

SPOTLIGHTS OF THE NIGERIAN MIDSTREAM AND DOWNSTREAM PETROLEUM REGULATORY AUTHORITY'S GAS DISTRIBUTION SYSTEMS REGULATIONS, (2023 REGULATION NO: S. I. No. 9 of 2023)

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1. Introduction:

The Gas Distribution Systems Regulations (2023), set forth by the Nigerian Midstream and Downstream Petroleum Regulatory Authority, introduce a structured approach to gas distribution. Addressing the challenge of unregulated gas distribution, these regulations establish a clear licensing process, ensuring only authorised entities distribute gas within designated zones. Highlighting the significance of a national grid system, they aim to streamline gas distribution, enhancing efficiency and safety across the country. The regulations also set forth sanctions and penalties, underscoring the importance of compliance. Through these measures, the authority seeks to foster a reliable, and equitable gas distribution network, supporting Nigeria's energy needs sustainably.

2. Key Provisions of the Gas Distribution Systems Regulations 2023:

Objectives and Application of the Regulations: The Gas Distribution Systems Regulations mark a crucial step in regulating Nigeria's gas sector, establishing clear licensing procedures and enforcing strict penalties for non-compliance.² These regulations focus on granting gas distribution licenses within local distribution zones, encompassing both existing and future gas distribution systems in the specified areas.³

Prohibition of undertaking gas distribution without a licence:⁴ The regulations emphasise that gas distribution in Nigeria is strictly regulated, requiring a license granted by the Authority. The license, valid for 25 years⁵ and subject to renewal, bestows exclusive rights to distribute and sell natural gas within a designated local distribution zone, ensuring consumer non-discrimination.⁶

Authority to designate local distribution zones: The Authority⁷ is tasked with designating local distribution zones for gas in Nigeria, utilising a national grid system, preferably the UTM or an equivalent, for administrative consistency. This system supports the clear demarcation of zones, each based on one-square-kilometre units, allowing for precise adjustments and subdivisions for effective

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² Regulation 1 of the Gas Distribution Systems Regulations

³ Regulation 2 of the Gas Distribution Systems Regulations

⁴ Regulation 3 of the Gas Distribution Systems Regulations

⁵ Regulation 3(3) of the Gas Distribution Systems Regulations

⁶ Regulation 3(2) of the Gas Distribution Systems Regulations

⁷ Nigerian Midstream and Downstream Petroleum Regulatory Authority.

gas distribution license management. Factors like geographical limits, gas availability, infrastructure connectivity, and demand are considered to ensure safe, sustainable operations within these zones.⁸

The bidding process for a local distribution zone:⁹ Gas distribution licenses are granted through a fair, transparent, and competitive bidding process by the Act, Regulations, and guidelines. The Authority periodically releases a licensing plan for local distribution zones and issues an offer letter to the winning bidder within 30 days of the bid process conclusion. The bidding parameters include a single parameter or a combination based on a points system, with the highest aggregate points determining the winning bidder. The process is open, transparent, and competitive, involving an electronic bidding process accessible to the public. In case of non-compliance by the winning bidder, the license offer may be withdrawn, and the second-highest bidder may be considered under the same terms.

Licensing round guidelines: The licensing round guidelines set the rules for bidding on gas distribution licenses. They detail what each bid must include, such as the area covered by the license, how long the license lasts, and the minimum required work. The guidelines also describe what bidders need to do to qualify, like showing they have the technical skills, enough money, and the right legal status. Each bid must have key parts in its license and contract, including the zone's details, license duration, planned work, investment plans, promises of performance, and plans for ending operations. They also cover how to resolve disputes, penalties for not following rules, and any other important requirements the Authority decides on.¹⁰

Application for grant of gas distribution licence in a local distribution zone:¹¹ Qualified individuals can apply directly to the Authority for a gas distribution license, bypassing the standard bidding process. The Authority evaluates these applications based on criteria such as previous bids for the zone, proximity to existing systems, technical and financial capability, economic viability, gas availability, and connectivity to pipelines. Decisions are made within 30 days, considering safety and sustainability, with the possibility of approval upon meeting set criteria and fee payment.

Duties of a licensee: Gas distribution license holders must submit quarterly progress reports, comply with petroleum pipeline regulations, appoint a data

⁸ Regulation 4 of the Gas Distribution Systems Regulations

⁹ Regulation 5 of the Gas Distribution Systems Regulations

¹⁰ Regulation 6 of the Gas Distribution Systems Regulations

¹¹ Regulation 7 of the Gas Distribution Systems Regulations

submission officer, notify the Authority of new customers, and meet approved work programs.¹²

Establishment, design, construction, modification, operation or maintenance of a gas distribution pipeline:¹³ Gas distribution pipeline activities, including establishment, design, construction, modification, operation, or maintenance, must comply with the Authority's petroleum pipeline regulations.

Public service obligations: A licensee must adhere to public service obligations as mandated by the Authority.¹⁴

Existing gas distribution systems:¹⁵ Owners of existing gas distribution systems with a petroleum pipeline license must apply for a new gas distribution license within 90 days after the new rules start. If they previously had agreements that don't match the new laws, they can keep operating under those agreements until their current license ends, but only if the regulatory authority agrees. They must meet specific technical, safety, and service quality standards to get the new gas distribution license. Anyone running a gas distribution system without the right license has 90 days from when the new rules take effect to apply for one, following all the required standards. All gas distribution activities must follow the latest regulations set by the authority, including those about building, changing, operating, or maintaining gas pipelines.

Fees: The cost structure for obtaining and maintaining a gas distribution license in Nigeria is outlined as follows: To apply for a gas distribution license within a local distribution zone, there's an application fee of USD 10,000. Once granted, the license itself costs USD 100,000. License holders are also required to pay an annual operating charge of USD 100,000. After the initial 25-year term, renewing the gas distribution license costs USD 250,000.¹⁶

Offences: Non-compliance with the Gas Distribution Systems Regulations may result in severe penalties. Individuals or entities failing to obtain the required license, provide necessary information, make truthful declarations, or adhere to regulations could face administrative penalties, with a maximum fine of USD 1,000,000.¹⁷ Additionally, the Authority has the power to suspend or revoke any granted license as part of the enforcement measures. Compliance with the

¹² Regulation 8 of the Gas Distribution Systems Regulations

¹³ Regulation 9 of the Gas Distribution Systems Regulations

¹⁴ Regulation 10 of the Gas Distribution Systems Regulations

¹⁵ Regulation 11 of the Gas Distribution Systems Regulations

¹⁶ Regulation 12 (Schedule) of the Gas Distribution Systems Regulations

¹⁷ Regulation 13(d) of the Gas Distribution Systems Regulations

regulations is crucial to avoid legal consequences and ensure smooth operations within the gas distribution sector.

Authority to make guidelines: The Authority retains the discretion to issue guidelines, rules, and directives to ensure the effective implementation of the Gas Distribution Systems Regulations. These additional instructions may be introduced to streamline processes, address emerging challenges, and enhance the overall compliance and efficiency of the gas distribution industry by the regulations.¹⁸

Conclusion:

Nigeria's Gas Distribution Systems Regulations (2023) prioritize safety, efficiency, and reliability in gas distribution. Key features include strict licensing, designated zones, regulatory compliance, clear fees, and penalties for non-compliance. The regulations support existing systems during the transition, ensuring a smooth shift to a more organized and secure gas distribution network. This marks a crucial step towards enhancing Nigeria's energy sector sustainability.

¹⁸ Regulation 14 of the Gas Distribution Systems Regulations