DEAL HQ
PARTNERS

NERC MINI-GRID REGULATIONS 2026: NEW INTRODUCTIONS AND KEY REFORMS

Introduction

Nigeria faces one of the largest electricity access deficits globally. According to the World Bank's Tracking SDG7 Report 2025, 86.8 million Nigerians lack access to electricity - the highest absolute deficit of any country - costing the economy an estimated $29 billion annually in unreliable power supply. Against this backdrop, mini-grids have emerged as a highly viable and commercially promising solution to bridge this chronic access gap through decentralized generation and distribution.

To foster an enabling environment for private investment, the Nigerian Electricity Regulatory Commission (the "NERC") has progressively updated its regulatory frameworks. Following the foundational 2016 rules, NERC issued the 2023 Regulations (No. NERC-R-117-2023) to align with the sweeping reforms of the Electricity Act 2023. The subsequent 2026 Regulations (No. NERC-R-001-2026) advance this framework further by expanding capacity limits, overhauling tariff methodologies, strengthening consumer protections, and formalizing commercial arrangements previously left to private negotiation.

This article provides a critical analysis of the 2023 and 2026 frameworks, examining the strengths of the earlier rules alongside their unresolved gaps and evaluating how the 2026 framework addresses the shortcomings.

NIGERIA'S OFF-GRID MARKET

Nigeria's electricity deficit represents one of the largest markets for off-grid and distributed energy solutions globally. The domestic mini-grid sector alone requires an estimated 10,000 to 15,000 systems to serve communities unlikely to be reached by the main grid within the next decade. Highlighting this accelerating commercial momentum, NERC issued 85 mini-grid licenses and permits between April 2024 and March 2025.

The rapid growth of mini-grids is being driven largely by the continued decline of the national grid. Data from the NERC shows that average grid supply declined from approximately 4,600 megawatts in 2025 to below 3,500 megawatts during the first two months of 2026, largely due to reduced gas supply to generation companies arising from over $1.3 billion in outstanding debts. For many underserved and unserved communities, mini-grids have therefore emerged as the only credible short- to medium-term alternative to unreliable centralised power supply.

Beyond their commercial attractiveness to investors, mini-grids play a vital developmental role. Access to reliable electricity is fundamental to economic productivity, healthcare delivery, education, digital connectivity, and overall quality of life. In this context, mini-grids are not merely energy infrastructure projects; they are essential instruments for inclusive economic development and improved social welfare.

.To manage this evolving landscape, the 2023 Regulations replaced the 2016 framework following the enactment of the Electricity Act 2023 - the most significant reform to Nigeria's power sector in over two decades. This legislative shift decentralized authority by empowering states to oversee intrastate electricity activities, establishing a new framework for renewable energy and distributed power, and fundamentally redefining the jurisdictional relationship between federal and state regulatory institutions.

KEY STRENGTHS OF THE 2023 REGULATIONS

Permits for Interconnected Mini-Grids

A significant innovation under the 2023 Regulations was the extension of the permit framework for interconnected mini-grids. Under the 2016 framework, only operators of isolated mini-grids were required to obtain permits; interconnected operators were governed largely by tripartite agreements without equivalent regulatory oversight. By bringing both categories under a comparable permit regime, the Regulation established a more coherent governing framework that gave project sponsors a clearer legal basis for structuring financing and demonstrating compliance to lenders.

DisCo Network Extension Protections

The 2023 Regulations significantly strengthened investor protection for isolated mini-grid developers by requiring DisCos to provide at least 12 months' written notice before extending their networks into areas already served by a permitted mini-grid. It also guaranteed compensation for affected developers, covering both the depreciated value of network assets and the pre-tax profit earned by the developer in the 24 months before the handover date.

These provisions addressed a major weakness in the earlier 2016 regime, where network encroachment could occur without sufficient notice or compensation, creating considerable uncertainty for investors and undermining long-term project viability.

Deemed Consent Mechanism

A mini-grid developer seeking to set up an isolated mini-grid larger than 100kW of distributed power and up to 1MW of generation capacity directly to eligible customers often requires some level of coordination, confirmation, or non-objection from (DisCo), particularly where distribution infrastructure, network integration, or territorial service obligations may be affected. This regulatory silence created uncertainty, discouraged private investment, and allowed incumbent DisCos to obstruct competing or supplementary power projects indirectly.

To address this bottleneck, the regulatory framework introduced the deemed consent mechanism as a procedural safeguard. The rule was designed to prevent administrative inaction from frustrating otherwise viable projects by imposing a statutory response deadline on DisCos. In essence, it shifted the regulatory environment from one where silence could be used as a blocking tactic to one where silence carried legal consequences.

In essence, the deemed consent rule shifted the balance of power incrementally toward developers and introduced a degree of procedural predictability that had previously been absent.

