OLANIWUN AJAYI

power

2024 WRAP-UP | 2025 OUTLOOK

CONTENTS

FOREWORD

As we conclude another transformative year in the power sector, it is an opportunity to reflect on the progress and challenges that have shaped the sector in 2024. 2024 marked the 11th year since the privatisation of Nigerian Electricity Supply Industry (NESI) and the first full year under the **Electricity Act 2023** (EA), a landmark legislation that has driven significant shifts in the sector.

The regulator's implementation and industry's response to the EA has been both dynamic and innovative, leading to new opportunities and challenges across all facets of the power industry with States like Ekiti, Enugu, Imo, Ondo, Oyo and Lagos establishing their own electricity markets.

This report presents a comprehensive market overview for 2024 by highlighting key legal and regulatory developments, and notable deals; as well as proffers our forecasts for 2025. At Olaniwun Ajayi LP, we have been privileged to advise and collaborate with clients in the power industry at the full spectrum – from traditional power projects to renewable power solutions. The insights presented in this report draw on our extensive experience navigating the regulatory complexities and market dynamics that continue to evolve.

We hope this report serves not only as a reflection on the past year but as a guide for informed decision-making in the new year. As the power industry adapts to a new legal framework and proactive regulator(s), we are committed to supporting our clients through these changes, bringing expertise, foresight and a forward-thinking approach to each unique challenge.

Thank you for trusting us as your legal advisors in this important sector. We look forward to further strengthening our partnerships and driving positive impact across the power sector in the coming year.

Wolemi Esan, SAN

Deputy Managing Partner

INTRODUCTION

The EA has introduced transformative provisions that lay the foundation for a transition toward a more competitive power market in Nigeria. States now have the authority to regulate their individual electricity markets, allowing private investors to operate power plants within the State. This decentralization, combined with the potential for electricity trading through bilateral contracts, supports economic mechanisms that enable full cost recovery for electricity supply, creating a more favourable environment for investment across the sector.

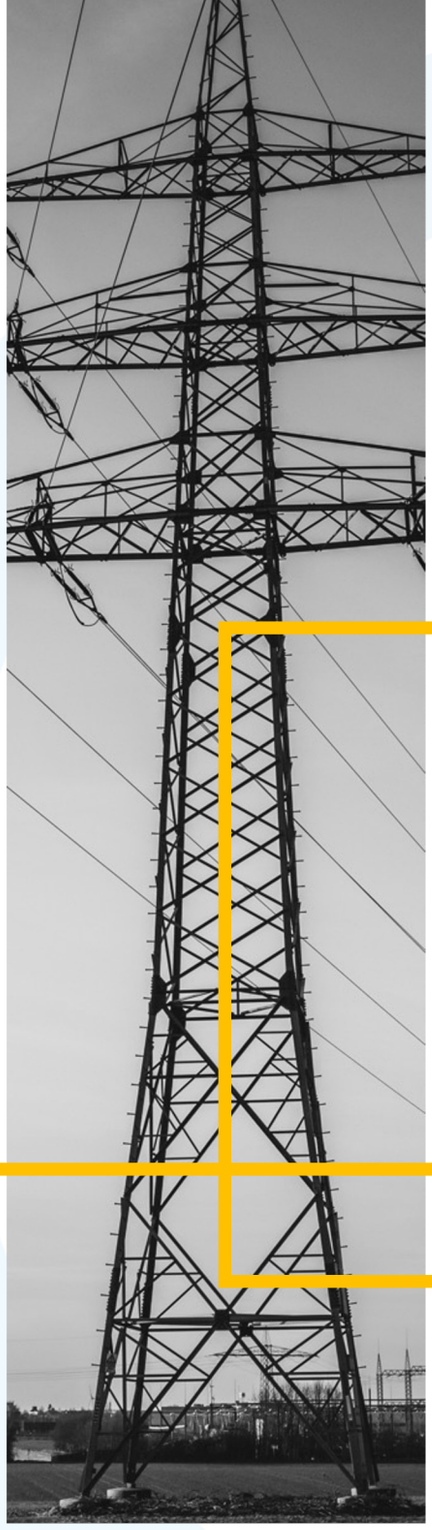
This report provides a comprehensive review of the past year's key developments, focusing on significant legal and regulatory changes, market trends, and shifts in the sector's energy mix. Notably, there is a growing emphasis on renewable energy sources as Nigeria's energy landscape diversifies to include solar and the potential of other sustainable options. Both public and private sectors are increasingly investing in these alternatives, promoting a more balanced energy mix and advancing energy reliability. Sustainable finance is also driving the energy transition.

Initiatives such as green bonds, sustainability-linked loans and other innovative financing mechanisms are enabling significant investment in renewable energy project and infrastructure development. The Loan Market Association (LMA) has released new draft provisions for green loans aimed at streamlining the structuring, drafting, and negotiation processes. These updates are designed to enable market participants to focus more effectively on the substantive impact and sustainability objectives of green projects.

Beginning with a monthly wrap-up of events from January onward, this report outlines major trends, from investment activities to evolving regulatory requirements, impacting both traditional and renewable power sources. In addition to this chronological summary, we offer in-depth analysis of pivotal legal and regulatory changes that have shaped the industry, examining their implications for current operations and future growth, and highlighting the legal and market impacts for stakeholders navigating this complex landscape. We have also interviewed Joel Abrahams, a director in Konexa on the partnership between Energy Company of the Future Kaduna Limited (Konexa) and Nigeria Brewery PLC (NBP), which Olaniwum Ajayi LP served as legal advisor to Konexa. We included a case digest on the court's decision regarding the dispute resolution mechanism under the EA.

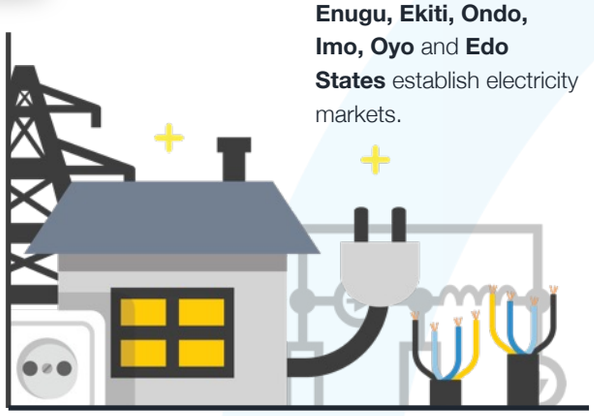
Looking forward to 2025, we provide projections on anticipated developments. Key themes include expected regulatory updates, increased infrastructure investments from both public and private sectors, bilateral trading, waste to energy projects, further integration of renewables, and strategic approaches for optimizing energy efficiency across Nigeria. These projections are designed to assist our clients and sector stakeholders in planning for both the risks and opportunities ahead.

We hope this report will serve as a valuable resource for understanding the complexities and evolving dynamics of the power sector, offering actionable insights to inform strategic decision-making. At Olaniwun Ajayi LP, we remain committed to guiding our clients through this period of rapid change, helping them stay compliant, competitive, and resilient in an industry that continues to transform.



POWER SECTOR 2024 MONTHLY TIMELINE

01 JANUARY



Enugu, Ekiti, Ondo, Imo, Oyo and **Edo States** establish electricity markets.

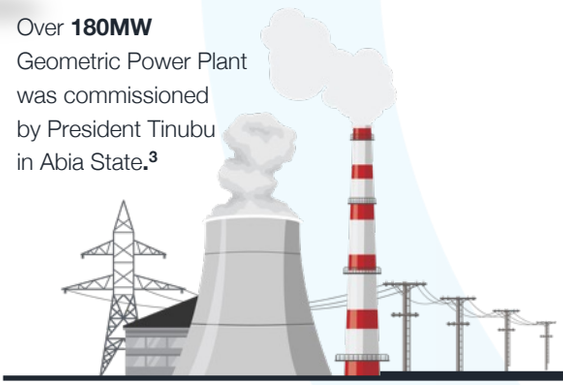
Nigerian Electricity Regulatory Commission (NERC) dissolved the board of Kaduna Electricity Distribution Company Plc KaEDC.[1]

40% Stake

MOFI took over its stake in the 11 privatised successors Distribution Companies (DisCos) which was previously held by the Bureau of the Public Enterprises (BPE).[2]

02 FEBRUARY

Over **180MW** Geometric Power Plant was commissioned by President Tinubu in Abia State.[3]



The Federal Government disclosed that it had paid over **$120m**, out of the **$1.3b** debt owed to GasCos in Nigeria.[4]

FG officially handed over the operations of the **$1.3b** Zungeru Hydro Generation Plant (Zungeru HP) to Penstock Limited.[5]

03 MARCH

NERC issued the Eligible Customer Regulation pursuant to Section 11 of the Electricity Act 2023.[6]

1. https://www.thisdaylive.com/index.php/2024/01/16/mofi-takeover-of-fgs-40-shares-in-discos essential-element-of-our consolidation/#google_vignette
2. geometric power now to be commissioned on monday, february 26, 2024 - geometric power
3. geometric power now to be commissioned on monday, february 26, 2024 - geometric power
4. FG pays $120 million of $1.3 billion debt to gas suppliers to boost production - Nairametrics
5. FG hands over Zungeru power plant to concessionaire – Bureau of Public Enterprises (BPE)
6. 2024-NERC-ELEIGIBLE-CUSTOMER-REGULATIONS.pdf

04 APRIL

300%

NERC approved a **300%** increase in electricity tariff for urban consumers (Band A consumers).[7]

NERC issued the

- Order on the Establishment of the Independent System Operator.[8]
- Order on Transmission System Dispatch Operations.[10]
- Order regulating the deregulation of meter prices under the Meter Asset Provider (MAP) scheme for end-user customers.[9]

05 MAY

Minister of Power announced NESI reached an output of **5000MW**.[11]

President Tinubu inaugurated a **132kv** transmission line and a **132kv/33kv** substation in Ondo.[12]

NERC approved an **8%** reduction in electricity tariff rates for customers in the Band A category.[14]

FG announced fresh conditions for the issuance of licences to GasCos.[13]

NERC reduced the exchange rate for calculating the current electricity tariff for Band A customers.[15]

NERC issued a directive on the utilization of the Zungeru Hydro Electricity Generation Company Ltd (ZHEGC). To support power generation to the grid.[16]

FG approved a **$750m** World Bank funding for the construction of **1,200 mini-grids** in rural area.[17]

AfDB expressed its plans to support NESI with **$1b** to boost electricity.[18]

Senate approved **$500m** loan request by President Bola Tinubu for mass metering in the NESI[19].

7. FG hikes electricity tariff from N68/KwH to N225 - Vanguard News (vanguardngr.com)
8. Order-on-the-Establishment-of-the-Independent-System-Operator-for-NESI-1.pdf
9. Order-on-Deregulation-of-Meter-Prices-under-the-MAP-Scheme.pdf (nerc.gov.ng)
10. Interim-Order-on-Transmission-System-Dispatch-Operations-Cross-Border-Supply-and-Related-Matters.pdf
11. Nigeria Generated 5,000MW In May, Says Power Minister Adelabu • Channels Television
12. Tinubu inaugurates N8.3 billion sub-station in Ondo communities after 15 years without electricity - Nairametrics
13. FG gives fresh condition for gas licences
14. The decision was communicated via Order/NERC/2024/55 issued by the Commission; Electricity: NERC reduces Band A tariff by 8% to N206.8/kWh
15. This was communicated in the commission's Multi Year Tariff order (MYTO) for May to December 2024; NERC reduces FX rate for calculating new tariff for Band A customers by 16.03% - Nairametrics
16. https://nerc.gov.ng/media/directive-to-iso-for-the-utilization-of-zungeru-hpp-for-managing-grid-imbalances-caused-by-insufficient-generation/
17. Tinubu okays $750m for rural electrification
18. AfDB to support Nigeria's power sector with $1bn – Official - Vanguard News
19. Senate approves $500m loan for mass metering - Businessday NG

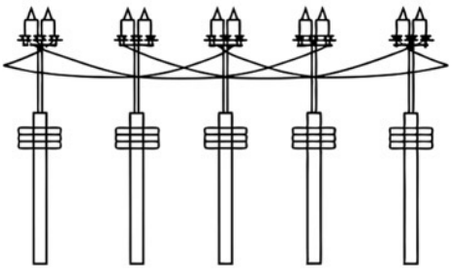
06 JUNE

NERC issued an Order transferring regulatory oversight to the Imo State Electricity Commission.[20]

NERC issued the Order on the Transition to Bilateral Trading in the Nigerian Electricity industry.[21]

07 JULY

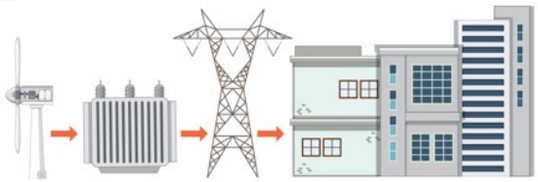
NERC ordered the electricity Market Operator (MO) to activate relevant market rules to ensure the payment of **$14.2 million** (about N21.3 billion) owed Nigeria by international customers.[22]



Transmission Company of Nigeria (TCN) commissioned **60 MVA** power transformer at the **132/33(kV)** Kankia Transmission substation.[23]

REA of Nigeria signed Memorandum of Understandings (MoUs) with A4&T Power Solutions, Privida Power, Skipper Nigeria Limited, Euxwell Nigeria Limited, Havenhill under the Distributed Access through Renewable Energy Scale-up (DARES) project for renewable energy expansion.[24]

The United State Agency for International Development (USAID) and the Federal Ministry of Power formally signed MoU to strengthen collaboration for electricity reform and clean energy transition.[25]



Africa Development Bank (AFDB) Group authorized a loan of **$500 million** to Nigeria to improve access to electricity.[26]

08 AUGUST

NERC issued off-grid generation licenses to Golden Penny Power Limited, MTN Communications Nigeria Limited and others.[27]

The FG declared a **50%** subsidy on electricity costs for public hospitals across Nigeria.[28]

The FG & FGN Power Company signed a contract to fund the construction of distribution lines in Nigeria.[29] [30]

20. *Joining Enugu, Ondo and Ekiti at the date of the Order*
21. *https://nerc.gov.ng/media/order-on-the-transition-to-bilateral-trading-in-the-nigerian-electricity-supply-industry/*
22. *NERC Orders MO to Invoke Rules as Niger, Benin, Togo Fail to Remit N21.3bn Tariffs in Q1 – THISDAYLIVE*
23. *TCN Commissions 100MVA Power Transformer In Ilorin Substation*
24. *Nigeria's REA Signs MOUs for Renewable Energy Projects Expansion*
25. *USAID Signs MOU with Nigeria Ministry of Power; Pledges ₦115.2 Billion for Electricity Reforms and Clean Energy Transition | Nigeria | Press Release | U.S. Agency for International Development*
26. *AfDB Group approves $500m loan to boost electricity access in Nigeria – Blueprint Newspapers Limited*
27. *ICYMI: MTN, others get permits to generate electricity*
28. *FG approves 50% electricity subsidy for public hospitals - Businessday NG*
29. *FGNPC is an SPV with the mandate of implementing projects under the Presidential Power Initiative in Nigeria*
30. *Nigerian Government and FGN Power Company Sign $118 Million Contract to - MSME Africa*

09 SEPTEMBER

NERC officially approved the transfer of regulatory oversight of the electricity market in Kogi State.[31]

FG & the World Bank, unveiled an advanced Supervisory Control and Data Acquisition system.[32]

10 OCTOBER

Nigeria's national power grid plagued with frequent outages due to operational issues.[33]

REA and Anfani Energy Ltd signed an MOU to improve accessibility to renewable energy solutions.[34]

