



KOGI STATE OF NIGERIA

A LAW TO ESTABLISH



THE KOGI STATE
ELECTRICITY
REGULATORY
COMMISSION
AND ELECTRICITY
MARKET AND
OTHER MATTERS
CONNECTED
THEREWITH, 2024

A LAW TO ESTABLISH THE KOGI STATE ELECTRICITY REGULATORY COMMISSION AND ELECTRICITY MARKET AND OTHER MATTERS CONNECTED THEREWITH, 2024

ENACTED by the Kogi House of Assembly and by the authority of same as follows: *Enactment*

PART I – PRELIMINARY PROVISIONS

1.

This Law may be cited as the Kogi State Electricity Law, 2024 and shall come into force on theday of2024.

Citation and Commencement
2.

(1)

The objectives of the Law are to:

(a)

provide a legal and institutional framework for Kogi State's participation in the power sector and for drawing in public- private partnerships to improve the policies offered by the Nigerian energy supply industry;

(b)

provide for the development and management of sustainable, efficient and effective power supply through generation, transmission and distribution of electricity within the State;

(c)

facilitate the development and management of electricity infrastructure and facilities to sustain power supply;

(d)

ensure the availability of a cost-effective electric power supply;

(e)

collaborate with Federal electric power related Agencies to promote and support investment in electric power projects within the State;

(f)

ensure that the State has constant electric power supply;

(g)

develop and facilitate an enabling environment for embedded power sector investment in the State;

Objectives and Scope of Application.

- (h) ensure the protection of electric power generation, evacuation infrastructure and prescribe appropriate sanctions;
- (i) promote policies and regulatory measures to increase within the geographic coverage of the State, power generation, transmission, distribution and supply of electricity in collaboration with Federal Agencies or Agencies from other States responsible for electricity sector policies;
- (j) provide a framework to stimulate the development and utilization of renewable energy sources and create an enabling environment to attract investment in renewable energy sources in order to increase the contribution of renewable energy to the energy sector;
- (k) provide a framework for improvement of access to electricity in rural and urban areas through the use of conventional sources and renewable energy off-grid and mini-grid solution;
- (l) promote indigenous capacity in technology for renewable energy sources through a framework for local content in the State electricity supply industry;
- (m) promote public education on renewable energy production and consumption to increase the generation, transmission, distribution and consumption of electricity from renewable sources;
- (n) promote framework for the security of electricity infrastructure, ensure effective prosecution of electricity infrastructure theft and punitive measures against electricity theft and other offences peculiar to power sector;
- (o) advice the State Government on measures to strengthen the policies of the State on energy sector in terms of generation, transmission and distribution of electricity; and

*State Electricity
Policy and
Strategic
Implementation
Plan*

- (p) strengthen the relationship between the State electricity market and Federal electricity market.
- (2) Subject to the provisions of Electricity Act 2023 hereinafter referred to as the “Act” and pursuant to the provisions of Sections 2 (2) (a) - (e) of the Act, the provisions of this Law shall apply throughout the geographical boundaries of Kogi State with respect to all aspects and segments of the power sector value chain in the State. *Scope and Application of the Law*
- (3) The State Electricity Commission established under Section 3 of this Law shall ensure collaboration for rural electrification between States and Local Governments and Federal Government or between the State and Local Governments and distribution licenses to ensure electricity access to rural, unserved and underserved areas, promote investment in electricity or provisions of electricity within the State or Local Government Areas.
3. (1) In this law unless the context otherwise requires the following expressions shall have the meaning assigned to them respectively: *Interpretation.*
- “Act”** means the Electricity Act, 2023 enacted by the National Assembly of the Federal Republic of Nigeria and includes any amendment thereto;
- “Agencies”** means Agencies of the Kogi State Government as may be applicable;
- “Ancillary Services”** means those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the transmission system in accordance with good utility practice and the Grid Code to be adopted in accordance with the provisions of this Law;
- “Attorney General”** means the Attorney General and Commissioner for Justice of Kogi State;

"Auditor-General" means the Auditor-General of Kogi State;

"Board" means the Board referred to under Section 74 of this Law;

"Penal code Law" means the Kogi State Penal code Law, 2019;

"Chairman" means the Chairman referred to under Sections 5, 54, 78, and 96 of this Law as may be applicable;

"Chief Judge" means the Chief Judge of the High Court of Justice of Kogi State;

"Commissioner" means the Commissioner responsible for Energy or a member of the State Executive Council, as may be decided by the Governor, with the oversight function and responsibility for the management and supervision of energy and electricity matters in the State;

"Commission" means the Kogi State Electricity Regulatory Commission established under Section 4 to discharge the regulatory functions and powers assigned to it under Section 12 of this Law;

"Complaints" includes a written statement in which a person raises an issue about a matter in respect of which the Commission is empowered to act upon under this Law;

"Concession Contract" means award by the government to a qualified private entity with the responsibility for financing, operating, expanding, maintaining and managing specific Government-owned assets under this Law;

"Distribution Code" means a compilation of rules and regulations governing electric utilities in the operation and maintenance of their distribution systems which includes, among others, the standards for service and performance, and defines and establishes the relationship of the distribution systems with the facilities or installations of the parties connected thereto;

"Distribution System" means the system of wires and associated facilities belonging to a distribution utility;

"Distribution Licensees" means the distribution licensee referred to under Section 70 of this Law;

"End-user" refers to any person or entity requiring the supply and delivery of electricity for its own use;

"Electric Power Cooperative" means cooperatives recognized under Section 100 of this Law to promote electricity access to its members;

"Federal Agencies" means NERC, NEMSA and other Federal regulatory organizations set up by the Federal Government of Nigeria;

"Fund" means Rural Electrification Fund established under Section 97 of this Law;

"Franchise Area" refers to a geographical area assigned or granted to a distribution company for distribution of electricity, or geographical areas assigned to any other licensee irrespective of exclusivity claim;

"Generation Company" means a pre-existing generation company within the meaning of Section 46 of this Law and includes any generation company and IPPs licensed by the Commission pursuant to the provisions of this Law;

"Generation of Electricity" means the production of electricity by a generation company or a co-generation facility pursuant to the provisions of this Law;

"Grid" refers to the medium or high voltage backbone system of interconnected transmission lines, substations and related facilities;

"Grid Code" means to the set of rules and regulations governing the safe and reliable operation, maintenance and development of a

medium or high voltage backbone transmission system and its related facilities;

"GRIDCo" means the Kogi State Grid Company established under Section 94 of this Law;

"House of Assembly" means the Kogi House of Assembly;

"Independent Power Producer" or "IPP" means pre-existing IPPs licensed by NERC and includes those licensed by the Commission pursuant to the provisions of this Law;

"Ministry" means the Ministry with the oversight function and responsibility for the management and supervision of energy and electricity matters in the State;

"NEMSA" means Nigerian Electricity Management Services Agency established under the Act;

"NERC" means the Nigerian Electricity Regulatory Commission established under the Act;

"Nigeria" means the Federal Republic of Nigeria;

"Open Access" refers to the system of allowing any qualified person the use of transmission, and/or distribution system, and associated facilities subject to the payment of transmission and/or distribution rates duly approved by the Commission pursuant to the provisions of this Law;

"Pre-existing licensees" means licensees and include permit holders referred to under Sections 46 and 47 of this Law;

"KERC" means Kogi State Electricity Regulatory Commission established under Section 4 of this Law;

"KEPCO" means the Kogi State Electric Power Company established under Section 75 of the Law;

"State" means Kogi State of Nigeria;

"State Grid" means the medium to high voltage backbone system of interconnected transmission lines, substations and related facilities established by the State GRIDCo or other private transmission licensees licensed by the Commission to engage in the business of transmission and wheeling of electricity within the State;

"Transmission Charge" refers to the regulated cost or charges for the use of a transmission system which may include the provision of ancillary services;

"Undertaking" means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached to it belonging to any person licensee or permit holder under the provisions of this Law;

"Repealed Law" refers to State Law repealed under Section 122 of this Law; and

"Rural areas" means communities designated as rural areas by the Governor under this Law.

- (2) Except as otherwise interpreted under the Constitution, words used under the Act and in this Law but not interpreted under this Law has the same meaning as assigned to it under the Act.

PART II – ESTABLISHMENT, COMPOSITION, FUNCTIONS AND POWERS OF THE KOGI STATE ELECTRICITY REGULATORY COMMISSION.

4. (1) There is established the Kogi State Electricity Regulatory Commission (in this Law referred to as the "Commission" to carry out the functions and exercise the powers assigned to it under this Law in relation to regulation of electricity within the State.
- (2) The Commission shall be a body corporate with perpetual succession, a common seal and shall in its corporate name be capable of:

Establishment of the Commission

- (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - (c) borrowing and lending money;
 - (d) doing or performing all other things or acts for the furtherance of its functions or powers under this Law;
- (3) Except as otherwise provided under this Law, the Commission shall be independent in the performance of its functions, exercise of its powers and shall not be subject to the direction or control of any person or authority.
- (4) The headquarters of the Commission shall be located in Lokoja, the State capital, with zonal operational offices as may be approved by the Commission.
5. (1) The Commission shall comprise of a Chairman and five full time Commissioners with the Chairman as the Chief Executive Officer to superintend over the day to day administration of the Commission. *Composition of the Commission*
- (2) The five Commissioners shall be as follows:
- (a) Commissioner, Economic Regulation and Consumer Affairs Division;
 - (b) Commissioner, Technical Regulation, who shall also be the Vice Chairman of the Commission;
 - (c) Commissioner, Consumer Affairs and Rural Electricity Access Management;
 - (d) Commissioner, Finance and Administration; and
 - (e) Commissioner, Legal and Licensing.

- (3) The Office of the Chairman of the Commission shall have such units under it as may be approved by the Commission in furtherance of the functions and powers under this Law.
 - (4) The Vice Chairman shall perform the functions of the Chairman whenever the Chairman is absent or for any reason unable to perform his duties.
 - (5) Notwithstanding the provisions of subsection (1) of this Section relating to composition of the Commission, the Commission shall have the powers to approve its structure including modifications to such structure from time to time as it may deem suitable for effective discharge of its functions and powers under this Law and the Commission shall notify the Governor through the State Commissioner responsible for Energy, of its approved structure or modifications to such structure thereof.
6. (1) The Chairman and the five other Commissioners that make up the Commission shall be appointed by the Governor subject to confirmation by the House of Assembly.
- Appointment
of the
Chairman and
Commissioners*
- (2) A person shall be qualified for appointment as the Chairman of the Commission or Commissioner under Section 5 of this Law if such a person:
- (a) is a Nigerian of at least 35 years of age nominated from the public or private sector with good moral character with educational qualifications and professional, public or private experience in any of the following fields:
 - (i) Economics/Finance (including Banking),
 - (ii) Accountancy,
 - (iii) Engineering,
 - (iv) Law,

- (v) Public or Business Administration,
 - (iv) Public Utilities Regulation, and
 - (vii) Consumer Affairs Issues.
- (b) has at least ten (10) years of professional experience in their respective fields of expertise stipulated under subsection (2) (a) of this Section.
- (3) In recommending the nominees for confirmation as Chairman and Commissioners by the House of Assembly for the purpose of appointment as Chairman or Commissioner pursuant to the provisions of this Law, the Governor shall expressly indicate the designation of each nominee and ensure compliance with the requirements of this Section.
- 7. A member of the Commission shall hold office for a term of five (5) years beginning from the date of his appointment and may be reappointed for the final term of five (5) years on such terms as may be determined by the Governor. *Tenure of Office of the Chairman and Commissioners*
- 8. (1) The salaries, allowances, remunerations, and other condition of service payable to the Chairman, Commissioners and staff of the Commission shall be as determined and prescribed by the State Government. *Remuneration of the Chairman and Commissioners.*
- (2) In approving the salaries, allowances, remunerations and other conditions of service of the Chairman and Commissioners pursuant to subsection (1) of this Section, the Governor shall take into consideration the following:
 - (a) the specialized nature of work to be performed by the Commission;

- (b) the need to ensure the financial self-sufficiency of Commissioners and generally safeguard the independence of the Commission;
- (c) the conditions of service in the private sector enjoyed by individuals with equivalent responsibilities, expertise and skills and the need to attract and retain highly qualified personnel for the Commission from the private and public sectors; and
- (d) any other factor which the Governor may consider relevant and compelling in the determination of the conditions of service of members of the Commission.

9. (1) A person shall be disqualified from being appointed as Chairman or Commissioner if he: *Disqualification
from
Appointment*

- (a) is appointed into the public office or elected as a member of the State House of Assembly except on the grounds that he resigns from his position;
- (b) is sixty-five years of age and above;
- (c) is not a Nigerian;
- (d) has been adjudged bankrupt or insolvent by a competent court of Law in Nigeria or under the laws in force in any country, and he has not been rehabilitated or discharged of bankruptcy or insolvency;
- (e) has made an assignment or arrangement or composition with his creditors, which has not been rescinded or set aside;
- (f) has been banned from practicing his profession; or
- (g) has been convicted of an offence and sentenced to a term of imprisonment imposed with or without the option of fine,

whether or not any portion has been suspended except where such a person has received a presidential or Governor's pardon.

- (2) Any person nominated for appointment as Chairman or Commissioner pursuant to Section 6 (1) of this Law shall notify the Governor or the House of Assembly of any interest in any private company or undertaking dealing with the business of:
 - (a) electricity generation, procurement, transmission, trading, power exchange dealings, distribution, retail supply, and system operation;
 - (b) manufacture, sale, or supply of any fuel for generation of electricity;
 - (c) manufacture, sale, lease, hire or otherwise supply of or dealing in machinery, plant, equipment, apparatus or fittings for the generation, transmission, distribution, supply or use of electricity; and
 - (d) any entity providing professional services to any of the businesses referred to in paragraphs (a), (b) and (c) above: except the Governor is satisfied that such interest is in effect passive and will not interfere with the person's impartial discharge of his duties as a commissioner or such financial interest is terminated prior to the appointment.
- (3) Any information brought to the notice of the Governor or the House of Assembly in compliance with subsection (2) of this Section shall be taken into consideration by the Governor and the House of Assembly in taking a final decision on the nominee.
- (4) The Chairman and the other Commissioners appointed pursuant to Section 6 of this Law shall, before assumption of office, make a declaration of assets in accordance with paragraph II of the Fifth Schedule to the Constitution.

10. (1) Notwithstanding the provisions of Section 7 of this Law, the Chairman or any Commissioner shall vacate his office and his office shall become vacant if he:

- (a) resigns his office by giving at least three months' notice in writing to the Governor conveying his intention to resign;
- (b) is convicted of a criminal offence by a competent court in Nigeria or any other country, office shall be vacated on the date of conviction;
- (c) becomes disqualified under Section 9 (1) and (2) of this Law to hold office as Chairman or Commissioner;
- (d) is required under Section 9 of this Law to vacate his office; and
- (e) has served out his tenure of office as prescribed under Section 7 of this Law.

(2) Subject to Section 9 of this Law, any vacancy occurring in the office of the Chairman or Commissioner as a result of death, permanent incapacity or impairment, or under Section 11 (1) of this Law shall be filed by the Governor in accordance with the provisions of Sections 6 of this Law.

11. (1) The appointment of the Chairman or a Commissioner shall be terminated by the Governor, if:

- (a) the appointment was discovered to have been made in contravention of Sections 6 and 9 of this Law;
- (b) he has been found to have breached the Commission's Code of Ethics approved by the Commission pursuant to the provisions of this Law;
- (c) he is deemed by the Governor upon receipt of relevant advice by a qualified consultant medical practitioner to be mentally or

physically incapable of carrying out his functions as a Commissioner;

- (d) he ceases to fulfil any of the conditions of his appointment as a commissioner as to render his continuance in office prejudicial to public interest or the intendment of this Law.
- (2) Without prejudice to the requirement of subsection 1 of this Section, a commissioner shall not be removed from office unless the request for his removal is conveyed by the Governor to the House of Assembly and the said request is supported by a simple majority of votes of all the members of the House of Assembly present on the day such vote was taken, and the Commissioner concerned must have been given the opportunity to defend himself regarding the circumstances leading to his proposition for removal under this Section.
- (3) The Chairman or Commissioner removed pursuant to the provisions of this Section shall cease to be a member of the Commission and not be eligible for re-appointment as Chairman, Commissioner or in any other capacity in the Commission.
- (4) Whenever the office of the Chairman becomes vacant under this Law, the Vice -Chairman shall take over as the Chairman of the Commission in acting capacity for a duration not exceeding three months and shall, upon the appointment of a substantive Chairman by the Governor under subsection (5) of this Section revert to his position as the Vice Chairman of the Commission.
- (5) Subject to Sections 6, 7 and 9 of this Law, the Governor shall within three months from the date the office of the Chairman, Vice Chairman or any other Commissioner becomes vacant, appoint a person to fill such vacancy:

Provided that a person appointed to fill a casual vacancy occurring in the office of the Chairman, Vice Chairman or any other Commissioner

shall be entitled to serve out the unexpired term of his predecessor irrespective of whether the casual vacancy so filled occurred in the first or second term of the Chairman, Vice Chairman or any other Commissioner concerned.

