

HIGHLIGHTS OF THE NERC'S METER ASSET PROVIDER AND NATIONAL MASS METERING REGULATIONS, 2021.

Introduction

Sometime in 2018, the Nigerian Electricity Regulatory Commission **(NERC or the Commission)** issued the Meter Asset Provider Regulations 2018 **(MAP Regulations)** as a regulatory initiative designed to eliminate estimated billing practices in the Nigerian Electricity Supply Industry **(NESI)**, and accelerate the closure of the metering gap of about 10 million meters over a period of three years.

The MAP Regulations relieved the Electricity Distribution Companies **(DisCos)** of metering services obligations by creating a group of new sector entrants known as Meter Asset Providers **(MAPs)** – a third party service provider, to aid the financing, procurement, supply, installation, maintenance and replacement of meters. MAPs were mandated to source a minimum of 30 percent of contracted metering volumes from local manufacturers companies in Nigeria and 70 percent from overseas. Under the MAP Regulations, customers who elected to pay for meter asset upfront were excluded from the recurring payment of monthly Meter Service Charge **(MSC)** over the life of the meters. Whilst implementation of the MAP Regulations was still at the early stages, it was observed that the MAP Regulations has suffered some early challenges due to the imposition of high tariff on meter importation, absence of risk mitigation mechanisms for payment defaults, and the inability of MAPs to secure local medium/long term financing with a tenor longer than 5 (five) years.

It was against this background that on October 19 2020, the Central Bank of Nigeria **(CBN)** issued a circular on the Framework for financing of National Mass

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Metering Programme **(NMMP or Framework)** to outline the operational modalities to be adopted by the CBN in providing financing support via a loan facility to the Discos (downstream) and local meter manufacturers (upstream).

Under the NMMP, DisCos were expected to carry out the procurement, installation, and deployment of meters and metering infrastructure. They were expected to roll out 6 (six) million free meters over the next 18-36 months to unmetered customers. The financing under the Framework was restricted to the procurement and deployment of meters and the associated infrastructure (software and hardware) to support the metering network. This includes the procurement of NERC approved meters, backend metering platform and data management systems and payments for installation and deployment of meters. The Framework banned the importation of fully assembled meters from overseas except meters already imported in the country by MAPs as at September 30, 2020, and importation of related metering infrastructure that are currently being produced in the country.

Because of the likely impact of the NMMP structure on the provisions of the MAP Regulations, the Commission undertook wide stakeholder consultations with a view to aligning metering of customers through the MAP and NMMP initiatives. The outcome of the consultations clearly favoured a structure whereby the MAP framework concurrently operates with the NMMP on account of the urgency of accelerating meter roll-out using all available frameworks; upholding the sanctity of the existing contracts such as Metering Service Agreement **(MSA)** and Service Level Agreement **(SLA)** executed between DisCos and MAPs; and promoting private sector investment in metering services. The outcome of the consultation process led to the issuance of the NERC's Meter Asset Provider and National Mass Metering Regulation **(The Regulations)** 2021. The Regulations is a hybrid framework that merges the MAP Regulations, 2018 and the NMMP, 2020. The aim is to ensure the closing of the metering gap through an accelerated roll out of meters; to eliminate the prevalent practice of estimated billing in the NESI; to attract private investment in the provision of meters, and to enhance revenue assurances at the retail end of the NESI.

This Newsletter highlights the key provisions of the Regulations.

RELEVANT PROVISIONS OF THE REGULATIONS

Framework

The Regulations place metering obligations on the DisCos as they remain responsible for meeting their metering targets as specified by the commission from time to time and monitoring and ensuring the effective implementation of all

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metering services in accordance with the metering code and other industry installation standards. The Regulations empowers DisCos to take advantage of any of the 4 (four) implementation frameworks or a combination of them to meet their metering targets as stipulated by NERC. The implementation Frameworks are:

- MAP Framework
- NMMP Framework
- Vendor Finance
- Self-funded by DisCos

MAP Framework

This framework covers entities already certified as MAPs under the MAP Regulation. To be eligible, an applicant must obtain a permit from NERC after being approved by the DisCo. The MAP's permit is valid for a period of 5 **(Five)** years and can be renewed subject to the MAP's satisfactory performance on contractual agreements with the DisCos. A MAP is required to execute a Meter Service Agreement **(MSA)** and Service Level Agreement **(SLA)** with the DisCo. The MSA is an agreement between a Disco and a MAP for the provision of metering services. The SLA is an agreement between the Disco and MAP on the minimum levels of service to be provided by MAPs.