FG announced a plan to convert the Kiri Dam in Adamawa into a hydroelectric power facility.[35]

NERC finalised transfer of regulatory control over the electricity markets in Enugu and Ondo states.[36]

11 NOVEMBER

Bauchi State announced plans to boost its power supply with a new **30MW** solar power plant.[37]

European Union (EU) and Enugu State Government initiate **N3.33 billion** solar power projects to electrify 25 Primary Healthcare Centres across State.[38]

FCCPC ordered Ikeja and Eko DisCos to halt Unistar meter installations due to non-compliance with NERC's directive.[39]

Ekiti State license DisCos and Generation Companies (GenCos) for off-grid electricity generation and supply.[40]

Yobe State committed to powering its public schools with solar energy by 2025.[41]

31. https://nerc.gov.ng/media/transfer-of-regulatory-oversight-of-the-electricity-market-in-kogi-state-to-kserc/
32. FG, World Bank Improve National Grid Stability, Deploy $6bn SCADA System
33. States in darkness as national grid collapses again — Nigeria — The Guardian Nigeria News – Nigeria and World News ; North blackout: 19 govs meet, President deploys troops against vandals; CSOs lament prolong power outage in North — Energy — The Guardian
34. FG, Renewable Energy Firm Seal Deal to Ramp Up Solar Power in Nigeria – THISDAYLIVE
35. Nigerian Govt prepares Kiri Dam for electricity generation - Daily Post Nigeria
36. NERC Transition: Ondo State assumes full control of electricity market; In Historic Move EERC Assumes Full Regulation of Enugu State Electricity Market – THISDAYLIVE
37. https://nairametrics.com/2024/11/25/bauchi-govt-ccecc-sign-agreement-for-30mw-solar-power-and-distribution-network/
38. https://www.premiumtimesng.com/regional/ssouth-east/755665-eu-enugu-govt-launch-n3-33billion-solar-project-for-phcs.html
39. https://nairametrics.com/2024/11/05/fccpc-orders-ikeja-eko-discos-to-halt-unistar-meter-installation-over-non-compliance/
40. https://nairametrics.com/2024/11/07/ekiti-licenses-3-discos-4-genscos-others-plans-off-grid-electricity-supply-oyebanji/
41. https://nairametrics.com/2024/11/13/electricity-supply-yobe-govt-to-transition-all-public-schools-to-solar-energy-by-2025-official/

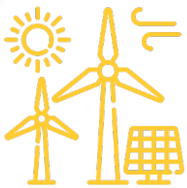
12 DECEMBER

Governor Sanwo-Olu signs Lagos State Electricity Bill into law.[42]

FG suspends energy tariff review as 4-month subsidy hits **N768.68b**.[43]

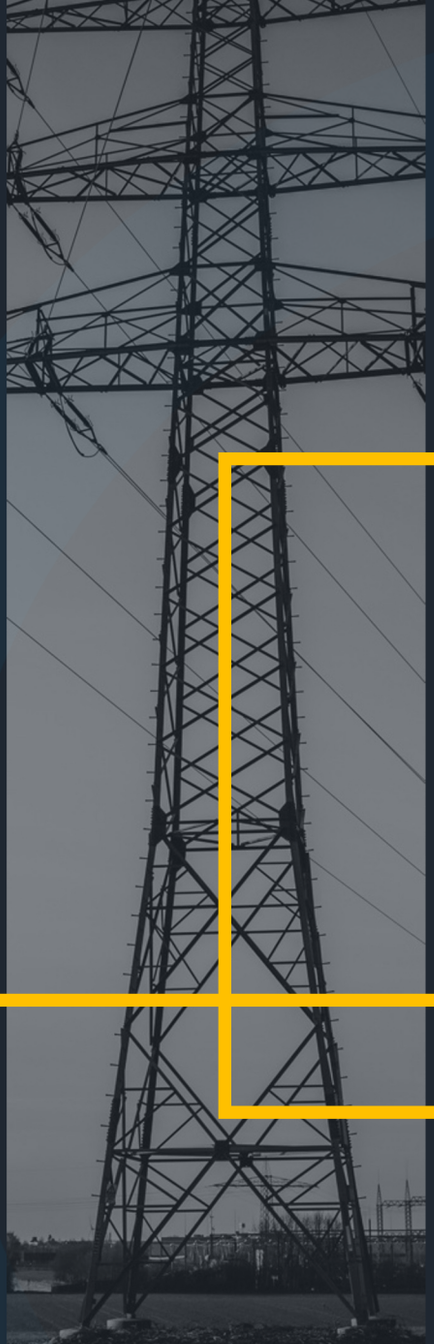
NERC adopts the Africa Forum for Utility Regulators (AFUR) mini-grid tariff tool.[44]

The World Bank approved the Nigerian Distributed Access Renewable Energy Scale-up (DARES) project to provide distributed renewable energy solutions.[45]



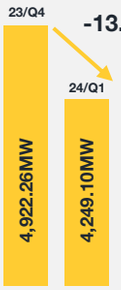
NERC officially cede control of the Lagos electricity market over to the Lagos State Electricity Regulatory Commission (LASERC).[46]

42. https://www.vanguardngr.com/2024/12/sanwo-olu-signs-lagos-electricity-bill-into-law/
43. https://guardian.ng/business-services/fg-suspends-energy-tariff-review-as-4-month-subsidy-hits-n768-68b/
44. NERC adopts new tariff tool for mini-grid regulation - Nairametrics
45. DARES project to power 17.5m Nigerians with renewable energy says World Bank - Businessday NG
46. NERC Transfers Lagos Electricity Regulatory Oversight To LASERC

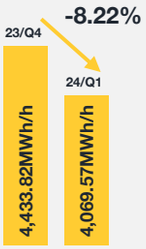


2024 POWER SECTOR KEY FIGURES

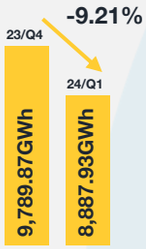
2024/Q1



The average available generation capacity across all the plants during the quarter was **4,249.10MW** representing a **-13.68%** decrease **(-673.16MW)** compared to the **4,922.26MW** recorded in 2023/Q4.



Average hourly generation of available units



Total electricity generated

In 2024/Q1, the average hourly generation of available units decreased by **-8.22% (-364.25MWh/h)** from **4,433.82MWh/h in 2023/Q4 to 4,069.57MWh/h**. The total electricity generated in the quarter also decreased by **-9.21% 1 (-901.94GWh)** from **9,789.87GWh in 2023/Q4 to 8,887.93GWh**.

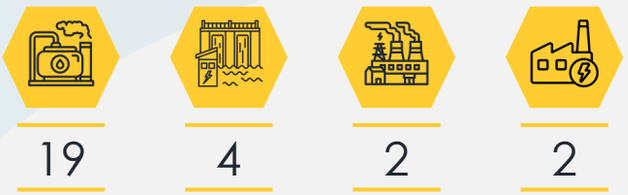
₦291.62 billion

The total revenue collected by all DisCos in 2024/Q1 was **₦291.62 billion out of ₦368.65 billion** billed to customers. This translates to a collection efficiency of 79.11% which represents an increase of +5.32pp when compared to 2023/Q4 (73.79%).

Due to the absence of cost-reflective tariffs across all DisCos, the Government incurred a subsidy obligation of **₦633.30 billion** (90.57% of total NBET invoice) in 2024/Q1 (average of **₦211.10 billion per month**).

NERC issued thirty-two (32) licences, permits and certifications in 2024/Q1.

- **Nine (9)** new off-grid generation licences with a total nameplate capacity of 109.69MW.
- **Three (3)** new electricity trading licences.
- **Nine (9)** captive generation permits with a total nameplate capacity of 52.57MW.
- **Three (3)** permits and **Two (2)** registration certificates for minigrids.
- **Six (6)** certifications for Meter Service Providers.



In 2024/Q1, there were twenty-seven (27) grid connected power plants consisting of nineteen **(19) gas, four (4) hydro, two (2) steam, and two (2) gas/steam-powered plants**.

There were two (2) incidents on the national grid during 2024/Q1 - one (1) partial and one (1) total collapse. The partial collapse occurred on 04 February 2024 while the total collapse occurred on 28 March 2024.

The total energy received by all DisCos in 2024/Q1 was **7,171.93GWh** while the energy billed to end-use customers was **5,769.52GWh**, translating into an overall billing efficiency of **80.45%.** This represents an increase of +2.00 pp relative to the **78.45%** recorded in 2023/Q4.

In 2024/Q1, the cumulative upstream invoice payable by DisCos was **₦114.12 billion**, consisting of **₦65.96 billion** for DRO-adjusted generation costs from Nigeria Bulk Electricity Trading PLC (NBET) and **₦48.16 billion** for transmission and administrative services by the Market Operator (MO). Out of this amount, the DisCos collectively remitted a total sum of **₦110.62 billion** (₦65.52 billion for NBET and ₦45.10 billion for Market Operator) with an outstanding balance of **₦3.50 billion**. This translates to a remittance performance of 96.93% in 2024/Q1 compared to the 69.88% recorded in 2023/Q4.

A total of **123,604 meters** were installed in 2024/Q1, representing an **increase of 8,423** installations **(+7.31%)** compared to the 115,181 meters installed in 2023/Q4.

The total number of accidents in 2024/Q1 was **fifty-five (55)** which resulted in **31 injuries and 23 fatalities**. The Commission has launched investigations into all the accidents and will continue to work with all sector stakeholders to improve the overall health and safety of the NESI.

NERC issued **one (1)** Regulation and **thirty-six (36)** new Orders in 2024/Q1.

NERC conducted a total of **8 hearings** in 2024/Q1 to consider the petitions filed by different stakeholders on issues pertaining to the provision and utilisation of electricity services.[47]

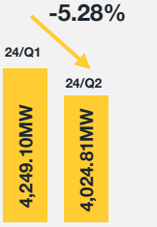
47. *https://www.nerc.gov.ng*

2024/Q2[48]

In 2024/Q2, the number of grid connected plants increased by **one (1)** to **twenty-eight (28)** as a result of the operationalisation of the **Zungeru HP**, which began evacuating power to the grid on 29 April 2024.

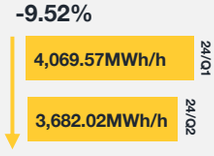
19
15
2
2

The twenty-eight (28) grid-connected power plants consist of **nineteen (19) gas, five (5) hydro, two (2) steam, and two (2) gas/steam-powered plants.**



average available generation capacity

For this quarter, the average available generation capacity of the grid connected power plants was **4,395.77MW.**The average available generation capacity across the grid-connected plants (excluding Zungeru HP) decreased from the **4,249.10MW** recorded in **2024/Q1 to 4,024.81MW in 2024/Q2** representing a -**5.28% decrease (-224.29MW).**



Average hourly generation of available units

The average hourly generation on the grid in 2024/Q2 was **4,018.57MWh/h,** which translates to a total generation of **8,776.55GWh** over the quarter. The average hourly generation of available power plants (excluding Zungeru HP) decreased by **-9.52% (-387.56MWh/h)** from **4,069.57MWh/h in 2024/Q1 to 3,682.02MWh/h.**

In 2024/Q2, the cumulative upstream invoice payable by DisCos was **₦399.53 billion**, consisting of **₦343.76 billion** for DRO-adjusted generation costs from NBET and **₦55.77 billion** for transmission and administrative services by the Market Operator (MO). Out of this amount, the DisCos collectively remitted a total sum of **₦318.65 billion** (₦271.87 billion for NBET and ₦46.78 billion for MO) with an outstanding balance of **₦80.88 billion.** This translates to a remittance performance of **79.76%** in 2024/Q2 compared to the **96.93%** recorded in 2024/Q1.

A total of **49,188 meters** were installed in 2024/Q2, representing a decrease of **-60.86%** compared to the **125,664 meters** installed in 2024/Q1.

The total energy received by all DisCos in 2024/Q2 was **6,914.39GWh** while the energy billed to end-use customers was **5,693.11GWh**, translating into an overall billing efficiency of **82.34%.** This represents an increase of **+1.89pp** relative to the **80.45%** recorded in 2024/Q1.

The total revenue collected by all DisCos in 2024/Q2 was **₦431.16 billion** out of **₦543.64 billion** billed to customers. This translates to a collection efficiency of **79.31%** which represents an increase of **+0.20pp** when compared to 2024/Q1 **(79.11%).**

One (1) incident of partial collapse on the national grid occurred in 2024/Q2. The incident occurred on 15 April 2024.

NERC issued **forty-two (42)** Orders and **one (1)** directive in 2024/Q2.

The Commission issued eighteen (18) licences, permits and certifications in 2024/Q2.

- **Five (5)** new off-grid generation licences with a total nameplate capacity of **12.36MW**.
- **Two (2)** on-grid generation licences with a gross capacity of **66MW**.
- **One (1)** new electricity trading licence.
- **One (1)** system operator licence.
- **One (1)** captive generation permit with a capacity of **5MW.**
- **Two (2)** permits for Meter Asset Providers.
- **Six (6)** certifications for Meter Service Providers.

The total number of accidents in 2024/Q2 was **sixty-three (63)** which resulted in **seventeen (17) injuries and thirty-four (34) fatalities**. The Commission has launched investigations into all the accidents and will continue to work with all sector stakeholders to improve the overall health and safety of the NESI.`

NERC revealed that the Nigerian Federal Government incurred **N380 billion** in electricity subsidies in 2024/Q2, a **40%** reduction compared to the **N633.3 billion** spent in 2024/Q1. The government covered 52.51% of the total electricity invoice from the NBET, down from **90.57%** in Q1. The reduction in subsidy costs was mainly driven by a government decision to raise tariffs for Band A electricity customers while keeping the rates unchanged for customers in Bands B to E since December 2022.

48. https://www.nerc.gov.ng

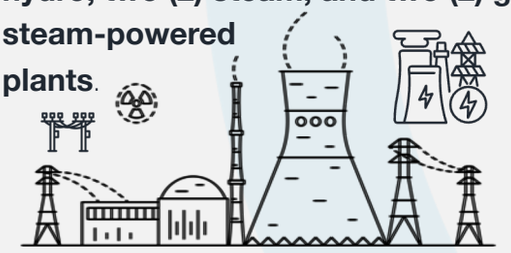
During the quarter (2024/Q2) the Commission conducted three (3) hearings to consider the petitions filed by different stakeholders on issues pertaining to the provision and utilisation of electricity services.

The Commission issued five (5) Rectification Directives (RD), five (5) Notices of Intention to Commence Enforcement (NICE) and three (3) fines, to licensees for different breaches/defaults during the quarter.

The Federal Government announced additional **625 megawatts** to the national grid, increasing the grid's wheeling capacity to **4800 megawatts**.[49]

2024/Q3

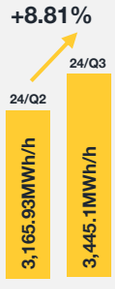
There were **twenty-eight (28)** grid-connected power plants consisting of **nineteen (19) gas, five (5) hydro, two (2) steam, and two (2) gas/steam-powered plants**.



For this quarter, the average available generation capacity of the grid-connected power plants was **5,100.90MW**.

The average lower daily **(49.56Hz)** and average upper daily **(50.75Hz)** system frequencies were outside the normal operating limits **(49.75Hz - 50.25Hz)** but remained within the lower and higher bound stress limits **(48.75Hz - 51.25Hz).**

The average lower daily **(299.64kV)** and average upper daily **(352.68kV)** system voltages were however outside the limits prescribed in the grid code **(313.50kV - 346.50kV).**



Energy offtake

The average energy offtake by DisCos at their trading points was **3,445.13MWh/h** out of the available PCC of **3,807.98MWh/h** translating to an overall offtake performance of **90.47%.** The energy offtake during the quarter (**3,445.1MWh/**h) represents an increase of **+8.81% (+279.20MWh/h)** compared to the **3,165.93MWh/h** recorded in 2024/Q2.

