



Regulations for the Granting of Permits for Captive Power Generation

SEPTEMBER 2024

REGULATION NO: EERC/R/003

ENUGU STATE ELECTRICITY REGULATORY COMMISSION

In exercise of the powers to make regulations conferred by Section 57(1) of the Enugu State Electricity Law No.1 of 2023, the Enugu State Electricity Regulatory Commission makes the following **Regulations for the Grant of Permits for Captive Power Generation.**

Arrangement of Clauses

CHAPTER I GENERAL

1. Short Title and Commencement
2. Interpretation

CHAPTER II - APPLICATION FOR A PERMIT

3. Form of application
4. Processing Fees
5. Acknowledgement of Application
6. Evaluation of Application
7. Approval or Refusal of Permit

CHAPTER III - SURPLUS POWER

8. Generation of surplus power

CHAPTER IV - DISCLOSURES

9. Furnishing of detailed information to the Commission

CHAPTER V – ENFORCEMENT AND PENALTIES

10. Enforcement
11. Penalties

CHAPTER VI – AMENDMENT AND RENEWAL OF PERMIT

12. Amendment of Permit
13. Renewal of Permit

CHAPTER VII – CANCELATION OF PERMIT

14. Procedure for Cancellation of Permit
15. Decision on Cancellation of Permit

CHAPTER VIII – MISCELLANEOUS

16. Rehearing and Appeals
17. Withdrawal of Application
18. Amendment or Repeal of Regulations

ENUGU STATE ELECTRICITY REGULATORY COMMISSION
Permits for Captive Power Generation Regulations, 2024

CHAPTER I - GENERAL

1. Short title and commencement

- (1) These Regulations may be cited as the **Enugu State Electricity Regulatory Commission's Permits for Captive Power Generation Regulations, 2024.**
- (2) These Regulations shall come into force on the date on which it is approved by a resolution of the Commission.
- (3) These Regulations shall be signed by the Chairman who shall also cause the seal of the Commission to be affixed thereon.

2. Interpretation

- (1) In these Regulations, unless the context otherwise requires:

“Captive Generation” means generation of electricity with a capacity above 300kVa or 3MWh daily for the purpose of consumption by the generator itself within an identified area, and not sold to a third-party.

“Chairman” means the Chairman of the Enugu State Electricity Regulatory Commission.

“Commission” means the Enugu State Electricity Regulatory Commission.

“Commissioner” means a commissioner appointed in accordance with the Law.

“Competent Authority” means Chairman, Commissioner or such other Officer of the Commission designated from time to time for the purpose by the Commission in accordance with these Regulations.

“Law” means the Enugu State Electricity Law, 2023, or any amendment thereof.

“Licensee” means one who holds a license issued by the Commission.

“Month” means a calendar month.

“Officer” means a staff or authorized representative of the Commission.

“**Permit**” means a permit granted by the Commission under these Regulations.

“**Permit holder**” means any person issued a permit by the Commission pursuant to the provisions of these Regulations.

“**Person**” includes an individual, a company, partnership or any association of individuals, whether incorporated or not.

“**Schedule**” means the Schedule appended to these Regulations.

“**Secretary**” means the Secretary of the Commission.

- (2) Words importing any one gender includes the other gender, and the singular includes the plural and vice versa.
- (3) Words or expressions used in these Regulations but not defined unless the context otherwise requires shall have the same meanings respectively assigned to them in the Law.

CHAPTER II - APPLICATION FOR A PERMIT

3. Form of application

- (a) By the provisions of sections 10(a), 11(a), 11(c), 12(1), 29(1), and 57(1) of the Law, the Commission is empowered, among others, to:
 - (i) ensure the establishment of a reliable and economically efficient market for the State that among others, serves the residents of the State in a manner that enhances their standards of living and reduces dependency on back-up power systems.
 - (ii) provide a stable legal, commercial and technical regulatory framework for the provision of electricity to residents of the State by market participants for the benefit of residents of the State.
 - (iii) establish engineering rules, codes and practices for the safe and reliable operation of the State Electricity Market.
 - (iv) license entities to do business in the Market by engaging in the generation or transmission or distribution of electricity within the State,

for delivery to Enugu State residents.

