



**ENUGU STATE OF NIGERIA**  
**2023, No. 1**

**ENUGU STATE ELECTRICITY LAW, 2023**

.....

**A LAW TO REPEAL THE RURAL ELECTRIFICATION  
LAW, CAP 140 REVISED LAWS OF ENUGU STATE 2004,  
TO MAKE PROVISION FOR ELECTRICITY AND ITS  
GENERATION, TRANSMISSION, AND DISTRIBUTION  
WITHIN, AND FOR THE RESIDENTS OF ENUGU STATE;  
TO ESTABLISH AN ELECTRICITY MARKET FOR ENUGU  
STATE; AND FOR CONNECTED PURPOSES**

.....

*ENACTED BY*

**ENUGU STATE HOUSE OF ASSEMBLY THIS 1<sup>ST</sup> DAY  
OF SEPTEMEBR, 2023**



## **ENUGU STATE ELECTRICITY BILL, 2023**

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## ENUGU STATE OF NIGERIA

2023, No. 1

*Long Title.*

A Law to Repeal the Rural Electrification Law, Cap 140 Revised Laws of Enugu State 2004; To Make Provision for Electricity and its Generation, Transmission, and Distribution within, and for the Residents of Enugu State; To Establish an Electricity Market for Enugu State; and for connected purposes.

*Enactment.*

**Be it enacted** by the House of Assembly of Enugu State of Nigeria as follows –

### PART I: PRELIMINARY

*Citation and date of commencement.*

1. This Law may be cited as Enugu State Electricity Law, 2023 and shall be deemed to come into effect on the date the Governor assents it.

*Interpretation.*

2. In this Law, unless the context otherwise requires-  
“**Agency**” means the State Electrification Agency established by this Law;

“**Base load**” means electricity produced at a constant rate to meet daily demand;

“**Board**” means the Enugu State Rural Electricity Board dissolved by this Law;

“**Captive Generation**” means generation of electricity for the purpose of consumption by the generator and which is consumed by the generator itself within an identified area and not sold to a third party;

“**Commission**” means the Enugu State Electricity Regulatory Commission established by this Law;

“**Distribution**” means the system of facilities consisting wholly or mainly of electric lines, less than 132 kilovolts, used for the distribution of electricity from a generation facility or from a transmission grid supply point, through appropriate distribution facilities to the end user; and includes any electrical plant and meters operated in connection with such distribution, but shall not include any part of a transmission system; and “Electricity

distribution”, “distribution system”, “distribution licence”, “distribution licensee” and such other synonyms thereof shall be construed accordingly;

**“Enugu State Electricity Market”** means the policy, legal, regulatory, and commercial framework established under this Law that enables entities, duly licensed by the Commission, or by some other appropriate authority in Nigeria to contract for electric capacity and energy to be generated, transmitted and distributed for or to customers resident in the State; and “Market” shall be construed accordingly;

**“Electricity”** means a source of energy created from a primary source of energy including water and sunlight natural gas, coal or bio-fuels or distillate fuels or natural gas, and conveyed to its end user over a network of conductors;

**“Electricity supply services”** means the individual functions involved in conveying electricity generated at a specific point to another specific point where it is needed or consumed;

**“Generation”** means the production, by an entity licensed by the Commission or by some other appropriate authority in Nigeria other than the Commission, at a generating station, of electricity and other generation products and ancillary services that may be contracted to be produced therefrom; and “electricity generation”, “generation plant”, “generation licence”, “generation licensee” and such other synonyms thereof shall be construed accordingly;

**“Governor”** means the Governor of Enugu State of Nigeria;

**“House of Assembly”** means the Enugu State House of Assembly;

**“Integrated Utility”** means the construction, ownership, and management, by a single commercial entity, of generation and distribution facilities within the State, as a single inter-connected engineering facility that has been issued a single licence; and “integrated electricity system”, “integrated licence” and such other synonyms thereof shall be construed accordingly;

**“Licence”** means the permission granted to a person under this Law or under some other federal or state legislation to carry out certain specific activity in the Market, and licensee shall be construed accordingly;

**“Market Participant”** means a person who is a party to a contract for electric capacity and energy to be generated or transmitted or distributed for or to customers resident in the State, and includes a system operator whenever one is licensed by the Commission;

**“Member”** means a member of the Commission or of the Agency;

**“National grid system”** means the interconnected network of generation companies and an electricity transmission system, licensed and regulated by the Nigerian Electricity Regulatory Commission to undertake the production of electricity and its conveyance to similarly licensed distribution entities across the country;

**“Nominal Capacity”** means the total rated capacity that a licensee’s facilities can deliver underrated operating conditions;

**“Officer”** means a member of staff of the Commission; and “staff” shall be read in this Law to mean an officer of the Commission, but not a member of the Commission;

**“Offtaker”** means any person resident in the State, licensed or not, who contracts with a generation or distribution licensee to purchase any quantity of electricity;

**“Physical and in-kind assets”** shall mean any item of value, whether tangible or not and includes man-hours of work, intellectual property, real estate, building and construction materials and equipment, electrical equipment and facilities and the like that may be deployed to the implementation of the State Electrification Plan;

**“Pre-existing Licensee”** means an entity previously licensed by the Federal Government to locate in the State or to operate in the generation, transmission or distribution sectors in the State;

**“Reliability Plan”** means the Enugu State Electricity Reliability Plan referred to in Section 18;

**“Reliable electricity supply”** means electricity that is available to any consumer, in the State in the desired quality and quantity, at the time it is needed;

**“Stakeholders”** means the universe of persons and interest groups that the Commission shall consult in the course of developing the Reliability Plan, and includes consumer groups and association based in the State, fuel providers, generation operators (thermal and renewable energy-focused), transmission operators, distribution sector operators, registered users (large, medium and small in the industrial, commercial and residential classes), capital providers, the State Government and the Federal Government;

**“State”** means Enugu State of Nigeria.

**“State licensee” or “licensee”** means a person duly licensed under this Law to participate in the Market by locating within the State and engaging in the generation or transmission or distribution of electricity within the State, for delivery to Enugu State residents, in accordance with section 10;

**“Strategy and Plan”** means the Enugu State Electrification Strategy and Plan;

**“System operation”** means whenever a system operator is duly licensed under this Law, the management of the frequency and voltage, and the scheduling and despatch of electricity across one or more transmission systems in the State; the corresponding settlement of payments for the electricity so scheduled and despatched, and the administration of the Market, in such a manner as to secure the coordinated, economic, safe, and reliable supply of electricity to all customers in the State;

**“Transmission system”** means a system consisting wholly or mainly of high voltage electric lines, at or greater than 132 kilovolts, for the conveyance of electricity from a generation licensee in or outside the State to a distribution licensee or other offtaker in the State; and shall include all facilities and equipment and other works and the buildings and structures required to accommodate this

activity; and “transmission”, “transmission licence” and “transmission licensee” and such other synonyms thereof shall be construed accordingly;

“**Undertaking**” means any movable facility or equipment utilised for the generation, transmission or distribution of electricity, or for system operation, with all the assets and liabilities pertaining thereto;

“**Utilities industry**” means the economic sector comprising companies that provide basic physical amenities to homes, businesses and industry and includes those in the electricity, information communication technology and natural gas industries.

## **PART II: ENUGU STATE ELECTRICITY REGULATORY COMMISSION**

*Establishment of the Enugu State Electricity Regulatory Commission.*

**3.(1)**

There is established for the State a body to be called the Enugu State Electricity Regulatory Commission.

**(2)**

The Commission for the purpose of carrying out any of its functions under *this* Law, -

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue or be sued in its corporate name;
- (c) may contract with other persons; and
- (d) may acquire, hold or dispose of movable or immovable property.

**(3)**

Except in so far as it relates to the Electrification Agency and the Electrification Fund, the Commission shall be responsible for the implementation of the provisions of this Law.

*Membership and organisational structure of the Commission.*

**4.(1)**

The Commission shall consist of the following members appointed by the Governor and confirmed by House of Assembly, at least one of whom shall be female:

- (a) an Executive Commissioner who shall also be the Chairperson and Chief Executive; and
- (b) three Executive Commissioners selected from the public or the private sector, one of whom shall be designated as the Vice-Chairperson who shall chair meetings of the Commission in the absence of the Chairperson.

