

ENERGY SECTOR REVIEW 2023



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INTRODUCTION

The Energy sector comprising of the oil, gas, mining and electricity sectors in Nigeria witnessed significant legal, regulatory, and institutional reforms in the year 2023. The regulators and quasi regulators of the sectors, such as the Nigerian Upstream Regulatory Commission (NUPRC), the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) for the oil and gas sector issued licences and new regulations for the development of the sector. Also, following the constitutional amendments that paved the way for the enactment of a new Electricity Act in June, the electricity regulator Nigerian Electricity Regulatory Commission (NERC), outlined licenses and permits under the new law, each tailored for specific activities within the power sector. The passage of the Electricity Act 2023 was a major milestone for Nigeria's energy transition programme as one of the objectives of the Act is to promote renewable energy development Nigerian Electricity Supply Industry (NESI).

For the Mining sector, strategic moves were made by the Government to reposition the industry for strategic growth and make the sector a major contributor to Nigeria's GDP come 2025.

In this review, we analyze the various legal, regulatory, and institutional developments in the Energy sector and how these developments impacted Nigeria's economic growth in 2023.

PETROLEUM SECTOR

2023 marked two (2) years since the passage of the Petroleum Industry Act 2021(enacted on August 16, 2021). In an earlier publication during the course of the year, we comprehensively evaluated not only the industry's response in terms of adherence to some of the Act's objectives which includes accountability and transparency; but also, gauged the economic repercussions of the newly introduced reforms and how these are aligned with the government revenue objectives and sustained industry growth.¹

2022 Mini Bid Round:

The Nigerian Upstream Petroleum Regulatory Commission's (NUPRC) commenced the 2022/2023 Mini Bid Round (MBR) by holding a Pre-bid conference on the 16th of January, 2023.

The Mini Bid Round which is a pivotal step in the post- PIA era, offers seven (7) deep offshore oil blocks, spanning approximately 6,700 km², in water depths ranging from 1,150m to 3,100m. This marked a significant milestone in the upstream oil and gas sector as it was the first bid for deep offshore oil and gas assets since the enactment of the PIA in 2021 and the first offering of oil acreages in 15 years. At present, 34 companies and

¹ <https://lnkd.in/dAuY48y9>

consortiums have been pre-qualified to participate in the bid round.²

The Fuel Subsidy Removal:



The newly elected of Nigeria President Bola Ahmed Tinubu during his inauguration speech on May 29, 2023 announced the removal of fuel subsidy as part of this economic reforms. The subsidy removal is aimed at introducing market-driven prices, greater market participation, and fostering efficiency.

Issuance of New Licenses Under the PIA

In October, the NUPRC granted a Petroleum Exploration License (PEL) to TGS-Petro Data Offshore Services Limited (TGS-PD), thus marking a first exploration license to be awarded under the newly enacted Petroleum Industry Act. This development signifies a significant step forward in the revitalization of the petroleum sector.

Stakeholder Engagement for Regulatory Enhancement

Pursuant to the PIA, the regulatory authorities, NMDPRA and the NUPRC took proactive steps to engage industry stakeholders in shaping critical regulations. This inclusive approach signifies a significant milestone in the post-PIA era.

a) NMDPRA's Solicitation of

Stakeholder Input: In September, the NMDPRA's Chief Executive Officer invited licensees, permit holders, and other stakeholders in the midstream and downstream petroleum sector to contribute their insights within a 21-day window. The solicitation covered crucial regulations, as well as the Midstream and Downstream Petroleum Code of Conduct; Registration and Publication of Licenses; Data Repository; Anti-Competition; Customer Protection; Separation of Licensed Activities; Third-Party Access and Disposal of Confiscated Materials and Equipment.

b) NUPRC's Consultation to Finalize Seven Regulations:

The NUPRC also initiated consultations with stakeholders to finalize seven draft regulations. These regulations address a spectrum of key aspects for oil and gas operations and include Commercial Operations, Code of Conduct Compliance, Petroleum Development Contract, Revocation of Licenses, Assignment of Interest, Administrative Harmonization, and Amendments to Host Communities Development Regulations. This engagement process exemplifies a commitment to regulatory transparency and effectiveness in the upstream petroleum sector.

