

Review of the Lagos State Electricity Law, 2024

OALP Power Newsletter

INTRODUCTION

In accordance with the provision of the Fifth Alteration Act No. 33 of 2023 to the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (the **Constitution**), which provides for the power of the States to legislate on the generation, transmission, and distribution of electricity within their territories, and in furtherance of the provisions of the Electricity Act, 2023 (as amended) (the EA), the Governor of Lagos State (the **Governor**) on 03.12.2024 assented to the Lagos State Electricity Bill and it became the Lagos State Electricity Law, 2024 (**LSEL**).

This landmark enactment is a significant step as it sets up the Lagos Electricity Market (the **Market**) in Lagos State (the **State**) which is the commercial hub of Nigeria, with an energy demand of approximately 12,000MW. The LSEL introduces innovative measures that will ultimately cut the State's heavy reliance on the national grid, and result in energy sufficiency within the State.

This newsletter discusses the key provisions of the LSEL, likely implementation challenges; and expected impacts on citizens and businesses in the State. For clear analysis, we grouped and discussed the provisions of the LSEL in five parts; namely

- Lagos State Market and Regulatory Oversight;
- licensing requirements and tariff methodology;
- enforcement of standards and customers' and host communities' interests;

- off-grid electrification, emission control and renewable energy; and
- general provisions.

PART A: THE LAGOS STATE ELECTRICITY MARKET AND REGULATORY OVERSIGHT

Establishment of the Lagos Electricity Market

The LESL sets out the role of the Lagos State Ministry of Energy and Mineral Resources (the Ministry) in relation to the establishment of the Market, assigning it distinct responsibilities, including but not limited to;

- (i) providing support to sustainable electricity sector in the State;
- (ii) promoting investment and development in the electricity sector;
- (iii) collaborating with the Federal Government to establish and operate the Market,
- (iv) ensuring the growth and viability of the Market;
- (v) advancing renewable energy development for electricity generation, in partnership with the Federal Government;
- (vi) securing the State's electricity infrastructure;
- (vii) protecting the independence of the Lagos State Electricity Regulatory Commission (the **Commission**), amongst many others.

Clearly, the transition to a decentralised electricity market is an untreaded path and it is impressive that the LESL clearly recognises the need to collaborate with the Federal Government through the Nigerian Electricity Regulatory Commission (NERC) towards the establishment of the Market. Further, the Law provides for the powers exercisable by Honourable Commissioner for Energy and Mineral Resources (the **Commissioner**), which are to determine, formulate, and monitor government policies for the State electricity supply industry, and advising the State Government on all matters pertaining to the State electric power sector.

The Lagos State Electricity Regulatory Commission

The LESL established the Commission as a body corporate and further provides for its composition – three (3) executive and two (2) non-executive members, their qualification, the tenures of the office holders, the suspension and removal process of members, the determination of a vacancy in the Commission and the process of filling the vacancy¹. Also, the LESL requires the Commissioner to give directives on matters relating to the electricity sector in the State provided such directives are not inconsistent with the provisions of the Lagos Integrated Electricity Policy and Strategic Implementation Plan (LIEPSIP)². In preserving the independent status of the Commission, the LESL stipulates certain disclosure requirements by prospective appointees before they are selected as members of the Commission, such as financial interest or engagement in any business related to the Market or the national electricity market³. This is to ensure that there is no conflict of interest in the administration of the Market by the Commission.

The key obligations of the Commission includes; the regulation of the conduct of market participants, supervising the operation of the Market, issuing of licenses, preventing the misuse of market power, establishing operating codes for the Market, all of which are similar to the functions of NERC under the EA, but this time, at the State level.⁴ The LESL introduces the concept of incentivising the conducts of licensees, electricity consumers and investors targeted towards ensuring optimal delivery of constant, reliable and cost-efficient electricity supply within the State.⁵ It would be interesting to see how the Commission intends to implement this

initiative, which is a commendable one as incentives are generally regarded as a trigger for innovation and positive market behaviour.

There are laid out guidelines and procedures for the hearings of matters relating to the issuance and refusal to issue license, which provides a platform for licensees to lay their grievances and be heard in a fair manner. The proceedings for meetings of the Commission, quorum for the meetings, voting rights of members of the Commission are adequately provided for in the LESL. Upon conclusion of a hearing, any aggrieved person may appeal the decision of the Commission to the Commission⁶, further to which any appeal against the decisions of the Commission may lie to the State High Court. The establishment of a fair hearing system to receive licensee complaints is laudable. Although it may seem counterintuitive to appeal against the decision of the Commission to the same Commission at first instance, but to the extent that it gives the Commission an opportunity to reconsider its decision and possibly vary or rescind it, we consider it a more market efficient provision than appealing at the first instance to the State High Court.

The LESL encourages the Commission to engage with stakeholders within the market prior to issuing any regulation, rules or guidelines. This creates an avenue for participation of the stakeholders who can have their opinions and concerns duly considered.⁷ To further strengthen the interplay between the issuance of regulations and the consideration of stakeholders' opinion, the Commission may also seek advice from stakeholders (licensees, market participants etc) through the constitution of an Advisory Forum which shall comprise of stakeholders. This is a commendable provision, and likely to be more effective than the provision of the EA which provides that NERC can engage professional or technical expertise⁸ where any matter requires professional or technical response and does not consider the involvement of stakeholders in the same manner as provided by the LESL.

To ensure seamless access to information, the LESL provides for the establishment of a full-service internet portal through which licensees, market participants, electricity consumers and other interested stakeholders may interact with the Commission.⁹

1. Sections 6 of the LESL.

2. Sections 5, 7, 8, 9 and 10 of the LESL.

3. Section 12 of the LESL.

4. Section 19(1) of the LESL.

5. Section 19(2) of the LESL.

6. Section 29(1) of the LESL.

7. Section 31 of the LESL.

8. Section 59 Electricity Act.

9. Section 35(1) of the LESL.

The Commission – Financial Provisions, Monitoring and Reporting

The LESL provides for the establishment of the Fund of the Commission, from which all expenditures such as the administrative and operating costs incurred by the Commission shall be drawn¹⁰ and mandates the Commission to adhere to the provisions of the Lagos State Public Procurement Law in respect of any procurement undertaken by the Commission.¹¹ As a means for checks and balances, the Commission is required to submit to the Governor on every 30th September of each financial year, an annual estimate of its revenue and expenditure for the next succeeding year in accordance with the budgeting guidelines in the State¹².