- (2) In appointing members of the Commission, the Governor shall ensure that each appointee has educational qualifications and public or private sector experience in any of economics, finance, accountancy, electrical engineering, law, business administration, regulation or consumer affairs issues in the utilities industry for a period not less than 10 years.
- (3) The Chairperson/Chief Executive of the Commission shall in addition to subsection (2) be a person with educational or professional qualifications in any of the areas mentioned in subsection (2) who has cognate experience in electricity sector operations or regulatory affairs, in addition to senior management experience gained in the public or private sector over a period not less than fifteen years.
- (4) Save as provided in subsection (6), the members of the Commission shall serve in an executive management capacity and be solely responsible for considering and approving the policies, projects, programmes, and decisions of the Commission.
- (5) A member of the Commission shall hold office for a single term of seven years:  
Provided that of the first set of Commissioners, the Chairperson and one Executive Commissioner determined by the Governor shall have a tenure of seven years each; while the two other Executive Commissioners shall each have a tenure of six years; and further provided, however, that an Executive Commissioner may be appointed to the office of Chairperson/Chief Executive, in which event that Executive Commission shall hold the office of Chairperson/Chief Executive only for the rest of his or her original term of office and shall not, under any circumstance, be deemed to start a fresh seven-year term of office.
- (6) The office of Commissioner shall be vacated and it shall become vacant if the Commissioner:
  - (a) resigns from the Commission by giving to the Governor a notice of resignation in writing, which shall take effect from one month after the date of such notice;
  - (b) is convicted in, or outside Nigeria of any criminal offence;

- (c) is found not to be a citizen of Nigeria;
  - (d) has a financial interest in any business connected, either directly or indirectly, with generation, transmission, system operation, distribution or trading of electricity anywhere in Nigeria, including Enugu State, or is engaged in any activity, whether for remuneration or otherwise, connected with any such service or system, or is a relative of a person who has such an interest or is engaged in such an activity, unless the Governor is satisfied that the interest or activity is in effect passive and will not interfere with the person's impartial discharge of his duties as a Commissioner, or unless the financial interest is terminated prior to the appointment taking effect;
  - (e) has at any time in the past been adjudged by Nigerian law or the law of any other country to be a bankrupt or insolvent person;
  - (f) has been adjudged by any law in force in any country to be a person of unsound mind;
  - (g) has been banned from practising his or her profession in any country;
  - (h) has been convicted and sentenced to a term of imprisonment with or without an option of fine; or
  - (i) has attained the age of seventy years.
- (7) A person shall not be eligible to become a member of the Commission if any of the criteria in subsection 6 paragraphs (b) to (i) apply to him.
- (8) A member of the Commission, for a period of two years after vacating office for any reason whatsoever, shall not acquire, hold or maintain, directly or indirectly, any interest, office, employment, or consultancy arrangements, either for remuneration or otherwise, connected with any aspect of the State Electricity Market or any activity connected therewith; and if such person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of thirty days of such interest being acquired.
- (9) The Governor shall require a member of the Commission to immediately vacate his or her office if that person:

- (a) has been found to have breached the Commission's Code of Ethics established under subsection (2) of Section 7 of this Law;
  - (b) has failed to comply with any term or condition of office;
  - (c) is deemed by the Governor, upon receipt of relevant advice by a consultant medical practitioner, to be mentally or physically incapable of carrying out his functions as a Commissioner; or
  - (d) has defaulted any of the provisions of subsection 6(b) to (i).
- (10)** On the death of, or vacation of office by, a member of the Commission, the Governor shall, within one month nominate a person to office who, upon being sworn in, shall commence afresh term of office;  
 Provided that if the deceased or the person vacating office is the Chairperson of the Commission, the Governor may at his option:
- (a) appoint a serving Commissioner to the office of Chairperson, in which case the serving Commissioner shall not commence a fresh term of office but rather continue as Chairperson until his or her original term in office expires; or
  - (b) appoint an individual not currently a member of the Commission to the office of Chairperson, in which case that person will upon assuming office commence a fresh term of seven years.
- (11)** The Chairperson/Chief Executive Officer of the Commission shall be responsible for ensuring execution of the decisions of the Commission and its approved policies, projects and programmes, and for the day-to-day administration of the activities of the Commission.
- (12)** The Commission shall be efficiently structured into such number of departments and their sub-units, as the Commissioners may approve.

*Meetings of the Commission.*

- 5. (1)** The Commission shall meet for the dispatch of business as often as is necessary or expedient and, subject to this section, may adjourn, close, and otherwise regulate its meetings and procedure.

- (2) The Chairperson shall preside at all meetings of the Commission and all decisions of the Commission shall be on the basis of majority of the members present and voting.
- (3) The quorum for the meeting of the Commission shall be three, including the Chairperson or the Vice-Chairperson.
- (4) At all meetings of the Commission, each member of the Commission present shall have one vote on each question before the Commission and, in the event of an equality of votes, the Chairperson shall have a casting vote.
- (5) For a meeting of the Commission to review any previous decision or order taken or made by the Commission, the quorum shall be no less than the Commissioners present when the decision was taken or order was made.

*Officers of the  
Commission.*

6. (1) The Commission may appoint such other persons as its staff or its officers by way of direct employment with the approval of the Governor, or by transfer of service or secondment with the collaboration of the Civil Service Commission or the Head of the Civil Service of the State, as the case may be.
- (2) The Commission may post any of its suitably-qualified officers to act as Secretary to the Commission, and the Secretary shall keep the records and conduct the correspondence of the Commission, and perform such other duties as the Chairperson or the Director-General may direct:  
Provided that the Secretary of the Commission shall not be a member of the Commission and shall be a person qualified to be a company secretary under the Companies and Allied Matters Act.
- (3) The Commission shall at all times seek to employ and retain the most competent persons available for each staff position in the Commission.

*Code of Ethics of  
the Commission.*

7. (1) Upon assumption of office and before proceeding with any business whatsoever, the first task of the Commission shall be to prepare and submit to the Governor for approval a Code of Ethics binding on each member of the Commission, and the staff of the Commission individually.

- (2) The Governor shall approve a Code of Ethics for the Commission, whereupon each member of the Commission and their staff shall individually sign a written copy of the Code and retain it, with another signed copy of the said Code retained by the Commission in the relevant individual's personnel file; and until such approval is given by the Governor, the Commission shall not proceed with any business whatsoever.
- (3) An infraction of any provision in the Commission's Code of Ethics established against a member of the Commission by the Governor in the case of the DG or a part-time member of the Commission, or by the Commission in the case of any member of staff, shall result in the relevant person immediately vacating office either by dismissal or compulsory retirement or the relevant person being required to resign.

*Conditions of service.*

8. The Commission shall develop and submit for the approval of the Governor appropriate conditions of service concerning remuneration, allowances, fringe benefits, pension and gratuity scheme, and other benefits for the Commissioners, Director-General and staff of the Commission, which conditions of service shall be competitive in relation to electricity sector operators in the State and would enable it to attract and retain high quality personnel.

*Contributory Pension Scheme for the Commission.*

9. (1) There is established, for the benefit of the Commissioners and staff of the Commission, a contributory pension scheme under the applicable law in the State, and a gratuity or severance payment scheme constituted under a trust deed.
- (2) Except for short-term contract appointments, which shall not in any event exceed a 24-month non-renewable term, no appointment to the staff of the Commission or to carry out staff duties shall be made on terms that preclude the grant of pension and gratuity rights.

*Objectives of the Commission.*

10. The objectives of the Commission are to:
- (a) ensure the establishment of a reliable and economically efficient market for the State that –

- (i) serves the State residents in a manner that enhances standards of living in the State and reduces dependency on back-up power systems and the overall environmental, economic and social costs of such dependency; and
- (ii) is responsive to community needs and addresses the challenges of developing an electricity system for the State suitable for its socio-economic development; and
- (b) ensure that State electricity licensees are accountable to the people and Government of the State for the delivery of the expectations of their respective licences.

*Functions of the Commission.*

**11.** The functions of the Commission are to:

- (a) provide a stable legal, commercial and technical regulatory framework for the provision of electricity to residents of the State by market participants licensed to operate in the Enugu State Electricity Market for the benefit of residents of the State;
- (b) establish a credible, transparent, and simple framework for licensing operators in the Market;
- (c) establish engineering rules, codes and practices for the safe and reliable operation of the Market by its licensees and for upholding the rights of electricity customers in the State;
- (d) establish a consistent and sustainable tariff and pricing framework for the Market using such tariff methodologies as it considers appropriate;
- (e) undertake monitoring and surveillance of licensee and consumer behaviour in the Market; and
- (f) undertake such other activities as are necessary or convenient for better carrying out or giving effect to the objects of the Commission.

