

# **MARKET RULES**

**For Transitional and  
Medium Term Stages of the  
Nigerian Electricity Power  
Sector**

**February 2009**

# TABLE OF CONTENTS

PART 1: INTRODUCTION AND OBJECTIVES .....	1
1. INTRODUCTION.....	1
1.1 Title .....	1
1.2 Establishment of electricity trading system.....	1
1.3 Legislative Authority.....	1
1.4 Application of these Rules .....	2
1.5 Relationship with the Grid Code and the Operating and Market Procedures.....	2
2. OBJECTIVES, CONTENTS AND ADMINISTRATION .....	3
2.1 Objectives.....	3
2.2 Contents .....	3
2.3 Amendments.....	3
2.4 Enforcement .....	4
PART 2: INTERPRETATION AND CONDITIONS PRECEDENT.....	5
3. INTERPRETATION .....	5
3.1 Definitions.....	5
3.2 Interpretation .....	5
3.3 Times and dates .....	6
3.4 Application.....	6
4. OPERATING PROCEDURES AND MARKET PROCEDURES.....	7
4.1 Operating Procedures.....	7
4.2 Market Procedures .....	7
4.3 Consultation.....	7
4.4 Publication.....	7
5. UNFORESEEN CONDITIONS .....	8
5.1 Action to be taken in circumstances not anticipated by these Rules.....	8
5.2 Cases in which urgent action is required .....	8
5.3 Disagreement between Market Operator and Stakeholder Advisory Panel.....	8
5.4 Resolution of differences .....	8
6. MARKET DEVELOPMENT .....	8
6.1 Market Stages.....	8
6.2 Preparations for initiation of the Transitional Stages .....	9

6.3	Transitional Stage.....	10
6.4	Preparations for initiation of the Medium Term Market.....	10
6.5	Medium Term Market: .....	12
7.	EFFECTIVENESS AND CONDITIONS PRECEDENT.....	13
PART 3: THE SYSTEM OPERATOR AND THE MARKET OPERATOR.....		14
8.	GENERAL CONDITIONS.....	14
8.1	System Operation and Market Administration.....	14
8.2	Compliance with Market Rules and Grid Code.....	14
8.3	Delegation.....	14
9.	ROLE OF THE SYSTEM OPERATOR.....	14
9.1	System Operation.....	14
9.2	Generating Groups.....	15
9.3	Implementation of the Grid Code.....	15
9.4	Market Rules.....	16
10.	ROLE OF THE MARKET OPERATOR.....	16
10.1	Market Administration.....	16
10.2	Implementation of the Market Rules.....	16
10.3	Pre-existing PPAs and Contracts.....	17
11.	WORKING GROUPS.....	18
11.1	Establishment of Working Groups.....	18
11.2	Meetings.....	18
11.3	Role of Operating Working Group.....	18
12.	PERFORMANCE.....	19
12.1	Performance Standards.....	19
12.2	Record of Performance.....	19
13.	AUDITS.....	19
13.1	Annual Audits.....	19
13.2	Publication of Audit Reports.....	20
PART 4: PARTICIPATION: ADMISSION, WITHDRAWAL AND TERMINATION		21
14.	PARTICIPANTS ELIGIBILITY REQUIREMENTS.....	21
14.1	Application for Registration as a Participant.....	21

14.2	Eligibility Requirements .....	21
14.3	Disqualification of Participants.....	22
15.	ADMISSION.....	22
15.1	Procedure for becoming a Participant .....	22
15.2	Market Operator’s Response.....	26
15.3	Prudential Requirements.....	27
15.4	Participant’s Ongoing Reporting Obligations .....	29
15.5	Maintenance of Participant Information .....	30
15.6	Termination of Participation .....	31
15.7	Withdrawal by a Participant.....	31
16.	CONNECTION POINTS AND TRADING NODES .....	32
16.1	Designation of Connection Points .....	32
16.2	Regional Trading Nodes .....	32
17.	GENERAL RIGHTS AND OBLIGATIONS OF PARTICIPANTS.....	32
17.1	Obligations of Participants .....	32
17.2	Rights of Participants .....	33
18.	COMPLIANCE .....	33
18.1	Compliance with these Rules .....	33
18.2	Internal consistency .....	34
19.	DURATION OF THESE RULES AND MARKET PARTICIPATION AGREEMENT .....	34
19.1	No fixed duration.....	34
19.2	Termination and Continuity of Obligations .....	34
PART 5: CONTRACTS, GENERATION ADEQUACY AND POWER PROCUREMENT DURING THE TRANSITIONAL STAGE.....		35
20.	CONTRACT MARKET .....	35
20.1	General Conditions.....	35
20.2	Obligatory Provisions in Contracts .....	35
20.3	Contract Register.....	36
20.4	Vesting Contracts.....	39
20.5	Special Contracts.....	39
21.	GENERATION ADEQUACY .....	40
21.1	Annual Load Projections Report.....	40
21.2	Generation Adequacy Report.....	42

22.	NEW CONTRACTS .....	43
22.1	Quantities Authorized for new Power Procurement.....	43
22.2	Competitive Procurement.....	43
22.3	New Contracts by the Special Trader .....	44
22.4	Bilateral Contracts by Distributors.....	46
PART 6: SUBMISSION OF SCHEDULING AND DESPATCH DATA, AND CONTRACT NOMINATION .....		48
23.	DESPATCH DATA.....	48
23.1	Ex-Ante Day Ahead Nominations .....	48
23.2	Submission and Validation of Contract and Dispatch Data.....	52
23.3	Timing of Day Ahead Nominations and Standing Nominations .....	53
23.4	Modification to Nomination .....	54
23.5	Consequences of Restatement .....	55
23.6	Standing Nominations.....	56
24.	CONTRACT DATA.....	56
24.1	Contract Nomination for the Transitional Stage.....	56
24.2	Bilateral Contract Nominations for the Medium Term Market.....	56
24.3	Nominations by Generation Facilities Designated as Reliability Must-Run Units for the Medium Term Market.....	57
24.4	Submission and Validation of Contract Data .....	59
25.	TRADE ACROSS THE INTERCONNECTOR.....	59
25.1	Purpose and Application.....	59
25.2	Contracted Interconnector Capacity Arrangements .....	59
25.3	Daily Interconnector Capacity Allocations .....	60
25.4	Interconnector Capacity Allocation .....	60
25.5	Confirmation of Access requests.....	62
25.6	Capacity Assignment .....	62
25.7	Nominations for Import and Export of Energy .....	62
25.8	Actual Available Transfer Capacity .....	63
25.9	Interconnector Usage Charge .....	63
PART 7: SETTLEMENT AND PAYMENT SYSTEM DURING THE TRANSITIONAL STAGE.....		64
26.	GENERAL.....	64
26.1	Timing.....	64
26.2	Payments to Generators.....	64

27.	MARKET SETTLEMENT .....	64
27.1	Market Settlement System .....	64
27.2	Exceptional Conditions.....	64
27.3	Contract Market Quantities.....	65
27.4	Availability.....	65
27.5	Settlement of Uninstructed Generation.....	65
27.6	Metering System.....	67
27.7	Transmission Loss Factor.....	69
27.8	Adjustment for Transmission Loss Factors.....	70
27.9	Transmission Charges .....	71
27.10	System Operation and Market Administration Budget.....	71
27.11	System Operation and Market Administration Charges .....	72
27.12	Market Transactions .....	73
28.	SETTLEMENT STATEMENTS.....	73
28.1	Preliminary Settlement Statement.....	73
28.2	Final Settlement Statement.....	74
28.3	Complaints on the Final Settlement Statement.....	74
28.4	Settlement Market Procedure.....	75
29.	BILLING AND PAYMENT .....	76
29.1	Billing.....	76
29.2	Payment System .....	76
29.3	Transfer System.....	77
29.4	Non Payment.....	78
 PART 8: SETTLEMENT AND BILLING DURING THE MEDIUM TERM MARKET 80		
30.	GENERAL.....	80
30.1	Financial Transaction Conventions.....	80
30.2	Currency .....	80
31.	SETTLEMENT SOFTWARE AND MARKET OPERATOR ACCOUNTS .....	80
31.1	Settlement Software.....	80
31.2	Market Operator Accounts.....	80
31.3	Market Operator Clearing Account.....	82
31.4	Market Operator Reserve Account .....	82
31.5	Market Operator Surplus Account.....	82
31.6	Participant's Account .....	83
31.7	Market Operator Payments Calendar.....	83

32.	SETTLEMENT DATA COLLECTION AND MANAGEMENT .....	85
32.1	Metering and Metering Responsibilities .....	85
32.2	Meter Data Recording and Collection Frequency.....	85
32.3	Collection and Validation of Meter Data .....	87
32.4	Collection of Ancillary Service Data .....	87
32.5	Confidentiality .....	88
33.	DETERMINATION OF DAY-AHEAD PRICE AND SYSTEM MARGINAL PRICE .....	88
33.1	Day-ahead Price .....	88
33.2	System Marginal Price .....	88
34.	PAYMENTS AND CHARGES .....	89
34.1	Half Hourly Settlement Variables and Date.....	89
34.2	Settlement Amounts .....	89
34.3	Purchasers .....	94
34.4	Reliability Must-Run .....	96
34.5	Compliance and Non-compliance with Dispatch Instructions.....	96
34.6	Failure to Convert Operating Reserve into Energy Production .....	97
34.7	Transmission Tariff Charges .....	97
34.8	Black Start Capability.....	98
34.9	Secondary Regulation, Slow Reserve and Quick Reserve .....	98
34.10	System Operation and Market Administration Charge .....	98
35.	COMPUTATION OF CHARGES AND PAYMENTS.....	99
35.1	Calculation of Daily and Monthly Charges and Payments .....	99
35.2	Description of Daily Amounts to be Settled for Purchasers.....	99
35.3	Description of Daily Amounts to be Settled for Generators .....	99
35.4	Description of Monthly Charges to be settled.....	99
35.5	Description of Monthly Payments to be settled.....	100
35.6	Additional Charges and Payments.....	101
35.7	VAT .....	101
35.8	Settlement of Charges and Payment .....	102
36.	SETTLEMENT STATEMENTS .....	102
36.1	Preliminary Settlement Statements .....	102
36.2	Final Settlement Statements .....	102
36.3	Resolution of Disputes Relating to Preliminary Settlement Statements ...	103
36.4	Settlement Statement Re-runs .....	104

37.	INVOICES .....	104
38.	PAYMENT PROCEDURES .....	104
38.1	Time of Payment.....	104
38.2	Payment Process .....	104
38.3	Use of the Market Operator Reserve Account.....	105
38.4	Payment Delay.....	105
38.5	Payment Default.....	105
38.6	Postponement of Enforcement of Security Cover .....	106
38.7	Replenishing Reserve Account Following Payment Default.....	106
38.8	Application of Funds Received.....	107
38.9	Set-Off.....	107
38.10	Order of Payments.....	107
38.11	Default Interest .....	107
38.12	Interest Accruing while Enforcing the Security Cover.....	108
39.	PAYMENT ERRORS.....	108
39.1	Overpayments.....	108
40.	SETTLEMENT IN THE EVENT OF EMERGENCY AND MARKET SUSPENSION.....	109
40.1	Use of Estimated Data .....	109
40.2	Payment of Estimated Statements and Invoices .....	109
40.3	Validation and Correction of Estimated Statements and Invoices.....	109
40.4	Estimated Statements to be Final .....	109
40.5	Market Intervention and Suspension.....	110
PART 9:	COMMUNICATIONS.....	113
41.	COMMUNICATIONS.....	113
41.1	Communications in Respect of the Submission of Nomination .....	113
41.2	Communications in Respect of the Settlement and Billing procedure during the Medium Term Market.....	113
41.3	Rule Communications .....	114
PART 10:	GOVERNANCE, ADMINISTRATION AND ENFORCEMENT .....	117
42.	PANELS, COMMITTEES AND COUNSELLOR – CONSTITUTION, APPOINTMENT, POWERS AND DUTIES.....	117
42.1	Constitution of Panels and Appointment of Counsellor .....	117
42.2	Stakeholder Advisory Panel.....	118
42.3	Dispute Resolution Counsellor and Dispute Resolution Panel .....	124



42.4	Market Surveillance Panel.....	131
43.	DISPUTE RESOLUTION.....	134
43.1	Interpretation and General Procedural Provisions .....	134
43.2	Application.....	135
43.3	Continuing Obligations and Stay of Orders .....	137
43.4	Negotiation .....	137
43.5	Notice of Dispute and Response.....	138
43.6	Arbitration.....	140
43.7	Confidentiality .....	148
43.8	Record-Keeping and Publication.....	148
43.9	Audit .....	149
44.	MARKET SURVEILLANCE.....	149
44.1	Market Monitoring Functions.....	149
44.2	Investigations.....	151
44.3	Dispute Resolution and Other Relief.....	154
44.4	Publication and Provision of Data .....	154
44.5	Audit .....	154
45.	AMENDMENT OF THE RULES .....	155
45.1	Introduction and Interpretation.....	155
45.2	Amendment Process Generally.....	155
45.3	Rules Report .....	155
45.4	Rules Working Group.....	156
45.5	Requests for Review or Amendment of Market Rules and the Grid Code.....	156
45.6	Rule Amendments Initiated by the Stakeholder Advisory Panel.....	161
45.7	Urgent Amendments .....	161
45.8	Minor Amendments .....	162
45.9	Notice to Consumer Groups .....	164
45.10	Audit .....	164
45.11	Approval by the Commission and Effectiveness of Amendments .....	164
46.	ENFORCEMENT .....	165
46.1	Compliance .....	165
46.2	Procedures Concerning Alleged Breaches of these Rules.....	165
46.3	Suspension Orders and Disconnection Orders.....	167
46.4	Termination Orders and Disconnection Orders.....	173
46.5	Non-compliance Letters and Financial Penalties.....	176
46.6	Non-compliance by Officers and Agents.....	179

47.	RECORD RETENTION, DISCLOSURE, ACCESS AND CONFIDENTIALITY	180
47.1	Record Retention .....	180
47.2	Disclosure.....	181
47.3	Accessibility.....	181
47.4	Open Access to Information and Confidentiality.....	182
47.5	Exceptions.....	184
47.6	Cost of Access and Electronic Data Sharing.....	187
47.7	Conditions of Access.....	187
47.8	Liability .....	188
	APPENDIX 1: DEFINITIONS.....	194
	APPENDIX 2: CONDITIONS PRECEDENT.....	216
	APPENDIX 3: ADMISSION REQUIREMENTS .....	219
	APPENDIX 3-A: PARTICIPANT ADMISSION APPLICATION FORM .....	221
	APPENDIX 3-B: PARTICIPANT INFORMATION FORM .....	224
	APPENDIX 4: DECLARATION BY NOMINEES .....	226
	APPENDIX 5: FORMAT OF THE INVOICE .....	229

## **PART 1: INTRODUCTION AND OBJECTIVES**

### **1. INTRODUCTION**

#### **1.1 Title**

The Rules set forth herein shall be called the Market Rules for the Nigerian Electricity Power Sector.

#### **1.2 Establishment of electricity trading system**

These Rules have been framed by the Market Operator in order to establish the electricity trading system for the Nigerian Electricity Power Sector and to make provisions for the following:

##### **1.2.1 During the Transitional Stage:**

- (a) Energy procurement and contracting;
- (b) Energy metering and settlement of contracts; and
- (c) collection by the Market Operator of the System Operation and Market Administration Charge;

##### **1.2.2 During the Medium Term Market:**

- (a) trading in Imbalance Energy;
- (b) settlement of charges and payments relating to Energy, Ancillary Services and usage of the Transmission System; and
- (c) collection by the Market Operator of the System Operation and Market Administration Charge and the Cost of Imbalance Energy;

##### **1.2.3 A system for the administration and enforcement of these Rules.**

#### **1.3 Legislative Authority**

1.3.1 These Rules have been made pursuant to Section 26 of the Act, which provides that the Minister shall recommend to the President, the approval of market rules to be developed by the Market Operator for, amongst other things, the establishment and governance of markets related to electricity and ancillary services.

1.3.2 Specifically, Section 26(3) of the Act provides that the market rules may, in respect of markets for electricity and ancillary services, include provisions:

- (a) governing the making and publication of market rules;

- (b) settlement of payments among different participants;
- (c) authorising and governing the making of orders by the Market Operator, including orders:
  - (i) imposing financial penalties on Market Participants;
  - (ii) authorising a person to participate in the markets; or
  - (iii) terminating, suspending or restricting a person's right to participate in the markets; and
- (d) concerning the administration and enforcement of the market rules, including provisions for amending the market rules, dispute resolution, penalties and market surveillance.

1.3.3 Pursuant to Section 26(2) of the Act, the Minister has recommended these Rules to the President and the President has approved same by order no. [ ] dated [ ], published in the Federal Gazette of.

#### **1.4 Application of these Rules**

- 1.4.1 Section 71(11) of the Act provides that every Licence shall be deemed to contain a provision that the licensee complies with these Rules to the extent applicable to the licensee. Accordingly, these Rules shall apply to, and bind all Participants who hold a Licence, the TSP, the System Operator and the Market Operator.
- 1.4.2 These Rules shall also apply to and bind all persons who are registered with the Market Operator as Participants or Applicant Participant, notwithstanding that such persons do not hold a Licence.
- 1.4.3 The persons referred to in the preceding Rules 1.4.1 and 1.4.2 shall be deemed to have entered into a contract with one another under which each such person agrees to observe and perform these Rules so far as they are applicable to such person.
- 1.4.4 The Market Rules shall have the effect of a contract between each Participant and the Market Operator by virtue of the execution by the Market Operator and each Participant, of a Market Participation Agreement under which the Market Operator and each Participant shall agree to observe and perform the requirements of these Rules so far as they are applicable to the Market Operator and the Participant.
- 1.4.5 Nothing in these Rules shall derogate from the obligations imposed upon any person under any License.

#### **1.5 Relationship with the Grid Code and the Operating and Market Procedures**

- 1.5.1 These Rules complement and supplement the Grid Code and should be read in conjunction therewith. Together the two documents constitute these Rules for the planning, dispatch and operation of the system and the administration of the wholesale electricity market in Nigeria.

- 1.5.2 These Rules shall be interpreted so as to avoid, to the extent reasonably possible, findings of inconsistency between these Rules and the Grid Code.
- 1.5.3 Operating Procedures and Market Procedures complement and supplement these Rules. General provisions relating to Operating Procedures and Market Procedures are made in Rule 4.

## **2. OBJECTIVES, CONTENTS AND ADMINISTRATION**

### **2.1 Objectives**

The objectives of these Rules are to establish and govern an efficient, competitive, transparent and reliable market for the sale and purchase of wholesale electricity and Ancillary Services in Nigeria and to ensure that the Grid Code and the Market Rules work together to secure efficient co-ordination and adequate participation.

### **2.2 Contents**

Further to Rule 2.1 above, these Rules:

- 2.2.1 provide a framework for an efficient, competitive, transparent and reliable wholesale electricity market;
- 2.2.2 set out the responsibilities of Participants, the TSP, the System Operator and the Market Operator in relation to trading, co-ordination, dispatch and contract nomination, pricing of imbalances and Ancillary Services, metering, settlement and payments;
- 2.2.3 set out the operation and pricing system of the Balancing Market;
- 2.2.4 ensure an efficient, transparent and predictable settlement system and set out the payment obligations;
- 2.2.5 establish a governance mechanism and a market monitoring system;
- 2.2.6 provide a framework for resolution of disputes amongst Participants or between Participants on one hand and the System Operator or the Market Operator on the other, on matters relating to the Market Rules and the Grid Code; and
- 2.2.7 provide an efficient and transparent process for amending the Market Rules and the Grid Code.

### **2.3 Amendments**

Any amendment to these Rules or the Grid Code shall be done in accordance with the amendment process defined in Rule 45.

## **2.4 Enforcement**

The Commission has the responsibility of ensuring the enforcement of these Rules and Grid Code in accordance with the provisions of these Rules.

## **PART 2: INTERPRETATION AND CONDITIONS PRECEDENT**

### **3. INTERPRETATION**

#### **3.1 Definitions**

Capitalised words and expressions used in these Rules shall, unless the context otherwise requires, have the meaning assigned to them in Appendix I.

#### **3.2 Interpretation**

In these Rules, unless the context otherwise requires:

- 3.2.1 a reference to a particular Part, Rule, or Appendix is to a part or rule of, or appendix to, these Rules;
- 3.2.2 a reference in a particular Rule or Appendix to a paragraph is to a paragraph of that Rule or Appendix;
- 3.2.3 the table of contents and the headings of Parts and Rules are for convenience only, and shall be ignored in construing these Rules;
- 3.2.4 references to the masculine include the feminine and references to the singular include the plural and vice versa;
- 3.2.5 “~~N~~” means Naira;
- 3.2.6 the word “include” shall be construed to mean “include without limitation”;
- 3.2.7 a reference to “person” includes any individual, partnership, firm, company, corporation (statutory or otherwise), joint venture, trust, association, organisation or other entity, in each case whether or not having separate legal personality;
- 3.2.8 a reference to law shall be construed, at any particular time, as including a reference to any modification, extension, re-enactment or replacement thereof then in force;
- 3.2.9 a derivative of any term or expression defined or interpreted in these Rules shall be construed in accordance with the relevant definition or interpretation; and
- 3.2.10 a reference to another agreement or any deed or other instrument shall be construed as a reference to that other agreement, deed or other instrument, as the same may have been, or may from time to time be, modified.

### **3.3 Times and dates**

#### **3.3.1 Day**

For the purposes of these Rules, “Business Day” means a day other than:

- (a) a Saturday or a Sunday; or
- (b) a public holiday in Nigeria.

#### **3.3.2 Time**

References to times of the day in these Rules are to official time in Nigeria.

### **3.4 Application**

3.4.1 The Market Operator is responsible for the administration, supervision and interpretation of these Rules.

3.4.2 The Market Operator shall promptly notify the Stakeholder Advisory Panel of any interpretation of these Rules, together with the justification for such interpretation.

3.4.3 The Market Operator and the Stakeholder Advisory Panel shall discuss and agree on any interpretation of these Rules prior to the implementation of such interpretation, where such discussion and agreement is, in the opinion of the Market Operator, possible and practical.

3.4.4 Where the Market Operator and the Stakeholder Advisory Panel are unable to reach an agreement on an interpretation of any part of these Rules, the dispute resolution mechanism established in these Rules shall apply.

3.4.5 Notwithstanding anything in the foregoing Clauses, any interpretation of these Rules provided by the Market Operator shall be valid and binding on all Participants and the TSP where:

- (a) due to practical and operational considerations, the Market Operator has not been able to present the interpretation to the Stakeholder Advisory Panel before the implementation of the interpretation;
- (b) the Market Operator has presented the interpretation to the Stakeholder Advisory Panel, which has agreed with the interpretation and the Commission has not notified the Market Operator that the interpretation is incorrect or invalid; or
- (c) the Market Operator is yet to reach an agreement with the Stakeholder Advisory Panel on the interpretation, and a dispute exists which is yet to be resolved.



3.4.6 Once agreement an interpretation has been reached between the Market Operator and the Stakeholder Advisory Panel, the Market Operator shall draft or update as necessary, any Market Procedures that may be required for the purpose of giving effect to the interpretation, and shall inform all Participants and the Commission of the interpretation.

## **4. OPERATING PROCEDURES AND MARKET PROCEDURES**

### **4.1 Operating Procedures**

The System Operator shall from time to time draft, adopt and implement, and where necessary, amend such detailed Operating Procedures as it may consider necessary for:

- 4.1.1 implementation and application of the Grid Code;
- 4.1.2 operation of the System Operator Controlled Grid, including planning, maintenance coordination and scheduling and dispatch of generation and Ancillary Services; and
- 4.1.3 clarifying interpretations and the methodologies connected with the System Operator Controlled Grid and the Grid Code.

