestion. The scope and capital cost of the investment shall be mutually agreed by the parties and the system operator and approved by the Commission. The

recovery of such investment shall be in line with the provisions of the EA 2023 and extant regulations.

3. Supplier Choice

- a. An Eligible Customer may freely choose a supplier and bilaterally contract for the pricing, quantity, and time of supply. The terms and conditions of supply shall be subject to the provisions of the Grid Code, Market Rules, and general conditions for delivery and supply of electricity.

14. Obligations of the Eligible Customer

1. In order to exercise the rights referred to in these Regulations, the eligible customer shall comply with the obligations stated below:
 - a. Enter into a contract for supply on "take or pay" terms with the holder of a generation or trading licence
 - b. Enter into a contract to access the transmission and/or distribution network in compliance with technical codes, general conditions for delivery and supply of electricity, and the terms of the Power Purchase Agreement.
 - c. Procure and ensure installation of meter/meter infrastructure with remote reading capability as provided in Section 7 of these regulations.
 - d. Comply with the requirements for off-take of contracted quantities of electricity and peak capacity at each connection point.
 - e. Meet all financial obligations pursuant to the agreements for the supply of electricity and in a timely manner:
 - i. As provided in the terms of the Power Purchase Agreement.
 - ii. For use of the transmission network, ancillary services, and system operations at the tariff prescribed by the Commission.

- iii. For use of the distribution network at the tariff prescribed by the Commission.
 - iv. For the costs and settlement of imbalances pursuant to the Market Rules.
 - v. For market administration charges.
 - vi. For payment of competition transition charge, where applicable
- f. Notify the Commission of any change in corporate identity, address, and service location.

15. Rights of the Supplier

The rights of the supplier shall be as provided in the PPA, TUoS, DUoS, Market Participation Agreement, and Terms and Conditions of the license.

16. Obligations of the Supplier

1. The Supplier to an Eligible Customer is obliged to:
 - a. Regularly submit all required data to the transmission or distribution licensees prescribed by the contract provisions on network usage and contract on supply.
 - b. Ensure availability of uncontracted capacity before entering into an agreement with the eligible customer.
 - c. Execute and provide the "Supplier of Last resort Agreement" with the alternative supplier in support of the eligible customer application.

CHAPTER VI

RIGHTS AND OBLIGATIONS OF SERVICE PROVIDERS

17. Rights and Obligations of the Transmission Service Provider

The rights and obligations of the Transmission Service Provider (except as expressly contained in these Regulations) are as provided in the Technical Codes, Market Rules, Connection, TUoS Agreements, and licence terms and conditions.

18. Rights and Obligations of the System Operator

- a. The rights and obligations of the System Operator (except as expressly contained in these Regulations) are as provided in the Market Rules, Technical Codes, applicable Agreements, and licence terms and conditions.
- b. The System Operator is obligated to ensure compliance with requirements for connection to the transmission network as provided in Section 12(2) (a-d) of these Regulations.
- c. The System Operator shall have the obligation to remotely read the trading meters at the injection points of the Eligible Customer.

19. Rights and Obligations of the Market Operator

The rights and obligations of the Market Operator (except as expressly contained in these Regulations) are as provided in the Market Rules, Market Participation Agreements, and licence terms and conditions.

20. Rights and Obligations of the Distribution Service Provider

The rights and obligations of the Distribution Service Provider (except as expressly contained in these Regulations) are as provided in the Technical Codes, Agreements, and licence terms and conditions.

CHAPTER VII

SWITCHING RULES

Eligible Customers may switch supplier subject to the following rules.

21. Approval of Request to Switch Supplier

An Eligible Customer switching supplier shall file an application in line with Stage 2 of the application process as stated in Section 11 of these regulations. The switching customer shall file for the Commission's approval of all Power Purchase Agreements with prospective suppliers before the commencement of service.

22. Switching to Distribution Licensee

1. An Eligible Customer wishing to switch supply to a distribution licensee shall provide a minimum of 3 months' notice of intent to allow for adequate planning unless waived by the other party.
2. The applicable tariff for the Eligible Customer switching to a distribution licensee shall be at the prevailing tariff rates for customers in the same tariff class, unless bilaterally negotiated by the parties.
3. Without prejudice to Section 21(2), a DisCo may offer a negotiated lower tariff provided that any decrease in revenue arising from such concession prior to rate redesign shall be borne by the DisCo.