*Powers of the Commission.*

**12. (1)** In the discharge of its duties under this Law, the Commission shall have power to:

- (a) license entities to do business in the Market by locating within the State and engaging in the generation or transmission or distribution of electricity within the State, for delivery to Enugu State residents, in accordance with section 10;
- (b) develop and ensure adherence by State licensees, to standards for electricity consumer rights and obligations;
- (c) develop appropriate codes that assure adherence to established standards for the safe and reliable provision of electricity by State licensees;
- (d) establish rules, when appropriate, for the efficient commercial trading of electricity by State licensees;
- (e) perform such other activities necessary for the proper execution of its functions and the attainment of its objectives.

*Oversight of the Commission.*

- 13.** In the discharge of its functions under this Law, the Commission shall deliver statutory reports to, and may receive directives or approvals from, the Governor as provided in this Law and shall be subject to judicial orders made by a court of competent jurisdiction.

*Inspectors.*

- 14. (1)** The Commission may appoint persons employed by it to be inspectors for the purposes of this Law and shall furnish each person so appointed with a certificate stating that the person has been appointed as an inspector.
- (2)** The inspectors shall, in addition to any other functions that may be assigned to them by the Commission, be responsible for inspecting undertakings to ensure the safety of operations, and to investigate accidents.

*Funds of the Commission.*

- 15. (1)** The funds of the Commission shall consist of:
- (a) a take-off grant in such sum as the Governor shall determine after consultation with the Commission;
  - (b) fees, charges and other income accruing to the Commission from licensees and other activity undertaken under this Law;

- (c) funds appropriated to the Commission by the House of Assembly, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditures until such a time as the Commission determines that further to the need to be financially autonomous it no longer requires a budgetary provision to be made for it; and
- (d) donations, grants-in-aid and such other monies as may accrue to the Commission, whether in the course of its operations or otherwise.

*Accounts and  
Audit*

**16. (1)** The Commission shall prepare and submit to the Governor not later than the date stated in the appropriate call memo but, in any event, no later than 30th September of every year, an estimate of its expenditure and income for the next succeeding financial year.

**(2)** The Commission shall keep proper accounts in respect of each financial year, and proper records in relation to these accounts, and will cause the accounts to be audited at the end of each financial year by a firm of auditors, selected from a list of auditors approved by the State Auditor-General.

*Annual Reports.*

**17.** The Commission shall prepare and submit to the Governor not later than 1<sup>st</sup> April each year, a report of its activities during the previous year, and audited accounts and financial statements in such form as the Auditor-General may direct.

### **PART III: THE ENUGU STATE ELECTRICITY MARKET**

*The Enugu State  
Electricity  
Reliability Plan.*

**18. (1)** The Commission shall publish, after consulting with the Governing Board, the Enugu State Electricity Reliability Plan.

**(2)** The Reliability Plan shall be a document including an identification of stakeholder classes relevant to the electricity sector in the State, the electricity resources available within Enugu State in terms of renewable and non-renewable fuel sources, current generation assets, generation opportunities, current transmission and distribution assets located within the State, and the rights of way available to meet the identified current and future electricity demand of Enugu State residents.

- (3) The Reliability Plan shall be set over such a time horizon not less than ten years in the future as the Commission shall determine in consultation with its stakeholders and shall, amongst other things, demonstrate:
- (a) transparency, fairness and the need for energy efficiency and responsiveness to the demands of environmental responsibility in making provision for all available fuel sources in the State;
  - (b) Such opportunities for investment as are available in the fuel supply, generation, transmission, distribution and other sectors of the State Electricity Market;
  - (c) attention to the paramount need to deliver cost-effective and reliable electricity access to the underserved and unserved areas of Enugu State;
  - (d) opportunities for partnership and co-investment in the said Electricity Market sector;
  - (e) the Commission's views on the ways and means by which, and the time frame within which, it expects the objectives of the State Electricity Policy to be attained; and
  - (f) the ability to enable and accommodate the most extensive and comprehensive public commentary available on all aspects of the Plan.
- (4) The Reliability Plan may be modified annually by the Commission but shall undergo a comprehensive review no later than every fifth year following the publication of the first edition.
- (5) The Reliability Plan shall, in addition to such other relevant matters, incorporate the State Electrification Strategy and Plan developed by the Agency established by this Law.
- (6) In preparing the Reliability Plan, various factors shall be considered, and several discussions had including those set out in the Schedule to this Law.

*Electricity Market  
Operators to be  
Licensed.*

19. (1) Subject to the transitional provisions in this Law, as from the commencement of this Law, no entity shall generate, or transmit, or distribute electricity in the State except the entity-

- (a) is incorporated under the Companies and Allied Matters Act to provide the specific electricity service, that it wishes to undertake, to persons resident in the State;
  - (b) has its registered address in the State; and
  - (c) is licensed under this Law to provide any of the electricity services stated in this Law.
- (2) Notwithstanding subsection (1), an entity that is licensed, by a duly authorised body other than the Commission, to operate as a generation entity located outside the State, may contract to sell and transmit its output to a licensee in the State.
- (3) A person who violates subsection (1) commits an offence and is liable on conviction to imprisonment for six months and in addition, a fine of ₦1,000,000.00 (one million Naira) for each day the person is in contravention thereof.

*Scope of  
Licensing.*

- 20. (1)** The individual categories of electricity supply services in the Market for which operator licences are required are:
- (a) electricity generation;
  - (b) electricity transmission;
  - (c) system operation;
  - (d) electricity distribution;
  - (e) electricity retail;
  - (f) integrated utility; or
  - (g) other categories of electricity services established by the Commission by subsidiary legislation made pursuant to this Law:

Provided that entities undertaking captive generation with capacity above 300kVa or 3MWh of energy daily shall be required to apply for, and be granted a simple permit for as long as the purpose thereof remains the provision of captive generation.

- (2) A company and its subsidiaries, or its holding company, or other entities that control the company, may be registered under any of the categories of electricity services excluding system operation, unless the Commission determines that registering them as such will constitute market power capable of restricting entry into, or competition in, or of stultifying the evolution and growth of the State Electricity Market.

- (3) A licensee may not acquire shareholding in another licensee, and the shareholders of one licensee may not acquire shareholding in another, to such an extent, determined by the Commission, as to constitute market power capable of restricting entry into, or competition in, or of stultifying the evolution and growth of the State Electricity Market.
  - (4) Where generation and distribution licences are granted to corporate entities that hold ownership or cross-ownership in each other, or are controlled by the same person or persons, whether incorporated or not, the Commission shall be obliged to establish a special monitoring and surveillance regime for such licensees in their respective licence terms and conditions, which regime shall ensure, amongst other things, the accounting separation of each licensee.
  - (5) Where generation, distribution, and electricity retail licences are granted in terms of subsection (4) of this section, the Commission shall maintain a continuing obligation to report to the general public, the Governor, the House of Assembly, its licensees and all other stakeholders on the findings of the monitoring and surveillance regime established for each such licensee; and such reports shall also be made available without restriction on its web portal.
  - (6) Each distribution licence and electricity retail licence granted by the Commission shall include the obligation to provide reliable universal access within its specific licence area and the obligation to participate fully with the State Electrification Agency and the unserved and underserved communities within its licence area in the execution of the State Electrification Strategy and Plan.
  - (7) Each licence granted by the Commission shall be restricted to a licence area defined by reference to the entire State or to one or more named local government areas of the State.
  - (8) A licence shall be granted for twenty years and may be renewed at the expiration of the period.
- 21.** Each applicant for the grant of a licence by the Commission shall be required to demonstrate that it-

- (a) possesses the capacity to ensure the appropriate operation and maintenance of its electricity assets;
- (b) possesses the ability to provide quality service to its customers;
- (c) has access to adequate capital to ensure appropriate operation and maintenance of its electricity assets, and the provision of quality service to its customers in accordance with the terms of its licence, relevant regulations, and directives of the Commission;
- (d) has the personnel with the appropriate management training, skills and cognate experience to ensure the satisfactory performance of all duties required of it by the terms of its licence; and
- (e) other matters prescribed by subsidiary legislation made by the Commission pursuant to this Law.