The total energy received by all DisCos in 2024/Q3 was **7,606.84GWh** while the energy billed to end-use customers was **6,249.21GWh**, translating into an overall billing efficiency of **82.15%**. This represents a **-0.19pp** decrease in billing efficiency relative to the **82.34%** recorded in 2024/Q2.

The weighted average Aggregate Technical, Commercial and Collection (ATC&C) loss across all the DisCo in 2024/Q3 was **39.10%** comprising - technical and commercial loss (**18.32%**) and collection loss (**25.45%**). The ATC&C loss increased by **+4.40pp** compared to 2024/Q2 (**34.70%**). No DisCo achieved its target ATC&C as provided in the MYTO during the quarter. The worst underperformance relative to the target ATC&C was recorded in Kaduna DisCo (**Actual – 70.84% vs. target – 25.00%**).

The total revenue collected by all DisCos in 2024/Q3 was **₦466.69 billion** out of **₦626.02 billion** billed to customers. This translates to a collection efficiency of **74.55%,** representing a decrease of **-4.76pp** compared to 2024/Q2 **(79.31%).**

49. https://www.nerc.gov.ng/

For DisCo remittance Obligation (DRO) adjusted generation costs from Nigeria Bulk electricity Trading Company NBET and **₦58.77 billion** for transmission and administrative services by the Market Operator (MO).

Out of this amount, the DisCos collectively remitted a total sum of **₦370.01 billion** (**₦324.83 billion** for NBET and **₦45.18 billion** for MO) with an outstanding balance of **₦71.66 billion.**

This translates to a remittance performance of **83.77%** in 2024/Q3 compared to the **79.76%** recorded in 2024/Q2. The disaggregated DisCo remittance performance to the market for 2024/Q3.

In 2024/Q3, the six (6) international bilateral customers purchasing power from the grid connected GenCos made a cumulative payment of **$6.49 million** against the **$12.19 million** invoice issued to them by the MO for services rendered in 2024/Q3. Similarly, the domestic bilateral customers made a cumulative payment of **₦1,566.51 million** against the **₦2,100.79 million** invoice issued to them by the Markert Operator (MO) for services rendered in 2024/Q3.

The Commission issued **fifty (50) Orders** in 2024/Q3 including orders for Transfer of Regulatory Oversight of the Electricity Market in Oyo State and Edo State and Kogi State.

The Commission issued fifty (50) licences, permits and certifications in 2024/Q3. They include:

Seven (7) certifications for Meter Service Providers and twenty-two (22) permits for MAP.

Six (6) new off-grid generation licences with a total nameplate capacity of 30.06MW..

One (1) on-grid generation licence renewal (gross capacity of 39MW).

Eleven (11) captive generation permits with a gross capacity of 63.36MW.

Two (2) new electricity trading licences.

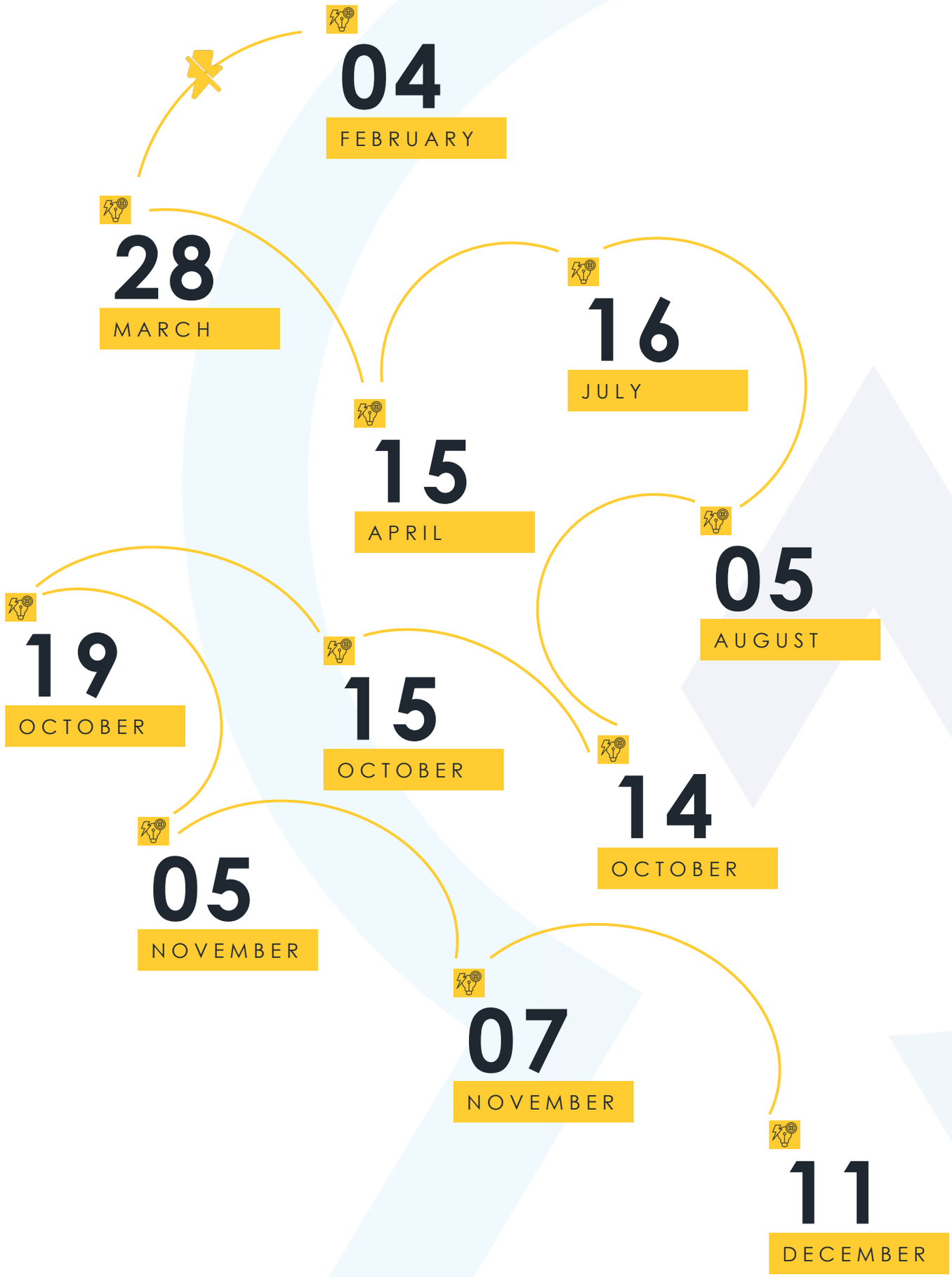
One (1) registration certificate for mini-grid.

The total number of accidents in 2024/Q3 was **fifty-six (56**) which resulted in **twenty-eight (28) injuries and twenty-nine (29) fatalities.** The Commission has launched investigations into all the accidents and will continue to work with all sector stakeholders to improve the overall health and safety of the NESI.

The Commission set up Forum Offices across the country to review unresolved disputes from the **DisCos' Complaint Handling Units (DisCos-CCU**). The total number of active appeals across the Forum Offices in 2024/Q3 was **3,202** made up of **2,167** new appeals in 2024/Q3 and **1,035** pending appeals from 2024/Q2. During the period, the forum panels held seventy-seven (77) sittings and resolved **1,886** of the appeals filed at Forum Offices nationwide **(58.90% resolution rate**); the **resolution rate was +4.00pp higher than the 54.90%** achieved in 2024/Q2.

The number of complaints received at the NERC-CCU in 2024/Q3 was **5,287** and **1,647** complaints were resolved by DisCos **(31.15% resolution rate).** The number of complaints received across all DisCo-CCUs was 328,696 which translates to a **+14.35% increase compared to the 287,441** received in 2024/Q2. As in previous quarters, metering, billing and service interruption were the prevalent issues of customer complaints during the quarter.

2024 NATIONAL GRID DOWNTIME DOSSIER[50]



50. *Daily Trust Newspaper*

KEY LEGAL AND REGULATORY DEVELOPMENTS IN 2024

> ***...to initiate State-level electricity regulation, States must set up a regulatory authority and appoint its governing body and staff.***

Transition To State Electricity Market

(Ekiti, Enugu, Imo, Ondo, Oyo Lagos and Niger State)

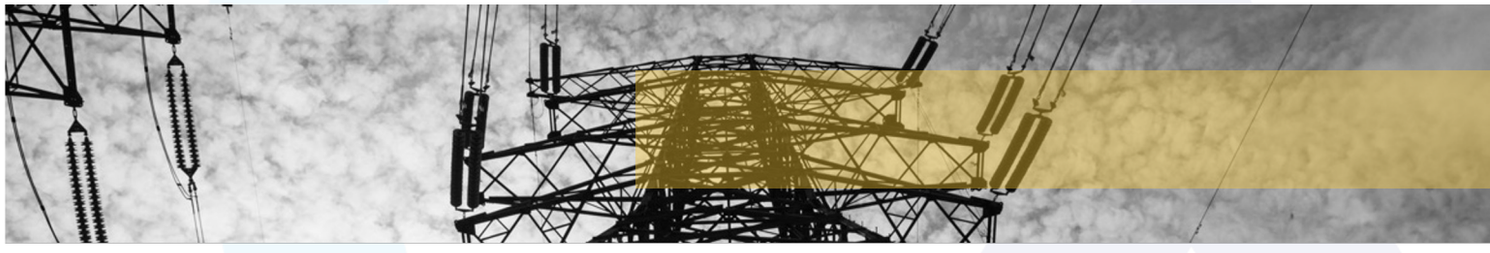
Further to the enactment of the EA[51], States have begun to establish and regulate their State electricity markets, marking the transition to a decentralised market and the gradual cessation of the regulatory purview of the NERC in such States. In a bid to facilitate this transition, NERC inaugurated three working groups including: (x) the Legal and Regulatory Working Group; (y) Engineering and Technical Working Group; and (z) the Commercial and Transaction Group. These groups have been saddled with the mandate of facilitating the establishment of State electricity markets by the newly established State regulators as well as ensuring a general implementation of the EA.

According to the order of transfer of regulatory oversight from NERC to State regulators issued to different the States; to initiate State-level electricity regulation, States must set up a regulatory authority and appoint its governing body and staff. Once the new state regulatory authority is established through State law, the state shall formally notify the NERC, requesting the transfer of regulatory oversight to the new State regulator. The State is also required to inform the relevant electricity distribution successor company and the National Council on Privatization (NCP) via the Bureau of Public Enterprises (BPE) to ensure the successor company aligns with the transfer process.

51. *Section 230 of the Electricity Act 2023*

The successor company upon being notified by the state shall within two (2) months incorporate a subsidiary distribution company under Companies and Allied Matters Act 2020 (CAMA) (the **Additional Successor**) and transfer the relevant assets, liabilities, employees and relevant contractual rights and obligations of the successor company in that state to the Additional Successor. After the transfer, NERC's oversight within the state ceases, and the new state regulator assumes full regulatory control, along with any related assets, liabilities, and staff.

As States make progress in setting up their electricity markets, Ekiti, Enugu, Imo, Ondo, Oyo, Kogi Edo and Lagos States have successfully created their own market and have commenced operations. With this in place, we can expect full autonomy over the market with Staes now overseeing electricity generation, distribution, and retail activities allowing for more tailored and efficient regulation based on local conditions. We also anticipate more targeted investments in local electricity infrastructure to improve supply, quality, and efficiency in the state's power sector. The establishment of a state-regulated market will lead to more competitive pricing and better service delivery as the state regulator enforces compliance and ensures that electricity services meet local needs. Over time, we may see increased integration between state markets as states work to create inter-state electricity trade, shared infrastructure, and harmonized regulations to optimize resource utilization.



The Nigerian Electricity Regulatory Commission Sanctions Chinese Firm For Operating An Electricity Generation And Distribution Company Without A License

NERC convened a hearing in response to a petition filed by CCETC Suk Power Company Limited appealing for a review Order No: NERC/REG/CCETCUK/CPCL/APPL/EG/IEDNL/2557/11/OL/456 which directed the company to pay a fine for contravening Section 62 of the repealed Electric Power Sector Reform Act 2005 (EPSRA). The petitioners agreed to breaking the law by operating an electricity generation and distribution company in Nigeria without a license and pleaded with NERC to review the fine imposed on the company to enable them to continue operating. The panel, which was chaired by the NERC Vice Chairman, Musiliu Oseni stressed the need for investors to obtain all licenses before they begin operations and failure to do so will attract sanctions. NERC further stated that the company will undergo environmental impact assessment (EIA) and all other relevant regulatory checks to ensure compliance with all NERC rules and regulations.[52]

It is imperative for investors and companies in the NESI to understand and adhere to the legal framework governing their operations. This case serves as a reminder to all stakeholders that compliance with licensing and regulatory processes is non-negotiable, and failure to comply will attract sanctions. Consistent enforcement of rules will ensure that the business environment is stable and predictable, which is vital for long-term growth and sustainability. It is advisable for all operators in the sector to proactively seek necessary approvals and licenses from NERC to avoid such legal challenges.

52. Retrieved from https://www.linkedin.com/ Accessed on 7 September 2024

Electricity Tariff

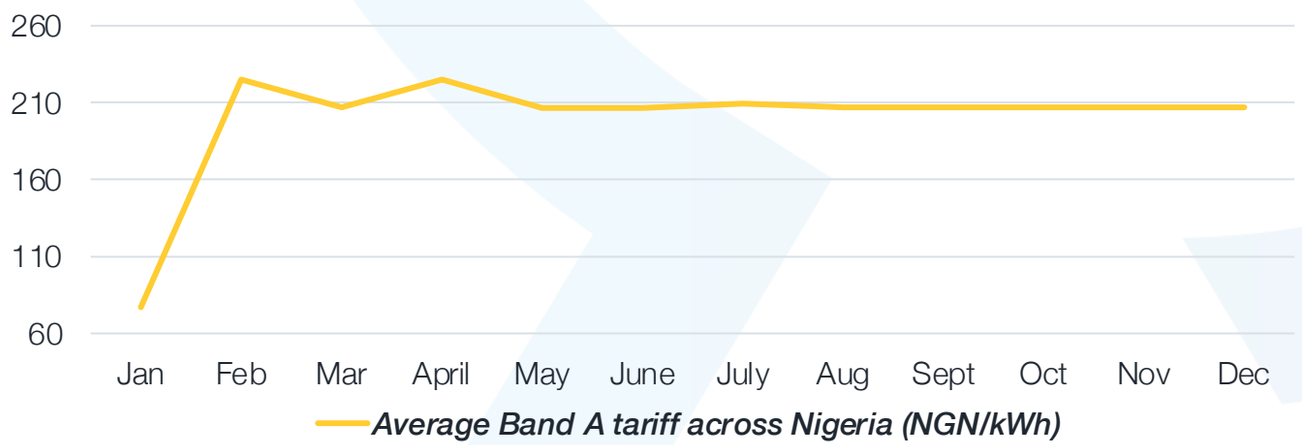
NERC increased electricity tariffs, raising the rate for Band A customers from an average of N66/N77 per kilowatt hour to N225, with significant change in the exchange rate used for the calculation from N919/1$ to N1,463/1$. There were complaints on the new rate including a court action FHC/KN/CS/144/2024 filed by Super Sack Limited, BBY Sacks Limited & ORS v. NERC and Kano Electricity Distribution Company where the court granted an interim order restraining NERC from going ahead with the change in tariff pending the determination of the matter.