23. Procedure for Switching Supplier

1. An Eligible Customer that intends to switch supplier shall inform the current supplier in writing of the intention to switch supplier at an agreed date, subject to the termination clause under the PPA and the Commission's approval of the new contract for supply.
 - a. The procedure for switching from one supplier to another commences with the execution of a PPA with the new supplier and other industry agreements (as provided in Chapter 2) prior to terminating the existing PPA.

- b. The date of switching the supplier shall be as provided in the PPA with the new supplier and other conditions precedent for the commencement of supply.
 - c. The new supplier to the Eligible Customer is required to submit an executed PPA to the Commission for approval and a subsequent notification of the executed PPA to the System Operator, Market Operator, and the supplier of last resort, pursuant to the provisions of the general conditions for delivery and supply of electricity, Technical Codes, and Market Rules.
 2. The Market Operator shall, prior to the effectiveness of the new contract, undertake a meter reading of the customer's energy consumption for final settlement between the old supplier and the eligible customer.

CHAPTER VIII

ACCESS TO TRANSMISSION AND DISTRIBUTION NETWORKS

24. Access to Transmission and Distribution Networks

1. Access to the network and conditions of electric power network usage to which the eligible customer is connected, is determined by the general conditions for delivery and supply of electricity as provided for in the technical codes and any other Regulations of the Commission including the provisions of Section 15 of these Regulations:
 - a. The Commission shall promote third-party access to the transmission and distribution networks by ensuring:
 - i Fair access to the distribution and transmission networks subject to availability of capacity;
 - ii Compliance with the approved regulated DUoS and TUoS tariffs, except where additional investment is required subject to the Commission's approval;
 - iii Compliance with Market Rules, Technical Standards and Codes;
 - iv Network expansion plans to meet customer needs;
 - v Compliance with quality standards for the supply of electricity and maintenance of frequency and regulation of voltage.
 - b. Eligible Customers and suppliers applying for connection to the Transmission or Distribution Networks shall file a written application with the licensed operator.
 - c. A decision on applications for third-party access to a transmission or distribution network shall be communicated to the applicant within 30 days of submission of complete documentation.
 - d. Where third-party access is denied due to lack of capacity, reasons for the refusal shall be communicated to the applicant.

- e. Pursuant to the rules governing Hearing Procedures, the party denied access to transmission and distribution may file a petition to the Commission against the denial.
- f. Where a network licensee unreasonably refuses to allow third-party access to an applicant, the Commission shall issue an Order granting access and sanction the licensee for the denial.

CHAPTER IX PRICING AND COST OF SUPPLY

25. Pricing

1. The price at which a supplier delivers power to an Eligible Customer shall, in addition to capacity and energy charges negotiated in the PPA, include the following charges as approved by the Commission, and in line with the operative tariff methodology:
 - a. Transmission Use of System Charges (where applicable)
 - b. Distribution Use of System Charges (where applicable)
 - c. Additional Surcharge as may be approved by the Commission
 - d. Regulatory fees
 - e. Ancillary Service Charges
 - f. Market Administration and System Operation charges

26. Power Consumer Assistance Fund

The Commission may determine the rate of contribution to be made by eligible customers to the Power Consumer Assistance Fund, pursuant to Section 123 of the Act.

27. Rural Electrification Fund

The Commission may determine the contribution rates to be made by Eligible Customers to the Rural Electrification Fund, pursuant to Section 145 of the Act.

28. Abuse of Market Power

Pursuant to Section 121 of the Electricity Act which mandates the Commission to ensure fair competition and avoid abuse of market power, the applicable tariff to a customer currently connected to a DisCo network and switching supply to a generation or trading licensee shall not be lower than the weighted average wholesale cost of the grid power at the time of the transaction.