*Commission  
solely responsible  
for licensing.*

- 22. (1)** The Commission shall be solely responsible for licensing operators in the Market.
- (2)** The Commission may by regulations provide for all licensing matters, including the application, grant, geographical scope, renewal, amendment, transfer, assignment, cession, suspension, cancellation, withdrawal or refusal and other special terms relating to State electrification, that may apply to an operator licence is sued under this Law.
- (3)** The Commission shall make the regulations required in subsection (2) of this section in such a manner as to impose minimal costs on applicants and licensees in terms of time, compliance and reporting requirements, and ease the entry into commercial operations of all licensees.

*Electricity  
Generation  
Licence.*

- 23.** The Commission may, in a licence issued under the hand of its Executive Chairperson and another Commissioner, authorise an applicant to construct, own, operate and maintain a facility for the generation and supply of electricity to offtakers, all of which shall be located and operate solely within the State, in such a manner as may be specified in the terms and conditions of the applicant's licence.

*Transmission  
Licence.*

- 24** The Commission may, in a licence issued under the hand of its Executive Chairperson and another Commissioner, authorise an applicant to construct, own, operate and

maintain a facility within the State for the transmission of electricity from any generation facility licensed in or outside the State to a licensed offtaker also located and operating solely within the State, in such a manner as may be specified in the terms and conditions of the applicant's licence.

*Distribution  
Licence.*

- 25.** The Commission may, in a licence issued under the hand of its Executive Chairperson and another Commissioner, authorise an applicant to construct, own, operate and maintain facilities and equipment for the distribution of electricity, the installation, maintenance and utilisation of metering, billing and revenue collection systems, and for the delivery of any aspect of electricity distribution and customer care services by the said applicant to customers located entirely within the State, in such a manner as may be specified in the terms and conditions of its licence.

*Electricity Retail  
Licence.*

- 26.** The Commission may, in a licence issued under the hand of its Executive Chairperson and another Commissioner, authorise an applicant to construct, own, operate and maintain facilities and equipment for the distribution of electricity, the installation, maintenance and utilisation of metering, billing and revenue collection systems, and for the delivery of any aspect of electricity distribution and customer care services by the said applicant to customers at voltage levels below 33 kilovolts to it by a Distribution Licensee in the State, in such a manner as may be specified in the terms and conditions of its licence.

*Integrated Utility  
Licence.*

- 27.** The Commission may, in a licence specifying terms and conditions of the grant, issued under the hand of its Executive Chairperson and another Commissioner, authorise an applicant to construct, own, operate and maintain connected facilities for the integrated generation and distribution of electricity to customers located entirely within the State or a specific part thereof, in such a manner as may be specified in the terms and conditions of its licence; but such a licence shall not be issued with transmission or system operation rights of any kind.

*System Operation  
Licence.*

- 28. (1)** Where, in the Market there are any number and combination of licensees including at least two generation licensees in the State and all the licensees trade in the Market via commercial agreements that aggregate more

than 500MW of capacity and 12,000MWh of energy per day, the Commission shall consult with stakeholders and Market Participants on the need for a system operator to be licensed for the State, and may issue a licence authorising an applicant to undertake system operation, as defined in this Law.

- (2) There shall be no more than one system operator licensee in the Market, whose shares shall be held by all other Market Participants in equal proportions on a mutual, not-for-profit basis, so as to ensure that no single shareholder dominates or influences the system operator's operational decisions.
- (3) The system operator shall, upon commencing commercial operations, and in addition to its regular system operations function, take over the Reliability Plan and become its custodian with sole responsibility for ensuring that the Market evolves annually in accordance therewith under rules or guidelines made by the Commission.

*Technical Codes and Standards.*

29. (1) The Commission shall develop for the State Electricity Market, in consultation with licensees and other interested parties, technical standards, codes and manuals for:
  - (a) the safe, reliable, and efficient operation of all licensed facilities;
  - (b) in collaboration with the System Operator if one is licensed, the scheduling and despatch of generation capacity, the scheduling and coordination of generation outages, the procurement of ancillary services to enable stability of the State Electricity Market, administration and settlement of trading in the State Electricity Market and such other activities as are required for the stable, reliable and efficient operation of the said Market;
  - (c) the promotion of energy efficiency and demand side management practices by customers;
  - (d) sharing of common facilities such as rights of way, towers, switchyards, substations and the like; and
  - (e) such other standards, codes and manuals as the Commission may require.
- (2) Standards, codes and manuals approved by the Commission pursuant to subsection (1) of this section

shall be binding on the relevant licensees and shall be published by each licensee to whom they apply on their internet portals and in such other manner as the Commission may direct.

*Licences to be technology-and-fuel-neutral..*

- 30.** Licences granted by the Commission under this Law shall be technology-and-fuel-neutral, and the Commission shall not grant a licence or authorise a licensee activity that enables a licensee to exceed the emission and environmental protection limits set by a relevant state or national entity.

*Licensee to maintain full-service internet portal.*

- 31. (1)** Before commencing commercial operations, each licensee shall set up a full-service internet portal that enables the Commission and any other interested person to obtain, and if desired, download information on-
- (a) the terms and conditions of its licence;
  - (b) its standard terms and conditions of contracting with third parties;
  - (c) its customer care standards where applicable; and
  - (d) real-time data on all performance, quality of service and key performance standards and metrics that the licensee is obliged to meet and report on to the Commission.

- (2)** The licensee's internet portal shall also enable all end-use or retail customers to make payment for, and obtain, any service provided by the licensee in real time.

*Enforcement of Licences.*

- 32. (1)** Where the Commission is satisfied that a licensee is contravening, has contravened, or is likely to contravene, any term or condition of its licence, it may make an order-
- (a) requiring the licensee to do, or refrain from doing, such things as are specified in the order for the purpose of correcting or avoiding any contravention or threatened contravention of such term or condition of its licence; and
  - (b) stipulating the period within which any requirement referred to in subsection(1)(a) shall be commenced and completed.
- (2)** Notice of an order made under subsection (1) shall be published by the Commission in such a manner appropriate to give notice to such persons as may be

affected or likely to be affected by the contravention or threatened contravention of the licence.

- (3) Before making an order in subsection (1), the Commission shall give notice to the licensee concerned-
  - (a) specifying the grounds upon which the order is to be issued and what the Commission considers reasonably necessary for the purpose of correcting or avoiding any contravention or threatened contravention of such term or condition of its licence;
  - (b) stipulating such period that, in its opinion, is considered reasonable for the implementation of any requirement it proposes to order; and
  - (c) allowing the licensee to make representations to the Commission within such period from the date of service of the notice as the notice shall specify.
- (4) Upon considering any representations made under subsection (3)(c) of this section, the Commission may make, or refrain from, or defer making, an order in terms of subsection (1), or make an order on different terms.
- (5) An order made under subsection (1) of this section may specify a fine not exceeding five hundred thousand naira (₦500,000.00) as penalty for each day that the licensee is in default of compliance with the order.

#### **PART IV: CONTRACTS, TARIFFS AND CUSTOMER PROTECTION**

##### *Contracts*

- 33. (1)** Operation by licensees in the Market shall be only on the basis of binding and enforceable contracts, and a company licensed under any category of electricity services in the State shall enter into such number of contracts as are required with any company licensed under another category, for the sale, purchase, or transmission of some or all of the services provided by the company.
- (2) All contracts shall be in writing and shall be filed with the Commission before they become commercially effective and enforceable.
- (3) The Commission shall not have the power to alter, amend or in any way constrain the performance of a contract

duly negotiated and concluded in accordance with this Law.

*Tariffs*

- 34. (1)** Tariffs or payments for all licensed activities shall be contracted under this Law in accordance with one or more tariff methodologies established by the Commission.
- (2)** A tariff methodology shall:
- (a) be simple, understandable, feasible and free of controversial interpretation;
  - (b) be effective in enabling the licensee recover total revenue that covers the efficient costs of doing business plus a fair return on capital invested and accordingly impose on each licensee an obligation to manage its costs efficiently and on the Commission to ensure that this is done;
  - (c) provide stability and predictability of future tariffs and resulting revenues;
  - (d) sanction wasteful expenditure and incentivise both continued investment by the licensee and the promotion of technical and economic efficiency and quality by both licensees and customers in providing and receiving the licensed service;
  - (e) clearly indicate to all counterparties and consumers the costs that their consumption imposes on the licensee's business and incentivise efficiency in causing these costs;
  - (f) be fair and avoid undue discrimination in apportioning total costs amongst different consumer classes; and
  - (g) promote the innovative use of technology, and the cleanest available fuel sources.
- (3)** Notwithstanding subsection(2)(f), a tariff methodology may differentiate among consumers on the basis of differences in total electricity consumption, the time periods on which electricity is consumed, load factors, power factors, voltage levels, and other criteria that may affect the cost of providing a service.
- (4)** A tariff methodology may allow a lifeline tariff for certain deserving consumers identified by a clearly-defined means testing procedure provided by the Commission.