12. (1) Subject to the provisions of this Law, the Commission shall perform the following functions:

Functions and Powers of the Commission.

- (a) promote competition, efficiency, and encourage the development of the State electricity market;
- (b) determine the tariff for generation, supply, transmission and wheeling of electric wholesale, bulk or retail, as the case may be, within the State:

Provided that where open access has been permitted to a category of consumers under Section 37, it shall determine only the wheeling charges and surcharges thereon, if for the said category of consumers;

- (c) regulate electricity purchase and procurement process of distribution license including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State;
- (d) facilitate intra-State transmission and wheeling of electricity;
- (e) issue licenses to persons seeking to act as transmission licensees, distribution licence, and electricity traders with respect to their operations within the State;
- (f) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity any person, and also specify, for purchase of electricity from such sources, a

percentage of the total consumption of electricity in the area of a distribution licensee;

- (g) adjudicate upon the disputes between the licensees, and generating companies to refer any dispute for arbitration specify State Grid Code consistent with the National Grid Code;
 - (h) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
 - (i) introduce and monitor the implementation of appropriate tariff methodology(ies) of all State- licensees and permit holders in such a manner to allow for recovery of cap investment on the undertakings and reasonable rate of return on such investments business continuity;
 - (j) fix the trading margin in the intra-State trading of electricity, if considered, necessary;
 - (k) advise the State Government on all or any of the following matters; and
 - (i) promotion of competition, efficiency and economy in activities of the electricity industry:
 - (i) promotion of investment in electricity industry,
 - (ii) reorganization restructuring of electricity industry in the State, and
 - (iii) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to State Commission by that Government.
- (2) Subject to the provisions of this Law and without prejudice to the provisions of sub-section (1) of this Section, the State Government,

may by notification in the Official Gazette, confer the following functions upon the Commission to:

- (a) regulate the investment approval for generation, transmission, distribution and supply electricity to the entities operating within the State;
- (b) aid and advise the State Government, in matters concerning electricity generation, transmission, distribution and supply in the State;
- (c) regulate the operation of the power system within the State;
- (d) issue licenses for generation, transmission, bulk supply, distribution or supply of electricity and determine the conditions to be included in the licenses;
- (e) regulate the working of the licensees and other persons authorized or permitted to engage in the electricity industry in the State and to promote their working in an efficient economical and equitable manner;
- (f) require licensees to formulate prospective plans and schemes in co-ordination with others for the promotion of generation, transmission, distribution, supply and utilization of electric quality of service and to devise proper power purchase and procurement process;
- (g) set standards for the electricity industry in the State including standards relating to quality, continuity and reliability of service;
- (h) promote competitiveness and make avenues for participation of private sector in the electricity industry in the State, and also to ensure a fair deal to the customers;
- (i) lay down and enforce safety standards;

- (j) aid and advise the State Government in the formulation of the State power policy;
 - (k) collect and record information concerning the generation, transmission, distribution and utilization of electricity;
 - (l) collect and publish data and forecasts on the demand for, and use of, electricity in the State and to require the licensees to collect and publish such data;
 - (m) regulate the assets, properties and interest in properties concerning or related to electricity industry in the State including the conditions governing entry into, and exit from, electricity industry in such manner as to safeguard the public interest;
 - (n) adjudicate upon the disputes and differences between the licensees and utilities and to refer the matter for arbitration;
 - (o) co-ordinate with environmental regulatory agencies and to evolve policies and procedure for appropriate environmental regulations of the electricity sector and utilities in the State; and
 - (p) aid and advise the State Government on any other matter.
- (3) The Commission shall have the powers necessary and expedient to perform its functions under this Law, and in particular, the Commission shall have the powers to:
- (a) issue, renew, modify, suspend, modify or revoke licenses and permits for undertakings in the State electricity industry;
 - (b) issue and enforce regulations, orders, guidelines and notices as may be necessary expedient for the regulation of the State electricity industry or for the discharge of functions and powers under this Law;

- (c) adopt, adapt and enforce environmental, health and quality standards for the State electricity industry in consultation with relevant federal and state regulatory Authorities;
- (d) formulate, introduce and enforce codes and standards for the State electricity industry;
- (e) prescribe the form and manner in which any application for a license or permit amendment thereof or objection thereto shall be made and the fees payable in respect of any such application;
- (f) prescribe the form and manner in which any application for any authority, consent or approval under this Law shall be made;
- (g) prescribe the conditions for the grant of any license or permit under this Law;
- (h) make and enforce directions to ensure compliance with conditions of licenses a permits under this Law;
- (i) examine and approve meters used or intended to be used for ascertaining the quantity of energy;
- (j) investigate any disputes involving any matter regulated by the Commission pursuant to the provisions of this Law or any other enactment;
- (k) accredit and prescribe the requirements for accreditation of persons for installation of electric meters for end-users;
- (l) impose and enforce such sanctions and penalties on persons who are in breach of the provisions of this Law or subsidiary legislation made thereunder;
- (m) regulate the workings of licensees and persons permitted to engage in any activity in the State electricity industry;

- (n) collect and record data, information and statistics on electricity generation, transmission, distribution and consumption in the State, and publish such data forecast on demand for, use of, electricity in the State and to require licensees to collect and publish such data;
 - (o) regulate the assets, properties and interest in properties relating to the State electricity industry in the State including the conditions governing entry into, and exit from State electricity industry in such and manner to safeguard public interest;
 - (p) inspect, on its own or through duly authorized representatives, the premises, books, accounts and records of any person or entity regulated by the Commission at any time to determine any breach of the provisions of this Law or subsidiary legislations include the Commission's regulations and Orders made pursuant to the provisions of this Law; and
 - (q) exercise such other regulatory powers as are necessary, incidental and ancillary carrying out the objects and functions of the Commissions or such regulatory powers necessary to give full effect to the provisions of this Law.
- (4) The Commission shall discharge its functions and exercise its powers in conformity with the provisions of this Law, and to such extent and circumstances the Commission consider appropriate, consult such persons or group of persons who may or are likely to be affected decisions or orders of the Commission including but not limited to licensees, permit hold consumers, potential investors and other stakeholders.
- 13. (1)** The Commission may, through a fair, open and competitive process, invite application for licenses or permits under this Law.
- Invitation for
Application for
Licences*

- (2) For the purpose of subsection (1) of this Section, the Commission may, within one year of its inauguration under this Law, invite applications for licences and permits for businesses in State electricity industry:
- (a) electricity generation;
 - (b) electricity transmission;
 - (c) electricity distribution;
 - (d) metering;
 - (e) mini-grid development and operations; and
 - (f) any other business in the State electricity industry which the Commission may deem fit to invite applications for licence and permits as deliberate strategy to promote electricity and competition in the State electricity industry.
- (3) For the purpose of giving effect to the provision of subsection (1) of this Section, Commission shall, within one year after its constitution and inauguration pursuant to provisions of this Law, issue the relevant regulation or guidelines specifying the procedures other requirements for participating in the competitive bids for such licenses and permits.
- 14.** (1) The Commission shall conduct hearings, hold consultations and meetings to conduct any of its businesses as often as necessary or expedient, and shall be entitled to conduct its hearings, consultations, meetings at its official headquarters or in any other location in the State. *Meetings of the Commission.*
- (2) Subject to the provisions of this Law, the Commission shall have the power to formulate and adopt its regulations to guide the conduct of its business under subsection (1) of this Section and the discharge of its functions.

- (3) The Chairman or, in his absence, the Vice - Chairman, shall preside at all meetings of the Commission.
- (4) All decisions of the Commission shall be on the basis of majority of the commissioners present and voting with each member of the Commission including the Chairman entitled to only one vote for or against the resolution proposed or issue under consideration.
- (5) For the purpose of giving effect to subsection 4 of this Section, where there is difference of opinions among the members of the Commission, the opinion of the majority shall prevail:

Provided that the Commission shall in express terms state that its decisions, orders, directions represents the views of the majority, together with the reasons supporting such decisions, orders or directions of the Commission, and such decisions, orders and decisions shall be available for inspection by any other person or made available to any person in the manner prescribed by the Commission's business regulations.

- (6) The Quorum for the meetings of the Commission shall be three except in the case of a meeting of the Commission to review any previous decision, direction order taken by the Commission, the quorum shall not be less than the number of Commissioners present when the decision, direction or order was made.
- (7) Without prejudice to subsections (1) and (2) of this Section, the Commission may conduct its business by means of written resolutions signed by all the Commissioners:

Provided that, if any Commissioner proposes that a matter be placed before all the Commissioners for deliberation, this subsection shall not apply to such a matter proposed.

- (8) No decision, order, directive or any act done under the authorization of the Commission shall be invalid on the grounds that there existed a

vacancy among the Commissioners or on the basis that there existed some defect in the appointment and constitution of the Commission at the time the decision, order, directive or act was done or authorized.

15. (1) Where the Commission is required to, or decides to, conduct hearings, hold consultations and meetings pursuant to the provisions of this Law, the Commission shall, as far as reasonably practicable, notify such persons having interest in the matter or experts with the required professional or technical experience on the matter to make representations on the matter :

*Notice to
Persons to
attend
Meetings*

Provided that such a representation is intended to enrich the decision making process of the Commission and afford the interested parties fair hearing on the matter.

- (2) For the purpose of subsection 1 of this Section, the Commission shall authorize any person as it deems fit to represent the interest of the consumers in all proceedings before it.

16. (1) If a question of law arises from an order or decision of the Commission, the Commission may, on its own initiative or at the request of any person directly affected by such order or decision, reserve that question for determination in the State High Court:

*Referring
Questions of
Law to the High
Court or Federal
High Court*

Provided that where such an order, decision or relief directly affects an agency of the Federal Government, such a question of law arising from such order, decision or relief shall be reserved for the determination of the Federal High Court.

- (2) Where a question of law has been reserved under subsection (1) of this Section, the Commission shall state the question in form of a special case and file it with the Registrar of the State High Court or Federal High Court as the case may be.

*Power of the
Commission to
resolve
disputes b*

17. (1) Notwithstanding anything contained in the Arbitration and Conciliation Law of the State, the Commission shall have the powers to resolve

disputes arising between its licensees through arbitration or any alternative dispute resolution mechanisms, and the Commission may proceed to act as an arbitrator or nominate arbitrator(s) to adjudicate and settle such disputes.

- (2) The practice or procedure to be followed in connection with any such adjudication and settlement of disputes under subsection 1 of this Section shall be as may be prescribed by regulation issued by the Commission to that effect.
- (3) Where an arbitral award is made by the arbitrator appointed by the Commission, it shall be filed before the Commission and the Commission shall be entitled to pass appropriate orders on the award including, orders to:
 - (a) confirm and enforce the award;
 - (b) set aside or modify the award; or
 - (c) remit the award for consideration by the arbitrator.
- (4) The award given by the Commission under subsection (1) of this Section or the order given by the Commission under subsection (2) of this Section shall be deemed an enforceable decision and an order of the Commission and shall be appealable in accordance with the provisions of this Law.

18. (1) The Commission shall in the exercise of its powers pass orders and enforce such orders against its licensee for contravening or likely contravention of the relevant conditions and requirements of their licences or orders.

*Passing and
Enforcing
Orders against
Licensees.*

- (2) All directives or orders passed by the Commission shall be enforceable in law as if it were granted by a civil court, and the Commission shall be entitled to make any emergency provisions in its directives and orders including such assistance from the Police and other law

enforcement agencies that are necessary to enforce its directives and orders made pursuant to the provisions of this Law.

- 19.** (1) A person aggrieved by any decision or order of the Commission made pursuant to the provisions of this Law may file an appeal on question of law to the State High Court within 60 days from the date such decision or order was communicated to him:

Appeals against the Orders or Decisions of the Commission

Provided that the court may entertain an appeal after the expiration 60 days if it is satisfied that there was sufficient cause for not filing the appeal within the stipulated period and the interest of justice will be better served if an extension of time is granted.

- (2) Notwithstanding the provision of subsection (1) of this section, no suit shall be commenced against the Commission except a 30-day pre-action notice has been served on the Commission by the aggrieved claimant or claimant's agent stating clearly and explicitly:

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name, license/permit number (if any) and place of business of the claimant; and
- (d) the reliefs claimed.

- 20.** (1) There shall be a Commission Secretary who shall be appointed on such terms and conditions as the Commission may determine.
- (2) The Secretary shall be answerable to the Commission and perform such duties and exercise powers under subsection (3) of this Section or as may be specified by regulations made by the Commission.
- (3) The Commission Secretary shall:
- (a) be the Secretary to the Commission;

Commission's Secretary Appointment and Functions.

- (b) record and keep minutes of meetings and other records of the Commission;
 - (c) keep custody of the seal of the Commission;
 - (d) arrange for meetings, prepare agenda and issue notices;
 - (e) convey decisions of the Commission to members of the Commission; and
 - (f) carry out such other functions as the Commission, may assign to him from time to time.
- (4) The Commission may, determine the number, nature and categories of other officers and employees required by the Commission to discharge its functions under this Law.
 - (5) The salaries and allowances payable to and other conditions of service of the Secretary and other staff of the Commission shall be as determined by the Commission.
 - (6) The Commission may appoint consultants, agents, and committees required to discharge its functions under this Law and may delegate to any of its officers, agents or Committees by a resolution either generally or in a particular case, the exercise of any of its functions or powers under this Law.
 - (7) The Pension Law of State shall apply to employees and staff of the Commission and the Commission's employees and staff shall be deemed to be public servants in the Public Service of the State.
- 21.** (1) The Commission shall prepare, in such form and at such time in each financial year, its budget for the next financial year, showing the estimated receipts and expenditure of the Commission and forward same to the Commissioner responsible for energy for inclusion in the State annual budgetary appropriation.

*Preparation
and
Submission of
Budget.*

- (2) The annual estimates shall make provision for all the estimated expenditure of the Commission for the financial year and in particular, the estimates shall provide for:
- (a) the payment of salaries, allowances and other charges in respect of the Chairman, Commissioners, Secretary and other staff of the Commission;
 - (b) maintenance, repair, and replacement of fixed and movable assets of the Commission; and
 - (c) any other expenditure to be incurred for the financial year by the Commission in the exercise of its powers and performance of its functions under this Law.
- (3) The Commission may prepare and submit to the House of Assembly through the Commissioner responsible for energy, supplementary budget relating to expenditures which were not adequately provided for in the annual budget due to unforeseen circumstances, and such supplementary budget shall be deemed to form part of the annual budget of the Commission for the relevant financial year.

22. The funds of the Commission shall consist of:

*The Funds
of the
Commission.*

- (a) such fees, charges (excluding penalties and fines) accruing to the Commission from licensees and permit holders or generated by the Commission in connection with the carrying out of its functions under this Law;
- (b) such monies as may from time to time, be appropriated by the House of Assembly for the Commission.
- (c) a surcharge embedded in the tariff structure as operational cost as may be determined by the Commission;
- (d) revenue from other sources including loans, grants, gifts or donations approved by the Commission; and

- (e) interest from bank deposits.
- 23.** There shall be paid out of the fund of the Commission, all expenditure incurred by the Commission in the exercise of its powers and performance of its functions under this Law. *Payment for Expenditures.*
- 24.** The financial year of the Commission shall be a period of twelve months starting 1st January ending on the 31st of December in each year or such other period as the Commission may determine. *Financial Year of the Commission*
- 25.** (1) The Commission shall keep or cause to be kept proper books of accounts and other relevant records of incomes and liabilities, expenditure, assets, undertakings, funds, activities, contracts, transactions and other business of the Commission in such a form as may be prescribed by the State Government. *Accounts of the Commission*
- (2) The Statement of Accounts of the Commission prepared pursuant to subsection (1) of this Section shall, not later than three months after the end of the financial year, be submitted to the State Auditor-General and the House of Assembly.
- (3) The Commission shall present an annual report on all its activities to the Governor and the House of Assembly.
- 26.** (1) The accounts kept by the Commission pursuant to subsection (1) of this Section shall be audited by an auditor appointed by the Commission in accordance with the guidelines for appointment of auditors issued by the State Auditor-General. *Auditing of Commission's Account.*
- (2) The Commission shall, within one month following the receipt of the auditor's report under subsection (1) of this Section, publish its audited accounts in two newspapers with wide circulation in the State and on its website (if any).
- (3) The auditor appointed under this section in connection with the audit of the accounts of the Commission shall have rights and privileges to

demand the production for inspection of books of accounts, vouchers and other documents and papers of the Commission relating to its accounts.