NMDPRA introduced Six (6) new regulations

Pursuant to the provisions of the PIA 2021, the Authority (NMDPRA) introduced six (6) new regulations designed to aid operations in the

² <https://br.nuprc.gov.ng/bid-publications/prequalified-companies> accessed on 19th October,2023

midstream and downstream sector of Nigeria³ in Q1 2023. They are as follows:

- a. Midstream and Downstream Petroleum operations;
- b. Natural Gas Pipeline tariff;
- c. Gas pricing and Domestic demand;
- d. Assignment or transfer of Licence regulation;
- e. Petroleum transportation and shipment regulation; and
- f. Petroleum measurement regulations.

FG Commissioned Dangote Oil Refinery

The outgoing President Muhammadu Buhari commissioned the 650,000 barrels per day Dangote refinery located at the Lekki free zone near Lagos before the end of his tenure.

NUPRC Declared 42 Oil and Gas Companies' winners of Bid on Gas Flare Programme

In September, the upstream regulator announced that 42 indigenous oil and gas companies had emerged winners of 49 flare sites in the 2022 Nigerian Gas Flare Commercialization Programme (NGFCP) bid process.⁴

Afreximbank, Alphaden Energy & Oilfield Limited Signed \$60M 7-Year Term Loan Agreement for Gas Processing Facility in Nigeria

The African Export-Import Bank (Afreximbank), entered into a 7-year term loan agreement with Nigeria's Alphaden Energy & Oilfield Limited for the construction of a 20 million standard cubic feet per day gas processing facility in Bayelsa State, Nigeria.

NMDPRA issued the First Wholesale Gas Supply License to Uhuru Trading under the PIA



The Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA), the regulator for the midstream and downstream oil and gas industry granted the first wholesale gas supply license, authorizing Ohuru Trading Limited, a local firm, to supply 500 million standard cubic feet of gas per day under the new gas licensing regime.

NNPC Limited, NCDMB, IOCS signed MOU to reduce contracting cycle

The Nigerian National Petroleum Corporation Ltd and the Nigerian Content Development & Monitoring Board (NCDMB) signed a Memorandum of Understanding with the International Oil Companies (IOCs) to reduce the contracting cycle to an optimal level of not more than 180 working days. This will hopefully fast track the final investment decision (FID) on major oil and gas projects which hitherto had stalled.

Greenville LNG Launched Liquefied CNG Station in Kaduna

Greenville LNG launched the first-ever Liquefied Compressed Natural Gas station in Nigeria. The Liquefied Compressed Natural Gas (L-CNG) station, situated in Kaduna state, marks a significant milestone in Nigeria's energy landscape, as the pioneering L-CNG station, in the country.

³ <https://www.premiumtimesng.com/business/589724-nigerian-petroleum-agency-introduces-6-regulations-for-midstream-downstream-sectors.html>

⁴ https://www.arise.tv/nuprc-gas-flare-commercialisation-scheme-to-add-1bn-to-gdp-cut-emissions-by-40/#google_vignette

Nigeria and Germany signed Gas Deal

Riverside LNG of Nigeria and Germany's Johannes Schuetze Energy Import AG signed an MOU on a gas export partnership. Under the accord, Nigeria will supply 850,000 tons of natural gas to Germany annually which is expected to rise to 1.2 million tons. Nigeria holds Africa's largest gas reserves of more than 200 trillion cubic feet, but flares about 300 million cubic feet daily due to inadequate processing facilities. It is projected that this deal will facilitate the processing of about 50 million cubic feet per day of natural gas that otherwise would have been flared.

NUPRC Issued New Set of Regulations

Pursuant to its powers under the PIA, the NUPRC issued the following regulations: the Domestic Crude Oil Supply Obligation in a bid to insulate domestic refineries from the adverse impact of crude oil supply shortages on their operations; the Significant Crude Oil and Gas Discovery Regulations 2023 which is applicable to prospecting petroleum licenses issued or preserved under the PIA which have declared discovery of significant oil or gas in accordance with the PIA and; the Gas Flaring, Venting and Methane Emission (Prevention of Waste and Pollution) Regulations issued to reduce the environmental and social impact caused by flaring and venting of natural gas and fugitive methane emissions into the atmosphere, protect the environment and prevent waste of natural resources, enhance energy transition in Nigeria and create social and economic benefits from gas flaring and venting capture.

ENI Sold Stake in Nigerian AGIP Oil Company to Oando.