- (5) The Commission shall, prior to approving a tariff methodology, give notice, over broadcast and social media and in at least one newspaper circulating widely in the State, of the proposed establishment of a tariff methodology, indicating the period within which objections or representations in connection with the same may be made to the Commission.
- (6) In preparing or modifying a tariff methodology, the Commission shall:
  - (a) consider any representations made by licence applicants, other licensees, customers, associations of customers and such other persons as it considers necessary or desirable;
  - (b) obtain evidence, information or advice from any person who, in the opinion of the Commission, possesses expert knowledge which is relevant in the preparation of the methodology.
- (7) The Commission shall fix the date on which the tariff methodology shall come into operation, and cause notice to be given using the same means as specified in subsection (5) of this section.
- (8) If it appears to the Commission that a tariff methodology should be changed or modified in any way, the Commission shall give notice using the same means as in subsection (5) of this section of the proposal to change or modify the methodology, indicating the period within which representations in connection with the proposal may be made.
- (9) After considering any objections or representations received in response to a notice issued under subsection (8) of this section, the Commission may confirm the proposed changes to the tariff methodology and the provisions of subsection (7) of this section shall apply with necessary modifications.
- (10) Every person upon whom any function has been conferred or imposed in connection with setting tariffs shall be bound by a tariff methodology that has come into operation under subsection (7) or subsection (9) of this section.

- (11) Every licensee shall maintain on its internet portal and at its office a current copy of the tariff methodology applicable to the licensee, and enable an electronic copy thereof to be downloaded, or a hard copy taken, by any person free of any charge from the internet portal, or during the licensee's normal office working hours.
- (12) A licensee shall not transfer to its customers the liability of paying any fines or penalties levied against it under this Law or any other law or regulation.
- (13) Any person or licensee who contravenes, or condones the contravention of subsection (12) shall be liable to a fine two times the charge to the licensee's customers or to imprisonment of not more than one year or to both such fine and imprisonment.
- (14) A tariff agreed to, in accordance with an approved tariff methodology, between the parties to an offtake agreement entered into under this Law shall be modified only in accordance with the said agreement or the said tariff methodology.
- (15) Nothing in this section shall prevent a licensee and a prospective customer from agreeing on a tariff on a willing buyer, willing seller basis.

*Customer  
protection  
standards.*

- 35. (1)** The Commission shall develop, in consultation with licensees and customers, codes that provide for:
- (a) customer service standards, including procedures for applying for service and for withdrawing service from, or disconnecting non-paying, or defaulting customers;
  - (b) customer complaint handling procedures;
  - (c) assistance to special needs customers, such as the visually impaired, disabled, elderly, or severely ill;
  - (d) procedures for ensuring that no customer experiences difficulties in paying for service, whether by electronic or by physical means;
  - (e) compensating customers who do not enjoy the contracted service to the required standards; and
  - (f) providing and disseminating customer service information generally.

- (2) Standards and procedures developed by the Commission shall be adhered to by every licensee, who shall publish them on its internet portals, and by such other means as the Commission may direct.

*Abuse of market power.*

- 36. (1)** The Commission shall consider the need to prevent or to mitigate abuses of market power by its licensees, in its decisions and orders regarding-
- (a) licence applications and the grant of licences;
  - (b) licence terms and conditions;
  - (c) the approval of tariffs agreed to between licensees;
  - (d) whether or not to approve a merger, acquisition or affiliation; and
  - (e) such other matters relating to electricity services.
- (2) In discharging its ongoing responsibility to monitor the electricity businesses and Market to determine whether there is, or may be, an abuse of market power, the Commission shall be entitled to:
- (a) require information from licensees;
  - (b) undertake inquiries; and
  - (c) establish or contract with an independent entity to provide market monitoring and surveillance services.
- (3) If the Commission determines that there is an abuse of market power by anyone or more of its licensees, it may:
- (a) issue cease orders as may be required; and
  - (b) levy fines not exceeding five million naira (₦5,000000.00) for each day in which the abuse continues.

#### **PART V: ENUGU STATE ELECTRIFICATION AGENCY AND THE ENUGU STATE ELECTRIFICATION FUND**

*Establishment and composition of the Enugu State Electrification Agency.*

- 37. (1)** There is established an entity to be known as the Enugu State Electrification Agency, which shall be a body corporate capable of suing and being sued in its corporate name, and subject to this Law, of performing all acts that bodies corporate may by law perform.
- (2) The Agency shall have a Governing Board consisting of the following members appointed by the Governor, at least two of whom shall be female:
- (a) a part-time Chairperson;

- (b) three part-time members selected from the public or the private sector; and
  - (c) the Managing Director of the Agency:  
Provided that at least one part-time member shall be a person with training and cognate experience in procurement of goods, works, and services.
- (3) In appointing part-time members of the Governing Board, the Governor shall ensure that each appointee has public or private sector experience directly relevant to the utilities industry.
- (4) The Managing Director of the Agency shall be a person with educational or professional qualifications in economics, finance, engineering, law, business or utilities regulation and who has cognate experience in electricity sector operations or regulatory affairs, in addition to senior management experience gained in the public or private sector over a period not less than ten years
- (5) Save as provided in subsection (8), the members of the Governing Board shall serve in a part-time, non-executive management capacity, and be solely responsible for considering and approving the policies, projects, programmes, and decisions of the Agency.
- (6) All approvals made by the Governing Board shall be upon prior consideration of a duly written memorandum for approval presented to the Governing Board, but not by ratification of a prior decision made solely by the Chairperson or by the Managing Director, or by them both acting together.
- (7) A member of the Governing Board shall hold office for a term of four years renewable for a second and final term of three years only:  
Provided that of the first set of members, the Chairperson, a part-time member determined by the Governor, and the Managing Director shall have a full first tenure of four years each, and if their appointments are renewed, a second and final tenure of three years each; while two part-time members designated by the Governor shall have a first tenure of three years each and, if their appointments are renewed, a second and final tenure of three years each.

- (8) The Managing Director shall be the Chief Executive Officer of the Agency, and shall be responsible for ensuring execution of the decisions of the Agency and its approved policies, projects, and programmes, and for the day-to-day administration of the activities of the Agency.
- (9) The Agency shall be efficiently structured into such number of departments and their sub-units as its Governing Board may approve.

*Petitions to the  
Governing Board.*

- 38. (1)** A community, town or village that wishes to do so may submit a written petition to the Governing Board concerning the Agency's decision to classify a community, village, or town as "unserved" or "underserved" or in connection with the Agency's decisions on any application for grants from the Fund, but such petition shall be solely on the grounds that the Agency failed to follow the criteria posted on its internet portal or as stated in the State Electrification Strategy and Plan.
- (2)** A petition under subsection(1) shall provide particulars of the decision complained of and factual details in support thereof, followed by an appropriate argument, and conclude with a statement that the relevant criteria were not followed, either in determining the community, town or village to be unserved or underserved or in making a grant from the Fund, with a prayer as to the remedial measures that the Governing Board should take in regard thereto.
- (3)** The Board shall, within twenty-one days of the receipt of a petition, make its finding; and where it finds that the relevant criteria were not followed by the Agency, it shall immediately direct such remedial steps to be taken as requested by the petitioner or as it may otherwise or in addition determine as necessary to correct the Agency's error:  
Provided that the Board's dismissal of any petition submitted to it by an aggrieved community, town or village shall automatically be referred to the Governor.
- (4)** The Governor shall either approve the decision made by the Agency, or require the Agency to take such remedial actions, as may be determined to be appropriate to correct any error established to have been made by the Agency.