### **4.2 Market Procedures**

The Market Operator shall from time to time draft, adopt and implement, and when necessary, amend such detailed Market Procedures as it may consider desirable for:

- 4.2.1 implementation and application of these Rules;
- 4.2.2 administration of the Market, including the Market Operator Administered Market; and
- 4.2.3 clarification of interpretations and the methodologies to be adopted in the application of these Rules.

### **4.3 Consultation**

The Operating and Market Procedures referred to in Rule 4.2 shall be drafted after consultation with Participants and to this end, the Systems Operator or the Market Operator, as the case may be, may consult with or require the participation of the Stakeholder Advisory Panel in the process of drafting the Procedures.

### **4.4 Publication**

The Operating Procedures and the Market Procedures will be published together with the Grid Code and Market Rules on the Website, for open access to the public.

## **5. UNFORESEEN CONDITIONS**

### **5.1 Action to be taken in circumstances not anticipated by these Rules**

If circumstances arise which have not been foreseen in these Rules and in respect of which provisions have not been made therein, the Market Operator shall, if practicable and possible, consult promptly with the Stakeholder Advisory Panel with a view to reaching an agreement on the manner to deal with the circumstances and any amendment to these Rules that may be necessary to cover the unforeseen circumstances.

### **5.2 Cases in which urgent action is required**

In all cases where it is not possible or practicable to consult with the Stakeholder Advisory Panel within the time available for the Market Operator to perform its functions, the Market Operator shall refer the unforeseen circumstances and the measures taken to the Stakeholder Advisory Panel for review, together with its proposals for amending these Rules to cover the unforeseen circumstances.

### **5.3 Disagreement between Market Operator and Stakeholder Advisory Panel**

In the event that the Market Operator and the Stakeholder Advisory Panel can not reach an agreement on the manner of dealing with the unforeseen circumstances within the time available for the Market Operator to perform its functions, the Market Operator shall decide the action to be taken. In such cases, all Participants and the TSP shall comply with any instructions and or Settlement Statements issued by the Market Operator.

### **5.4 Resolution of differences**

When the Market Operator and the Stakeholder Advisory Panel fail to agree on any matter relating to this Rule, the dispute resolution mechanism established in these Rules shall apply.

## **6. MARKET DEVELOPMENT**

### **6.1 Market Stages**

The competitive market for electricity in Nigeria will evolve through the following stages:

#### **6.1.1 Pre Transitional Stage, during which:**

- (a) preparation will be made for physical unbundling and future privatisation of PHCN;
- (b) performance incentives for distribution and generation activities will be established; and
- (c) the Grid Code and these Rules will be implemented and tested.

- 6.1.2 Transitional Stage, characterised by entry of new generation, contract based arrangements for electricity trading and the introduction of competition.
- 6.1.3 Medium Term Market, with the introduction of generation competition and a centrally administered balancing mechanism for the market.

## **6.2 Preparations for initiation of the Transitional Stages**

- 6.2.1 During the pre-transitional stage, the System Operator or the department of PHCN responsible for system operation services will:
  - (a) Commence application and implementation of the draft Grid Code, with a view to:
    - (i) testing feasibility, coordination, data exchange, reliability and quality parameters and standards;
    - (ii) Identifying any problems or gaps; and
    - (iii) drafting such amendments as may be required to the Grid Code;
  - (b) Develop and implement the initial operating procedures;
  - (c) Prepare monthly Grid Code Implementation Reports;
  - (d) Train future Participants on the Grid Code; and
  - (e) Not later than **[six]** months after initial implementation, present the revised Grid Code for Minister approval.
- 6.2.2 During the pre transitional stage, the Market Operator or the department of PHCN responsible for market administration will:
  - (a) Commence application and implementation of the draft Market Rules to the extent that these Rules apply during the Transitional Stage with a view to:
    - (i) enable it review feasibility, coordination, timing, metering problems or gaps; and
    - (ii) draft such amendments as may be required to the draft Rules;
  - (b) Develop and implement initial Market Procedures;
  - (c) Prepare monthly Market Rules Implementation Reports;
  - (d) Train future Participants on the Market Rules;
  - (e) Not later than **[six]** months after initial implementation, present the revised draft Market Rules for Minister approval;

- (f) Implement as a transitional governance system, the Initial Stakeholder Advisory Panel;
- (g) Implement workable metering arrangements and settlement procedures in order to test existing metering system; and
- (h) Implement and or maintain adequate data bases and procedures for the settlement process and issuance of Settlement Statements.

### **6.3 Transitional Stage**

- 6.3.1 All electricity trading arrangements during the Transitional Stage will be consummated through contracts, and there will be no centrally administered balancing mechanism for the Transitional Stage Market.
- 6.3.2 The Market Operator shall develop a Market Procedure for the management of inadequate supply and shortage conditions during the Transitional Stage. This Market Procedure will allocate generation shortages proportionally among Loads and will be tested and improved during the Transitional Stages, and shall become part of the Grid Code at the start of the Medium Term Market.
- 6.3.3 Not later than [twelve] months after the initiation of the Transitional Stage, the Commission will constitute the initial Market Surveillance Panel.

### **6.4 Preparations for initiation of the Medium Term Market**

- 6.4.1 Prior to the commencement of the Medium Term Market, the System Operator shall prepare an Operation Procedure to manage shortages due to insufficient generation or transmission congestion. Such Operation Procedure shall be based upon the Market Procedure developed by the Market Operator pursuant to Rule 6.3.2 above.
- 6.4.2 Prior to the commencement of the Medium Term Market, the Market Operator, shall:
  - (a) ensure that all necessary arrangements for proper functioning of the Medium Term Market are in place, including the necessary models, settlement software and data bases; and
  - (b) ensure that all market Connection Points have adequate metering and communication systems.
- 6.4.3 Prior to the commencement of the Medium Term Market, the Market Operator shall, in consultation with the Stakeholder Advisory Panel, develop and Publish the procedures for the determination of energy prices in the Balancing Market, particularly during shortages or unexpected constraints, provided that the Commission shall give prior approval to the procedures.

- 6.4.4 Upon the request of Participants, the Market Operator shall organise meetings to explain and demonstrate the software, models and systems for the operation of the Balancing Market, and pricing and settlement therein.
- 6.4.5 Prior to the scheduled initiation of the Medium Term Market, the Market Operator shall carry out the following activities:
- (a) At least [twelve] months prior to the scheduled initiation of the Medium Term Market, develop and implement the requisite software, metering and settlement systems for the for Medium Term Market;
  - (b) At least [twelve] months prior to the scheduled initiation of the Medium Term Market, publish on the Website, a schedule to dry run and test the operation of the Balancing Market and implement a shadow trial Balancing Market and trial software for the Medium Term Market in order to:
    - (i) test the pricing mechanism in the Balancing Market and rules and procedures for settlement therein; and
    - (ii) review feasibility, timing, metering systems, software and identify any problems or gaps therein.
  - (c) As part of the activities in the immediately preceding paragraph (b) above, the Market Operator shall calculate and publish on the Website the prices of the shadow Balancing Market, to show short-term opportunity prices or system marginal prices notwithstanding that Participants have not commenced trading at these prices and:
    - (i) The System Operator shall evaluate the calculated prices and the results of the shadow Balancing Market to identify and implement improvements in the System Operator dispatch software and models; and
    - (ii) The Market Operator shall develop and publish on the Website the preliminary draft of the Market Procedure showing the detailed methodology for the calculation of Balancing Market prices and operation of the Balancing Market, including all aspects on pricing and deviations during shortage periods, load curtailment or emergencies.
  - (d) At least [six] months prior to the scheduled initiation of the Medium Term Market, the Market Operator shall commence training of Participants on the Medium Term Market Rules and procedures, to enable Participants practice and understand the new mechanisms.

- (e) Commencing [six] months prior to the scheduled initiation of the Medium Term Market, the Market Operator shall prepare and submit monthly Medium Term Market Rules Implementation Reports to the Commission and all Participants, and shall publish same on the Website. The Report shall describe:
  - (i) the tests performed on models, settlement software and data base management and the results thereof in the trial period;
  - (ii) adjustments and corrections implemented in systems, models and software; and.
  - (iii) proposals for any amendments to the Market Rules that may be required.
- (f) At least [three] months prior to the scheduled initiation of the Medium Term Market, develop and or as the case may be, amend all the necessary Market Procedures for the Medium Term Market in consultation with the Stakeholder Advisory Panel, and conclude preparations for its implementation.
- (g) At least [one] month prior to the scheduled initiation of the Medium Term Market, prepare a report demonstrating that all systems, software and procedures required for the Medium Term Market are ready and have been adequately tested and that the Market Operator and Participants are ready to commence activities on the Balancing Market.

## **6.5 Medium Term Market:**

- 6.5.1 In the Medium Term Market, the Balancing Market will be a spot market, allowing efficient opportunity trading and efficient contracts to cover and or hedge price risk and while maintaining a security constrained economic merit order dispatch.
- 6.5.2 The Medium Term Market will, among other things, reflect flexibility in the design of bilateral contracting through the implementation of the Balancing Market where each Participant will be able to buy and sell the difference between Metered Quantities and contracted quantities at fair and efficient market-determined prices. The Balancing Market will be an open and non-discriminatory market of last resort for Participants whose contracts do not cover the electricity that they produce or, as the case may be, consume.
- 6.5.3 The main features characterising the design and structure of the Medium Term Market are as follows:
  - (a) several Distributors, each with a monopoly over retail sales to customers within its franchise region;

- (b) each Distributor may enter into bilateral contracts for purchase and or sale of energy;
- (c) open entry to the market and, subject to technical and environmental obligations, and within the energy policy defined by the Government, investors can decide the timing, location and type of new generation capacity to construct;
- (d) competition in Dispatch; and
- (e) flexibility in electricity trading arrangements through the implementation of a Balancing Market.

**7. EFFECTIVENESS AND CONDITIONS PRECEDENT**

These Rules shall come into effect upon confirmation by the Commission that the events and circumstances set out or referred to in Appendix 2 (the “Conditions Precedent”) have been satisfied, or at such other date as the Minister may specify.

## **PART 3: THE SYSTEM OPERATOR AND THE MARKET OPERATOR**

### **8. GENERAL CONDITIONS**

#### **8.1 System Operation and Market Administration**

The System Operator and the Market Operator shall provide non-discriminatory and efficient system operation and market administration services to all Participants.

#### **8.2 Compliance with Market Rules and Grid Code**

In the discharge of their respective functions, the System Operator and the Market Operator shall comply with the provisions of both the Grid Code and Market Rules.

#### **8.3 Delegation**

Subject to the Commission's approval, the System Operator and or the Market Operator may delegate one or more of their functions to any committee or control centre in circumstances in which such delegation is reasonable.

### **9. ROLE OF THE SYSTEM OPERATOR**

#### **9.1 System Operation**

The System Operator shall be responsible for planning, dispatch and operation of the power system and implementation of open access and new connections of equipment or loads to the System Operator Controlled Grid in line with the functions established in the Grid Code, and in accordance to its licence. To this end, the System Operator shall:

- 9.1.1 Implement and enforce Grid Code, and shall draft and implement such Operating Procedures as may be required for the proper functioning of the System Operator Controlled Grid;
- 9.1.2 Undertake system planning;
- 9.1.3 Implement and supervise open access to the System Operator Controlled Grid;
- 9.1.4 Provide demand forecasts;
- 9.1.5 Undertake operation planning and maintenance outages;
- 9.1.6 Undertake dispatch and generation scheduling;
- 9.1.7 In the event that available Generation is not sufficient to satisfy all Loads, schedule energy allocated to each Load Participant;



- 9.1.8 Ensure Reliability and availability of Ancillary Services;
- 9.1.9 Undertake real time operation and SCADA/EMS system;
- 9.1.10 Administration of system constraints (congestion), emergencies and system partial or total recovery; and
- 9.1.11 Coordination of regional Interconnectors.

## **9.2 Generating Groups**

- 9.2.1 Any reference in the Market Rules or Grid Code to generation dispatch and scheduling functions of the System Operator will apply to each Generating Group and for this purpose:
  - (a) a hydro plant will be considered as a single Generating Group **unless it has separate meters for each generating unit**; and
  - (b) a Generator may agree with the System Operator to consider a group of thermal units in a thermal power plant as a single Generating Group, if such units have similar costs and are located in the same power plant and share the same meter.
- 9.2.2 The System Operator shall plan, dispatch and schedule each Generating Group and inform the relevant Generator of the Generation schedule for its Generating Groups. The Generator will have the right to schedule each Generating Unit within a Generating Group, but shall inform the System Operator of the schedule for each Generating Unit within the time stipulated in the timetable established in the Dispatch Operating Procedure. If any Generator fails to inform the System Operator of the relevant schedule within the stipulated deadline, the System Operator shall be entitled to suspend the arrangement with the Generator to treat the Generating Units as a Generating Group, and to treat each unit as a Generating Group.

## **9.3 Implementation of the Grid Code**

The System Operator shall implement the Grid Code and may draft such amendments thereto as may be required to:

- 9.3.1 guarantee an efficient, predictable and non-discriminatory system operation service and open access to all Participants;
- 9.3.2 adapt the Grid Code to regional Markets or regional interconnector agreements;
- 9.3.3 improve the procedures for Load forecast, planning and dispatch in the system; and
- 9.3.4 maintain Reliability and quality in the system.

## **9.4 Market Rules**

The System Operator shall perform the following functions in relation to the Market Rules:

- 9.4.1 Receive and validate Dispatch Nominations by Generators, and dispatch in accordance with the Grid Code;
- 9.4.2 During the Transitional Stage, provide the Market Operator with forecast Load projections for the Generation Adequacy Report; and
- 9.4.3 During the Medium Term Market, decide and order Market Suspension.

## **10. ROLE OF THE MARKET OPERATOR**

### **10.1 Market Administration**

The Market Operator shall implement and operate the Market in a manner designed to:

- 10.1.1 guarantee an efficient, transparent and non-discriminatory market administration service to all Participants,
- 10.1.2 facilitate the development of a sustainable competitive Market; and
- 10.1.3 adapt to regional Markets or regional electricity trading agreements.

### **10.2 Implementation of the Market Rules**

The Market Operator shall perform the following functions in relation to these Rules:

- 10.2.1 Implement the Market Rules and draft and implement any and all requisite Market Procedures;
- 10.2.2 Review the efficiency and adequacy of Market Rules and Market Procedures and propose such amendments as may be required to ensure their efficacy and adequacy;
- 10.2.3 Admit and register Participants;
- 10.2.4 Organise and maintain a Participants' Register;
- 10.2.5 Centralise the information required for market administration, and organise and maintain the related data bases;
- 10.2.6 Verify that each Connection Point where a Participant injects or extracts energy has proper commercial metering related to physical exchange - injection and consumption - of energy, provision of Ancillary Services and other necessary commercial transactions and;

- 10.2.7 Calculate and recover Ancillary Service and Must Run Generation costs, when necessary;
- 10.2.8 Centralise and process commercial metering data
- 10.2.9 Administer the Market settlement process and Market payment system;
- 10.2.10 Calculate and settle payments in respect of ancillary services and other costs of operating the system and administering the Market;
- 10.2.11 Calculate and settle payments in respect of transmission charges;
- 10.2.12 During the Transitional Stage:
  - (a) Receive contract information and maintain Contract Register;
  - (b) Prepare the Generation Adequacy Report; and
  - (c) Calculate Contracted Imbalance Quantities in aggregate, by contract and by Participant, using Metered Quantities adjusted as necessary for losses in each month;
- 10.2.13 During the Medium Term Market:
  - (a) Calculate Contracted Imbalance Quantities, Uninstructed Imbalance Quantities and Instructed Imbalance Quantities in aggregate and by Participant - adjusted as necessary for losses in each and every Dispatch Period;
  - (b) Determine the System Marginal Price for each and every Dispatch Period; and
  - (c) Issue Invoices and arrange recovery and payments of charges for Imbalance Energy and Ancillary Service and the System Operation and Market Administration Charge from, and to, the Participants;
- 10.2.14 Manage Market billing including issuance of invoices, settlement and payment system in accordance to these Rules;
- 10.2.15 Recover the Transmission Usage Charge from the Participants and remit it to TSP and other Transmitter(s), if any; and
- 10.2.16 supervise Participants compliance with, and enforce the Market Rules and Grid Code.

### **10.3 Pre-existing PPAs and Contracts**

The Sellers and Purchasers under PPAs and contracts that were in existence prior to the establishment of the Market shall continue to be responsible for the billing and payment processes under their respective PPAs and or contracts, except to the extent that these Rules establish a centralised payment mechanism in respect thereof.

## **11. WORKING GROUPS**

### **11.1 Establishment of Working Groups**

- 11.1.1 The System Operator and the Market Operator may organise working groups, that would incorporate such number of representatives of Participants and the TSP, the System Operator and the Market Operator may deem necessary.
- 11.1.2 The members of any working groups organised pursuant to the foregoing Rule 11.1.1 shall have such skills and expertise appropriate the discharge of their functions under these Rules.

### **11.2 Meetings**

The System Operator and the Market Operator will organise and hold periodic meetings with the following working groups:

- 11.2.1 The Rules Working Groups, to assist in the Market Operator in the implementation, revision and amendment of the Market Rules and drafting procedures, in accordance with Rule 45; and
- 11.2.2 The Operations Working Group, to assess and review technical matters and systems, in relation to the Grid Code.

### **11.3 Role of Operating Working Group**

The Operations Working Group shall:

- 11.3.1 Periodically, and upon the request of the System Operator or the Stakeholder Advisory Panel, review technical matters in relation to system operation planning, maintenance co-ordination, dispatch, Ancillary Services, transmission constraints, disturbances and real time operation;
- 11.3.2 Assist the System Operator and the Market Operator in relation to technical requirements and performance of metering and other systems;
- 11.3.3 Assist the System Operator in the development of Operating Procedures, as required for the implementation of the Grid Code;
- 11.3.4 From time to time as it deems necessary or appropriate in its discretion, propose amendments to the Grid Code to the Rules Working Group in relation to technical matters to improving the reliability, security and quality of service in system planning and system operation within economic efficiency; and
- 11.3.5 Assist the Rules Working Group in relation the assessment of proposals of a technical nature to amend the Grid Code.

## **12. PERFORMANCE**

### **12.1 Performance Standards**

In performing its obligations under the Market Rules and the Grid Code, the System Operator and the Market Operator shall at all times:

- 12.1.1 act in accordance with any performance standards stipulated by any Licence and any regulation or condition to which the System Operator and the Market Operator is subject;
- 12.1.2 act in a reasonable and prudent manner; and
- 12.1.3 act in good faith and without discrimination towards each Participant.

### **12.2 Record of Performance**

The System Operator and the Market Operator shall keep separate records of their performance with respect to any performance standards applicable to them under any applicable Licence and shall render reports of such records to the Commission in line with the provisions of the applicable Licence.

## **13. AUDITS**

### **13.1 Annual Audits**

- 13.1.1 At least once every year, the System Operator and the Market Operator shall contract an independent auditor to conduct an operational audit of the system operation and the market operation services, including the settlement system, price calculation, dispatch and any procedures relevant to the Market Operator Administered Market and System Operator Controlled Grid, in accordance with the Market Rules and the Grid Code.
- 13.1.2 If in any year, the System Operator and the Market Operator fail to contract an auditor, the Stakeholder Advisory Panel may contract an auditor to conduct the audit required by the preceding Rule 13.1.1 and the System Operator and Market Operator shall be responsible for the remuneration of the auditor so appointed.
- 13.1.3 The auditor shall employ an independent and qualified team to carry out the audit.
- 13.1.4 The purpose of the periodic operational audit of the System Operator and the Market Operator will be to:
  - (a) Assess the neutrality, efficiency, transparency and predictability of the System Operator and the Market Operator services;
  - (b) Assess the processes and systems employed by the System Operator and the Market Operator in undertaking dispatch, load forecasts, price calculation, metering data management and Settlement; and

- (c) Review the efficiency and consistency of the Market Procedures, Operating Procedures and other practices employed by the Market Operator and the System Operator in relation to trading, pricing and settlement systems, Ancillary Services and security and quality of service which are covered by these Rules, and make recommendations on problems and improvements.

13.1.5 The scope of each successive audit after the first audit will include review of changes or actions taken by the System Operator and the Market Operator, upon the recommendations and observations of the auditor during the previous audit.

## **13.2 Publication of Audit Reports**

After each audit, the auditor shall prepare an audit report of containing its findings on the matters outlined in Rule 13.1.4 above, together with its recommendations. This report will be sent to the Commission and the Stakeholder Advisory Panel, and published on the Website for access by all Participants and the TSP.

## **PART 4: PARTICIPATION: ADMISSION, WITHDRAWAL AND TERMINATION**

### **14. PARTICIPANTS ELIGIBILITY REQUIREMENTS**

#### **14.1 Application for Registration as a Participant**

Any person who wishes to trade or participate in the Market, shall apply to the Market Operator for registration as a Participant in accordance with this Part of these Rules.

#### **14.2 Eligibility Requirements**

A Participant is a person who has entered into a Market Participation Agreement with the Market Operator, upon fulfilment of the following requirements:

##### 14.2.1 The person:

(a) holds a License authorising the conduct of Generation or Distribution business or is otherwise authorised by the Commission to carry on business as a Generator or Distributor; or

(b) holds a License authorising the conduct of business as a Trader or is otherwise authorised by the Commission to carry on business as a Trader; or

(c) owns small Generation or Self-Generation and is authorised by the Commission as a Generator; or

(d) is an Eligible Customer; or

(e) is an authorised company from another country that participates in Regional Trading through a contract with a Participant located in Nigeria; or

(f) is, at any time after the Market becomes part of a Regional Pool, a member of the Regional Pool and has been authorised by the Commission to Participate in the Market.

14.2.2 The Participant has installed a Commercial Metering System at each Connection Point, in accordance with these Rules and the metering requirements.

14.2.3 The Participant has submitted an Application to the Market Operator for admission into the Market and has obtained registration as a Participant.

### **14.3 Disqualification of Participants**

If at any time after application for registration as a Participant, a person ceases to be eligible to be registered as a Participant in accordance with this Rule 14, the person shall immediately notify the Market Operator of that fact, and as soon as practicable thereafter, the Market Operator shall issue a Suspension Notice in respect of such person in accordance with these Rules.

## **15. ADMISSION**

### **15.1 Procedure for becoming a Participant**

#### **15.1.1 Publication of Participant information by the Market Operator**

The Market Operator shall make the following information publicly available on the Website in their most current form:

- (a) form of the Admission Application;
- (b) these Rules and the Grid Code, and the associated Market and Operating Procedures;
- (c) standard forms of all Agreements; and
- (d) the non-refundable fee that the Market Operator charges Applicant Participants for processing Admission Applications.

#### **15.1.2 Form of the Application for Admission**

The Market Operator shall develop and publish on the Website, an Admission Application Form, which shall require the disclosure of the following information amongst others:

- (a) Identity of the Applicant Participant or its legal or operational representative;
- (b) Proof that the Applicant Participant has obtained the Licence required for the activity in respect of which admission as a Participant is sought or has obtained an interim license or any other authorisation from the Commission;
- (c) Technical data and information on the equipment it owns, in accordance with the Grid Code;
- (d) drafts of agreements between the Applicant Participant and TSP for the use of the Transmission System, or in the event that the Applicant Participant is directly connected to the distribution network, between the Applicant Participant and the relevant Distributor for use of its distribution network;
- (e) Description of the Applicant Participant's metering system and communication system; and



- (f) Information on the bank account nominated by the Market Operator for administration of the payment system in accordance with these Rules.