The MAP framework allows for upfront payments by customers. This implies that customers can choose to obtain their meters under the MAP Framework by making full upfront payment before it is installed. The meters installed by MAP shall form part of the Regulatory Asset Base **(RAB)** of the DisCo for calculating the capital expenditure implemented by DisCos. The DisCos are under an obligation to refund or reimburse customers who paid upfront for the meters under the MAP Framework. It is to be reimbursed through equal instalments of energy credits (token) at the time the customer makes a purchase over a period of 36 months.

The Framework provides that customers who made cumulative payments of the MSC under the MAP Regulations will be entitled to a refund of the amount paid through energy credits by the DisCos who shall thereafter pay MAPs the cost of the meters supplied to customers in line with the MSA. MAPs are required to install meters within 10 (Ten) days of DisCos' confirmation of upfront payment by a customer.

In addition, MAPs are permitted to import fully built meters. This is subject to the

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requirement that a minimum of 30 percent of the contracted quantity of meters to be supplied by MAPs must be sourced locally in Nigeria. The 30 percent threshold shall be subject to review by NERC based on proven local manufacturing capacity. Where a MAP fails to meet up with its obligation to supply meters allocated to it, the DisCo has an option to reassign the allocated quota to a third party under the NMMP framework or any other framework in order to remedy the performance failure of the MAP. This right of a Disco must be captured in the contractual agreement between the DisCo and MAP.

NMMP Framework

The NMMP framework provides for Local Meter Manufacturer/Assembler **(LMMA)** who shall be eligible to provide metering services under the Manufacturer Category. These refers to local companies who will be engaged in the manufacturing or assembling of meters in Nigeria. To be eligible, the LMMA must provide confirmation that their local value addition is not less than the assembly of six (6) meter components at factory level in fulfilment of one of the policy objectives of NMMP. This is to be independently verified by NERC. The Discos must confirm that the meters locally manufactured or assembled meets reliability and quality standards. All meters procured must comply with the requirement for 100 percent local manufacture and/or assembly. Also, an LMMA is to provide evidence of sufficient working capital (including stock of material and/or work in progress) for the manufacture of a minimum of 100,000 **(One Hundred Thousand)** meters annually.

The Framework further provides that procurement of meters by DisCos from LMMP shall be by an open competitive process in compliance with the principle of prudence as provided in the Electric Power Sector Reform Act, **(EPSRA)**, 2005. A central project implementation unit (PIU) must monitor the procurement process. During the bidding process, a bid bond shall be submitted to the PIU by applicants under the NMMP framework.

Furthermore, the approved LMMAs shall execute a Meter Purchase Agreement **(MPA)** with the DisCo for the provision of meters, network clean up, all meter accessories, installation and manufacturer's warranty. MPA is an agreement between the DISCO and the LMMA for the supply of meters, metering accessories and meter installation. LMMA's shall partner with MAPs or other approved meters service providers to implement their installation obligations under the MPA with the DisCo. This implies that LMMA's will not directly install meters on the premises of customers.

Vendor Finance

The MAP and NMMP frameworks are structured to have the DisCos pay the MAP and LMMP for meters supplied to customers within their franchise area. However, a DisCo is permitted to mutually agree with an LMMA or MAP on a deferred payment arrangement. This means that the LMMA or MAP as vendors will finance the supply of the meters to the

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customers and the DisCo will pay at a later date.

This framework provides that notwithstanding the cost of the vendor financing, the base cost of meters under this arrangement shall not exceed the regulated price approved by NERC. Where the cost of financing is in excess of the rate granted by the CBN to the DisCos under the NMMP, the approval of NERC must be obtained prior to the execution of agreement.

Meter Financing by DISCOs

This framework allows Discos to procure meters from other sources outside the MAP and NMMP Frameworks. This is, however, subject to certain conditions that the DisCos must provide a basis for seeking out other financing options outside the MAP and NMMP. The terms and conditions of such arrangements must be approved by NERC. The cost of meters and accessories shall not exceed the regulated price approved by NERC.

The DisCo must ensure that the terms of supply under its arrangement with third parties shall not conflict with the existing agreements between the DisCo and MAPs/LMMP.

Rights and Duties of the DisCos

The rights and duties of the DisCos as it relates to metering are;

- All meters supplied by LMMAs and MAPs shall form part of the DisCo's RAP upon full consideration along with all rights and privileges for the use of the meters.
- Provision of meter deployment plans, along with the details of customers in compliance with NERC's metering targets.
- Execution of MSA and MPA with successful MAPs and LMMAs respectively for the supply and installation of meters.
- Timely provision of relevant information to MAPs to enable them fulfil their obligations.
- Periodic inspection of meters to ensure integrity and reading accuracy.
- Repair and replacement of faulty meters in compliance with the metering code.
- Replacement of a faulty meter within 2 **(Two)** working days of receiving a customer's complaint. Where a DisCo is unable to meet the timeline, the customer shall be strictly billed based on their consumption pattern in the last billing cycle or the existing energy cap of the load cluster.