*Officers of the Agency.*

- 39. (1)** The Agency may appoint such other persons as its staff or officers by way of direct employment with the approval of the Governor, or by transfer of service or secondment with the collaboration of the State Civil Service Commission or the Head of the Civil Service of the State, as the case may be.
- (2)** The Agency may post any of its suitably-qualified officers to act as its Secretary, to keep the records and conduct the correspondence of the Agency, and perform such other duties as the Chairman or the Director-General may direct: Provided that the Secretary shall not be a member of the Governing Board of the Agency and shall be a person qualified to be a company secretary under the Companies and Allied Matters Act.
- (3)** The Agency shall at all times seek to employ and retain the most competent persons available for each staff position in the Agency.

*Conditions of service.*

- 40.** The Agency shall develop and submit for the approval of the Governor appropriate conditions of service concerning remuneration, allowances, fringe benefits, pension and gratuity scheme, and other benefits for the members of its Governing Board, Director-General and staff of the Agency, which would enable it to attract and retain high quality personnel.

*Contributory Pension Scheme for the Agency.*

- 41. (1)** There is established for the Agency a contributory pension scheme constituted under the relevant State Law for its staff, which shall be funded by contributions from the State Government and from the staff of the Agency respectively.
- (2)** Except for short-term contract appointments which shall not exceed a twenty-four-month non-renewable term, no appointment to the staff of the Agency or to carry out staff duties shall be made on terms that preclude the grant of pension and gratuity rights.

*Functions of the Agency*

- 42. (1)** The responsibility of the Agency shall be the administration of the State Electrification Fund and ensuring the full execution of the State Electrification Strategy and Plan, using the Fund.

- (2) Nothing in this section shall be construed as authorising the Agency to exercise regulatory functions over, or interfere with the functioning of, the Commission.
- (3) The Agency shall, no later than six months from the date of commencement of this Law,-
  - (a) determine the criteria for defining an “unserved” and an “underserved” community or area in the State, which criteria shall be posted in a statement on the Agency’s internet portal;
  - (b) applying the said criteria, undertake a survey to identify and enumerate each community, village, or town that is to be classified as “unserved” or “underserved”, and thereafter issue a declaration identifying by name and local government area every “unserved” and “underserved” community, village, and town in the State outside the places designated by the Governing Board as “urban areas”, which declaration shall be posted on the Agency’s internet portal;
  - (c) prepare and submit for the approval of the Governing Board a sustainable State Electrification Strategy and Plan that ensures the deployment of the Fund to the progressive and measurable provision of electricity connections, and reliable electricity supply to residents in the said “unserved” and “underserved” area.
- (4) The Agency shall, no later than twelve months from the date of the declaration in subsection (3)(b), and no later than the annual anniversary thereafter, refresh by a public notice the list of “unserved” and “underserved” communities, towns and villages in the State to indicate progress or otherwise in executing the State Electrification Strategy and Plan.
- (5) The Agency shall, no later than every fifth year following the approval of the State Electrification Strategy and Plan, review and, if necessary, modify, amend, or redefine the said Strategy and Plan and thereafter restate it in a new edition thereof.
- (6) The Agency shall, no later than 1<sup>st</sup> April each year, submit to the Governor the annual audited statement of accounts of the State Electrification Fund for the previous financial year.

- (7) The Agency shall, no later than twenty-one days after the end of each quarter in the calendar year, submit to the Governor its report on its progress in implementing the State Electrification Strategy and Plan, which shall include management accounts of the Fund, information relating to the utilisation of the Fund for its stated purposes, particularly the provision of any distributed generation and any mini-grid systems in “unserved” and “underserved” areas of the State, and the new metered connections thereby established and the extent of the utilisation of renewable energy generation and distribution or consumer home systems.
- (8) The Agency shall be responsible for the issuance of a Right-of-Way permit for all electrical construction and installations.
- (9) The Agency shall be responsible for the provision and maintenance of the electricity consumption apparatuses of all Enugu State Government offices and locations, as well as the management of all street lighting and traffic lighting infrastructure in the State.

*Powers of the Agency.*

- 43.** The Agency shall have the power to-
- (a) enter into any community, village, or town in the State for the purposes of conducting enumeration surveys provided for in section 42;
  - (b) set out the modalities for the administration of the Enugu State Electrification Fund established under section 46, and to administer and apply the Fund to the implementation of the State Electrification Strategy and Plan;
  - (c) collaborate and partner with public and private sector entities, development finance institutions, non-governmental organisations, and any individual or body in order to effectively carry out its functions under this Law, and to accept gifts and grants from them;
  - (d) source external funds and apply same to the carrying out of any project authorized by this Law for it to do;
  - (e) borrow money to do anything required under this Law;

- (f) open and maintain one or more bank accounts into which the monies of the Fund shall be kept;
- (g) do anything for the purpose of advancing the skills of persons employed by the Agency including the provision of facilities for training, education, and research;
- (h) own land or interest in land, and to dispose of the same when desired;
- (i) accept or acquire and hold any security of any kind in any form whatever;
- (j) surrender, re-transfer, or re-convey any security held by the Agency whether upon exchange for another security or upon discharge;
- (k) exercise any power, right or privilege in respect of any security held by the Agency in like manner as a private individual would be capable of exercising in like circumstances;
- (l) invest money standing to its credit, and not for the time being required for its purposes under this Law, in stocks, shares, debentures, promissory notes or other securities approved by the Governing Board, and to sell such stocks, shares, debentures or other securities with the approval of the Governing Board;
- (m) insure its properties against all forms of risks;
- (n) write-off bad debts with the approval of the Governing Board;
- (o) prohibit, control, and regulate the presence of any person or vehicle or thing on any premises occupied by the Agency; and
- (p) carry on all activities which are necessary, advantageous, convenient, or profitable to the Agency.

*Oversight of the Agency.*

- 44.** In the discharge of its functions under this Law, the Agency shall deliver statutory reports, and be subject, to the directives or approvals from, the Governor:  
Provided that no directive or approval from, or by the Governor in relation to the Fund shall be contrary to this Law.

*General funds of the Agency.*

- 45.** The funds of the Agency shall consist of:
- (a) a take-off grant provided by the Office of the Governor;

- (b) funds appropriated to the Agency by the House of Assembly, pursuant to an appropriation request made by the Agency through the Governor; and
  - (c) donations, grants-in-aid, and such other moneys as may accrue to the Agency, expressly for the purpose of its recurrent or capital expenditure,
- and shall be administered as the funds of the Agency separate and distinct from the State Electrification Fund established by this Law.

*The State  
Electrification  
Fund.*

- 46. (1)** There is established a fund to be called the Enugu State Electrification Fund.
- (2)** The sole purpose to which the Fund shall be applied shall be the implementation of the State Electrification Strategy and Plan by promoting, supporting, enabling, and undertaking collaboration and partnerships with public and private sector entities, development finance institutions, and non-governmental organisations and the various “unserved” and “underserved” communities, towns and villages of Enugu State in order to:
- (a) maximise the economic, social and environmental benefits of the Fund and such other available funding for capital expenditure to extend electricity access by residents in “unserved” and “underserved” areas of the State to the Market;
  - (b) ensure the expansion of the Market and the development of programmes that provide equitable access to, and use of, electricity in the Market by residents in unserved and under served areas of the State identified by the Agency; and
  - (c) promote and enable innovative approaches to the electrification of “unserved” and “underserved” areas of the State and enable their connection to the Market.
- (3)** The monies of the Fund shall be kept in a bank or banks, including the Central Bank of Nigeria, as may be approved or determined by the Governor; so provided that where such monies are contributed or obtained by the Agency in any currency other than the Naira, they shall be held in that currency in the said bank or banks and may not be converted to be utilised for the purposes of the Fund until

such a time as the specific project to which the said monies are to be applied is certified by the Governing Board as having been approved and ready for construction.

- (4) For the avoidance of doubt, the assets and monies in the Fund shall not be used in any manner whatsoever to defray or undertake the recurrent or capital expenditure of the Agency.
- (5) In the event that the Fund is abrogated or dissolved in any manner whatsoever, the cash and assets of the Fund shall immediately, and without further assurance, be liable to disaggregation and recovery by, and return to, each contributor to the said Fund or entity from which the said cash or asset was derived.
- (6) Pursuant to subsection (5), where any money in the Fund is liable to be returned to or recovered by any contributor or entity from which the money was derived it shall be so returned with interest accrued at the annual Central Bank of Nigeria treasury bill rate compounded annually to the date on which the said cash is returned or recovered.