### 15.1.3 Application Process

An Applicant Participant wishing to become a Participant shall submit the following documents to the Market Operator, with a copy to the Commission:

- (a) a completed Admission Application;
- (b) the information set out in Appendix 3;
- (c) a non-refundable application processing fee, as approved by the Commission, in cash or by demand draft payable to the Market Operator;
- (d) drafts of Agreements, if any, to be initialled by an authorised official of the Participant, which are required to be executed with the System Operator or the TSP, and
- (e) where appropriate, initialled draft of a Grid Connection Agreement or a declaration that the Relevant Facility of the Applicant Participant is connected to the System Operator Controlled Grid or a Distribution System as the case may be.

### 15.1.4 Notice of Receipt of Application

- (a) Within 3 Business Days of receiving an Admission Application and the other information specified in these Rules, The Market Operator shall notify the Applicant Participant in writing:
  - (i) that it has received the Admission Application and accompanying draft Agreements, if any, and the non-refundable processing fee; and
  - (ii) the estimated amount of the Security Cover required pursuant to Rule 15.3.
- (b) Within 5 Business Days of receipt of notification of the estimated amount of the Security Cover required to be furnished by the Applicant Participant pursuant to paragraph (a)(ii), the Applicant Participant shall furnish a proposal for a provision of the Security Cover to the Market Operator.

### 15.1.5 Review of Admission Application by the Market Operator

Within 14 Business Days after receipt of the Applicant Participant's proposal for the provision of the Security Cover pursuant to Rule 15.1.4(b), the Market Operator shall either accept the Admission Application in line with Rule 15.1.9 below, or shall notify the

Applicant Participant of any of the following shortcomings in its application:

- (a) the Applicant Participant's Admission Application does not comply with any of the requirements specified in Rule 15.1.3;
- (b) the Applicant Participant has not supplied all the requisite Agreements, documents and information pursuant to Rule 15.1.3;
- (c) the Applicant Participant is required to supply any additional information in connection with its Admission Application;
- (d) the Applicant Participant's proposal regarding Security Cover is not in accordance with Rule 15.3; and or
- (e) the Applicant Participant's application fails to meet any other requirement that the Market Operator may reasonably impose upon Applicant Participants, provided that any such requirement shall be impartially imposed on all Applicant Participants of the same class.

#### 15.1.6 Request for Additional Information

- (a) In the case where the Market Operator notifies the Applicant Participant of an incomplete Admission Application pursuant to paragraph (a) the Market Operator may request the Applicant Participant to supply additional information or documents in connection with its Admission Application.
- (b) If the Market Operator requests additional information or documents in accordance with paragraph (a) or notifies the Applicant Participant that its proposal for the Security Cover is not acceptable, the Applicant Participant shall provide such additional information, documents, or submit a revised proposal for a Security Cover or re-submit a completed Admission Application, as the case may be, as soon as is practicable.

#### 15.1.7 Automatic Termination of Application Process

If an Applicant Participant has not submitted the additional information, documents or a proposal for the Security Cover, as the case may be as are required to be submitted to the Market Operator pursuant to Rule 15.1.6, within 3 months of notification of the need therefor by the Market Operator pursuant to Rule 15.1.5, the Applicant Participant's Admission Application shall automatically lapse, provided that such lapse of the Admission Application shall not prevent such Applicant Participant submitting a fresh Admission Application to the Market Operator in accordance with this Rule 15, and the fresh Admission Application submitted by such Applicant shall be treated as a new Admission Application.

#### 15.1.8 Grounds for the Market Operator's Rejection of Admission Application

The Market Operator may reject an Admission Application where:

- (a) A Licence is required for the activity that the Applicant Participant intends to carry on in the Market and the Applicant Participant does not possess such Licence;
- (b) the Applicant Participant has not supplied any information or documentation required to be submitted in support of the Admission Application pursuant to Appendix 3 within 3 months of the initial application made pursuant to Rule 15.1.3;
- (c) the Applicant Participant has not supplied a proposal for the Security Cover pursuant to Rule 15.1.4 within 30 days of notification of the amount to the Applicant Participant pursuant to Rule 15.1.4;
- (d) the revised proposal of the Applicant Participant for the provision of the Security Cover is not, in the Market Operator's sole discretion, in accordance with the requirements specified in Rule 15.3 and the Market Operator has notified the Applicant Participant of the reason for the rejection of the provision of the Security Cover;
- (e) the conditions of the Agreements, if any, to which the Applicant Participant is a party, conflict with the provisions of these Rules to such an extent that in the Market Operator's opinion, in its sole discretion, the Applicant Participant would not be able to comply with these Rules, and the Market Operator informs the Applicant Participant the conditions of the Agreements to which the Applicant Participant is a party and that conflict with the provisions of these Rules or the Grid Code;
- (f) subject to any direction by the Commission to the contrary, the conditions of the Grid Connection Agreement are not acceptable to the Market Operator or the System Operator;
- (g) the Applicant Participant has not submitted a copy of the Admission Application to the Commission; and or
- (h) the Commission notifies the Market Operator of its objection to admission of the Applicant Participant as a Participant, and of the reasons(s) for such objection.

#### 15.1.9 Acceptance of Application

If the Applicant Participant fulfils the requirement specified in this Rule 15, the Market Operator shall accept the Admission Application of the Applicant Participant, and shall forward to the Applicant Participant a Market Participation Agreement. The Market Operator

shall also send the approved form in which Security Cover must be furnished by the Applicant Participant and copies of such other Agreements, if any, submitted by the Applicant Participant, as the Market Operator agrees to enter into, in final form for the Applicant Participant to execute and return to the Market Operator.

## **15.2 Market Operator's Response**

### **15.2.1 Final Steps for Assumption of Participant Status**

- (a) Upon receipt of the Market Participation Agreement, the approved form and amount of the Security Cover, and other Agreements, if any, forwarded to the Applicant Participant for execution by the Market Operator pursuant to Rule 15.1.9 for, the Applicant Participant shall:
  - (i) execute such Market Participation Agreement and other Agreement(s) as are provided by the Market Operator, and return them to the Market Operator;
  - (ii) where appropriate, execute a Grid Connection Agreement with the TSP; and
  - (iii) furnish to the Market Operator, the requisite Security Cover, in the event that the Applicant Participant elects to provide the Security Cover in the form specified in Rule 15.3.2(a), furnish evidence of having secured the required Security Cover on terms satisfactory to the Market Operator.
- (b) On receipt of such Market Participation Agreement and other Agreement(s), if any, duly executed by an authorised representative of the Applicant Participant, and the Security Cover or other proof of procurement of the Security Cover in accordance with paragraph (a), the Market Operator shall, no later than 15 Business Days from the date of receipt of the documents under paragraph (a), notify the Applicant Participant of its qualification to be accepted as a Participant.
- (c) Concurrent to the Market Operator's issuance of the notification referred to in paragraph (b), the Market Operator shall issue a unique identification number to the Participant and shall notify:
  - (i) the Participant of the names of all other Participants and their details for the issuance of notices; and
  - (ii) all other Participants of the name of the newly admitted Participant, its details for the issuance of notices as specified in Appendix 3 or 3A and its Participant Accession Date.

## 15.2.2 Appeal against Rejection of Application

An Applicant Participant may challenge a decision by the Market Operator to reject its Admission Application pursuant to Rule 15.1.8, and for this purpose, may utilise the dispute resolution procedures set out in Rule 43.

## 15.3 Prudential Requirements

### 15.3.1 Notification by the Market Operator

The Market Operator shall notify each Applicant Participant of the amount of Security Cover that the Applicant Participant must provide pursuant to Rule 15.1. In accordance with Rule 15.3.2, the Market Operator shall estimate such amount within 3 Business Days of receipt of the Admission Application pursuant to Rule 15.1.3.

### 15.3.2 Form of Security Cover

Once approved as a Participant, each Applicant Participant shall provide and maintain the Security Cover in any of the following forms:

- (a) Cash on deposit in an interest bearing escrow or trust account maintained at a bank or other financial institution acceptable to the Market Operator, provided that the terms of deposit will include a conditions that the funds are payable to the Market Operator upon demand; or
- (b) An irrevocable direct pay Letter of Credit, or other guarantee of payment that shall be executable on demand to the interest of the Market Operator, provided by a bank or financial institution acceptable to the Market Operator; or
- (c) An unconditional and irrevocable guarantee of payment on demand to the Market Operator by an entity that has and maintains any of the following ratings:
  - (i) A short-term taxable commercial paper debt rating of not less than one of the following: (1) A1 by Standard and Poor's Corporation; (2) D1 by Duff & Phelps Credit Rating agency; (3) F1 by Fitch IBCA Incorporated; or (4) P1 by Moody's Investor Service; or
  - (ii) A short-term tax exempt commercial paper debt rating of not less than any one of the following: (1) A1 by Standard and Poor's Corporation; (2) V1 by Fitch IBCA Incorporated; or (3) VMIG1 by Moody's Investors Service.

### 15.3.3 Amount of Security Cover

- (a) During the Transitional Stage, the amount of the Security Cover to be provided by each Applicant Participant or, as the case may be, maintained by the Participant pursuant to these Rules shall be the estimated total amount due from such person for the next three (3) Billing Periods, for payment of the Transmission Usage Charge, the System Operator and Market Operator Administration Charge, and payment for any applicable Ancillary Services.
- (b) During the Medium Term Market, the amount of the Security Cover to be provided by each Applicant Participant or, as the case may be, maintained by each Participant pursuant to these Rules shall be the estimated total amount due from such person for the next two (2) Billing Periods towards the purchase by such Participant, of Imbalance Energy, Ancillary Services and Reliability Must Run Services and payment towards the Transmission Usage Charge, the Cost of Imbalance Energy and the System Operator and Market Operator Administration Charge.
- (c) The initial amount of Security Cover to be provided by an Applicant Participant under paragraphs (a) and (b) above shall be estimated by the Market Operator on the basis of the information provided to the Market Operator by the Applicant Participant during the admission procedure undertaken in accordance with Rule 15.1 and the Market Operator's estimates of relevant charges and payments that are attributable to the Applicant Participant;
- (d) Once the Applicant Participant is confirmed by the Market Operator as a Participant, the Participant shall maintain the amount of Security Cover identified under paragraph (c) above until such time that the Market Operator revises such amount under paragraphs (e) and (f) below;
- (e) The Market Operator shall monitor, during each Billing Period, the estimated amounts payable to the Market by a Participant, based on the Preliminary Settlement for that Billing Period as compared to the amount of Security Cover supplied to the Market Operator by that Participant. If the total of the estimated amounts payable to the Market Operator at any time during the Billing Period is more than 80% of the amount of Security Cover provided by the Participant, the Market Operator shall notify the Participant of the same. Within 5 Business Days of receiving notification from the Market Operator, the Participant shall make a prepayment to the Market Operator in an amount sufficient to reduce the remaining estimated amount payable by the Participant to the Market to 50% of the Security Cover provided or, the Participant shall provide additional Security Cover to the

Market Operator in an amount sufficient to reduce the estimated amount payable by the Participant to the Market to 50% of the increased Security Cover provided. The increased Security Cover shall thereafter be maintained by the Participant until the amount of such Security Cover is revised in accordance with this Rule 15.3.

- (f) The Market Operator shall monitor, on a rolling 2 month basis, the amounts payable to the Market Operator by the Participant on the basis of the Preliminary Settlement Statements and any Invoice that may be outstanding, as compared to the Participant's Security Cover supplied to the Market. If the amount payable to the Market for the any period of two months is more than 70% of the existing Security Cover, the Market Operator shall notify the Participant, in writing, informing the Participant to increase the Security Cover to the extent that the actual payments do not exceed 50% of the Security Cover, subject to paragraph (e) above. Within 5 Business Days after receipt of a notification to increase Security Cover, the Participant shall provide to the Market Operator evidence of such increased Security Cover as requested by the Market Operator in one of the forms specified in Rule 15.3.2. The Participant shall thereafter maintain the increased Security Cover until the amount of such Security Cover is revised in accordance with this Rule 15.3.
- (g) If a Participant fails to respond to any notifications received under paragraph (e) or paragraph (f) above within the time specified therein, the Market Operator may suspend all rights and privileges afforded to the Participant under these Rules in accordance with Rule 46.

## **15.4 Participant's Ongoing Reporting Obligations**

### **15.4.1 Participant's Obligation to Report Changes in Filed Information**

- (a) Each Participant has an ongoing obligation to inform the Market Operator of any material changes to:
  - (i) the assets or circumstances disclosed in its Admission Application made under Rule 15.1.3; or
  - (ii) or to any of the details appearing in Appendix 3; or
  - (iii) any modification to the technical and operational characteristics any of its equipment that is connected to the System Operator Controlled Grid.
- (b) The Participant shall provide such information in the form specified in Appendix 3-B.

#### 15.4.2 Failure to Report Changes

If a Participant fails to inform the Market Operator of any material change in the information provided with its Admission Application in compliance with Rule 15.4.1, which material change may affect the Reliability or safety of the System Operator Controlled Grid, or have a materially adverse effect on the trading obligations of other Participants, the Market Operator, may impose a penalty and/or suspend or terminate the Participant's rights in accordance with Rule 46.

### **15.5 Maintenance of Participant Information**

#### 15.5.1 Participants' Register

- (a) The Market Operator shall organise, maintain and publish the Participants' Register on the Website. The Participants' Register shall, amongst other things, state whether or not a Participant or Applicant Participant has been suspended from the Market or has notified the Market Operator of its intention to withdraw therefrom.
- (b) Upon admitting a Participant, the Market Operator shall enter in the Participants' Register, the Participant's information contained in the Participant's Admission Application and the information furnished by the Participant pursuant to the admission requirements in Appendix 3. The Market Operator shall allocate a unique identification code to each Generating Group of a Participant who is a Generator, which shall be utilised by the System Operator for issuing Dispatch Instructions pursuant to Condition 13 of the Grid Code. The Market Operator shall update the Participants' Register upon the occurrence of any of the following events:
  - (i) admission of a new Participant;
  - (ii) suspension of a Participant, to indicate the Suspension Notification; and
  - (iii) cessation of participation in the Market by a Participant for any cause whatsoever, to remove the Participant from the Participants' Register.
- (c) In relation to Applicant Participants, the Market Operator will include in the Participants' Register the date in which the application form was presented and current status of processing the application.

#### 15.5.2 Updates to the Participants' Register



On being informed of a change in the information filed by a Participant pursuant to Rule 15.4.1, the Market Operator shall update the Participant's entry in the Participants' Register within 2 Business Days.

## **15.6 Termination of Participation**

A Participant may cease to be a Participant in accordance with Rule 15.7 or Rule 46.

## **15.7 Withdrawal by a Participant**

- 15.7.1 A Participant may at any time voluntarily cease its participation in the Market upon:
- (a) giving not less than [two] months notice of in writing to the Market Operator of its intention to withdraw from the Market;
  - (b) complying with the requirements of Rule 15.7.3; and
  - (c) obtaining the prior written consent of the Commission to the cessation of its participation.
- 15.7.2 The Participant's withdrawal shall only take effect on such terms and conditions as the Commission shall determine.
- 15.7.3 The conditions to be fulfilled by the Participant prior to its withdrawal pursuant to Rule 15.7.1 are:
- (a) payment in full of all amounts due and payable by the Participant under these Rules and the Grid Code before the Participant Discontinuance Date;
  - (b) demonstration, to the satisfaction of the Market Operator that the withdrawal shall not constitute a breach of any Legal Requirement or any other obligation of the Participant in relation to the Market; and
  - (c) undertaking remedial action to in respect of any outstanding breach by the Participant of these Rules, the Market Participation Agreement or the Grid Code which is capable of remedy.
- 15.7.4 Notwithstanding compliance with paragraph (b) of Rule 15.7.3, the Participant shall remain subject to and liable for all obligations and liabilities which it incurred as Participant or which accrued to it in that capacity prior to the Dispatch Day on which it ceases to be a Participant regardless of the date on which any claim relating to the respective obligations or liabilities may be made.
- 15.7.5 Withdrawal by a Participant shall result in the automatic termination of that Participant's Market Participation Agreement.

## **16. CONNECTION POINTS AND TRADING NODES**

### **16.1 Designation of Connection Points**

- 16.1.1 Each Applicant Participant shall indicate in its Admission Application, the Connection Point(s) to the transmission system for injection or extraction of energy into the Market.
- 16.1.2 A Participant may have more than one Connection Point, and each Connection Point will be a trading node and shall have a Commercial Metering System to measure energy taken from or injected to the Transmission System at the Connection Point.
- 16.1.3 The Market Operator shall identify each Participant's trading node(s) with the corresponding Commercial Metering System for collation of billing information to be utilised by the Market Operator in the settlement process.

### **16.2 Regional Trading Nodes**

- 16.2.1 For the purpose of Regional Trading, the Interconnector shall be the trading node with the Market except these Rules or codes of any relevant Regional Electricity Market a different arrangement on trading nodes.
- 16.2.2 The owner of the Interconnector shall provide a metering system to measure energy taken from or injected to the Market and the payment for this metering system shall be included in the use of Interconnector charge.

## **17. GENERAL RIGHTS AND OBLIGATIONS OF PARTICIPANTS**

### **17.1 Obligations of Participants**

- 17.1.1 Each Participant shall:
  - (a) Implement and maintain at all times, all necessary systems and processes required to receive, acknowledge and implement dispatch and operation instructions issued by the System Operator and shall employ reasonably qualified personnel for this purpose;
  - (b) Obey instructions of the System Operator, except when such instructions may endanger its equipment or safety of its personnel;
  - (c) Promptly submit to the System Operator and the Market Operator, the information required to be submitted thereto by the Grid Code and the Market Rules, as well as any additional information that the System Operator and the Market Operator may deem necessary for the proper discharge of their functions, and in this regard:
    - (i) ensure that any information so submitted is, to the best of its knowledge, true and accurate; and
    - (ii) notify the System Operator and the Market Operator of any change in such information as soon as possible.

- (d) Promptly pay any charges that accrue to it as a result of the Market's settlement and billing process in accordance with these Rules.
- (e) At all times, maintain a Security Cover of an amount not less than the quantity notified to the Participant by the Market Operator pursuant to Rule 15.3; and
- (f) Maintain a bank account for the administration of the market payment system.

17.1.2 Shortages allocation: Market procedure. Becomes Market Rules in Medium Term Market

17.1.3 Conditions that must be included in all contracts in the Transitional Stage

17.1.4 Each Load Participant must accept and comply with:

- (a) the Curtailment Schedule in case of shortages or expected shortages for all loads that qualify and are accepted as curtailable loads;
- (b) the load shedding plans in case of shortages; and
- (c) any dispatch instructions issued by the System Operator during real time operation in order to curtail loads or to carry out any load shedding required to maintain the integrity of the system under during emergencies and/or to restore the system to normal operation after disturbances or emergencies.

## 17.2 Rights of Participants

Each Participant shall be entitled to:

- 17.2.1 Open access to non-discriminatory transmission services, in accordance with the Grid Code;
- 17.2.2 Access to non-discriminatory system operation and market operation services by the System Operator and the Market Operator;
- 17.2.3 Access to reports and non-confidential information on the Website; and
- 17.2.4 Submit complaints to the System Operator or to the Market Operator or to the Stakeholder Advisory Panel when the Participant considers that the System Operator or the Market Operator is not complying with the Market Rules or the Grid Code.

## 18. COMPLIANCE

### 18.1 Compliance with these Rules

Each Participant, the System Operator and the Market Operator, and the TSP shall comply with the provisions of these Rules and the Grid Code, insofar as applicable to it.

## **18.2 Internal consistency**

In the event of any inconsistency or conflict, the provisions of these Rules excluding its Appendices, other than Appendix 1 which, for this purpose, shall be treated as part of the main body of these Rules and not as an Appendix, shall prevail over the provisions of the Appendices or the Market Procedures.

## **19. DURATION OF THESE RULES AND MARKET PARTICIPATION AGREEMENT**

### **19.1 No fixed duration**

19.1.1 The Market Participation Agreement and these Rules shall have no fixed duration, and the Market Participation Agreement shall continue to bind the Market Operator and the each Participant until such time as the Participant ceases to be a Participant in line with these Rules.

19.1.2 The relevant Market Participation Agreement shall terminate at any time that the Participant ceases to be a Participant.

### **19.2 Termination and Continuity of Obligations**

19.2.1 These Rules shall continue to subsist unless and until terminated by order issued by the Minister on the occurrence of the following circumstances:

- (a) adoption of new electricity market arrangements for the Market, and:
  - (i) such arrangements cannot be implemented under the framework provided by these Rules, without replacing them or substantially amending them; and
  - (ii) these Rules have not been amended in accordance with the amendment provisions to accommodate such market structure; and
- (b) the Minister has recommended a new set of market rules to the President for approval, pursuant to Section 26 of the Act.

19.2.2 The termination of these Rules shall not, in any way, affect existing rights and liabilities that have accrued to Participants, the TSP, and the System Operator and the Market Operator prior to such termination.

## **PART 5: CONTRACTS, GENERATION ADEQUACY AND POWER PROCUREMENT DURING THE TRANSITIONAL STAGE**

### **20. CONTRACT MARKET**

#### **20.1 General Conditions**

- 20.1.1 Part 5 of these Rules shall only apply during the Transitional Stage.
- 20.1.2 The Contract Market shall include all bilateral trading arrangements between Participants including Participants in another electricity market or Regional Pool which buy or sell energy from the Market.
- 20.1.3 The Market Operator shall prepare a Contract Market Procedure describing the timetable, format and mechanisms for exchange of information and Contract Nomination in the Contract Market in accordance with these Rules.
- 20.1.4 All contracts executed in the Market during the Transitional Stage shall be designed in a manner which ensures that all energy traded in the Market is bought or sold through bilateral contracts PROVIDED THAT the Market Operator may agree with Participants to implement a balancing mechanism to settle differences, in which case the balancing mechanism shall be implemented after:
- (a) the Commission approves the mechanism; and
  - (b) necessary consequential amendments are made to these Rules to incorporate a balancing mechanism for the Market during the Transitional Stage.
- 20.1.5 Contracts may incorporate availability performance incentives through a two-part design, incorporating monthly generation capacity payments subject to target availability, or a single price contract with energy payment reductions if performance is below target availability.

#### **20.2 Obligatory Provisions in Contracts**

- 20.2.1 All contracts for the purchase and sale of energy and Ancillary services in the Market during the Transitional Stage must include provisions to the effect that:
- (a) both parties accept to be bound by these Rules and the Grid Code;
  - (b) the Seller accepts to provide all Ancillary Services defined in the Grid Code during the Transitional Stage, if the contracted Generation has the technical capability and equipment to do so, without any additional payment and this obligation shall be deemed to be incorporated in all contracts, so that no additional payment or Ancillary Services contract will be required in respect thereof;

- (c) both parties accept to adopt the settlement data and quantities in the Market Operator's Settlement Statement as contract quantities, in accordance with these Rules; and
- (d) both parties agree to adopt the procedures stipulated in these Rules for the review of the settlement data and documents and for the resolution of any dispute related thereto.