Following this NERC approved an 8% reduction in electricity tariff rates for customers in the Band A category across all power distribution companies in the country. The decision was communicated via Order/NERC/2024/55 issued by NERC. This supplementary order, which took effect from 6 May 2024, is based on the review of the changes in the minor indices impacting the tariff such as exchange rates, inflation rates, available generation capacity wholesale gas to power prices, and ancillary services.

The tariff cut from ₦225/kWh to ₦206.8/kWh only applied to Band A customers and the tariffs for Bands B to E customers remain unchanged.[53]

The decision by NERC to adjust electricity tariffs is a significant move in response to both the legal challenges and the fluctuating macroeconomic conditions in Nigeria. The initial hike in tariffs, coupled with the sharp depreciation of the Naira against the US Dollar, understandably sparked widespread concerns, prompting the court action by Super Sack Limited and others. NERC's subsequent reduction in tariffs for Band A customers and the adjustment to the exchange rate for tariff calculation reflects a flexible approach to accommodating changing economic condition. As of November 2024, six months after the implementation of the revised tariff plan reducing the rate for Band A customers from ₦225/kWh to ₦206.8/kWh, end-users continue to express dissatisfaction. Many complain that the tariff remains excessively high, while others report that electricity supply does not meet the minimum 20-hour daily threshold required for Band A customers.

In response, the NERC has directed DisCos unable to provide the mandated 20 hours of electricity per day to reclassify affected customers to lower tariff bands.[54] The continued stability of the sector will require ongoing monitoring of these economic indices, as well as balanced consideration of both investor interests and consumer protection.



53. KPMG, 'Power Sector Q2 Updates', (June 2024) Retrieved from https://www.assets.kpmg.com Accessed on 7 September 2024
54. https://punchng.com/downgrade-band-a-customers-if-you-cant-supply-20-hour-power-nerc-tells-discos/

NESI operates within a delicate framework where consumer affordability and industry sustainability must be balanced. This balance is particularly critical in ensuring that tariff prices, which determine what consumers pay, do not undercut the sector's need for liquidity, which is essential for operational continuity and long-term development.

Consumers often push for lower tariffs, driven by concerns about affordability, especially in economies where disposable incomes are limited. High electricity prices can disproportionately affect vulnerable populations, leading to widespread dissatisfaction and potential non-payment of bills. Consumer advocacy groups frequently emphasise the need for tariffs that reflect the average household's ability to pay to ensure that electricity remains an accessible utility for all.

Conversely, NESI requires adequate liquidity to maintain infrastructure, purchase energy inputs, invest in modernization, and expand access. Tariffs that are too low can lead to a revenue shortfall, crippling the ability of electricity providers to meet these financial demands. This, in turn, can result in deteriorating service quality, increased technical and commercial losses, and eventual insolvency of operators.

As of December 2024, the Federal Government suspended the monthly review of electricity tariffs, leading to increased pressure on the sector's financial sustainability. The power sector subsidy has risen to N768.68 billion in just four months, with the annual subsidy projected to reach N2.3 trillion the end of 2024. Alarmingly, the 2025 Federal Government budget does not provide for tariff subsidy, leaving GenCos vulnerable. GenCos, which received only 45% of their invoices in November 2024, face an uncertain future as market shortfalls continue to grow.[55]

This challenge is exacerbated by the poor performance and disrepair of many power plants, creating a dire energy outlook. Without urgent investment and reform, the sector’s ability to meet growing electricity demands will be further compromised.

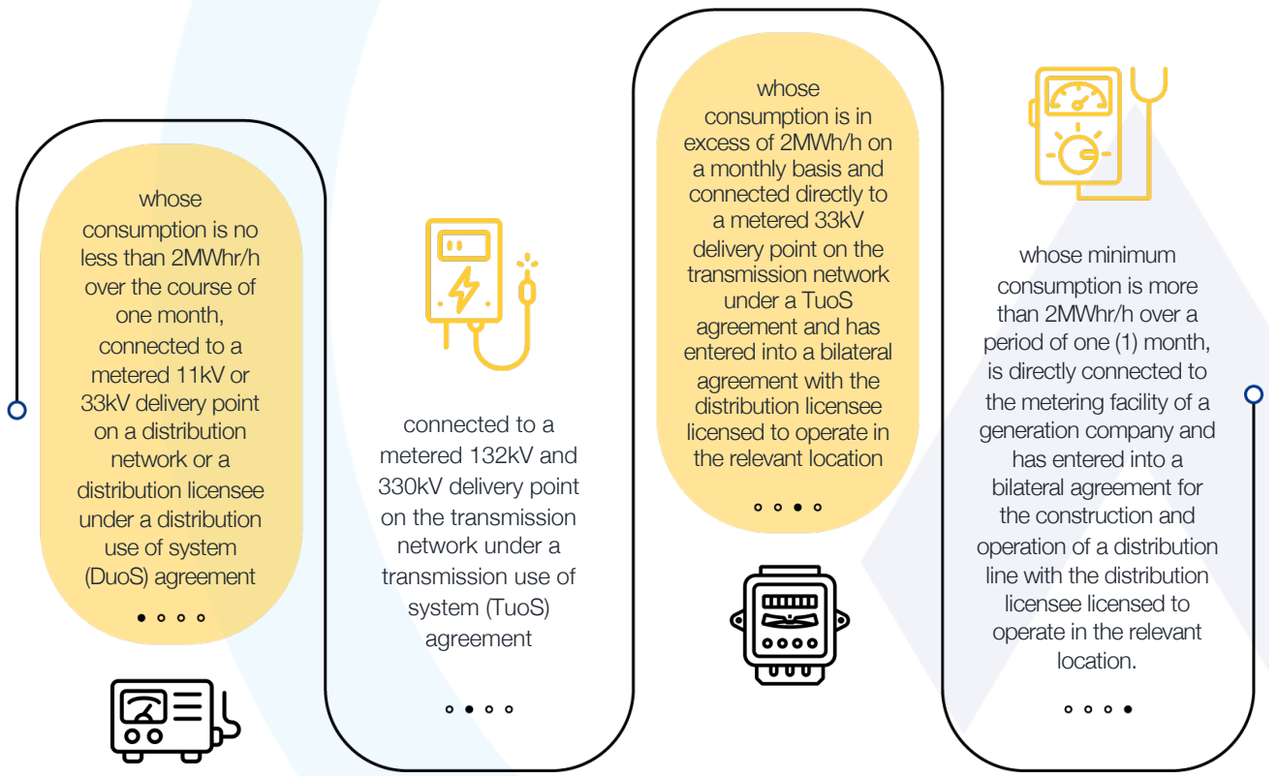
Governments, regulators, and stakeholders must collaborate to craft policies that address both affordability and the financial health of the electricity sector. Tariffs should reflect the true cost of electricity production, distribution, and transmission while accounting for a reasonable profit margin for operators. To this end, NERC officially implemented the mini-grid tariff tool developed in partnership with the African Forum for Utility Regulators (AFUR) and other key stakeholders. This tool streamlines the process of calculating tariffs for mini-grid projects and will ensure fair and economically viable pricing for all parties involved.

55. *FG suspends energy tariff review as 4-month subsidy hits N768.68b — Business — The Guardian Nigeria News – Nigeria and World News*

Eligible Customer Regulations 2023

The Eligible Customer Regulation 2017 issued under the repealed Electric Power Sector Reform Act fell short in addressing key areas important for compliance. As a result, NERC issued the Eligible Customer Regulations 2024 (EC Regulation) pursuant to Section 11 of the EA which establishes the criteria and requirements for Eligible Customer (EC) to purchase electricity directly from GenCos. This is part of the government's efforts to promote competition and improve efficiency, promote third-party access to the transmission and distribution networks, improve liquidity in the sector and provide a framework for collecting competition transition charge (CTC) in the electricity market.

Under the EC Regulation 2017 the qualifying criteria were customers:



The EC regulation 2024 has recategorized EC as follows; Pin to Point Connection;[56] New Connection to 33kV Network[57]; Existing DisCo's Customer Transitioning to Eligibility[58]; Existing Customer Connected to Transmission Network[59]; New Connection to Transmission Network[60].

56. *This category refers to ECs with an average or planned consumption of not less than 6MWh/h over the course of 90 days (three months). They are directly connected or to be connected to a generation facility vide a metered 33kV delivery point operated by a distribution licensee or have entered an arrangement for the development of such distribution network with a distribution company (DisCo) for such connection.*
57. *Here the EC is not connected to any networks but has a planned average consumption not less than 1OMWh/h over the course of 90 days (three months) under an arrangement with a DisCo to connect to a metered 33kV delivery point on the distribution network.*
58. *For this category of ECs, the average consumption is not less than 1OMWh/h over the course of 90 days (three months) and is connected directly to a metered 33kV delivery point on the distribution network.*
59. *For the fourth category of EC, the average consumption is not less than 20MWh/h over the course of 90 days (three months) and the EC is connected directly to a metered 132kV or 330kV delivery point on the transmission network.*
60. *For the last category of ECs, the EC is not connected to the transmission network, but a planned average consumption is not less than 20MWh/h over the course of 90 days (three months). The goal is to be connected to a metered 132kV or 330kV delivery point on the transmission network.*

In addition, EC must comply with the necessary registration and approval process with NERC. If approved by NERC an EC can enter into a direct purchase agreement with a GenCo, for electricity supply. The billing and settlement procedures are to be established to ensure fair and transparent transactions between customers and GenCos. The regulations aim to empower customers with more choices and potentially lower electricity costs while promoting competition among GenCos.[61]

GenCos with uncontracted capacity may access unserved and underserved customers thus improving the financial liquidity of the electricity industry. The EC regulation 2024 also provides the steps for Discos to file applications to the NERC for the approval of Competition Transition Charge pursuant to the provisions of Sections 12 and 13 of EA 2023.

Our review of the EC regulation can be accessed through this link A Review of the NERC Eligible Customer Regulations 2024.

Order on the Establishment of the Independent System Operator

In compliance with Part IV of the EA, NERC issued the order on the Establishment of the Independent System Operator (EISO Order) after stakeholder consultations and public hearings. The EISO Order mandates the transfer of system and market operation functions from the Transmission Company of Nigeria (TCN) to a company, to be established by the BPE and named the Nigeria Independent System Operator (NISO). According to the EISO Order, the initial subscribers of NISO will be BPE and MoFI, with the final shareholding structure to be determined after further consultation with the Government and industry stakeholders.

According to Section 16 (2) of the EA, the NISO has several key responsibilities under the regulatory framework including managing all assets and liabilities related to market and system operations on behalf of market participants, consumer groups, and other stakeholders specified by NERC and overseeing contractual rights and obligations previously held by the TCN.

Additionally, NISO is authorized to negotiate contracts with independent power producers and other licensed generators for ancillary services. It must also carry out specific market and system operation functions as outlined in the EA and its license, ensuring these serve the interests of market participants and system users. Furthermore, any income or assets transferred to the NISO by the TCN or acquired later must be used strictly to further NISO's objectives, as defined in its incorporation documents, without distribution to others.

61. *You can read our Review on the Eligible Customer Regulations 2024 on https://www.olaniwunajayi.net/blog/wp-content/uploads/2024/05/Power-Infrastructure-Newsletter-Review-of-the-NERC-Eligible-Customer-Regulations-May-2024.pdf*

The NISO is expected to handle generation scheduling, commitment, and dispatch of power, transmission scheduling and generation outage coordination, transmission congestion management, international transmission co-ordination, procurement and scheduling of ancillary services and system planning for long term capacity, administration of the wholesale electricity market, including the activity of administration of settlement payments, in accordance with the market rules and such other activities as may be required for reliable and efficient system operation. However, for the NISO to achieve its objectives, careful attention must be given to the completion of the unbundling process and the alignment of its functions with broader sector reforms in the electricity market.

TCN and NISO were expected to have completed the transfer on or before 31 August 2024 and the system operator licence transferred from TCN to NISO within 7 days from completion date all along with market and system operator assets, liabilities, employment, contract rights and obligations are. However there has been a delay in unbundling the TCN and the emergence of the NISO.

Olaniwun Ajayi LP's full review of the order on the Establishment of the Independent System Operator can be accessed through this link Review of The Order on the Establishment of the Independent System Operator.

Deregulation of Meter Prices for Meters Deployed under the Meter Asset Provider Scheme

NERC issued an order for the Deregulation of Meter Prices for 26 Meters Deployed under the Meter Asset Provider Scheme (MAPS) in response to appeals from MAPs due to the escalating inflation and exchange rates and need to liberalise the market for meter supply an installation in the electricity market.

Key highlights from the Meter Price Deregulation order include:

01 **Market-Driven Meter Pricing:** the order removes regulated pricing for meters under the MAPS, introducing a more competitive, open-market approach. Pricing is now determined by transparent bidding, encouraging investors to capitalize on competitive pricing strategies and economies of scale.

02 **Customer Choice:** customers can now select their preferred meter provider from an approved list - fostering healthy competition among MAPs. This change encourages providers to offer competitive pricing and high-quality services to attract customers. Additionally, it opens doors for investors to collaborate with MAPs to create purchase financing options for customers.

03 **Variety of Meter Options:** the order permits a range of meter types, including basic electronic, smart, Internet of Things (IoT)-enabled, Deutsches Institut für Normung (DIN) rail meters, and current limiters, giving investors opportunities to focus on different meter technologies and meet diverse customer needs.

04 **Expanded Operational Scope:** MAPs are no longer confined to specific DisCo regions; they can now operate nationwide, provided they comply with the respective DisCo's requirements. This expansion allows MAPs and investors to scale operations across Nigeria, enhancing market reach and creating new business opportunities in the metering industry.[62]

62. https://nerc.gov.ng/wp-content/uploads/2024/04/Order-on-Deregulation-of-Meter-Prices-under-the-MAP-Scheme.pdf

Removal of Kaduna Disco Board and Sale of Kaduna Disco

NERC, by an order which took effect on 1 January 2024 dissolved the board of KaEDC owing to its failure to settle its outstanding debt of over N110,000,000,000 (one hundred and ten billion Naira) owed to NBET and the Market Operator.[63]

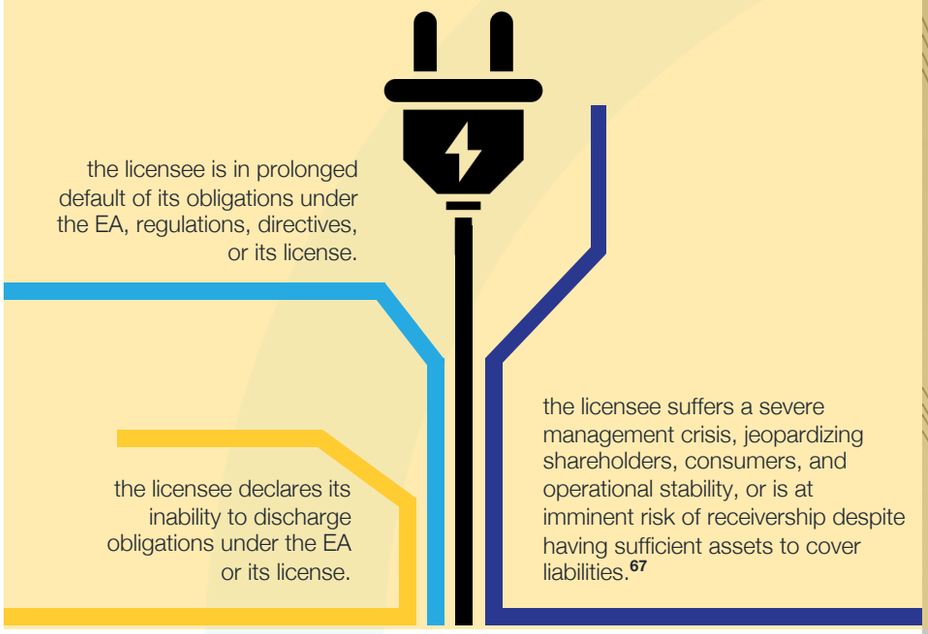
KAEDC is one of the 18 (eighteen) successor companies created following the privatisation of the defunct Power Holding Company of Nigeria in 2013 and currently sells electricity in 4 (four) northern States in Nigeria and further to the provisions of the EA, can now be considered a failing licensee.[64] The regulator further asserted that KAEDC had been in constant contravention of the conditions of its contract and failed to meet its obligations.