- (v) develop for the State Electricity Market a safe, reliable, and efficient operation of all electricity facilities.
 - (vi) issue guidelines, orders and regulations on all matters which by the Law are required or permitted to be prescribed or which, in the opinion of the Commission, are necessary or convenient to be prescribed for carrying out or giving effect to the Law.
- (b) Pursuant to these provisions, any person wishing to construct, own, maintain, install, and/or operate a captive generating plant shall first apply for and obtain a permit issued by the Commission, on such terms and conditions as the Commission may fix in the permit, and in accordance with these Regulations.
 - (c) An application shall be in the form specified in Schedule I of these Regulations and shall contain the information specified therein. The application form may be obtained from the office of the Commission or downloaded from the Commission's website.
 - (d) An application for a permit shall be addressed to the Chairman and delivered by hand or sent by regular mail or courier to the Commission's office.
 - (e) An application shall be signed and dated by the applicant or authorized representative of the applicant.
 - (f) An application shall be submitted in one (1) paper copy and an electronic version in Microsoft Office software format submitted through the online platform.
 - (g) All applications for permits must contain all the information specified in the application form.

4. Application Fee

The Applicant shall upon submission of the Application form, pay a non-refundable fee as may be fixed by the Commission for the processing of the Application.

5. Acknowledgement of Application

On receipt of the Application, the Commission shall note thereon the date of its receipt and shall send to the Applicant an acknowledgement stating the date of receipt.

6. Evaluation of the Application

- (a) The Commission shall evaluate the application, and may require the Applicant to furnish, within a specified period, any additional information, provided that the time between the receipt of the application and the accompanying documents and date on which the Commission notifies the Applicant of the inadequacy of the documents and information shall not exceed one month.
- (b) If the Commission finds the application to be complete, it shall certify that the Application has been duly made and is ready for consideration for issuance of a permit. The Commission shall acknowledge to the Applicant in writing that the Application has been duly made within fourteen (14) days of the receipt of the complete application.

7. Approval or Refusal of Permit

- (a) After due consideration of the application, the Commission shall issue or refuse to issue the permit.
- (b) The period between the acknowledgement of receipt of the application as specified in Clause 6(b), and the date on which the Commission notifies the Applicant of its decision or proposed decision to approve or refuse the permit, as the case may be, shall not exceed two (2) months.
- (c) Where the Commission has approved a permit, the Commission shall inform the Applicant of such approval and the conditions to be satisfied, including the fees to be paid before the grant of the permit.
- (d) If the Commission intends to refuse the issuance of a permit, it shall notify the Applicant in writing of its intention stating the reasons for the decision.
- (e) The Applicant shall have the opportunity to make adequate representations to the Commission within twenty-one (21) days of the Applicant's receipt of the notification from the Commission of the refusal of a permit.
- (f) The Commission shall consider the representation made by the Applicant and shall, if the representation is unsuccessful, or no representation was made, duly notify the Applicant in writing that the application for a permit has been refused.
- (g) The reasons for refusing the permit shall be clearly stated in writing by the Commission to the Applicant.

CHAPTER III - SURPLUS POWER

8. Generation of surplus power

- (a) A Permit holder must apply for and receive prior written consent of the Commission before supplying surplus power **not exceeding 300kVa or 3MWh** to an off-taker.
- (b) A Permit holder who intends to supply surplus power **exceeding 300kVa or 3MWh**
- (c) to an off-taker must apply for a generation licence in compliance with the provisions of Section 23 of the Law.

CHAPTER IV - DISCLOSURE

9. Furnishing of detailed information to the Commission

- (a) All Captive Power Plants shall provide annual detailed information to the Commission on the operation of the plant. The documents shall provide information on health and safety standards and procedures in the plant, environmental issues arising from operation of the plant and such other information as the Commission may from time to time request.
- (b) The Commission shall have the power to enter and inspect the premises of the captive power facility at any time, to ensure compliance with applicable regulations and the terms and conditions of the permit.
- (c) Approval of the Commission shall be requested for and obtained prior to any planned major modification to the Captive Power Plant. The Commission's approval or otherwise shall be given within 5 working days after the receipt of the request. All other modifications or augmentations of the Captive Power Plants' capacity shall be reported to the Commission within twenty-four (24) hours of the said modification or augmentation.
- (d) The Commission shall have the authority to penalize a Permit holder for the violation of any of the terms and conditions of the permit, or to cancel such permit in accordance with Chapter VII of these Regulations.