To enhance the exercise of the monitoring role of the Commission, the LESL provides that the Commission shall prepare a report called the Electricity Market Report (the **Report**) which shall contain in detail the report on the implementation of the LESL, the activities of the licensees and other market participants, the implementation of the renewable energy and energy efficiency, demand-side management, the LIEPSIP, the extent to which the Market has operated or developed etc.¹³ This obligation on the Commission shows that the State Government is keen on understanding if there are any areas of improvement or possible adjustments to be made in ensuring ease of access to electricity. For transparency, the Report is to be published on the Commission’s website by no later than April 30th of each financial year.

For the purpose of computing this Report, an obligation is imposed on all licensees to deliver to the Commission relevant data and information that they are obliged to keep, and for confidentiality purposes, the LESL has mandated the Commission to treat all commercially sensitive data and information with utmost confidentiality. Given that the Reports would be publicly made available, in protecting the interests of the licensees, the LESL requires that such commercially sensitive information should be delivered separately to the Commissioner with each page or file marked as “**commercially sensitive**”, further to which the licensee shall give reasons for the sensitiveness of such information.¹⁴

The LESL equally mandates the Commission to give an audit and make a bi-annual report of its activities and



submit to the Governor through the Commissioner¹⁵. The structure of monitoring and reporting under the LESL is highly commendable, as it has potential to help prevent unauthorised diversion of the Funds of the Commission to unrelated projects.

The Lagos Integrated Electricity Policy and Strategy Implementation Plan

Similar to the National Integrated Electricity Policy and Strategic Implementation Plan (**NIEPIP**) provided in the EA, the LIEPSIP serves a comparable purpose.¹⁶ The LESL also requires the Ministry, in consultation with the Commission and other stakeholders, to develop and publish the first edition of the LIEPSIP, within six (6) months from the LESL’s commencement date.¹⁷ Also, each edition of the LIEPSIP is to have a duration for ten (10) years subject to review every five (5) years. While the NIEPIP requires approval by the Federal Executive Council (FEC) before publication, the first edition of the LIEPSIP is set to be published by the Ministry following consultations with the Commission and the Lagos Independent System Operator (the **Lagos ISO**).

The LIEPSIP serves as a roadmap, that would guide the structure and development of the Market to deliver reliable and affordable electricity, by emphasising decarbonisation, energy resource diversification including fossil-based, nuclear, and renewable energy sources¹⁸. The LIEPSIP further provides for the deployment of innovative and emerging technologies, we expect that this will aid the establishment of a viable electricity market and open the frontiers of the state for public-private partnerships.

The Ministry will oversee the execution of the LIEPSIP and may seek consultation with the Lagos ISO and the Commission in respect of the review and revision to be

10. Section 38(1) and 39(1) of the LESL.

11. Section 40 of the LESL.

12. Section 41 of the LESL.

13. Section 44 (1) and 44(2) of the LESL.

14. Section 44(4) and 44(5) of the LESL.

15. Section 43 of the LESL.

16. Section 3(1) of the Electricity Act.

17. Section 45(1) of the LESL.

18. Section 47(1) of the LESL.

19. Section 45(2) of the LESL.

made to the LIEPSIP,²⁰ further to which the Ministry is mandated to provide the Governor with regular updates and annual reports to ensure transparency and accountability.

The Ministry is mandated to provide an annual report to the Governor detailing its implementation steps for the LIEPSIP.²¹ This signifies a commitment of the State Government to promoting a sustainable electricity market, especially considering the dual role of the Governor to approve the LIEPSIP as well as access all progress reports. The LESL further provides that the LIEPSIP and any subsequent revision made to it, shall be published on the website of the Ministry, the Commission and the Lagos ISO.²²

The Lagos ISO

Similar to what we have under the EA, the LESL provides for the Lagos ISO to be a company limited by guarantee. We note a distinction in the mode of establishment of the Independent System Operator under the EA and the establishment of the Lagos ISO under the LESL. While the EA gave the Transmission Company of Nigeria the option to establish the ISO either as a company limited by shares or having a similar ownership and governance structure as NERC,²³ under the LESL, the Lagos ISO is to be a non-profit oriented company. Also, the Ministry is charged with the responsibility of ensuring that the Lagos ISO is established within a period of eighteen (18) months from the commencement of the LESL.²⁴ To ensure there is no gap in administration prior to the establishment of the Lagos ISO, the LESL provides for the establishment of a system operations unit within the Commission to take on the functions of the Lagos ISO prior to its establishment.²⁵

Further, in consultation with the Commissioner, the Minister is vested with the power to prescribe the capital for the setup of the company, identify the number of qualified engineers who shall become members of the company, identify the composition of the governing body of the company²⁶ and oversee other administration or ancillary matters required for the administration of the Lagos ISO. To strengthen the independence of the Lagos ISO, the LESL provides that as a non-profit entity, the

company will be independent of all market participants or stakeholders, and all profits made by the Lagos ISO shall be reinvested in the Lagos ISO with the aim of carrying out the company's objectives. Laudably, in the event of any inconsistency between the constitutional documents for the setup of the Lagos ISO and the LESL, the LESL expressly provides that the LESL would prevail to the extent of such inconsistency.²⁷

The Lagos ISO is to operate on the basis of the issuance of a system operation licence and shall on the basis of the license carry out the activities of generation and transmission scheduling, commitment, dispatch, transmission and distribution congestion management, administration of the wholesale electricity market in the State, and managing the connection of the State grid with the national grid or the electricity system of another State etc.²⁸.

The Lagos ISO is further charged with the responsibility of preparing the market rules to ensure safe operation of the State electricity system amongst market participants, although making any subsequent modification to it requires the consent of the Commission. However, the LESL is silent on the timeline within which the Lagos ISO is required to publish the market rules and this leaves room for uncertainty because the publication may be unduly protracted which will impact the optimal operation of the market.²⁹ A quite interesting provision of the LESL is that the market rules when published will have the effect of a contract between the market participants/licensee and the Lagos ISO.³⁰ One would wonder why the inclusion of this in the LESL, as it would appear that the intention is that, as a contract, market participants, licensees or even the Lagos ISO can assert a breach and sue when there is a failure on the part of the parties to perform their respective obligation.³¹

The LESL further mandates the Lagos ISO to carry out its functions in a fair and non-discriminatory manner and act within the market rules³². Typical with every electricity market, the Lagos ISO may require several services such as, grid balancing and load dispatching, frequency regulation, voltage control, reserves management (spinning and non-spinning), etc³³ in relation to the

20. Section 46(2) of the LESL.

21. Section 46(2) of the LESL.

22. Section 47(3) of the LESL.

23. Section 15(1) of the Electricity Act.

24. Section 97(1)(2) of the LESL.

25. Section 97(6) of the LESL.

26. Section 98 of the LESL.

27. Section 97(4) of the LESL.

28. Section 99(1) of the LESL.

29. Section 101(1) of the LESL.

30. Section 101(4) of the LESL.

31. Section 101(3) of the LESL.

32. Section 100 of the LESL.

33. Other services include market operations (day-ahead, real-time, and ancillary service markets), transmission planning and congestion management, renewable energy integration, cybersecurity and IT services, outage management, data analytics and reporting, emergency preparedness and response, stakeholder engagement and coordination.

management of electricity market. Thus, the Commission and the Lagos ISO may, through a fair, open and competitive process, invite applications from credible and capable entities for the delivery of these services in the Market pursuant to a licence to be issued by the Commission, in line with the provisions of the Public Procurement LSEs of the State³⁴. This presents another opportunity for potential investors and technical service providers with capacity to provide system operation services.

