Electricity regulation in Nigeria: overview

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Country Q&A | Law stated as at 01-Oct-2014 | Nigeria
A Q&A guide to Electricity regulation in Nigeria.

The Q&A gives a high level overview of the domestic electricity market, including domestic electricity companies, electricity generation and renewable energy, transmission, distribution, supply and tax issues. It covers the regulatory structure; foreign ownership; import of electricity; authorisation and operating requirements; trading between generators and suppliers; rates and conditions of sale and proposals for reform.

To compare answers across multiple jurisdictions, visit the energy and natural resources Electricity regulation Country Q&A tool.

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Overview

Electricity market

1. What is the role of the electricity market in your jurisdiction?

Overview

The installed capacity of grid electricity generally fluctuates, but is in the region of about 6000 MW. Installed capacity of Nigeria is extremely low when compared with the generation capacity of other countries with similar economic profiles, and this is particularly highlighted in terms of per capita generation.

The statistics indicate that Nigeria's per capita electricity consumption stands at just 7% of Brazil's and 3% of South Africa's.

The chronic shortage of available generating capacity has negatively affected the industrial and manufacturing sectors. With self-generation prevalent in the industrial, commercial and domestic sub-sectors, the electrical energy demand in Nigeria is not known.

The attainment of a steady supply of power is therefore a top priority of the government. However, despite the government's best efforts, due to a combination of financial, structural, and socio-political factors, Nigeria continues to experience acute electricity shortage.
Recent trends

Tackling electricity shortage. The government is undertaking comprehensive reforms to address the acute electricity shortage. The following major legal, regulatory and institutional steps were enacted to address the challenges of the sector:

- Establishment of the Electricity Power Sector Reform Act 2005 (EPSRA).
- Establishment of the Nigerian Electricity Regulatory Commission (NERC).
- Establishment of the Nigerian Bulk Trading Plc (Bulk Trader). Unbundling of the formerly vertically integrated state utility, the National Electric Power Authority (NEPA) (which enjoyed a monopoly in terms of generation, transmission, distribution and sale of electricity to end-users nationwide), and its successor, the Power Holding Company of Nigeria (PHCN).

The PHCN unbundling process, under EPSRA, created 11 semi-autonomous business units from its former distribution sector. Similarly, its transmission sector was unbundled into a semi-autonomous business unit known as Transmission Company of Nigeria, with the creation of the office of the market operator and system operator. The generation sector was subsequently unbundled into six semi-autonomous business units.

These acts were in anticipation of the government’s ultimate goal of divesting its interest in the generation companies (Gencos) and distribution companies (Discos) while the transmission company (Transco) was to remain state-owned.

On 30 September 2013, President Goodluck Jonathan formally handed over share certificates and licences to the new core owners of the Gencos and Discos, marking a new era in the Nigerian electricity supply industry and an indication of the government’s willingness to divest its role in the electricity industry to the private sector.

The power assets held by the Niger Delta Power Holding Company, under the National Integrated Power Project (NIPP), are also in the process of privatisation.

In addition, a new wave of investments in power generation championed both by the government and the private sector has started. Therefore, authorisations/permits for new independent power producers (IPPs) are being issued for increased power generation capacity from different feedstock (that is, raw materials), including the renowned Azura Edo 500MW gas-fired IPP.

Renewables. Further realising the need to use the country’s infinite natural resources for power generation, the government has in the last 12 months increased its focus on renewables as a means of power generation. Specifically, tariff methodologies have been structured in ways to encourage investment in renewable energy.

Electricity regulation. There has also been increased activity in the area of electricity regulation. The NERC has actively participated in the trends in the market with the issuance of the:

- Grid Code on 12 July 2013.
- Rule for the Interim Period between Completion of Privatisation and the start of the Transitional Electricity Market on 3 December 2013.
Regulatory structure

2. What is the regulatory framework for the electricity sector?

Regulatory framework
The 1999 Constitution of the Federal Republic of Nigeria places electricity generation, transmission and distribution on the Concurrent Legislative List. This allows both the federal and state legislature to enact laws and make policies to promote the electricity sector.

