



# Innovations in the Nigerian Electricity Regulatory Commission Mini-Grid Regulations, 2023

## Introduction

On December 29, 2023, the Nigerian Electricity Regulatory Commission (the “**Commission**”) released the Mini-Grid Regulations, 2023 (the “**New Regulation**”) pursuant to the Electricity Act, 2023.<sup>1</sup> The New Regulation repealed the Mini-Grid Regulations, 2016 (the “**Repealed Regulations**”). The New Regulation introduced certain changes to the operation of mini-grid in Nigeria. In this article, we examine the noteworthy innovations in the New Regulation and the possible impacts these changes would have on the Nigerian Electricity Supply Industry (“**NESI**”).

## Key Innovations in the New Regulation

### 1. Portfolio of Interconnected and Isolated Mini-Grids

The New Regulation introduces the provision allowing a mini-grid developer to make a single application for a portfolio of interconnected mini-grids<sup>2</sup> and a portfolio of isolated mini-grids.<sup>3</sup> By the New Regulation, a mini-grid developer can make multiple applications in respect of different mini-grids in a single application. This will significantly reduce the cost of filing multiple applications for mini-grids projects. Further, the New Regulation now allows for the submission of a combined report on the accounts of mini-grids under the same mini-grid developer rather than the submission of individual reports on each mini-grid.<sup>4</sup> This would make the submission of accounts by mini-grid developers more efficient and easier to manage.

### 2. Limitation on the Multi Year Tariff Order Methodology

Under the New Regulation, the Multi Year Tariff Order (“**MYTO**”) methodology approved by the Commission will be applied in determining retail tariffs and other charges when granting a mini-grid permit.<sup>5</sup> By the New Regulation, allowable technical losses should not exceed four *per cent* (4%) while allowable non-technical losses should not exceed three *per cent* (3%). This is a major reduction from the position under the Repealed Regulations which provided for not more than ten *per cent* (10%) allowable technical and non-technical losses respectively.<sup>6</sup>

### 3. Consent Timeline for Discos

To expedite the interconnected mini-grid application process, the New Regulation now requires relevant distribution companies (the “**Discos**”) to provide the required consent and confirmation within fifteen (15) business days of the request being submitted to the Disco’s headquarters. Where the Disco neglects to respond to the mini-grid developer within the timeline, consent shall be deemed to have been granted to such applicant.<sup>7</sup> This innovation will help reduce protracted consents and confirmations that existed under the previous regulatory regime.

### 4. Provisions for the Transfer of Mini-Grid Permits and Business

The New Regulation introduces a framework allowing for the transfer of mini-grid permits and businesses. However, a mini-grid permit holder must obtain the prior consent of the Commission before the transfer, assignment, sale or disposal in any form, of all or part of the mini-grid business undertaking.<sup>8</sup> The mini-grid permit holder seeking to transfer its permit is to submit to the Commission: (a) a consent application; (b) the certificate of incorporation and memorandum of articles of association of the transferee; (c) board resolution of the transferor and transferee respectively, approving and accepting the transfer; (d) the original mini-grid permit certificate and

<sup>1</sup> See Section 226 of the Electricity Act.

<sup>2</sup> Para. 3(1) of the New Regulation defines this as a set of interconnected mini-grids as determined by the mini-grid developer, for which tripartite agreements with the same Disco have been signed and filed simultaneously for the Commission’s approval.

<sup>3</sup> Para. 3(1) of the New Regulation defines this as a set of isolated mini-grid as determined by the mini-grid developer filed simultaneously for the Commission’s approval.

<sup>4</sup> Para. 13(2) of the New Regulation.

<sup>5</sup> Para. 22(3) of the New Regulation.

<sup>6</sup> See Para. 20(3) of the Repealed Regulation.

<sup>7</sup> Para. 7(2) of the New Regulation.

<sup>8</sup> Para. 14(1) of the New Regulation.

the terms and conditions issued by the Commission to the transferor; and (e) documentary evidence showing the technical capacity of the transferee company to operate the mini-grid.<sup>9</sup>

## 5. Expansion of Discos Area Coverage

To further enhance the provision of power to unserved areas, the New Regulation permits Discos to integrate their network with interconnected mini-grids or extend their network to isolated mini-grids operating under a permit. However, such Disco must notify the mini-grid operator within twelve (12) months before such extension reaches the isolated mini-grid.<sup>10</sup> Under the Repealed Regulations, there was no provision for Discos to provide prior notification of expansion plans to mini-grid permit holders.

## 6. Compensation for Interconnected Mini-Grid Permit Holders

Under the Repealed Regulations, where a Disco extends its network to an isolated mini-grid operated under a mini-grid permit, Discos were at liberty to request mini-grid operators to remove and decommission mini-grid assets within two (2) months without any compensation.<sup>11</sup> Under the New Regulation, the isolated mini-grid permit holder may elect to transfer its distribution assets to the Disco in return for compensation or continue its operation.<sup>12</sup> However, where the permit holder elects to handover the distribution assets, the Disco will have to compensate the mini-grid operator for the assets. Otherwise, the permit holder will be entitled to continue its operations without any disruption or obstruction by the Disco.<sup>13</sup> To this end, the mini-grid operator may elect to handover its distribution assets to the Disco (and earn compensation for that) or continue its operation of the isolated mini-grid.

## 7. Environmental Safety Provisions

The New Regulation requires mini-grid operators to comply with extant environmental laws that may impact their operations. Mini-grid permit holders are to comply with existing laws on the design, construction, commissioning, operation and maintenance of generation and distribution assets.<sup>14</sup> The Commission is empowered to suspend or terminate the license of a mini-grid operator where there is a breach of applicable environmental laws.<sup>15</sup>

## 8. Submission of Monitoring and Evaluation Reports

Mini-grid operators are required to file a report, at least once every year (except the Commission prescribes a different frequency to the mini-grid operator)<sup>16</sup> of their monitoring and evaluation activities to the Commission in accordance with the monitoring and evaluation template provided by the Commission or in accordance with the terms and conditions of the permit and/or registration. The filing may be done in hard copies or through digital platforms approved by the Commission.<sup>17</sup> This would aid the regulatory oversight of the Commission in respect to mini-grids and further ensure an enhanced level of compliance by mini-grid operators and permit holders.

## Conclusion

The New Regulation aims to improve the efficiency and administration of mini-grids in Nigeria. We commend the Commission for addressing some of the extant loopholes in the Repealed Regulations and enhancing the framework and administration of mini-grids in Nigeria. Our expectations are that the New Regulation will attract more participants in the NESI and provide improved access to electricity in the unserved and underserved regions in the country.

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<sup>9</sup> See generally Para. 14(2) of the New Regulation.

<sup>10</sup> Para. 20(2) of the New Regulation.

<sup>11</sup> Para. 19(6) of the Repealed Regulation.

<sup>12</sup> Para. 20(3)(b) of the Regulations.

<sup>13</sup> Para. 20(4) of the New Regulation.

<sup>14</sup> Para. 17 of the New Regulation.

<sup>15</sup> Para. 18 of the New Regulation.

<sup>16</sup> Para. 13(2) of the New Regulation.

<sup>17</sup> Para. 21(2) of the New Regulation.

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