Italian oil major, Eni signed an agreement with Oando, an energy solutions provider, for the sale of all its stake in Nigerian Agip Oil Company Ltd (NAOC Ltd), a wholly-owned subsidiary focusing on onshore oil & gas exploration and production in Nigeria, as well as power

generation. NAOC Ltd presently has interests in 6 onshore oil blocks (OMLs 60, 61, 62, 63), which it operates on behalf of NAOC JV (operator NAOC Ltd 20%, Oando 20%, NNPC E&P Limited 60%), (OPLs 282 and OPL 135), and the Okpai 1 and 2 power plants (with a total nameplate capacity of 960MW).

Oando Secured \$800m Afreximbank Commitment for AGIP's Assets Acquisition

Afreximbank and Oando Plc, one of Nigeria's leading indigenous energy solutions providers recently executed an \$800 million loan facility for the acquisition of 100 per cent of the shares of the Nigerian Agip Oil Company (NAOC). The deal was a significant and strategic acquisition of 20 per cent participating interest in the Nigerian Agip Oil Company Limited across OMLs 60, 61, 62 and 63. Upon completion of the assets acquisition transaction, subject to Ministerial Consent and other required regulatory approvals, Oando's current participating interests in OMLs 60, 61, 62, and 63 would rise from 20 per cent to 40 per cent.

POWER SECTOR



Constitutional Amendment to Allow States Generate and Transmit Electricity

In March 2023, the legislature passed the constitutional amendment that allows states in the country to license, generate, transmit, and distribute electricity. By implication, this meant that the 36 states of the federation now have

autonomy to generate, distribute and regulate power within their respective territories in areas covered by the national grid.

Enactment of the Electricity Act 2023 (EA)



In June 2023, the Electricity Act 2023 (the “EA” or “the Act”) was passed replacing the Electric Power Sector Reform Act of 2005 (the “EPSRA”). The EA consolidates all laws relating to electricity in Nigeria across the entire value chain of the Power Sector, including the integration of renewable energy to Nigeria’s energy mix. Some of the key innovations of the Act for more efficient administration and governance Regime: include

- i. **Creation of Enhanced and Strengthened Regulatory Bodies:** This will allow for efficiency of the Nigeria Electricity Supply Industry (NESI). Some of the regulatory bodies include The Nigerian Electricity Regulatory Commission (NERC) which is the apex regulator; the National Hydroelectric Power Producing Area Development Commission (**N-HYPPADEC**); the Rural Electrification Agency; and the Nigerian Electricity Management Services Agency amongst others.
- ii. **Formulation of National Integrated Electricity Policy and Strategic Implementation Plan (NIEPSIP):** The Act mandates the Minister of Power to prepare and publish a Strategic Implementation Plan (NIEPSIP), within a year from the commencement of the Act, after due consultation with relevant stakeholders and

government authorities. An approved plan is expected to be reviewed periodically not later than every five years.

- iii. **Unbundling of the Transmission Company of Nigeria:** The Act unbundled the Transmission Company of Nigeria PLC to allow for more efficiency. The Act further provides for public-private partnership arrangements between the Federal or State governments and private companies for investment in transmission networks in line with the provisions of the Act and the relevant framework on infrastructure concessions and public-private partnerships in Nigeria.

Other innovations created by the Act include:

- a) **Renewable Energy Promotion:** The new Act prioritizes renewable energy projects, offering incentives and support for ventures in solar, wind, hydro, and other sustainable technologies.
- b) **Creation of State Electricity Markets:** To reduce reliance on the national grid, the Act empowers states to enact electricity laws at the state level and have in place a regulatory body to license electricity generation, transmission, and distribution activities in their territories.
- c) **Mini-Grids and Off-Grid Solutions/Investments:** There are numerous opportunities for investments in rural, unserved, underserved and peri-urban areas, through the utilization of conventional and renewable energy off-grid and mini-grid solutions.

- d) **Bankability:** The introduction of a comprehensive legal and institutional framework to guide the operation of a privatized, *contract and rule-based competitive electricity market* in Nigeria, prospective lenders may be more receptive in renewing their appetite to funding new electricity projects.
- e) **Government Initiatives and Support:** Various fiscal incentives, including tax holidays are available to investors particularly those investors contemplating renewable energy projects.