CHAPTER V - ENFORCEMENT AND PENALTIES

10. Enforcement

- (a) The Commission shall have the power to determine whether a person is engaging or is about to engage in a business for which a Permit is required under Clause (3) (a) of these Regulations.
- (b) Unless stayed by a court of competent jurisdiction, each permit holder shall duly implement or follow, as the case may be, Commission orders and written notices, notwithstanding that the permit holder has or may intend to take legal action challenging any such order or notice.
- (c) The Commission shall have the authority to order any person who contravenes Clause 3 (a) of these Regulations to cease its operations, and to make such other orders, as may be necessary to prevent the continuation or reoccurrence of the contravention.

11. Penalties

Pursuant to Section 52(11) of the Law,

- (a) Any person who contravenes any provision of these Regulations hereunder commits an offence and is liable on conviction, where no specific penalty is prescribed therefor:
 - (i) as a first offender, to a fine not exceeding N500,000.00 (Five Hundred Thousand Naira) per day for each continuing infraction or imprisonment for six (6) months, or both; or
 - (ii) for subsequent convictions, to a fine not exceeding N1,000,000.00 (One Million Naira) per day for each continuing infraction, or imprisonment for one (1) year or both.
- (b) A person commits an offence and is liable on conviction to a fine not exceeding N5,000,000.00 (Five Million Naira) only or to imprisonment for a period not exceeding eighteen months or to both such fine and imprisonment, if he:
 - (i) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or incomplete return or supplies false or incomplete information; or

- (ii) willfully delays or obstructs an inspector or police officer in the exercise of the powers or duties conferred or imposed upon him by or under this Law; or
- (iii) fails or refuses, without reasonable cause, to give information to an inspector or a police officer when required to do so under Section 52(8) of the Law or gives false or incomplete information.

CHAPTER VI - AMENDMENT AND RENEWAL OF PERMIT

12. Amendment of Permit

- (a) The terms and conditions of a permit may be amended:
 - (i) on application by the permit holder.
 - (ii) upon the Commission receiving a complaint from any consumer, consumer association, licensee or other permit holder, or other interested stakeholders.
 - (iii) on the Commission's own initiative where it is in the public interest, or where the Permit Holder fails to report significant changes to its permit conditions.
- (b) Unless otherwise specified in writing by the Commission, each application for an amendment made by the permit holder shall be accompanied by a receipt of such fees as may from time to time be prescribed for processing the application.
- (c) An application for the amendment of a permit granted by the Commission shall be in the form specified in Schedule II.

13. Renewal of Permit

- (a) An application for the renewal of a permit granted by the Commission shall be made at least six (6) months before the expiration of the permit and shall be in the form specified in Schedule III.
- (b) Unless otherwise specified in writing by the Commission, each application for renewal shall be accompanied by a receipt of such fees as the Commission may prescribe for processing the application.

- (c) The procedure prescribed in Chapter II, in so far as it can be applied, shall be followed while dealing with an application for renewal of permit.

CHAPTER VII - CANCELLATION OF PERMIT

14. Procedure for Cancellation of Permit

- (a) The Commission may on its own initiative or upon receiving a complaint or information from any consumer, consumer association, licensee or other permit holder, or other interested stakeholders.
- (b) The Commission may cancel a permit if it is satisfied that:
 - (i) the permit was issued through fraud or the misrepresentation or non-disclosure of a material flaw; or
 - (ii) the permit holder has willfully or unreasonably contravened any provisions of these Regulations, or any provision of the Law that is applicable to the permit holder; or
 - (iii) the permit holder has failed to comply with any term or condition of the permit, the breach of which is expressly declared to render it liable to cancellation; or
 - (iv) the permit holder becomes insolvent or is adjudged bankrupt.
- (c) The Commission, if satisfied that enough grounds exist for the cancellation of the permit, shall give notice of proceedings for the cancellation of the permit to the permit holder and to such other persons, group of persons or body as it may consider necessary.
- (d) The proceedings by the Commission on the cancellation of the permit, in so far as it is applicable, shall be in the manner prescribed by the Commission provided that:
 - (i) The Commission shall notify the permit holder in writing of its intention to cancel the permit and the reasons for doing so and;
 - (ii) The permit holder shall be given the opportunity to demonstrate, within sixty (60) days of the delivery of such notification, that the circumstances have changed such that the cancellation may no longer be warranted.