27. Any agreement, contract or instrument approved by the Commission may be entered into or executed on behalf of the Commission by any person generally or specifically authorized by the Commission for the purpose and shall bear the official seal of the Commission.

*Agreements and
Contracts of the
Commission*

PART III – REGULATION OF INTRA-STATE ELECTRICITY BUSINESS AND ESTABLISHMENT OF A COMPETITIVE STATE ELECTRICITY MARKET.

28. (1) Subject to the provisions of this Law, issuance of a license by the Commission shall be a mandatory requirement for any person to engage in the under listed intra-state electricity business:

*Issuance of
Licence by the
Commission*

- (a) electricity generation including captive generation;
- (b) electricity transmission including independent transmission networks/independent transmission network operators;
- (c) electricity distribution;
- (d) electricity supply;
- (e) electricity trading including retail trading and electric power exchange; and
- (f) system/market operation.

- (2) A permit or license shall be a mandatory requirement for:

- (a) captive power generation from natural gas, diesel or other fuel sources with capacity of over 100kW for exclusive use of the captive generator; and

- (b) mini- grids with a generation capacity from 50kWp and above or such capacity as may be determined by the Commission through a mini-grid regulation.

29. (1) An application for a license or permit (including an application for renewal, amendment or transfer of license) shall be made to the Commission in the form and manner as prescribed by the regulations made by the Commission pursuant to the provisions of this Law.

*Application
for Licence
and Permit*

- (2) No permit or license shall be issued by the Commission in respect of any application that fails to meet the requirements for the grant of such licence after due consideration of such application together with the objections and representations made in connection with it:

Provided that where Commission resolves to refuse an application made under this Section, it shall notify the applicant in writing indicating that it proposes to refuse the application together with the reasons for such decision to afford the applicant the opportunity within a specified time to make further representations as to why his application should not be refused.

30. (1) Every license or permit shall be in such form as the Commission may determine and shall be issued subject to such terms and conditions as may be prescribed including terms and conditions prescribing the use of a tariff methodology approved by the Commission under Section 44 of this Law.

*Forms of
Application for
Licence Terms
and Conditions.*

- (2) Without prejudice to subsection (1) of this section, all licenses and permits may include:

- (a) a requirement that the licensee or permit holder shall comply with all the applicable environmental, health and safety laws;
- (b) a stipulation that the licensee or permit holder is subject to liability under tort and the contract laws;

- (c) a requirement that all necessary fees associated with the license or permit shall be paid on a timely basis;
 - (d) a requirement that the licensee or permit holder may enter into agreements on specified terms with other persons for the provision of electric lines and associated equipment operated by the licensee;
 - (e) purchase power and other resources in an economical and transparent manner; and
 - (f) refer disputes for arbitration, mediation or determination by the Commission.
- (3) Except as otherwise stipulated by the Commission in a license or permit, no license or permit granted by the Commission under this Law shall entitle the licensee to any claim of exclusivity in the licensed or permitted activity.
- (4) A license may contain terms and conditions for a license to cease to have effect or to be modified or amended by the Commission in such circumstances as may be specified in the license or as may be determined by the Commission.
- (5) The Commission shall include in each license, such particulars as it determines or are required regarding the rights and obligations of the licensee, and procedures to be followed, at the end of its license term.
- (6) Subject to the powers of the Commission to cancel, amend, suspend or renew any license under this Law, the tenure or duration of a license may be open or shall be valid for such duration as prescribed in the licence granted by the Commission.
- (7) Every licence shall be deemed to contain a provision that the licensee complies with the market rules made pursuant to the provisions of this Law to the extent applicable to the licensee.

- 31.** (1) A licensee shall comply with the provisions of his license, the provisions of this Law and subsidiary legislations such as regulations, codes, standards made pursuant thereto including other requirements as may be issued by the Commission from time to time. *Duty of Licensee to comply with Provisions of his Licence.*
- (2) Each licensee shall duly implement or comply with the orders, directives and written notices of the Commission
- 32.** (1) Subject to the provisions of this Law, an application for renewal of an expired License shall be made within such a time as may be prescribed by the Commission but not later than six months before the expiry of such licence.
- (2) The provisions of this Law particularly Sections 30 and 31 and shall, mutatis mutandis, apply in any application for renewal of license under this Section.
- 33.** (1) The Commission may at any time, amend a licence or any term or condition of a licence: *Commission may amend a License*
- (a) if the licensee requests the amendment with cogent reasons; or
- (b) if the amendment is pursuant to a condition of the licence imposed under Section 30 (4) of this Law; or
- (c) in the case of pre-existing licences subject to regularization under Section 47 of this Law; or
- (d) upon receiving a complaint from a consumer or association and other licensees; or
- (e) on its own initiative.
- (2) An application for a license amendment by a licensee under this Section shall be preceded by a notice of the proposed amendment to the licence made within such a duration and in such a manner as the Commission may prescribe, and the Commission shall not amend any

licence until representations and objections are made by the applicant, and such representations and objections are considered and determined.

- (3) Before making amendments in a license otherwise than on the application of a licensee, the Commission shall publish the proposed amendments, stating the period within which objections or representations may be made to the Commission, and the Commission shall not amend any such license until all such objections or representations received by the Commission have been considered and determined.

34. (1) The Commission shall, on its own initiative or upon a complaint from a consumer, consumer association, shareholder in a licensee company, inquire into the conduct or functioning of any licensee in carrying out its obligations under its license and the provisions of this Law.

Power of the Commission to inquire into the Conduct of a Licensee.

- (2) Where upon an inquiry made under subsection (1) of this Section, the Commission determines that the licensee is in grave situation as regards matters referred to under subsection (4) of this Section, the Commission shall issue an order against the licensee requiring the licensee to meet those obligations in breach as determined under subsection (2).
- (3) if the licensee fails to comply with the order referred to under subsection (2) (a) of this Section, the Commission shall, enter upon, take possession or appoint an administrator to enter upon and take possession of the undertaking of the licensee and operate the undertaking for and account of the licensee and at the risk and expense of the licensee, remitting the balance, if any, of the net income derived from the undertaking to the licensee for such a duration as may be specified in the final order.

- (4) The Commission shall invoke its powers to intervene under subsection (3) of this Section if it determines after an inquiry made under subsection (1) of this Section that the licensee:
- (a) is unable to discharge its obligations under its license; or
 - (b) has in the last six months been in default of carrying out anything its obligations under its license and the provisions of this Law; or
 - (c) has been plagued by such protracted management crisis that has become detrimental to the interest of consumers, public interest and the overall operations of the undertaking; or
 - (d) without prejudice to the right of creditors, has insufficient assets to cover its liabilities to lenders and it is imminent risk of receivership from lenders.
- (5) If after taking any or all the steps stipulated under subsection (2) or such other measures as in the opinion of the Commission is appropriate in the circumstance, the state of affairs of the licensee does not improve, the Commission shall invoke its powers under Section 35 of this Law to suspend or revoke the licence of the concerned licensee:
- Provided that where the Commission is satisfied that the circumstances on account which the intervention was made no longer exist or will no longer hinder the proper functioning of the undertaking and the licensee has satisfied his obligations under this Law, it may, at any time, restore the licensee to possession and rescind the final order warranting the entry.
- (5) For the purpose of subsection (3) of this Section, the Commission or its appointed administrator shall give priority to the settlement of verified claims from a debenture holders or mortgagee.

- (6) The application of subsection (3) of this Law shall not prejudice the Commission from enforcing any penalties or fines for breach of licensee obligations or any claims which any consumer or other persons may have against the licensee arising from his obligations under the license.

35. (1) The Commission may suspend or revoke a license where:

*Commission
may suspend or
revoke a
Licence*

- (a) if after taking all the steps stipulated under Section 34 (2) of this Law or such other measures as in the opinion of the Commission is appropriate in the circumstances, the state of affairs of the licensee does not improve;
 - (b) the undertaking or the execution of the works related thereto has not commenced at the expiry of twenty-four months from the date on which the licence was granted and the Commission has granted the affected licensee an extended period after the expiration of the twenty -four months deadline for commencement of execution of works but the licensee has failed to commence execution of works in relation to the license to be revoked;
 - (c) the licensee is adjudged bankrupt;
 - (d) the licensee at any time after commencement of the license, makes representation to the Commission that the undertaking cannot be carried on with profit, and ought to be abandoned, and upon inquiry, the Commission is satisfied that the representation is true.
- (2) The Commission shall comply with the requirements of Section 18 of this Law in suspending or revoking a license, and where a license is suspended or revoked, the Commission shall, take such measures or actions as are necessary to ensure that the supply of electricity to consumers is not unduly interrupted as a result of the suspension or

revocation including the appointment of an administrator to run the undertaking in accordance with the directive of the Commission.

- (3) The provisions of Section 34 (6) of this Law shall apply in case of suspension or revocation of license under this Section.

36. (1) Where the Commission revokes a license under Section 35 of this Law, the Commission shall, within a reasonable time, make such interim arrangements in accordance with its business and service continuity regulations to ensure the continued operations of the undertaking as it may consider appropriate including the appointment of an Administrator. *Suspension of a Licence.*

- (2) An Administrator appointed under subsection (1) of this Section shall exercise such powers and discharge such functions as the Commission may direct to ensure the continued operations of the undertaking for uninterrupted electricity service.

- (3) The operations of the Administrator appointed to operate the undertaking under subsection (2) of this Section or any other part of this Law shall be in accordance the directive regarding its appointment as issued by the Commission and such business and service continuity regulations as may be issued by the Commission under this Law.

37. (1) It shall be responsibility of the Commission to issue and implement an open access framework for transmission and distribution licensees under this Law. *Implementing an Open Access Framework*

- (2) A transmission and/or distribution network licensee shall provide access to all existing and potential network users of that part of the grid owned or operated by him upon:

- (a) payment of such fees or other charges for network services as the Commission may approve; and

- (b) compliance with such minimum requirements of the network service provider as may be approved by the Commission; and

38. (1) A licensee shall not assign or cede his license or transfer his undertaking or any part of it thereof, by way of sale, mortgage, lease, exchange or otherwise except as permitted under this Law. *Licensee not to cede Licence*

(2) Notwithstanding the provisions of subsection (1) of this Section, the Commission may:

- (a) determine that in any instance, the circumstances so require, provide for license terms and conditions recognizing its general and specific consent for the sale, assignment, mortgage, lease, exchange or otherwise of any specific licence;
- (b) give written consent to a licensee to acquire by purchase or otherwise, or affiliate with the license or undertaking of other licensee or persons that is in the business of electricity generation, transmission, system operation, distribution, or trading as provided under Sections 35, 70, 76 and 95 of this Law;
- (c) direct sale and transfer of a license in accordance with the provisions of Section 37 of this Law.

39. Where, upon application, it is shown to the satisfaction of the Commission that a license has been lost, destroyed or defaced, the Commission shall issue a certified true copy of the license, upon payment of a fee as may be prescribed by the Commission. *Issuance of Certified True Copy of Licence.*

40. The Commission shall maintain a register, in such form as it may determine, in which it shall enter particulars of:

- (a) every license, permit or approval granted;
- (b) every modification or revocation of such license, permit or approval;

Maintaining Register on Licence.

- (c) every direction or consent given or determination made with respect to any license, permit or approval;
 - (d) every order or revocation of such order and every notice, as appropriate; and
 - (e) such other information as the Commission may deem necessary.
- 41.** Every licensee shall, unless expressly exempted by the license, prepare and render to the Commission, on or before the date in each year specified in the license, an annual statement or statements of accounts of its operations and of each separate business unit or subsidiary as specified in the license made up to such date, in such form and containing such particulars as may be set out in the license. *Rendering Annual Statement by Licensee.*
- 42.** The Commission shall from time to time collect information with respect to the levels of overall performance achieved by such licensees under its license terms in connection with the generation, transmission and provision of electricity supply service. *Collecting Record of Performance by Licensee.*
- 43.** (1) The Commission or any person authorized by the Commission in writing may: *Rights of the Commission on Licensees.*
- (a) at all reasonable times, enter upon the premises of a licensee and inspect or investigate any plant, machinery, books, accounts and other documents found thereat and take copies of thereof;
 - (b) require a licensee to furnish to the Commission, books, accounts, records and other documents in such form as the Commission may demand.
- (2) The Commission may require that the accuracy of any documents or particulars be verified.

- (3) A person authorized by the Commission under subsection (1) of this Section, shall produce proof of such authorization at the request any licensee concerned.

- 44.** (1) The Commission shall, have the powers to prescribe the terms and conditions for the determination of tariffs for intra-State electricity generation, transmission, distribution and wheeling of electricity, wholesale, bulk or retail, as the case may be in accordance with the provisions of this Law:

Power to prescribe the Terms and Conditions for Determination of Intra – State Electricity Transmission, etc

Provided that where open access has been permitted to a category of consumers by the Commission, the Commission shall determine only the wheeling charge and surcharge thereon, if any, for the said category of consumers.

- (2) The holder of a license granted under this Bill shall observe the methodologies and procedures specified by the Commission from time to time in calculating the expected revenue from charges which it is licensed o r permitted to recover pursuant to the terms and conditions of its license.
- (3) In prescribing the terms and conditions for the determination of for intra-State electricity licensees or permit holders pursuant to subsection (1) of this Section, the Commission may be guided by the following parameters:
 - (a) existing tariff methodologies adopted by NERC pursuant to Section 116 of the Act;
 - (b) factors that would encourage efficiency, economic use of resources, good performance, optimum investments, performance of license conditions, and other factors which the Commission considers appropriate;

- (c) The interest of consumers are safeguarded and at the same time, the consumers pay for the use of electricity in a reasonable manner; and
 - (d) intra -State electricity generation, transmission, distribution and supply are conducted on commercial principles;
- (4) The Commission while determining the tariffs under this Bill, shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, consumers on lifeline rate, power factor, total consumption of energy during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.
- (5) If the State Government requires to grant any subsidy to any consumer or class of consumers in the tariff determined by the Commission under this Section, the State Government shall pay the amount to compensate the licensee affected by the grant of subsidy in the manner the Commission may determine, as a condition for the licensee to implement the subsidy provided for by the State Government.
- (6) The Commission shall ensure that the licensees comply with the provisions of their license regarding the charges for the sale of electricity both wholesale and retail and for connections and use of their assets or systems in accordance with the provisions of this Law.
- 45.** (1) There shall be established an electricity market within the State which shall operate in accordance with the provisions of this Law. *Establishment of Electricity Market*
- (2) For the purpose of subsection (1) of this Section, the Commission shall from the commencement of this Law have the responsibility to promote the development of a competitive electricity market within the State composed of various market participants, bulk customers and retail

electricity customers under such conditions and features as may be recognized under the State electricity market rules approved by the Commission pursuant to the provisions of this Law.