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- Termination of agreements with MAPs where there is a performance failure.
- Payment of the unamortised cost of meters to MAPs supplied to customers under the MSC framework.
- Refund to customers of the cumulative MSC payments made to MAPs in compliance with the provisions of the Regulations.
- Refund of the cost of meters to customers who made upfront payments for meters through approved MAP.
- Where a MAP fails to meter a customer, the DisCo shall ensure a meter is installed within 10 days of being notified of the MAP's failure.

Rights and Duties of the Customers

The rights and duties of the customers include the following:

- Installation of an appropriate meter to accurately determine energy consumption and provide for energy accounting.
- Refund of payments through energy credits where customer elects to make upfront payment under the MAP framework or had made monthly payments as MSC
- Repair and replacement of meters within 2 (Two) working days without an additional cost. Where the customer wilfully damaged a meter, such customer is to make an upfront payment for the replacement of the meter.
- Where there is a dispute with the party responsible for destroying the meter, the customer is entitled to a dispute resolution mechanism as provided in the metering code. In the interim, the Disco shall replace the meter pending the resolution of the dispute.
- In the event of damage, the customer and staff of the DisCo shall note the energy credits remaining on the faulty meter. The customer is to be credited with the outstanding energy credit within 48 hours of installation of the new meter.
- Granting access to their premises for inspection and installation of meters. Failure to comply will lead to disconnection of the customer until access is granted.
- Ensuring the safety of the meter and avoiding tampering.

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Rights and Duties of the MAP

The rights and duties of the MAP include the following;

- A timely payment in full for services rendered in accordance with the terms of the MSA with the DisCos
- Access to customer premises to carry out its operations with respect to metering.
- Installation of meters and metering accessories in compliance with the Discos specifications, industry standards and cost of meter installation.
- Obtaining requisite test certifications and approvals for meters in compliance with extant codes, regulations and industry requirements.
- Engaging only certified Meter Service Providers (MSP) for the deployment of meters while fulfilling its obligations under the MSA.
- Compliance with the provisions of the Metering Code by ensuring that all meters are tested and calibrated by the Nigerian Electricity Management Services Agency **(NEMSA)** prior to customer installations.
- Compliance with agreed service standards in MSAs with DisCos
- Installation of meters at customer premises within 10 days of being notified of payment and the DisCo's confirmation that the premises are ready for metering.

OTHER PROVISIONS

Reporting Obligations

The Regulations requires that DisCos are to file copies of all agreements executed pursuant to the Regulations as well as detailed meter deployment plan with NERC. Also, DisCos must file monthly installation returns with the Commission while MAPs are to file monthly sales and meter installation returns with NERC. LMMA's are obligated to file monthly production, meter deployment/installation returns with NERC.

MSA, MPA and SLA.

MSAs are executed between DisCos and MAPs. The MSAs must provide for the number of meters to be installed by the MAP in the DisCo's network over an agreed period, details of the cost structure, payment terms, meter specifications, warranties, and other items agreed by the parties.

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MPAs are executed between DisCos and LMMAs. The MPAs must provide for the quantity of meters to be supplied by the LMMA, delivery period, cost structure, payment terms, meter specifications, warranties, and other terms agreed by the parties. **SLAs** are executed between DisCos and LMMAs or MAPs. The SLAs must specify the minimum standards and responsibilities such as timeframe for meter installation, minimum installation standards, protection against unauthorized access, key performance indicators, and compensation for meter bypass and tampering by agents of LMMA and MAP.

Rights and Obligations of LMMA

The rights and obligations of LMMA shall be as provided in the terms of their contracts with DisCos. LMMAs shall be required to submit monthly returns with the Commission on performance under its contracts with DisCos and transactions with MAPs including pricing, volumes and pending deliveries.

Conclusion

The Regulations are laudable in that they underscore the importance and urgency of bridging the metering gap. This can be gleaned from the fact that DisCos are provided with various frameworks to carry out their metering obligations. The Regulations will open a new vista for private sector investment in the power sector under the NMMP framework. This is commendable as it gives 100% preference to local manufactures/ assemblers. It is also structured to ensure that the local content requirement will not hinder the overall objective of the Regulations in that it makes room for the importation of meters by MAPs and allows Discos to adopt other arrangements if required.

Another point worthy of note is that customers are not required to bear the cost of paying for the meters. Customers who have an urgent need for meters can apply through the MAP framework and have meters installed in 10 days with a refund through energy credits. NERC on its part can track the implementation of the Frameworks through the various reporting obligations of DisCos, LMMAs, and the MAPs. The Regulations will stimulate the flow of investment within the NESI. More jobs will be created and economic activities will be enhanced.

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