PART A: THE LAGOS STATE ELECTRICITY MARKET AND REGULATORY OVERSIGHT

In this part we discuss the provisions of the LSEL on licensing requirements and tariff methodology.

Licensing Requirements

The LSEL represents a significant step forward in creating a robust regulatory framework for the electricity sector in Lagos State. It builds on the provisions of the EA, and introduces a comprehensive licensing regime for electricity generation, transmission, distribution, trading, supply, system operation and other related activities. A careful read of the LSEL presupposes that the Commission may by regulation designate other activities or services as requiring permits or licenses³⁵, as such, the need to amend the LSEL will not arise should the Commission decide to include a new licensed activity. This allows for flexibility and adaptability in governance and will enable timely updates to the regulatory framework without frequent legislative amendments, reducing bureaucratic delays and maintaining relevance in the ever-evolving power sector.

General Licensing Framework

The general licensing framework of the LSEL is provided in Part V³⁶. This part establishes the requirement for all entities intending to engage in electricity-related activities to obtain a license from the Commission. Activities subject to licensing include generation, transmission, distribution, trading, supply and system operation. Importantly, entities carrying out any electricity related undertaking under the EA, are granted a three-month transitional period to regularise their activities under the new regime. After the transitional period, existing licensees are prohibited from

engaging in any regulated electricity activities in the State.

The LSEL like the EA recognises the value of small-scale and innovative solutions in the energy sector. For this reason, it also exempts activities or mechanisms that have a production or carrying capacity below 1MW from the requirement to obtain licenses. Distinct from the EA which requires the procurement of licenses for electricity distribution above 100kw, the exemption of all activities below 1MW by the LSEL implies that the threshold for obtaining a distribution license in the State is 1MW. This provision will be useful to attract more investors in the distribution value chain and will provide an enabling environment for the growth of renewable energy initiatives which are largely small in scale.

Penalties for non-compliance with licensing requirements are stringent, including fines of at least ₦1,000,000 and custodial sentences of up to six months and in the case of a continuing default N20,000 for each day of default. Notably, it shall not be a defence to the offence that the person holds a license issued by any other body to undertake the relevant regulated activity. It is therefore imperative for all operators in the State to align with the LSEL requirements to avoid penalties. The LSEL however allows a person who is uncertain as to if their activity should be regulated to seek clarification and clearance from the Commission³⁸.

Exemptions and Flexibility

The LSEL introduces provisions for exemptions, allowing the Commission to waive licensing requirements for specific entities or activities under defined conditions³⁹. This flexibility accommodates unique and innovative energy solutions as well as special circumstances that may require special considerations in relation to the requirement to procure license. Although, there is a likelihood for abuse if not properly administered, however, the requirement to publish details of exemptions on the website of the Commission will check any arbitrary exercise of discretion and further allows an open and predictable regulatory environment. Where a beneficiary of an exemption fails to comply with any term or condition of an exemption granted, the Commission may direct that such exemption be revoked⁴⁰.

34. Section 49 (5) of the LSEL.

35. Section 49(1)(f) of the LSEL.

36. Sections 49 to 70 of the LSEL.

37. Section 49(8) of the LSEL.

38. Section 48(3) of the LSEL.

39. Section 50 of the LSEL.

40. Section 50 (3) of the LSEL.



Application Process and Efficiency

The licensing application process⁴¹ requires applicants to demonstrate technical and financial competence while aligning their operations with public interest objectives. The Commission is obligated to respond to applications within three (3) months, reflecting a commitment to efficiency and certainty. This is a marked improvement over the six-month timeline under the NERC License Regulation 2010, which has often been delayed by bureaucratic hurdles. If the State adheres to its stipulated timeline, it could set a benchmark for regulatory efficiency within its electricity market. The LSEL also emphasises fairness in the licensing process and requires the Commission to justify refusals in writing and offer applicants an opportunity to appeal, ensuring transparency and accountability in decision-making⁴².

Transfer and Restrictions

The LESL regulates the transfer and merger of licensed entities, requiring prior approval from the Commission⁴³. The provision prohibits licensees from acquiring or merging with another licensee's utility, or transferring, assigning, or disposing of their utility or any part thereof, without prior approval from the Commission. This includes transactions such as sales, leases, takeovers, or exchanges and further provides that no licensee, without the approval of the Commission, can directly or indirectly acquire or otherwise obtain an interest in or merge with another licensee or an affiliate of any other licensee, whether that other licensee is licensed by the Commission or any other electricity regulatory agency in Nigeria. The Commission may impose conditions when granting approval for such mergers or acquisitions⁴⁴

These requirements clearly ensure regulatory oversight, maintain market stability, and prevent monopolistic practices. However, it could also deter investors if the approval process is perceived as burdensome, slow, or opaque, as it adds an additional layer of compliance.

The LSEL further provides that a licensee cannot transfer, assign, or dispose of its licence or any part of its operations without prior written approval from the Commission. Any unauthorised transfer or assignment is void. However, the Commission may approve commercial arrangements like franchising between licensees and third parties to improve operational efficiency, provided they align with the Lagos Integrated Electricity Policy or other relevant government policies⁴⁵. The Commission can require a licensee to implement management, accounting, or legal separation for its regulated activities. These provisions ensure that the Commission can safeguard competitive, transparent, and efficient market practices by preventing harmful consolidations and market activities.

For investors seeking to take interest in a utility by way of acquisition, merger or transfer of license, this provision could pose a challenge. The additional regulatory step may delay transactions, increase administrative costs, and create uncertainty about the likelihood of approval. Clear, efficient, and time-bound approval processes are important to mitigate these concerns and maintain investor confidence. Notably similar provision is contained in the EA⁴⁶, a licensee may not, without NERC's prior written approval, acquire, affiliate, or merge their undertaking with that of another licensee or any entity engaged in electricity-related business, except as expressly permitted by NERC.