### **20.3 Contract Register**

- 20.3.1 The Market Operator shall establish and maintain a Contract Register in which it will keep contract information disclosed to it by Participants pursuant to this Rule 20.3 for the purpose of:
  - (a) keeping a record of generation capacity and contracted quantities in order to evaluate generation adequacy; and
  - (b) assisting the Commission in evaluating the load covered by contracts entered into by each Distributor.
- 20.3.2 The Contract Register shall not contain any price or other commercially sensitive information.
- 20.3.3 The Contract Register shall document the power contracted from each Generator and bought by each Participant and for this purpose, shall record:
  - (a) for each contract:
    - (i) contracting parties, identifying Seller and Purchaser;
    - (ii) duration of the contract;
    - (iii) profile of the contracted generation capacity over the duration of the contract;
    - (iv) profile of the contracted energy over the duration of the contract; and
    - (v) the mechanism or formula for calculating the contracted energy;
  - (b) for each Generator or the Special Trader, total generation capacity sold in contracts; and
  - (c) For each Distributor, Eligible Customer and the Special Trader total generation capacity bought in Contracts.
- 20.3.4 Upon entering into a new contract in the Market, each Participant must notify the Market Operator of the contract and request registration thereof.

- 20.3.5 A Participant shall notify the Market Operator of any Regional Trading contract that it entered into and shall submit to the Market Operator, relevant information related to Regional Trading and expected schedule in the Interconnector.
- 20.3.6 Each Participant must notify the Market Operator of any modification to the contracted quantities stipulated in any registered contract not later than three days after the Participant agrees to such modification and not later than one week before the time that Market Operator is required to initiate the calculations for the monthly settlement process.
- 20.3.7 The Market Operator shall publish on the Website, the form to be utilised by Participants in requesting registration of a contract or notifying the Market Operator of changes to a registered contract. The form shall request all the information required by the Market Operator for proper discharge of its functions, including:
- (a) the contracting parties, identifying Seller and Purchaser;
  - (b) duration of the contract; and
  - (c) the contract energy nomination, that is, the mechanism or formula to be applied in determining the energy sold in the contract, to enable the Market Operator calculate the contracted energy for the settlement process in accordance to these Rules, and the information shall, in the case of:
    - (i) a new contract, describe the mechanism or formula as well as the metering points over the duration of the Contract; and
    - (ii) modification to a registered contract, describe the changes to the mechanism or formula or metering points, and the dates from which the change take effect;
  - (d) the Contracted generation capacity nomination and the information shall, in the case of:
    - (i) a new contract which contracts energy and generation capacity, contain a profile of the contracted generation capacity over the duration of the Contract;
    - (ii) modification to a registered contract which contracts energy and generation capacity, describe the changes in the profile of the contracted generation capacity and the dates from which the change take effect; and
    - (iii) a contract that does not contract generation capacity, the average contracted energy which shall serve as the monthly generation capacity of the contract for the purpose of these Rules and for the Contract Register; and
  - (e) Any other information required by the Market Operator for the settlement process in accordance to these Rules.

- 20.3.8 The contracted energy may be nominated as:
- (a) a fixed quantity (MWh); or
  - (b) a percentage of metered consumption, if the Purchaser is a Load Participant; or
  - (c) a percentage of metered generation of the Seller; or
  - (d) any other formula that clearly establishes the method of computation PROVIDED THAT the Market Operator obtains all the necessary data for the computation before initiation of the settlement process.
- 20.3.9 Except in the case of a contract for Regional Trading, the two parties to a contract may present a single notification of, and request for registration of a new contract or modification of an existing contract, provided that representatives of both Participants sign the notification. In that event, the Market Operator shall treat the notification as if both presented a notification with the same information.
- 20.3.10 The following Rules shall apply when one or both parties to a contract present a notification thereof to the Market Operator:
- (a) Upon receipt of a request to register a contract, the Market Operator shall acknowledge receipt and inform the party submitting it whether or not the other party has also submitted a notification and request for registration.
  - (b) If each party submits a request for registration but material differences exist in the information submitted by them, the Market Operator shall reject the request for registration and request the Participants to resubmit the request for registration, indicating the differences in the information presented for registration.
  - (c) If only one party has submitted the request for registration and the request is not signed also by the other party, the Market Operator shall notify the other party requesting confirmation within the next two (2) Business Days. If the Market Operator does not receive a response from the other party within this deadline, or the other party informs Market Operator that it disagrees with the information submitted, the Market Operator shall reject the registration and inform the Participant that submitted the request, indicating its reasons for rejecting the request for registration.
  - (d) Upon verifying that both parties agreed on the information and terms notified, the Market Operator shall, within two (2) Business Days, register the contract and notify both parties of the registration.
- 20.3.11 The Market Operator shall update the Contract Register when:
- (a) a new contract is notified to it by Participants;



- (b) it is notified by Participants of a modification to a registered contract; or
- (c) a registered Contract ends.

20.3.12 The Market Operator shall establish and maintain a separate register of the generation capacity sold in contracts from the information submitted to it by Participants.

## **20.4 Vesting Contracts**

- 20.4.1 If both parties to a Vesting Contract are owned by government, the Vesting Contract will be settled and invoiced by the Market Operator.
- 20.4.2 The Market Operator shall design an agreement, called the Contract Settlement Agreement, on the basis of information to be provided by the parties, to govern review of invoices and dispute resolution. The Parties to the Vesting Contract shall sign the Contract Settlement Agreement with the Market Operator.
- 20.4.3 The Contract Settlement Agreement shall end when one or both have been privatised.

## **20.5 Special Contracts**

- 20.5.1 Special Contracts are a group of individual contracts between a Generator or the Special Trader on the one hand and a Distributor on the other, under which each Distributor would agree to purchase Generation from the Generator or the Special Trader on the same conditions and prices as the other Distributors. Each Special Contract shall define the procedure for administration and settlement thereof.
- 20.5.2 Special Contracts are designed to share Generation between all Distributors during the Transitional Stage and for this purpose, each Distributor will have its own contract with each Generator or the Special Trader.
- 20.5.3 Special Contracts shall have the following features:
  - (a) All contracts with each Generator or the Special Trader will have the same conditions and pricing system.
  - (b) Contract quantities sold to each Distributor shall be calculated by assigning energy Generated by the Generator (or by one or more identified power plants of the Generator) or the energy purchased by the Special Trader to each Distributor's contract proportionally to the total energy requirements of each Distributor.
  - (c) The calculation of the contract quantity for each Distributor shall be administered by the Market Operator as part of the Market settlement process administered.

- (d) Each Special Contract shall define the manner in which contract quantities shall be calculated for the purpose of novation at the start of the Medium Term Market, to enable the Special Contracts transform into bilateral contracts when the Balancing Market is established.

## **21. GENERATION ADEQUACY**

### **21.1 Annual Load Projections Report**

- 21.1.1 Before the end of [October] in each year, the System Operator shall prepare a report, to be known as the Load Projection Report, of the monthly energy and system peak load forecast for the next ten (10) years. The forecast shall identify projections for each Distributor and total for the system under three growth projection scenarios as follows:
  - (a) expected (average) scenario;
  - (b) low growth scenario; and
  - (c) high growth scenario.
- 21.1.2 In preparing the Load Projection Report, the System Operator shall use adequate load forecast models and inputs that represent, to the best of its knowledge, the future load growth given available information, macroeconomic parameters and expected new connections. The System Operator shall use available information, considering:
  - (a) Data and hypotheses provided by Load Participants, verifying the consistency of these forecasts and its compatibility with expected and historical growth;
  - (b) Historical data and trends with respect to Load growth;
  - (c) Past trends, day type, and special events; and
  - (d) Other variables (economic growth, weather forecast, and macro economic parameters, etc.) and hypothesis that may affect load.
- 21.1.3 Before finalising the Load Projection Report for each year, the System Operator will publish the preliminary Load Projection Report on the Website for the purpose of consultation with Participants.
- 21.1.4 If a Load Participant or the Special Trader believes that the system load forecast contained in the preliminary Load Projection Report published by the System Operator is not adequate, the Participant may notify the System Operator of its concerns, providing information to justify and validate those concerns. The System Operator shall analyse the observations and information provided and if necessary, adjust the load forecast and for this purpose:

- (a) the System Operator shall answer the concerns of the Participant;
- (b) the System Operator may organise meetings to further discuss and explain the proposed corrections, if any, to the Load Projection Report; and
- (c) in the event that the System Operator and the Participant are unable to reach an agreement on the objection or observation, the System Operator will make the decision which, to the best of its knowledge, is correct, provided that in all such cases, the Load Projection Report shall include the rejected observations and objections.

21.1.5 The System Operator must define the reserve requirement in MW that will ensure adequacy of Generation in the Market. The System Operator may determine the maximum size of Generating Units to avoid the need for excessive Spinning Reserve to cover the loss of that Generating Unit and for this purpose, may require extension, repowering or construction of a Power Station.

21.1.6 The System Operator shall review the transmission system plan and projected new connections, taking into consideration transmission constraints and weaknesses, planned improvements and expansion, in order to identify the best location for additional generation and available capacity for Interconnectors for Regional Trading.

21.1.7 Each Load Projection Report shall describe for each month of the ten year period covered therein:

- (a) forecast system peak load and energy consumption for each month of the year;
- (b) the system generation capacity requirement for the forecasted system peak load, including reserves;
- (c) forecast energy consumption of each Distributor;
- (d) expected new connections;
- (e) need for generation capacity reserve, if any, in each region due to expected transmission constraints;
- (f) best location for new generation capacity; and
- (g) available free capacity in international Interconnectors.

- 21.1.8 The System Operator shall send the proposed Load Projection Report, including an Annexure with the rejected observations and objections of Load Participants, to the Commission for review and approval before publication in each year. The Commission may, if necessary require corrections to load forecast assumptions, and shall approve the Load growth forecast contained in the Load Projection Report Load before publication.
- 21.1.9 The System Operator shall publish the approved Annual Load Projection Report on its website and send it to the Market Operator.

## **21.2 Generation Adequacy Report**

- 21.2.1 Before the end of [November] in each year, the Market Operator shall evaluate the risk of shortages, if any, to cover the system generation capacity requirement, computed on the basis of the approved Load Projection Report and the information on contracted generation capacity in the Contract Register and shall prepare a Generation Adequacy Report containing the result of the evaluation.
- 21.2.2 The Generation Adequacy Report shall describe for each month of the next 10 years:
- (a) the forecasted monthly generation capacity requirement; for each Distributor and total for the system;
  - (b) the generation capacity bought in contracts by each Distributor, Eligible Customer and the Special Trader, using the information in the Contract Register and information submitted by Participants on Contracts that are in the procurement or negotiation stage;
  - (c) the generation adequacy, reflecting any expected shortfall or available reserve, which shall be calculated by subtracting the generation capacity contracted for as determined in paragraph (b) from the forecasted monthly generation capacity determined in accordance with paragraph (a), for each Distributor and total for the system.
- 21.2.3 The Market Operator shall submit the preliminary version of the Generation Adequacy Report to the Commission for review and approval. The approved report shall be published on the Website.

## **22. NEW CONTRACTS**

### **22.1 Quantities Authorized for new Power Procurement**

22.1.1 The quantities to be traded in new contracts between the Special Trader and Distributors shall be decided by the Commission on the basis of the Generation Adequacy Report. Based upon the Generation Adequacy Report, the Commission shall evaluate the need for additional generation capacity and perform a tariff affordability test to, amongst other things, estimate the impact on tariffs of new power procurement.

22.1.2 Before the end of each year, the Commission shall notify the Market Operator and the Special Trader of the quantity authorized for new power procurement by each Distributor. This notice shall, amongst other things, specify:

- (a) the annual quantity authorized for procurement in the Market;
- (b) the allocation of this annual quantity between each Distributor, which shall be proportional to the shortage or reserve calculated for each Distributor in the approved Generation Adequacy Report; and
- (c) any other special provision or conditions established by the Commission.

22.1.3 The Market Operator shall inform the System Operator and all Participants of the authorization given by the Commission for new power procurement. The System Operator and all Participants shall have the right to send to the Market Operator within the next Ten (10) Business Days their comments, observations and recommendations on the authorisation and on alternatives for new Generation or regional imports. In particular, if any Distributor is or is considering or is in the process of entering into a bilateral contract for power procurement, the Distributor shall inform the Market Operator of the power procurement to be traded in the proposed contract.

22.1.4 The Market Operator shall collect and summarise the comments and recommendations received on alternatives for new Generation or regional imports, and thereafter, submit the summary to the Commission and the Special Trader.

### **22.2 Competitive Procurement**

22.2.1 Upon authorisation by the Commission, the Special Trader can initiate a procurement process for additional power up to the quantity so authorised.

- 22.2.2 When authorised by the Commission to procure additional power, the Special Trader shall be subject to a transparent and competitive procurement process. The Commission shall define procurement procedures or regulations to govern the competitive procurement process and, amongst other things, ensure transparency and selection of the least cost alternative. The Special Trader must comply with these procedures in the design, implementation and execution of the procurement documents and award of the relevant power procurement contracts.
- 22.2.3 Before the solicitation for the power procurement is published and advertised, the Commission shall be entitled to review the procurement documentation and power procurement contracts in order to ensure their compliance with the relevant procedures and regulations.
- 22.2.4 Taking into consideration Government energy policy, alternative resources, including Nigerian Generation and regional opportunities, and proposals for new Generation or regional imports submitted by Participants and the System Operator, the Special Trader shall initiate a competitive power procurement process following the competitive procedures or regulations established and supervised by the Commission, using a standardized power procurement contract, with a design that complies with the conditions of Special Contracts. The award criteria shall be based on selection of the least cost bid.
- 22.2.5 The Commission shall certify that the competitive procurement solicitation and the bid selection criteria are based on selection of the least cost bid.

### **22.3 New Contracts by the Special Trader**

- 22.3.1 The Special Trader shall inform the System Operator and the Market Operator of its proposal for generation capacity development with regard to the location, planning and the procurement of new generation capacity.
- 22.3.2 Before initiating a power procurement process, the Special Trader shall consult with Distributors on tender design and power procurement contracts, and will request certification of the procurement process by the Commission in accordance with Rule 22.2.5.
- 22.3.3 The new contracts for the procurement of additional generation capacity by the Special Trader in the Transitional Stage shall be designed in like manner to Special Contracts, but shall include the following additional characteristics:
- (a) The Special Trader, the Generator and the corresponding Distributor will sign a Special Contract. The role of the Special Trader in the contract will be as a facilitator and load aggregator.

- (b) The contract design shall assign construction risks as well as risk of cost overruns to the generation investor.
- (c) Effective dates and prices or price formula shall be defined clearly at the time that the new contract is signed.
- (d) If any capacity charges are included in the contract, it shall be based on an availability target that shall not be lower than a standard availability defined by the Commission.
- (e) In order to simulate future bilateral contracts, the quantity assignment in the contracts shall be proportional to energy consumption of each Distributor.
- (f) Payments shall be between made each Distributor and Generator, as would be the case under a bilateral contract.
- (g) The Special Trader may provide any contract guarantees that are required until such time as the relevant Distributor is able to provide the requisite guarantee for its contract or in any case, until privatisation of such distributor. Once the Distributor provides its own guarantee, the corresponding guarantee obligation of the Special Trader will automatically lapse.
- (h) Each contract will include the provisions for novation thereof, to enable its transformation into a bilateral contract between the Generator and the Distributor at the commencement of the Medium Term Market, when the Special Trader shall be eliminated from the procurement arrangement. If at the start of the Medium Term Market one or more Distributors have not been privatised and are not credit worthy, the Special Trader will maintain the contract guarantees through a special agreement between the Special Trader and the Distributor.

22.3.4 The Special Trader shall procure new power and ancillary services in an open, transparent, and competitive manner, and shall evaluate procurement bids and prepare a bid selection report in accordance with the competitive procedures defined by the Commission pursuant to Rule 22.2, unless the circumstances require otherwise and the Commission allows or requires an alternative method.

22.3.5 The Special Trader shall inform the Commission and Distributors of proposed generation projects, and shall provide them with details of the financial proposals for the tendered power procurement contracts, including the sales prices to Distributors. The sales price from the Special Trader to the Distributors shall include, in addition to the contract price, administrative costs approved by the Commission.

- 22.3.6 On receiving this information from the Special Trader, one or more Distributors may request the Commission to approve bilateral contracts for additional power procurement, if the conditions and sales prices proposed by the Special Trader in the new power procurement would lead to higher regulated tariffs for Consumers than the bilateral contracts proposed by the Distributor(s).
- 22.3.7 If the Commission:
- (a) rejects the proposal by the Distributor(s); and
  - (b) approves the competitive power procurement by the Special Trader;
- all Distributors shall accept the new power procurement proposed by the Special Trader, and the Special Trader shall sign the tendered contract with the selected bidder provided that the condition in paragraph (a) shall not apply on the event that no Distributor requests the Commission to approve a bilateral contract under Rule 22.3.6.
- 22.3.8 The Commission shall ensure that the competitive procurement and selected bid complies with the tender conditions and competitive procedures, and shall authorize the transfer of procurement costs to Consumers through regulated end consumers tariffs.
- 22.3.9 After the initiation of the Medium Term Market, the Special Trader will start the novation to Distributors or eligible customers of its purchasing contracts agreed during the Transitional Stage, and shall not enter into any new contract.

## **22.4 Bilateral Contracts by Distributors**

- 22.4.1 A Distributor may purchase Embedded Generation to provide local reliability reserves due to transmission constraints. To justify such purchase, the Commission shall request an evaluation by the System Operator to verify that the need for such local reserve is justified.
- 22.4.2 Subject to the immediately preceding Rule 22.4.1, a Distributor shall not enter into a bilateral contract with a Generator unless one or both of the following conditions have been satisfied:
- (a) Upon receipt of a proposal for power procurement by the Special Trader, the Distributor, acting alone or in conjunction with other Distributors, proposes an alternative bilateral contract at lower prices than the prices of the new power procurement proposed by the Special Trader and the Distributor(s)'s proposal is approved by the Commission, pursuant to Rule 22.3.6; or
  - (b) There are transmission constraints that cause shortages in the Distributor(s) coverage area and it is expected that such constraints will remain for at least [five] years, and the Distributor follows a competitive process, within the guidelines



established by the Commission and supervised by the Commission, to procure generation installed or connected in its region.

## **PART 6: SUBMISSION OF SCHEDULING AND DESPATCH DATA, AND CONTRACT NOMINATION**

### **23. DESPATCH DATA**

#### **23.1 Ex-Ante Day Ahead Nominations**

##### **23.1.1 Generator's Nominations**

Subject to Rules 23.1.6, 23.1.7 and 24.3.1, each Generator shall make a Day-ahead Nomination in accordance with this Rule 23, in respect of each Generating Group comprised in a Power Station. Unless a notice to the contrary is contained in a Nomination, each Nomination shall be consistent with the operating characteristics of the Generator's Generating Groups as contained in its Registered Information, and shall comprise a:

- (a) Quantity Nomination; and
- (b) Price Offer.

##### **23.1.2 Contents of Quantity Nomination in respect of a non-Hydro Generating Group**

A Quantity Nomination by a Generator in respect of each Generating Group, other than a hydro Generating Group, shall contain:

- (a) an identification of the Generator responsible for the Generating Group;
- (b) an identification of the Generating Group(s) comprising the Power Station in respect of which the Quantity Nomination is made;
- (c) an availability declaration specifying:
  - (i) any unavailability or changes to the minimum and maximum capacity in MW due to technical constraints; and
  - (ii) the minimum and maximum available output from the Generating Group that can be dispatched for the production of Energy, for each Dispatch Period of the next Dispatch Day;

Provided that the Generator shall not include in any Nomination, the capacity contracted by it with the System Operator to provide Ancillary Services or Reliability Must-Run Services from such Generating Group;

- (d) any daily energy constraints due to fuel availability or environmental restrictions;

- (e) any changes to the information on operation constraints relating to start up time, minimum run time and ramp rates, which was submitted by the Generator on admission and the updates made thereto from time to time; and
- (f) any other variation to the information provided by the Generator pursuant to Rule 15.1.3 on matters specified in Appendix 3.

### 23.1.3 Contents of Quantity Nomination in respect of a Hydro Generating Group

A Quantity Nomination by a Generator in respect of each hydro Generating Group shall contain:

- (a) an identification of the Generator responsible for the Generating Group;
- (b) identification of the Generating Group(s) comprising the Power Station in respect of which the Quantity Nomination is made;
- (c) an availability declaration specifying:
  - (i) the minimum and maximum Capacity in MW that, due to technical or reservoir constraints, is available from the Generating Group for the production of Energy, for each Dispatch Period of the next Dispatch Day;
  - (ii) the minimum amount of Energy in MWh that must be generated hourly due to environmental or other commitments in respect of downstream water use, such as irrigation; and
  - (iii) the maximum and minimum amount of Energy in MWh that can be generated by the Generating Group over the Dispatch Day due to environmental constraints or reservoir management,

Provided that the Generator shall not include in any Nomination, the capacity contracted by it with the System Operator to provide Ancillary Services or Reliability Must-Run Services from such Generating Group;

- (d) any changes to the information on operation constraints or reservoir operation restrictions relating to start up time, minimum run time and ramp rates, that was submitted by the Generator on admission and the updates made thereto from time to time to; and
- (e) any variation to the information provided by the Generator pursuant to Rule 15.1.3 on matters specified in Appendix 3.

#### 23.1.4 The Price Offer for Thermal Generating Groups

- (a) During the Medium Term Market, each Generator shall submit a Price Offer, indicating an offer to generate energy at a stated price in respect of each of its thermal Generation Groups. The price shall reflect variable costs, taking into consideration fuel costs, heat rate, costs of operation and maintenance and environmental costs, if any.
- (b) If, during the Transitional Stage, a Generator has entered into a contract to sell the generating capacity of a thermal plant, and the contract defines the values or formulas to be utilised in calculating one or more of the prices or cost elements comprised in the Price Offer, the Generator must notify the Market Operator of the prices agreed in the contract.
- (c) A Price Offer made by a Generator in relation to a thermal Generating Group of a Power Station in respect of which it has made a Quantity Nomination in accordance with Rule 23.1.2, shall, subject to Rule 23.1.6, consist of the following:
  - (i) One each of a “Hot Start Price”, a “Warm Start Price” and a “Cold Start Price”, given in ₦ /Start, each corresponding to the period for the Generating Group has been off-load;
  - (ii) up to three (3) monotonically increasing Energy Prices in ₦/MWh expressed as a function of MW output over the range of capacity, that is, minimum to maximum output, declared by the Generator pursuant to Rule 23.1.2(c) or Rule 23.1.3(c), as the case may be;
  - (iii) the Break Points, that is the MW levels between which a given Energy Price applies; and
  - (iv) a No-Load Price in ₦/hour, being the hourly fixed price required to run the Generating Group.

#### 23.1.5 The Price Offer for Hydro Generating Groups

- (a) During the Medium Term Market, each Generator shall submit a Price Offer, indicating an offer to generate energy at a stated price in respect of each of its hydro Generation Groups. The price shall reflect the Opportunity Costs of hydro generation provided that the System Operator shall dispatch the energy offered in the Quantity Nomination economically within system constraints to minimise the total daily thermal cost plus hydro Opportunity Costs.
- (b) During the Transitional Stage, Generators shall not include a Price Offer in the Day Ahead Nomination for hydro generation provided that the System Operator shall dispatch the energy

offered in the Quantity Nomination economically within system constraints to minimise the total daily thermal cost plus hydro Opportunity Costs.