*Assets of the  
Fund.*

47. The State Electrification Fund shall consist of the following capital, physical and in-kind assets:
  - (a) any funds of the Commission ascertained by audit as surplus to the budgeted requirements of the Commission;
  - (b) any fines imposed by the Commission pursuant to this Law;
  - (c) any donations, gifts, or loans in cash, physical and in-kind assets provided by international agencies, development finance institutions, non-governmental organisations, any state government of the Federation, the Federal Government, the local governments of a state, local communities, businesses or any other entity;
  - (d) such percentage of the annual turnover of State licensees as may be determined by the Commission as their contributions to the Fund, and any other monies that they may additionally contribute to the Fund;
  - (e) any monies appropriated by the Enugu State House of Assembly; and

- (f) any monies that may be appropriated by the local governments of the State from the funds accruing to them.

*Contributions to the Fund.*

- 48.** To the extent required by the State Electrification Strategy and Plan, the Commission may determine the contribution rates to be paid to the State Electrification Fund by any or all licensees.

*Criteria for allocating resources from the Fund.*

- 49. (1)** The Agency shall, in consultation with the general public, Market Participants in the State Electricity Market, the Governor-in-Council and such other stakeholders as it shall identify:

- (a) establish objective and transparent eligibility criteria for the allocation of resources from the Fund, which criteria shall be determined considering the need for financial support from the Fund, progress in increasing State electrification achieved through previous disbursements from the Fund and the existence of local matching contributions; and
- (b) develop an open, competitive and transparent procedure for selecting eligible projects to receive disbursements from the Fund.

- (2)** The eligibility criteria determined under subsection (1)(a) shall consider the following:

- (a) the extent to which the proposed project demonstrates technical feasibility and socio-economic value-for-money;
- (b) the extent to which the proposed project enables socio-economic development of the State and supports the priorities of the relevant unserved and underserved communities; and
- (c) the level of community and investor commitment to the proposed project.

- (3)** The selection criteria under subsection (1) (b), and the quantum of disbursement to each project, shall be determined and stated by the Agency considering the amount available in the Fund, the cost of each new connection created under the project, and Other objective criteria that the Agency may determine, such as proposed tariff and quality of service levels.

- (4) The eligibility and selection criteria applied by the Agency shall be reaffirmed, or as the case may be, reviewed and redefined, and the identification of eligible projects undertaken, annually.

*Accounts and  
Audit.*

50. (1) The Agency shall prepare and submit to the Governor not later than the date stated in the appropriate call memo but, in any event, no later than 30<sup>th</sup> September of every year, an estimate of its expenditure and income for the next succeeding year.
- (2) The Agency shall keep proper accounts in respect of each financial year, and proper records in relation to these accounts, and shall cause the accounts to be audited at the end of each financial year by a firm of auditors, selected from a list of auditors approved by the State Auditor-General.
- (3) The financial year of the Agency shall be the 1<sup>st</sup> January to 31<sup>st</sup> December.

*Coordination with  
the Commission.*

51. In overseeing the execution of the Reliability Plan, the Agency shall ensure constant coordination with the Commission.

#### **PART VI: MISCELLANEOUS PROVISIONS**

*Offences and  
Penalties*

52. (1) Any person who wilfully damages any electrical installations, appliances, or meters, or unlawfully taps off, diverts, or takes electricity from them, or interferes with them by any other means, for any purpose whatsoever, commits an offence and is liable on conviction to a fine of five million Naira (₦5,000,000.00) or to imprisonment for eighteen months.
- (2) Any person who alters, or causes to be altered, or permits to be altered, any electricity connection in the State without the consent of the Commission, or does so contrary to any regulations made under this Law commits an offence and is liable on conviction to a fine of three million Naira (₦3,000,000.00) or to imprisonment for twelve months.
- (3) A person who, in any premises occupied by him or his servants, -
- (a) puts, or allows to be put;

- (b) allows to remain, or to accumulate, any foul obstructive matter, earth, tree, excavated material, or erected installation in such a manner that it may fall on, or damage any electrical installation or its components, commits an offence and is liable on conviction to a fine of three million naira (₦3,000,000.00) or to imprisonment for twelve months.
- (4) Where the person in subsection (3), upon notice in writing from the Commission, fails to remove, or to cause to be removed, the foul obstructive matter, earth, tree, excavated material, or erected installation, he or she commits an offence and is liable-
- (a) on conviction to a fine of ₦3,000,000.00 (three million naira) or imprisonment for twelve months; or
- (b) to a fine of ₦50,000 (fifty thousand naira) for each day the offence continues.
- (5) A person who fails, upon notice in writing from the Commission, to take such steps as may be necessary to prevent any foul obstructive matter, earth, tree, excavated material, or erected installation from falling on, or damaging any electrical installation and its components, commits an offence and is liable on conviction to a fine of three million Naira (₦3,000,000.00) or imprisonment for twelve months.
- (6) A person who tampers with any part of any electrical equipment or facility, or wrongfully taps, or closes any control gear, switches, transformers or feeder pillars or other facilities belonging to any State licensee commits an offence and is liable on conviction to a fine of five million Naira (₦5,000,000.00) or to imprisonment for eighteen months.
- (7) A person who, required by regulation to furnish returns,-
- (a) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed;
- (b) furnishes a false or incomplete return; or
- (c) supplies false or incomplete information,
- commits an offence and is liable on conviction to a fine not exceeding five million naira (₦5,000,000.00) or to imprisonment for eighteen months, or to both such fine and imprisonment.

- (8) A person who:
- (a) wilfully delays or obstructs an inspector in the exercise of the powers or duties conferred or imposed upon him by, or under this Law; or
  - (b) fails or refuses, without reasonable cause, to give information to an inspector when required to do so under this Law, or gives false or incomplete information,
- commits an offence and is liable on conviction to a fine not exceeding five million Naira (₦5,000,000) or to imprisonment for a period of eighteen months, or to both such fine and imprisonment.
- (9) A member or officer of the Commission who contravenes section 30 is liable on conviction to imprisonment for one year, in addition to a fine of two million naira (₦2,000,000.00).
- (10) Where an offence under this Law is committed by or on behalf of a juristic entity, "person" shall include the Chief Executive Officer of such an entity.
- (11) Any person who contravenes any provision of this Law or any guidelines, orders or regulations made pursuant to this Law commits an offence and is liable on conviction, where no specific penalty is prescribed:
- (a) as a first offender, to a fine not exceeding five hundred thousand Naira (₦500,000.00) per day for each continuing infraction or imprisonment for six (6) months, or both;
  - (b) for subsequent convictions, to a fine not exceeding one million Naira (₦1,000,000) per day for each continuing infraction, or imprisonment for one (1) year or both.
- (12) A person or entity who undertakes any electrical construction or installation without first obtaining a Right-of-Way permit from the Agency commits an offence, and is liable on conviction to bear the cost of removing such construction or installation in addition to a fine of not less than five million Naira (₦5,000,000.00) or to imprisonment for eighteen months or to both such fine and imprisonment.

*Fine for non-payment into the Fund.*

- 53.** Any person who fails to pay into the Fund, within the prescribed time period, any amount owing under sections 45 and section 48 shall be liable to a fine not less than three times, or more than seven times the amount owed.

*False Declaration.*

- 54.** Any person who, in any declaration required to be made under this Law, makes any statement which he or she knows to be false or does not have reasonable grounds to believe to be true commits an offence and is liable on conviction to a fine of five hundred thousand Naira (₦500,000.00), or imprisonment for six (6) months, or both.

*Powers of Inspectors to enter, inspect, etc. Premises.*

- 55. (1)** Subject to subsection (4) of this section, an inspector-
- (a) may, at all reasonable times, enter the premises of-
    - (i) a licensee; or
    - (ii) any other person upon which the inspector has reasonable cause to suspect an offence against this Law has been committed; and
  - (b) shall have power to make such examination, inspection, and inquiry, and do such things as may appear necessary for ascertaining whether compliance has been made with this Law.
- (2)** Subject to subsection (4), all books, records, accounts, and documents required to be kept by a licensee under the terms and conditions of its licence, or by virtue of an order or regulation of the Commission, shall be open to inspection at all reasonable times by an inspector.
- (3)** Subject to subsection (4), an inspector may inspect, at all reasonable times, a station or other equipment, or apparatus, or premises worked or used by, or in the possession or under the control, of a licensee.
- (4)** The powers of entry and inspection conferred by this section shall only be exercised in accordance with the consent of the person in charge of the premises concerned or in accordance with a search warrant issued by a magistrate having jurisdiction over such premises, upon an application made to the magistrate by the Commission.
- (5)** An inspector exercising powers conferred by a search warrant issued under subsection (4), may, on behalf of the Commission, seize any equipment, apparatus, book, record, or document which the inspector has reasonable

cause to suspect will afford evidence of the commission of an offence against this Law and the Commission may retain it for so long as may be necessary for the purpose of any examination, investigation, trial or inquiry.