Where a utility is sold, upon completion of sale or on the date on which the utility is delivered to the intending purchaser, the utility shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the utility. Provided that any such debt, mortgage or similar obligation shall then attach to the purchase money in substitution for the utility.⁴⁷ This provision ensures that utility transactions are free from legacy liabilities to allow the new owners to focus on operational efficiency

41. Section 51 of the LSEL.

42. Section 52 of the LESL.

43. Sections 53

44. Section 66 of the LSEL.

45. Section 62 of the LSEL.

46. Section 70 of the EA.

47. Section 108 of the LSEL.

Licensing Conditions and Regulatory Oversight

The LSEL⁴⁸ empowers the Commission to set general or specific licensing conditions for licensees within one year of the commencement date, which will be binding. This suggests that, regardless of the original terms of a licence, the Commission retains authority to introduce additional conditions during this period.

The Commission is empowered to amend or alter licence conditions either upon application by a licensee or otherwise, subject to procedural safeguards. These include public notification and consideration of objections, especially when involving Government properties or areas of strategic importance. Consent from appropriate authorities is required for changes affecting such areas, and suggestions or objections must be considered within 30 working days of the notice⁴⁹.

According to the LSEL, licences granted by the Commission are subject to terms and conditions including requirements for collaboration with other entities, promoting research, energy efficiency, off-grid solutions, and consumer education. Licensees must comply with dispute resolution mechanisms, regulatory fees, waste management, change of control approvals, and obligations related to transparency and digital accessibility. They must also provide requested documents and data to the Commission and adhere to specific operational and compliance directives outlined in their licence⁵⁰.

Balancing Exclusivity and Competition

To foster competition, the LSEL generally prohibits exclusivity in licensing.⁵¹ The Commission retains the authority to grant licences to multiple entities for the same regulated activity in the same area, subject to compliance with additional requirements such as capital adequacy, creditworthiness, and conduct standards. However, it may allow limited exclusivity for up to five (5) years in cases where public interest requires targeted investments. Such exclusivity is subject to periodic review and public consultation, ensuring that it serves its intended purpose without stifling competition. This approach enables the attraction of significant capital investments in underserved areas while maintaining an open market structure⁵².



Modification, Renewal and Validity of Licenses

The Commission has the authority to modify the terms and conditions of a licence, as outlined by regulations. Modifications can be initiated by the licensee, the Commission, or based on complaints from other parties such as consumers or market participants. However, the Commission can only make modifications if they are deemed necessary or beneficial for fulfilling its functions and objectives. Before making any changes, the Commission must notify the relevant parties, explaining the proposed modification, its reasons, and inviting written objections or representations

A minimum of one month is allowed for responses. If no objections are received or they are withdrawn, the Commission can proceed with the modification. If objections are received, the Commission must consider them before proceeding⁵³. By allowing stakeholders to be informed and engaged in the process, the LSEL ensures fair and timely decisions by the Commission, although there may be potential for delays in cases involving objections or complex considerations.

A licence is valid for the period specified by the Commission and stated in the licence. However, the licence or any renewal granted by the Commission cannot exceed a duration of ten (10) years⁵⁴. There has been debate regarding extending the duration of licenses in the electricity market to 15 or 20 years, with the argument that longer licenses would facilitate long-term financing. Such an extended period could provide investors with greater certainty and stability, essential for securing substantial funding for projects.

48. Section 54 of the LSEL.

49. Section 55 of the LSEL.

50. Section 56 of the LSEL.

51. Section 57 of the LSEL.

52. Section 58 of the LSEL.

53. Section 59 of the LSEL.

54. Section 60 of the LSEL.

A licensee may apply for a licence renewal six (6) months before its expiration, demonstrating why the renewal should be considered. The application must be submitted in the prescribed form with required information, documents, and fees. The Commission will approve the renewal if the licensee has complied with the licence terms, obligations, and continues to meet the licensing requirements.

If the Commission is not satisfied with the renewal application, it will notify the licensee, provide reasons, and allow the opportunity for representations. The Commission will consider these before deciding. The renewal process must be completed within three (3) months. Quite notably, if a renewal application is submitted on time but not yet decided upon when the licence expires, the licence remains valid until the decision is made. If the renewal is denied, the licensee must stop providing services unless an interim arrangement is approved by the Commission⁵⁵. This provision will help to prevent scenarios for breach under financing documents where a required authorisation has expired, and the Commission is yet to finalise the process for renewal.

The Commission has the authority to withdraw, suspend, or revoke a licence under the following conditions⁵⁶:

01

If the licence was obtained through misrepresentation or non-disclosure of important information.

If a court declares that the licence was issued through fraud or corrupt practices.

02

03

If the licensee is not operating according to the licence terms, LSEL, or regulations, either wilfully or negligently.

If the licensee has contravened the LSEL or regulations wilfully or unreasonably.

04

05

If the licensee fails to comply with conditions specified in the licence that make non-compliance grounds for suspension or revocation.

If the licensee no longer has the financial capacity to fulfil its obligations.

06

07

If the licensee is declared insolvent or bankrupt by a court.

If the licensee fails to meet obligations specified when the licence was issued after receiving proper notices.

08

09

If the licensee has not begun operations within the specified period in the licence or regulations.

However, before withdrawing, suspending, or revoking a licence, the Commission must notify the licensee in writing and on its website, outlining the reasons and grounds for the proposed action, and provide a minimum of 30 days for the licensee to make representations or remedy the issue. If the Commission is satisfied with the licensee's response or corrective actions, the process may be terminated. However, if the Commission proceeds, it can take various actions, including withdrawal, suspension with conditions, revocation, appointment of an operator, or modification of the licence terms. The withdrawal or revocation does not affect any existing claims or liabilities, and the Commission will consult with the Commissioner to ensure continuity of electricity service⁵⁷.

The Commission is empowered to ensure that the withdrawal, suspension, or revocation of a licence does not disrupt electricity supply or public interest⁵⁸. It can also investigate potential breaches and refer cases to the Attorney-General for prosecution. Additionally, it can inquire into a licensee's conduct based on complaints from consumers, stakeholders, or licensees⁵⁹.

55. Section 61 of the LSEL.

56. Section 63 of the LSEL.

57. Section 64 of the LSEL.

58. Section 65 of the LSEL.

59. Section 67 of the LSEL.

Failing Licensees

The Commission has the powers to intervene in failing licensees. These include situations where the licensee is unable to meet its obligations, in prolonged default, suffering from a management crisis detrimental to stakeholders, or facing financial distress with insufficient assets to cover liabilities. However, the section does not clearly specify what form the intervention will take, leaving ambiguity about the nature of the Commission's actions in these circumstances.

The section only explicitly mentions revocation of the licence as a step that the Commission may take, should the licensee be found to fall within the criteria outlined. This leaves operators and investors uncertain about the exact nature of the Commission's intervention before such a drastic measure is implemented.