The Electricity Power Sector Reform Act 2005 (EPSRA) is the main statutory legislation focused on electric power sector regulation in Nigeria. The major objectives of the EPSRA are the:

- Liberalisation of the power sector through the unbundling and privatisation of the National Electric Power Authority (NEPA).
- Encouragement of private enterprise in capacity development along the functions of the vertically integrated NEPA.

The EPSRA also defines a phased and strategic implementation of the electricity reform until an optimal capacity generation and full competitive market is achieved.

The establishment of the Nigerian Electricity Regulatory Commission (NERC) is also in line with the reform programme. The NERC is statutorily mandated to:

- Carry out the monitoring and regulation of the electricity industry.
- Carry out the issuance of licences to market participants.
- Ensure compliance with market rules and operating guidelines.

In addition to existing NERC licence-related and consumer protection regulations, there are other rules and regulations that govern the electricity industry, principally the:

- Market Rules. These define the electricity trading arrangements for the wholesale electricity market.
- Grid Code. This defines the rules for administration and operation of the transmission system, as well as technical procedures for the planning, co-ordination, supervision and operation of the system.
- Metering Code. This is designed to ensure the financial viability of the electricity industry after the unbundling. This is to be done by requiring a regime of modern accurate meter systems with reliable communication facilities across the industry production and supply chain, to measure and record energy production and use.
- Distribution Code. This is designed to facilitate an efficient use of electricity for all users of the distribution networks and competition in the generation and supply of electricity.
- Metering Market Procedures.
Other important rules and regulations stemming out of the EPSRA are contained within the Multi Year Tariff Order (MYTO), the framework for tariff regulation. The overarching theme of the MYTO is achieving a balance of consumer fulfilment and licensee satisfaction. The MYTO is a 15 year tariff path for the electricity industry envisaged by the EPSRA, with both:

- Periodic minor reviews by the NERC to accommodate for changes in the methodology parameters (such as inflation, exchange rate and gas prices).
- A major review by the NERC, along with stakeholders, every five years.

Being a concurrent legislative matter, some Nigerian states have enacted their own laws on electricity. An example of this is the Ekiti State Electricity Board Law 2012. This law establishes the Electricity Board of Ekiti State as a body corporate with powers and responsibilities including the power to establish state electric power stations (section 5, Electricity Board Establishment Law).

**Regulatory authorities**
The main regulatory authorities are the:

- Federal Ministry of Power.
- NERC.
- Nigeria Electricity Liability Management Company.
- Nigerian Bulk Electricity Trading Company Plc (NBET).

See box, The regulatory authorities.

**Electricity companies**

**Main companies**

3. What are the main companies involved in electricity generation, transmission, distribution and supply?

As a result of the recent reforms and the privatisation exercise, the different stages of electricity production (generation, transmission and distribution) are now separate.

**Generation**
The main electricity generation companies (Gencos) are:
• Afam Power Plc.
• Gbarain Generation Company Limited.
• Geometric Power Ltd.
• Geregu Generation Company Limited.
• Geregu Power Plc.
• Ikorodu Industrial Power Ltd (embedded generation).
• Island Power Limited (embedded generation).
• Isolo Power Generation Limited.
• Kainji Hydro Electric Plc (Jebba Station).
• Kainji Hydro Electric Plc (Kainji Station).
• Notore Power Ltd.
• Ogorode Generation Co. Ltd (NIPP).
• Olorunshogo Generation Co. Ltd (NIPP).
• Olorunsogo Power Plc.
• Omoku Generation Company Limited.
• Omotosho Generation Company Limited.
• Omotosho Power Plc.
• Sapele Power Plc.
• Shiroro Hydro Electricity Plc.
• Ughelli Power Plc.
• Zuma Energy Nigeria Limited (Gas Plant) Imo.
• Zuma Energy Nigeria Limited (Coal plant) Kogi.

Transmission
The sole transmission company is known as the Transmission Company of Nigeria (TCN). For reasons of public policy and national security, the sole Transco, TCN, currently remains under the government’s control, although it is managed and operated by a private sector entity.