- (3) Immediately following the creation of the subsidiary electricity distribution company referred to under Section 230 (4), (5) and (6) of the Electricity Act 2023 and upon issuance of a distribution licence in accordance with the provisions of Sections 46 and 47 of this Law to the said subsidiary electricity distribution company by the Commission:
 - (a) the distribution licensee referred to under subsection (3) of this Section shall, subject to the terms and conditions of its licence, purchase electrical power for resale within the State from:
 - (i) the successor distribution licensee referred to under 230 (4) of the Act, or
 - (ii) a successor generation company, IPP connected to the National Grid or subsidiary of successor generation company operating within or outside the State in accordance with the provisions of this Law, or
 - (iii) any pre-existing independent power producer (IPP) in the State now under the regulatory oversight of the Commission in accordance with the provisions of this Law,
 - (iv) any generation company or IPP other than the one referred to under in subsection (3) (a) (i) - (iii) above, licensed by the Commission pursuant to the provisions of this Law, and
 - (v) any trading licensee as may be licensed by the Commission under this Law;

- (b) any pre-existing independent power producers or any generation company licensed by the Commission following the commencement of this Law shall, subject to the terms and conditions of their licenses to sell electrical power either to:
 - (i) the distribution or trading licenses referred to under subsection (3) (a) (i) to (iv) of this Section,
 - (ii) any bulk end-user as may be approved by the Commission in accordance to any Bulk Power Consumer regulations issued by the Commission, and
 - (iii) other classes of end user customers as may be approved by the Commission in accordance with any regulations issued by the Commission in this regard;
 - (c) without prejudice to the powers of the Commission to licence transmission companies, independent electricity transmission networks or independent electricity transmission network operators to engage in electricity transmission within the State and the powers of the State Grid Company established under Section 94 of this Law to engage in electricity transmission within the State, the successor transmission company referred to under Section 15 of the Act may engage in electricity transmission within the State, subject to such wheeling charges or Transmission Use of Service Charge, or such other conditions as may be stipulated by the Commission.
- (4) All contracts for the sale of electric power, transmission or distribution services between and among licensees, and between licensees within the State shall be submitted to the Commission in the prescribed form for regulatory approval before execution.
 - (5) In considering a contract under subsection (4) of this section, the Commission shall:

- (a) ensure that the rates or tariffs established in the contract are just and reasonable in line with the provisions of this Law;
 - (b) satisfy itself that the application meets the minimum requirements as prescribed by the Commission for forwarding such contracts; and
 - (c) take into account any other issue which may have a bearing on the operations of the Contract.
- (6) A just and reasonable tariff under subsection (5)(a) of this section means a rate that enables a licensee to, inter alia:
 - (a) maintain its financial integrity;
 - (b) attract capital;
 - (c) operate efficiently; and
 - (d) fully compensate investors for the risks assumed.
- (7) Without prejudice to the provisions of subsection (3) of this Section regarding the arrangement for the sale and procurement of electric power under this Law, the Commission shall continue to take such measures as the Commission may deem necessary to promote electricity access in the State including licensing for embedded generation,, distributed energy resources (DER), mini - grids, promotion of electric power cooperatives, adoption of clean energy technologies for urban and rural electrification etc.
- (8) The Commission shall in the performance of its duty of developing competitive electricity market in the State under this Law:
 - (a) introduce such measures as are necessary for the satisfaction of such preconditions for the establishment of a wholesale and retail electricity market in the State as may be determined by the Commission;

- (b) carry out market monitoring and surveillance to ensure that all market participants perform their obligations towards the satisfaction of the preconditions for the establishment of a wholesale and retail electricity market in the State;
 - (c) ensure there are fully binding agreements in place between electricity generators, distributors and retailers, as the case may be;
 - (d) ensure availability of meters for end-user consumers and connection points between Licensees etc.
 - (e) introduction and enforcement of cost - reflective tariffs for distribution use of systems (DuoS) and Transmission Use of System (TuoS); and
 - (f) any other measure that the Commission deems appropriate to take to ensure the establishment and development of the State electricity market in accordance with the provisions of this Law.
- (9) For the purpose of implementing a retail market under this Bill, the Commission shall specify the minimum financial and technical requirements necessary for a person to be issued with a distribution licence.
- (10) A distribution license shall authorize a person to supply electricity at voltage levels from 33 kilovolts and below to consumers through a series of commercial activities including procuring the energy from other licensees, inspection of premises, metering, billing and collecting revenue, and to construct, own, operate and maintain facilities and equipment required for such commercial activities and supply of electricity.
- (11) A person issued with a retail license shall discharge such duties, in relation to the supply and trade in electrical energy as may be specified by the Commission.

- (12) Where a distribution licensee enters into a contract to supply electrical energy to a consumer who is receiving electrical energy from another distribution licensee under this Law, the new distribution licensee shall forthwith assume all obligations of the previous distribution licensee relating to the subject consumer and previous contract shall cease and be extinguished.
- (13) The Commission may issue a retail license to a licensee for the supply of electricity for a particular area or areas stated in the license.
- (14) The area of supply under a retail license may consist of:
 - (a) a distinct geographical area; or
 - (b) particular premises.
- (15) A retail license shall authorize a person to procure electric power from a Distribution Licensee for sale to end-users and to construct, own, operate and maintain facilities and equipment required for the supply of electricity to the end-user.
- (16) A retail license stating an area consisting of particular premises may describe the premises in the way the Commission considers appropriate including the street address or metering identifier for the premises.
- (17) Every retail licensee shall use a form of contract approved by the Commission, which shall set out the rights and responsibilities of the retail licensee and consumers, as the case may be.
- (18) In approving a form of contract under subsection (15) of this Commission, the Commission shall satisfy itself that such form of contract has fair and reasonable provisions dealing with issues, including but not limited to:
 - (a) service standards;

- (b) limitation of liability of the licensee;
- (c) termination and suspension provisions;
- (d) account and meter deposits;
- (e) metering;
- (f) complaint handling and dispute resolution; and
- (g) rights and obligations of the consumer receiving the electrical energy.

46. (1) The following pre-existing licences or permits granted by NERC under the Act or any other any entity whatsoever which before the commencement of this Law, exercised regulatory powers over electricity business within the State shall subject to subsection (2) of this Section be deemed licenses and permits granted by the Commission:

*Pre-existing
Licences to be
deemed
granted by the
Commission.*

- (a) subsidiary of successor distribution licensee referred to under Section 230 (4) of the Act;
- (b) Independent distribution networks /independent distribution network operators operating within the State with licences hitherto issued by NERC;
- (c) Independent transmission networks /independent transmission network operators operating within the State with licences hitherto granted by NERC;
- (d) embedded power producers operating within State with licence hitherto issued by NERC;
- (e) mini grids operating within the State with a licence hitherto granted by NERC;

- (f) captive generators operating within the State with permits hitherto granted by NERC; and
 - (g) any other licence or permit for intra-state electricity business activity in the areas of generation, transmission and distribution hitherto granted by NERC.
- (2) The licenses and permits referred to under subsection (1) (a) to (g) of this Section shall be deemed licences and permits granted by the Commission subject to regularization and issuance of new licence and permits in accordance with Section 50 of this Law.
 - (3) For the purpose of ensuring the transfer and transition of regulatory powers of NERC over the licensee referred to under Section 230 (4) of the Act and the licenses and permits holders referred to under subsection (1) (a) to (f) of this Section, the Commission shall, immediately following its composition and inauguration under this Law deliver to NERC a formal notification in accordance with Section 230 (2), (3) of the Act and in accordance with paragraph 14, Part II Second Schedule to the Constitution requesting for transfer and transition of regulatory powers to it regarding the licenses thereof.
 - (4) The formal notification referred to under subsection (3) of this Section shall be as in Form FN001 to FN003 in the Schedule to this Law.
- 47.** (1) The deemed licenses and permits of the Commission under Section 46 of this Law shall, upon the completion of the transfer and transition of NERC's regulatory powers over such intra-state electricity business activities covered by such licenses and permits to the Commission, be required to undergo such regularization and modification requirements under this Section to bring them into conformity with the provisions of this Law.
- (2) The Commission shall grant a new license or permit, as the case may be to any pre-existing licensees or permit holders referred to under
- Deemed
Licences and
Permits to
undergo
Regularization
Process.*

Section 46 (2) of this Law, if it determines that the license or permit to be re-issued under this section is in conformity with the provisions of this Law.

- (3) Upon completion of regularization under subsections (1) and (2) of this Section, such pre-existing licensees and permit holders shall come under and be bound by the regulatory oversight of the Commission established under this Law.

- 48.** (1) The Commission shall develop, in consultation with the licensees and other stakeholders, the following:
- (a) Consumer service standards;
 - (b) consumer complaint handling standards and procedure;
 - (c) quality of service and supply standards;
 - (d) procedures for applying for electricity service;
 - (e) provisions for adequately metering end-user customers;
 - (f) rights and obligations for end-user customers;
 - (g) procedures for disconnecting consumers in default of paying bills or those in breach of other terms and conditions of an applicable tariffs or contract; and
 - (h) the information to be provided to consumers and the manner of its dissemination.
- (2) Standards and procedures developed by the Commission shall be adhered to by the applicable licensees and shall be published by the applicable licensees in such a manner and by such means as the Commission may direct.
- (3) Without prejudice to the obligations of licensees to comply with service delivery standards under this section, licensees shall publish on a

Services to be developed by the Commission, Licensees and Stakeholders.

quarterly basis through their official websites or other online platforms, key performance indicators as it affects service delivery including:

- (a) technical data related to load, system and equipment;
- (b) operational parameters;
- (c) financial data; and
- (d) customer service information and other indicators.

49. (1) The Commission shall develop, in consultation with licensees and other interested parties, the following performance standards and codes:

Performance Standards to be developed by the Commission.

- (a) standards of overall performance in connection with the provision of electricity supply services and in connection with the promotion of efficient use of electricity by consumers as, in its opinion, is economic and ought to be achieved by such licensees;
 - (b) such technical codes and manuals as may be required for the safe, reliable and efficient operation of the system; and
 - (c) such other standards, codes, manuals as the Commission may deem appropriate under this Section.
- (2) Standards, codes and manuals approved by the Commission under subsection (1) of this Section shall be binding on applicable licensees in such manner as the Commission may direct.
- (3) Different standards may be determined for different licensees under this Section.
- (4) In developing standards, codes and manuals pursuant to the provisions of this Section, the Commission shall be guided by extant standards, codes and manuals for licensees' performance developed by NERC under the Act.

- 50.** (1) There shall be market rules and state grid code approved by the Commission for the purpose operating the State electricity market.
- (2) The market rules and state grid code referred to under subsection (1) of this Section shall be developed by State Grid Company established under Section 94 of this Law and approved by the Commission six months or within such a duration as the Commission may determine, and may provide for:
- (a) operation of the State grid system by the system operator;
 - (b) establishment and governance of the State electricity market for sale and purchase of electric power and ancillary services;
 - (c) development, approval and publication of the market rules;
 - (d) settlement of payments among different market participants;
 - (e) registration of market participants shall include generating licensees, distribution licensees, bulk consumers, etc;
 - (f) market information;
 - (g) a system operator and market operator;
 - (h) metering requirements;
 - (i) enforcement and dispute settlement;
 - (j) amendment of the market rules;
 - (k) such other matters that may be approved by the Commission; and
 - (l) rules shall reflect accepted economic principles and provide a level playing field to all electric power industry participants including:

- (i) establishment of the merit order dispatch instructions for each time period,
 - (ii) administration of the market, including criteria for admission to and termination from the market which includes security or performance bond requirements, voting rights of participants, surveillance and assurance of compliance of the participants with the rules and the formation of the wholesale electricity spot market governing body, and
 - (iii) prescribing guidelines for market operation in system emergencies.
- (3) The Commission shall, in addition to its powers to approve the market rules and amendment thereof, reserves the discretion to suspend or forebear the application of any amendment or proposed amendment to the rules to meet the exigencies of the market, operation of the state transmission system, and in the case of a national or international emergencies which makes the operation of the market impossible.
- (4) The State grid code approved by the Commission under this Section for the purpose of operating the state grid (if any), shall conform to the Grid Code approved by NERC under the Act:
- Provided that any departure of the State grid code from NERC's approved grid code shall not in any manner whatsoever impede on the operation of the national transmission system under the control of the successor transmission licensee recognized under the Act.
- 51.** (1) From the commencement of this Law, no licensee shall supply electricity within the State after the expiry of the date appointed by the Commission, except through installation of proper meters in accordance with the regulations made by the Commission in this regard.
- Installation of Meters by Licensees.*

- (2) Notwithstanding the provisions of subsection (1) of this Section, the Commission may designate a timeframe for metering of all unmetered existing customers for a period not exceeding twelve months from a date indicated by the Commission, where such extension is necessary for a class or classes of persons or for such area as may be specified in the extension notification issued by the Commission in that regard.
 - (3) For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Commission may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.
 - (4) For the purpose of ensuring compliance with the provisions of this Section, it shall be responsibility of every electricity consumer to accept the installation of electricity meters duly certified by the Commission on their premises.
 - (5) Any electricity consumer who fails to comply with the provisions of subsection (5) of this Section shall be disconnected for the duration that the supplier is denied access to the premises for the purpose of electricity meter installation.
- 52.** (1) There is a mandatory obligation on all electricity consumers to pay electricity bills and where any person neglects to pay any charge for electricity due from him to a distribution licensee, the licensee may, after giving notice in a manner prescribed in any regulation issued by the Commission in that regard, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum together
- Obligation on Consumers to pay Electricity Bills.*

with any expenses incurred by the licensee in cutting off and reconnecting supply are paid.

- (2) No provision of this Law or anything contained in any other law shall prohibit the recovery of arrears of charges for electricity supplied.
 - (3) The provisions of this Section are also applicable to consumers using pre-paid or post-paid meters where due to the defect in the meter, the meter is no longer functional thus compelling the licensee to use the average consumption of electricity by the consumer during the preceding three months to determine the electricity charge to be paid by the customer pending the repair or replacement of the defective meter: Provided that the defective meter is repaired or replaced within six months from the date of defect.
 - (4) The Landlord shall notify the licensee of any outstanding electricity debt of his Tenant three months before termination of the tenancy or lease for the licensee to recover the outstanding debt. Where the landlord fails or refuses to notify the licensee the Landlord shall be liable to pay the debt to the Licensee.
- 53.** (1) In the event of a customer relocating within the jurisdiction of the State and applying for electricity connection at a new location, any outstanding debts accrued by the customer at their previous location shall be transferred to their new location
- (2) The Commission (KSERC) shall establish mechanisms to facilitate the seamless transfer of outstanding debts from the previous location to the new location of the customer, ensuring continuity in debt recovery efforts.
- (3) The KSERC shall collaborate with other State Electricity Regulatory Commissions (SERCs) across Nigeria for the purpose of debt recovery from customers who have incurred debts within the jurisdiction of the State but have relocated to other states within Nigeria.

*Settlement of
Outstanding
Bill.*

- (4) The collaboration between KSERC and other SERCs shall involve the exchange of relevant information, including customer debt records, to facilitate the effective pursuit and recovery of outstanding debts across state boundaries.
- (5) KSERC shall enter into agreements or memoranda of understanding with other SERCs, outlining the terms of cooperation and the procedures for debt recovery activities, while ensuring compliance with relevant data protection and privacy laws.
- (6) The collaboration shall extend to joint enforcement actions, legal proceedings, and any other measures deemed necessary for the recovery of debts owed by customers who have relocated outside the jurisdiction of the State.
- (7) KSERC shall also engage with relevant stakeholders, including distribution companies, debt collection agencies, and legal authorities, to support and enhance debt recovery efforts both within and outside the state.
- (8) The collaboration for debt recovery shall be guided by principles of fairness, transparency, and adherence to applicable laws and regulations governing debt collection practices in Nigeria.

PART IV – ESTABLISHMENT OF KOGI STATE ELECTRICITY COUNCIL

54. There is established a body to be known as the Kogi State Electricity Council (in this Law referred to as "the Council") to be appointed and inaugurated by the Governor in accordance with the provisions of this Law. *Establishment of Kogi Electricity Council*
55. (1) The Council shall consist of: *Composition and Membership of the Council*
 - (a) the Chairman who shall be the Commissioner responsible for energy matters in the State;
 - (b) Secretary who shall be the Permanent Secretary, Kogi State Ministry of Energy;

- (c) Permanent Secretary, Kogi State Ministry of Finance;
- (d) Permanent Secretary, Kogi State Ministry of Water Resources;
- (e) Permanent Secretary, Kogi State Ministry of Works;
- (f) Permanent Secretary, Kogi State Ministry of Justice;
- (g) Managing Director, Kogi State KEPCO.
- (h) Managing Director, Kogi State GridCo;
- (i) the Chairman, Kogi State Consumer Protection Agency;
- (j) Chairmen of each of the Local Governments Areas in the State;
- (k) one representative each of the following:
 - (i) generation licensees;
 - (ii) Transmission licenses;
 - (iii) distribution licensees;
- (l) such other stakeholders not exceeding five that the Governor may consider necessary to appoint as members of the Council.

56. (1) Members of the Council other than ex-officio member shall be appointed by the Governor on the recommendation of the Commissioner responsible for energy while nomination of the representatives of the other stakeholders referred to under Section 57 of this Law shall be made by the respective stakeholders that members are to represent, and thereafter transmitted through the Commissioner for energy to the Governor for appointment.

*Appointment
of Members
other than the
Ex-officio
Members.*

(2) Members of the Council shall be entitled to such sitting allowances as may be approved by the Governor.

57. Members of the Council other than the ex-officio members shall hold membership of the Council for a single term of three years from the date of

*Tenure of
Members of the
Council*

their appointment subject to renewal by the Governor for another term and no more.

58. The Council shall discharge the following functions in relation to the development of the state electricity sector:

*Functions of
Council*

- (a) formulate and advise on policies and strategic implementation plans on electricity generation, transmission, system operation, distribution, supply and retail including coordinated resource plans across the power value chain in the State;
- (b) formulate and advise on policies on renewable energy, green energy, biofuel, new or future energy, energy conservation, energy efficiency, carbon credit and other connected matters;
- (c) formulate and advise on policies to enhance state's participation in the energy and electricity sector of Nigeria for the purpose of increased revenue, local content participation and capacity building;
- (d) formulate and advise on policies and strategies to promote Industries, Tertiary Institutions and Government tripartite participation to develop indigenous capacity and promote the evolution of indigenous technical know-how in the energy and electricity sector;
- (e) formulate and advise on guidelines on implementation and execution of policies and programmes on electricity, renewable energy, electricity generation and distribution for improvement and other energy development matters in the State;
- (f) recommend policy guidelines on tax breaks and other incentives for energy sector investors through the Ministry of Finance for the State Executive Council's approval;
- (g) serve as a state -level forum for State and Local Government and relevant stakeholders in the State electricity sector to interface on

policy matters including measures to eliminate challenges to electricity access in the State;

- (h) advise on policy direction on any aspects that is necessary or incidental to the development of the State power sector under this Law.