#### 23.1.6 Restrictions on Price Offer

The following restrictions apply to the Price Offer submitted pursuant to Rules 23.1.3 and 23.1.4:

- (a) Start up prices shall correspond to the cost associated with starting the relevant Generating Unit(s), and shall comprise values that monotonically increase according to the length of time since the unit has been shut down;
- (b)  $CSP > WSP > HSP$ ; where:
  - (i) CSP - Cold Start Price;
  - (ii) WSP - Warm Start Price; and
  - (iii) HSP - Hot Start Price;
- (c) Energy prices shall be calculated for different outputs based on heat rates, variable fuel cost and variable operation and maintenance costs associated with the relevant Generating Unit, using any applicable formula agreed in contracts or PPAs.
- (d) The offer shall include an energy price for maximum output and an energy price for minimum output;
- (e) An Energy Price shall apply for all generation up to the Break Point to which it corresponds. For the sake of clarity, where a Generator submits more than one Energy Price in respect of a Generating Group, the relevant Energy Price for all Generation from the Generating Group shall be:
  - (i) Energy Price 1, if the Generating Group is dispatched between 0 (zero) MW and Break Point 1 inclusive;
  - (ii) Energy Price 2, if the Generating Group is dispatched at a level about Break Point 1 and up to Break Point 2 inclusive; and
  - (iii) Energy Price 3, if the Generating Group is dispatched at a level above Break Point 2 and up to Break Point 3 inclusive.

#### 23.1.7 Permitted Nominations

A Generator shall not submit, and the System Operator shall not accept, any Nomination with respect to a Generating Group unless:

- (a) the Generating Group is or is part of a Registered Facility for the provision of Energy to which the Nomination relates;
- (b) the Generator is a Registered Participant for that Registered Facility; and
- (c) the Nomination is consistent with:
  - (i) the Registered Information, as revised in accordance with these Rules;
  - (ii) the operating characteristics specified in the Participant's Registered Information, unless the Nomination indicates any variation to those operating characteristics; and
  - (iii) the Participant's reasonable expectations of the current actual capabilities of the Generating Group; and
- (d) the Nomination is made within the time limit prescribed by this Rule 23.

## **23.2 Submission and Validation of Contract and Dispatch Data**

### 23.2.1 Mode of Submission

Each Generator shall submit its Nomination, in accordance with the format prescribed by System Operator, to System Operator in accordance with this Rule 23.

### 23.2.2 Acknowledgement of Submission

The System Operator shall:

- (a) record the receipt of a Nomination, indicating the time that the Notification was received by the System Operator; and
- (b) confirm receipt of Nomination to the Generator that submitted same within [thirty] minutes of receipt of a Nomination.

### 23.2.3 Validation of Submitted Scheduling and Dispatch Data

If a Generator submits a modified Quantity Nomination, pursuant to Rule 23.5.3, the System Operator shall re-validate the Nomination received in accordance with Rule 23.2.4.

### 23.2.4 Validation Process

- (a) The System Operator shall verify the proper content, format and syntax of any Nomination submitted by a Generator, in order to:
  - (i) ensure its compliance with this Rule 23; and

- (ii) verify the identity of the Generator and that of the Registered Facility, if applicable.
- (b) The System Operator may also perform a technical validation to verify that the submitted Nomination does not violate the technical and operating limits applicable to the Generating Group, as recorded in its Registered Information, subject to any modifications contained in the Quantity Nomination.

#### 23.2.5 Acceptance

Following validation of the Nomination by System Operator, the System Operator shall forward a copy of the Nomination as validated to the concerned Generator, provided that the copy of the validated Nomination shall be forwarded to the System Operator within 60 minutes of receipt of the Nomination by the System Operator. Such communication by the System Operator shall constitute acceptance of the Scheduling and Dispatch Data.

#### 23.2.6 Rejection

- (a) The System Operator shall reject a Nomination, which:
  - (i) does not comply with the provisions of this Rule 23;
  - (ii) or violates any technical and operative limits specified in the Generator's Registered Information, unless such limits have been modified by the Quantity Nomination.
- (b) The System Operator shall provide to the Generator the reasons for rejection, not later than 60 minutes after receipt by System Operator of the Nomination, and inform the quantities and prices to be used for dispatch, in accordance with these Rules.

#### 23.2.7 Re-submission in Case of Rejected Data

- (a) A Generator may resubmit a Nomination rejected by System Operator in accordance with these Rules, unless the rejection of the Nomination occurred due to contravention of Rule 23.1.6 and the System Operator shall notify the Generator of the mode of re-submission when notifying the rejection.
- (b) A Nomination resubmitted by a Participant pursuant to paragraph (a) should be received by System Operator no later than 30 minutes from the time the notice of rejection was received by the Generator.

### **23.3 Timing of Day Ahead Nominations and Standing Nominations**

Subject to Rules 23.2.7 and 24.3, a Generator shall submit a Day-ahead Nomination or a Standing Nomination, no later than 12:00 hours on the

relevant Pre-dispatch Day. Such Nomination may thereafter be revised only as permitted by Rules 23.4 and 23.5.

## **23.4 Modification to Nomination**

### **23.4.1 Restriction on Modification**

- (a) Subject to Rule 23.6.3, no Generator shall be permitted to modify a Quantity Nomination made by it pursuant to Rules 23.1, 23.6 or 23.2.7, as the case may be, provided that a Generator shall modify its Quantity Nomination if, the Generating Group in respect of which such Nomination was made:
  - (i) is unavailable at the original level specified by the Nomination, pursuant to Rule 23.1.2 as a result of:
    - (1) Force Majeure; or
    - (2) rescheduling of the Outages of such Generating Group(s) with the consent of the System Operator; or
  - (ii) is incapable of operating in the manner described in the Quantity Nomination; or
  - (iii) is affected by a material change arising for any reason whatsoever in:
    - (1) the average minimum or maximum capacity in MW that is available from the Generating Group for the production of Energy; or
    - (2) the Maximum Ramp-up Rate or the Maximum Ramp-down Rate;
- (b) While modifying the Quantity Nomination pursuant to paragraph (a), the Generator shall restate the modified Quantity Nomination in accordance with Rule 23.1.
- (c) Notwithstanding the restatement of a Quantity Nomination pursuant to paragraph (a) and (b), the Generator shall, during the Medium Term Market, continue to be liable for Uninstructed Imbalance Amounts determined by the Market Operator pursuant to Rule 34.2.1(c), with reference to the Instructed Quantity not complied with by the Generator.
- (d) Notwithstanding anything to the contrary contained in these Rules, the Generator shall not be allowed to alter any Price Offer accompanying a Quantity Nomination, including those modified pursuant to paragraphs (a) and (b).



## 23.5 Consequences of Restatement

23.5.1 Subject to Rule 23.4.1(c), restatement of a Quantity Nomination pursuant to Rule 23.4 shall be treated by the System Operator as a modified Quantity Nomination submitted in accordance with Rule 23.1 for the purpose of issuing Dispatch Instructions.

### 23.5.2 Completing Nomination Information

- (a) If no Dispatch Quantity Nomination is submitted for a Generating Group or the Dispatch Quantity Nomination submitted in respect thereof is incomplete or is rejected by the System Operator in accordance with these Rules, the System Operator will provide or complete the Dispatch Quantity Nomination will be defined or completed with the following information:
  - (i) If there is a Standing Nomination, the corresponding quantity in the standing nomination; or
  - (ii) If there is no Standing Nomination, the relevant technical data submitted by the Generator on admission or subsequent informed updates to these information.
- (b) In all cases, the System Operator shall, on the basis of informed technical data, consider the maximum output less unavailability that may result from planned maintenance outages. The System Operator may correct the quantities in a Quantity Nomination if it is higher than the maximum output so calculated in order to limit availability to the calculated maximum output. In all such cases, the System Operator shall notify the Generator of the change in available maximum output and the justification for the change.
- (c) Except for hydro during the Transitional Stage, which does not require a Price Offer, if a Generating Group does not submit a Price Offer within the stipulated deadline or the Generator submits an incomplete Price Offer, or the Price Offer submitted is rejected by the System Operator in accordance with these Rules, the System Operator shall adopt as a Price Offer:
  - (i) If there is a Standing Nomination, the corresponding prices in the standing nomination, or
  - (ii) If there is no Standing Nomination, the last valid Price Offer submitted for the Generating Unit.
- (d) The System Operator shall use the Quantity Nominations and prices that result from this Rule 23.5.2 for the economic dispatch of the system and scheduling of generation. The System Operator shall state the Quantity Nominations and prices used for dispatch in the Day-ahead Schedule.

### 23.5.3 Modifications to Quantity Nomination

- (a) During real time operation, Generators shall inform the System Operator of any unexpected condition or faults that may occasion the modification of the Quantity Nomination submitted in the Day-ahead Nomination as soon as possible.
- (b) Quantity Nomination may be modified by a Generator during a Dispatch Day in the event of:
  - (i) unexpected changes in availability; or
  - (ii) operational constraints due to technical unexpected conditions; or
  - (iii) in the case of hydro generation, unanticipated changes in inflows or downstream emergencies.

## **23.6 Standing Nominations**

If the Day-ahead Nomination for a Generating Group will not change from day to day, the Generator that owns that Generating Group may submit a Standing Nomination for the Generating Group. Such Standing Nominations:

- 23.6.1 shall comply with the requirements of Rule 23.1;
- 23.6.2 shall remain in effect until the expiration date specified in the Standing Nomination, unless earlier withdrawn or revised by the Participant in accordance with this Rule 23;
- 23.6.3 may be amended or withdrawn, provided that the effective time for the change is not later than 12:00 hours on the relevant Pre-dispatch Day; and
- 23.6.4 shall not be valid for a period exceeding one year.

## **24. CONTRACT DATA**

### **24.1 Contract Nomination for the Transitional Stage**

The Market Operator shall, for each settlement period, use the contract information submitted by Participants and recorded in the Contract Register to calculate the energy bought and sold by each Participant in the related contract.

### **24.2 Bilateral Contract Nominations for the Medium Term Market**

#### **24.2.1 Form of Bilateral Contract Nomination**

- (a) Both parties to a Bilateral Contract, other than a contract for Import or Export of Energy shall make a Bilateral Contract Nomination to the Market Operator. The Bilateral Contract Nomination shall be made on or before 16:00 hours on the Business Day preceding the Calculation Day. A Bilateral Contract Nomination shall contain the following information:

- (i) name of the purchaser;
  - (ii) name of the seller;
  - (iii) the Dispatch Day to which it applies; and
  - (iv) for each Dispatch Period of that Dispatch Day, the MWhs covered by the Bilateral Contract.
- (b) A Participant engaged in Import or Export of Energy shall make the Bilateral Contract Nomination to the System Operator, and the System Operator shall submit this information to the Market Operator. Such Bilateral Contract Nomination shall be made on the Day-ahead together with the Dispatch Nomination and shall contain the following information:
- (i) in the case of an Import, name of the seller in the neighbouring country;
  - (ii) in the case of an Export, the name of the purchaser in the neighbouring country;
  - (iii) the Dispatch day to which it applies;
  - (iv) for each Dispatch Period of that Dispatch Day, the MWhs covered by the Bilateral Contract.

#### 24.2.2 Inconsistencies in Bilateral Contract Nomination:

In the event of an inconsistency between Bilateral Contract Nomination pursuant to Rule 24.2.1(a) by the parties to a Bilateral Contract, the Bilateral Contract Nomination submitted by the Purchaser shall prevail.

### **24.3 Nominations by Generation Facilities Designated as Reliability Must-Run Units for the Medium Term Market**

#### 24.3.1 Contracted Reliability Must-Run Periods: Quantity Nominations Only

Where:

- (a) a Generating Group(s) of a Power Station has been dedicated to maintaining Reliability pursuant to a Reliability Must-run Agreement executed by the System Operator in accordance with the Grid Code; and
- (b) the Generator whose Power Station includes such Reliability Must-run Unit has not received a Release Notice from System Operator in respect of such Reliability Must-Run Unit;

that Generator shall, for the Dispatch Periods for which it has contracted to provide Reliability, only make Quantity Nominations in respect of the full capacity specified for the Reliability Must-run Unit

in the Reliability Must-run Agreement and the Generator shall not be required to make a Price Offer in respect thereof.

#### 24.3.2 Contracted Must-Run Periods: Release Notices

- (a) If the System Operator ascertains that it does not require a Generating Group to provide Reliability Must-run Services in any particular Dispatch Period for which such Generating Group is contracted to be a Reliability Must-run Unit, the System Operator shall issue a Release Notice to the Generator whose Generation Facilities include that Reliability Must-run Unit.
- (b) The Release Notice shall specify the Reliability Must-run Unit to which it relates and the Dispatch Periods during which System Operator does not require Reliability Must-run Services from the Reliability Must-run Unit, and shall be issued for the full capacity specified for the Reliability Must-run Unit in the related Reliability Must-run Agreement.

#### 24.3.3 Contracted Must-Run Periods: Operating Constraints

In considering whether a Reliability Must-run Unit is required to provide Reliability Must-run Services in any particular Dispatch Period for which it has been contracted to do so, the System Operator shall observe the following operational constraints as detailed in the relevant Reliability Must-run Agreement:

- (a) minimum generation;
- (b) maximum output;
- (c) minimum up time;
- (d) minimum down time;
- (e) Maximum Ramp-down Rate;
- (f) Maximum Ramp-up Rate;
- (g) time to Synchronise;
- (h) contracted capacity;
- (i) environmental limitations; and
- (j) Transmission Constraints.

#### 24.3.4 Contracted Must-Run Periods: Price Nominations

Following receipt of a Release Notice issued pursuant to Rule 24.3.2, the Generator shall submit a Quantity Nomination and Price Offer in respect of the capacity contracted with System Operator for the

Reliability Must-run Unit for the Dispatch Periods to which the Release Notice relates.

#### 24.3.5 Non-Contracted Periods

For the periods of time for which a Generating Group(s) comprising a Reliability Must-run Unit is not contracted to be a Reliability Must-run Unit in accordance with the appropriate Reliability Must-run Agreement, a Generator may submit Nominations in respect of such Generating Group in accordance with Rule 23.1 and the provisions set out in Rules 24.3.1, 24.3.2 and 24.3.4 shall not apply to the Reliability Must-run Units in such periods.

### **24.4 Submission and Validation of Contract Data**

#### 24.4.1 Mode of Submission

Each Generator shall submit its Contract Nomination to the Market Operator in the format prescribed by the Market Operator in accordance with Rule 41.

#### 24.4.2 Acknowledgement of Submission

The Market Operator shall:

- (a) record the receipt of a Nomination with the time that it was received by the Market Operator; and
- (b) within one day after receiving a Contract Nomination, the Market Operator shall confirm the receipt of Nomination.

## **25. TRADE ACROSS THE INTERCONNECTOR**

### **25.1 Purpose and Application**

25.1.1 This Rule 25 sets out the arrangements for allocation of capacity on an Interconnector, together with arrangements for dealing with any resulting Imbalance Energy.

25.1.2 Rule 25 shall not apply during the Transitional Stage.

### **25.2 Contracted Interconnector Capacity Arrangements**

25.2.1 A Participant, who intends to Import or Export Energy across an Interconnector shall obtain an Interconnector Capacity Entitlement or a Daily Interconnector Capacity allocation granted pursuant to this Rule 25.

25.2.2 An Interconnector Capacity Entitlement may be procured pursuant to

- (a) an Interconnector Capacity Entitlement Agreement; or

- (b) an assignment from a holder of such Interconnector Capacity Entitlement pursuant to Rule 25.6.

25.2.3 Each Participant possessing Interconnector Capacity Entitlement in accordance with paragraphs (b) (i) and (ii) shall notify the System Operator of the Interconnector Capacity Entitlement no later than 10:00 hours, two days ahead of the Dispatch Day on which it intends to utilise the Interconnector Capacity Entitlement.

25.2.4 In the event a Participant possessing an Interconnector Capacity Entitlement does not intend to utilise the entire Interconnector Capacity Entitlement on the same Dispatch Day, the Participant may assign the rights to unutilised Interconnector Capacity Entitlement in accordance with Rule 25.6 or, in the absence of such assignment, the System Operator may allocate the unutilised Interconnector Capacity Entitlement to any other Participant in accordance with the Interconnector Capacity Entitlement Agreement, or in the event that the Interconnector Capacity Entitlement Agreement does not provide for allocation of unutilised capacity to a third party in accordance with the provisions of Rule 25.4.

### **25.3 Daily Interconnector Capacity Allocations**

25.3.1 A Generator not possessing an Interconnector Capacity Entitlement pursuant to an Interconnector Capacity Entitlement Agreement or an assignment in accordance with Rule 25.2.4 may submit to the System Operator, a request for access to the Interconnector in units of 1 MW for a full Dispatch Day.

25.3.2 The request referred to in Rule 25.3.1 shall be submitted to the System operator no later than 10:00 hours, two days ahead of the relevant Dispatch Day.

### **25.4 Interconnector Capacity Allocation**

25.4.1 In respect of each Dispatch Day, the System Operator and the Control Area Operator of the neighbouring Control Area or the operator of a Regional Market as the case may be, shall no later than 12.00 hours, two days prior to the Dispatch Day, agree the Total Interconnector Capacity available to be allocated in respect of the Interconnector in question. The Total Interconnector Capacity so determined shall form the basis of allocation pursuant to this Rule 25.4. The System Operator shall publish on its website the available Interconnector capacity so determined.

25.4.2 In the event that congestion would result from over-subscription in any direction, of the capacity of the Interconnector as determined in accordance with Rule 25.4.1, the System Operator shall allocate the Interconnector capacity in accordance with Rule 25.4.3 such that the total capacity allocated to all Generators does not exceed the Total Interconnector Capacity.

- 25.4.3 In cases of over-subscription, the Total Interconnector Capacity shall be distributed amongst the Participants on the basis of the following rules:
- (a) The System Operator shall not allocate any Interconnector capacity in response to any request for allocations of Daily Interconnector Capacity pursuant to Rule 25.3 until all the requirements for Interconnector Capacity Entitlement have been fulfilled.
  - (b) In the event that the Total Interconnector Capacity is insufficient to meet the total requirements for Interconnector Capacity Entitlement that have fulfilled the condition in paragraph (a), the System Operator shall consider the capacity available on the Interconnector, together with each Participant's notification of use of their Interconnector Capacity Entitlements.
  - (c) On the basis of the factors referred to in paragraph (b), the System Operator shall either:
    - (i) make a pro-rata allocation of Interconnector Capacity Entitlement to each Participant; or
    - (ii) allocate to each Participant, such percentage of the Interconnector Capacity Entitlement requested by the Participant, as may be specified by the Commission.
  - (d) If additional capacity is available on the Interconnector after the System Operator has satisfied all requests for Interconnector Capacity Entitlements, the System Operator shall accept all requests for allocation of Daily Interconnector Capacity, provided that if the capacity available on the Interconnector is insufficient to meet all requests for Daily Interconnector Capacity, the provisions of paragraph (e) shall apply.
  - (e) In the event that there is insufficient capacity on the Interconnector to meet all requests for allocation of Daily Interconnector Capacity, the System Operator shall consider the capacity available on the Interconnector, together with each Participant's request for Daily Interconnector Capacity, and on the basis of these two factors, shall either:
    - (i) make a pro-rata allocation of Daily Interconnector Capacity to each Participant; or
    - (ii) allocate to each Participant, such percentage of the Daily Interconnector Capacity requested by the Participant, as may be specified by the Commission.
  - (f) In all cases **super-positioning** will not be considered.

## **25.5 Confirmation of Access requests**

No later than 14:00 hours two days ahead of the relevant Dispatch Day, the System Operator shall notify each Participant to whom capacity on the Interconnector has been granted by virtue of an Interconnector Capacity Entitlement or a Daily Interconnector Capacity, of the extent of the access granted provided that such notification shall be indicative only **and shall not bind the System Operator**.

## **25.6 Capacity Assignment**

25.6.1 A Participant holding Interconnector Capacity Entitlement pursuant to an Interconnector Capacity Entitlement Agreement may assign all or part of its Interconnector Capacity Entitlement, for a short term not exceeding 10 Dispatch Days by submitting a request in that regard to the System Operator, in the form and manner prescribed by the System Operator, no later than 10:00 hours two days ahead of the Dispatch Day. The System Operator shall take a decision on the request no later than 12:00 hours on the same day.

25.6.2 An assignment an Interconnector Capacity Entitlement for a term which exceeds 10 Dispatch Days may only be made according to the terms of the relevant Interconnector Capacity Entitlement Agreement, provided that such assignment shall not become effective unless and until it is approved by the System Operator.

## **25.7 Nominations for Import and Export of Energy**

25.7.1 A Participant in possession of an Interconnector Capacity Entitlement and Daily Interconnector Capacity Allocation shall submit an Interconnector Energy Trade Nomination in respect of their desired Import or Export of Energy to the System Operator no later than 10:00 hours on the day immediately preceding the Dispatch Day to which the nomination applies. The Interconnector Energy Trade Nomination shall apply to all Dispatch Periods of the Dispatch Day.

25.7.2 A Participant shall submit separate Nominations in respect of Imports and Exports during a Dispatch Day and shall make no more than one Nomination for an Import and one Nomination for an Export in the same Dispatch Day. Where the Interconnector Energy Trade Nomination is made in respect of an Import, the Nomination shall identify the seller and its location in the neighbouring Control Area and where the Nomination is made in respect of an Export, it shall identify the purchaser and its location in the neighbouring Control Area. The Energy amount nominated in any one Dispatch Period shall be no greater than the total Interconnector capacity allocated to the Participant pursuant to Rule 25.4.

25.7.3 To the extent applicable, the Interconnector Energy Trade Nomination by a Generator shall comply with the requirements of Rules 23.1.2 and 23.1.3.



25.7.4 In respect of each Interconnector, the System Operator and the Control Area operator in the neighbouring Control Area shall agree an **Interconnector Transfer Schedule** by 16:00 hours on the day immediately preceding the Dispatch Day. In determining the Interconnector Transfer Schedule, the System Operator and the relevant Control Area operator shall ensure that any Import to one Control Area shall be matched by an Export from the other Control Area. In the event that there is a mismatch, the System Operator and the relevant Control Area Operator shall agree such changes to the Import or Export quantities, or both, as are reasonably necessary to achieve the necessary match.

## **25.8 Actual Available Transfer Capacity**

In the event that in any Dispatch Period the actual Available Transfer Capacity in any direction is less than the total Interconnector Energy Trade Nominations in that direction, the System Operator shall reduce the Interconnector capacity allocated to each Participant pursuant to Rule 25.4 pro-rata on the basis of their individual Interconnector Energy Trade Nominations, until the sum of the revised Interconnector capacities allocated by the System Operator equals the actual Available Transfer Capacity.

## **25.9 Interconnector Usage Charge**

- 25.9.1 Upon submission of a request for allocation of Daily Interconnector Capacity, a Participant shall pay to the System Operator:
- (a) an Interconnector Capacity Charge in respect of actual Interconnector Capacity to which the Participant is entitled; and
  - (b) an Interconnector Usage Charge on the basis of the metered units of Energy imported or exported across the Interconnector.
- 25.9.2 Participants who acquire Interconnector capacity by any process other than those specified in these Rules shall pay for that capacity in accordance with an agreement reached with the System Operator in that regard.

## **PART 7: SETTLEMENT AND PAYMENT SYSTEM DURING THE TRANSITIONAL STAGE**

### **26. GENERAL**

#### **26.1 Timing**

Market Settlements and payments shall be made on a monthly basis.

#### **26.2 Payments to Generators**

During the Transitional Stage, the payments due to each Generator shall include the prices agreed in the contracts in which the Generator is a Seller, including, Energy Price, payment for generation capacity and supplementary charges, such as Ancillary Services.