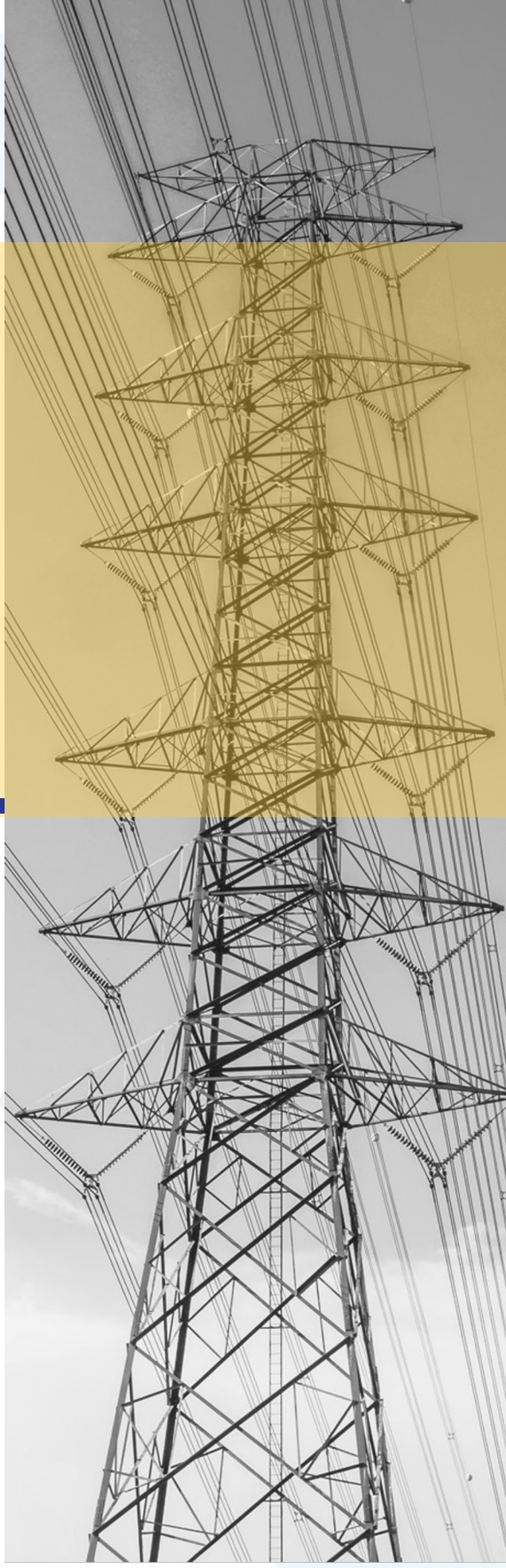
Section 75 of the EA provides the framework for the intervention by NERC in cases where a licensee is failing to fulfil its obligations under its license or the law. Based on the provisions of the EA, NERC may, on its own initiative or based on a request from consumers, eligible consumers, consumer associations, shareholders, or the licensee itself, conduct an inquiry into the conduct and functioning of a licensee.[65]

If NERC determines that the licensee is in a critical state, it may exercise the following powers to maintain continuity in electricity service: (x) dissolve and remove the board of directors of the licensee company and appoint administrators or special directors to manage its affairs for a specified period. (y) issue directives requiring the licensee to take or refrain from specific actions within a stipulated timeframe. (z) employ any other regulatory measures deemed necessary by NERC.[66]

63. https://www.thisdaylive.com/index.php/2024/01/09/finally-nerc-sacks-kaduna-discos-board-over-failure-to-settle-n110bn debt/#:~:text=The%20Nigerian%20Electricity%20Regulatory%20Commission,the%20Market%20Operator%20(MO)
64. *According to section 75(3) of the EA, a failing licensee either; informs NERC that it unable to discharge its obligation under the Act and its license, is in prolonged default in carrying out anything required under the Act, regulation, or directive of NERC and its license, has been plagued by such a protracted management crisis that is has become detrimental to the interest of shareholders, consumers and the overall operations of the undertaking, as insufficient assets to cover its liabilities to lenders and it is in eminent risk of receivership from lenders.*
65. *75(1) of the Electricity Act*
66. *75(2) of the Electricity Act*

NERC can invoke its powers to intervene if:



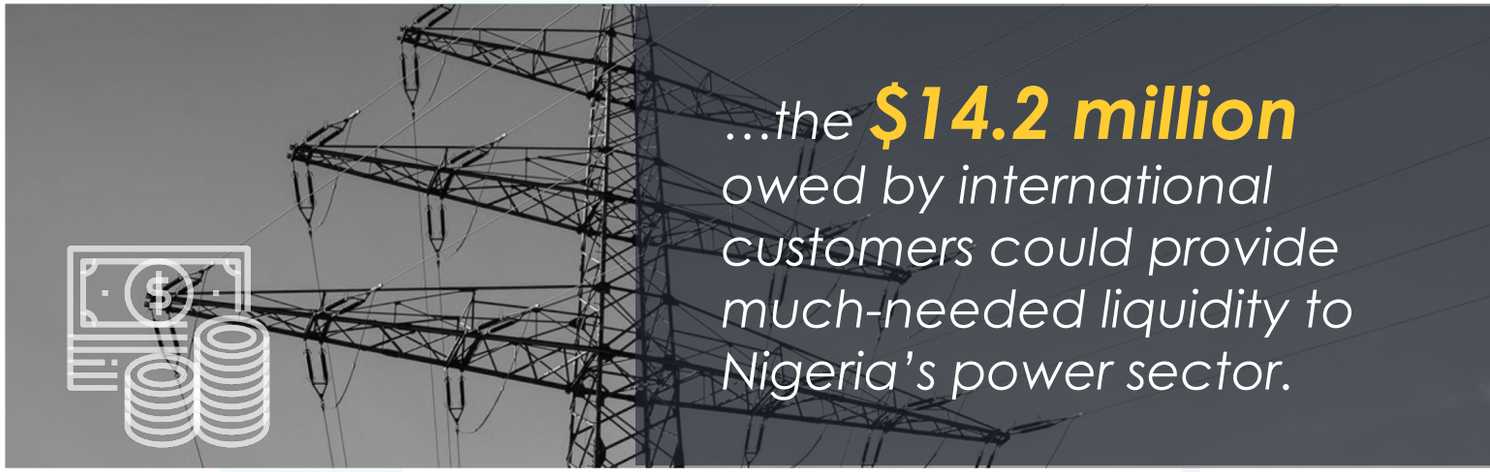


If the measures listed above or other appropriate interventions fail to improve the licensee's condition, the NERC may revoke the license of the concerned licensee.[68] The intervention in KaEDC shows NERC's commitment to enforcing accountability within the NESI. By invoking Section 75, NERC has sent a strong signal that financial and operational delinquency will not be tolerated, particularly when it jeopardizes service continuity and consumer interests. The appointment of a seasoned administrator aims to mitigate the immediate risks and pave the way for a sustainable resolution through the sale of KaEDC to a new core investor.

Further to the foregoing, Dr. Umar Abubakar-Hashidu was appointed as the administrator of KaEDC to steer the technical and commercial affairs of the distribution undertaking prior to its sale to an approved purchaser.[69] The administrator shall be the de facto chief executive officer of KaEDC and shall be responsible for the management of the day-to-day affairs of the utility pending the finalisation of the sale of the undertaking to a new core investor.

67. *75(3) of the Electricity Act*
68. *75(4) of the Electricity Act*
69. *https://dailytrust.com/fg-to-sell-kaduna-electric-over-n110bn-debt/*

NERC Orders MO to Invoke Rules as Niger, Benin, Togo Fail to Remit N21.3bn Tariffs



NERC issued an order to the electricity market operator to secure the payment of $14.2 million (approximately N21.3 billion) owed by international customers to Nigeria in Q1, 2024. Notably, none of the countries receiving electricity supply from Nigeria remitted payments during the specified period. As the administrator of the market rules in the NESI[70], the market operator plays a pivotal role in ensuring efficiency and compliance. The countries involved in this outstanding payment include Niger Republic (via NIGELEC), Benin Republic (via Société Béninoise d'Energie Electrique, SBEE), and Togo (via the Togo Electric Energy Company, CEET).

This development highlights a significant challenge in cross-border electricity trade, as non-payment for services may undermine the financial stability of the domestic power sector. The directive from NERC is important in enforcing payment obligations to ensure that international agreements do not disrupt the operations of Nigeria's energy market. If resolved, the collection of these debts would improve cash flow within the sector, potentially boosting its capacity to meet domestic and international demand.

Addressing this challenge effectively may require a multi-pronged approach. First, bilateral agreements with international customers should incorporate stricter payment timelines and penalties for defaults to discourage non-compliance. Second, leveraging multilateral frameworks, such as the West African Power Pool (WAPP), could help foster regional cooperation and ensure adherence to obligations. Additionally, exploring alternative financial arrangements, such as escrow accounts or guarantees, could provide greater security for Nigeria's electricity exports.

If successfully recovered, the $14.2 million owed by international customers could provide much-needed liquidity to Nigeria's power sector. This could facilitate critical investments in infrastructure, enable timely payment to generation companies, and ultimately enhance the reliability of electricity supply. However, the resolution of this issue must be accompanied by systemic reforms to ensure that international trade remains mutually beneficial and does not compromise the financial health of the domestic electricity market.

In the long run, improving payment compliance among international customers could strengthen Nigeria's reputation as a reliable electricity supplier in the region. This, in turn, could attract further investment in cross-border electricity projects and contribute to the broader goal of energy integration and economic cooperation within West Africa.

70. *Section 45.3.1 of the For Transitional and Medium Term1 Stages of the Nigerian Electricity Supply Industry (event of default by participants)*

Order on the Operationalisation of Meter Acquisition Fund - Tranche A

DisCos face a major challenge with the inadequate metering of end-use customers, which significantly contributes to the Aggregate Technical, Commercial, and Collection (ATC&C) losses in the electricity sector due to limited access to financing for procuring meters.

To tackle the metering crisis, various government and regulatory initiatives have been introduced over the years, including the establishment of the Meter Acquisition Fund (MAF) under the Presidential Metering Initiative (PMI). MAP scheme.

To define the conditions for the disbursement of Tranche A of the MAF, NERC issued the Operationalisation of Meter Acquisition Fund order (MAF Order) outlining the operational framework for the implementation of "Tranche A" of the MAF.

You can read our review on the contractual requirements, obligations of DisCos, reporting obligations of the Fund Manager, DisCos and LMMAs and MAPs and our comments on the MAF Order and its implication for the NESI in through this link Review-of-the-Order-of-the-Operationalization-of-the-Meter-Acquisition-Fund-Tranche-A.

Order on Bilateral Contracting within the NESI

Since its establishment in 2011, NBET has been a pivotal entity in the NESI, serving as the exclusive bulk trader of electricity. Given the nascent state of the reformed NESI, NBET's role was to serve as a central counterparty in the electricity market and to provide payment assurance to GenCos through bankable power purchase agreements.

According to the now-repealed EPSRA of 2005 and the current EA, NBET's role in the NESI was intended to be temporary, lasting only until the electricity market evolved into a more competitive structure capable of supporting a bilateral trading model. To facilitate this transition, the NERC issued the order on the Transition to Bilateral Trading in the Nigerian Electricity Supply Industry (NBET Transition Order) on 25 July 2024.

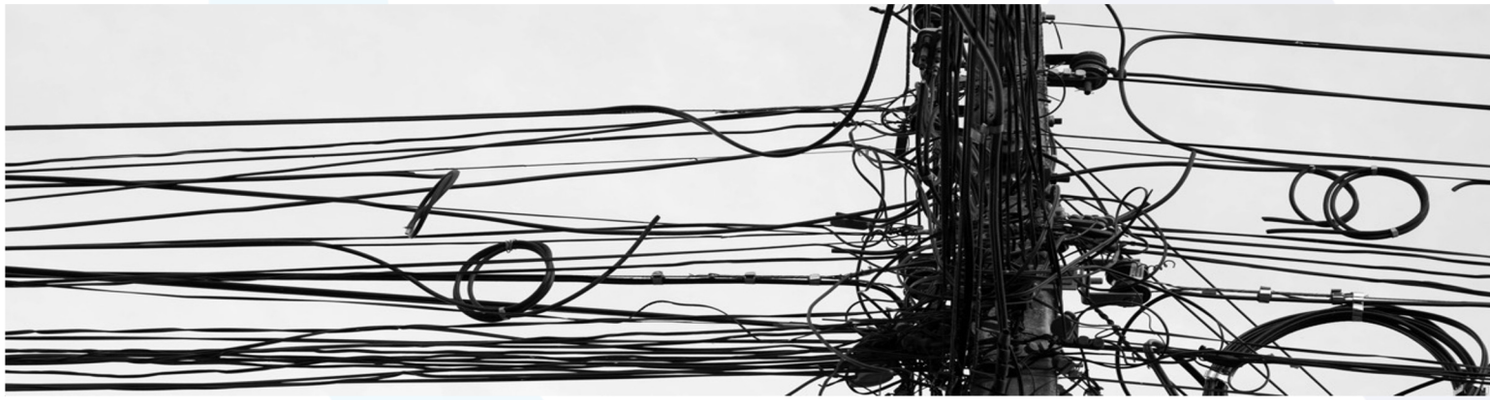
Key directives include NBET ceasing to enter into new contracts for electricity purchase and resale, continuing to administer existing power purchase agreements (PPAs) with five GenCos, and requiring Market GenCos to enter bilateral contracts with DisCos, GenCos must notify NBET of capacities traded, and excess capacity will be traded through NBET's Interim Pool, DisCos' contracted capacity must align with recoverable generation costs and ensure payment obligations are met. The payment waterfall prioritizes bilateral contracts, followed by NBET Firm Contracts and Interim Pool energy.

However, we understand that the implementation of the NBET Transition Order has however been indefinitely suspended. Despite the intention to transition to a more market-driven structure, the realities of financial instability and operational inefficiencies may have necessitated a revaluation of the Order. The suspension indicates that the Nigeria electricity market remains underdeveloped and ill-prepared to sustain a competitive bilateral trading model as originally envisioned.

There is a need for a phased and realistic approach to electricity market reforms. Addressing underlying issues such as liquidity, payment assurance, and cost recovery mechanisms is critical before attempting to implement a competitive bilateral trading framework. Strengthening the financial viability of DisCos and enhancing the creditworthiness of market participants could serve as foundational steps toward creating a market that can support the intended transition.

Furthermore, the suspension shows the importance of aligning policy objectives with market readiness. Moving forward, NERC and other stakeholders must prioritize addressing the structural barriers impeding market development. Without this, the broader goal of transitioning to a robust bilateral market will remain unattainable.

You can find our full review and comments on the NBET Transition Order on Bilateral Contracting through this link Review-Of-The-Order-On-Bilateral-Contracting-Within-The-Nigerian-Electricity-Supply-Industry.