15. Decision on Cancellation of Permit

- (a) If the Commission decides to cancel the permit after complying with the laid down procedure, the Commission shall serve notice to the permit holder specifying the effective date from which the permit holder shall cease further operations of the captive generation plant.
- (b) The Commission may instead of canceling the permit, pass any other order imposing further terms and conditions subject to which the permit holder is permitted to operate thereafter.

CHAPTER VIII - MISCELLANEOUS

16. Rehearing and Appeals

- (a) Any person who is aggrieved by a decision of the Commission not to issue a permit, a refusal by the Commission to renew a permit, any amendment of a permit or a refusal by the Commission to amend a permit, or the cancellation of a permit, may apply to the Commission for review of the decision, order or refusal, within thirty (30) days of the decision, order or refusal.
- (b) The Commission shall in accordance with its Business Rules reaffirm, reconsider, vary or rescind its decision before issuing a final order.
- (c) Such review or reconsideration shall be completed within sixty (60) days of the date it is requested.

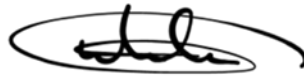
17. Withdrawal of Applications

- (a) An application for a permit may be withdrawn in writing by an Applicant at any stage.
- (b) Applications which have been withdrawn cannot be reactivated, provided however that such an application may be resubmitted as a new application and a new application fee shall be charged accordingly.

18. Amendment or Repeal of Regulations

The Commission may amend or repeal the provisions of these Regulations.

THE COMMON SEAL OF ENUGU STATE ELECTRICITY REGULATORY COMMISSION was affixed pursuant to the order of the Commission on this 27th day of September, 2024.



.....
CHIJOKE OKONKWO
CHAIRMAN/CHIEF EXECUTIVE OFFICER

Schedule I
ENUGU STATE ELECTRICITY REGULATORY COMMISSION
APPLICATION FOR PERMIT FOR CAPTIVE GENERATION

IMPORTANT NOTE: Your application is **not complete** unless all requirements herein are received and all questions are answered.

1.0 PARTICULARS OF APPLICANT

1.1 Applicant Information

Name: _____

Physical address in Enugu State: _____

Postal address: _____

Tel: _____

Fax: _____

Mobile Phone: _____

E- mail: _____

Website Address: _____

1.2 Contact Person Information

Name: _____

Physical Address in Enugu State: _____

Postal Address: _____

Tel: _____

Mobile phone _____

E-mail _____

2.0 LEGAL STATUS OF APPLICANT

2.1 Indicate legal status of Applicant (Tick relevant option)

Sole proprietorship	
Partnership	
Public Limited Liability Company	
Private Limited Liability Company	
Cooperative Society	
Others (please specify)	

(Attach Certificate of Registration, Certificate of Incorporation, Memorandum and Articles of Association as applicable)

2.2 List and Particulars of Directors:

Name	Address	Nationality

3.0 NATURE OF PERMIT

3.1 State whether Application is a fresh Application or Renewal

3.2 State whether Applicant has an existing permit issued by the Commission or any authority.

3.3 If the answer to 3.2 is yes, state the nature of the permit, date issued and the permit number

3.4 Has the Applicant ever been denied a permit or had its permit suspended or revoked by the Commission?

3.5 If yes, give details of the denial, suspension or revocation.

4.0 MAIN BUSINESS ACTIVITIES OF APPLICANT

Please indicate the main business activities the Applicant is currently engaged in.