### **27. MARKET SETTLEMENT**

#### **27.1 Market Settlement System**

27.1.1 The market settlement system shall include:

- (a) Calculation of Energy and, when applicable, generation capacity sold and bought in the Contract Market;
- (b) where applicable or agreed between the Participants and the Market Operator, contract prices and payment due in contracts;
- (c) Settlement of the compensation mechanism for uninstructed generation;
- (d) Transmission charges when applicable; and.
- (e) System Operation and Market Administration Charge

27.1.2 The Market Operator shall administer the market settlement system on a monthly basis and shall develop and maintain the requisite software, data and results of the market settlement system.

#### **27.2 Exceptional Conditions**

27.2.1 In the case of emergencies or failure of the settlement software, the Market Operator shall issue an estimated settlement and or modify the schedule of the settlement process. In this case, the Market Operator shall provide prior information on the changes to all Participants by publishing the information on the Website.

27.2.2 The Market Operator must consult with Market Participants to use the best possible estimated data.

### **27.3 Contract Market Quantities**

27.3.1 At the end of each month, the Market Operator shall calculate:

- (a) For each Participant:
  - (i) the Energy, and if applicable, the generation capacity bought during the month in each Contract where the Participant is a Purchaser, including the corresponding Energy Contract Nominations; and
  - (ii) the Energy, and if applicable, the generation capacity sold during the month in each Contract where the Participant is the Seller, including the corresponding energy Contract Nominations.
- (b) The energy bought and sold in Regional Trading contracts during the month and the Energy scheduled in the Interconnector for accepted Regional Trading Nominations, for that month; and
- (c) The contracted generation capacity in each Contract, using the information in the Contract Register and in cases where the contract is for Energy only, the Market Operator shall calculate and consider as contracted generation capacity, the average amount of Energy bought and sold in the contract.

### **27.4 Availability**

27.4.1 At the end of each month, the System Operator shall inform the Market Operator of the daily and monthly availability of contracted generation for the relevant periods.

27.4.2 The Market Operator shall include the availability information in the Settlement Statements for generation capacity payments or, as the case may be, compensation for actual availability below the contracted target availability, in order to provide a reference for the contracting parties.

### **27.5 Settlement of Uninstructed Generation**

27.5.1 During the Transitional Stage, the Market Operator shall implement a mechanism through which Generators shall pay compensation for uninstructed generation. In addition, the Market Operator shall, in conjunction with the System Operator, implement a monitoring system to verify hourly generation in order to ensure that it complies with the Dispatch Schedule or operational instructions of the System Operator.

27.5.2 The monitoring system and compensation mechanism shall be developed and tested by the Market Operator during the first [six] months of the Transitional Market, and shall be implemented and maintained from the [seventh] month of the Transitional Market.

- 27.5.3 In developing and implementing the monitoring system, the System Operator shall record, in respect of each Generating Group, the hourly generation and the hourly dispatched or instructed generation. The System Operator shall determine the hourly generation in accordance with the following procedure:
- (a) in the case of Generating Groups with hourly metering, using the hourly meters or SCADA information; and
  - (b) in the case of Generating Groups without hourly metering, by manually registering the hourly generation notified through telephone or radio by the power station operator using available power meters in the units.
- 27.5.4 For a **Dispatch Interval**, Energy generated shall be considered unscheduled generation if:
- (a) in relation to the Start up or Shutdown instructions issued by the System Operator, the Generation had an early Start-up or late Shutdown; or
  - (b) the energy generated in the Dispatch Interval varies by more than 5%, from the energy scheduled or instructed by the Market Operator provided that the assigned Spinning Reserve shall be considered in the determination of this variation.
- 27.5.5 An unscheduled generation shall be considered uninstructed generation, unless the Generator demonstrates that the failure to follow the System Operator's Dispatch Schedule or instructions was beyond the reasonable control of the Generator, and was not due to lack of attention on the part of the Generator's personnel, or inadequate metering, or unwillingness to obey the instructions or comply with the Dispatch Schedule.
- 27.5.6 A Generator that has uninstructed generation shall pay a compensation calculated as follows:
- (a) if the energy generated was higher than instructed, the surplus energy, valued at its average contract price; or
  - (b) if the energy generated was less than instructed, the energy not generated, valued at two times the average contract price.
- 27.5.7 After the end of each Dispatch Day, the System Operator shall verify the compliance by each dispatchable generation of the instructed schedule and inform each Generator the uninstructed generation, if any.

- 27.5.8 After the end of each week, the System Operator shall send the data obtained from the monitoring system to the Market Operator. The data shall include, in respect of each Generating Group, the hourly data for the previous week and shall state dispatched or instructed generation and monitored hourly generation.
- 27.5.9 After the end of each month, the Market Operator shall calculate the uninstructed energy charge of each Generator in accordance with Rule 27.5.6. This charge shall be allocated as a compensation payment to all Load Participants, proportionally to the energy purchased in the month.
- 27.5.10 During the first [six] months of the Transitional Market, during which the compensation mechanism and monitoring system are being implemented and tested, the Market Operator shall include the results of the compensation mechanism tests in the Settlement Statement provided that no payments will be made in respect thereof for this period.
- 27.5.11 As from the [seventh] month of the Transitional Market, the compensation mechanism for uninstructed generation shall apply, and the Market Operator shall include the compensation payment as part of the Market settlement process for each Generator, and for each Load Participant shall be entitled to receive as compensation, an amount calculated in line with Rule 27.5.9 the amount to be received as compensation.

## **27.6 Metering System**

- 27.6.1 The Commercial Metering System shall include the following:
- (a) Meters located at the Connection Points of Participants and Interconnectors;
  - (b) Mechanisms implemented by the Market Operator, to collect, validate and organise Meter Data; and
  - (c) Mechanisms to test, calibrate or audit metering.
- 27.6.2 Wherever possible, each Connection Point shall have two Meters, one of which shall be the official Meter and the other, a back up Meter.
- 27.6.3 During the Transitional Stage, the Market Operator shall draft and implement the metering Market Procedure in accordance with Rule 27.6.10 detailing, amongst other things, the methodology and timetable for reading and submitting Meter Data. All Participants shall be obliged to follow the Metering Market Procedure and shall submit Meter Data to the Market Operator within the deadlines stipulated therein and in accordance with the provisions thereof.

- 27.6.4 Each Participant shall ensure that the Meter Data is submitted to the Market Operator within the time and in the format specified in the Metering Market Procedure. Failure to submit the Meter Data within the time or in the format stipulated may result in financial consequences for the Participant concerned.
- 27.6.5 On receipt of the Meter Data in accordance with the Metering Market Procedure, the Market Operator shall organise, validate and, where necessary, correct the Meter Data received from Participants, in order to establish the Metered Quantities applicable to each Participant for the settlement process. Such verification and correction shall be carried out in accordance with the procedures for validating, editing and estimating Meter Data established in the Metering Market Procedure. At the request of the Market Operator, Participants shall assist it in correcting or replacing defective Meter Data and in detecting and correcting the causes of for such defects.
- 27.6.6 Participants shall arrange to test their Metering Installations at least once in every calendar year. The Market Operator may, at its own expense, require that the Participant initiate testing and inspection of the Metering Installations. The Participants shall allow a representative of the Market Operator to witness and verify such inspections and tests, in accordance with the metering Market Procedure. Participants shall provide the Market Operator with copies of any periodic or special inspection or testing reports relating to the metering devices.
- 27.6.7 Every Participant shall immediately notify the Market Operator of any failure, inaccuracy or defect in a Metering Installation and shall take immediate steps to repair, replace, and/or recalibrate the metering device at its own expense.
- 27.6.8 If in the testing, collection and or validation of the metering system, device or procedure, a problem or failure is detected in a Meter at a Connection Point, the Market Operator shall utilise the following information as commercial data for the settlement process in relation to the Connection Point:
- (a) If the Connection Point has a back up Meter in accordance with Rule 27.6.2, the data metered by the back up, except when such back up also has a quality problem or error or failure;
  - (b) If the connection does not have a back up Meter or there is a back up meter but such meter has a quality problem or error or failure, the energy calculated by the System Operator in its the hourly reading.
- 27.6.9 The Market Operator record all problems, errors or failures in the metering system in the Settlement Statement, and shall also include in each case, the replacement data used to calculate the Energy for the Settlement Statement.

27.6.10 The Market Operator shall draft a metering Market Procedure describing the metering system applicable during the Transitional Stage in detail. This metering Market Procedure shall apply until the adequate commercial metering required for the Medium Term Market is available, and shall include:

- (a) the transition plan, detailing timelines and features, until all metering complies with the specified requirements;
- (b) metering characteristics and accuracy class requirements;
- (c) Participants' obligations;
- (d) Market Operator's obligations;
- (e) collection of metered energy, indicating periodicity and mechanisms for certification of, and agreement on values;
- (f) procedures for validation in, and administration of special circumstances such as insufficient data or failures in meters ;
- (g) organization, quality control and security of data bases holding metering data;
- (h) testing and calibration; and
- (i) special conditions, emergencies and exemptions.

27.6.11 In admitting new Participants or authorising a new Connection Point, the Market Operator shall ensure that:

- (a) each Connection Point has an adequate Metering Installation and an associated communicated system;
- (b) each metering and communicated system complies with the characteristics and requirements for the Medium Term Market as established in these Rules and the Grid Code, or the Participant submits a reasonable plan to comply with these requirements within the next six months and the plan is approved by the Market Operator.

27.6.12 All energy calculations for Settlement in the Market shall be measured through the Commercial Metering System.

27.6.13 For Power Purchase Agreements or bilateral agreements contracted prior to start up of the Transitional Market, the metering administration shall be performed in the manner established in the pre existing agreement.

## **27.7 Transmission Loss Factor**

27.7.1 Initially, the Transmission Loss Factors in each Connection Point will be considered equal to one (1).

- 27.7.2 The System Operator shall, in consultation with the Stakeholder Advisory Panel, draft an Operating Procedure describing the methodology for calculating the Transmission Loss Factor in each Connection Point, including loss factors in Interconnectors for Imports and Exports. Transmission Loss Factors shall in all cases be a fraction not exceeding one (1) and representing losses in the delivery of Energy over the Transmission System and shall not, for any calendar year, exceed the limit fixed by the Commission on the basis of allowable transmission.
- 27.7.3 Once the Operating Procedure for the Transmission Loss Factor has been drafted, the System Operator shall test the methodology contained therein for [six] months. At the end of each month in this period, the System Operator shall notify the Market Operator and Participants of the Transmission Loss Factor that would have resulted for each Node if the Operating Procedure had been applied. During this test period, the System Operator and Participants shall evaluate the adequacy of the calculation methodology and may develop improvements to the Operating Procedure.
- 27.7.4 Upon expiration of the test period, the System Operator shall prepare and submit to the Commission and the Stakeholder Advisory Panel, a report describing the proposed methodology, the results of the test and the expected impact of transmission losses on each Distributor's procurement and payments.
- 27.7.5 The Commission will evaluate the report and, based upon the results of the test, shall approve a date on which the Operating Procedure shall become operational and the System Operator shall start applying differentiated Transmission Loss Factors to various Connection Points on the System Operator Controlled Grid.
- 27.7.6 Until the Commission authorizes the Operating Procedure and use of differentiated Transmission Loss Factors, all Connection Points will be considered to have the same Transmission Loss Factor of one (1).

## **27.8 Adjustment for Transmission Loss Factors**

- 27.8.1 In calculating the Meter Quantity the purpose of settlement, the Market Operator shall take the Meter Data and the Transmission Loss Factor at the relevant Node into account.
- 27.8.2 In making settlement calculations, the Market Operator shall derive Energy consumed by each Purchaser, or comprised in Exports during each month by adjusting the Meter Quantity with the Transmission Loss Factors, in accordance with the following equations:

For a Purchaser (p):

$$EPTL_{pm} = (MQ_{pm} * TLF_n)$$

For Export,



$$\text{EXPTL}_{xm} = (\text{MQ}_{xm} * \text{TLF}_n)$$

Where:

$\text{MQ}_{pm}$  = the Meter Quantity recorded for Purchaser (p) during month m;

$\text{MQ}_{xm}$  = the Meter Quantity for export during month m;

$\text{TLF}_n$  = the Transmission Loss Factor for consumption of energy in Node n where energy is metered or, for Exports, the corresponding loss factor in the Interconnector;

## 27.9 Transmission Charges

27.9.1 The Market Operator shall calculate the monthly transmission usage charges payable by each Participant, which shall be the transmission usage charge for the month, adjusted for errors in or corrections in previous payments as established or approved in previous Final Settlement Statements.

27.9.2 The Market Operator shall state the transmission usage charge payable by each Participant, together with the supporting data in the Settlement Statement.

27.9.3 The TSP shall invoice each Participant for the applicable transmission usage charges.

## 27.10 System Operation and Market Administration Budget

27.10.1 Three months before the commencement of each financial year, the System Operator and the Market Operator shall prepare a preliminary budget report specifying the manner in which they intend to cover their costs for the coming year and detailing, amongst other things:

- (a) the expected results of the current financial year, showing with respect to the System Operator and the Market Operator, the current budget, actual expenditures and actual revenues, and explaining any significant variation between budgeted and actual expenditures and revenues, and
- (b) the System Operator and the Market Operator's budgeted expenditures and budgeted revenues for the next financial year.

- 27.10.2 The System Operator and the Market Operator shall forward the preliminary budget report to the Stakeholder Advisory Panel, which shall review the report and make its comments thereon within 10 Business Days. Upon receipt of the comments made by the Stakeholder Advisory Panel, the System Operator and the Market Operator shall analyse the comments and prepare a final budget report detailing:
- (a) the expected results for the current financial year;
  - (b) the proposed budget for the next financial year; and
  - (c) a description of the consultation process and the submissions received.
- 27.10.3 The System Operator and the Market Operator shall send the final budget report to the Commission for approval and shall send a copy to the Stakeholders Advisory Board.
- 27.10.4 Before approving the budget report, the Commission may request additional information from or consultation with the System Operator and the Market Operator and or the Stakeholder Advisory Panel.
- 27.10.5 If the budget has not been approved at the commencement of a financial year, the System Operator and the Market Operator shall continue to use the budget approved for the prior year until the new budget is approved.
- 27.10.6 Once the budget is approved, the Market Operator shall calculate and publish on the Website, the System Operation and Market Administration fee for each monthly settlement period, which shall be the annual amount approved by the Commission in the budget report, divided by twelve

## **27.11 System Operation and Market Administration Charges**

- 27.11.1 Each month, the Market Operator shall allocate among Participants the System Operation and Market Administration fee for the corresponding settlement period, in proportion to the monthly Meter Quantity of each Participant, as a monthly System Operator and the Market Administration Charge.
- 27.11.2 The Market Operator shall calculate the System Operation and Market Administration Charge to be paid by each Participant and shall include this information in the Settlement Statement.
- 27.11.3 In calculating the System Operation and Market Administration Charge, the Market Operator shall adjust the charge for each month for errors in or corrections to the System Operation and Market Administration Charge for the previous month as established or approved in previous Final Settlement Statements.

27.11.4 The Market Operator shall state the System Operation and Market Administration Charge payable by each Participant, together with the supporting data in the Settlement Statement.

27.11.5 The Market Operator shall invoice each Participant for the applicable System Operation and Market Administration Charge.

## **27.12 Market Transactions**

27.12.1 The Market Transaction of each Participant for each month equals:

- (a) the Uninstructed Generation Compensation payment to the Participants if it is a Load Participant; less
- (b) the Uninstructed Generation Compensation payment by the Participants if it is a Generator; plus
- (c) any amount payable to the Participant due to corrections to Market Transactions in previous Final Settlement Statements; less
- (d) any amount payable by the Participant due to corrections that are agreed or approved to Market Transactions in previous Final Settlement Statements.

27.12.2 Where the Market Transaction calculated for a Participant is positive, it shall result in a payment to the Participant..

27.12.3 Where the Market Transaction calculated for a Participant is negative, it shall result in a charge payable by the Participant.

## **28. SETTLEMENT STATEMENTS**

### **28.1 Preliminary Settlement Statement**

28.1.1 Not later than ten (10) Business Days after the beginning of each month, the Market Operator shall send the preliminary Settlement Statement to each Participant through electronic mail.

28.1.2 The preliminary Settlement Statement shall include:

- (a) the Transmission Loss Factors in each Participant's Connection Point(s);
- (b) Contracted Quantities, which shall be the total Energy or generation capacity bought or sold in contracts by the Participants provided that these shall be differentiated by contract, to enable Participants determine quantities to be invoiced in each of its contracts;
- (c) where applicable, the transmission usage charge due from the Participant;

- (d) The System Operator and Market Administration Charge;
- (e) the payment or charge for Market Transactions in the month; and
- (f) sufficient supporting data to enable each Participant to verify the settlement calculations.

28.1.3 If a Participant reasonably believes that there is an error or discrepancy in the preliminary Settlement Statement, the Participant shall notify the Market Operator within five (5) Business Days of receiving the preliminary Settlement Statement.

28.1.4 If the Market Operator receives a complaint of an error or discrepancy in a preliminary Settlement Statement, the Market Operator shall review the preliminary Settlement Statement. If the Market Operator considers that the complain is well founded and that the preliminary Settlement Statement contains an error or discrepancy, the Market Operator shall notify all Participants whose final statements will be affected by any amendments made to rectify the error or discrepancy within five (5) Business Days of the date on which the error or discrepancy first came its attention. The Market Operator shall correct the error or discrepancy in the Final Settlement Statement.

## **28.2 Final Settlement Statement**

Not later than [twenty (20) ] Business Days after the commencement of each month, the Market Operator shall send to each Participant, the Final Settlement Statement, which shall contain the same information as contained in the preliminary Settlement Statement, but adjusted to rectify any errors or discrepancies in accordance with Rule 28.1.4.

## **28.3 Complaints on the Final Settlement Statement**

28.3.1 At any time within sixty (60) days of receiving a Final Settlement Statement, a Participant may notify the Market Operator of any complaint or dispute relating to its contents, concerning either:

- (a) the contract quantities, or
- (b) the settlement amount in respect of Market Transactions, transmission usage charges and System Operation and Market Administration charge;

28.3.2 The Market Operator and the Participant shall use reasonable endeavours to resolve the complaint within fifteen (15) Business Days. If the Market Operator and the Participant do not reach an agreement within this period, the dispute shall be resolved in accordance with the dispute resolution mechanism contained in these Rules.

- 28.3.3 If the amount arrived at upon resolution of the dispute in accordance with Rule 28.3.2 is different from the amount stated in the disputed Final Settlement Statement, the Market Operator shall adjust the settlement amount in the Settlement Statement of the month immediately following the month in which dispute was resolved, to accommodate the difference, **including interest** on the payment delayed for the period from the date that but for the dispute, payment would have been due, until the payment date of the Final Settlement Statement in which the adjustment is reflected.
- 28.3.4 If within sixty (60) days of sending a Final Settlement Statement, the Market Operator becomes aware of an error the a settlement amount stated therein, the Market Operator shall notify the affected Participants and adjust for the error in the Final Settlement Statement of the month in which the error was discovered.

## **28.4 Settlement Market Procedure**

- 28.4.1 The Market Operator shall draft a Settlement Market Procedure, reflecting the timetable and detailed mechanisms for exchanging settlement information and administering complaints. This procedure will also describe the Payments Calendar for each calendar year showing:
- (a) the dates on which the Market Operator will issue Preliminary Settlement Statements to all Participants;
  - (b) the dates on which all Participants are required to notify the Market Operator of any dispute in relation to their Preliminary Settlement Statement;
  - (c) the dates on which Market Operator will issue Final Settlement Statements to all Participants pursuant to Rule 36.2;
  - (d) the dates on which the Market Operator will issue Invoices in respect of charges due from Participants that have negative Market Transactions;
  - (e) the dates on which the Participants referred to in paragraph (d) are required to make payments into the Market Operator Clearing Account, in accordance with the Invoices; and
  - (f) the dates on which Participants that have positive Market Transactions shall receive payment from the Market Operator Clearing Account in accordance with Invoice,
- 28.4.2 The Market Operator may change the content or format of the Settlement Market Procedure upon prior written notification to Participants and approval of the Stakeholder Advisory Panel.

28.4.3 On the first day of July in each year, the Market Operator shall publish on the Website, the Payment Dates in the **Payment Calendar** for the following calendar year.

## **29. BILLING AND PAYMENT**

### **29.1 Billing**

29.1.1 Within **Fifteen [15]** of the issuance of the Final Settlement Statement in each month, the Market Operator shall issue:

- (a) an invoice to each Participant whose Market Transaction position is negative. The invoice shall indicate the charge due from the Participant. This amount shall be the same as the amount reflected in the Final Settlement Statement, which shall provide the detailed description and calculation of the amount invoiced.
- (b) a letter of credit to each Participant whose Market Transaction position is positive. The letter of credit shall indicate the payment due to the Participant. This amount shall be the same as the amount reflected in the Final Settlement Statement, which shall provide the detailed description and calculation of the payment due.

29.1.2 In administering the billing and payment process, the Market Operator shall represent the Participants, but shall not assume payment responsibilities. Any debts and credits shall remain rights and obligations of the respective Participants and the Market Operator shall not be liable for non-payment by any Participant.

### **29.2 Payment System**

29.2.1 The payment system shall consist of Bank accounts belonging to the Market Operator and the Market Participants and a transfer mechanism administered by a Bank contracted by the Market Operator for the purpose of facilitating payment and or collection of amounts due on:

- (a) Market Transactions;
- (b) transmission Usage Charges; and
- (c) the System Operation and Market Administration Charge.

29.2.2 Each Participant shall maintain an account in the Bank appointed by the Market Operator to administer the Payment System. Each Participant must inform the Market Operator the name and number of this account before registration as a Participant. No Participant shall effect any change to any particulars of this bank account without giving a prior written notice of at least 30 Business Days to the Market Operator.

- 29.2.3 The TSP shall maintain an account in the Bank appointed by the Market Operator to administer the payment system. Participants shall pay transmission usage charges into this account.
- 29.2.4 The Market Operator shall maintain three accounts in the Bank appointed to administer the payment system as follows:
- (a) a Market Account, for payment of the System Operation and Market Administration Charge;
  - (b) a Market Escrow Account, into which Participants shall pay Market Transaction Charges; and
  - (c) a Reserve Account into which the Market Operator shall deposit any payments made by Participants for non-compliance with these Rules, in, as established in these Rules. This reserve accordance with the procedure established therein, provided that in cases of non-payment by one or more Participants, the reserve in the Reserve Account shall be transferred to the Market Escrow Account to cover any payment shortfall.
- 29.2.5 In addition to the foregoing, the Market Operator may agree with the parties to a contract to utilise the Market payment system for settling the amounts due under their contracts, provided that:
- (a) The relevant Participants sign a Contract Settlement Agreement with the Market Operator, which shall contain a term to the effect that the parties will utilise the Market payment system entirely at their own risk and the Market Operator shall not be liable for any error or problem arising in the course of settling the payments due under the respective contracts; and
  - (b) The Commission approves the arrangement, after ensuring that this additional function neither creates any additional liability in the Market Operator nor negatively affects the its performance or independence.

### **29.3 Transfer System**

- 29.3.1 **Once every month**, the Market Operator shall send a summary of the final Settlement Statement to the Bank appointed to settle the payment system. In respect of each Participant, the summary shall specify:
- (a) amount due for transmission usage charges;
  - (b) payment due for the System Operation and Market Administration Charge; and
  - (c) any amounts due in respect of Market Transactions:

- (i) if the Participant has a negative Market Transaction, the payment due to be made into the Market Escrow Account by that Participant; or
- (ii) if the Participant has a positive Market Transaction, the factor stating the proportion of the monies deposited in the Market Escrow Account that the Bank will transfer into that Participant's account.