59. The funding for the activities of the Council shall be from such funds as may be approved from time to time by the Governor or any grant or assistance from local or international development partners.

*Technical
Committee of
the Council*

60. (1) The Council may set up such number of technical committees or co-opt, when necessary, any suitable expert whose contributions may be needed by the Council on any particular matter, to serve the Council or in the case of an expert to be a member of the Council and attend for as many meetings as may be necessary and the person so co-opted as expert member shall have all the privileges of a member except that he shall not be entitled to vote.

*Committees of
the Council*

- (2) The Chairman of the Council is vested with the powers to create, subject to the Council's approval, the technical committees referred to under subsection (1) of this Section.

- (3) Members of the technical committees shall be drawn from within or outside the state public service among individuals that are certified experts in the subject matter for which the committees are to handle.

- (4) It shall be the duty of the Secretary of the Council to constitute these Committees for the consideration of the Chairman subject to the approval of the Council.

61. (1) The Council shall have power to regulate its own proceedings and may make standing orders for this purpose and, subject to such standing orders, may function notwithstanding any vacancy in its membership or the absence of any member.

*Council to
regulate its
Proceedings*

- (2) The Council shall also have the powers to make standing orders to regulate the proceedings of its technical Committees.

62. (1) The Council shall meet at least every quarter of the year for due performance of its functions under this Law: Provided that the Chairman may at any time summon an emergency meeting where at least the number of persons that constitute the quorum of the Council sign the notice requesting that such an emergency meeting be held to deliberate on such an agenda as may contained in the notice thereof.

*Meetings of
Council*

- (2) The Chairman shall preside at each meeting held by the Council and in his absence the Council shall elect one among themselves to preside.

63. The quorum at a sitting or any of the meetings of the Council shall be one- third of the total number of members including the Chairman at that particular meeting while the quorum for the meetings of the technical committees of the Council shall be as prescribed in the standing orders made by the Council to regulate the proceedings of such committees.

Quorum

64. (1) Notwithstanding the provisions of Section 55 of this Law, the Governor may approve the removal or replacement of a member of the Council, at any time if:

*Power of the
Governor to
remove or
replace a
Member of
Council*

- (a) the Council adopts a resolution supported by two third majority of members of the Council to the effect that it is not in the interest of the public for the member to continue as a member of the Council:

provided that the member concerned is afforded the opportunity to make representation before the Council regarding the issue or circumstance leading to the resolution for his removal before such a resolution is adopted;

- (b) the member is incapable of discharging his functions on the grounds of ill health or unexplained and prolonged absenteeism;

- (c) he has been convicted of an offence in Nigeria or any other country and he has not received any pardon by the Governor; or
- (d) a vacancy has arisen as a result of voluntary resignation by the member or a written request made by the interest he represents, that he should be replaced on the grounds of official retirement or termination of appointment that qualified him for membership of the Council.

65. (1) The State Government may, through the Honourable Commissioner responsible for Energy in the State, issue policy directives on matters concerning electricity in the State including the overall planning and such policy directives shall be consistent with the State Electricity Policy and Implementation Strategy and provisions of this Law.

*Policy Directives
of Government on
Electricity*

(2) The State Government shall be entitled to issue policy directives, concerning the subsidies to be allowed or permitted:

- (a) for supply of electricity to support a specific category or categories of consumers; or
- (b) as support against tariff shortfalls recorded by licensees or permit holders;
- (c) in respect of an area; or
- (d) by the Commission while regulating and approving the tariff structure provided that such a policy directive issued regarding subsidy shall be consistent with the provisions of Section 44 (5) of this Law.

66. The Ministry charged with energy matters in the state shall perform the following functions in relation to the State electric sector:

*Functions of
the Ministry
on Energy
Matters*

- (a) Develop the State Integrated Electricity Policy and Strategic Implementation Plan (SIEPSIP);

- (b) initiate, evaluate and review broad sectoral policies relating to electricity matters in the State;
- (c) develop sustainable energy policies for both conventional and renewable energy solutions in the State;
- (d) serve as the secretariat and provide institutional support to the Council established under Section 59 of this Law; with or in connection with electricity projects in the State;
- (e) provide technical support to local governments, communities, groups, associations(e) develop policies to ensure that all communities in the state are provided with on-grid electric power and off-grid electricity where possible;
- (f) Ensure that the State Government ministries, departments and agencies are provided with electric power supply across the state by the relevant licensees subject to payment of the required tariffs and charges under this Law;
- (g) liaise with relevant government agencies to facilitate the acquisition of land, right of way, way leave and right of way compensations and other related matters, electric cooperatives and liaise with the Commission for the delineation, mapping of underserved, unserved rural areas for the purpose of obtaining all the necessary licenses, permits and approvals as may be required to establish off – grid solutions to meet the electricity needs of such communities.
- (h) collaborate with relevant Federal and State Agencies to ensure compliance with Federal and State environmental standards and ensure that Licensees, and renewable energy project developers, conform to environmentally sound operations and sustainability;
- (i) create an enabling environment including the provision of policy incentives that will attract investors into the power sector of the State;

- (j) subject to the provisions of the Constitution, collaborate, consult and cooperate to the extent practicable with other States and Local Governments, statutory bodies and research agencies on matters relating to electricity in the State;
 - (k) formulate policies for rural electrification including options for subsidization of rural electrification and other measures to make electrification of rural unserved and underserved areas in the State more competitive and attractive to private sector investment;
 - (l) undertake a Statewide survey and assessment of all renewable energy resources in the State and prepare an inventory and resource map in respect of each area with biennial update published in a Gazette;
 - (m) formulate the state strategy for coordinating research in renewable energy; and
 - (n) carry out such other functions and initiatives necessary and incidental for the purpose of improving electricity within the State or as may be further assigned by the Governor.
- 67. (1)** Without prejudice to the generality of the provisions of this Section, the State electric power industry shall be divided into the following broad subsectors with specific provisions respectively made hereunder regarding regulation under this Law:
- (a) electricity generation (including for captive generation purposes);
 - (b) electricity transmission;
 - (c) system operation;
 - (d) electricity distribution;
 - (e) electricity supply.
- Divisions of
the State
Electricity
Industry.*

- (f) other categories of electricity services established by the Commission by subsidiary legislation made pursuant to this Law.

- 68.** (1) Electricity generation in the state shall be competitive and open to private sector investment without prejudice to the constitutional right of the State Government to establish power plants that are exclusively State -owned or on public private partnership basis.
- (2) From the commencement of this Law, any pre-existing generation licensee with a franchise to generate electric power solely within the state shall, with respect to its electricity generation business within the State be required to undergo regularization under Section 50 of this Law.
- (3) For the purpose of subsection (2) of this Section, the generation company shall comply with the transitional provisions contained under Part VII of this Law.
- (4) Subject to the provisions of this Law and such terms and conditions as the Commission may fix in the license, a generation license shall, authorize the license to construct, own, operate and maintain a generation station for purposes of generation and sale of electric power within the State.
- (5) The Commission may without prejudice to subsection (1) of this Section, issue generation licenses to public and/or private sector corporate entities for generation capacity from 1MW and above for renewable and non-renewable sources of generation (excluding diesel).
- (6) The Commission shall issue permits for:
- (a) generation capacity below 1MW but not less than 50kW, the Commission; and

*Openness to
Private Sector
Participation*

- (b) diesel-fired generators with generation capacity between 20kVa to 500kVa.
 - (7) The Commission shall issue competitive procurement regulations and guidelines for the procurement of generation capacity above 10 MW by a distribution licensee and competitive procurement guidelines for the development of mini-grids and distributed generation with generation capacity above 50kWp.
 - (8) Notwithstanding the provisions of Section 68 of this Law, a generation licensee may, subject to the approval of the Commission develop and own or operate dedicated point-to-point limited transmission facilities only for the purpose of connecting to the transmission system and used solely for the generating facility.
- 69.** (1) The transmission of electric power within the State shall be a regulated business subject to the rate making powers of the Commission.
- (2) From the commencement of this Law, the State Government shall have the powers to carry out the construction, operation and maintenance of the State transmission grid or carry out the expansion of the transmission lines transmission licensee for the purpose of facilitating the wheeling of electricity within the State.
- (3) Nothing in subsection (2) of this Section precludes the Transmission Company of Nigeria (in the Act referred to as the "successor transmission licensee") from retaining ownership of its existing transmission system within the State and it shall be responsible for the operation and maintenance of such transmission lines.
- (4) The State GridCo established under this Law shall be issued a transmission service provider licensee in the first instance and shall be responsible for:

*Electricity
Power within
the State to be
a regulated
business.*

- (a) the planning and coordination in regard to electricity transmission in consultation with the Generation companies, the State Ministry of Energy, the Commission and the successor transmission licensee; and
 - (b) Construction, ownership and maintenance of medium voltage and high voltage transmission system for electricity transmission within the State.
 - (5) Notwithstanding the provisions of subsection (3) of this Section, the Commission may issue transmission service provider licenses to such private companies to construct, own and maintain medium voltage and high voltage transmission system for electricity transmission within the State under such conditions as the Commission may consider appropriate.
- 70.** (1) The State GridCo established under this Law and granted a transmission service provider license may be granted a system and market operation license to: *The State GridCO*
- (a) undertake the functions of a system and market operator for the State electricity market as may be established by the Commission under this Law; and
 - (b) undertake the procurement of ancillary services.
 - (2) For the purpose of subsection (1) of this Section, the Commission may fix in the system operation license such activities, including but not limited to:
 - (a) generation scheduling, commitment dispatch;
 - (b) transmission scheduling and generation outage coordination;
 - (c) transmission congestion management;

- (d) procurement and scheduling of ancillary services and system planning for long term capacity;
- (e) coordinating with the successor transmission licensee regarding part of its transmission lines within the State to ensure efficient electricity transmission operations;
- (f) administration of the electricity market, as the case may be, including the activity of administration of settlement payments, in accordance with the market rules; and
- (g) such other activities as the Commission may assign to it under its license to ensure efficient and reliable system open.

71. (1) A distribution license granted by the Commission pursuant to the provisions of this Bill shall authorize the licensee to construct, operate and maintain a distribution system and facilities, including, but not limited to, the following activities as may be specified in the license:

*Authority
contained in a
License.*

- (a) the connection of customers for the purpose of receiving a supply of electricity;
- (b) the installation, maintenance and reading of meters, billing and revenue collection;
- (c) expansion of the distribution network in the licensed areas; and
- (d) such other distribution services as may be prescribed for the purposes of this section.

(2) A distribution licensee shall have the obligation to provide electricity to its customers, pursuant to the terms of the distribution license issued by the Commission to the distribution licensee.

(3) Notwithstanding the provisions of subsection (1) of this section, the Commission shall have the power to approve a distribution franchising arrangement or any other commercial arrangement between the

distribution licensees and third parties within the franchise area of the distribution licensee in accordance with approved franchising regulations, as may be approved by the Commission:

Provided that the franchisee shall not be deemed to hold a distribution license or sublicense but shall operate under the terms of distribution licensee's license, with the distribution licensee being ultimately responsible for quality distribution and supply of electricity in their respective franchised areas.

- 72.** (1) A trading licensee shall be permitted to engage in the purchasing, selling, and trading of electricity and the Commission shall have the powers to determine the terms and conditions of trading licenses as may be appropriate in the circumstances, and having due regard to the nature of the activities in which the licensee intends to engage.
- (2) the Commission shall, at the stage of the market it considers appropriate, issue such number of trading licensees as it considers appropriate, authorizing such trading licensees to purchase, sale and trade in electricity and specifying the technical requirements, capital adequacy requirements, credit worthiness and such other terms and condition as may be stipulated in such trading licenses.
- (3) Trading licenses issued by the Commission pursuant to provisions of subsection (2) of this section shall authorize the trading licensees to enter into contract for the purchase and resale of electricity and ancillary services with:
- (a) with successor generating companies recognized under the Act;
 - (b) independent power producers licensed by the Commission pursuant to the provisions of this Law; and
 - (c) other generator licensees of the Commission.

*Permission to a
Trading
Licensee*

- (8) All contracts for purchases of electrical power and ancillary services by trading licensees shall be awarded according to an open, transparent, and competitive manner, pursuant to a procedure established by the Commission, unless the circumstances require otherwise, and the Commission allows or requires an alternative method.
- 73.**
- (1) Local Content production of meters In order to promote local content and foster indigenous participation in the production of electricity meters, the Commission shall provide incentives for investors to establish meter manufacturing facilities within the State. *Incentives for Investors of Meter Manufacturing Facilities*
 - (2) Investors who establish meter manufacturing facilities in the State shall be eligible for the following incentives:
 - (a) tax incentives, including tax holidays, reduced corporate tax rates, or tax credits, as may be prescribed by the State Board of Internal Revenue;
 - (b) access to land at preferential rates or on a lease basis for the purpose of setting up manufacturing plants;
 - (c) expedited licensing and regulatory approvals to facilitate the establishment and operation of meter manufacturing facilities;
 - (d) access to financing and investment incentives, including grants, loans, or subsidies, from the State Government or relevant development agencies.
 - (2) Meters produced locally in the State shall be required to adhere to standards of integrity and deploy the latest technology to ensure transparency and prevent electricity theft. These meters shall meet or exceed national and international standards for accuracy, reliability, and durability.
 - (3) The Commission shall establish guidelines and regulations for the certification and approval of locally manufactured meters. These

guidelines include provisions for testing, quality assurance, and compliance with technical specifications.

- (4) The State Government shall collaborate with relevant stakeholders, including industry associations, research institutions, and technical experts, to promote innovation and technology transfer in the production of electricity meters.
- (5) The Kogi State Electricity Law shall mandate utilities and distribution companies operating within the state to prioritize the procurement of locally manufactured meters, subject to availability, affordability, and compliance with technical requirements.
- (6) The Commission shall establish monitoring and oversight mechanisms to ensure the integrity and transparency of meter billing and monitoring systems. This shall include regular audits, inspections, and performance evaluations of meters deployed within the State.
- (7) Any investor found to engage in fraudulent practices, including the production or sale of substandard or counterfeit meters, shall be subject to penalties as prescribed by the Kogi State Electricity Law and relevant regulations.

- 74.** (1) Not later than six months from the commencement of this Law, the State Government through the Cabinet Secretary shall, subject to the provisions of this Law issue a written notice, published in a Gazette of the State with a date to implement a transfer scheme for the transfer of properties, interest in properties, assets and liabilities, which immediately before the issuance of the notice belong the State Electricity Board, Rural Electrification Board or any State Electrification Agency established under the repealed law prior to the commencement of this Law (in this Law referred to as the “Board”) and the Board shall vest in the State Government subject to the provisions of this Law.

*Issuance of
Notice in a
Gazette for
Transfer of
Assets
Belonging to
the Board*

- (2) Any property, interest in property, rights and liabilities vested in the State Government under subsection (1) of this Section shall be reverted to the State Government in the KEPCO in accordance with the transfer scheme so published and, on such terms, and conditions as may be determined by the State Executive Council.
- (3) Such rights and powers hitherto exercised by the Board under the repealed law be exercised by the State KEPCO for the purpose of discharging its functions and powers under this Law.
- (4) A transfer scheme may:
 - (a) define the property, interest in property, rights and liabilities to be allocated:
 - (i) by specifying or describing the property, rights and liabilities in question,
 - (ii) by referring to all the property, interest in property, rights and liabilities comprised in a specified part of the transferor's undertaking; and
 - (iii) partly in one way and partly in the other.
 - (b) provided that any rights or liabilities specified or described in the scheme shall be enforceable by or against the transferor or the transferee;
 - (c) impose on the licensee an obligation to enter into such written agreements with, or execute such other instruments in favour of, any other subsequent licensee as may be specified in the scheme; and
 - (d) make such supplemental, incidental and consequential provisions as may be appropriate to give effect to the transfer.