In comparison, EA⁶⁰ provides more detailed provisions regarding the powers of NERC and specifies the various forms of intervention before arriving at the point of licence revocation, such as issuing directives, requiring remedial measures, or imposing fines. For instance, NERC has previously exercised these powers, intervening in cases where distribution companies failed to meet operational, financial, or regulatory obligations⁶¹.

Given the potential for significant financial and operational implications, it is crucial to clarify what “intervention” entails. Investors may be concerned about the security of their investments if they fear abrupt, undefined actions by the Commission. Clear guidelines on the forms of intervention, steps leading to licence revocation, and the possible outcomes of such interventions would provide greater certainty and protect investor interests in the electricity sector.

Specific Licenses and Their Scope

Generation License: The generation license is mandatory for entities generating electricity within the State⁶². A generation licence authorises the holder to construct, operate, and maintain one or more power generation plants (with a capacity exceeding 1 MW), sell electricity, and connect to transmission or distribution systems. However, it clarifies that a licence is not required for establishing a captive generation plant. Generation licensees are required to ensure operational efficiency, promote renewable energy, and adhere to safety and environmental standards.

The LSEL allows a generation licence to cover multiple plants, provided their total capacity exceeds 1 MW⁶³, which differs from the more rigid framework of the EA, where each plant typically requires a separate licence. This provision offers flexibility for licensees, allowing them to operate several smaller plants under a single licence if the aggregate capacity is above the threshold.

For captive generation above 1MW, a generation licence is not required. This is a marked difference from the EA which only exempts captive power plant above 1MW from the requirement to procure a generation licence but mandates the procurement of a permit. The LSEL on the other hand appears to treat this differently by only requiring a permit where the owner of captive power plant above 1MW intends to sell and not for personal use.⁶⁵

Transmission License: The LSEL governs transmission licenses, enabling licensees to construct, operate, and maintain transmission systems much like the EA⁶⁵. The LSEL prohibits electricity trading by transmission licensees and mandates that ancillary revenues from non-transmission activities be used to reduce wheeling charges, benefiting consumers. By allowing transmission companies to generate additional income through ancillary services, the LSEL enhances their financial viability, making them more attractive to investors. The extra income can support the infrastructure investments required for efficient transmission operations and potentially reduce the financial burden on consumers by lowering wheeling charges.

60. Section 75 of the EA.

61. NERC to revoke licenses of non-performing DisCos - Businessday NG

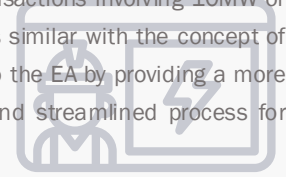
62. Part VI (Sections 71 to 74) of the LSEL.

63. Section 72(2) of the LSEL.

64. Section 74 of the LSEL.

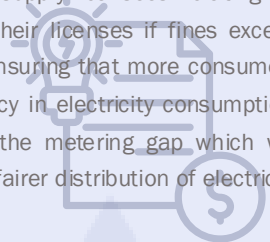
65. Part VII (Sections 75 to 78) of the LSEL.

Trading License: The LSEL introduces trading licenses for bulk purchase of electricity. Licensees can procure electricity from generation entities, including those outside Lagos State, and resell to distribution companies or bulk consumers. This flexibility enhances supply security. "Bulk purchase" is defined as transactions involving 10MW or more, and a "bulk purchaser" is any entity purchasing above 1MW of electricity. This is similar with the concept of "eligible customers" under the EA, however, the LSEL simplifies the process compared to the EA by providing a more straightforward definition for bulk purchasers. This would lead to a more efficient and streamlined process for engaging in bulk electricity transactions in Lagos State.



Distribution and Supply Licenses: The LSEL regulates distribution and supply activities, authorising licensees to establish distribution networks and supply electricity to consumers.⁶⁷ The distribution license allows entities to construct, operate, and maintain electricity distribution networks within State. It focuses on the infrastructure required to deliver electricity from transmission systems or embedded generation units to end users. Licensees must ensure reliability, adhere to technical and environmental standards, and provide equitable access to electricity.

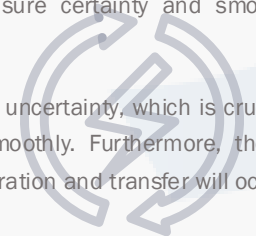
The supply license authorises entities to procure and sell electricity directly to consumers. It emphasises customer service, electricity tariffs (regulated by the Commission), and ensuring sufficient supply. Supply licensees must promote transparency, equitable access, and renewable energy adoption. Unlike distribution licensees, supply licensees do not manage physical networks but depend on distribution licensees for electricity delivery. According to the LSEL, supplying electricity without a meter is an offence such that distribution and supply licensees violating the meter requirement face daily fines of ₦50,000, and the Commission may revoke their licenses if fines exceed ₦3,000,000. This framework will help accelerate the process of meter deployment, ensuring that more consumers are metered, reducing the prevalence of estimated billing, and increasing transparency in electricity consumption. The LSEL encourages licensees to invest in the necessary infrastructure to close the metering gap which will ultimately lead to more accurate billing, improved revenue collection for utilities, and a fairer distribution of electricity costs among consumers which is part of the long-standing challenges in the sector.



Transfer Scheme: The LSEL⁶⁸ outlines the process for transferring the functions of an existing distribution company to a subsidiary within 18 months of the enactment of the LSEL. The provision indicates the establishment of a "transfer scheme," to facilitate this transition. However, the terms "existing distribution company," "subsidiary," and "transfer scheme" are not defined in the LSEL, making it difficult to fully understand the scope and implications of the separation process. The absence of these definitions raises questions about the exact nature of the transition, whether it involves separating distribution from supply or if other operational aspects are considered.

The intention behind the provision appears to be to streamline and perhaps restructure the operations of the electricity sector, but the lack of clarity on these key terms could cause confusion for stakeholders, particularly distribution companies, investors, and consumers. It would be beneficial for the State to provide further clarification on the definitions of these terms and the details of the "transfer scheme" to ensure certainty and smooth implementation.

By offering such clarifications, the State would promote investor confidence and reduce uncertainty, which is crucial for attracting investments and ensuring that the restructuring process proceeds smoothly. Furthermore, these definitions and details would provide stakeholders with a clear roadmap of how the separation and transfer will occur and what impacts it may have on existing agreements and future operations.



67. Part IX (Sections 82 to 88) of the LSEL

68. Section 88 of the LSEL.



Licensing Requirements

The LSEL establishes a structured framework for setting and regulating electricity tariffs in the State to ensure transparency, competition, and financial sustainability for electricity providers while protecting consumer interests.