WEAKNESSES AND GAPS UNDER THE 2023 REGULATIONS

Limited Consumer Protection

While investor-focused in orientation, the 2023 Regulations were notably thin on consumer protection. The framework addressed quality of service but merely required permit holders to supply electricity in accordance with the community contracts prescribed in Schedules 10 and 11. The main body of the instrument lacked standalone regulatory requirements for billing procedures or the publication of service standards. By deferring substantive consumer protections to schedules and bilateral agreements rather than embedding them as mandatory statutory requirements, the framework created a material regulatory gapparticularly since mini-grid customers are predominantly rural communities with limited bargaining power and no alternative power sources.

Weak Dispute Resolution Mechanism

The 2023 NERC Mini-Grid Regulation did not provide a clearly defined or detailed dispute resolution mechanism within its provisions. This creates uncertainty for investors who need to understand, with precision, how disputes will be handled before committing capital. The absence of mandatory timelines, procedural steps, or defined escalation pathways made the provision inadequate as a risk mitigation tool.

Regulatory Overlap

Although the Electricity Act 2023 empowered states to regulate intrastate electricity activities, the 2023 Regulations were entirely silent on how state-level regulation would interact with NERC's federal oversight.

The Regulations applied uniformly to all mini-grids up to 1MW per site but contained no provision addressing the hierarchy of regulatory authority or the framework for resolving conflicts between federal and state regulatory regimes. This created real and unresolved ambiguity for developers operating across multiple states

CHANGES UNDER THE NERC MINI-GRID REGULATIONS 2026

On 10 April 2026, the Nigerian Electricity Regulatory Commission (NERC) signed into force the Mini-Grid Regulations 2026 (NERC-R-001-2026), replacing the 2023 Mini grid 2023 Regulation. The 2026 Regulations represent the most comprehensive revision of Nigeria's mini-grid regulatory architecture to date, covering the full lifecycle of mini-grid development from site exclusivity and permitting technical operation, commercial arrangements, grid arrival transition, and compensation. They apply to isolated mini-grids with installed generation capacity of up to 5 MW per site and to interconnected mini-grids with installed generation capacity of up to 10 MW per site, a significant expansion of the project universe that was effectively constrained to around 1 MW under the 2023 NERC Mini-grid Regulations.

The Abolition of the MYTO Methodology for Isolated Mini grids

The 2026 Regulations abolished the MYTO Methodology for mini-grid projects. It requires that the proposed end-user tariff be calculated in accordance with the mini-grid tariff model rather than the MYTO methodology, a change that applies from the mini-grid permit application stage itself.

The 2026 Regulation replaces the MYTO-based approach with the dedicated Mini-Grid Tariff Model in Schedule 14. The regulation introduces project-specific flexibility wholly absent from the 2023 regime. NERC may approve an initial loss allowance above the default benchmark where justified by location, remoteness, inherited asset condition, line length, customer density, brownfield conversion characteristics, metering status, or other demonstrable project characteristics. It also sets the ceiling at 8 percent for technical losses and 5 percent for non-technical losses, with a mandatory reduction trajectory over no more than 36 months. The regulation establishes a five-year tariff control period providing the medium-term stability that project lenders require for debt service modelling.

Enforceable Timelines for DisCo Objections

The 2026 Mini-Grid regulation now provide that a DisCo's objection lapses for the purpose of blocking a mini-grid permit if physical construction does not commence within 12 months of the date of the objection, or if energisation or substantial completion has not occurred within 24 months, in which case a project developer may proceed. This directly addresses the recurrent practice of DisCos blocking the development of some mini-grid projects by referencing expansion plans that they subsequently fail to implement. It also gives NERC an explicit mandate to grant a permit where it is satisfied that the proposed mini-grid better serves timely electrification, customer welfare, and efficient network development than DisCo's projected expansion. This position is investor-friendly compared to what was obtainable under the 2023 Regulationswhich lacked an enforceable timeline for objection lapses and provided no compensation guarantee for affected mini grid developers.

Mandatory Hosting Capacity Information (HCI)

The 2026 Regulations requires every Distribution Licensee to publish feeder-level HCI in Commission-approved form, on its website and on Commission-designated platforms, updated not less than once every 12 months and within 60 days of any material feeder change. Hosting Capacity Information is data showing how much additional power generation or demand a grid can support at specific points without affecting reliability or safety. It helps developers assess connection feasibility and supports better planning for energy projects. The regulation specifies minimum HCI content: feeder name or code, voltage level, supplying substation, indicative available capacity, unserved and underserved classifications, expected energisation windows, and known technical limitations. This new requirement is highly significant because historically, technical data necessary for mini-grid siting and interconnection planning was difficult to obtain and often required protracted negotiations with DisCos, who had little incentive to cooperate. The HCI framework mandates the transparency necessary to convert this opaque, relationship-dependent process into one governed by published, verifiable data. Any dispute regarding HCI, the scope of a System Impact Study, required reinforcement, or refusal to interconnect shall be referred to the Commission for determination.