Lagos State Electricity Law

On 3 December 2024, the Governor of Lagos State signed the Lagos State Electricity Bill into law, the Lagos State Electricity Law, 2024 (LSEL). This groundbreaking legislation creates the Lagos Electricity Market aimed at meeting Lagos State's energy needs, estimated at around 12,000 MW. As Nigeria's commercial hub, Lagos is heavy reliant on the national grid, and the LSEL is designed to allow energy independence. NERC has also officially ceded control to regulate the electricity market to the Lagos State Electricity Regulatory Commission.

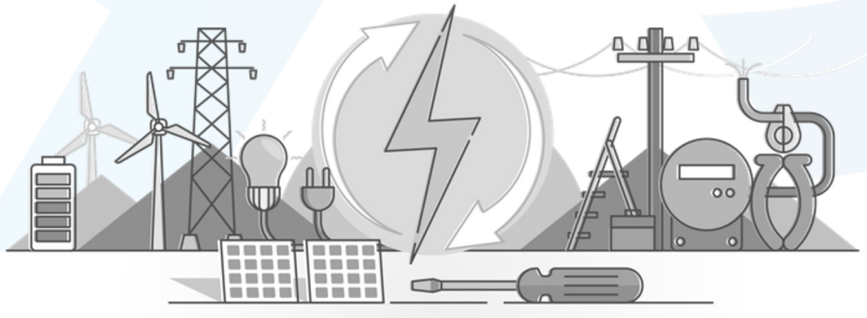
Our detailed review of the LSEL is available on this link Review_Of_The_Lagos_State_Electricity_Law_2024.

MARKET DEVELOPMENT (GENERATION)

Increase in power production to 5000MW

The Minister of Power, Adebayo Adelabu, announced that for the first time in three years, Nigeria's power sector reached an impressive output of 5000MW in July 2024, as stakeholders continue efforts to increase power production. The Minister made this disclosure in a statement during a press briefing on Friday in Abuja. He stated that the rise in output clearly demonstrates the ministry's dedication and efforts over the last nine months to boost production in the sector. Adebayo Adelabu also confirmed the Federal Government's strategy to escalate the electricity generation capacity from 3,500 megawatts to 6,500 megawatts within the next three to six months. Adelabu, while on a working visit to different power projects in Lagos on Friday, stated that the objective was to improve the power supply nationwide to satisfy the increasing energy needs[71].

> ***... for the first time in three years, Nigeria's power sector reached an impressive output of 5000MW in July 2024.***



71. https://www.nairametrics.com/

Nigeria cuts back electricity sales to overseas customers to boost domestic supply

The NERC through the NESI Interim Order on Transmission System Dispatch Operations, Cross-Border Supply and Related Matters (Cross-Border Supply Order) ordered the grid operator to cut back supplies to customers overseas to boost domestic supply. NERC had attributed the cut back on the fact that the grid operator's current approach in managing supply had caused significant hardship for Nigerians because supply under bilateral contracts, including export to international customers, takes priority over supply to domestic customers. Thus, NERC ordered placing a cap of 6% on the total available grid generation to international off-takers for six months from 1st May[72].

Following the review of electricity tariffs and the implementation of the SBT regime in April 2024, NERC identified that low power generation was limiting DisCos' ability to deliver on their SBT service commitments[73]. NERC also noted that the system operator's practice of capping the load available to DisCos with preference given to international and priority customers further contributed to the DisCos inability to comply with their SBT obligations.

The Cross-Border Supply Order placed a 6-month cap on load allocation to international customers from May 2024 to only 6% of a GenCo's generating capacity, in order to increase supply to DisCos to meet domestic obligations. To ensure effective monitoring and compliance with the allocation cap, the system operator and TCN were instructed to install IoT-enabled meters at all offtake and delivery points for bilateral and international customers, as well as on the 33kV feeders of DisCos. This directive was aimed at improving the availability of real-time data on the electricity consumption of grid-connected customers.

Further to the above NERC gave directions for the use of the Zungeru HP to manage grid imbalances due to insufficient generation (the Directive)[74]. This Directive mandated the continuous operation of the newly launched Zungeru HP for an initial period of 105 days from May 16, 2024, until final agreements are completed with 35 potential offtakers.

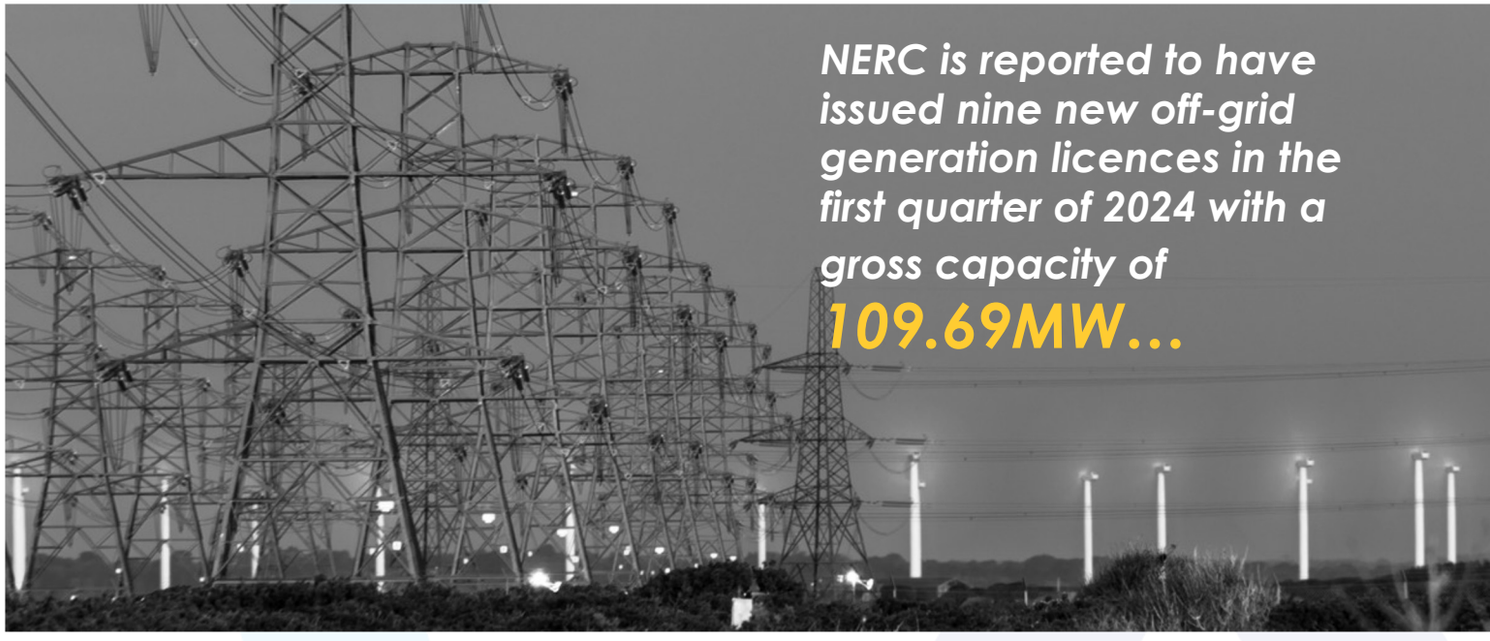
The Zungeru HP was projected to generate up to 450MW into the national grid. The Independent System Operator of TCN (ISO-TCN) was also directed to enter an interim energy sales agreement with ZHEGC and oversee the settlement of power transactions from the plant.

The implementation of these measures demonstrates the importance of regulatory intervention in addressing systemic challenges in NESI. By capping international load allocations and prioritizing domestic supply, NERC aims to ensure a more equitable distribution of electricity to meet the SBT commitments and improve the reliability of supply for domestic customers. However, the success of these initiatives will hinge on the timely installation and operationalization of IoT-enabled meters, as well as the effectiveness of the Zungeru HP in sustaining grid stability.

72. https://www.platformsafrica.com/
73. https://nerc.gov.ng/wp-content/uploads/2024/05/Interim-Order-on-Transmission-System-Dispatch-Operations-Cross-Border-Supply-and-Related-Matters.pdf
74. https://nerc.gov.ng/wp-content/uploads/2024/06/Directive-to-ISO-on-procurement-of-Power-from-Zungeru.pdf

While these directives are commendable for their focus on domestic needs, they also raise questions about the potential financial and diplomatic implications of limiting cross-border electricity supply. The cap on international allocations may strain existing agreements with neighbouring countries and may lead to renegotiations or disputes.

The interim energy sales agreement between ISO-TCN and ZHEGC is also a significant step towards ensuring financial accountability and operational transparency. However, it will require oversight mechanisms to prevent revenue leakages and ensure that funds generated are reinvested to improve grid infrastructure and expand generation capacity. If successfully executed, this initiative could serve as a model for integrating new generation assets into the national grid.



NERC Issues License to MTN Communications Nigeria Limited, others to Generate Electricity

NERC issued permits to Golden Penny Power Limited, MTN Communications Nigeria Limited (MTN), Havenhill Synergy, and others for mini-grid electricity generation. NERC is reported to have issued nine new off-grid generation licences in the first quarter of 2024 with a gross capacity of 109.69MW and three new trading licences. According to a report by NERC, Golden Penny Power Limited got a licence to build six off-grid gas plants in Lagos, Oyo, Ogun, and Cross River states with a total capacity of 100MW further to this MTN was also granted a permit to build four captive generation plants across Lagos State with 15.94MW capacity. SweetCo Foods Limited, African Steel Mills Nigeria Limited, West African Ceramics Limited, Royal Engineered Stones Limited, and Armilo Plastics Limited were also licenced to generate captive power[75].

This reflects NERC's commitment to diversify and expand Nigeria's energy generation by encouraging private and off-grid power solutions. Issuing these permits to major industrial players like Golden Penny Power and MTN represents a strategic shift for energy independence and localized generation by companies. As these businesses take control of their energy production, other companies may follow suit to ensure a more stable electricity supply for their operations. This trend could lead to a broader shift toward self-sufficiency in power generation, reduce reliance on the national grid and potentially spur investment in energy infrastructure.

75. https://www.infrastructurenews.ng/nerc-issues-permission-to-mtn-others-to-generate-electricity/

Federal Government adds 625 MW to national grid

The FG announced additional 625 Megawatts to the national grid, increasing the grid's wheeling capacity to 4800MW. This disclosure was made by the Minister of Power, Chief Adebayo Adelabu, at the commissioning of the 63 MVA, 132/33kV mobile station at Ajah, Lagos State, and Birnin Kebbi, Kebbi State, simultaneously. The Minister stated that the Ajah Mobile Substation represents a strategic deployment aimed at improving the transmission capacity constraints by over 1300MW across the nation and enhancing transmission capacity, energy access and overall advancements towards the 4000MW to 6000MW improvement targets. He also stated that the strategic placement at key sites such as Okene, Amukpe, Potiskum, Apo, Ajah, Birnin Kebbi and others underscores the government's dedication to enhancing transmission efficiency and reliability nationwide.[76]

REA, Havenhill and Others Sign MoU to Deploy 250mw Decentralised Energy

In a noteworthy advancement for Nigeria's energy sector, the REA of Nigeria and Havenhill Synergy Limited have formalized a partnership through the signing of a MoU to implement up to 250MW of Decentralized Renewable Energy (DRE)[77]. REA also signed MoUs with A4&T Power Solutions, Eauxwell Nigeria Limited, Skipper Nigeria Limited and Privida Power for the delivery of a combined 1,015 MW capacity of DRE projects, including inter-connected minigrids (IMGs), isolated minigrids, to electrifying peri-urban and rural communities[78].

The Renewable Energy Service Companies (RESCOs) model is designed to empower developers by providing a framework for them to function as utility companies. This structure not only facilitates investment attraction for the deployment of mini grids but also leverages the developers' proven capabilities to deliver and manage extensive portfolios of projects while ensuring scalability. This MoU underscores our dedication to the effective rollout of the RESCOs model, and we anticipate a collaborative partnership that will yield mutual benefits, as articulated by REA's MD/CEO. Through this alliance, Havenhill and others intend to deploy and operate a variety of DRE projects, which will encompass Interconnected Mini-Grids (IMGs), isolated mini-grids, commercial and industrial solutions, as well as agricultural applications. These initiatives are aimed at enhancing energy access in Nigeria's rural and peri-urban areas, thereby contributing to the overall improvement of the nation's energy landscape.

76. https://www.energycentral.com/
77. https://www.thisdaylive.com/index.php/2024/07/23/rea-havenhill-sign-mou-to-deploy-250mw-decentralised-energy/
78. https://rea.gov.ng/rea-signs-mou-five-renewable-energy-companies-scale-electricity-access-nigeria/

Govt unveils advanced technology for power grid stability

The Federal Government has unveiled an Advanced Supervisory Control and Data Acquisition system for managing the national power grid[79]. According to the government, this new technology promises to enhance the efficiency, reliability, and sustainability of the country's power supply, positioning Nigeria for a more stable energy future. The Minister of Power, Adebayo Adelabu, in his speech delivered by the acting Permanent Secretary of the Federal Ministry of Power, Emmanuel Nosike, on Wednesday at the unveiling of the SCADA system in Abuja, emphasised the new system's impact. "This initiative represents not just a technological upgrade; it also shows FG's commitment to enhancing the efficiency, reliability, and sustainability of power supply across the nation.

The Commissioning of the Aba Geometric Power Plant.

The $800,000,000 (eight hundred million United States Dollars) project led by Geometrics Power Limited represents a significant advancement in Nigeria's electricity landscape, promising to alleviate the state's power challenges[80]. Central to this project is a 27-kilometer natural gas pipeline essential for the efficient operation of the plant. The Geometric power plant was commissioned in February 2024, by the President of the Federal Republic of Nigeria, Bola Ahmed Tinubu to mark a significant milestone in the power sector.

The Aba Geometric Power Plant, under the subsidiary Aba Power Ltd, marks a milestone with the inauguration of its 188-megawatt thermal plant. The first turbine was set to supply 47MW of power, nearly doubling the current supply of 25MW to the Aba Metropolis and surrounding areas sourced from the Niger Delta Power Holding Company (NDPHC) via the national grid. With the second turbine operational, power supply to the Aba Ring-fenced area will increase to 94MW. Minister of Power, Adebayo Adelabu, emphasized the strategic importance of Geometric Power's performance, indicating the government's intention to closely monitor its operations. He explained that the aim is to study the Geometric Power group's success as a potential business model for revitalizing Nigeria's struggling power sector, hinting at a broader vision for the sector's development. Geometric Power's investment signifies a crucial step towards addressing Nigeria's longstanding power deficit and underscores the potential for private sector-led initiatives to drive significant improvements in the country's electricity supply. As the government evaluates Geometric Power's performance as a potential blueprint for the sector's transformation, stakeholders remained hopeful for a future where reliable electricity is no longer a luxury but a fundamental pillar of national development.

79. https://punchng.com/govt-unveils-advanced-technology-for-power-grid-stability/
80. https://businessday.ng/energy/power/article/jubilation-in-aba-as-geometric-power-turns-on-turbine/

DISTRIBUTION

...MOFI had granted a power of attorney to BPE in 2012 to hold ***40%*** *of the FGN's retained stake...*

1 MOFI's Takeover of 40% Shares in DisCos

In a significant move in January 2024, MOFI took over the FG's 40% stake in DisCos hitherto held by the BPE. MOFI is a statutory corporation incorporated under the provisions of sections 2 and 3 of the MOFI Act of 1959. MOFI was established to operate as a state-owned asset holding and asset management company[81].

