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HIGHLIGHTS OF THE METER ASSET PROVIDER REGULATIONS, 2018

Electricity metering and attendant collection losses are well-known prevalent problems in the Nigerian Power Sector (the "**Sector**"). Despite the launch of the Credit Advance Payment for Metering Implementation in 2011 ("**CAPMI**")[1], several metering/billing systems remain in practice – most notoriously, the estimated post-paid meter reading billing system and prepaid metering system. The lack of uniformity in the metering system has caused huge collection losses and has adversely impacted the financial position of distribution companies ("**DisCos**") in the Sector.

In a move to address the severe revenue shortfall being recorded by DisCos (arising mainly from the Aggregate Technical, Commercial and Collection ("**ATC&C**") losses of the Discos)[2], and to address the public outcry on the overcharging of end users for electricity under the estimated billing system, NERC issued the Meter Asset Provider Regulations (the "**Regulations**") on 8 March 2018, pursuant to the Electric Power Sector Reform Act 2005. It is anticipated that the Regulations will, among other things:

(i) encourage the development of independent and competitive metering services;
(ii) eliminate estimated billing practices by DisCos;
(iii) attract private sector investors to the provision of metering services;
(iv) close the metering gap through an accelerated meter roll out; and
(v) enhance revenue assurance.

The Regulations relieve the DisCos of metering service obligations by creating a group of new Sector entrants to be known as Meter Asset Providers (the "**MAPs**"). The MAPs are expected to operate the end user metering aspect of the value chain i.e. in terms of financing, procurement, installation, servicing/maintenance and replacement of metering equipment.

1. Procurement Process and Grant of a MAP Permit

- Under the Regulations, all DisCos are required to engage the services of MAPs (in accordance with the provisions of the Regulations), towards meeting their metering targets, as specified by NERC. Appointment as a MAP is required to be by open and competitive bids from

[1] The CAPMI is a scheme designed by the Nigerian Electricity Regulatory Commission ("**NERC**"), which allows for any interested and willing customer to advance money to their DisCo for the purchase of a meter, and in return the customer will be given electricity credit until the cost of the meter has been fully recovered by the customer.
[2] Aggregation of the technical, commercial and collection losses encountered in the utility business; methodology for assessing overall performance of a utility.

interested bidders who have obtained a "*No Objection*" authorization from NERC before responding to any Expression of Interest from a DisCo[3].

- Subsequently, each bidder is issued with a bidding document, which is to be prepared in accordance with the Metering Code and all other relevant regulations and orders of the NERC. Upon successful evaluation of the bids, bidders can proceed to apply for a grant of a MAP Permit from NERC. After procuring the requisite permit from NERC, the successful MAP bidder will also need to submit a performance bond to the relevant DisCo before entering into a Meter Service Agreement with the DisCo.

  The first set of the MAPs procurement process is expected to be completed within four months from 3 April 2018. The DisCos are required to publish information on successful applicants as well as monthly metering service charges and detailed meter roll out plans. DisCos (and any related third parties of the DisCos) are expressly prohibited from being MAPs.

  The transparency of the MAPs' selection process is an encouraging development for private sector investors. It not only paves the way for expediting the bridging of the metering gap in the Sector, it also creates a separate value chain and an avenue for employment opportunities in the Sector.

2. Commercial Arrangement

- Under the Regulations, there are two main agreements contemplated between the MAPs and the DisCos: i.e. Metering Service Agreement and Service Level Agreement. The Regulations provide a skeletal 'term sheet' of these agreements and from the templates, it would seem that the Metering Service Agreement is to provide (primarily) for the supply and installation of the meters, while the Service Level Agreement will provide (primarily) for the maintenance and periodic readings of the meters.

- Under the terms provided for the Metering Service Agreement, it is expected that the MAPs will recover the "*Cost of the Meter Asset*" (i.e. the cost of the meter, meter accessories and all associated costs of meter installation plus a return on investment), as well as a reasonable return, over a period of ten years. Whether the cost projections in the Regulations will actually cover investment costs and risks to provide a MAP with a reasonable return on investment, remains to be seen.