Licensing and Tariff Methodology

Section 102(1) of the LSEL stipulates that activities licensed by the Commission must follow one or more approved tariff methodologies, which are subject to periodic reviews to reflect market changes. This ensures that tariffs remain aligned with evolving market conditions and regulatory needs. The Commission is empowered to approve negotiated transactions between licensees and specific consumer classes, ensuring that these agreements align with the overall tariff methodology. This flexibility supports tailored solutions while maintaining regulatory oversight⁶⁹.

Electricity Supply Code

Section 103 of the LSEL mandates the Commission to create an electricity supply code addressing essential service delivery aspects such as billing, disconnection protocols, and anti-tampering measures. This ensures fair practices and safeguards infrastructure, providing a standardised approach to service delivery. The supply code is similar to NERC Consumer Protection Regulation 2023, which contains elaborate provisions of billing, metering, connection and disconnection, and service standards.

Principles for Tariff Setting

Section 104 of LSEL outlines key principles for tariff setting, including:

- a) Encouraging competition in the electricity market and minimising reliance on price caps. This promotes efficiency and innovation among electricity providers.

- b) Ensuring that pricing differences between consumer categories are based on actual cost differences. This prevents arbitrary pricing and promotes fairness.
- c) Providing targeted subsidies for vulnerable consumers and minimising cross-subsidies. This balances the interests of both vulnerable and other consumers.
- d) Promoting the adoption of clean technologies and renewable energy sources. This contributes to environmental sustainability and aligns with global climate goals.

The LESL emphasises the importance of consulting stakeholders (licensees, consumers, and market participants) before adopting or amending tariff methodologies⁷⁰. The Commission must provide a 21-day notice, ensuring transparency and public participation. This inclusive approach strengthens stakeholder confidence in the process and ensures that diverse interests are considered.

All licensees and market participants are mandated to adhere to the adopted tariff methodologies. Non-compliance, except in cases of negotiated transactions, constitutes an offense, punishable by financial sanctions. This provision ensures that the regulatory framework is respected and prevents unauthorised pricing practices.

Tariff Determination and Consumer Classification

The LSEL⁷¹ provides detailed provisions for the determination of tariffs, covering various aspects of electricity pricing such as generation, transmission, wheeling, and retail sales. The Commission has the authority to determine tariffs for each of these sectors, ensuring that prices remain reasonable and fair. This provision introduces a provision for the Commission to fix minimum and maximum tariff ceilings during periods of electricity supply shortage⁷², which is an essential safeguard in any electricity market. This provision allows for flexibility in response to unforeseen circumstances, ensuring that prices do not escalate during supply crisis and that consumers are protected from excessive price fluctuations.

69. Section 102(2) of the LSEL

70. Section 105 of the LSEL

71. Section 109 of the LSEL.

72. Section 109(1)(a) of the LSEL.

The LSEL also covers retail electricity sales in areas served by multiple distribution companies (Discos) and the Commission is empowered to fix only a maximum ceiling on tariffs in such areas⁷³. This provision promotes healthy competition among Discos, encouraging them to offer better services or prices to attract consumers. This is a positive step toward creating a competitive electricity market and avoiding monopolistic behaviour by one Disco. It serves to benefit consumers by ensuring that they are not overcharged and are provided with choices, which can drive improvements in service quality.

According to the LSEL, tariffs should not be reviewed more than once per year, except in cases where changes are permitted under a fuel surcharge formula⁷⁴. This is a departure from the NERC MYTO methodology, which prescribes major tariff reviews every five (5) years and minor reviews half yearly. This is both challenging and commendable. On the one hand, it provides price stability, which is essential for planning and investment, particularly in an environment susceptible to inflation. However, the downside for investors is that prices may remain fixed despite inflation or rising operational costs. This could affect the financial viability of utilities and undermine investor confidence, as they may be unable to adjust tariffs to reflect market dynamics.

Finally, the LSEL⁷⁵ introduce innovative provisions to the effect that any licensee or a generating company that recovers a price or charge exceeding the tariff determined by the Commission, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee. This will promote accountability and protect consumers from being overcharged.

PART C: ENFORCEMENT OF STANDARDS AND CUSTOMERS' AND HOST COMMUNITIES' INTERESTS

This section discusses



investigation and enforcement;



market regulation, industry standards, and consumer affairs; and



Host Communities Development Trust Fund.



Investigation and Enforcement

Assessment and payment for unauthorised use of electricity

The LSEL provides for an assessing officer to inspect a place, premises, equipment, gadget, machine, devices, and record maintained by any person, and if the assessing officer finds that such person is indulging in authorised use of electricity, the assessing officer shall assess the electricity charges payable for such unauthorised used and issue a provisional assessment to be paid by the person. The person may challenge the provisional assessment by filing an objection against it before the assessing officer and the assessing officer shall have within thirty (30) days from the service of the provisional assessment on the person, to consider the objection and pass a final order or assessment. The person may accept the provisional assessment and in such case within seven (7) days pay the amount assessed to the licensee.

The assessment is to be made at a rate equal to twice the tariff rates applicable for the relevant category of services, and if the period of the unauthorised use of electricity cannot be ascertained, it shall be limited to a period of 12 months immediately preceding the date of the inspection⁷⁶. This appears to be a faster way to recover tariff for unauthorised use of electricity than a criminal trial and conviction for electricity theft. However, the implementation of this provision may be challenged in court on the basis that it is a penal provision to be enforced administratively, without a provision to appeal against the final order of the assessing officer.

The Commission or any person authorised by it in writing, may at all reasonable times, enter upon the premises of any licensee and inspect any plant, machinery, book, account and other documents, and call upon any licensee to furnish periodical returns. The LSEL penalises the refusal to allow such inspection or failure to comply with any demand with NGN1,000,000 or custodial sentence not exceeding 6 months and a fine not exceeding NGN100,000 for each day of such refusal or failure⁷⁷.

73. Section 109(1)(d) of the LSEL.
74. Section 109(4) of the LSEL.
75. Section 109(5&6) of the LSEL.

76. Section 90 of the LSEL.
77. Section 93 of the LSEL.

Default Approvals

The LSEL provides for the Commission to issue its approval or refusal for any matter within the time limit specified in the LSEL or relevant regulation, and where no time is specified, the “time limit referred to in this section shall be two (2) months.”

This section ought to have provided for a deemed approval regime just as did the Business Facilitation (Miscellaneous Provisions) Act 2023 (the BFA)⁷⁸. The provision of a timeline alone does not fully address the concern because where the Commission fails to approve or refuse to approve within the timeline, it becomes unclear what the applicant can do.