Design, Construction, Operation, and Maintenance

The 2026 Regulations provides a tiered technical compliance approach. It requires permit holders to design, construct, commission, operate, maintain, and decommission their distribution networks and related facilities in compliance with the Technical Codes and Standards, and the terms

and conditions of their permit and tripartite agreement, and any other standards prescribed by the Commission. Furthermore, it introduces specific obligations covering generation, storage, distribution, interconnection, and customer-side installations for larger systems. Itadds further requirements for interconnected mini-grids above 1MW, requiring compliance with additional metering, protection, communication, and operational coordination requirements.

It retains the principle that registered mini-grid operators, as distinct from permit holders, are not bound by the full Technical Codes and Standards but may apply only the minimum technical requirements prescribed in the Regulations. This tiered approach to technical regulation is commercially important for smaller operators and reflects a mature recognition that uniform technical requirements would impose disproportionate costs on low-capacity systems. One gap that merits attention in future revisions is the absence of any express provision for regulatory certainty around technical code changes, which could impose retrospective compliance costs on operating projects.

Additional License Transition Options

Where the 2023 instrument offered only two license transition options, the 2026 Regulation introduces five transition options namely, conversion to an interconnected mini-grid; transfer of distribution assets to the DisCo or another approved operator; continued operation under a service, franchise, energy supply, or other commercial arrangement approved by the Commission; orderly decommissioning and exit; or such other transition arrangement as the Commission may approve.

Network Asset Fee and Cost of Energy Charge

For interconnected mini-grids, the 2026 Regulations disaggregate the commercial structure into clearly defined components: the Network Asset Use Fee, being the periodic charge for the use of Distribution Licensee network assets within the designated mini-grid area, and the Cost of Energy charge, being the variable charge for electricity supplied by the Distribution Licensee at the Point of Common Coupling, both determined in accordance with Schedule 8 and expressly captured in the relevant Tripartite Agreement and Interconnection Agreement.

Site Exclusivity for Project Development

The 2026 Regulations explicitly prohibit the transfer of exclusivity agreements to another developer, directly targeting speculative land-banking. To enforce this, the framework introduces rigorous documentary requirements for registration, including a duly executed community agreement, precise boundary coordinates of the site, evidence of at least one formal community meeting with accompanying attendance lists, documentary proof of the developer's technical capacity, and a project timeline with specific milestones. Furthermore, developers must submit progress reports within six months of registration or face potential revocation, supported by NERC's mandate to maintain a publicly accessible exclusivity registry. To deter violations, the regulations impose sanctions on encroaching developers, including a ban of up to 12 months on registering new exclusivity agreements or permit applications.

From an investment standpoint, this tightened exclusivity framework is a welcome development. It safeguards development capital against

predatory competition, frees up prime project sites by eliminating the ability to hold land without genuine development intent, and enhances market transparency through a public registry that reduces duplicative project development expenditure.

SHORTCOMINGS OF 2026 NERC MINI-GRID REGULATION

Regulatory Instability

The replacement of the 2023 Regulations after only two years raises legitimate concerns regarding regulatory stability. Mini-grid developments are long-term infrastructure investments designed to operate for 20 to 25 years. Capital commitment over such horizons requires predictable rules, adjustable tariffs, robust asset protection, and clear dispute resolution mechanisms. In the absence of these assurances, the investor risk premium rises, capital costs increase, and otherwise viable projects become uneconomic.

In practical terms, such policy volatility translates into reduced private sector participation and a slower expansion of energy access. Consequently, a stable and predictable framework is essential not only for individual project bankability but also for the overarching success of decentralized electrification.

Furthermore, the 2026 Regulations lack transitional protections or stability mechanisms to safeguard existing investments. Instead, the framework merely reserves NERC's power to amend or repeal the regulations, in whole or in part, without imposing a minimum review period, a mandatory stakeholder consultation process, or grandfathering clauses for current permit holders.

By preserving the broad, unconstrained amendment power that allowed the 2023 framework to be replaced so quickly, the new rules risk reinforcing investor hesitation. To overcome this, NERC must demonstrate through consistent, sustained enforcement that the 2026 framework represents a durable regulatory architecture rather than another temporary arrangement.