CHAPTER X COMPETITION TRANSITION CHARGE

29. Competition Transition Charge

1. The Commission may issue a directive for the collection of Competition Transition Charges (CTC) from Eligible Customers in accordance with section 12(1) of the Act.
 - a. The CTC is the additional revenue a distribution licensee is eligible to collect outside its normal tariff as compensation for loss of revenue (to cover its committed prudent expenditure) and/or its inability to earn permitted rates of return on its assets arising from losing a customer to an eligible customer transaction. Specifically, switching supply from distribution licensee to an eligible transaction may lead to stranded costs and loss of revenue due to the following:
 - i Unamortized Investment in Networks: Stranded infrastructure by network operators that may not be optimally utilized to serve other customers, thus recovery of investments may not be realised within the earlier projected life span of the financed assets;
 - ii Long Term contractual commitments such as Power Purchase Agreement (PPA) and Vesting Contract (VC);
 - iii Legacy Cost: Deferred expenses such as the amortization of loans granted to market participants under the Nigerian Electricity Market Stabilization Fund (NEMSF);
 - iv Cross subsidy to other customer classes currently provided by the potential Eligible Customers; and
 - v Overhead transition costs.
 - vi Regulatory Asset & Revenue Shortfall: DisCos may have accumulated substantial tariff shortfalls partly arising from past decisions to sculpt end-user tariffs and artificially freeze tariff reviews to recover the deferred revenues in the future. A potential

Eligible Customer may have benefitted from sculpted and/or frozen tariffs in the past, expecting the same customer to contribute to realizing the deferred revenues for the utility.

2. Procedure for Applying For CTC

A distribution licensee shall file an application with the Commission for applicable CTC clearly justifying that, despite its efficient management, the utility would be unable to meet its revenue requirement arising from the exit of an EC. Such application shall be filed within 30 days of the receipt of the prospective EC's notice of intention to exit the network by the distribution licensee. The Commission shall accordingly process the application as follows:

- i The Commission shall review the claim of the DisCo including further consultations on the matter with relevant stakeholders.
- ii Where DisCo's claim for loss of revenue is satisfactorily justified, the Commission shall approve the charge and issue a directive for the payment of CTC by the EC.
- iii The EC shall provide a payment securitization in favour of the distribution licensee covering three (3) months of estimated invoicing of the CTC.

3. Determination of Competition Transition Charge

The CTC shall be determined based on the difference between the tariff payable by the potential EC and the approved weighted average end-user tariff for Non-MD customers in the affected DisCo adjusted for collection efficiency.

$$\text{CTC/kWh} = \text{Actual tariff payable by the EC applicant} - (\text{Weighted average tariff for Non-MD customers of the DisCo} \times \text{collection efficiency for the DisCos' Non-MD customers})$$

The monthly amount payable as CTC shall be computed as CTC/kWh multiplied by the average monthly energy billed to the customer during the 90 days (i.e. 3 months) preceding the application.

4. The Duration for the Payment of CTC

The CTC payable shall have a sunset and be limited to the extent of the recovery of stranded costs, deferred liabilities, and loss of revenues. Payment of CTC by Eligible Customer shall be subject to escalation in line with the MYTO tariff review and shall continue until the next major tariff review. The CTC payable shall be computed using the methodology in Section 28(3) of these Regulations.

CHAPTER XI

METERING, BILLING AND SETTLEMENT

30. Metering, Billing and Settlement

Metering, billing, and settlement of invoices for Eligible Customer transactions shall be in line with the provisions of the Metering Code and the Market Rules. The metering infrastructure shall have a communication module for remote reading by the System Operator.

CHAPTER XII

BALANCING

31. Treatment of Energy Differences

1. Energy imbalance may arise where:
 - a. an Eligible Customer is unable to take the generated contracted quantities;
 - or
 - b. a generator is constrained from delivering contracted quantities that had been nominated.

32. Settlement of Imbalances

Any imbalance in the market shall be accounted for and settled by the Market Operator at the end of each billing cycle in accordance with the approved imbalance pricing mechanism, pursuant to the provisions in the Market Rules.

CHAPTER XIII

SUPPLIER OF LAST RESORT

33. Supplier of Last Resort

A Supplier of Last Resort shall act as the contingent supplier to an Eligible Customer in the event of a failure by the contracted supplier to deliver contracted quantities under the terms of sale. The supplier to an eligible customer shall provide a **"Supplier of Last Resort Agreement"** executed with any of the potential suppliers highlighted below:

- a. NBET as the bulk trader in the energy pool shall act as a transitional Supplier of Last Resort to eligible customers based on the terms and conditions of an executed agreement with the supplier to the eligible customer. The wholesale price for quantities supplied to an eligible customer upon a failure event by the main contracted supplier shall not be less than the generation tariff of the most expensive generating plant in the NBET's portfolio. Any excess funds arising from this function after monthly settlement shall be paid to the Ancillary Services Account.
- b. Where NBET's contracts are novated upon its exit from the electricity trading, the Market Operator shall assume the role of "Supplier of Last Resort" and take responsibility for imbalance settlement. The wholesale price payable by the eligible customer supplier shall not be less than the generation tariff of the most expensive generating plant on the national grid. Any excess funds arising from this function after monthly settlement shall be paid to the Ancillary Services Account.
- c. Where an Eligible Customer procures supply from an embedded generator, the distribution licensee shall act as Supplier of Last Resort to the said customer connected to its network under a contractual arrangement and at a tariff mutually agreed between the DisCo and the embedded generator.