(Please attach Tax Clearance Certificate for the immediate past three years)

5.0 TECHNICAL CAPACITY

Please provide detailed statement of Applicant’s technical competence to operate the Power Plant. (Attach CVs of key technical personnel)

6.0 DESCRIPTION OF POWER PLANT

6.1 State Plant type

6.2 State total capacity of Power Plant

6.3 Location of the Power Plant

(Please attach a detailed schedule of Plant sizes and locations if applying for more than one location)

6.4 Is the Power Plant new? If no, please state number of years the plant has been in operation.

(Please note that EERC reserves the right to verify the accuracy of this information)

7.0 TECHNICAL DATA

7.1 Nameplate information and other relevant details:

- (a) Installed Capacity
- (b) Fuel Type
- (c) Rated Power Factor
- (d) Reactive Power Capability
- (e) Noise Level (State distance from Power Plant)
- (f) Output Voltage
- (g) Unit Frequency
- (h) Unit Efficiency
- (i) Date of Installation
- (j) Make and Serial Number of Generator (where available)
- (k) Date of Manufacture of Generator

(Please provide single line diagram of the Power Plant showing the cable sizes and protective devices)

- 7.2 Please attach the Environmental Impact Assessment Approval. Where EIA is not applicable, give detailed information on effluents, solid waste and discharges and how they will be managed.

8.0 DECLARATION BY THE APPLICANT:

The project is not unlawful or contrary to the interest of Enugu State or the Federal Republic of Nigeria. I/we hereby declare that the details stated above are, to the best of my/our knowledge, true and correct.

Dated this _____ day of _____ 20_____.

THE COMMON SEAL OF THE WITHIN NAMED APPLICANT

(Name of Applicant)

has hereunto been affixed in the presence of:

Sign: _____

Sign: _____

Name: _____

Name: _____

MANAGING DIRECTOR/CEO

SECRETARY/LEGAL ADVISER

Sworn to this _____ day of _____ 200_____ at _____

BEFORE ME

NOTARY PUBLIC/COMMISSIONER OF OATHS

=====

FOR OFFICIAL USE ONLY

1. Date of submission of Application for Permit for Captive Generation

2. Fees Paid and Receipt Number

3. Results of Verification for completeness

4. Recommendation of Market Operations

5. Recommendation of Engineering and Safety

6. Commission Decision

7. Issue date and expiration date of Permit

8. Effective date of Permit

9. Other Relevant information

Schedule II

ENUGU STATE ELECTRICITY REGULATORY COMMISSION

APPLICATION FOR AMENDMENT OF PERMIT FOR CAPTIVE GENERATION

IMPORTANT NOTE: *Your Application must be accompanied by the appropriate Permit Amendment Fee (See schedule for Fees).*

1.0 PARTICULARS OF APPLICANT

1.1 Applicant Information

Name: _____

Physical address in Enugu State: _____

Postal address: _____

Tel: _____

Fax: _____

Mobile Phone: _____

E- mail: _____

Website Address: _____

1.2 Contact Person Information

Name: _____

Physical Address in Enugu State: _____

Postal Address: _____

Tel: _____

Mobile phone _____

E-mail _____

2.1 Current Permit

(a) Permit Number

(b) Expiration date of the permit

(c) Has the Applicant ever been denied a permit or had its permit suspended, cancelled and/or revoked by the Commission?

If yes, give details of the denial, cancellation, suspension, and/or revocation.

2.2 Previous Application(s)

(a) Have you applied previously for an amendment of the terms and conditions of the permit?

(b) Has the Applicant ever been denied an application to amend the terms and conditions of the permit?

If yes, give details of the denial.

2.3 Proposed Amendment(s)

(a) State the Condition(s) of the permit to be affected by the proposed amendment

(b) State reasons for proposed amendment to the terms and conditions of the permit (please provide supporting documents)

(c) Any Other relevant Information (use additional sheets if appropriate)

DECLARATION BY THE APPLICANT:

The project is not unlawful or contrary to the interest of Enugu State or the Federal Republic of Nigeria. I/we hereby declare that the details stated above are, to the best of my/our knowledge, true and correct.

Dated this _____ day of _____ 20_____.

