

WATTS NEW: ASSESSING THE ELECTRICITY LANDSCAPE IN NIGERIA

- by Temiloluwa Koya, Ema Ogbe & Oluwaseyi Adebayo

Understanding Energy Transition

In the face of mounting environmental concerns and the need to combat climate change, nations worldwide are embracing energy transition plans aimed at shifting from traditional fossil fuel-based energy systems to cleaner and more sustainable alternatives. This energy transition is not just an environmental necessity but also a strategic economic and social endeavour. The effectiveness of energy transition plans hinges on the presence of strong legal structures that facilitate investment, manage risks, ensure consumer protection, and foster collaboration between stakeholders. Nigeria's Electricity Act Amendment Bill, 2024 ("the Electricity Act Amendment Bill"), is a key legislation which holds the potential to shape Nigeria's energy landscape and drive its transition towards a sustainable future.

The Role of Legal Frameworks in Energy Transition: A Nigerian Perspective

On August 24, 2022, the Federal Government of Nigeria launched its Energy Transition Plan (ETP) designed to tackle the dual crises of energy, poverty and climate change and reach net-zero status by 2060, while also providing energy for development, industrialization, and economic growth.¹

The ETP outlines a strategic roadmap to achieve substantial reductions in emissions within five (5) key sectors: **Power, Cooking, Oil and Gas, Transport, and Industry**. The ETP is currently undergoing careful planning, with emphasis on securing financing and supporting public-private partnerships to guarantee its effective implementation.

Creating a cohesive regulatory framework for energy transition requires alignment of energy policies at national, regional, and international levels. This alignment not only facilitates smoother transitions to renewable energy sources but also enhances market efficiency and fosters international collaboration to address common energy challenges.

Regulatory bodies like the Nigerian Electricity Regulatory Commission (NERC) play a key role in shaping the energy sector's regulatory environment. NERC's regulations govern licensing, tariff structures, and quality of service standards, with a growing emphasis on facilitating renewable energy adoption and grid modernization.

¹ <https://www.seforall.org/news/nigerias-energy-transition-office-hosts-private-sector-roundtable>. Accessed on September 14, 2023.

On a broader policy level, the Energy Commission of Nigeria (ECN), established by the Energy Commission of Nigeria Act 1979 (as amended), plays a crucial role in formulating and implementing energy policies. The ECN spearheads strategic planning and coordination efforts for national energy policies, contributing to the overarching objectives of energy transition and sustainability.²

Assessing Nigeria's Electricity Act, 2023

Innovations in the Electricity Act, 2023 include the following points:

- a) **Promotion of Renewable Energy:** A mandate for the promotion of electricity generation from renewable sources such as solar, wind, hydro, and biomass. It outlines mechanisms to incentivize investment in renewable energy projects and streamline the integration of renewable energy into the national grid.³ These provisions include tariff terms extending up to 20 years to ensure standardized Power Purchase Agreements (PPAs) and facilitate investment returns.
- b) **Private Sector Participation:** Recognizing the importance of private sector participation in energy infrastructure development, the Electricity Act, 2023 encourages private investment across the electricity value chain. It provides clear guidelines for licensing, operation, and investment in power generation, transmission, and distribution facilities.⁴
- c) **Risk Mitigation and Financial Incentives:** To mitigate investment risks and promote long-term stability, the Electricity Act, 2023 includes provisions for asset protection, compensation in case of license revocation, and financial incentives for renewable energy projects. It aims to create a conducive environment for investment in clean energy technologies for both companies and investors.⁵
- d) **Tax Incentives:** The 2023 Act also anticipates the Federal Ministry of Finance's role in introducing tax incentives necessary to promote and facilitate the generation and consumption of energy from renewable sources. These incentives will align with the provisions of the Industrial Development (Income Tax Relief) Act, or any other fiscal

² Adegbite Adeniji, Jumoke Fajemirokun, Abdulganiyu Mustapha, 'The Energy Regulation and Markets Review' (11th edn, Law Business Research Ltd 2022).

³ The Electricity Act Amendment Bill signed into law in February 2024 makes it compulsory for electricity generating companies to either generate power from renewable energy sources, buy power generated from renewable energy, or buy any instrument that represents renewable energy generation.

⁴ Section 109 (2) (c) of the Act.

⁵ Section 228 of the Act.

policy framework aimed at fostering tax reliefs conducive to the implementation of renewable energy projects in Nigeria.⁶

Innovations in the Electricity Amendment Bill, 2024 and the Business Implications

The Electricity Act Amendment Bill ("the Amendment Bill"), enacted on February 9, 2024, revised the Electricity Act, 2023. The Amendment Bill introduces a comprehensive framework to address the challenges and opportunities in Nigeria's evolving energy landscape.