The NERC's Consumer Protection Regulation of 2023

This regulation was released in March, 2023, was made pursuant to the NERC's power under sections 80 and 96 of the now repealed EPSRA. The overriding objective of this regulation is to protect consumers from the activities of electricity distribution companies.

NERC Second-Quarter Report –

- a) **Seven Million Customers Unmetered as Power Generation Drops To 4,387mw:** In its second quarter report, the Nigerian Electricity Regulatory Commission (NERC), reported that out of 12,561,049 registered electricity customers, 44.16 % (5,546,483) of them are metered, leaving 55.84% (7,014,566) of customers unmetered. The report stated that 16 out of the 26 grid-connected power plants recorded a decrease in total generation in 2023/Q2 compared to 2023/Q1, resulting in a decrease of -5.17% (-483.19GWh) from 9,350.24GWh generated in 2023/Q1.
- b) **Issuance Of Trading Licences:** NERC issued two trading licenses to Electric Utility Nigeria Limited and Onction Services Limited respectively.

- c) **Captive Power Generation Permits:** The NERC also granted licenses to three companies to operate captive power plants with a combined capacity of 20.06 megawatts. The companies are Tower Alloys Industries Limited, Junaid Synergy Limited, and Okomu Oil Palm Limited.

- d) **Mini Grid Permits 2023:** Further to section 165(1)(m) of the EA 2023, the NERC issued 10 Mini Grid Permits. The companies issued the permits include: Powergen Nigeria Assets Limited, Darway Coast Nigeria Limited, Bagaja Renewable Limited, Bagaja Renewable Limited, Solmenz Engineering Venture Nigeria Limited, A4&T Projects Limited, GVE Projects Limited and Everlink Telesat Network Limited respectively.

- e) **Meter Service Providers 2023:** NERC has certified 4 Meter Service Providers (MSP), two of whom are metering installing companies, one a meter manufacturer and the last a meter importer. The companies respectively are Zeetric Engineering Nigeria Limited, Morgan Energy Limited, Pactim Metering Nigeria Limited and Maskh Nigeria Limited.

- f) **Meter Asset Providers 2023:** The NERC certified 2 Meter Asset Providers within the 2023/Q2. The companies are Kayz Consortium Limited and Crestflow Energy Limited.

- g) **Enugu State Government Creates its own Electricity Market**
Following the enactment of the Electricity Act 2023, which decentralizes - electricity generation, transmission and distribution thereby empowering states, to create electricity markets, Enugu State Government has passed its own electricity law.

h) **Approval of the Increase in Prepaid Meter Prices by The Nigerian Electricity Regulatory Commission**

By virtue of a circular dated 5th September 2023 issued by the Chairman of the Nigerian Electricity Regulatory Commission (NERC), NERC approved the increase of prices for prepaid electricity meters utilized in Nigeria. The purpose of the increase is to ensure a fair and reasonable pricing of meters to Meter Asset Providers (MAP) and end users of electricity.

MINING SECTOR



FG Revoked 1,633 Mining Licences Over Non-Payment of Service Dues

The Federal Government has revoked 1633 mining licences due to non-payment of annual service fee by operators. The revocation was in accordance with the powers conferred on the Minister of Solid Minerals by Section 5(a) of the Nigerian Mineral Mining Act (NMMA) 2007. The titles revoked include: 536 Exploration Licenses; 279 Quarry Licenses; 787 Small Scale Mining Licences and 31 Mining Leases.

Ministry of Solid Minerals Launched Revised Guidelines for Community Development Agreement (CDA)

The Ministry of Solid Minerals Development recently launched the revised guidelines for Community Development Agreement (CDA). This will help improve the relationships between mining companies, their host communities, government, civil societies and other stakeholders, and help promote sustainable and mutually rewarding benefits from mining projects to the host communities.

FG Secured USA Support in Funding Mining Projects in Nigeria

The Federal Government of Nigeria and the Government of the United States of America (USA) have initiated discussions on financing mining projects in Nigeria. The USA is willing to coordinate with relevant agencies to collaborate with their Nigerian counterparts and develop a framework for this partnership.

CONCLUSION

There were significant developments, policies, legislation and reforms in the Energy sector in the year 2023. These developments have had varied impacts on stakeholders in the sector and further effects on the ecosystem may start manifesting in 2024. This would be particularly significant in how the sector operationalises the new legislations, Guidelines, directives and policies issued in 2023.

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