- (5) All debts and obligations incurred, all contracts into and all matters and things done by the Board before the transfer scheme became effective shall, not the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the State KEPCO, and all suits or legal proceedings instituted by or against the Board, may be continued against the State KEPCO.
 - (6) The Board shall cease to be charged with, and shall not perform, the functions and duties transferred to the State KEPCO under this Section.
 - (7) The exercise of the Board's rights and powers may be made on such conditions as shall be specified in the transfer scheme including a condition that such duties and powers are exercised by the KEPCO only with the approval of the Commission.
- 75.** (1) The State Government may, by a transfer scheme under Section 72 (1) of this Law, provide for the transfer of Personnel of the Board to the State KEPCO. *Transfer of Personnel of the Board*
- (2) Upon the completion of the transfer scheme, such personnel referred to under subsection (1) of this Section shall hold office or service under the State KEPCO on terms and conditions that may be determined in accordance with the transfer scheme:
- Provided that the terms and conditions indicated in the transfer scheme are not in any way less favorable than those which would have been applicable to them if there had been no such transfer.
- (3) The transfer of employees under this section shall not entitle such employees to any compensation or damages other than what they are entitled to under the terms and conditions of the transfer scheme.
- 76.** (1) The State Government may provide that the transfers in terms of Section 72 and 73 shall be provisional for a period of five years from the effective date and reserve the right to alter, vary, modify, add or *State Government may provide for Provisional Transfer of*

otherwise change the terms in such manner as the State Government may consider appropriate.

- (2) At any time before the end of the period of five years commencing on the effective date, the State KEPCO to which properties, interest in property rights, liabilities and personnel have been transferred, may with the consent of the State Government, draw up a transfer scheme to vest some or all of the properties, rights in properties, rights, liabilities and personnel in another licensee, or generating company, subject to the consent of such licensee and any such transfer scheme shall take effect as if it were a transfer scheme under Section 72 and 73 of this Law.

77. (1) There is established the KOGI STATE Electric Power Company (in this Law referred to as "the KEPCO").

*Establishment of
Kogi Electric
Company*

(2) The KEPCO shall:

- (a) be a body corporate with perpetual succession and a common seal;
- (b) have power to sue and be sued in its corporate name;
- (c) be capable of holding, purchasing and disposing of property movable and immovable for the purpose of carrying out its functions under this Law.

(3) Subject to the provisions of this Law, the KEPCO shall perform all acts that bodies corporate may by law perform.

78. Without prejudice to the powers of the Commission to license private companies to carry out electricity generation and distribution as separate businesses, the KEPCO licensed by the Commission shall perform the following functions and responsibilities:

*Functions of
the KEPCO*

- (a) takeover, maintain, upgrade and manage any power plants or any electricity infrastructure installed or deployed by the Board, or any

other such facilities deployed by the State Government relating to electricity generation and distribution within the State;

- (b) establish power plants, electricity distribution networks, and generally engage in the business of electricity generation and distribution within the State and for this purpose, apply for, and obtain a generation and distribution license from the Commission to carry out the functions of electricity generation and distribution licensee as provided under this Law;
- (c) render services in connection with electricity generation and distribution to the public and private sector, including rendering such services commercially to individuals within the State;
- (d) render services relating to electricity and energy engineering including consultancy and design of electricity infrastructure from renewable or non-renewable energy sources;
- (e) develop and deploy technical support services in the State electricity sector as a commercial service;
- (f) collaborate with other corporate organizations in engineering businesses involving generation and distribution of electricity as well as power metering technology production and sales within the State;
- (g) invest in a company or consortium for the purpose of participating in the development of electricity power generation and distribution within the State to sale for profit;
- (h) render other services relating to electricity as may be assigned by the Company's Governing Board; and
- (i) manage the Rural Electrification Fund and for this purpose appointment a Fund Manager under the direction of its Board of Directors to manage the Fund for purposes provided under Section 97
(2) of this Law.

79. In the discharge of its functions under Section 77 of this Law, the KEPCO shall have the power to:

- (a) invest in generation and distribution of electricity within the State including investment in micro grid, mini-grid, Electricity Distribution systems, small hydropower generation as well as develop rural electrification projects;
- (b) set general policy guidelines for the management of the KEPCO;
- (c) set administrative guidelines for the conditions and welfare of staff of the Company;
- (d) incorporate subsidiaries for specific purposes as may be approved by the Board;
- (e) carry on the business of generation and distribution of electricity for commercial purposes within the State;
- (f) bid for and execute contracts for electricity generation and distribution projects within State for the purpose of implementing and achieving the objective of this Law.
- (g) enter into collaborative agreements with private power service providers and investors for the purpose of implementing electricity generation and distribution projects of the KEPCO within the State.

80. (1) There is established for the KEPCO, a Board of Directors to be known as the Kogi State Power Electric Company's Board of Directors (in this Law referred to as "the KEPCO Board").

(2) The KEPCO Board shall consist of:

- (a) the Chairman who shall be a person of impeccable character with proven integrity and with several cognate experience in management, energy, electricity engineering, energy law or

energy economics and other allied disciplines who shall be appointed by the Governor;

- (b) two (2) members from the public or private sector who shall be appointed by the Governor as Executive Directors;
- (c) the Managing Director who shall be the Chief Executive Officer of the company and must be from the public or private energy sector with at least ten (10) years' cognate experience at managerial level and shall be appointed by the Governor upon the recommendation of the Commissioner responsible for energy in the State;
- (d) one (1) representative each from the Ministry of Energy and the Ministry of Finance not below the rank of a director to be nominated by the respective Commissioners as non-executive director respectively;
- (e) a Secretary who shall be a legal practitioner seconded from the Ministry of Justice with not less than ten (10) years post call experience and appointed by the KEPCO Governing Board.

81. Except as may otherwise be determined by the Governor, all members of the KEPCO except the ex-officio members shall hold office on

*Tenure of
Members of
the Board*

- (a) a full-time or part-time basis as may be determined by the Governor; and
- (b) a term of 4 (four) years which may be renewed for another term of four years only.

82. The Chairman and members of the KEPCO Board except the ex-officio members will be paid such remuneration and allowances as the Governor may approve.

*Remuneration of
Members.*

83. A person shall not be qualified to be appointed as a member of the KEPCO Board if:

*Qualification for
appointment as
member of
KEPCO Board.*

- (a) He has in accordance with the laws:
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged,
 - (ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside,
 - (iii) been banned from practicing his profession;
 - (iv) been convicted of an offence and sentenced to a term of imprisonment imposed with or without the option of fine, whether or not any portion of the term has been suspended.

84. (1) A Member shall cease to hold office and his office shall become vacant: *Ceasing to be Member of the Board*

- (a) one (1) month after the date upon which he gives notice in writing to the Governor of his intention to resign;
- (b) on the date on which he is convicted of an offence involving financial impropriety or any conduct which would constitute an offence under the Law;
- (c) if he is required under any of the provisions of Section 81 of this Law to vacate his office.

(2) A member of the KEPCO Board may also cease to hold office if in the opinion of the Governor, the member is no longer fit to hold the position or perform the duties under this Law.

85. (1) If a member of the KEPCO Board dies, resigns, retires, becomes disqualified or is removed from office under Section 81 of this Law, the Governor shall appoint a person to fill the vacancy so occasioned for the remainder of the term of office of the member whose death, resignation, retirement, disqualification or removal occasioned the vacancy. *Filling the Vacancy in the KEPCO Board.*

- (2) The person so appointed under sub-section (1) of this section is eligible to be re-appointed for another term of four (4) years only after serving the remaining term of his predecessor.
- 86.** The KEPCO Governing Board may make standing orders regulating its proceedings or that of any of its committees. *KEPCO Board may make Standing Orders*
- 87.** (1) The KEPCO Governing Board shall meet not less than four (4) times in each year and subject, thereto, the KEPCO Governing Board shall meet whenever it is summoned by the Chairman, and if required to do so by notice given to him by not less than three (3) members, he shall summon a meeting of the KEPCO Governing Board to be held within fourteen (14) days from the date the notice is given. *Meetings of the Board.*
- (2) The Chairman may summon a special or an emergency meeting of the KEPCO Governing Board, provided that notice is duly issued to all the members.
- (3) At every meeting of the KEPCO Governing Board, the Chairman shall preside and, in his absence, one of the members except the Managing Director will be appointed to preside at that meeting.
- (4) The Governing Board may, if it desires to obtain the advice of any person on any particular matter, co-opt the person for such period as it thinks fit, but a person who is a member by virtue of this sub-section shall not be entitled to vote at any meeting of the KEPCO Governing Board and shall not count towards a quorum.
- (5) Notice of meeting will be delivered personally or by registered post to all at least 7 (seven) days before the date of the meeting or 3 (three) days in case.
- 88.** The quorum of any meeting of the KEPCO Board shall be four (4) members and the quorum of any Committee of the Board shall be determined by it. *Quorum of Meetings*

- 89.** (1) Every question which comes before the KEPCO Board for decision shall be decided by a majority of the votes of the members present and voting. *Decision of the Board to be on a Majority Vote*
- (2) The Chairman or member presiding at any meeting of the Board shall have one vote, and in the event of an equality of votes, shall also have a casting vote.
- 90.** The KEPCO may with the approval of its KEPCO Board, create departments necessary for the implementation of the provisions of this Law as the KEPCO Governing Board may approve. *KEPCO may create Departments*
- 91.** (1) Without prejudice to the provisions of Section 72 and 73 of this Law, the KEPCO shall have the powers to appoint all its staff: *Power of KEPCO to appoint all of its Staff*
- Provided that such staff shall possess adequate qualifications relevant to the functions of the Company.
- (2) The terms and conditions of service of the staff or officers of the KEPCO, including remunerations, allowances, benefits, pension and gratuities, and career progression shall be competitive, reflecting what is obtainable in the electricity industry and the specialized skills required.
- (3) For the purpose of subsection (1) of this Section, the Governor shall have the power to approve such specific additional remunerations as may be recommended by the Commissioner responsible for energy in the State in order to attract and retain such quality and high calibre manpower either for specific functions or for general duties.
- (4) Where the KEPCO deems it expedient that any vacancy in the Company be filled by a person holding office in the State Civil Service, it will inform the State Civil Service Commission to that effect and cause such vacancy to be filled by way of secondment or transfer.

- (5) Where a person holding office in the State Civil Service is seconded under subsection (4) of this Section, the person will be notified of the terms and conditions of the secondment and the secondment will be without prejudice to any person rights which but for the secondment, would have accrued to the person.
 - (6) A person seconded under subsection (5) of this Section may elect to be transferred as a staff of the KEPCO in which case, any previous service in the State Civil Service shall count as service for the purposes of retirement and pensions subsequently payable through the Company.
 - (7) When specialized skills and services are required, the KEPCO Governing Board may employ such other staff, agents and subject matter experts as it may deem necessary for the efficient performance of the functions conferred on it under and or pursuant to this Law.
- 92.** (1) The KEPCO shall establish and maintain a fund from which all operational expenses incurred by the Company will be defrayed and such funds will consist of:
- Funds of the KEPCO*
- (a) such monies as may be provided for by the State Government by way of grants or loans; and
 - (b) such monies as may be received by the KEPCO in the course of its operations in relation to the exercise by the Company of any of its functions under this Law.
- (2) The KEPCO will submit to the House of Assembly not later than four (4) months before the end of each financial year, estimates of its expenditure and income relating to the next financial year.
- 93.** (1) The KEPCO may with the approval of the Board and the Governor, borrow from time to time such sum of money for and in connection with the exercise of its powers under this Law as the Governing Board may deem fit.
- Power of KEPCO to borrow*

- (2) An approval given for the purpose of this Section maybe either general or limited to a particular borrowing or otherwise and maybe subject to conditions.
- 94.** There shall be a common seal of the KEPCO which shall be kept in the custody of the KEPCO Secretary and must only be used as authorized by the Governing Board. *Seal of KEPCO*
- 95.** (1) Every member of the Governing Board, Agent, Auditor or staff of the KEPCO will be indemnified out of the assets of the KEPCO against any liability incurred in defending any proceedings whether civil or criminal against, if any such proceeding is brought against the member in an official capacity. *KEPCO Board not to be personally Liable*
- (2) A member of the KEPCO Governing Board will not be personally liable for any act or default of the Governing Board performed in good faith during the Governing Board's operations.
- 96.** (1) There is hereby established the Kogi State Grid Company (in this Law referred to as "GRIDCo"). *Establishment of GRIDCo*
- (2) The GRIDCo shall:
- (a) be a body corporate with perpetual succession and a common seal;
- (b) have power to sue and be sued in its corporate name;
- (c) be capable of holding, purchasing and disposing of property movable and immovable for the purpose of carrying out its functions under this Law.
- (3) Subject to the provisions of this Law, GRIDCo shall perform all acts that bodies corporate may by law perform.
- 97.** (1) GRIDCo shall perform the following functions and responsibilities: *Functions of GRIDCO*

- (a) Operate as a transmission service provider for the State grid and for this purpose be issued a transmission service provider licence in the first instance to carry out:
 - (i) the planning and coordination in regard to electricity transmission and to determine the electricity transmission requirements of the State in consultation with the Generation companies, the State Ministry of Power, the Commission and the Distribution licensees,
 - (ii) construct, own and maintain medium and high voltage transmission system for electricity transmission within the State,
 - (iii) subject to prior approval by the Commission, expand, improve and maintain the state transmission facilities consistent with the State Grid Code and the Transmission Development Plan developed under this Law to adequately serve generation, distribution, suppliers and others requiring transmission service and or ancillary services through the transmission system,
 - (iv) serve as the state grid operator to provide dispatch to all generation facilities connected, directly or indirectly, to its transmission system in accordance with the dispatch schedule, and
 - (v) enter into PPP arrangements with the private sector for the construction and ownership of transmission infrastructure;
- (b) undertake preparation of the Transmission Development Plan (TDP) in consultation with the other participants in the State electricity market such as generation and distribution licensees, electricity end -users and such TDP shall be submitted to the

State Ministry responsible for Power for review and integration into the State electric Power Policy and Implementation Plan adopted by the Council under this Law.

- (2) GRIDCo Board of Directors may within such a time as it may determine give approval to GRIDCo to apply a system and market operator licence.
- (3) Nothing in subsections (2) and (3) of this Section prohibits the Commission from issuing a system or market operator licence to another entity other than GRIDCo.

- 98.** The provisions of Sections 77, 78, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, and 93 relating to the KEPCO shall apply to GRIDCo mutatis mutandis. *Provisions relating to KEPCO to apply GRIDCO*
- 99.** (1) There is established the State Rural Electrification Fund (in this Law referred to as the Fund) into which money from the following resources shall be paid and credited: *Establishment of Rural Electrification Fund*
- (a) any fines and penalties imposed and collected by the Commission under this Law which shall be paid directly to the Fund within 30 days of collection;
 - (b) any donations, grants, gifts, assistance or loans made by local or international bilateral or multilateral agencies or non-governmental organizations, the private sector, Federal, State and Local Government, local communities' businesses or any other entity;
 - (c) any special intervention fund as may be provided by the Federal, State or a Local Government;
 - (d) endowments, bequests, gifts, whether of money, movable or immovable property from private foundations, trust or other sources;

- (e) such monies as may be appropriated by the House Assembly for rural electrification;
 - (f) interests from banks deposits; and
 - (g) contributions by designated consumers.
- (2) Without prejudice to the provisions of subsection (1) of this section, the Commission shall determine the contribution rates to be made by designated consumers to the Fund in accordance with policy directions issued by the Commissioner responsible for Energy in the State.
 - (3) The Commission, while determining the contribution rates shall take into consideration the impact of such rates on the designated consumers who shall assume the burden of such contributions and for this purpose such contributions made by such customers shall be factored into their tariffs.
 - (4) The Fund established under this Section shall be managed by the KEPCO through a Fund Manager appointed by KEPCO to accelerate electrification of unserved, underserved rural communities in the state.
- 100.** (1) In furtherance of the provision of Paragraph 2 (a), Fourth Schedule to the Constitution, each Local Government Area in the State shall, not later than six months from the commencement of this Law, establish Local Government Rural Electrification Committees to discharge the functions provided under subsection (3) of this Section.
- (2) In giving effect to the provisions of this section, it shall be the responsibility of each Local Government Chairman to constitute the Local Government Electrification Committees by appointing one person each from the various districts or such other administrative units that make up the Local Governments into the Committee.

*Local
Government
Rural
Electrification
Committees.*

(3) The Local Government Electrification Committees shall be standing or ad hoc committees to be dissolved within such a time as the Chairman may allow after the completion the following functions:

- (a) mobilization and sensitization of individuals, community-based organizations, faith-based organizations and other persons within unserved and underserved areas; of the Local Government on the need to form and register electric power cooperatives;
- (b) provision of guidance and support to those groups interested in subscribing as members or incorporators of proposed electric power cooperatives;
- (c) liaising with the State Ministry responsible for energy and the Commission on the delineation and mapping of unserved and underserved rural communities for the purpose of rural electrification;
- (d) preparing electric cooperatives in operating and competing under the competitive electricity market introduced under this Law;
- (e) strengthening of the technical capability and financial viability of rural electric cooperative; and
- (f) carrying out such other functions as may be assigned to the Committee by the Chairman.