THE COMMON SEAL OF THE WITHIN NAMED APPLICANT

(Name of Applicant)

has hereunto been affixed in the presence of:

Sign: _____

Sign: _____

Name: _____

Name: _____

MANAGING DIRECTOR/CEO

SECRETARY/LEGAL ADVISER

Sworn to this _____ day of _____ 200_____ at _____

BEFORE ME

NOTARY PUBLIC/COMMISSIONER OF OATHS

=====

FOR OFFICIAL USE ONLY

10. Date of submission of Application for Amendment

11. Fees Paid and Receipt Number

12. Results of Verification for completeness

13. Recommendation of Market Operations

14. Recommendation of Engineering and Safety

15. Commission Decision

16. Issue date and expiration date of Permit

17. Effective date of amendment

18. Other Relevant information

Schedule III

ENUGU STATE ELECTRICITY REGULATORY COMMISSION

APPLICATION FOR RENEWAL OF PERMIT FOR CAPTIVE GENERATION

IMPORTANT NOTE: *Your Application must be accompanied by the appropriate Permit Renewal Fee (See Schedule for Fees).*

1.0 PARTICULARS OF APPLICANT

1.1 Applicant Information

Name: _____

Physical address in Enugu State: _____

Postal address: _____

Tel: _____

Fax: _____

Mobile Phone: _____

E- mail: _____

Website Address: _____

1.2 Contact Person Information

Name: _____

Physical Address in Enugu State: _____

Postal Address: _____

Tel: _____

Mobile phone _____

E-mail _____

2.1 Current Permit

(a) Permit Number

(b) Expiration date of the permit

(c) Has the Applicant ever been denied a permit or had its permit suspended, cancelled and/or revoked by the Commission?

If yes, give details of the denial, cancellation, suspension, and/or revocation.

2.2 Previous Application(s)

(a) Have you applied previously for a Renewal of your Permit?

(b) Has the Applicant ever been denied an application to renew the Permit?

If yes, give details of the denial.

2.3 Term of Proposed Renewal

(a) How many years does the applicant want to renew the permit for?

(**Note:** *Renewal cannot be for more than the term of the Permit being renewed*)

(b) Any Other relevant Information (use additional sheets if appropriate)

2.4 Changes/Modifications in Technical parameters of the Plant (if any).

DECLARATION BY THE APPLICANT:

The project is not unlawful or contrary to the interest of Enugu State or the Federal Republic of Nigeria. I/we hereby declare that the details stated above are, to the best of my/our knowledge, true and correct.

Dated this _____ day of _____ 20_____.

THE COMMON SEAL OF THE WITHIN NAMED APPLICANT

(Name of Applicant)

has hereunto been affixed in the presence of:

Sign: _____

Sign: _____

Name: _____

Name: _____

MANAGING DIRECTOR/CEO

SECRETARY/LEGAL ADVISER

Sworn to this _____ day of _____ 200_____ at _____

BEFORE ME

NOTARY PUBLIC/COMMISSIONER OF OATHS

=====

FOR OFFICIAL USE ONLY

1. Date of submission of Application for Renewal

2. Fees Paid and Receipt Number

3. Results of Verification for completeness

4. Recommendation of Market Operations

5. Recommendation of Engineering and Safety

6. Commission Decision

7. Issue date and expiration date of current Permit

8. Date of Renewal and New expiration of the Permit

9. Other Relevant information

SCHEDULE 4 - FEES PAYABLE FOR PERMITS FOR CAPTIVE GENERATION

S/N	Generator Capacity	Validity Period (Years)	Application Fees (Naira)	Permit Fees (Naira)	Amendment/Renewal Fees (Naira)
1.	0.3 – 0.999MVA	5	30,000.00	100,000.00	30,000.00
2.	1 – 10MW	5	50,000.00	200,000.00	50,000.00
3.	11 – 20MW	5	50,000.00	250,000.00	50,000.00
4.	21 – 30MW	5	50,000.00	300,000.00	50,000.00
5.	31 – 40MW	5	50,000.00	450,000.00	50,000.00
6.	41 – 50 MW	5	50,000.00	500,000.00	50,000.00
7.	51 – 100MW	5	50,000.00	550,000.00	50,000.00
8.	Above 100MW	5	50,000.00	700,000.00	50,000.00

- Captive Generation Permit is unit and location specific.
- Any material change in the generator unit or location shall require an amendment to the Permit.
- Validity period cannot be pro-rated for less than a year.