29.3.2 The Market Operator shall calculate the factor referred to in the immediately preceding paragraph (ii) for distributing to each Participant "i" that has a positive Market Transaction, the Market Transaction Charges due from other Participants "k" as:

$\frac{\text{Market Transaction Payment } i}{\sum_k \text{Market Transaction Payment } k}$
--

Where k represents all the Participants with a negative Market Transaction.

29.3.3 No later than 2.00 p.m on the fifth (5<sup>th</sup>) Business Days after a Participant receives an invoice assigning a Market Transaction Charge to it in accordance with a Final Settlement Statement, the Participant shall deposit in the charge stated in the invoice in the Market Escrow Account, whether or not the Participant disputes or continues to dispute the amount payable.

29.3.4 The Bank shall apply the factor calculated in Rule 29.3.2 in making transfers from the Market Escrow Account to the accounts of Participants with positive Market Transactions, provided that such transfers shall only be made, and shall become due after:

- (a) The Market Operator has issued Final Settlement Statements to Participants;
- (b) The Participants with positive Market Transactions have received a letter of credit from the Market Operator;
- (c) The Participants with negative Market Transactions have transferred the charges due into the Market Escrow Account.

**29.4 Non Payment**

29.4.1 The Bank shall notify the Market Operator of:

- (a) Payments made into the Market Escrow Account; and
- (b) Participants that defaulted, in full or in part, in settling the charges stated in the Final Settlement Statement.



- 29.4.2 Upon receiving notification of non-payment from the Bank, the Market Operator shall instruct any Participant that is yet to discharge its payment obligations to do so not later than the **next Business Day**.
- 29.4.3 If after this deadline expires without the Participant depositing or transferring the full amount due into the Market Escrow Account, the Market Operator shall implement the following procedure:
- (a) The Market Operator shall enforce the Security Cover in respect of any outstanding payment, and shall transfer to the Market Escrow Account, the lesser of:
    - (i) the amount due under the settlement; or
    - (ii) the amount of the security.
  - (b) If the Security Cover is insufficient to cover the amount due, the Market Operator shall instruct the Bank to transfer from the Reserve Account to the Market Escrow Account, the lesser of:
    - (i) the amount required to cover the shortfall; or
    - (ii) all the money standing to the credit of the Reserve Account.
- 29.4.4 The Market Operator shall inform the Stakeholder Advisory Panel and the Commission of all incidences of default in payment of charges.
- 29.4.5 A Participant shall pay interests on any unpaid settlement amount due and payable under the Market Rules. The rate of interest payable shall be [xxx] interest rate calculated on a daily basis from the date payment was due, up to and including the date on which payment is made.

## **PART 8: SETTLEMENT AND BILLING DURING THE MEDIUM TERM MARKET**

### **30. GENERAL**

#### **30.1 Financial Transaction Conventions**

In this Part, the following conventions shall apply in the definition of sums of money to be remitted to or received by the Market Operator:

- (a) where a sum of money calculated with reference to a Participant is negative, it shall represent such sum as being payable by the Participant into the relevant Market Operator Account. Such sum of money is referred to in these Rules as a “Charge”;
- (b) where a sum of money calculated with reference to a Participant is positive, it shall represent such sum as being payable to a Participant from the relevant Market Operator Account. Such sum of money is referred to under these Rules as a “Payment”.

#### **30.2 Currency**

Unless otherwise specified, all financial transactions are denominated in Nigerian Naira (“₦”).

### **31. SETTLEMENT SOFTWARE AND MARKET OPERATOR ACCOUNTS**

#### **31.1 Settlement Software**

- (a) The Market Operator shall not modify the Settlement Software without giving prior notice of its intention to undertake the modification to the Participants and shall implement the same only after the amended Settlement Software is audited in accordance with paragraph (b) below.
- (b) On June 1 each year, or prior to implementation of any modification to the then existing Settlement Software, the Settlement Software shall be audited by an independent auditor competent to carry out audits of such software to determine its consistency with these Rules and the Grid Code. In any dispute regarding Settlement calculations, a certificate of such auditor that the Settlement Software is consistent with these Rules shall be evidence that the Charges or Payments shown in a Settlement statement have been calculated by a method consistent with these Rules.

#### **31.2 Market Operator Accounts**

The Market Operator will hold ledger trust accounts specified in Rule 31.2.2, which will be held on trust for the Participants for the purposes of these Rules. A separate ledger account shall be opened for each of the accounts referred to in Rule 31.2.2.

### 31.2.1 Costs Associated with the Market Operator Accounts

Unless otherwise specified in this Part, the Market Operator will recover all costs incurred in connection with opening, maintaining and administering the Market Operator Accounts through the System Operation and Market Administration Charge.

### 31.2.2 The Market Operator Market Accounts

The Market Operator will hold and operate the following separate trust accounts:

- (a) Market Operator Clearing Account, to and from which payments relating to the following are made in accordance with these Rules:
  - (i) Imbalance Energy;
  - (ii) Ancillary Services;
  - (iii) Reliability Must-run Services;
  - (iv) System Operation and Market Administration Charge;
  - (v) Penalties for Participant's non-compliance with the provisions of these Rules;
  - (vi) credit costs and Default Interest in accordance with Rule 35.6;
  - (vii) Default Interest in accordance with Rule 38.11;
  - (viii) Cost of Imbalance Energy; and
  - (ix) other amounts included in an Invoice issued by the Market Operator in accordance with this Part.
- (b) Market Operator Reserve Account, from which any debit balances on the Market Operator Clearing Account at the close of banking business are settled pursuant to Rule 38.3;
- (c) the Market Operator Surplus Account, in accordance with Rule 31.5; and
- (d) such other accounts as the Market Operator may wish to establish.

31.2.3 The Market Operator shall notify Participants of the establishment of such accounts in accordance with Rule 41.

### 31.2.4 TSP Usage Charge Account

- (a) The Market Operator shall maintain a TSP Usage Charge Account, which shall not form one of the Market Operator Market Accounts, for the purpose of collecting the transmission Usage Charges in accordance with these Rules.
- (b) Notwithstanding anything contained in these Rules, the Market Operator or the TSP shall not utilise any monies in the Market Operator Markets Accounts for recovering payment of any amount towards the Usage Charges.

### **31.3 Market Operator Clearing Account**

#### **31.3.1 Participants**

Participants shall make all due payments, other than the Usage Charge, to the Market Operator Clearing Account in accordance with the related Invoice by 10:00 hours on the Payment Date. The Market Operator shall pay Participants from the Market Operator Clearing Account in accordance with Final Settlement Statements by Close of Banking Business on the Payment Date.

#### **31.3.2 The Market Operator**

The Market Operator shall pay all amounts due towards Default Interest, or financial penalties referred to in these Rules into the Market Operator Clearing Account.

### **31.4 Market Operator Reserve Account**

The Market Operator shall operate the Market Operator Reserve Account as follows:

- (a) drawings under any line of credit or other credit facility credited to the Market Operator Reserve Account shall be used to cover debit balances in the Market Operator Clearing Account; and
- (b) if the funds in the Market Operator Clearing Account is insufficient to satisfy all the Payments due to Participants and the Market Operator intends to employ the funds in the Market Operator Reserve Account to meet the shortfall in accordance with Rule 38.3, any amounts standing to the credit in the Market Operator Reserve Account shall be held on trust for the Market Operator and all Participants to whom payments are due from the Market Operator Clearing Account.

### **31.5 Market Operator Surplus Account**

The Market Operator shall operate the Market Operator Surplus Account as follows:

- 31.5.1 Any amounts credited to the Market Operator Clearing Account in respect of non-compliance with Dispatch Instructions, default interest, financial penalties referred to in these Rules or the Grid Code shall, subject to Rule 31.5.2, be transferred to the Market Operator Surplus Account.
- 31.5.2 The funds referred to in paragraph 31.5.1 shall first be applied towards any expenses, losses or costs incurred by the Market Operator in relation to the functions discharged by it pursuant to these Rules and the Grid Code. For avoidance of doubt, these funds shall not be applied towards expenses, losses or costs incurred in relation to the Transmission System.
- 31.5.3 In the event that there are funds in the Market Operator Surplus Account in excess of an amount to be determined by the Commission, the amount of such excess will be used to reduce the System Operation and Market Administration Charge.

### **31.6 Participant's Account**

Each Participant shall maintain a bank account with the Bank from which payments to, and from, the Market Operator shall be made pursuant to these Rules. No Participant shall effect any change in its account with the bank without giving at **least 15 Business Days** prior written notice to the Market Operator.

### **31.7 Market Operator Payments Calendar**

#### **31.7.1 Contents of the Market Operator Payments Calendar**

Each year, the Market Operator will prepare a draft the Market Operator Payments Calendar for the following calendar year showing:

- (a) the dates on which the Market Operator will issue Preliminary Settlement Statements to all Participants;
- (b) the dates by which all Participants are required to notify the Market Operator of any dispute in relation to their Preliminary Settlement Statement pursuant to Rule 36.3;
- (c) the dates on which the Market Operator will issue Final Settlement Statements to all Participants pursuant to Rule 36.2;
- (d) the dates on which the Market Operator will issue Invoices to Participants in respect of moneys owed to the Market Operator;
- (e) the dates on which Participants from whom Payments are due are required to make payments into the Market Operator Clearing Account, in accordance with the Invoices; and
- (f) the dates on which the Participants to whom money is owed in accordance with Invoices issued pursuant to paragraph (d) below

will receive payments from the Market Operator Clearing Account,

31.7.2 Notwithstanding the foregoing, the Market Operator Payments Calendar for the first calendar year following the Commencement Date shall be established pursuant to Rule 31.7.7.

31.7.3 Calendar Content and Format

The Market Operator may change the content or format of the Market Operator Payments Calendar for future years, provided that prior written notification of the change is given to Participants. The Market Operator may also produce a summarised outline of the Settlement and billing cycles.

31.7.4 Draft Payments Calendar

Subject to Rule 31.7.7, the Market Operator shall publish a draft of the Market Operator Payments Calendar for the following calendar year on the Website provided that the publication shall be made no later than July 1 in each year. Any Participant may submit comments and objections to the Market Operator within two weeks of such publication of the draft the Market Operator Payments Calendar.

31.7.5 Final Payments Calendar

Subject to Rule 31.7.7, the Market Operator shall publish the final the Market Operator Payments Calendar for the following calendar year on the Website after considering the comments and objections received from Participants pursuant to Rule 31.7.4 provided that the publication shall be made no later than September 1<sup>st</sup> in each year.

31.7.6 Effect of Final Calendar

The final the Market Operator Payments Calendar, published in accordance with Rule 31.7.5 or Rule 31.7.7 shall be binding on the Market Operator and on all Participants for the calendar year to which it relates.

31.7.7 Initial Market Operator Payment Calendar

- (a) Within 15 Business Days of the approval of these Rules by the President pursuant to section 26 of the Act, the Market Operator shall publish the Market Operator Payments Calendar on the Website. This Market Operator Payments Calendar shall be implemented by the Market Operator and the Participants for:
  - (i) a period of 2 months from the date of its publication in the event that the publication is made more than 2 months before the end of the calendar year; or

- (ii) the rest of the calendar year, in the event that the publication is made less than 2 months before the end of the calendar year.
- (b) Within **15 Business Days** after the publication of the Market Operator Payments Calendar pursuant to paragraph (a), the Participants shall submit their comments on suitability of the Market Operator Payments Calendar for the of the adoption of same for the rest of the calendar year and the next calendar year.
- (c) Within **30 Business Days** of receiving comments from the Participants pursuant to paragraph (b), the Market Operator shall if necessary, amend the Market Operator Payments Calendar, taking into account Participants' comments and observations if required, and shall publish the Market Operator Payments Calendar for the rest of the calendar year and the next following calendar year.

## **32. SETTLEMENT DATA COLLECTION AND MANAGEMENT**

### **32.1 Metering and Metering Responsibilities**

Every Meter utilised for determining Settlement amounts in accordance with this Rule must satisfy the requirements specified in the Grid Code in relation to its class, calibration, testing and certification.

### **32.2 Meter Data Recording and Collection Frequency**

#### 32.2.1 Data Recording

All Meter Data must be recorded for each Dispatch Period.

#### 32.2.2 Provision of Meter Data

##### (a) Generator Meter Data

Each Generator shall provide to the Market Operator, at least once daily, complete and correct Meter Data, which shall be provided separately for each Dispatch Period that has elapsed since the last provision of Meter Data.

##### (b) Purchaser Meter Data

Each Purchaser shall provide to the Market Operator, once daily, separate Meter Data for each Dispatch Period that has elapsed since the last provision of Meter Data, in accordance with Rule 41.

#### 32.2.3 Failure by Generator(s) to Provide Meter Data

- (a) In the event a Generator fails to fulfil its obligations to supply Meter Data in accordance with Rule 32.2.2(a), the Meter Quantity in respect of all Generating Groups of such Generator

shall, for the purposes of Rule 34 and for the purposes of settlement of payments of Energy supplied in connection with its obligations to provide Ancillary Services, be deemed to be zero during the period for which Meter Data was not supplied, unless the Market Operator determines that such failure to provide Meter Data was due to equipment failure beyond the reasonable control of the Generator or cannot be attributed to an act or omission or failure to act by the Generator.

- (b) In the event that the Market Operator determines that such failure is due to equipment failure beyond the reasonable control of the Generator or was otherwise not due to an act, or failure to act, by the Generator, then:
  - (i) in the case of a single Generator, the Meter Quantity for the purposes of Rule 34.2.1 and for the purposes of Settlement of payments for Energy supplied in connection with its obligations to provide Ancillary Services, shall be estimated by the Market Operator taking into account the Meter Data provided by other Generators and by Purchasers, the Dispatch Instructions issued by the System Operator, and the Transmission Loss Factor at the relevant Node; or
  - (ii) in the case of failure by more than one Generator to provide the Meter Data, the Market Operator shall estimate the Meter Quantity for the purposes of Rule 34.2.1 and for the purposes of Settlement of payments for Energy supplied in connection with its obligations to provide Ancillary Services, for each such Generator. Such estimation shall be determined by the Market Operator using the methodology established in the relevant Market Procedure and taking into account the Ex-post Unconstrained Generation Schedule and the Transmission Loss Factor at the relevant Node.

#### 32.2.4 Failure by Purchaser to Provide Meter Data

- (a) Save as provided in paragraph (b) below, any Purchaser that fails to fulfil its obligations to supply Meter Data in accordance with Rule 32.2.2(b) shall, for the purpose of Settlement, be deemed to have consumed such quantity of Energy that the Market Operator will estimate based on historical data, the Purchaser's Bilateral Contract and the Imbalance Energy that the Market Operator evaluates from the other Meter readings it has received during the period for which Meter Data was not supplied. Such estimated quantity of Energy shall constitute the Meter Quantity for the purposes of Rule 34.3 and shall be used by the Market Operator to arrive at a Settlement amount for such Purchaser.



- (b) In the event that the Market Operator determines that such failure is due to equipment failure not beyond the reasonable control of the Purchaser or was otherwise due to an act, or omission of the Purchaser, then the Purchaser shall, in addition to the Settlement amount estimated in accordance with paragraph (a) above and other charges payable to the Market Operator pursuant to these Rules, be charged for each Dispatch Period “t” of a Dispatch Day “d” that it fails to supply Meter Data, an amount equal to:

$$\{CQ_{pt} - MQ_{pt} \cdot TLF_{G_{nt}}\} \cdot SMP_t;$$

$CQ_{pt}$  = the quantity of Energy in MW contracted by such Purchaser p during the Dispatch Period “t” of the Dispatch Day “d”;

$MQ_{pt}$  = the Meter Quantity recorded for such Purchaser “p” during the Dispatch Period “t” of the Dispatch Day “d”;

$SMP_t$  = System Marginal Price during Dispatch Period “t” of the Dispatch Day “d”;

$TLF_{G_{nt}}$  = Transmission Loss Factor for consumption of energy at Node “n”, in Dispatch Period “t” of the Dispatch Day “d”.

### 32.3 Collection and Validation of Meter Data

#### 32.3.1 Receipt of “Unprocessed” Data

The Market Operator shall receive the Meter Data provided by Participants in accordance with Rule 32.2.2 or Rule 41, as the case may be, which data, prior to the validation of such data in accordance with the validation and correction processes specified in the Grid Code.

#### 32.3.2 Validation of Meter Data

The unprocessed Meter Data received by the Market Operator shall be subjected to the validation and correction processes stipulated in the Grid Code.

### 32.4 Collection of Ancillary Service Data

- 32.4.1 The Market Operator shall obtain the relevant data from agreements for the provision of Ancillary Services, and from the daily Dispatch process in order to determine payments due for Ancillary Services in accordance with Rules 34.4, 34.6, 34.8, 34.9 and 34.10, and to facilitate Settlement.

32.4.2 Subject to Rule 32.2.3, the Market Operator shall utilise the Meter Data for the purposes of Settlement of payments for Energy supplied by Generators in discharge of their obligations to provide Ancillary Services.

### **32.5 Confidentiality**

The Market Operator shall safeguard any Settlement information that is Confidential Information.

## **33. DETERMINATION OF DAY-AHEAD PRICE AND SYSTEM MARGINAL PRICE**

### **33.1 Day-ahead Price**

33.1.1 No later than 16:00 hours on the Pre-dispatch Day, the Market Operator shall publish the Day-ahead Price for each Dispatch Period of the Dispatch Day as a forecast of the Dispatch Price in a Dispatch Day.

33.1.2 For avoidance of doubt, the Day-ahead Price shall not form the basis of Settlement for Imbalance Energy traded during the relevant Dispatch Day.

### **33.2 System Marginal Price**

#### **33.2.1 Determination**

After Metered Quantities have been determined in respect of each Dispatch Period of a Dispatch Day, the Market Operator shall determine the System Marginal Price no later than 16:00 hours on the Calculation Day.

#### **33.2.2 Principles for determination of the System Marginal Price**

- (a) Subject to Rule 33.2.3, the Market Operator shall determine the System Marginal Price for each Dispatch Period of the Dispatch Day by calculating an Ex-post Unconstrained Generation Schedule.
- (b) In calculating the Ex-post Unconstrained Generation Schedule, the Market Operator shall schedule Price Offers so as to minimise the offered cost of total Load, including losses, taking into account the following factors:
  - (i) the Price Offers and Quantity Nominations in respect of Generating Groups in the System Operator Control Area;
  - (ii) the actual maximum net availability of each Generating Group in the System Operator Control Area in the relevant Dispatch Period;

- (iii) Operating Reserve requirement;
  - (iv) technical parameters of Generating Groups as contained in the relevant Registered Information;
  - (v) when applicable and approved by the Commission, a capacity support mechanism to create economic incentives for adequate availability and entry of new generation.
- (c) The Market Operator shall not take into account Transmission Constraints in the calculation of the System Marginal Price.

### 33.2.3 System Marginal Price during Shortage of Generation

In the event load is shed by the Market Operator, otherwise than pursuant to an agreement with a Purchaser, the Market Operator shall take the VoLL as approved by the Commission from time to time and the Market Procedures for the calculation of Balancing Market prices in shortages conditions into consideration when fixing the System Marginal Price.

## 34. PAYMENTS AND CHARGES

### 34.1 Half Hourly Settlement Variables and Date

The Market Operator shall determine Settlement amounts using the price and quantity variables and data described in this Rule 34. Subscripts used in the designations and formulae in this Rule 34 shall have the following meaning:

- d = Dispatch Day;
- g = the Generation Unit g of a Generator in respect of which the Settlement amounts are to be determined;
- i = an Import;
- n = a Node, “n”;
- p = a Purchaser, “p”;
- t = a Dispatch Period, “t”;
- u = a Distribution Embedded Unit, “u”; and
- x = an Export.

### 34.2 Settlement Amounts

#### 34.2.1 Energy Sales

For each Dispatch Period of a Dispatch Day, the Market Operator shall determine the following Settlement amounts for trade of Energy

in respect of each Generator’s Generating Group(s) included in the Dispatch Schedule:

(a) Contract Imbalance Quantity

In respect of any Contract Imbalance Quantity, the amount shall be calculated as follows:

$$CIA_{gd} = \sum_{t=1}^{48} CIQ_{gt} \cdot SMP_t$$

where

$CIA_{gd}$  = amount payable by or to a Generator in respect of Contract Imbalance Quantity (CIQ), if any, during Dispatch Day d;

For a Generating Group, other than a Distribution Embedded Unit:

$$CIQ_{gt} = (EPUSQ_{gt} \cdot TLFG_{nt}) + (IMQ_{git} \cdot TLFG_{nt}) - (EXPQ_{gxt} \cdot TLFG_{nt}) - CQ_{gt}$$

For a Distribution Embedded Unit:

$$CIQ_{gt} = (EPUSQ_{gt} \cdot \frac{1}{1-DLF_u} + (IMQ_{git} \cdot TLFG_{nt}) - (EXPQ_{gxt} \cdot TLFG_{nt}) - CQ_{gt}$$

$EPUSQ_{gt}$  = the amount of electricity in MWh which a Generating Group “g” is scheduled to generate during Dispatch Period t of Dispatch Day of according to the Ex-post Unconstrained Generation Schedule;

$TLFG_{nt}$  = the Transmission Loss Factor for delivery of Energy to Node, “n”, in Dispatch Period t;

$DLF_u$  = Distribution Loss Factor for Distribution Embedded Unit “u”;

$IMQ_{git}$  = (min [MQ<sub>git</sub>, IMPC<sub>gid</sub> x TPD<sub>d</sub>]) x ILF<sub>t</sub>

$IMPC_{gid}$  = Interconnector capacity allocated to Generator for Import during Dispatch Day “d” pursuant to Rule 25.4;

$ILF_t$  = the import loss factor for Dispatch Period “t” of Dispatch Day “d”, approved by the

	Commission and published by the Market Operator on the Website;
$MQ_{git} =$	metered imported quantity for Dispatch Period “t” of Dispatch Day “d” recorded in accordance with the principles set out in Condition 19 of the Grid Code;
$EXPQ_{gxt} =$	$(\min [MQ_{gxt}, EXPC_{gxd} \cdot TPD_d]) \cdot XLF_t$ ;
$MQ_{gxt} =$	metered exported quantity for Dispatch Period t of Dispatch Day “d” recorded for such Generator g in accordance with the principles set out in Condition 19 of the Grid Code;
$EXPC_{gxd} =$	Interconnector capacity allocated to the Generator g for Export during Dispatch Day “d”, pursuant to Rule 25.4;
$XLF_t =$	the export loss factor during Dispatch Period “t” of Dispatch Day “d”, approved by the Commission and published the Market Operator on the Website;
$TPD_d =$	duration of Dispatch Day “d”;
$CQ_{gt} =$	the quantity of electricity in MWh that had to be generated by the Generator from Generating Group “g” during Dispatch Period t of Dispatch Day “d” in accordance with the relevant Bilateral Contract Nomination; and
$SMP_t =$	the System Marginal Price calculated for the applicable Dispatch Period “t” of Dispatch Day “d”.

(b) Instructed Imbalance Quantity

In respect of Instructed Imbalance Quantity, the amount shall be calculated as follows:

$$IIA_{gd} = \sum_{t=1}^{48} IIQ_{gt} \cdot O_{gt}$$

where

$IIA_{gd} =$  the amount payable by or to a Generator “g” in respect of Instructed Imbalance Quantity (IIQ), if any, during Dispatch Day “d”;

$$IIQ_{gt} = (IQ_{gt} - EPUSQ_g)$$

$IQ_{gt}$  = the quantity of electricity in MWh required to be generated by the Generating Group “g” during each Dispatch Period “t” of the Dispatch Day “d” pursuant to the System Operator’s Dispatch Instructions.