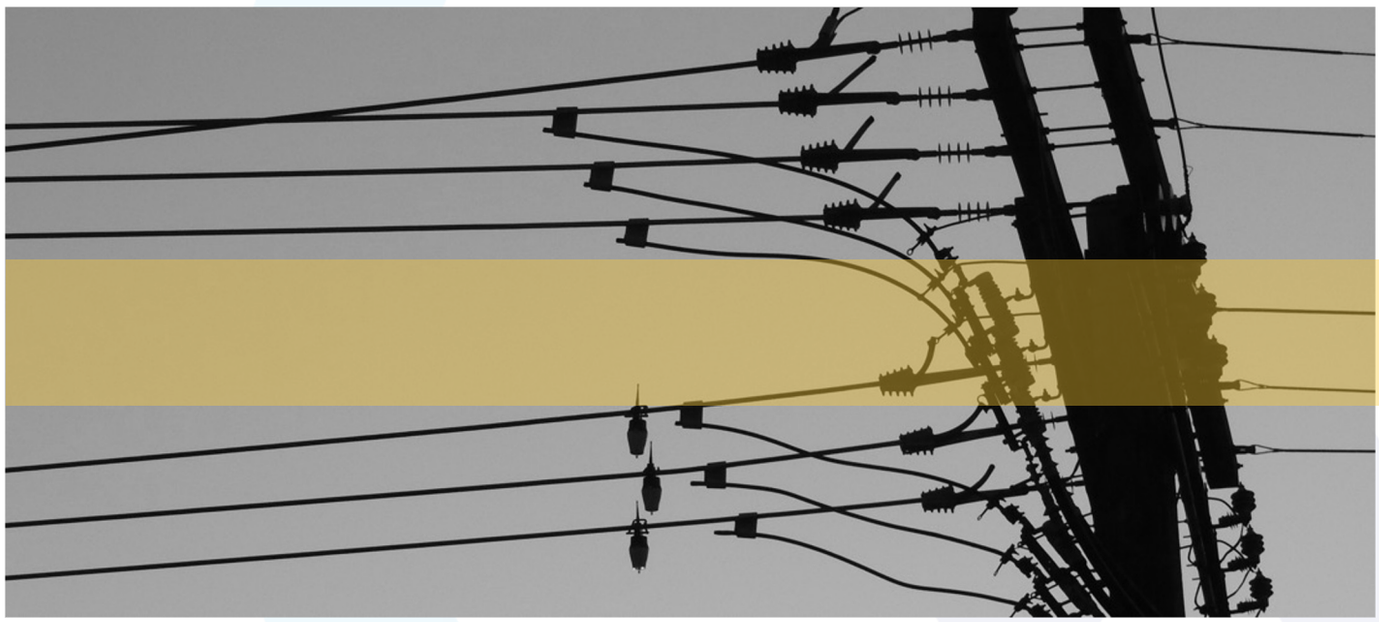
Following the privatisation efforts in the early 2010s which saw to the establishment of the eleven distribution companies, in each of which the FG was to retain a 40% ownership stake, MOFI had granted a power of attorney to BPE in 2012 to hold 40% of the FGN's retained stake in a bid to circumvent the previous position of Nigerian company law which required a company to have at least two shareholders.

However, following the directives of the Minister of Finance and Coordinating Minister of the Economy, Mr. Wale Edun, the power of attorney was terminated, with MOFI assuming control of the FGN's stake.22 This development is in keeping with the legislative intendment of the MOFI Act of monitoring and managing the FG's asset.

81. https://www.mofi.com.ng/

2 Kano Electricity Distribution Company Partnership with BlackAion Capital

In a bid to expand and improve its operations in its franchise area, KEDC was reported in January 2024 to have partnered with BlackAion Capital, a Mauritius-based infrastructure and energy investment, advisory and development company, to provide $200 million in investment to KEDC to facilitate the upgrade of its existing infrastructure in Kano, Katsina and Jigawa States.[82] The partnership expressed the ambitious goal of developing 200MW of incremental capacity through at least 100 mini-grids and embedded generation, with the deployment of same in industrial clusters across the franchise area[83].



3 FG approves 50 Percent Electricity Subsidy for Public Hospitals

The FG declared a 50% subsidy on electricity costs for public hospitals across the nation. This subsidy follows a previous commitment by Minister of Power Adebayo Adelabu to provide support to hospitals and universities, including those on Band-A feeders. However, Adelabu made it clear that private businesses operating within these institutions will not receive the subsidy. He stressed the importance of metering to distinguish between legitimate institutional usage and commercial activities. “We recognize that these are development and social institutions. However, some private businesses are taking advantage of their presence within these facilities. They charge their customers commercially while expecting to benefit from subsidies,” he explained. “We have instructed that a thorough assessment be conducted to meter all users. We are prepared to subsidize those that are genuinely related to health and education, even if they fall under Band A. We are currently gathering data, and DisCos will collect a specific amount, with the government covering the remainder. It is crucial that we accurately identify users to avoid subsidizing private businesses that charge commercially, as that would lead to unfair profits,” he added[84].

82. https://newscentral.africa/kano-disco-seeks-200-million-investment-to-adress-power-needs/
83. https://businessday.ng/energy/article/25-million-nigerians-to-access-power-on-kano-disco-200m-funding/
84. https://www.infrastructurenews.ng/fg-approves-50-percent-electricity-subsidy-for-public-hospitals/

4 REA to provide electricity to 17.5m Nigerians — MD

The REA announced that its distributed energy system project will provide electricity to 17.5 million Nigerians. The agency also revealed that its 2023 capital projects have positively impacted the lives of approximately 1.4 million "unserved and underserved" Nigerians. REA MD/CEO emphasised the strategic importance of the agency's various funding sources, including the national budget and bilateral agreements with international financial institutions, among others. "We are nearing the completion of a $550,000,000 (five hundred million United States Dollars) Nigerian electrification project, and we have secured an additional $750 million to commence the implementation of the DES project. The DES project is the largest public sector-funded off-grid project in the world. The goal of this project is to provide electricity to 17.5 million Nigerians out of the 85 million who currently lack access.[85]

5 FG earmarks $800m for construction of power substations, distribution lines

The Minister of Power, Adebayo Adelabu, has announced the FG's plan to release $800,000,000 (eight hundred million United States Dollars) for the construction of substations and distribution lines under the Presidential Power Initiative[86]. The Minister stated that the funds will be allocated for the construction of substations for Lot 2 and substations and distribution lines for Lot 3, with $400 million designated for each. Lot 2 covers the franchise areas of Benin, Port Harcourt, and Enugu Distribution Companies (DISCOs), while Lot 3 covers the franchise areas of Abuja, Kaduna, Jos, and Kano DISCOs.

6 FG grants subsidy to Kano electricity customers

The Federal Government has committed to funding the revenue gap caused by the difference between the cost reflective tariffs and the actual tariffs paid by customers of KEDC[87]. This was outlined in a September 2024 supplementary order issued by the NERC under the Multi-Year Tariff Order framework for KEDC released seeks to address the financial imbalances that have arisen due to external factors such as exchange rate fluctuations and inflation. The FG's policy on subsidy and electricity tariffs provides for a gradual transition to cost-reflective end-user tariffs with safeguards for the less privileged electricity consumers.

85. https://punchng.com/rea-to-provide-electricity-to-17-5m-nigerians-md/
86. https://punchng.com/fg-earmarks-800m-for-construction-of-power-substations-distribution-lines/
87. https://punchng.com/fg-grants-subsidy-to-kano-electricity-customers/

TRANSMISSION

1 President Bola Tinubu inaugurates N8.3 billion sub-station in Ondo communities after 15 years without electricity

On 23 May 2024, President Bola Tinubu inaugurated a 132kv transmission line and a 132kv/33kv substation worth N8.3 billion at Ode-Erinje in Okitipupa Local Government Area of Ondo State, ending 15 years of power outage. The President, represented by the Minister of Niger Delta Development, Engr Abubakar Momoh, stated that the project is a part of the Federal Government's initiative to promote sustainable development in the Niger Delta region. He mentioned that the current administration is committed to supplying adequate power to boost the country's economy.[88] Reliable power will attract investment to the region and boost economic activities and productivity.

2 TCN Inaugurates 60MVA Transformer to Add 48MW to National Grid

The Transmission Company of Nigeria (TCN) has recently commissioned a power transformer at its Katsina facility, an initiative that is poised to enhance the national grid's capacity by an additional 48 MW[89]. In an official statement, TCN indicated that on Friday, July 12, 2024, the Katsina sub-region successfully launched a new transformer at the 132/33 kV Kankia Transmission Substation. This strategic development significantly improves the Kankia substation's ability to deliver bulk electricity to the Kano Distribution Company (DisCo), which will facilitate more efficient distribution to end-users in Kankia and surrounding areas.

This shows TCN's commitment to augmenting its infrastructure and operational capacity to enable a more robust energy transmission framework crucial for meeting the growing demands of electricity consumers across Nigeria. Such advancements are vital for improving an efficient and reliable power sector in line with national development goals. TCN also commissioned a power transformer at its Katsina facility, an initiative that is poised to enhance the national grid's capacity by an additional 48 MW. This development significantly improves the Kankia substation's ability to deliver bulk electricity to the Kano Distribution Company (DisCo), which will facilitate more efficient distribution to end-users in Kankia and surrounding areas. This latest commissioning reflects TCN's ongoing commitment to augmenting its infrastructure and operational capacity to allow a more robust energy transmission framework crucial for meeting the growing demands of electricity consumers across Nigeria. Such advancements are vital for fostering an efficient and reliable power sector in line with national development goals.

88. https://www.nairametrics.com/
89. https://www.thisdaylive.com/index.php/2024/07/16/tcn-inaugurates-60mva-transformer-to-add-48mw-to-national-grid/#:~:text=The%20commissioned%20transformer%20added%2048MW,to%20distribution%20load%20centres%20nationwide.%E2%80%9D

DEAL SPOTLIGHT

JOEL ABRAMS
Director of Konexa Energy

01

Q: Could you share a brief overview of your background and role at Konexa?

A: I have worked in energy development and investment across sub–Saharan Africa for 15 years and focussed on Nigeria for the last 10 years. I was one of the founders of Konexa as it was spun out of the Shell Foundation together with Industry Capital and Konexa's CEO, Pradeep Pursnani, in 2018. I serve as a director in Konexa and focus on project development and contracting, investment management and capital raising and business development.

02

Q: What do you think are the key barriers to transitioning from fossil fuels to renewable energy in Nigeria, and how can these challenges be effectively tackled to facilitate a smoother shift?

JOEL ABRAMS
Director of Konexa Energy

A: Establishing a reliable customer base that is willing to support and demand renewable energy is crucial, the customer is king. Renewables have the added benefit of being cheaper than most other forms of electricity. Interestingly, fossil fuels, and in particular gas, is highly complementary if not essential to the proliferation of renewable energy. The energy transition requires base load to support the intermittency of hydro, wind and solar supply so it will continue to be a crucial part of the Nigerian energy mix.

03

Q: Konexa Energy has achieved a major milestone by partnering with Nigeria's largest brewery, Nigeria brewery plc, to power their plants in certain locations entirely with renewable energy. Can you describe the strategic planning and execution process that made this groundbreaking achievement possible?

A: Hard work, open communication and a shared goal of reaching net-zero targets and collaboration between the investment, technical and contracting teams on both the NBP and Konexa side were critical to making this possible.

04

Q: Were there challenges that delayed executing this partnership with NBP, and how did your team successfully navigate and address these obstacles to bring the project to fruition?

A: We are currently in the construction phase of our first project, and we continue to navigate the obstacles to reach commissioning in 2025. The key is to remain flexible, and solution focussed as issues arise.

05

Q: Are you collaborating with other companies to support their transition to 100% renewable energy? Additionally, are there any current or upcoming projects you would like to highlight?

A: We are looking at partnerships with several other commercial and industrial customers, generation companies and distribution companies across Nigeria. Most recently we began our second phase of development with Nigerian Breweries in Lagos and Ama which we announced in October of this year. We are also exploring other geographic regions with the Heineken Global team to accelerate net zero targets across their portfolio.

06

Q: How did Konexa's partnership with climate fund managers support the NBP project?

A: CFM is a co-development partner alongside Konexa and serves as an anchor investor in our first project in Kaduna alongside Microsoft.

JOEL ABRAMS
Director of Konexa Energy

07

Q: With sustainability-focused investing gaining traction, what factors do you think investors prioritize when evaluating renewable energy projects for funding?

A: Aside from establishing a win-win between the buyer and seller which is the first step in a project's viability, it is key to ensure a bankable project which has been structured to accommodate for long term servicing of cash flows. Renewable energy projects tend to be capital intensive at the construction phase and require long term protections against currency, inflation and regulatory risks in order to remain sustainable in the long term.

08

Q: The Nigerian government aims to reduce net emissions by 47% by 2030. From Konexa's perspective, how realistic is this goal, and what key factors will be critical in ensuring its success? What role do you see the private sector playing in supporting the country's renewable energy and net-zero targets?

A: The role of the private sector is crucial in catalysing the reduction in net emissions alongside development funding Institutions and multilaterals with mandates to support climate related funding. However, in order for targets to be met at scale the first step is a clear policy and political will to be set by the Federal Government on how to achieve it. If the target is 47% by 2030 then what steps are going to be made in 2025 to ensure we are on track.

JOEL ABRAMS
Director of Konexa Energy

CASE DIGEST

SUIT NO: FHC/L/CS/881/2024 – *MANUFACTURERS ASSOCIATION IN NIGERIA V. ABUJA ELECTRICITY DISTRIBUTION AND 11 ORS*

CASE SUMMARY:

The Manufacturers Association of Nigeria ("MAN") challenged the NERC's review of the electricity tariff by filing a suit at the Lagos Judicial Division of the Federal High Court seeking reliefs for the following:

- that the Defendants failed to fulfil due process outlined in the NERC Guidelines for Consumer Consultation by the Distribution Companies before filing an application for the increase in the electricity tariff rate with the Commission.
- that the 1st - 11th Defendants and the Commission did not comply with the statutory and/or regulatory requirements for both minor and extra-ordinary review of the electricity tariff before issuing the supplementary order and the reviewed rate published in the supplementary order.
- that the categorization/ classification of consumers into Bands and placing the burden of increase in the electricity tariff on only Band "A" feeders amounts to discrimination against such consumers and a contravention of section 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

NERC filed a preliminary objection to the suit on the grounds that MAN's case constitutes an abuse of court process, being hasty and prematurely filed without following due process provided in Section 51 of the EA and that MAN lacks the standing to bring a reasonable cause of action before the Court.

THE DECISION OF THE COURT:

The court held that MAN's suit was an abuse of court process being premature and without due regard to the provisions of Section 51 of the EA. The Court also held that MAN's case disclosed no reasonable cause of action and that by having not exhausted the internal mechanism of resolution of disputes, that the suit was not instituted with due process of law and consequently struck out the case.

> ***The court held that MAN's suit was an abuse of court process being premature and without due regard to the provisions of Section 51 of the EA.***

ANALYSIS :

Section 51 of the EA establishes a structured mechanism for resolving disputes arising from decisions of NERC. The section mandates the exhaustion of internal remedies before aggrieved parties can approach the courts. This framework was pivotal in this case, where the Federal High Court struck out MAN's suit due to non-compliance with the prescribed dispute resolution process.

Section 51 outlines a mandatory procedure for addressing disputes involving NERC's decisions. It provides that any aggrieved party must first seek a review of the Commission's decision through its internal mechanisms. Section 51 specifies the types of grievances that can be reviewed, including licensing issues, tariff decisions, and other regulatory actions.[90] This Section also grants NERC the authority to reconsider, vary, or rescind its decisions within 30 days of a review request[91]. There is also an explicit bar on the initiation of court actions unless all internal dispute resolution mechanisms have been exhausted. Only after this process, as outlined in Section 51 (3) and (4)[92], may an aggrieved party appeal to the Federal High Court for judicial oversight.

