



LICENSING/REGISTRATION REQUIREMENTS UNDER THE MINI-GRID REGULATIONS, 2023

Introduction

Following the enactment of the Electricity Act 2023 (which repealed the Electric Power Sector Reform Act 2005), the Nigerian Electricity Regulatory Commission (the 'Commission') issued the Mini-Grid Regulations, 2023 (the 'Regulation'). The Regulation is primarily geared towards ensuring that reliable and affordable power is accessible to the underserved and unserved areas of the country.

The Regulation defines 'Mini-Grid' as 'any electricity supply system with its own generation capacity, supplying electricity to more than one customer and which can operate in isolation from or be connected to a Distribution Licensee's network.' It includes any isolated or interconnected mini-grid generating between 0KW and 1MW of generation capacity per site. A mini-grid is required to be designed to have a dedicated power generation facility that provides electricity supply to its network which may be operated by the mini-grid operator, or a person contracted by the mini-grid operator to provide generation capacity to the mini-grid network.

Paragraph 6(1) of the Regulation gives the Commission the authority to grant permits to the construction and operations of a mini-grid. It specifically provides that 'the Commission may, upon consideration of an application filed by a mini-grid developer: **(a) grant a permit to construct, own, operate or maintain an isolated mini-grid in a designated unserved area; (b) approve a tripartite agreement to construct, operate and/or maintain an interconnected mini-grid in an underserved area within a geographical location.**'

Application Requirements for a Mini-Grid Permit

An application to the Commission for a mini-grid permit shall include the following information:

- a. Details of the generation system that shall supply the mini-grid network;
- b. An accurate description of the proposed distribution network;
- c. Geographical details of the network (which shall be in the format prescribed in schedule 3 to the

Regulation or as may be requested by Commission); and

- d. Any other information that the Commission may require.



Where the application complies with the requirements of the Regulation, the Commission may issue a permit (in respect of an **isolated mini-grid**) or approve a tripartite contract (in respect of **interconnected mini-grids**) within a period not exceeding 30 working days from the date the application is submitted to the Commission.

A mini-grid permit holder is obligated to, among other things, construct, operate and/or maintain its distribution network in accordance with the relevant technical codes and standards; comply with the Electricity Act, terms and conditions of the mini-grid permit, the tripartite contract; the agreement with the community or connected community (as the case may be), customer contract; the rules, regulations, decisions, orders, and directions of the Commission.

Mandatory Conditions Precedent to the Grant of a Mini-Grid Permit

a. **Isolated Mini-Grid Permit**

It is not clear why the Regulation tried to distinguish between **Isolated Mini-Grids Larger than 100KW of Distributed Power and Up to 1MW of Generation Capacity**; and **Isolated Mini-Grids up to 100KW of Distributed Power** (with respect to the Mandatory Conditions) since both categories of isolated mini-grid permit are subject to the same conditions. The mandatory conditions are as follows:

- i. The application must be compliant with the requirements for the grant of a permit for the proposed location to be served by the mini-grid;
- ii. The applicant must confirm that the mini-grid investment into the designated unserved area shall not interfere with the Distribution Company's (DisCo) network expansion plans (as contained in the Performance Improvement Plan (PIP)/investment plan accompanying the most recent tariff review application submitted to the Commission) OR a written consent from the DisCo for the proposed mini-grid if the project area is covered by the DisCo's expansion plan as approved by the Commission;



- iii. The intended geographic location is an unserved area which has not been assigned to an Independent Electricity Distribution Network Operator (IEDNO) or any other mini-grid developer;
- iv. Filing of executed agreement between the community and mini-grid developer for permit by the Commission in the form of schedule 11 or in a form mutually agreed between the parties;
- v. Submission of the verifiable coordinates for the geographic location where the mini-grid shall be installed and where its network shall cover, having acquired all other necessary permits in respect of the location from all relevant authorities;

- vi. The end-user tariff is calculated based on the Multi Year Traffic Order methodology and approved by the Commission; and
- vii. The health and safety confirmation form in schedule 6 to the Regulations have been executed and submitted to the Commission.

It is important to note that the Regulation also applies to the DisCos and IEDNOs to the extent that the confirmation and consent required in paragraph a(ii) above must be provided by the DisCo within fifteen (15) business days of being (*addressed to the DisCo's managing director and*) served at the DisCo's headquarters. In the unfortunate event that the DisCo neglects, fails or refuses to respond to the request within the prescribed timeline, it shall be deemed that the DisCo has consented to the mini-grid developer's request.

b. **Interconnected Mini-Grids**

An Interconnected mini-grid is a mini-grid that is connected to the distribution network of the holder of a distribution licence (Distribution Licensee) issued by the Commission. In the case of interconnected mini-grids, the authorised representatives of the connected community, the mini-grid developer and the DisCo are required to sign a tripartite contract covering the transaction, and file same with the Commission for approval. The NERC may register the tripartite contract and grant the mini-grid permit, provided that:

- a. The proposed retain tariff is calculated using the MYTO methodology and agreed by the mini-grid developer, the distribution licensee and connected community, and approved by the Commission;
- b. The tripartite contract covers the following arrangements:
 - i. Right to access the DisCo's network infrastructure for the purposes of interconnection;
 - ii. Construction and ownership right for additional infrastructure, where applicable;

- iii. Tariff for electricity generated by the mini-grid and fed into the Distribution Licensee's network where applicable;
- iv. Availability of stable nominal voltage and effective system protection at the connection point of the generator with the DisCo's network, where applicable;
- v. Tariff for the purchase of electricity from the Distribution Licensee's network, where applicable; and
- vi. Consent of the connected community to purchase electricity from the mini-grid at the defined tariffs.



Transfer of Mini-Grid Permit and Business

A mini-grid permit is transferable subject to certain conditions. A mini-grid permit holder who desires to transfer, assign, or sell to another person or in any other way dispose of all or any part of the permitted business carried out under a mini-grid permit is required to obtain the prior written consent of the Commission. The application for the consent of the Commission should be accompanied with the following documents:

- a. Application letter to the Commission seeking its consent;

- b. Certificate of incorporation and memorandum and articles of association of the proposed transferee/assignee;
- c. Board resolution of the permit holder/transferor/assignor approving the transfer of the transferee;
- d. Board resolution of the transferee company accepting the transfer;
- e. Original mini-grid permit certificate and terms and conditions issued to the mini-grid operator by the Commission;
- f. Documentary evidence of the technical capability or capacity of the transferee company to operate the mini-grid.

No part of this article should be relied upon as legal advice. It is only intended as a general guide on the subject and as such, we advise that you consult a lawyer where legal advice is desired.

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