Distribution
The main distribution companies (Discos) are:

• Abuja Electricity Distribution Co Plc.
• Benin Electricity Distribution Company Plc.
• Eko Electricity Distribution Company.
• Enugu Electricity Distribution Co Plc.
• Ibadan Electricity Distribution Co Plc.
• Ikeja Electricity Distribution Company.
• Jos Electricity Distribution Company.
• Kaduna Electricity Distribution Company Plc.
• Kano Electricity Distribution Company Plc.
• PH Electricity Distribution Co Plc.
• Yola Electricity Distribution Company.

Supply
Discos sell electricity to end users. There are no supply companies.

Unbundling requirements
There are no unbundling requirements under any law or regulation in Nigeria in the Nigerian electricity supply industry, as the services have all been recently statutorily unbundled under the Electricity Power Sector Reform Act 2005 (EPSRA).

Foreign ownership

4. Are there any restrictions concerning the foreign ownership of electricity companies or assets?

There are no restrictions on foreign ownership of electricity companies in Nigeria.

Import of electricity

5. To what extent is electricity imported?

There is currently no electricity importation into Nigeria.

Electricity generation and renewable energy

Sources of electricity generation
6. What are the main sources of electricity generation?

The main sources of electricity generation are:

- Natural gas.
- Hydro.
- Solar.
- Wind.
- Biomass.
- Diesel.
- Low pour fuel oil (LPFO).

Information on the percentages of the total energy generation of each source is not publicly available.

**Fossil fuels**

The following fossil fuels are used:

- Natural gas.
- Coal.

**Renewable energy**

The main renewable energy sources used are:

- Solar.
- Wind.
- Hydro.
- Biomass and biofuel.

Information on the percentage of the total energy generation provided from these renewable sources is not publicly available.

7. Are there any government policies, targets or incentives in place to encourage the use of renewable or low carbon energy?
**Government policies/incentives**

The main policy statements in relation to the use of renewable energy are the:

- National Energy Policy.
- National Renewable Energy Master Plan. This was formulated with the objective of:
  - developing and implementing strategies that will achieve a clean reliable energy supply;
  - establishing a mechanism to develop the sector based on international best practices to showcase viability for private sector participation.
- Renewable Electricity Action Programme. This was developed with the objective of establishing a framework for achieving the objectives of the renewable electricity policy and regulatory guidelines, by setting measurable targets, strategies and an implementation plan for the contribution of renewable electricity to the national economy.
- Nigerian Biofuel Policy and Incentives. This has the objective of firmly establishing a thriving fuel ethanol industry, using agricultural products as a means of improving the quality of automotive fossil-based fuels in Nigeria.
- Vision 20:2020 on the Energy Sector. This is a ten-year plan for stimulating Nigeria's economic growth and launching the country onto a healthy path of sustained and rapid socioeconomic development. The aim is to ensure reduced projected energy use by 20% by 2020 and meet 20% of the nation's electricity needs with Class 1 renewable energy sources by 2020.

The most crucial for the generation of electricity through renewable sources is the feed-in tariff (FIT). The government has been developing feed-in tariffs for renewable energy that would support off-grid and mini-grid systems in rural and semi-urban areas. The feed-in tariff scheme is currently under development.

Most of the incentives available to investors in the Nigerian electricity supply industry are the incentives that are generally applicable in other sectors (for example, agriculture), and investors in the industry adapt these incentives. The ones generally available for adapting include:

- Pioneer status under the Industrial Development (Income Tax Relief) Act (Cap I7, Laws of the Federation of Nigeria (LFN) 2004), which exempts an eligible company from the payment of income tax for three years, renewable for a further two years (see Question 23).
- Investment allowance on plants and machinery.
- Tax relief for research and development.

In addition, in response to the government's initiative to solve Nigeria's power inadequacies, the Central Bank of Nigeria (CBN) in 2010 announced an NGN300 billion Intervention Fund for the Power and Aviation sectors (PAIF). The principal objects of the PAIF include:
• Fast-tracking the development of electric power projects and improving power supply.
• Generating employment.
• Enhancing the living standards of Nigerians through consistent power supply, among others.