34. Failure Events

The under-listed failure event situations shall trigger the balancing mechanism provision in the executed Supplier of Last Resort Agreement:

- i A declaration of unavailability or constrained/limited availability by the supplier contracted by the eligible customer.
- ii The inability of the Transmission Service Provider to wheel the contracted capacity from the generating plant.
- iii Any other occurrence of a failure event as may be prescribed or approved by the Commission from time to time.

CHAPTER XIV

MISCELLANEOUS

35. Information on Suppliers and Eligible Customers

A list of Eligible Customers and their licensed suppliers shall be maintained on the Commission's website.

36. Dispute Resolution

All disputes between parties in connection with these Regulations shall be resolved in accordance with the dispute resolution clauses of the respective agreements governing their relationship and the dispute resolution mechanism in the Market Rules (where applicable).

37. Application of other Regulations

The provisions of all other Regulations, Rules, and Codes of the Commission shall apply to all other issues not covered by these Regulations.

38. Amendment or Repeal

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

39. Interpretation

1. Unless otherwise specified in this Regulation:
 - 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 this regulation 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; and
- d. If the date on which an event is scheduled to occur by this regulation is a day that is not a business day, then the event shall be deemed to occur on the next business day (except in the case of switching as described in Chapter VII of these Regulations).

2. In these Regulations, unless the context otherwise requires:

"Act" means the Electricity Act 2023, as may be amended from time to time;

"Ancillary Service" means a service, other than the primary production of electricity, which is used to operate a stable and secure power system including but not limited to reactive power, operating reserve, frequency control, and black start capability;

"Applicant" means a person who applies to the Commission for the status of an Eligible Customer or Supplier of Electricity to an Eligible customer;

"Balance Responsibility" means the responsibility to settle fiscal balances between Eligible Customers and suppliers;

"CBN" means the Central Bank of Nigeria

"Commission" means the Nigerian Electricity Regulatory Commission established by the Electricity Act, of 2023

"Competition Transition Charge" or "CTC" means any charge established under Sections 12 and 13 of the Act;

"Distribution Licensee" or "DisCo" means a holder of a distribution license issued under Section 68 of the Act and any other holder of a distribution license issued by the Commission;

“Distribution Network” means all-electric lines used for the distribution of energy to final consumers and includes any structures and equipment used for that purpose that is connected to the transmission system;

“Distribution Network Operator” means the distributor who owns, operates and maintains a Distribution Network;

“Eligible Customer” or **“EC”** means a customer that meets the Eligibility requirements under this Regulation and is approved for eligible customer transaction

“Generation Licensee” means the holder of a generation license issued under section 65 of the Act and any other holder of a generation license issued by the Commission;

“Grid Code” means the instructions, rules, procedures, guidelines, etc. for the planning and operation of an interconnected power system and accounting requirements relating thereto;

“Independent Power Producer” means an entity that is granted a Generation License pursuant to Section 65 (3) of the Act;

“Legacy Transition Costs” means those specific costs that have been incurred by virtue of the private transaction or other power sector reform agenda initiatives;

“Market Operator” means the company or entity licensed to carry on system operation under the Act, in so far as such company or entity is engaged in the administration of the market, including making, publishing, amending, administering, and or enforcing the Market Rules and settlement of payments among market participants pursuant to its License;

“Market Rules” means the Market Rules for the Transitional and Medium-Term Stages of the Nigerian Electricity Supply Industry 2014, approved under Section 10 of the Act;

“Minister” means the Honourable Minister for Power, Works and Housing or any other Minister to whom the President may from time-to-time assign

administrative functions in respect of the Electricity Act,2023;

"NESMF" means the Nigerian Electricity Stabilization Management Fund.