The ruling in this case has several implications for stakeholders in the electricity sector. Firstly, it emphasizes the necessity of following due process as outlined in the Electricity Act. Section 51 ensures that NERC can resolve disputes through its internal mechanisms, preventing the courts from becoming the first forum for resolving regulatory disagreements. This approach promotes efficiency and reinforces NERC's authority as the primary regulator in the sector.

Finally, the decision shows the judiciary's deference to regulatory processes. By upholding the procedural requirements of Section 51, the court reinforced the importance of adhering to established mechanisms for dispute resolution. This deference ensures that regulatory decisions are reviewed within the context of the sector's expertise and procedural safeguards before involving the judiciary.

"The decision shows the judiciary's deference to regulatory processes. By upholding the procedural requirements of Section 51, the court reinforced the importance of adhering to established mechanisms for dispute resolution.

90. Section 51(1)
91. Section 51(2)
92. 51 (3) Any person disqualified with the decision of NERC under subsection 2 shall subject to the rules of the Federal High Court with 30 days from the date the final decision of the commission was reached, file an appeal to the Federal High Court. 51 (4) The federal high court may affirm, modify or set aside the decision of the NERC reached under subsection 2.

CHALLENGES AND SECTORAL CONSTRAINTS

> ***... for the first time in three years, Nigeria's power sector reached an impressive output of 5000MW in July 2024.***

Gas Supply

Ensuring reliable gas supply to thermal power plants remains critical. Gas shortages have historically hampered generation capacity, and without dedicated improvements in gas infrastructure and transportation, thermal power plants may continue to struggle to meet demand. This issue underscores the need for strategic partnerships with gas suppliers and regulatory support for gas distribution improvements.

Despite Nigeria's vast natural gas reserves, the power sector continues to face persistent gas shortages. This imbalance, coupled with financial constraints, has created significant challenges in the energy value chain. The root of the issue lies in a cycle of non-payment: electricity consumers' inability to settle bills leaves DisCos unable to pay the NBET. Consequently, NBET struggles to pay GenCos, which then fail to meet their obligations to gas suppliers. This financial shortfall affects the liquidity of the entire value chain.

To address the issue of liquidity within the energy value chain, the government can introduce mechanisms to ensure timely payments across the sector. One such measure could be the establishment of escrow accounts or payment guarantees to ensure that DisCos are able to pay the NBET, which, in turn, can fulfill its financial obligations to GenCos and gas suppliers. Without addressing these financial gaps, the sector will continue to struggle with liquidity problems that prevent the smooth functioning of the entire gas-to-power value chain.

Another key action the government can take is enhancing infrastructure. The development and maintenance of robust gas pipelines, storage facilities, and distribution networks are essential to ensure a seamless distribution of gas throughout the value chain. Without these critical infrastructural upgrades, Nigeria will continue to face difficulties in distributing gas efficiently across the nation. This includes not just expanding the pipeline network but also modernizing existing infrastructure to minimize losses and optimize capacity

Implementing policy reforms that can also incentivize private sector participation and investment in the gas sector. Streamlining regulations, offering tax incentives, and creating a more favourable business environment for both local and international investors could stimulate the necessary investments to strengthen Nigeria's gas supply chain.

Distribution Inefficiencies and Losses

One of the most pressing issues is the widespread inadequacy of infrastructure. Aging and poorly maintained distribution networks result in substantial technical losses, where electricity is lost during transmission. This not only reduces the amount of power available to consumers but also increases the financial burden on the sector. To address this, substantial investments are needed to upgrade and expand the distribution network, ensuring reliable and efficient power delivery.

Another major challenge is the inefficiency of billing and metering systems. Inaccurate metering has led to widespread consumer dissatisfaction and revenue losses for distribution companies (DISCOs). The lack of reliable meters often results in estimated billing, which can lead to disputes between consumers and DISCOs. To mitigate this, the government has initiated various programs, such as the Meter Acquisition Fund (MAF), aimed at funding meter deployment across the country. The Discos' inability to fund meters is a major hindrance to the progress of the power sector. The FG should step in with a solution that benefits both consumers and Discos. Perhaps a more subsidized metering program or a fund specifically for meter acquisition could be the answer.

High technical losses, exacerbated by factors like theft and vandalism, further compound the problem. These losses not only reduce the amount of electricity available to consumers but also increase the cost of power generation and distribution. To curb technical losses, stricter enforcement of anti-theft measures, improved network monitoring, and advanced metering infrastructure are essential.

Regulatory Barriers

While the Electricity Act 2023 represents a significant step forward, its implementation, particularly in areas such as the NISO operationalisation and the unbundling of NBET, has been delayed. These regulatory uncertainties can deter potential investors and hinder the flow of private capital into the sector. Furthermore, the slow and bureaucratic permitting processes can significantly delay project timelines. The government must work diligently to reduce bureaucratic hurdles and create a more conducive environment for investment.

Financial Barriers

On the financial front, the high cost of energy projects presents a significant challenge. The capital-intensive nature of power projects, coupled with factors like foreign exchange volatility and rising interest rates, makes financing a daunting task. The limited government resources further exacerbate the situation, necessitating more public-private partnerships.

However, the perception of risk in the Nigerian power sector can deter potential investors. Factors such as political instability, regulatory uncertainty, and payment risks can make it challenging to secure financing. To mitigate these risks, the government can implement strategies such as sovereign guarantees or political risk insurance.

Localized Grid Development and Rural Electrification

Expanding access to electricity in rural areas requires more localized grids, which face funding and technical hurdles. The establishment of regulatory bodies in certain states is promising, as it enables decentralized power solutions tailored to local needs. However, successful implementation will depend on state-level regulatory readiness. The adoption of renewable energy technologies, such as solar, can further enhance the sustainability and affordability of localized grids. These technologies can reduce reliance on fossil fuels and provide a clean and reliable source of electricity.

FORWARD LOOKING REPORT 2025

ENHANCED GENERATION CAPACITY

2025 will likely see increased power generation through continued investments and partnerships. The Nigerian National Integrated Power Project (NIPP) and other initiatives, particularly in renewables, are projected to yield higher capacity. Renewable sources, particularly solar, are positioned for growth as Nigeria pursues its Renewable Energy Master Plan (REMP), aiming for renewables to constitute a substantial part of the energy mix. This shift toward renewables could be bolstered by collaborative projects like the African Development Bank's planned $1 billion support and USAID's pledged funding for clean energy, expected to drive investments in solar hybrid mini-grids and standalone systems, especially in underserved rural areas. As a result of these developments, Nigeria presents a compelling investment opportunity for both domestic and international investors which will increase generation capacity, improve transmission and distribution infrastructure, and enhance overall system reliability.

STRENGTHENING OF GRID INFRASTRUCTURE

Infrastructure improvements are anticipated through large-scale investment in transmission and distribution networks. Notably, the construction and rehabilitation of thousands of kilometers of transmission lines are expected to enhance the efficiency and reach of the national grid, reducing losses and boosting reliability. The new Supervisory Control and Data Acquisition (SCADA) system, unveiled in 2024, promises to bring improved grid stability and management in 2025, contributing to a more resilient energy system.

REGIONAL POWER INTEGRATION

Nigeria's continued engagement with the West African Power Pool (WAPP) reflects a strategic effort to integrate the national grid into regional energy systems, facilitating cross-border electricity trade. This integration not only enables more balanced power distribution but also positions Nigeria as a key player in regional energy stability. The North Core Project under the WAPP is expected to be completed by 2025 and bring power to schools, clinics and businesses in Nigeria and Benin[95]. Private sector investment is required to promote and develop power generation and transmission infrastructures as well as to coordinate power exchange among the ECOWAS Member states under WAPP.

IMPLEMENTATION OF THE NISO

The establishment of the NISO, expected to complete by early 2025, marks a significant step toward a decentralized electricity market. By transferring system and market operation functions from the Transmission Company of Nigeria to NISO, Nigeria will potentially see enhanced efficiency in system operations, with a focus on generation scheduling, transmission management, and market regulation.

STATE ELECTRICITY MARKETS

In 2025, decentralization is anticipated to make energy access more inclusive, especially in rural and underserved areas. States with established markets are expected to create targeted incentives to attract private investment, expand renewable energy projects. The state-level control over electricity markets will be key in making electricity more accessible and affordable for Nigerian communities, thereby boosting economic development and enhancing the overall quality of life. By establishing independent power markets, states can implement tailored policies, streamline regulatory processes, and incentivize the development of localized power generation and distribution solutions. This decentralized approach has the potential to accelerate rural electrification, stimulate economic growth, and empower communities.

MISSION 300

Mission 300 is an initiative led by the World Bank Group and the African Development Bank with the aim to connect 300 million people in sub-Saharan Africa to electricity by 2030. The world bank has allocated $750 million to Nigeria's Distributed Access with Renewable Energy Scale-Up (DARES) project, targeting electricity access for 17.5 million people while the African Development Bank has committed $1.1 billion to power 5 million Nigerians by 2026. At the end of the Mission 300 Africa Energy Summit in Dar es Salaam, Tanzania, Africa leaders, business executives and development partners endorsed the Dar es Salaam declaration committing to reforms and investments that will expand access to reliable, affordable and sustainable electricity.

WASTE TO ENERGY PROJECTS

Waste-to-energy (WTE) projects are becoming a bigger part of Africa's clean energy push, especially in urban and industrial areas. Governments are setting up policies and incentives to attract private investment and scale up projects that turn waste into electricity. Lagos State is already making moves with its partnership with Harvest Waste Consortium to build a waste-to-energy plant at the Epe landfill. The plant will process 2,250 tonnes of waste daily, generating 60–75MW of electricity each year

NIGERIA DARES PROJECT

The DARES Project (Nigeria Distributed Access Through Renewable Energy Scale-Up) is a big step towards getting renewable energy to people in the rural and off-grid areas. With the International Finance Corporation (IFC) backing five Nigerian RESCOs, the project focuses on solar mini-grids and standalone systems to bring clean reliable power to communities across the country. As the project moves forward in 2025 it will play a key role in closing the energy poverty gap in Nigeria.

BILATERAL TRADING

The potential unbundling of NBET will lead to a more mature, competitive electricity market in Nigeria. Enabling direct, bilateral trading between GenCos and DisCos will allow for efficiency and transparency in electricity pricing. The market-driven approach is expected to incentivize investments in power generation\, as GenCos will have the ability negotiate rates that reflect actual supply and demand dynamics. For the power sector, unbundling of NBET means more stable revenue streams, reduced dependency on government subsidies, and a financially healthier environment for growth.

GREEN HYDROGEN AS A SOURCE OF POWER

Green hydrogen is anticipated to emerge as a power source in Nigeria by 2025, driven by the growing global demand for clean and sustainable energy. Renowned for its versatility and zero-emission profile, green hydrogen is rapidly gaining traction across industries. The introduction of advanced electrolyzer technologies, combined with the anticipated decline in renewable energy costs, is expected to make green hydrogen increasingly cost-effective and accessible. In Nigeria, both government and private sector stakeholders are projected to ramp up investments in research and development.

CONCLUSION

In 2025, Nigeria’s power sector will likely experience a duality of progress and hurdles. While advancements in generation, grid infrastructure, and regulatory reforms offer optimism, persistent challenges around gas supply, distribution inefficiencies, and funding limitations will need to be addressed for sustained growth.

GLOSSARY OF TERMS

AEMP	Africa Energy MarketPlace
AfDB	African Development Bank
AFUR	African Forum for Utility Regulators
ATC&C	Aggregate Technical Commercial and Collection
BPE	Bureau of Public Enterprises
CAMA	Companies and Allied Matters Act
CAPEX	Capital Expenditure
CEET	Togo Electric Energy Company
CTC	Competition Transition Charge
DARES	Distributed Access through Renewable Energy Scale-Up project
DIN	Deutsches Institut für Normung
DisCos	Distribution Companies
DRE	Decentralized Renewable Energy
DuoS	Distribution Use of System
EA	Electricity Act
EC	Eligible Customer
EGET-SP	Economic Governance and Energy Transition Support Program (EGET-SP)
EIA	Environment Impact Assessment
EKEDP	Eko Electricity Distribution Plc
EPSRA	Electric Power Sector Reform Act
EY	Ernst & Young
FG	Federal Government
FGN	Federal Government of Nigeria
FGNPC	Federal Government of Nigeria Power Company
GasCos	Gas Companies
GEAPP	Global Energy Alliance for People and Planet

GLOSSARY OF TERMS

IMGs	Interconnected Mini-Grids
IoT	Internet of Things
ISERC	Imo State Electricity Regulatory Commission
ISO	Independent System Operator
ISO-TCN	Independent System Operator of Transmission Company of Nigeria
JICA	Japan International Cooperation Agency
KAEDC	Kaduna Electricity Distribution Company Plc
KEDC	Kano Electricity Distribution Company
KSEC	Kogi State Regulatory Commission
LMMAs	Local Meter Manufacturers or Assemblers
LPG	Liquefied Petroleum Gas
MAF	Meter Acquisition Fund
MAP	Meter Asset Providers
MAPS	Meter Asset Provider Scheme
MO	Market Operator
MOFI	Ministry of Finance Incorporated
MoU	Memorandum of Understanding
MSME	Micro, Small and Medium Enterprise
MSMEs	Micro, Small and Medium Enterprises
MVA	Mega Volt-Amperes
MYTO	Multi Year Tariff Order
NBET	Nigerian Electricity Bulk Trading Plc
NCP	National Council on Privatization
NDPHC	Niger Delta Power Holding Company
NDPHC	Niger Delta Power Holding Company
NEP	Nigeria Electrification Project
NERC	Nigerian Electricity Regulatory Commission

GLOSSARY OF TERMS

NESI	Nigerian Electricity Supply Industry
NIEP-SIP	National Integrated Electricity Policy and Strategic Implementation Plan
NICE	Notices of Intention to Commence Enforcement
NISO	Nigerian Independent System Operator
NSIA	Nigeria Sovereign Investment Authority
PBO	Policy Based Operation
PIP	Performance Improvement Plan
PMI	Presidential Metering Initiative
PPA	Power Purchased Agreement
REA	Rural Electrification Agency
RESCO	Renewable Energy Service Companies
SAS	Standalone Solar Systems
SBEE	Société Béninoise d'Energie Electrique
SBT	Service Based Tariff
SCADA	Supervisory Control and Data Acquisition
SEforALL	Sustainable Energy for All
TCN	Transmission Company of Nigeria
TuoS	Transmission Use of System
UKNIAF	United Kingdom Nigeria Infrastructure Advisory Facility
USAID	United States Agency for International Development
WAPP	West African Power Pool
Zungeru HP	Zungeru Hydro Generation Plant
ZHEGC	Zungeru Hydro Electric Generation Company LTD

OLANIWUN AJAYI

Contact Us

Lagos
The Adunola, 401 Close,
Banana Island, , Ikoyi,
Lagos, Nigeria
lawyers@olaniwunajayi.net

Abuja
4th Floor Leadway House,
Plot 1061, Cadastral
Avenue,
Central Business
District,Abuja, Nigeria.
ap@olaniwunajayi.net

Port Harcourt
17, Road 315, Flat 5, BICS
Suites, 25 Herbert
Macaulay Street, Old
GRA, Port Harcourt,
Rivers State, Nigeria

London
29th Floor, 30 St Mary Axe,
London. EC3A 8AF, United
Kingdom
+44 (0) 207 337 6012

www.olaniwunajayi.net

+234 1 270 2551