The government has also set up the Renewable Electricity Trust Fund (RETF) to support, promote and provide renewable electricity through private and public sector participation.

Particularly in relation to solar power, the National Energy Policy sets out key objectives to pursue the integration of solar energy into the nation's energy mix. To achieve these objectives, Nigeria is dedicated to incentivising solar energy technology.

### Renewable energy targets
The Federal Ministry of Power and Steel has issued renewable energy targets under the Renewable Electricity Policy Guidelines. These articulate the government's vision, policies and objectives for promoting renewable energy in the power sector, and are not legally binding. The government's development objectives in this regard include the following:

• Market expansion.
• Grid connected operations, off-grid operations and rural electrification.

8. What are the main obstacles to the development of renewable energy?

The main obstacles to the development of renewable energy include (*Renewable Electricity Policy Guidelines)*:

• Policy and regulatory barriers.
• Financing and investment barriers.
• Technological barriers.
• Limited public awareness of the potential of renewable electricity.
• Poorly established standard and quality control of locally manufactured and imported technologies.
• Inadequate resource assessment and databases.

9. Are there any plans to build new nuclear power stations in your jurisdiction?
There has been discussion in political circles concerning the building of a nuclear power station, but we are not aware of any concrete plans to establish one in the near future.

The Nigerian Atomic Energy Commission was set up under the Nigeria Atomic Energy Commission Act 1976 to create a framework for the use of atomic and nuclear energy for peaceful purposes in Nigeria. The government has approved a nuclear roadmap that involves generation of at least 1000MW by 2017 and 4,000MW by 2027 (www.nigatom.org.ng). There has been no change in policy after Fukushima.

Authorisation and operating requirements

10. What are the authorisation requirements to construct electricity generation plants?

Initial application
An applicant seeking to construct an electricity generating plant must first obtain a generating licence from the Nigerian Electricity Regulatory Commission (NERC) (Electricity Power Sector Reform Act 2005 (EPSRA)). The applicant must provide sufficient evidence of its ability to meet the NERC licence conditions. The applicant may be required to provide the NERC with the following consent documents/permits:

- Certificate of incorporation and memorandum and articles of the company.
- Department of Petroleum Resources (DPR) approvals and permits to construct gas processing facilities.
- Oil pipeline licence and permit to survey. These are granted by the Minister of Petroleum Resources under the Oil Pipelines Act:
  - a permit to survey entitles the holder to survey the route for an oil pipeline for the transport of mineral oil or natural gas (or any product of that oil or gas) to any destination;
  - an oil pipeline licence is granted for the construction, maintenance and operation of an oil pipeline for the conveyance of mineral oils, natural gas and any of their derivatives or components.
- Environmental impact assessment approval certificate from the Ministry of Environment.
- Certificate of capital importation from an approved finance institution (where the investors are non-Nigerians) to satisfy NERC that the applicant is capable of meeting the project's capital requirements.
- Financing agreements or letters of intent to fund the project by a reputable bank.
- Foreign investment approvals from the Nigerian Investment Promotion Commission (NIPC) where the project involves foreign investors. The NIPC registers all joint ventures or wholly owned foreign enterprises, and keeps a record of these.
• Registration certificate from the National Office for Technology Acquisition and Promotion (NOTAP), where the project involves transfer of technology.
• Evidence of confirmation that the proposed connection point has the capacity to take the load that will be fed onto it.

**Land and construction authorisations**
In relation to the actual construction, the applicant must obtain the following central authorisations/approvals. Given that Nigeria operates a Federal system of government, note that other State-specific approvals (depending on the location of the power plant), may also be required.

The approvals/permits required for land and construction include:

• For acquisition of land, the approvals/permits required depend on the type of land:
  • a certificate of occupancy, if the land is procured directly from the government;
  • a deed of assignment, where the land is privately held.