- (6) An inspector shall, on demand by any person affected by the exercise of the powers conferred upon him by this section, exhibit the certificate issued to him under section 14(1).

*General Policy Directives.*

56. The Governor may issue general policy directives to the Commission, or to the Agency, and the Commission or the Agency, respectively, shall consider the policy directives issued in its deliberations and decision-making on the matter in question:  
Provided that such directives shall not be in conflict with the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and this Law.

*Subsidiary Legislation of the Commission.*

57. (1) The Commission may issue guidelines, orders and regulations by whatever name called on all matters which by this 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 this Law.
- (2) Regulations made pursuant to subsection (1) may provide for the imposition of penalties not exceeding five hundred thousand naira (₦500,000.00) per day of default for contravention of the said regulations.

*Subsidiary Legislation of the Agency.*

58. The Agency may issue such guidelines, rules and orders in relation to the conduct of its internal affairs and on other matters which by this Law are required or permitted to be Prescribed or which, in the opinion of the Agency, are necessary or convenient to be prescribed for carrying out or giving effect to this Law.

#### **PART VII: FINAL PROVISIONS**

*Repeal*

59. The Rural Electrification Law, Cap 140 Revised Laws of Enugu State 2004 is repealed, and the Board created under the Law is dissolved.

*Savings and transfer of assets and liabilities.*

- 60. (1)** There shall be vested in, and transferred to the Agency without further assurance all asset and liabilities, and movable and immovable property of the Rural Electrification Board dissolved by this Law.
- (2)** The staff that were immediately before the commencement of this Law posted to, or employed at the Rural Electrification Board may upon their written applications, and at the discretion of the Commission and of the Agency, be transferred to either the Commission or the Agency.
- (3)** The Governor may, by order, direct that any member of staff of the Ministry of Energy and Mineral Resources, and the Rural Electrification Board be transferred to any post within the Enugu State Public Service other than the Commission or the Agency, as may be determined by the Head of the Civil Service of the State.
- (4)** Notwithstanding the repeal, vesting and transfer herein made, the members of staff of the Rural Electrification Board transferred to the Agency, Commission, or elsewhere in the Enugu State Civil Service or the Public Service shall retain their employment rights, privileges, obligations, and seniority in the Agency, Commission, or in such other establishment of the Enugu State Government to which they may ultimately be transferred.
- (5)** The Agency shall be subject to all the obligations and liabilities to which the Board dissolved in section 59 was subject immediately before this Law, and all other persons shall have the same rights, powers, and remedies against the Agency as they had against the Board immediately before the commencement of this Law.
- (6)** The Governor may resolve, by administrative orders or directives, any matter that arises consequent upon the transfers and repeal provided in this Law.

*Transitional Provisions.*

- 61. (1)** Subject to the provisions in this section, a State-based subsidiary that wishes to participate in the State Electricity Market and, which is created by a Pre-existing Licensee, shall be deemed to be entitled, upon application by it to the Commission, to an appropriate licence issued under this Law on terms no more and no less favourable than those issued by the Nigerian Electricity Regulatory Commission.

- (2) Immediately following the grant of Governor's assent to this Law and the physical establishment of the Commission, the Commission shall engage with the Nigerian Electricity Regulatory Commission, any other relevant Federal Government entity and with any relevant Pre-existing Licensees with a view to ensuring that compliance with the transitional provisions of the Electricity Act, 2022 is timeously effected.
- (3) Following discussions between the Commission, the Nigerian Electricity Regulatory Commission and any relevant Pre-Existing Licensee, the Commission shall grant an appropriate licence to the State-based subsidiary referred to in subsection (1) hereof and sections 19 and 22 of this Law.
- (4) Upon the issuance of the licence by the Commission according to subsection (3) hereof, the subsidiary company of the Pre-Existing Licensee shall become subject to regulation by the Commission from such a time, and in accordance with the terms and conditions of the licence issued.

**SCHEDULE**

[Section18(6)]

**A. SOME FACTORS TO BE CONSIDERED IN PREPARING THE ENUGU ELECTRICITY RELIABILITY PLAN**

- (i) **A Consultative Process:** This planning process starts with the enactment of guide lines by the Commission that adopt an open and inclusive stakeholder consultation process that takes various issues into account, including the State's socio-economic and electricity policies/data/assumptions and estimated needs, climate change and natural resource conservation, customer concerns, operator and investor concerns, Federal Government electricity policy, national security and fuel supply volatility issues;
- (ii) **A Load Forecast:** Develop a load forecast that weighs projected demand against the available generation sources and measures the potential for deploying these sources (particularly renewable energy systems) along with local demographic and economic factors particularly in the light of the State Electricity Policy's expectation of having an 800MW electricity market within the next 5-6 years. The load forecast will also consider that the State's forecasts are starting from a low base of actual use in depressed socio economic conditions;

**Technology and Fuel Neutrality:** It is acknowledged that within Enugu State are massive reserves of natural gas and renewable energy sources. Hydroelectric capacity from existing and forthcoming generators are also close by and can conceivably be delivered economically into the State. Generation technologies utilising these fuel sources are also varied and easily available. In addition, renewable energy sources and technologies are becoming exponentially cheaper, more readily available and increasingly easier to finance. A transparent consideration of all these factors, the comparative costs they carry, the effects of these costs at State and local levels in Enugu State and the relationship between these costs at the vital customer end, is important in developing a credible electricity reliability plan for the State.

**B. SOME DISCUSSIONS TO BE HAD IN PREPARING THE ENUGU ELECTRICITY RELIABILITY PLAN**

- (i) **Reserves and Redundant Capacity:** Ideally, the Market should have capacity equal to forecast peak demand at the time it is needed, in order to be considered reliable. Reserve requirements will therefore account for factors, including the nature of base load/long-run and intermittent energy sources, peculiar system characteristics, forced outage and scheduled maintenance

expectations, number and size of generation units serving the State, size of the State, quality of interconnection with, and prospects for support from the national grid when required; and the effectiveness of intervention and emergency response procedures.

- (ii) **Energy Conservation/Efficiency Policy:** This has been much less of a factor in Nigeria because demand is so great, public supply is so intermittent and so small that customers must depend on individually-maintained backup power, so much so that demand response management or efficiency measures have so far been needless or, where applied, ineffective.

Again, given the low base from which Enugu State is starting vis-à-vis great demand, in adequate supply and the widespread use of highly inefficient alternative power options, demand response and conservation will initially be managed by, paradoxically, creating demand. This means getting more customers to depend on larger public supply systems for their electricity needs and thereby reduce the huge recurrent expense that they incur daily on power back up.

Therefore, conservation and efficiency may be measured initially by such elementary standards as number of trees not cut down for firewood, number of MWh delivered to more communities, number of MWh delivered to an increasing number of commercial and industrial customers, increasing volumes of natural gas delivered to an increasing number and increasingly more efficient generation machines – in short, by the increase in size of the Enugu State Electricity Market and its uptake of renewable energy resources; and the attendant reduction in dependence on inefficient alternative back-up systems. This will probably be the case in the first 5 – 7 years of the Market before a more traditional application of demand response management measures kicks in.

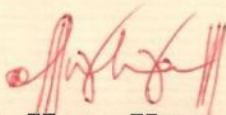
### **Explanatory Note**

This Law repeals the Rural Electrification Law, Cap 140 Revised Laws of Enugu State 2004; to make provision for Electricity and its Generation, Transmission, and Distribution within, and for the residents of Enugu State; to establish an Electricity Market for Enugu State and for Connected Purposes

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This printed impression has been carefully compared by me with the Bill which has been passed by the House of Assembly of Enugu State of Nigeria, and is found by me to be a true and correctly printed copy of the said Bill.

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**Rt. Hon. Ugwu Uche**  
Speaker of the House of Assembly



**Dr. Emmanuel Okey Udaya, CNA, ACArb**  
Clerk of the House/Perm. Sec.



**Dr. (Barr.) Peter Ndubuisi Mbah**  
Governor of Enugu State