The DisCo Enforcement Gap

The 2026 Regulations introduce several critical obligations for Distribution Licensees (DisCos), including the mandatory publication of feeder-level Hosting Capacity Information (HCI), a 5-day notification requirement for material feeder modifications, a 15-day timeline for energization approvals, and a 30-day response window for export capability applications. While these provisions are conceptually well-designed, they are highly likely to prove unenforceable. Crucially, the regulations limit the consequences of a DisCo's non-response to a "deemed no-objection" for specific procedural steps only, explicitly excluding vital milestones such as energization approvals, safety clearances, and protection waivers. Furthermore, the framework fails to establish a financial penalty regime for DisCos that omit accurate HCI data, delay interconnection approvals, or refuse to engage in good faith.

Historical performance data underscores persistent operational and financial inefficiencies across the DisCo sector, raising significant doubts about their willingness or capacity to consistently provide HCI data to mini-grid developers. Utilities struggling with severe operational losses are unlikely to prioritize the timely publication of data that benefits potential competitors.

Ultimately, without meaningful sanctions, DisCos retain the practical power to frustrate mini-grid development, even within this new regulatory framework.

Implementation and Enforcement

Implementation and enforcement under the 2026 Regulations are significantly more operationally demanding than under the previous framework. While this heightened ambition is a positive development, it places considerably greater pressure on NERC's institutional capacity to effectively administer, monitor, and enforce the expanded rules. Requirements such as mandatory HCI publication oversight, the tiered reporting framework, environmental screening verifications, customer service charter monitoring, and the publicly accessible exclusivity registry all demand active, sustained administrative oversight.

However, none of these provisions are accompanied by an indication of how NERC intends to resource the obligations they create. The legacy of regulatory institutions in Nigeria's power sector is often one of well-drafted provisions that suffered from inconsistent enforcement. Ultimately, the gap between regulatory ambition and implementation capacity remains a genuine, unaddressed concern.

INVESTMENT OPPORTUNITIES UNDER THE 2026 REGULATION

Expanded Project Scale

The expansion of capacity limits from 1MW to 5MW for isolated and 10MW for interconnected mini-grids fundamentally expands the commercial scope of Nigeria's mini-grid market, creating larger-scale opportunities that can enhance project viability.

At 5MW and above, projects can serve small towns and industrial clusters at a scale that generates meaningful revenue, attracts institutional-grade project finance, and produces the returns necessary to attract commercial equity. Developers who can aggregate land, communities, and offtake commitments at this scale will find a significantly more attractive project finance environment under the 2026 framework.

Interconnected Mini-Grid Development

The HCI framework, the simplified interconnection pathway, and the formalised export capability regime create a substantially more transparent and commercially structured environment for interconnected mini-grid development. Developers with the technical capability to navigate the interconnection process and structure commercial relationships with DisCos through the Tripartite Agreement and Interconnection Agreement frameworks have an opportunity to build portfolios with defined revenue streams from both retail customers and electricity export. The explicit definition of the Network Asset Use Fee and Cost of Energy charge provides the revenue and cost certainty that project finance lenders require for underwriting.
Portfolio Development Strategies.

The portfolio filing provisions under the regulation enable developers to aggregate permitting, tariff, and reporting obligations across multiple sites, reducing per-site transaction costs and enabling diversified portfolios that are more attractive to institutional investors and development finance institutions. The public exclusivity registry provides market transparency that should help developers identify available sites and avoid duplicative development expenditure.

CONCLUSION

The trajectory from the 2023 to the 2026 Mini-Grid Regulations is a clearly positive one. NERC has demonstrated a genuine willingness to respond to stakeholder feedback, address implementation challenges, and progressively strengthen a regulatory framework that is central to Nigeria's rural electrification ambitions. The 2026 Regulation is substantively better than its previous regulations in virtually every measurable respect: more investor-friendly, more consumer-conscious, better aligned with the operational realities of mini-grid development, and more attentive to the coordination challenges between developers and Distribution Licensees. The expanded capacity limits, dedicated tariff model, HCI framework, mandatory customer service charter, amongst others are all genuine and material improvements. However, the distance between well-crafted regulations and effective implementation is, in Nigeria's regulatory history, often very significant.

The promulgation of this regulatory framework marks not the completion of reform, but the beginning of the critical work required for its effective implementation and practical success.

About DealHQ

We are an Africa-focused deal advisory/boutique commercial law firm, specializing in supporting businesses and positioning them to operate efficiently within their market sphere. We are known for our quality service delivery which is focused on attention to detail, creativity, timely execution and client satisfaction.

Our service offering includes: Energy & Infrastructure, Aviation, Corporate Commercial, Real Estate, Finance, Capital markets & Derivatives, M&A, Private Equity, Technovation and Data Privacy, Agriculture & Commodities, Business Formations & Start-up Support, amongst others.

This regulatory update is not intended to replace professional legal advice. It merely provides general information to the public on the subject matter. Should you wish to seek specialist legal advice on this or any other related subject, you may contact our Energy team.

EnergyPT@dealhqpartners.com clientservice@dealhqpartners.com

+234 1 4536427 or +234 9087107575