• A civil aviation clearance if the power plant is located near an airport.
• Construction/building permit.
• Water licence under the Water Resources Act (CAP W2 LFN 2004).
• Factories licence under the Factories Act (CAP F1 LFN 2004).
• Applicable environmental authorisations under the National Environmental Standards and Regulations Enforcement Agency Act (NESREA).
• Air quality permit.
• Waste and toxic substances Permit.
• Ground rent receipt for the generation plant’s site.

See **Question 17**.

11. Are there any requirements to ensure new power stations are ready for carbon capture and storage (CCS) technology, or requiring a plant to retrofit CC technology once this is ready?

There is no CCS requirement for power plants.
12. What are the authorisation and main ongoing requirements to operate electricity generation plants?

The authorisation procedures and documents, and the main ongoing requirements, to operate electricity generation plants include:

- Generating licence (see Question 10).
- Environmental impact assessment certificate.
- Permits and approvals from the National Environmental Standards and Regulation Enforcement Agency (NESREA).
- Work permit and expatriate quota from the Nigerian Immigration Service where expatriates will be employed.
- Tax clearance certificate of the directors of the project company and sponsors.
- Certificate from the National Office for Technology Acquisition and Promotion (NOTAP), certifying registration in respect of transfer of technology contracts.
- Compliance with the Market Rules, Grid Code, Metering Code, Health and Safety Regulations and other regulatory instruments issued by the Nigerian Electricity Regulatory Commission (NERC).
- Filing of a policy framework with the NERC for compliance with environmental laws.
- Annual compliance audits on the activities of the generation company and reports to be filed with the NERC.
- Maintenance of an adequate insurance policy on the generation station, equipment and facilities.

13. What requirements are there concerning interconnection of generation to the transmission grid?

All generating companies are eligible to obtain transmission services from the Transmission Company of Nigeria (TCN) (Grid Code). However, this is subject to:

- The basis of operation (that is, whether the company is on-grid or off-grid).
- The terms and conditions specified under the Grid Code.
- Any transmission use-of-system contracts with the TCN for use of the transmission system (for example, connection to and use of the Nigerian Electricity Transmission Network by a power station, load, eligible customer, trader or interconnected parties directly connected to the Electricity Transmission Network).

Therefore, the generation companies must get approval from the TCN to connect to the National Grid and this is effected by entering into a Grid Connection Agreement that complies with all the requirements of the Grid Code.

The application to connect to the transmission grid must include a:
• Description of the plant to be connected.
• Confirmation that the plant and apparatus at the connection point will meet required technical standards.
• Confirmation that the plant, apparatus and procedures will satisfy the prescribed safety standards.
• Proposed connection date.
• Proposed commissioning schedule and tests for approval of the system operator.

Electricity transmission

Authorisation and operating requirements

14. What are the authorisation requirements to construct electricity transmission networks?

Regulatory consent and a licence from the Nigerian Electricity Regulatory Commission (NERC) is required for the construction, ownership and operation of transmission facilities. The only entity that qualifies for this licence is the successor transmission company Transco, the Transmission Company of Nigeria (TCN), which is also responsible for obtaining the systems operator licence. The Transco must secure NERC and National Environmental Standards and Regulations Enforcement Agency Act (NESREA) approval to expand its grid infrastructure. The application for a transmission licence must be made in conformity with the NERC (Application for Licences: Generation Transmission, Systems Operations, Distribution and Trading) Regulations 2006 (NERC Licence Regulations). The licence is for a maximum term of ten years and is renewable for a further term of five years.

Authorisations from the Ministry of Land, Housing and Urban Development (for example, right of way authorisations), and an environmental impact assessment report are also required.

15. What are the authorisation and main ongoing requirements to operate electricity transmission networks?

The Transmission Company of Nigeria (TCN) is the only entity licensed to transmit electricity in Nigeria. It must have a transmission licence (Electricity Power Sector Reform Act 2005 (EPSRA)). This licence empowers the TCN to carry on grid construction, operation and maintenance of the transmission system within Nigeria and for transmission systems that connect Nigeria with a neighbouring jurisdiction.
See *Question 18.*

**Rates**

16. How are the rates and conditions for the transmission of electricity regulated?

The rates and conditions for transmission of electricity are regulated under the Multi-year Tariff Order for the Determination of the Cost of Electricity Transmission and Payment of Institutional Charges, issued by the Nigerian Electricity Regulatory Commission (NERC).