101. (1) it shall be the primary responsibility of the State Government to introduce and implement modalities for the electrification of rural unserved and underserved communities within the State in accordance with the State rural electrification and implementation plan of the State and the provisions of this Law.

*Rural
Electrification.*

- (2) For the purpose of subsection (1), the Commission shall support, promote investments in areas delineated, mapped, designated as rural underserved and unserved areas, by the Commission in conjunction with the various local Governments, the State Ministry of Lands and survey, the State Ministry responsible for power.

102. (1) From the commencement of this Bill, rural, underserved or unserved communities and economic clusters across the State may form and register electric power cooperatives for the purpose of making contributions for the supply of electricity to members within their localities.

*Registration of
Electric Power
Cooperative by
Communities*

- (2) Notwithstanding the generality of the provisions of this subsection, electric cooperatives formed and registered under this Section shall have the power to:

- (a) sue and be sued in its corporate name;
- (b) adopt a corporate seal and alter same;
- (c) acquire a license or permit for mini grids, IEDNs/IEDNOs, captive power generation, embedded power generation, and supply and dispose of electricity to persons who are its members and to other persons, not exceeding ten per cent of its membership;
- (d) enter into agreement with distribution licensees, suppliers for extension of distribution lines to supply electric power to its members within a delineated area;
- (e) construct, acquire, lease lands, buildings, structures, plants, dams, and equipment, real or personal property, tangible or intangible which are deemed necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized;

- (f) borrow money from the rural electrification fund or other sources to execute the objectives for which the cooperative is organized;
 - (g) partner with other electric cooperatives or subscribe to stock cooperatives or join any umbrella body of electric power cooperatives in pursuing the objectives for which the cooperative was set up;
 - (h) adopt, amend and repeal its by-laws;
 - (i) fix, maintain and collect rates, fees, rents, tolls and other charges as may be permissible under the appropriate regulation for operation of electric power cooperatives in the State;
 - (j) perform and do any acts or things, and to have and exercise any other powers which may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized.
- (3) The name of a cooperative shall include the words "Electric Power" and Cooperative with five or more incorporators as the cooperative may determine with the approval of the Commission.
- (4) The Commission shall, within 12 months from the commencement of this Law, develop the regulatory guidelines for the operation of electric cooperatives.
- (5) The State Rural Electrification and implementation Plan may make provision for such assistance, incentives and exemptions that the State Government can extend to electric power cooperatives established pursuant to the provisions of this Law.
- 103.** (1) The Commission shall have the powers to promote the development and use of renewable energy technologies, including but not limited to biomass, solar, wind, tidal waves, hydro power and municipal waste.
- Power of the Commission to promote Renewable Energy*

- (2) For the purpose of subsection (1) of this Section, there is established a renewable energy feed-in-system with the objective of:
 - (a) promoting the generation and consumption of electricity through renewable energy resources;
 - (b) encouraging distribution of electricity generated from renewable resources thereby reducing demand on electricity from non-renewable resources;
 - (c) encourage uptake of, and stimulate innovation in renewable energy technology; and
 - (d) reducing greenhouse gas emissions by lessening reliance on non-renewable energy resources.
- (3) The Commission shall make regulations necessary for the implementation of the feed -in-tariff system established under subsection (2) of this Section, and such regulation may provide for:
 - (a) the technical and operational requirements for connection to the grid;
 - (b) the duration of the feed-in-tariff approval;
 - (c) the purchase by distribution licensees of electrical energy generated using renewable energy resources;
 - (d) the tariff to be paid by distribution licensees to licensees under the feed -in-tariff system.
- (4) In carrying out its functions under this section, the Commission shall give due consideration to:
 - (a) the objectives of the feed-in-tariff system;
 - (b) the State electrification policy and implementation policy;

- (c) the need for sustainability and diversity in the renewable energy resources; and
- (d) the need for fair competition and transparency in the implementation of the feed -in-tariff system.

- 104.** Acquisition of land and access to land for electricity projects in the State, including projects related to electricity generation, transmission, distribution, supply and rural electrification shall be through voluntary and involuntary land acquisition procedures under the Land Use Act. *Acquisition of land in accordance with the Land Use Act*

PART V – OFFENCES AND PENALTIES

- 105.** (1) Where a non-licensed entity generates, transmit, distribute, supplies electric power, such entity commits an offence and is liable on conviction to a fine not exceeding Ten Million Naira (N10,000,000.00) and a daily fine of up to Fifty Thousand Naira (N50,000.00)for continuing contravention. *Generation of Power by Non-licensed Entity*
- (2) Without prejudice to the provisions of subsection (1) of this Section, the Commission shall have the authority to:
- (a) issue a cease and desist order against the violator;
 - (b) issue an order to temporally confiscate the undertaking of the violator;
 - (c) direct the violator to apply for the relevant license on such terms and conditions as the Company may specify including issuing such a license to the violator upon payment of a license application fee at 10 times the usual application fee for such license;
 - (d) generally, direct the violator to take such steps as may be necessary to prevent the continuation or recurrence of the contravention.

- (3) The provisions of this Section shall apply to a person generating, transmitting, distributing, or supplying electricity without the requisite permit required under this Law *mutatis mutanda*.

106. (1) Any person who wilfully and unlawfully:

*Unauthorized
Interference
with Licensee's
Infrastructure.*

- (a) lays or causes to be laid or connects any works for the purpose of connection with any other works belonging to a licensee; or
- (b) reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected;
- (c) taps, makes or causes to be made any connection with overhead, underground or under waterlines or cables, or service wires, or service facilities of a licensee;
- (d) tampers with a meter, installs or uses a tampered meter, current reversing transformer, shorting or shunting wire, loop connection, receives electricity supply by by-passing a meter, or uses any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in diversion in a manner where electricity is stolen or wasted;
- (e) cuts or separates, slits, severs, smelts, removes or takes away or transfers any electric line, material or meter from any tower, pole, or from any other installation or place of installation or any other place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation whether or not the act is done for profit;
- (f) stores, possesses or otherwise keeps in that person's premises, custody or control, any electric line, material or meter whether or not the act is committed for profit;

- (g) who though conducting official duties, unlawfully and wilfully disconnects lawful connections in disregard of this Law or directives emanating from this Law or other laws or regulations of the state commits an offence;
- (h) abstracts, branches off or diverts or causes to be abstracted, branched off or diverted any electrical device which consumes or uses any such electrical energy which has been wrongfully or unlawfully abstracted, branched off or diverted, knowing it to have been wrongfully or unlawfully abstracted, branched off or diverted;
- (i) lays, erects or installs, or permits to be laid, erected or installed, any conductor or apparatus and connects it, or permits it to be connected, with any electric supply line through which electrical energy is supplied by a licensee, without the consent of the licensee; or
- (j) disconnects, or permits to be disconnected, any conductor or apparatus from any electric supply line belonging to a licensee, without the consent of the licensee; or
- (k) makes or permits to be made any alteration in his permanent installation without the prior approval of the licensee; or
- (l) in any case where the quantity of the supply of electrical energy is not ascertained by meter, uses any apparatus or device other than what he has contracted to pay for or uses such apparatus or device at any other time than the time specified and for which he has contracted to pay; or
- (m) uses the electrical energy supplied to him for other purposes other than the purposes for which it is supplied for; or

- (n) supplies any other person with any part of the electrical energy supplied to him by the licensee or the permit holder, without the consent of the licensee or the permit holder; or
- (o) deals in any illegal manner with a Licensees' network, equipment and/or infrastructure:

Commits an offence and is liable on conviction to a term of 3 years imprisonment or a fine of N5,000,000 or both such imprisonment term and fine.

107. Any person who wilfully and unlawfully:

- (a) damages any meter, indicator or apparatus belonging to a licensee; or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from accurately registering the information that it ordinarily should register; connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line;
- (b) destroys, damages or removes any electricity transmission or distribution line or any electricity infrastructure;
- (c) puts, or allows to be put, or to remain, or to accumulate on any household owned by that person or that person's servants, or fails to remove or to cause to be removed, or to take such steps as may be necessary to prevent upon notice in writing from the licensee any foul obstructive matter, or trees, or erected installations in such manner or place that it may fall into or damage any electrical installation or its components, commits an offence and is liable on conviction to a fine of Two Hundred and Fifty Thousand Naira (N250,000.00) or to a term of imprisonment for six (6) months; and in respect of any period during which such matter, earth, or excavated materials is allowed to remain after notice in writing from the licensee requiring the same to be

*Wilful and
Unlawful
Damage to
Meter,
Electrical
Apparatus.*

removed, a penalty of Five Thousand Naira (N5,000.00) for each day the offence continues.

108. Any person who:

- (a) knowingly uses or receives the direct benefit of electric service through any of the acts mentioned under Section 103 (a) and (b) of this Law or uses electricity for a purpose other than that for which the usage of electricity was authorized, so as to abstract or consume or use electricity; commits an offence and liable on conviction to at least ten (10) years imprisonment:

*Knowingly
Receiving
Unlawful
Electricity
Supply.*

Provided that where the load abstracted, consumed or used or attempted abstraction or consumption nor use:

- (i) does not exceed 0.1 kwh, the fine imposed on first conviction shall not be less than five (5) times the financial gain on account of such theft of electricity, in the event of second or subsequent conviction the fines shall not be less than ten (10) times of the financial gain on account of such theft of electricity or Thirty (30) days of community service or Ninety (90) days imprisonment,
- (ii) exceeds 0.1 kwh, the fine imposed on first conviction shall not be less than three (3) times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six (6) months but which may extend to five (5) years and with fine not less than six (6) times the financial gain on account of such theft of electricity,
- (iii) in the event of second and subsequent conviction of a person where the load abstracted, consumed, or used or attempted abstraction or consumption or use exceeds 10 kilowatts, such person shall also be barred from getting any supply of electricity

for a period, which shall not be less than three (3) months, but may extend to two (2) years and shall also be barred from getting supply of electricity for that period from any other licensee.

109. Any person who:

*Electricity
Theft*

- (a) loads, carries away or moves from one place to another with or without the use of a motor vehicle or other means of conveyance, any electric line, material or meter from a tower, pole, any other installation or place of installation or any place or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located whether or not the act is done for profit;
- (b) steals or with intent to steal, breaks, throws down or damages any works of or under the control of a licensee; or
- (c) steals, illegally trades or improperly uses any of the electrical energy supplied by a licensee:

commits an offence of theft of electric lines or materials and shall be liable on conviction to imprisonment as provided under the Penal Code Law.

110. Any person:

Obstruction.

- (a) obstructing or causing obstruction to the licensee, Commission or any person authorized by the licensee or Commission in the execution of his duties;
- (b) prevents or obstructs the generation, transmission, distribution or supply of electricity;

commits an offence under this Bill and is liable on conviction to a fine of N500,000 or term of 3 years imprisonment or both such fine and imprisonment.

- 111.** A person who receives any electric lines or materials, installations, equipment or infrastructure in parts or in whole knowing or having reasons to believe the same to be stolen property, commits an offence under this section and shall be liable upon conviction to a fine of N1,000,000.00 or term of imprisonment of six years or both such fine and term of imprisonment.
- Receiving
Stolen
Property.*
- 112.** A person who:
- Aiding and
Abetting*
- (a) aids, counsels, abets or procures any person to commit an offence under this Law; or
 - (b) conspires with any person to commit an offence under this Law, whether or not such person is present when the offence is committed, commits an offence as a principal offender and is liable on conviction to a fine of not less than One Million Naira (N1,000,000.00) or to a term of imprisonment of not more than five (5) years or both;
 - (c) without prejudice to any penalty or fine which may be imposed or prosecution which may be initiated under this Law or any other Law, if any employee of a licensee enters into or acquiesces in any agreement to do, abstain from doing, permit, conceal or connive to do any act or thing where any theft of electricity lines, infrastructure or destruction is committed, such officer commits an offence and is liable on conviction to a fine of Five Hundred Thousand Naira (N500,000.00) or to a term of imprisonment of not less than three (3) years or both.
- 113.** The penalties and fines imposed under this Law shall, be in addition to any liability in respect of payment of compensation.
- Penalties to be
in Addition to
other
Liabilities.*
- 114.** (1) Where an offence under this Law has been committed by a legal entity or company, firm, corporation or association, every person who was in charge at the time of the commission of the offence as well as the entity shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly:
- Offence by a
Legal Entity*

Provided that nothing contained in this Section shall render any such person liable to any punishment if that person can prove that the offence was committed without his knowledge or that the person had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in subsection (1), where an offence under this Bill has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, partners or other officer of the company such director, manager, secretary etc shall be held liable and punished accordingly.

- 115.** (1) Notwithstanding the provisions of the Criminal Law, or any Law, the court or any authorized Judicial tribunal, may direct any person who has committed, or who is reasonably suspected to have committed an offence of theft of electricity punishable under this to pay a sum of money to the affected licensee, permit holder or any entity who is a victim of electricity theft.

*Court may
direct Payment
of Sum of
Money to
Licensee*

- (2) On payment of the sum of money in accordance with subsection (1), any person in custody in connection with that offence shall be set free and no proceedings shall be instituted or continued against such consumer or person in court.
- (3) The acceptance of the sum of money in accordance with subsection (1) by the licensee, permit holder or authorized officer in this behalf shall be deemed to amount to an acquittal under this Law.
- (4) The provisions under subsections (1)- (3) shall apply only to a first time offender.
- (5) For the purposes of compounding offences under this Law, the sum of money for compounding to be collected per kilowatt (KW) or part

thereof for low tension (LT) supply and per kilo volt ampere (KVA) of contracted demand in case of high tension (HT).

- (6) The Commission may, for reasons to be recorded in writing, either before or after the institution of proceedings, compound any offence relating to the contravention of any order made by it under this Law.

116. (1) Any of the following circumstances shall constitute prima facie evidence of illegal use of electricity the:

*Illegal Use of
Electricity*

- (a) presence of a drilled hole on the glass cover of the electric meter, or at the back or any other part of the said meter;
- (b) presence inside the electric meter of any element that could result in the inaccurate registration of the meter's internal parts to prevent its accurate registration of consumption of electricity;
- (c) existence of any wiring connection which affects the normal operation or registration of the electric meter;
- (d) presence of a tampered, broken, or fake seal on the meter, or mutilated, altered, or tampered meter recording chart or graph, or computerized chart, graph or log;
- (e) presence in any part of the building or its premises which is subject to the control of the consumer or on the electric meter, of a current reversing transformer, jumper, shorting and/or shunting wire, and/or loop connection or any other similar device;
- (f) mutilation, alteration, reconnection, disconnection, by-passing or tampering of instruments, transformers, and accessories;
- (g) destruction of or attempt to destroy, any integral accessory of the metering device box which encases an electric meter, or its metering accessories; and

- (h) acceptance of valuable consideration in any form whatsoever by any officer or employee of the licensed owner or the making of such an offer of valuable consideration to any such officer or employee for not reporting the presence of any of the circumstances enumerated in paragraphs (a), (b), (c), (d), (e), (f), or (g):

Provided however, that the discovery of any of the foregoing circumstances, in order to constitute prima facie evidence, must be attested by a law enforcement agent or duly authorized staff or agent of the licensee or permit holder.

- (2) Where it is found that a customer is involved in any or all the circumstances that constitute prima facie evidence of illegal use of electricity, that customer shall be subjected to immediate prosecution.
- (3) The unlawful possession, control, or custody of electric power transmission or distribution line or material by any person, shall be prima facie evidence of the offence of theft of electricity lines which shall be confiscated.
- (4) An incident shall constitute prima facie evidence only if it is admitted by the consumer concerned, or attested by a volunteer, a law enforcement officer or a duly authorized representative of the licensee or permit holder.

PART VI – ESTABLISHMENT OF SPECIAL COURTS FOR PROSECUTION OF ELECTRICITY THEFT OFFENDERS AND SPECIAL TASK FORCE FOR THE PROSECUTION OF ELECTRICITY THEFT OFFENDERS

- 117. (1)** There shall be established Special Courts within the jurisdiction of Kogi State for the prosecution of electricity theft offenders, hereinafter referred to as the "Special Courts".