Liability of Licensee for damage or injury

The LSEL provides further that in any civil proceeding against a licensee arising out of damage or injury caused by induction or electrolysis or in any other manner by means of electricity generated or transmitted, such damage or injury shall be presumed to have been caused by the negligence of the undertaker, unless the contrary is proved⁷⁹. We expect that this provision will make licensees more cautious in their operations. However, the provision is contrary to the provision of section 133(1) of the Evidence Act, 2011 to the effect that the burden of proof of any fact in a civil proceedings is on the party that judgment will be given against if no evidence is produced. The Evidence Act also provides for specific presumptions in Part X, and it does not include a presumption of liability for negligence. Giving that evidence is a matter on the Exclusive Legislative List in Part I of Schedule II to the Constitution, this provision may be challenged in court.

Market Regulation, Industry Standards, and Consumer Affairs

Market Regulation and Industry Standards

The LSEL provides for the responsibility of the Commission to monitor the Market and market behaviour of licensees and other market participants. To this end, the Commission is empowered to establish rules, codes, and practices for the safe and reliable operation of the market and for upholding the rights of electricity consumers⁸⁰.

The Commission is also empowered to issue guidelines to provide for certainty in relation to any of the provisions of

the LSEL, and issue standards, codes, and manuals to regulate the market. Particularly, the Commission is to endeavour to adopt international best practices, guidelines, and technical standards to enhance the overall reliability, efficiency, and safety of electricity generation, transmission, and distribution, and renewable energy system⁸¹.

Interestingly, the LSEL also provides for parties to an agreement, arrangement, practice, or conduct to apply to the Commission for guidance as to whether the agreement, arrangement, practice, or conduct is likely to infringe any market regulation, rules, guidelines etc⁸². This provision is commendable in that it allows parties to seek guidance so that they can arrange their business affairs in compliant manner. However, the Commission must ensure consistency in the guidance it provides to avoid a scenario where the Commission give different views on the same or similar issue.

Consumer Affairs

The LSEL mandates the Commission to issue regulations setting out standards, practices, and procedures for the protection of electricity consumers in the State on matters including service standards, complaint handling standards and resolution procedure, procedures for applying for and withdrawal of electricity services, consumer charging, billing, collection, and credit practices, non-payment of bills, disconnections and re-connections etc.

The LSEL also provides that the Commission may require licensees to prepare, review, or amend individual consumers standards, practices or procedures in relation to specific matters for their respective consumers, and these will be subject to the prior approval and ratification by the Commission, and published by the licensee on its website.

The Commission is to work with the Lagos State Consumer Protection Agency to establish dedicated complaint handling process and resolve complaints in timely and efficient manner⁸³.

78. Section 4(1) of the BFA.

79. Section 95 of the LSEL.

80. Section 111 of the LSEL.

81. Section 112 of the LSEL.

82. Section 111(7) of the LSEL.

83. Section 113 of the LSEL.

Host Communities Development Trust Fund

The LSEL establishes the Host Community Development Trust Fund (“CTF”) into which power generating companies shall pay 2% of their annual operating expenditure for the preceding financial year into, for the development of the respective host communities in the State. The Commission is to appoint accredited representatives of the host communities (the **Representatives**) who shall be person of good standing in the communities, and the Representatives together with the generating companies will jointly appoint a reputable trustee to be recommended to them by the Commission to manage the CTF. The fund in the CTF shall be utilised for infrastructural development project within the communities.

The Trustee and Representatives are to keep proper account and prepare and submit annual audited account of the CTG, a copy of the general report and full report of the external auditor, and detailed report of the state of affairs of the CTF for the financial, to the Commission⁸⁴.

This provision took onboard hints from the Electricity (Amendment) Act 2024 (the **EA Amendment**), and noticeably reduced the percentage of annual operating expenditure payable to 2% for GenCos, and provides for a trustee to manage the CTF.

However, there are two areas of uncertainty that may be opened to dispute in this section. Firstly, the LSEL does not define Power Generating Companies, neither does it define Power Generating. Thus, the scope of which entity qualifies as a Power Generating Company for the purpose of making contribution to the CTF is debatable. It is unclear if this will include entities who generate not more than 1MW for their consumption, and entities that hold captive permit. Secondly, the LSEL defines “Host Community” as “communities situate or appurtenant to

PART D: OFF-GRID ELECTRIFICATION, EMISSION CONTROL AND RENEWABLE ENERGY

This section discusses

- (i) emission control, renewable energy, energy efficiency, and
- (ii) off-grid electrification and connected matters.



Emission Control, Renewable Energy, Energy Efficiency, and Demand Side Management

This section of the LSEL provides for the control of emission in the Market, the incorporation and use of renewable energy in the State Market and the development of a renewable energy, energy efficiency and Demand Side Management (DSM) Strategy and Action Plan (the **Strategy and Action Plan**)⁸⁶. The LSEL strongly reflects the State’s commitment to addressing power supply issues by promoting decentralised renewable energy generation, encouraging efficient energy use, setting emission standard and penalising high emissions, thus pushing the Market towards cleaner alternatives.

Function of the Commission

The LSEL specifies the functions of the Commission in this part to be (x) to promote the use of renewable energy sources for electricity generation (y) to promote energy efficiency and demand side management practices; (z) to promote transition from the utilisation of distillates as fuel to gas or renewable energy sources for electricity generation; and (xx) and ensure minimal environmental impact to the State from electricity generating plants and other facilities; addressing the amount of environmentally damaging emissions from electricity generating plants in the State.

The Commission has a function to ensure that electricity produced meets quality voltage standards, this is especially important, considering the damaging impact of poor electricity quality to appliances and machines powered in businesses and households⁸⁷. To properly implement this function, the Commission will need to set predefined standards for determining the quality of electricity.

Further, to encourage standardisation, model contracts and mandatory terms for electricity generated are to be developed by the Commission. This will promote certainty, and potential investors will find this attractive.

84. Sections 174 and 175 of the LSEL.

85. Section 84 of the EA.

86. Sections 114 – 118 of the LSEL.

87. Section 114 (f) of LSEL.



Responsibility of the Ministry

The Ministry is required by the LSEL to support, promote and create an enabling investment environment by introducing measures, strategies, incentives, schemes and programmes to increase and foster the utilisation of gas and renewable energy sources for generation of electricity in the State, the implementation of energy efficiency and demand side management practices.

The Ministry is also mandated to ensure that buildings occupied by the State ministries, agencies and departments utilise renewable energy sources for electricity generation. The state has an exemplary responsibility in this regard. However, we have observed that this responsibility is not obligatory. The implementation of this will spur other businesses to gradually transition to renewable energy, further opening opportunities for investors and businesses operating in the sector to provide these renewable energy services to the State Government Agencies. This will significantly reduce the cost of running government agencies, thus impacting the economy positively in the long run.