**Electricity distribution**

**Authorisation and operating requirements**

17. What are the authorisation requirements to construct electricity distribution systems?

A company intending to construct a distribution network must obtain the requisite approval and licence from the Nigerian Electricity Regulatory Commission (NERC).

The major authorisations required for the construction of an electricity distribution system include:

- A distribution licence under section 67 of the Electricity Power Sector Reform Act 2005 (EPSRA) in accordance with the Nigerian Electricity Regulatory Commission Regulation No: NERC-R-0110 and Application for Licences (Generation, Transmission, System Operations, Distribution & Trading) Regulations 2010, issued by the NERC.
- Complying with the EPSRA in the acquisition of land and access rights for the purposes of electricity (*section 77, EPSRA*).
- Environmental impact assessment certificate (*Environmental Impact Assessment Act*).
- Building plan approval.
- State Governor's consent for use of the project site.
- Compliance with the requirements of the Distribution Code issued by the NERC in 2012.
18. What are the authorisation and the main ongoing requirements to operate electricity distribution systems?

See Question 17.

The licensee is obliged to continue to comply with the terms of the distribution licence. The Health and Safety Code 2014 also imposes legal obligations on the distribution companies and employers in the power sector to ensure that a safe work environment is provided.

In addition, the Nigerian Health and Safety Standards Manual sets out functional safety rules for, among others:

- Electric power transmission and distribution.
- Air quality testing and monitoring.
- Noise testing and monitoring.
- Radiation monitoring.
- Job hazards analysis assessment.
- Personal protective equipment.
- Fire protection.
- Evacuation first responder and emergency planning.
- Electric shock and lockout/tagout.

The Grid Code also requires licensees to comply with the prescribed environmental and safety standards.

Rates

19. How are the rates and conditions for the distribution of electricity regulated?

Tariffs in the Nigerian energy sector are regulated under section 76 of the Electricity Power Sector Reform Act 2005 (EPSRA) and the Multi Year Tariff Order for the Determination of the Cost of Electricity Transmission and Payment of Institutional Charges (MYTO) issued by the NERC. A distribution company must not exceed the rates fixed by the MYTO. The rates are fixed in line with the principles prescribed by the MYTO. To connect to the grid, there must be an application made to the Transmission Service Provider (TSP) (see below), disclosing all the information prescribed by the Grid Code. The application must be made at least three months before the date proposed for the
Electricity regulation in Nigeria: overview, Practical Law Country Q&A 7-584-2605 (2014)

The TSP is a department of the Transmission Company of Nigeria (the transmission licensee of the national interconnected Transmission System of Nigeria), which provides open access transmission services. A Grid Connection Agreement (GCA) must also be executed between the user and the TSP.

Electricity supply

Authorisation and operating requirements

20. What are the authorisation and the main ongoing requirements to supply electricity systems?

The Electricity Power Sector Reform Act 2005 (ESPRA) does not make any distinction between distribution and supply of electricity. For authorisation requirements to construct and operate electricity distribution, see Question 17.

Trading between generators and suppliers

21. How is electricity trading (between generators and suppliers) regulated?

Anyone wishing to purchase, sell and trade in electricity must obtain a trading licence from the Nigerian Electricity Regulatory Commission (NERC). The terms and conditions of the trading licence, and the procedure for obtaining a trading licence, are regulated by NERC Regulation No. NERC-R-0110A. All contracts for purchase of electrical power and ancillary services by the holder of the trading licence must be concluded in an open, transparent and competitive manner, and in accordance with procedure established by the NERC (Regulation 68(3), NERC Regulation No: NERC-R-0110A).