- The day-to-day operations and obligations of the MAPs (as regards their services to the end consumers) will be provided for in the Service Level Agreement.

[3] An Expression of Interest must be published by a DisCo in at least two Nigerian newspapers and on the DisCo's website.

3. **Payment Security**

DisCos are mandated to issue a payment security to the MAPs within thirty days of entering into a Metering Security Agreement. The payment security may take the form of any payment security structure that is mutually agreed between the DisCo and the MAPs. The DisCos are required to create a separate account for the collection of metering service charges, which will be used for the purpose of ensuring timely payments to MAPs.

4. **Local Content**

MAPs are mandated to source a minimum of 30% of contracted metering volumes from local meter manufacturing companies in Nigeria. While this percentage may appear insubstantial, it is perhaps reasonable when compared to the current number of meter manufacturing companies in Nigeria. We expect that this minimum percentage threshold will increase progressively as the Sector witnesses an increase and expansion of MAPs.

Conclusion

The Regulations outline the powers and functions of the NERC, the key operators and the end user/customer in connection with the metering aspects of the Sector. A summary of each stakeholder's functions and/or rights are provided below:

a. **NERC** – Apart from the issuance of a MAP Permit and its other regulatory functions, the NERC also ensures checks and balances in the procurement process. The NERC effects this by engaging the services of a Tender Auditor to audit the conduct and outcome of the procurement process.

b. **DisCos** – The DisCos have the right to access meters of customers, retrieve data and use such retrieved data for monitoring, billing, planning and any other related activities. The DisCos also have the right to query data from meters of customers for audit purposes and evaluation of consistency, accuracy and integrity. All cases of unauthorized access and meter tampering are to be addressed by the DisCos. In addition, the DisCos are also responsible for developing strategies aimed at achieving their metering targets. The DisCos are liable to pay any applicable metering service charge for customers affected by a prolonged service outage exceeding a period of two weeks.

c. **MAPs –** The rights of MAPs include the retention of legal ownership of the meter asset until full payment by the end user customers; the right to receive full payment of the aggregated metering service charge paid by customers during the billing cycle; access to both the customers' premises and vending platforms associated with the meter asset supplied under the Metering Service Agreement.

   MAPs are obligated to carry out periodic inspections of the meter assets to ensure reading accuracy and integrity. The obligation of repairs and replacement of faulty meters (within two working days of being notified of such faults) is also borne by MAPs. Where the repairs are not carried out within the mandatory stipulated period, the customer will not be liable for the payments of metering service charges for the relevant billing period, unless such delay results from the customer's premises being inaccessible. In such instance, the DisCo and MAPs will agree on appropriate compensation to the DisCo for loss of revenue.

d. **Customers –** Customers are not liable to pay for repairs and replacement of the meter asset during the amortization period, except where willful damage is established. Where willful damage on the part of the customer is established, the customer will either be liable to make an upfront payment or be subject to any mutually agreed terms of payment for a replacement meter.

   Customers' obligations include providing MAPs with access to their premises for installation of meters; paying for metering service charges (which cease upon full amortization of the meter asset); and paying for energy. Meters of customers are associated with feeders and distribution transformers which customers are prohibited from moving.

The introduction of the Regulations is indeed a welcome development in the Sector and should effectively remove the monopoly that has characterized the downstream metering and billing collection aspects of the Sector. It is anticipated that the enforcement of the provisions of the new Regulations will not only harmonize the metering system in the Sector, but will in time, also eradicate the ATC&C losses of the DisCos. The Regulations are also expected to reduce and eventually eliminate overcharging of end users, which is prevalent under the estimated billing system. From a regulatory perspective, the Regulations will also provide a reliable basis for recording data on energy consumption in Nigeria.

Qualifications

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