The Ministry is to develop the Strategy and Action Plan which shall set the short, medium, and long-term targets, incentives and subsidies to advance renewable energy, energy efficiency and demand-side management. Some of the specific things the Commission guided by the Strategy and Action Plan is required to do are

- ensure long term, stable, and favourable tariff methodology for electricity generation from renewable sources;
- introduce incentives for utilisation of solar rooftops; and
- introduce renewable energy purchase obligations for trading licenses and supply licensees.

Emission Control

The Commission is expected to implement a mechanism, for the issuance of Guarantees of Origin which is akin to renewable energy certificates. Although the provision is not a robust one, we expect the Commission to develop further regulations to provide guidance on implementation as this is critical in raising additional finance to support the development of renewable projects.⁸⁸

The LSEL further imposes emission standards (limitation levy). This is in line with global climate objectives, as governments continue to set net zero targets across the globe. Although, the effectiveness of reducing emission through the imposition of emission levy will be greatly dependent on the quantum of levy and mechanism of implementation.

Further, the Commission may by regulations ban generators and mandate the use of renewable energy. It is imperative that businesses across the State are aware of this possibility⁸⁹. The LSEL provides that once a regulation is given to this effect, there shall be a notice to businesses affected, to transition from traditional energy production and consumption to renewable energy. We foresee a ban on the use of generators. The LSEL provides an indication on timeline (not less than six (6) months and not more than twenty-four (24) months) for implementation as soon as the regulation is issued.

If all the measures provided under this section are implemented, investors will be incentivised to invest in renewable energy in the State, and the immediate goal of providing affordable, clean and available energy would be achieved in the Market.

Off-grid Electrification and Connected Matters

The LSEL provides for the general responsibilities of the Ministry in relation to off-grid solutions; the development of the Off-grid Electrification Strategy and Action Plan for the State (the **Off-grid Action Plan**); the establishment of the Lagos State Electrification Agency (the **Agency**) and establishment of the Lagos State Electrification Fund (the **Electrification Fund**)⁹⁰. The LSEL⁹¹ established the Agency which replaced the Lagos State Electricity Board.

88. Sections 117(2)g of the LSEL

89. Section 118(2) of the LSEL

90. Sections 119 – 159 of the LSEL.

91. Section 121 of the LSEL.



The Agency is established to

- control and manage electricity installation vested on the Agency under the LSEL;
- construct, reconstruct, maintain and operate public electricity utilities;
- increase access to electricity services for underserved and unserved areas of the State; and
- manage and supervise the Electrification Fund in accordance with the provisions of this LSEL amongst several other functions.⁹²

The Electrification Fund is to be managed by the Agency and will comprise of funds from annual budget allocation of the State; all fines and penalties imposed and collected by the Commission; donations, gifts, loans, grants, aids, and such other assets; earnings, interest, and other income accruing from the investment with money accruing to the Electrification Fund; and any special intervention fund as may be provided by the State. The fund if properly managed would help to improve access to electricity in the state.

The LSEL also provides that the Board may, subject to the approval of the Governor, enter into agreements with development partners to set up special purpose funds for the provision of off-grid solutions in any part of the State. This is similar to what is practiced at the federal level where the REA, although it maintains the Rural Electrification Fund still manages a special kind of fund which are administered separately e.g. the Nigerian Electrification Project by the World Bank and AfDB. It is expected that the State will collaborate with similar organisations to set up special funds to improve energy access within the State.

PART E: GENERAL PROVISIONS

This part focuses on provisions of the LSEL on dispute resolution; procedure for legal action; liability protection; and transfer of assets and liabilities⁹⁴.

Dispute Resolution

The LSEL emphasises the Commission's responsibility to facilitate the amicable and swift resolution of disputes in the Market. The Commission is mandated to collaborate with the Lagos Multi-Door Court House to provide a streamlined and efficient dispute resolution process. This provision ensures that disputes can be addressed quickly and will reduce potential disruptions in the electricity market.

Procedure for Legal Action

The LSEL establishes strict timelines for legal action against the Commission or its members. A claim must be initiated within twelve months of the act, neglect, or default. Additionally, a claimant must serve a notice of intent to sue at least 30 days before filing, ensuring that the Commission or Agency has the opportunity to address the issue before formal proceedings. This gives the Commission a fair chance to resolve issues before litigation.

Liability Protection

It provides that the Commission, the Agency, or their officers will not be held liable for actions taken in good faith while executing their duties under the LSEL. This protects officials from personal liability when performing their roles responsibly. By shielding officials from liability for good faith actions the LSEL encourages proactive and responsible decision-making.

Transfer of Assets and Liabilities

The LSEL clarifies that all electrical installations previously owned by the State or Lagos State Electricity Board shall transfer to the Agency with any associated liabilities and obligations. Furthermore, all relevant contracts and employee terms will remain valid, with employees' service years carried over, ensuring continuity and fairness. This provision will allow for a smooth transition of responsibilities under the existing regulatory regime to the Agency and will promote stability in the operation of the electricity market in Lagos State.

⁹² Section 124 of the LSEL.

⁹³ Section 153 of the LSEL.

⁹⁴ Sections 179 – 182 of the LSEL.

CONCLUSION

The passage of the LSEL is a giant stride by the State towards energy sufficiency, economic success and environmental sustainability. Our review of the LSEL leads us to the conclusion that if the provisions of the LSEL are effectively operationalised, a viable electricity market will emerge in the State that will provide sufficient energy for consumers and profit for market players.

It is worthy of note that the enactment of the LSEL is the first step in the transition to the full-fledged Lagos Electricity Market. The EA provides that after enacting the state electricity law, the state is to establish a state electricity regulatory authority and deliver a formal notification of the enactment of the State law and the establishment of the state electricity regulatory authority to NERC and request NERC to transfer regulatory authority over to the state regulator.

The State is also to deliver a notification to the relevant successor electricity distribution licensee and the National Council on Privatisation through the Bureau of Public Enterprise, requesting them to ensure that the successor company takes steps to register a subsidiary in the State within two months, and transfer assets, liabilities, employees and relevant contractual rights and obligations to the subsidiary. NERC shall then draw up and deliver to the State regulator a draft order setting out the plan and timeline for the transition of regulatory responsibilities to the state regulator. The transition should be completed no later than six (6) months from the date of the formal notice to NERC .

With all the framework formed, we expect the Commission to immediately after the commencement of the LSEL begin to make regulations and issue guidelines, rules, and directives that will set the provisions of the LSEL in motion, and to issue the relevant notice to NERC to commence the transition to the State Market.

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