The NERC is empowered further, through the Market Rules for Transitional and Medium Term Stages of the Nigerian Electricity Supply Industry 2009 (Market Rules), to fix the technical service provider charges, ancillary service costs and system operation and market administration charges (Rule 1.2 Market Rules). These charges are established by the system operator and the market operator with the approval of the NERC. They are imposed by the market operator on participants, to recover administration costs relating to system operation and market operation, including any damages or other amounts for which a participant may be held liable.

The Market Rules divides the electricity market into the pre-transitional, transitional, medium-term market and long-term market stages.
Rates and conditions of sale

22. How are the rates and conditions of sale regulated at the consumer and wholesale level?

The Nigerian electricity supply industry is still in its development stages following the recent privatisation of the former state monopoly. The development of a wholesale electricity market is intended to be achieved in the long term. Currently, the market is in what has been designated in the Electricity Power Sector Reform Act 2005 (EPSRA) as the pre-privatisation stage. This stage is prior to the transitional electricity market (TEM) (see below) (that is, it is the pre-transitional stage under the market rules). In this stage, the purchase and resale of electric power sales is largely undertaken by a state-owned entity, the Nigerian Bulk Electricity Trading Company Plc (NBET), under a bulk trading licence issued by the NERC.

In the TEM (which will commence on a declaration by the Minister of Power under section 24(3) of the EPSRA), a more competitive electricity market is to be initiated. This stage (that is, the post-privatisation stage) will be characterised by the following attributes:

- The NBET must not enter into any further contracts for the purchase of electrical power or ancillary services. In addition, in accordance with its licence, it must begin the process of novating its existing rights and obligations to purchase electrical power and ancillary services to other licensees.

- Successor generation companies (Gencos), in accordance with their licences, must sell electrical power to distribution companies and eligible customers under the terms of any:
  - contracts existing before the declaration by the Minister of Power;
  - new contracts with distribution companies and eligible customers.

- Successor Gencos, in accordance with their licences, must sell ancillary services as stipulated under the EPSRA.

- Independent Power Producers, in accordance with their licences, must sell electrical power and ancillary services as stipulated under the EPSRA.

- Distribution companies (Discos), in accordance with their licences, must purchase electrical power in the manner stipulated under the EPSRA.

- Eligible customers must also be able to purchase power and supplies from generation licensees or from trading licensees as the case may be.

Both pre- and post-TEM tariffs charged by generation companies (in respect of sales to the NBET or distribution companies), and sales by distribution companies to consumers, are set by the Multi-Year Tariff Order (MYTO) I (2008) and Multi-Year Tariff Order (MYTO) II (2012), issued by the NERC under section 76 of the EPSRA.
23. What are the main tax issues arising on electricity generation, distribution and supply?

There is no specific tax regime for electricity. However, the government, recognising the value of power generation, has made certain incentives available in the form of tax reliefs for electricity generation (see Question 7, Government policies/incentives). For example, under the Industrial Development (Income Tax Relief) Act geared at attracting foreign investment in Nigeria, eligible companies can be issued with a Pioneer Status Certificate. Therefore, companies involved in independent power generation using gas, coal and renewable energy sources can be conferred with pioneer status, becoming exempted from payment of income tax for between three to five years.

Where companies participating in the electricity market engage in research and development (a contribution towards education), related expenditure is deductible from the taxable income of the company (Companies Income Tax Act).

Reform

24. What reform proposals are there for the regulation of the electricity sector?

The following are a few of the additional reform proposals in relation to regulation of the electricity sector:

- New Electricity Offences Code.
- The promotion of green and environmentally friendly power sources under a more stringent and robust Environmental Impact Assessment (EIA) Code.
- Regulations on national content development for the Nigerian Electricity Supply Industry 2013.

The regulatory authorities

Federal Ministry of Power

[www.power.gov.ng](http://www.power.gov.ng)

Main responsibilities. The Federal Ministry of Power is the department of the Federal Government with supervisory and oversight responsibility for the power sector.
Nigerian Electricity Regulatory Commission (NERC)
W www.nercng.org

Main responsibilities. The NERC is a Federal Government body responsible for the monitoring and regulation of the electricity industry, issuance of licences to market participants, and ensuring compliance with market rules and operating guidelines of the electricity industry in Nigeria.

