

**CLEARING THE PATH FOR POWER:
NAVIGATING WAYLEAVE DISPUTES IN
NIGERIA'S ELECTRICITY SUPPLY INDUSTRY**

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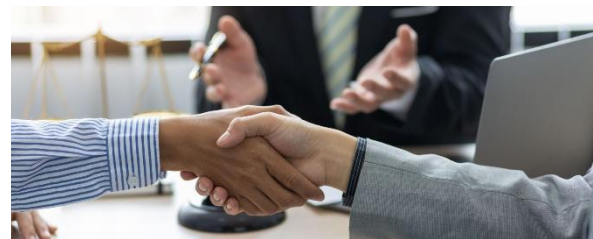
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The rapid expansion of electricity networks across Nigeria, spurred by the Electricity Act 2023 and the anticipated 2025 amendment, has brought the often-overlooked issue of wayleaves firmly into the spotlight. Wayleaves, the legal rights to install and maintain electricity lines over or under private land, are the invisible scaffolding on which the national electricity grid is built. Without them, transmission lines, substations, and distribution networks simply cannot be developed at the pace at which the Nigeria electricity market demands. Yet, while these rights are essential for public utility, their exercise often collides with property rights, community expectations, and environmental sensitivities. The result since the privatisation of the Nigeria electricity supply industry has been a steady rise in disputes and litigation that, if not stemmed, risk slowing the very infrastructure roll-out the country urgently needs.

Under Nigeria’s legal framework, wayleaves draw authority from several overlapping sources: the Electricity Act 2023 (which retained the old Acquisition of Land and Access Rights for Electricity Projects Regulations), the Land Use Act 1978, and constitutional protections. Together, they give licensed operators within the electricity value chain the power to access land for constructing and maintaining electricity transmission and distribution lines, but always subject to procedural safeguards and compensation. In theory, the process is

orderly: notice is given, negotiations occur, and disputes are resolved through assessors and agreed mechanisms. In practice, however, disagreements frequently arise. Communities often argue that they were inadequately consulted, that compensation was below market value, or that construction threatens farmland, homes, or sacred and environmentally sensitive sites. For their part, licensees face shifting regulatory landscapes, jurisdictional tussles between courts, and a lack of clarity on valuation standards that can delay projects and drive up operating costs.



The courts have been called upon to navigate these tensions, often under difficult circumstances. One recurring issue is compensation. Communities are quick to challenge offers they perceive as unfair, particularly when transmission lines cut through fertile agricultural land or developed plots. Nigerian courts have repeatedly affirmed that statutory powers cannot override constitutional protections of property, insisting on adequate compensation for economic losses and, in some cases, halting projects until such compensation is properly addressed. This reflects a consistent judicial approach: infrastructure is vital, but the rule of law and the rights of affected parties must not be sacrificed in the process.

Environmental and cultural concerns also complicate the picture. Communities have successfully argued that proposed lines threaten sacred land, water sources, or fragile ecosystems, with courts willing to grant injunctions or order reassessments of environmental impact even where projects

are deemed urgent. These outcomes underscore that procedural compliance – such as conducting thorough environmental and social impact assessments and engaging meaningfully with local stakeholders – is not just a regulatory formality but a crucial risk-management tool. Projects that neglect these steps not only face legal jeopardy but also suffer reputational harm that can strain relationships with regulators and financiers.

Much of the litigation that arises in this area is, at its core, avoidable. Failures to do proper environmental and cultural due diligence on land, to give proper notice, to engage community leaders early, or to follow prescribed procedures under the law frequently lead to legal challenges that can stall projects indefinitely. For project sponsors operating under tight timelines and investor scrutiny, such avoidable disputes represent significant commercial and operational risk.

In other jurisdictions, dedicated systems have helped strike a more stable balance. In the United Kingdom, for example, disputes over electricity wayleaves are channelled to the Upper Tribunal (Lands Chamber), a specialist forum designed to deliver quick, expert determinations and fair compensation awards. South Africa’s Electricity Regulation Act takes a different approach, requiring utilities to comply with environmental obligations and obtain expropriation orders through the courts, but always tying compensation to transparent market-based valuations. Both models offer lessons for Nigeria. Streamlined, specialist adjudication and predictable valuation standards can reduce bottlenecks while respecting community rights.

Looking ahead, several systemic challenges will need to be addressed if Nigeria’s electricity infrastructure is to expand at the pace envisioned by current reforms. Chief

among these is the absence of a harmonized regulatory approach to wayleaves. With empowerment of states to establish their own electricity regulatory bodies, the risk of overlapping rules and dual licensing regimes is real. Without careful coordination between the Nigerian Electricity Regulatory Commission (NERC) and emerging state electricity regulators, inconsistencies in wayleave enforcement and compensation could proliferate, making it harder for investors to plan and for licensees to execute projects.

Equally pressing is the lack of a national standard for valuing wayleave compensation. Presently, under the current regulations, valuations vary widely by project, location, and chosen assessor because of the level of discretion the regulations vests on the assessor. However, since the assessors are appointed by the regulator with no input from the landowners, there is a perception that the assessors tend to lean towards the licensees (also perceived to be close to the regulator), fuelling disputes and mistrust. Establishing a uniform framework for assessment with enhanced stakeholder engagement (especially with stakeholders from outside the ‘system’), perhaps with standardised templates tied to published market data and independent valuation mechanisms, would go a long way toward reducing friction and litigation. There should also be clear dispute resolution timelines.

Alternatively, establishing a dedicated wayleave tribunal could provide a single, authoritative forum for disputes, reducing perceptions of lack of independence and inconsistent decisions. Mandating mediation or other alternative dispute resolution processes (as Lagos State does in its new Electricity Law) before going to the tribunal or litigation could also encourage earlier settlements and preserve relationships

between licensees and host communities. Clearer statutory safeguards around notice, engagement, and environmental screening would both reduce disputes and build confidence that infrastructure development is being pursued fairly, without allowing wayleave disputes to stall projects indeterminably.

For businesses operating in or entering Nigeria’s power sector, these issues are more than abstract legal debates. They affect timelines, financing, and reputational risk. A transmission line held up by litigation can jeopardise entire generation projects and frustrate regulatory performance targets. Distribution companies face similar risks when expanding networks into underserved areas. As such, a proactive strategy is essential. Early community engagement, meticulous compliance with statutory procedures, the use of alternative dispute resolution to head off litigation, and careful monitoring of regulatory developments can save time, money, and goodwill.

Working with experienced legal and advisory teams who understand both the regulatory landscape and the practical realities of infrastructure development can also be the difference between projects that stall in courtrooms and those that deliver power where it is needed most.

As Nigeria moves deeper into decentralisation and seeks to meet ambitious electrification goals, the wayleave regime will need to evolve. A transparent, harmonised, and efficient system—backed by specialist dispute resolution and consistent compensation standards—is no longer just desirable. It is indispensable for ensuring that the country’s power sector can grow at the scale and speed required to meet demand, while safeguarding the rights and expectations of the communities it serves. Those who plan ahead and engage with these

challenges proactively will be best placed to thrive in the new energy landscape.

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