The Amendment Bill introduces crucial amendments that creates extensive business development opportunities for both private and public sector participants:

1. **Community Development and Investment Incentives:** One of the standout features of the Amendment Bill is the requirement for power generating companies (GENCOs) to allocate five percent of their annual operating expenses to the development of their host communities. This initiative not only fosters goodwill and stronger community relations but also opens up new avenues for business development and investment in local infrastructure, making these areas more appealing for further business ventures.
2. **State-Level Regulation and Opportunities:** The Amendment Bill grants States the authority to regulate essential aspects of the electricity sector—generation, transmission, and distribution. This decentralization empowers States to address the specific needs of their populations more directly and introduces a potential revenue stream through Public-Private Partnerships (PPPs). By facilitating private sector collaboration, States can leverage private investments and expertise to enhance the efficiency and reliability of electricity services, benefiting businesses by providing a more stable and efficient power supply.
3. **Public-Private Partnerships (PPPs):** The encouragement of PPPs is particularly beneficial for the business community. These partnerships can introduce advanced technologies and methodologies, improving service quality and reliability. The combination of public goals with private sector efficiency not only bolsters the overall economic environment but ensures that infrastructure development aligns more closely with the needs of the community, fostering a supportive ecosystem for growth and development.
4. **Decentralization and Private Sector Engagement:** The Bill's provision allowing all 36 states in Nigeria to actively participate in generating, transmitting, and distributing electricity is a significant step towards energizing the market with private investments. It encourages the setup of mini-grids and independent power projects, especially those

⁶ Section 166 of the Act.

focusing on renewable energy in rural and underserved areas. This decentralization offers a clear and attractive path for private investors, supported by state-level licenses, which promises to diversify the energy market and spur economic growth through innovative solutions.

Market Impact Analysis: A Shift Towards Competitive Dynamics

The current regulatory framework is set to revolutionize market dynamics by promoting competition, enhancing sector attractiveness, and ensuring a stable regulatory environment. The empowerment of states to issue licenses for mini-grid and power system operations introduces a new layer of competition, pushing for efficiency and innovation in service delivery. This policy shift is anticipated to attract both local and international investors, drawn by the prospects of a more liberalized and competitive marketplace.

NERC retains its oversight function in the operations of the electricity sector which will include standards for service quality, complaint resolution procedures, and transparency requirements for electricity providers. It also promotes market competition by preventing anti-competitive practices and ensuring a level playing field for market participants.

Fostering International Collaboration and Alignment with Global Trends

The strategic focus on renewable energy aligns Nigeria with global energy trends, potentially increasing the sector's attractiveness to investors keen on sustainable and eco-friendly projects. The Electricity Act Amendment Bill's emphasis on renewable energy and community development resonates with global legislative trends, particularly in Latin American countries, which have shown leadership in integrating renewable energy into their legal frameworks. Nigeria's legal alignment with these trends not only enhances its potential for international partnerships but also positions it as a conducive environment for cross-border investments in clean energy.

The Electricity Act's provisions for host community development and renewable energy promotion echo the community-focused energy policies seen in countries like Brazil and Chile, where local engagement and sustainable development are key to energy projects success. Nigeria's alignment with such practices opens doors for international collaboration, knowledge exchange, and financial investment from entities eager to participate in a market that values sustainability and community welfare.

A Catalyst for Sustainable Development and International Engagement

The success of energy transition plans hinges on the presence of an enabling legal environment that fosters innovation, investment, and collaboration in the clean energy sector.



The legislative changes mark a significant milestone in Nigeria's energy transition journey. By fostering an enabling environment for business development, enhancing market dynamics, and aligning with global renewable energy legislation trends, Nigeria is not only advancing its own sustainable development goals but also inviting international stakeholders to contribute to its energy sector's growth. This legislative overhaul promises to elevate Nigeria's status on the international stage, showcasing its readiness to embrace the future of energy with open arms and collaborative spirit.

Navigating the Future of Energy Legislation

At SimmonsCooper Partners, we recognize the intricacies businesses navigate within the shifting landscape of energy legislation. We offer services designed to equip businesses with the insights necessary for navigating the evolving energy sector. Our aim is to ensure an understanding of the latest energy laws, foster compliance, and encourage sustainable business practices.

For more details on the energy transition or to discuss how the energy legislation impacts your business, please reach out to: Temiloluwa Koya: temi.koya@scp-law.com; Ema Ogbe: ema.ogbe@scp-law.com; Oluwaseyi Adebayo: oluwaseyi.adebayo@scp-law.com.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.