Nigeria Electricity Liability Management Company
W http://nelmcong.org

Main responsibilities. The Nigerian Electricity Liability Management Company's main responsibility is to manage legacy liabilities and stranded assets of power industry companies in Nigeria.

Nigeria Electricity Bulk Trading Co Ltd (NBET)
W www.nbet.com.ng

Main responsibilities. The NBET's main responsibilities are to manage existing power purchase agreements and new procurement of power in the electricity industry transition process.

Nigeria Atomic Energy Commission (NAEC)
W www.nigatom.org.ng

Main responsibilities. The NEAC's main responsibilities are to:

- Create a framework for the use of atomic and nuclear energy for peaceful purposes in Nigeria.
- Streamline, harmonise, promote and co-ordinate research and development activities for capacity building and infrastructure development in nuclear technology.
- Fast-track and catalyse the process of development of nuclear power plant for electricity generation in Nigeria, in partnership with the private sector, and put in place a comprehensive manpower development programme.

Online resources
W www.nass.gov.ng

Description. Official website of the Nigerian National Assembly. It contains Acts and legislative Bills of the National Assembly.
Contributor profiles

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Recent transactions

• Advising a consortium of lenders on the pathfinder 500MW Azura IPP power project.
• Advising on the financing of the acquisition of a government-owned portfolio of generation assets.
• Advising Lafarge Cement WAPCO Nigeria Plc on captive power generation and power distribution to a JVC.
• Advised the successful bidder on the acquisition of Benin Electricity Distribution Company.
• Advising the successful bidder on the acquisition of Ughelli Power Plc.
• Advising the successful bidder on the acquisition of Sapele Power Plc.
• Advising lenders on financing the acquisition of Egbin Power Plc.
• Advising the lenders on financing the acquisition of Geregu Power Plc.
• Advising the lenders on financing the concessioning of Kainji Power Plc.

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Recent transactions
• Advising lenders on financing the acquisition of Ikeja Electricity Distribution Company.
• Advising an equity investor in connection with the acquisition of Eko Electricity Distribution Company.
• Advising consortium members on matters connected with the acquisition of Kano Electricity Distribution Company Plc.
• Advising Bauchi State Government on the proposed development of Yankari Independent Power Project.
• Advising an international bank on the bankability of the standardized Power Sector Chain Agreements (including the draft Power Purchase Agreement, draft Vesting Contract and a draft Gas Sale and Purchase Agreement).
• Advising on the proposed coal fired independent project in Kogi State.
• Advising NLNG on the determination of its pioneer status vis-a-vis the income tax laws in Nigeria.
• Advising on the financing to Kepco Energy Resource Nigeria Limited for the acquisition of the Bureau of Public Enterprise's Shares in Egbin Power Plc.

Languages. English, Yoruba

Professional associations/memberships. Member, Nigerian Bar Association.

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Professional qualifications. Nigeria, Attorney, 2005

Areas of practice. Power and infrastructure; PPP projects; real estate renewable energy; mining.

Non-professional qualifications. LLM, University College London

Recent transactions
• Advising a consortium of lenders on the pathfinder 500MW Azura IPP power project.
• Advising the successful bidder on the acquisition of Benin Electricity Distribution Company.
• Advising the successful bidder on the acquisition of Sapele Power Plc.
• Advising lenders on financing the acquisition of Egbin Power Plc.
• Advising the lenders on financing the acquisition of Geregu Power Plc.
• Advising lenders on financing the acquisition of Ikeja Electricity Distribution Company.
• Advising an equity investor in connection with the acquisition of Eko Electricity Distribution Company.
• Advising consortium members on matters connected with the acquisition of Kaduna Electricity Distribution Company Plc.
• Advised the preferred bidder on the acquisition of Omotosho Power Plc.

Languages. English, Yoruba

Professional associations/memberships. Member, Nigerian Bar Association.