*Establishment
of Special
Courts.*

- (2) The State High Court and Magistrate Court shall both have concurrent jurisdiction over offences under the Kogi State Electricity Law, with the discretion to refer cases to the Special Courts as deemed necessary.
- (3) The Attorney General of the State shall apply to the Chief Judge of the State for the creation of Special Courts specifically designated for the prosecution of electricity theft offenders.
- (4) Upon receipt of the application, the Chief Judge of the State shall duly create Special Courts as requested by the Attorney General, appointing judges with requisite expertise in handling cases related to electricity theft to preside over these Special Courts.
- (5) The Special Courts shall have exclusive jurisdiction over cases involving electricity theft and shall apply the provisions of the Kogi State Electricity Law and other relevant laws in dispensing justice.
- (6) The State Government shall provide necessary support and resources through the Attorney General to the Special Courts to ensure their effective functioning, including but not limited to staffing, funding, and facilities.
- (7) The Commission in collaboration with licensees and relevant stakeholders in the Kogi State Electricity Industry shall sponsor and train the Judges and other judicial officers in the Special Courts.
- (8) The procedures and rules governing the Special Courts, including trial procedures, appeals, and enforcement of judgments, shall be prescribed by the Chief Judge of the State in consultation with relevant stakeholders. The courts vested with jurisdiction to try offences under this Law shall ensure that matters brought for trial against any person are conducted with dispatch and accelerated hearing.
- (9) The establishment of Special Courts is aimed at expediting the adjudication process, deterring electricity theft, and promoting compliance with electricity regulations in the State.

- 118.** (1) There shall be established a Special Task Force for the detection, investigation, and prosecution of electricity theft within the jurisdiction of the State. The task force shall be known as the "Kogi State Special Task Force on Electricity Theft" (hereinafter referred to as the "Task Force").
- (2) The Task Force shall be comprised of dedicated law enforcement agents and prosecutors from the Kogi State Ministry of Justice, appointed by the Attorney General.
- (3) The Task Force shall establish a forensic laboratory equipped with necessary facilities and personnel for the purpose of investigating and detecting instances of electricity theft. The findings of the forensic laboratory shall serve as crucial evidence for law enforcement agents and prosecutors in prosecuting cases of electricity theft.
- (4) Any false information provided by officers of the Task Force with the intent to mislead or obstruct the investigation and prosecution of electricity theft shall be subject to appropriate disciplinary action in accordance with the law.
- (5) The Kogi State Electricity Law shall establish guidelines for gathering evidence for electricity theft, including but not limited to:
- (a) video evidence capturing instances of unauthorized connections or tampering with electricity meters;
 - (b) load analysis to determine abnormal consumption patterns indicative of electricity theft;
 - (c) vending history to track discrepancies between electricity purchases and actual usage; and
 - (d) picture evidence documenting evidence of tampering or unauthorized connections.

- (6) The Task Force shall adhere to these guidelines in the collection and presentation of evidence to ensure the integrity and admissibility of evidence in legal proceedings.
 - (7) The Special Task Force on Electricity Theft shall receive funding from multiple sources, including but not limited to:
 - (a) licensees operating within the jurisdiction of the State;
 - (b) government allocations for the purpose of combating electricity theft;
 - (c) contributions from local and international donors and Agencies interested in supporting efforts to reduce electricity theft;
 - (d) Additionally, the Task Force shall be entitled to 5% percentage of the recovery from electricity theft cases as a means of sustaining its operations and enforcement efforts;
 - (e) the utilization of funds received by the Task Force shall be subject to transparency and accountability measures as prescribed by relevant laws and regulations.
- 119.** (1) Investments in the Kogi State electricity industry may be made by private sector investors in accordance with such regulations as may be approved by the Commission and may be undertaken by existing licensees or non -licensees. *Investment by Private Sector Investors*
- (2) For the purpose of subsection (1) of this section, the Commission in consultation with relevant government authorities in the State:
- (a) approve an application from a non -licensee for long term concession of generating plants or distribution lines or any such commercial arrangement with applicant and the KEPCO;
 - (b) any concession or commercial arrangement between the State GRIDCo and an investor for the construction, expansion,

maintenance and operation of transmission lines for intra-state electricity transmission under the State grid recognized under this Law; and

(c) project finance by private investors where such investors build, maintain and operate part of the power plants and distribution system in the State.

(3) It shall be the responsibility of the State Government to offer such financial guarantees for project finance in the State power industry including the provision of such fiscal and tax incentives as may be appropriate to stimulate power sector investments in the State power sector.

120. (1) Licensees and permit holders generating, transmitting and distributing electricity from energy resources in host communities shall have an obligation to introduce such measures to prevent pollution and environmental degradation within such host communities including such voluntary support for the development of such social amenities and other livelihood projects that would empower the host communities to effectively meet their energy needs in the competitive market introduced under this Law.

*Duty of
Licensees to
prevent
Pollution*

(2) For the purpose of subsection (1) of this Section, licensees and permit holders shall be guided by such state legislation on corporate social responsibility on such regulation as may be issued by the Commission from time to time to ensure compliance with the requirements of this Section.

121. No person shall use or employ for or in connection with any of the purposes of producing, generating, transforming, transmitting, distributing, supply, storing, selling or consuming electric power or ancillary services except with the use of material, equipment, or apparatus that complies with the specification and standards of the relevant Federal and State authorities:

*Use of only
Materials that
complies with
Specified
Standards*

Provided that where any conflict exists between technical and safety standards issued by the Federal and State Authorities, the standards put in place by the Federal Authorities shall prevail.

- 122.** (1) The Commission shall have power to make regulations for the efficient Performance of its functions under this Bill by notification in State Gazette. *Power of the Commission to make Regulations*
- (2) Without prejudice to the generality of the provisions of Sub-section (1) of this Section, such regulations may provide for all or any of the following matters, namely:
- (a) the administration of the affairs of the Commission, the exercise of its administrative, quasi-judicial and judicial powers including arbitration, conduct of alternative dispute resolution by the Commission and its procedure, the summoning and holding of meeting of the Commission, the times and places at which such meetings shall be held and the conduct of the business thereof;
 - (b) the duties of the Secretary, officers and employees of the Commission;
 - (c) determination of the functions to be assigned to licensees, and others involved in the generation, purchase, transmission, distribution and supply of electricity, the manner in which such functions shall be discharged and the procedures and codes to be adopted and enforced in regard to the operation and maintenance of power system and electric supply lines;
 - (d) the procedure for licensing and permits for generation, transmission, distribution and supply, the conditions for the grant of licenses, the particulars, details and documents to be made available by the persons applying for licenses and permits, the standards and general conditions subject to which the license shall be granted, the exemptions from grant of

licenses, the revocation and amendment of licenses and the effect thereof and all matters related thereto;

- (e) the duties, powers, rights and obligations of licensees;
- (f) the particulars to be furnished, the collection of information, details, particulars, documents, accounts, books from or of the persons involved in the generation, transmission, distribution, supply and use of electricity, the form and manner in which the same are to be furnished and enforcing and compelling the production of the same;
- (g) methods and manner of determination of licensee's revenues, tariff fixation, the matters to be considered in such determination and fixation;
- (h) the determination of the standard of performance of the persons involved in the generation, transmission, distribution and supply of electricity in the State;
- (i) the number of fines and penalties to be imposed for violation of the provisions of this Bill including the method and manner of imposition of fines and penalties and collection of the same;
- (j) to prescribe the form and manner in which the accounts of the Commission shall be maintained;
- (k) the preparation and implementation of the transfer scheme, the transfer of assets, liabilities, personnel by successor licensees and their subsidiaries established pursuant to the provisions of this Law;
- (l) the financing, funding, giving of financial guarantees etc., to persons involved in the generation, transmission, distribution and supply of electricity in the State;

- (m) any other matter which is required to be, or may be, prescribed by regulations pursuant the provisions of this Law.

PART VII - CONSUMER PROTECTION AND LICENSEE PERFORMANCE STANDARDS

- 123.** (1) The Commission shall develop, in consultation with the licensees, the following:
- (a) customer service standards;
 - (b) quality of service and supply standards;
 - (c) customer complaint handling standards and procedures;
 - (d) procedures for dealing with, and assisting where necessary, customers who have difficulty in paying bills;
 - (e) procedures for applying for electricity service;
 - (f) procedures for disconnecting non-paying customers or for those in breach of other terms and conditions of an applicable tariff or contract;
 - (g) the information to be provided to consumers and the manner of its dissemination; and
 - (h) internal procedures for responding to emergency situations.
- (2) Standards and procedures developed by the Commission shall be adhered to by the applicable licensees and all persons to which they apply to and shall be published by the applicable licensees in such manner and by such means as the Commission may direct.
- (3) Without prejudice to the obligations of licensees regarding compliance with service delivery standards under this section, licensees shall publish on a quarterly basis through their official websites or other on-

*Consumer
Protection
Standards*

line mediums, key performance indicators as it affects service delivery including:

- (a) technical data related to load, system and equipment;
- (b) operational parameters;
- (c) financial data; and
- (d) customer service information and other indicators.

124. (1) The Commission shall develop, in consultation with licensees and other interested parties, the following performance standards and codes:

*Performance
Standards and
Codes*

- (a) standards of overall performance in connection with the provision of electricity supply services and in connection with the promotion of the efficient use of electricity by consumers;
 - (b) such technical codes and manuals as may be required for the safe, reliable, and efficient operation of the system; and
 - (c) such other standards, codes, manuals as the Commission may require.
- (2) Standards, codes and manuals approved by the Commission under subsection (1) shall be binding on the applicable licensees and shall be published by the applicable licensees in such manner as the Commission may direct.
- (3) Different standards may be determined for different licensees under this Section.
- (4) The Commission shall carry out annual review of the overall performance of licensees, and in case of established failure on the part of licensee to meet overall performance standards, the Commission shall determine appropriate relief including fines and penalties that the Commission may impose in such circumstances in accordance with

the provisions of this subsection and the licensee's performance standards and codes.

SCHEDULE (Section 46 (4))

FORMAL NOTIFICATION FOR TRANSFER OF REGULATORY POWERS OVER PRE – EXISTING NERC LICENSEES AND PERMIT HOLDERS.

PART I

FORM FN 001

Formal Notification to NERC requesting transfer of regulatory responsibilities.

Date.

(Insert NERC Corporate Headquarters Address here and address to the Chairman, NERC)

Dear Mr. Chairman,

FORMAL NOTIFICATION REQUESTING TRANSFER OF REGULATORY RESPONSIBILITIES

TAKE NOTICE that the KOGI STATE Government having satisfied the requirements of Section 230 (2) (a) – (b) of the Electricity Act, 2023 hereby issues this Notice to the Nigerian Electricity Regulatory Commission ("NERC) requesting the transition and or transfer of regulatory powers from the Commission to the KOGI STATE Electricity Regulatory Commission ("KEREC) in respect all companies and entities carrying out the business of electricity generation, transmission and distribution within the boundaries of the Kogi State.

2. LEGAL BASIS FOR NOTIFICATION

- (1) Item F, paragraph 14, Part II Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
- (2) Section 2 (2) and 230 (2) of the Electricity Act, 2023.
- (3) Sections 46, 47 and 121 (2) of the Kogi State Electricity Law, 2024.

3. PARTICULARS OF THE LAW SATISFIED

- (1) The Kogi State Electricity Law 2024 ("the Law") has already been enacted to regulate all aspects of intra-state electricity deals in the State.
- (2) The Kogi State Electricity Regulatory Commission is also established under Section 4 of the Law as the State electricity regulator with wide regulatory functions and powers under Section 12 of the Law including enforcement of any, or all provisions of the Law, issuance of licenses, permits for electricity generation, transmission, and distribution; enforcement of licenses, permit etc. KERC also has qualified staff under the superintendence of the Chairman, KOGI STATE Electricity Regulatory Commission. The KOGI STATE Electricity Council and the Ministry of Energy are also in place for electricity policy making in the State.

4. PERSONS DIRECTLY AFFECTED BY THIS NOTIFICATION.

[Indicate affected pre-existing licensees here]. Accordingly, Notice is hereby given to the NERC to direct the affected pre-existing licensees (except permit holders) to incorporate (where applicable), subsidiary distribution or generation companies respectively in compliance 230 (4), (5), and (6) of the Electricity Act, 2023, Sections 46, 47 and 121 of this Law (hereto attached) and the constitutional powers of the Kogi State Government over intra – State electricity generation, transmission, and distribution.

THIS NOTICE IS ISSUED ON DAY OF..... AUGUST . . . 202....

UNDER THE HAND AND SEAL OF THE KOGI STATE ELECTRICITY REGULATORY COMMISSION.

(INSERT NAME CEO HERE)

[insert designation]

Annexure

- (1) Gazette copy of the State Law under reference attached FYI and necessary action.

- (2) Affected pre-existing licensee and the Bureau of Public Enterprises shall be copied.

Part II

FORM FN 002

Formal Notification to Successor Disco and other pre-existing licensees except successor transmission licensee

[Insert date here]

[insert address of affected entity]

FORMAL NOTIFICATION REGARDING TRANSITION OF REGULATORY RESPONSIBILITIES.

TAKE NOTICE that KOGI STATE Government having satisfied the requirements of Section 230 (2) (a) and (b) of the Electricity Act, 2023 hereby issues this Notice to [insert name of successor Disco and GENCo requesting compliance with the provisions of Sections 230 (4) and (5) of the Electricity Act, 2023, Section 46 and 47 of this Law and the Constitution to wit:

- (a) incorporation of a subsidiary company that will come under the regulation of the KOGI STATE Electricity Regulatory Commission established under Section 4 of the Bill for the purpose of electricity generation or distribution within Kogi State; and
- (b) transfer of assets, liabilities, employees and the relevant contractual rights and obligations of the successor company with respect to operation within KOGI STATE to the subsidiary electricity generation or distribution company upon registration.

FURTHER TAKE NOTICE that in accordance with section 230(4) of the Electricity Act, 2023 and Section 120(2) of this Bill, this request is to be complied with within two (2) months from date of receiving a formal notification from the Nigerian Electricity Regulatory Commission regarding the above subject matter and accordingly the Commission has been notified and requested to ensure compliance.

2. LEGAL BASIS FOR NOTIFICATION

- (a) Item F, paragraph 14, Part II Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended).
- (b) Section 2 (2) and 230 (2) (d) of the Electricity Act, 2023.
- (c) Sections 45,46 and 120(2) of the Kogi State Electricity Law, 2024.

3. PARTICULARS OF THE LAW SATISFIED.

- (a) The Kogi State Electricity Regulatory Commission is established under Section 4 of this Law as the State electricity regulator with wide regulatory functions under Section 12 of the Law including enforcement of any, or all provisions of the Law, issuance of licences, permits for electricity generation, transmission, and distribution; enforcement of licences, permit etc.

The Commission also has qualified staff under the superintendence of the Chairman, KOGI STATE Electricity Regulatory Commission. The KOGI STATE Electricity Council and the Ministry of Energy are also in place for electricity policy making in the State.

4. PERSONS COPIED

In compliance of the requirements of Section 230 (d) of the Electricity Act, The National Council on Privatization (NCP) is copied this Notification through its secretariat, the Bureau Public Enterprises (BPE) and the NCP is by this Notification requested to ensure compliance with the provisions of Section 230(4),(5) and 6 of the Electricity Act, 2023 and the powers of KOGI STATE Government under the Constitution.

THIS NOTICE IS ISSUED ON.....DAY OF.....AUGUST.202...

UNDER THE HAND AND SEAL OF THE KOGI STATE ELECTRICITY REGULATORY COMMISSION.

(INSERT NAME)

[insert designation.

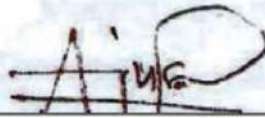
AUTHENTICATION BY THE CLERK OF THE HOUSE

The above printed impression has been carefully compared by me with the Bill that has been passed by the Kogi House of Assembly and found to be a true and correctly printed copy of the said Bill.



ALH. CHOGUDO SULE AHMED MBA, FCTI, FCNA

HEAD OF LEGISLATIVE SERVICE/CLERK OF THE HOUSE



RT. HON. ALIYU UMAR YUSUF
SPEAKER

I assent this 20th day of June 2024.



ALHAJI USMAN AHMED ODODO
GOVERNOR OF KOGI STATE.

Date: 20th June, 2024

THE KOGI STATE ELECTRICITY LAW, 2024

(1) Citation of the Law	(2) Long Title of the Law	(3) Summary of Contents of the Law	(4) Date passed by the House
The Kogi State Electricity Law, 2024.	A Law to establish the Kogi State Electricity Regulatory Commission and Electricity Market and other Matters Connected Therewith, 2024.	The Law seeks to establish the Kogi State Electricity Market and the Kogi State Electricity Regulatory Commission and the Kogi State Electricity Market for the regulation of electricity in the State with the provision of statutory legal framework to exercise the constitutional powers of the State.	June 19th, 2024

I certify that this is a true copy of the Bill passed into Law by the Kogi House of Assembly.



Head of Legislative Service/Clerk of the House
Alh. Chogudo Sule Ahmed MBA, FCTI, FCNA



Signature of the Speaker
Rt. Hon. Aliyu Umar Yusuf



Signature of Governor of Kogi State,
Alhaji Ahmed Usman Ododo