"Overhead Transition Costs" means the costs that are not directly related to the operation of the business but are incurred or payable in business or asset restructuring as a result of the transition of an EC customer to switch suppliers;

"Power Purchase Agreement (PPA)" means the contracts for the sale of active power and ancillary services between Generators and buyers that include any structures and equipment used for that purpose;

"Regulations" means these Eligible Customer regulations or any other Regulation applicable to Eligible Customers that may be issued by the Commission from time to time;

"Sunset" means the recovery period of the payment of the Competition Transition Charge

"Supplier" means any licensee that is authorized by the Commission to supply electricity to an Eligible Customer;

"Supplier of Last Resort" means the supplier that is appointed to assume responsibility for electricity supply to the Eligible Customer, under the terms and conditions prescribed by these Regulations, when the supplier to eligible customers ceases to supply due to termination or conclusion of the contract or any other reasons for non-supply;

"Switching" means the process of an Eligible Customer changing its source of energy supplier from a distribution licensee to a generation licensee or vice versa; or from a generation licensee to another generation licensee;

"System Operator" means the holder of a system operation license issued under section 67 of the Act;

“Take-or-Pay” means a provision in a contract that guarantees a minimum of the agreed-on payment if the off-taker or buyer does not follow through with off-taking the agreed volume of energy;

“TSP” means the transmission licensee of the National Interconnected Transmission System of Nigeria, which provides open-access transmission services;

“Technical Codes” means the Grid Code, the Distribution Code, the Metering Code, the Health and Safety Code, and such other codes as may be applicable;

“Trader” means the holder of a trading license issued under section 69 of the Act.

“Unamortized Investment in Networks” means investments or costs incurred in building a network infrastructure but have not been expensed or not recouped either through depreciation or amortization over the life of the asset or investment;

“Vesting Contracts” means the contracts established to govern the trading arrangements between the Special Traders and Successor Distributors at the commencement of the Transitional Stage;

SCHEDULE I

A. DOCUMENTATION FROM ELIGIBLE CUSTOMER (to be submitted in triplicate)

STAGE 1: ELIGIBILITY STATUS (PRE-APPROVAL) REQUIREMENTS

1. A copy of the applicant's certificate of incorporation.
2. Tax clearance certificate.
3. Memorandum and articles of association.
4. Forms CAC2 and CAC7.
5. Board resolutions approving the application.
6. Letter of intention to Switch Supply
7. Evidence of consumption load profile
8. Permit Application Form.
9. Evidence of uncontracted capacity from the prospective supplier
10. Copies of documents showing that the applicant and supplier have satisfied safety and technical requirements including a minimum consumption threshold of 10MWh/h.
11. Utility bills for the preceding six months.
12. Statement from the Independent System Operator or Distribution Network Operator (as the case may be) indicating the structures to which the Eligible Customer is connected and confirming that the Eligible Customer meets the conditions prescribed by the relevant Technical Codes and general conditions for delivery and supply of electricity. The document shall provide details on the location of the customer, the feeder from which the customer shall be supplied, and the availability of sufficient network infrastructure to meet the demand without displacing existing off-takers.

STAGE 2: ELIGIBILITY APPROVAL REQUIREMENTS

1. Letter of introduction from bankers and other financial support documents.
2. Letter of clearance from DisCo of non-indebtedness of the Eligible Customer.
3. Evidence of a minimum of 3 months switch over Notice to Supplier

4. Evidence of security deposit or letter of credit covering 3 months of energy delivered and market Administration charges
5. Initialled PPA, TUoS, and/or DUoS
6. Initialled Supplier of Last Resort Agreement (to be submitted by supplier)
7. Independent System Operator's written confirmation of compliance with connection requirement as provided in Chapter V of these Regulations.
8. Project Execution Agreement, where applicable

B. DOCUMENTATION FROM SUPPLIER

1. Evidence of excess capacity over and above already contracted capacity by the supplier (GenCo)
2. Independent System Operator's written confirmation of compliance with connection requirement as provided in Chapter V of these Regulations.
3. Initialled supplier of last resort agreement

STAGE 3: POST APPROVAL DOCUMENTATION

1. Executed Market Participation Agreement with the Market Operator
2. Executed copies of PPA, TUoS, DUoS, and supplier of last resort agreements
3. Evidence of payment of applicable regulatory fees

**THE COMMON SEAL OF
THE NIGERIAN ELECTRICITY REGULATORY COMMISSION**
was affixed pursuant to the Order of the Commission on

.....15th March....., 2024


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**SANUSI GARBA
CHAIRMAN**