$EPUSQ_{gt}$  = the amount of electricity in MWh which a Generating Group “g” is scheduled to generate during Dispatch Period “t” according to the Ex-post Unconstrained Generation Schedule; and

$O_{gt}$  = the Energy Price nominated by the Generator for Generating Group “g” for Dispatch Period “t” of the Dispatch Day “d” in the Price Offer corresponding to  $EPUSQ_{gt}$ .

(c) Uninstructed Imbalance Quantity

In respect of Uninstructed Imbalance Quantity, if any and subject to Rule 34.5, the amount shall be calculated as follows:

$$UIA_{gd} = \sum_{t=1}^{48} UIQ_{gt} \cdot (SMP_t - PP_t); \text{ if } UIQ_{gt} > 0;$$

$$UIA_{gd} = \sum_{t=1}^{48} UIQ_{gt} \cdot (SMP_t + PP_t); \text{ if } UIQ_{gt} < 0;$$

where

$UIA_{gd}$  = the amount payable by or to a Generator for Uninstructed Imbalance Quantity (UIQ) in respect of a Generating Group “g”, if any and subject to Rule 34.5, during Dispatch Day “d”;

$$UIQ_{gt} = MQ_{gt} - IQ_{gt};$$

$MQ_{gt}$  = the Meter Quantity of Energy generated by Generating Group “g” during Dispatch Period “t”;

$IQ_{gt}$  = the quantity of electricity in MWh required to be generated by the Generating Group “g” during Dispatch Period “t” pursuant to the System Operator’s Dispatch Instructions;

$SMP_t =$  the System Marginal Price applicable for Dispatch Period “t”;

PP - is the Penalty Payment, which, subject to Rule 34.5.2, shall be equivalent to:

- (i) where  $[(MQ_{gt} - IQ_{gt})/IQ_{gt}] < (-5\%)$  but more than  $(-10\%)$ , 75% the System Marginal Price during Dispatch Period “t”;
- (ii) where  $[(MQ_{gt} - IQ_{gt})/IQ_{gt}] < (-10\%)$ , 100% of the System Marginal Price during Dispatch Period “t”;
- (iii) where  $[(MQ_{gt} - IQ_{gt})/IQ_{gt}] > 5\%$ , 100% of the System Marginal Price during Dispatch Period “t”; and
- (iv) For avoidance of doubt, if the Generating Group produces Energy within the range specified in Rule 34.5.1, then PP shall be equivalent to zero.

(d) If:

- (i) the Generating Group in question was instructed by System Operator to start-up and Synchronise in a given Dispatch Day “d”; and
- (ii) the Generating Group in question produced Energy within the range specified in Rule 34.5.1 during each Dispatch Period in that Dispatch Day, then the Generator of such Generating Group will be paid a supplementary cost recovery payment for the Dispatch Day, equal to:

$$SCR P_{gd} = \text{Max} (0, (SU_{gd} NIS_{gd}) + (NLD_{gd} IT_{gd}) + \sum_{t=1}^{48} (EPUSQ_{gt} O_{gt}) - \sum_{t=1}^{48} (EPUSQ_{gt} (TLFG_{nt}) SMP_t))$$

where:

$SCR P_{gd} =$  the daily Supplementary Cost Recovery Payment for the Generating Group “g” for Dispatch Day “d”;

$SU_{gd} =$  the Start Up price of the Generating Group “g” (in ₦) for the Dispatch Day “d”;

$NIS_{gd} =$  the number of times the Generating Group “g” was instructed to Start up during Dispatch Day “d”;

$NLD_{gd} =$	the No Load price of the Generating Group “g” (in <del>N</del> /hour) for the Dispatch Day “d”;
$IT_{gd} =$	the time in hours for which the Generating Group “g” was instructed to run during Dispatch Day “d”.
$EPUSQ_{gt} =$	the amount of electricity in MWh which a Generating Group “g” is scheduled to generate during Dispatch Period “t” according to the Ex-post Unconstrained Generation Schedule;
$TLFG_{nt} =$	Transmission Loss Factor for delivery of Energy at node “n” in Dispatch Period “t”;
$O_{gt} =$	the Energy Price nominated by the Generator in the Price Offer for Generating Group “g” for Dispatch Period t of Dispatch Day “d” corresponding to $EPUSQ_{gt}$ ;

#### 34.2.2 Distribution Embedded Units

Prior to the commencement of each month, the System Operator shall designate, in respect of each Distribution Embedded Unit, a loss factor as follows:

$DLF_u =$	the ratio of the reduction in Distribution Losses within the Distribution System of a Purchaser, holding a Distribution Licence, due to the Generation of a Distribution Embedded Unit “u”, to the Distribution Losses within the Distribution System of such a Purchaser incurred in the delivery of power in the absence of the Generation of the Distribution Embedded Unit “u”.
-----------	---

### 34.3 Purchasers

#### 34.3.1 Contract Imbalance

Pursuant to Rule 35, the Market Operator shall calculate the Settlement amount for Energy **consumed** by each Purchaser during a Dispatch Day, in accordance with the following equation:



$$SA_{pd} = \sum_{t=1}^{48} \{CQ_{pt} - (MQ_{pt} \cdot TLF_{it} + EXPQ_{pxt} \cdot TLF_{it} - IMQ_{pit} \cdot TLF_{it})\} \cdot SMP_t$$

$SA_{pd}$  = the Settlement Amount in respect of the Purchaser “p” for Energy consumed during Dispatch Day “d”;

$CQ_{pt}$  = the quantity of Energy in MW contracted by such Purchaser “p” during Dispatch Period “t”;

$MQ_{pt}$  = the Meter Quantity recorded for such Purchaser “p” during Dispatch Period “t” of the Dispatch Day “d”;

$SMP_t$  = System Marginal Price during Dispatch Period “t” of the Dispatch Day “d”;

$TLF_{it}$  = Transmission Loss Factor for consumption of energy at Node “i”, in Dispatch Period “t”.

$EXPQ_{pxt}$  =  $(\min [MQ_{gxt}, EXPC_{gxd} \cdot TPD_d]) \cdot XLF_t$

$MQ_{pxt}$  = metered exported quantity recorded for such Purchaser “p” in accordance with the principles specified in Condition 19 of the Grid Code;

$EXPC_{pxt}$  = Interconnector capacity allocated to Purchaser “p” for export pursuant to Rule 25.4 during Dispatch Hour “t” of Dispatch Day “d”;

$XLF_t$  = Export Loss Factor for Dispatch Hour “t” of Dispatch Day “d” approved by the Commission and published by the Market Operator on the Website;

$IMQ_{pit}$  =  $(\min [MQ_{pit}, IMPC_{gid} \cdot TPD_t]) \times ILF_t$ ; where:

$MQ_{pit}$  = the metered imported quantity recorded for Dispatch Hour “t” for such Purchaser “p” in accordance with the principles specified in Condition 19 of the Grid Code;

$IMPC_{pid}$  = Interconnector capacity allocated to the Purchaser for Import during Dispatch Day d pursuant to Rule 25;

$TPD_d$  = duration of the Dispatch Day “d”;

$ILF_t$  = Import Loss Factor for Dispatch Hour to approved by the Commission and published by the Market Operator on the Website;

### 34.3.2 Cost of Imbalance Energy

The Market Operator shall also recover the net cost incurred by it in relation to Instructed Imbalances, Uninstructed Imbalances and Supplementary Cost Recovery Payment during a Dispatch Period, collectively designated for the purposes of these Rules as Cost of Imbalance Energy. The Market Operator shall recover from each Purchaser the amount of Cost of Imbalance Energy in respect of a Billing Period in the ratio that the Meter Quantity of such Purchaser bears to the total Meter Quantity of all the Purchasers during the Billing Period.

#### **34.4 Reliability Must-Run**

- 34.4.1 The Market Operator shall calculate a monthly Settlement Payment in respect of the RMR Period of a Reliability Must-run Unit in accordance with the Reliability Must-Run Agreement with the Generator which owns the Reliability Must-run Unit.
- 34.4.2 Notwithstanding anything contained in a Reliability Must-Run Agreement, settlement payments due to a Generator in respect of Generating Groups designated by the System Operator as Reliability Must-run Units, and not required by the System Operator in any particular Dispatch Period of that Reliability Must-run Unit's RMR Period, shall be deducted from the monthly Settlement payment calculated in accordance with paragraph (a).
- 34.4.3 The cost to the System Operator during each Billing Period of procuring Reliability Must-run Services shall be recovered from all Purchasers. This charge in respect of each such Purchaser shall be collected from each Purchaser in the ratio that the Meter Quantity of such Purchaser bears to the total Meter Quantity of all the Purchasers during the Billing Period.

#### **34.5 Compliance and Non-compliance with Dispatch Instructions**

##### **34.5.1 Compliance**

A Participant will be deemed to have complied with Dispatch Instruction issued in a Dispatch Period, in respect of Energy produced by a Generating Group registered for it, if such Generating Group is operating within a band of  $\pm 5\%$  of the quantity instructed to be generated in the Dispatch Instruction.

##### **34.5.2 Non-compliance**

###### **(a) Non-compliance in normal conditions**

If a Generator fails to meet the threshold stipulated for compliance with a Dispatch Instruction in respect of one of its Generating Groups pursuant to Rule 34.5.1 and at the time of the issuance of the Dispatch Instruction, the System Operator Controlled Grid is not in an Emergency Operating State or an Extreme Operating State, then subject to

paragraph (b) below, the Settlement amount due to or owed by the Generator in respect of the Generating Group in question, for the excess or shortfall in generation, as the case may be, shall be determined in accordance with Rule 34.2.1(c).

(b) Non-compliance in an Emergency Operating State

The Settlement amount for a Generator which fails to meet the threshold stipulated in Rule 34.5.1 for compliance with a Dispatch Instruction in respect of one of its Generating Groups, shall be determined in accordance with Rule 34.2.1 (c) if:

- (i) at the time of the issuance of the Dispatch Instruction, the System Operator Controlled Grid is in an Emergency Operating State or Extreme Operating State; or
- (ii) at the time of the issuance of the Dispatch Instruction, the System Operator Controlled Grid is not in an Emergency Operating State or Extreme Operating State but the System Operator determines, in its sole discretion, that non-compliance with the Dispatch Instruction could lead to the declaration of an Emergency Operating State or Extreme Operating State.

34.5.3 Excess Revenue

Where, as a result of the application of Rule 34.5.2, the amounts paid by Purchasers for Energy exceeds the amounts paid to Generators for such energy, the excess amount shall be credited to the Market Operator Surplus Account pursuant to Rule 31.5.

**34.6 Failure to Convert Operating Reserve into Energy Production**

Failure by a Generator to convert the Operating Reserve of a Generating Group in the time specified in the relevant agreement shall be treated, for the purposes of Settlement, in accordance with the provision of Rule 34.2.1(c). In addition, amounts due to the Generator for Operating Reserve provided by the Generating Group in question shall be cancelled for all the Dispatch Periods in of the Dispatch Day during which this failure was logged by the Market Operator. Any resulting excess revenues shall be treated in accordance with Rule 34.5.3.

**34.7 Transmission Tariff Charges**

34.7.1 The Market Operator shall collect the Usage Charges from Participants, provided that the Market Operator shall indicate the Usage Charge as a separately identified item in the Invoice and shall remit such amount to the TSP Usage Charge Account.

34.7.2 The Market Operator shall comply with any directives issued by the Commission in collecting the Usage Charge.

### **34.8 Black Start Capability**

34.8.1 The System Operator shall determine, with the approval of the Commission, the cost of procuring Black Start Capability pursuant to Condition 8 of the Grid Code.

34.8.2 The costs incurred by the System Operator on procuring Black Start Capability during any Billing Period shall be recovered from all Participants other than the Generator whose Generating Group provides such Black Start Capability through a charge, in ₦/MWh, which shall be calculated for each Billing Period. The applicable charge for every Billing Period shall be collected from each Participant in the ratio that the Meter Quantity of that Participant bears to the total Meter Quantity of all the Participants during the Billing Period.

### **34.9 Secondary Regulation, Slow Reserve and Quick Reserve**

34.9.1 The Market Operator shall collect, from all Purchasers, the amounts paid in respect of the provision over the Billing Period, of AGC Regulation, Non-AGC Secondary Regulation, Slow Reserve and Quick Reserve.

34.9.2 In each Billing Period, this charge shall be collected from each Purchaser in the ratio that the Meter Quantity of such Purchaser bears to the total Meter Quantity of all the Purchasers during the Billing Period. The price for each of these services shall be approved by the Commission, and:

- (a) in the case of AGC Regulation and Non-AGC Secondary Regulation, shall comprise of a fee for the provision of the service and a payment reflecting the Opportunity Cost of providing the service; and
- (b) in the case of Slow Reserve and Quick Reserve, shall comprise only of a fee for the provision of the service.

### **34.10 System Operation and Market Administration Charge**

34.10.1 The Market Operator shall, no later than the Commencement Date, determine a methodology for calculating the System Operation and Market Administration Charge during the Medium Term Market, provided the methodology so determined shall be approved by the Commission.

34.10.2 The Market Operator shall collect the System Operation and Market Administration Charge from all Participants and the charge payable by each Participant in respect of any Billing Period shall be determined in accordance with the the ratio that the Meter Quantity of that Participant bears to the total Meter Quantity of all the Participants during the Billing Period.

## **35. COMPUTATION OF CHARGES AND PAYMENTS**

### **35.1 Calculation of Daily and Monthly Charges and Payments**

35.1.1 On the Calculation Day, the Market Operator shall calculate the daily charges payable to, and payments due from, each Participant in respect of the relevant Dispatch Day, pursuant to Rule 35.2 and 35.3.

35.1.2 On the fifth day after the end of each Billing Period, the Market Operator shall calculate the charges payable and payments due to each Participant in respect of such Billing Period pursuant to Rule 35.4 and Rule 35.5.

### **35.2 Description of Daily Amounts to be Settled for Purchasers**

Subject to Rule 32.2.4, the Market Operator shall utilise the Settlement Quantity Meter Data to calculate the amounts due to or from each Purchaser in connection with the Energy consumed during the relevant Dispatch Day in accordance with Rule 34.3. The Market Operator shall calculate these amounts using the Settlement Software, except in cases of system breakdown, when the Market Operator shall apply the provisions set out in Rule 41.

### **35.3 Description of Daily Amounts to be Settled for Generators**

35.3.1 Subject to Rule 32.2.3, the Market Operator shall utilise the Settlement Quantity Meter Data it possesses to calculate:

- (a) the amount due to or from each Generator, as the case may be for Energy supplied during the relevant Dispatch Day, pursuant to Rule 34.2; and
- (b) subject to Rule 34.6, the amounts due to a Generator for Energy supplied in connection with providing AGC Regulation, Non-AGC Secondary Regulation, Slow Reserve and Quick Reserve during the relevant Dispatch Day.

35.3.2 The Market Operator shall calculate these amounts using the Settlement Software, except in cases of system breakdown, when the Market Operator shall apply the provisions set out in Rule 41.

### **35.4 Description of Monthly Charges to be settled**

35.4.1 Subject to Rule 32.2.4, the Market Operator shall calculate the following for each Billing Period:

- (a) the amount due from each Participant as its share of the System Operation and Market Administration Charge for the Billing Period, in accordance with Rule 34.10;
- (b) the amount due from each Purchaser as for the charge for AGC Regulation, Non-AGC Secondary Regulation, Slow Reserve and Quick Reserve for the Billing Period, in accordance with Rule 34.9;
- (c) the amounts due from each Purchaser, arising from the System Operator's payment to Generators for the Billing Period in respect of Generating Groups designated as Reliability Must-run Units, in accordance with Rule 34.4; and
- (d) the amounts due from each Participant, arising from the System Operator payment to a Generator for the Billing Period in respect of the provision of Black Start Capability, in accordance with Rule 34.8.
- (e) the amounts due from each Purchaser towards the Cost of Imbalance Energy in accordance with Rule 34.3.2;

35.4.2 The Market Operator shall calculate these amounts using the Settlement Software except in cases of system breakdown, when the Market Operator shall apply the provisions set out in Rule 41.

### **35.5 Description of Monthly Payments to be settled**

35.5.1 Subject to Rule 33.2.3, the Market Operator shall utilise the Settlement Quality Meter Data it receives to calculate the following for each Billing Period:

- (a) subject to Rule 34.6, the amounts due to each Generator for the provision of AGC regulation, Non-AGC Secondary Regulation, Slow Reserve and Quick Reserve during the Billing Period;
- (b) the amounts due to each Generator for provision of Reliability Must-run Service from Generating Groups designated as Reliability Must-run Units in accordance with Rule 34.4 during the Billing Period; and
- (c) the amounts due to each Generator for the Billing Period pursuant to a Black Start Agreement in respect of the provision of Black Start Capability.

35.5.2 The Market Operator shall calculate these amounts using the Settlement Software, except in cases of system breakdown, when The Market Operator shall apply the provisions set out in Rule 40.

## **35.6 Additional Charges and Payments**

The Market Operator shall be authorised to levy additional charges or payments as special adjustments in respect of:

- 35.6.1 amounts required to round up any billed amount to the nearest whole Naira amount in order to clear the Market Operator Clearing Account. These charges will be allocated amongst the Participants of that Dispatch Day, proportional to their net payments and charges;
- 35.6.2 amounts in respect of penalties or fines which may be levied by the System Operator in accordance with the Agreements. These charges will be levied on the Participants liable for payment of the penalty or fine;
- 35.6.3 amounts required to reach an accounting trial balance of zero in the course of the Settlement process in the event that the charges calculated as due from Participants in respect of a Dispatch Day are lower than payments calculated as due to the Participants for the same Dispatch Day;
- 35.6.4 costs incurred and interest charged to the Market Operator as a consequence of obtaining credit facilities. These costs shall be allocated to the Participant(s) responsible where default resulted in such costs or interest arising. In the absence of default by Participant(s) the costs incurred and interest charged shall be allocated to Purchasers proportional to net charges to be paid to the Market Operator on the relevant Payment Date;
- 35.6.5 additional charges to Participants arising from an inability to recover a Default Amount, or any part of it, or Default Interest, in accordance with Rule 38.5.4; and
- 35.6.6 payments due to Generators in reimbursement of previous reductions made to amounts payable to them in accordance with Rule 38.5.5 or Rule 38.8.

## **35.7 VAT**

### **35.7.1 Collection of VAT from Purchasers**

In respect of each Purchaser, the Market Operator shall be entitled to collect VAT in respect of the Ancillary Services, Reliability Must-run and Black Start Capability at the appropriate rate on the basis of the ratio which the Meter Quantity of each Purchaser bears to the total Meter Quantity of all the Purchasers during the Billing Period.

### **35.7.2 VAT in respect of Imbalance Energy**

### **35.8 Settlement of Charges and Payment**

Any amount calculated by the Market Operator pursuant to this Rule 35 will appear as charges and payments in the Final Settlement Statement that the Market Operator will provide to Participants pursuant to Rule 36.

## **36. SETTLEMENT STATEMENTS**

### **36.1 Preliminary Settlement Statements**

#### **36.1.1 Timing of Preliminary Settlement Statements**

The Market Operator shall provide to each Participant, for validation, a Preliminary Settlement Statement for each Billing Period in accordance with the Market Operator Payments Calendar.

#### **36.1.2 Contents of Preliminary Settlement Statements**

Each Preliminary Settlement Statement will include an individual statement of:

- (a) the total amount payable by the Participant for each charge referred to in Rule 35.2 in respect of each Dispatch Period in the relevant Dispatch Day of the Billing Period in question;
- (b) the total amount receivable by the Participant for each payment referred to in Rule 35.3, for each Dispatch Period in the relevant Dispatch Day of the Billing Period in question;
- (c) the total amount payable by the Participant for each charge referred to in Rule 35.4 for the Billing Period in question;
- (d) the total amount receivable by the Participant for each payment referred to in Rule 35.5 for the Billing Period in question;
- (e) adjustments, if any, to any amounts payable or receivable by that Participant, pursuant to Rule 35.6; and
- (f) the total amount payable or receivable by the Participant for each Dispatch Day during the Billing Period in question, after the amounts payable under paragraphs (a) and (c) and the amounts receivable under paragraphs (b) and (d) have been netted off, and after any adjustments under paragraph (e) have been made.

### **36.2 Final Settlement Statements**

The Market Operator shall provide to each Participant a Final Settlement Statement in accordance with the Payments Calendar. The Final Settlement Statement shall be in a format similar to that of the Preliminary Settlement Statement and shall include all the information provided in the Preliminary Settlement Statement, as amended pursuant to Rule 36.3 where applicable, and shall be consistent with the VAT requirements specified by the relevant revenue authorities in accordance with the Applicable Law.



### **36.3 Resolution of Disputes Relating to Preliminary Settlement Statements**

#### **36.3.1 Notice of Disputes**

If a Participant disputes any item or calculation set forth in its Preliminary Settlement Statement, it shall provide the Market Operator with a written notice of its objection(s) within 10 Business Days of the date of issue of the Preliminary Settlement Statement.

#### **36.3.2 Contents of Notice**

The notice of dispute shall state clearly the Billing Period, Dispatch Day, the issue date of the Preliminary Settlement Statement, the item disputed, the reasons for the dispute, the amount claimed, if any, and shall be accompanied by all available evidence supporting the claim.

#### **36.3.3 Amendment**

If the Market Operator agrees with the matters set out in the notice of dispute, it shall recalculate the Preliminary Settlement Statement and if required for this purpose, re-run the Settlement Software.

#### **36.3.4 Attempts to Resolve Disputes**

- (a) If the Market Operator does not agree with the matters set out in the notice of dispute it shall make reasonable efforts, taking into account the time it received the notice of dispute and the complexity of the issue involved, to resolve the issue with the relevant Participant before issuing the Final Settlement Statement. The Market Operator may request the relevant Participant to provide additional information in respect of disputed items.
- (b) If it is not possible to contact the relevant Participant, or the requested additional information is not provided, or the dispute is not resolved, on or before the date specified in the Payment Calendar for issue of the Final Settlement Statement, The Market Operator shall issue the Final Settlement Statement without taking into account the objections contained in the notice of dispute

#### **36.3.5 Payment Pending Dispute**

- (a) Each Participant who receives an Invoice shall pay any net Charges, and shall be entitled to receive any net Payments shown in the Invoice on the Payment Date, whether or not there is any dispute regarding the amount of the Charge or Payment.
- (b) The payment of the amount by the Participant or the Market Operator, as the case may be, pursuant to paragraph (a) shall not prejudice the right of the Participant to seek resolution of the dispute pursuant to Rule 43.

#### **36.4 Settlement Statement Re-runs**

If a Participant, having made reasonable efforts to resolve any dispute relating to a Preliminary Settlement Statement with the Market Operator pursuant to Rule 36.3, requires a Preliminary Settlement Statement re-run, it shall send to The Market Operator a notice in writing requesting a re-run of the Settlement Software and shall pay a fee of [N ]. This fee shall be refunded if the re-run of the Settlement Software indicates an error in the disputed Preliminary Settlement Statement.

### **37. INVOICES**

37.1.1 On the day specified in the Market Operator Payments Calendar, the Market Operator shall issue an invoice in the format set out in Appendix 5 to each Participant.

37.1.2 The Invoice shall be issued together with the Final Settlement Statement for the relevant Billing Period and shall show:

- (a) amounts which, according to the Final Settlement Statement of that Billing Period are due from or to that Participant; and
- (b) details, including the account number and bank name, of the Market Operator Clearing Account to which any amounts owed by that Participant are to be paid.

### **38. PAYMENT PROCEDURES**

#### **38.1 Time of Payment**

Payment shall be made by Participants at 10.00 hours on the Payment Date.

#### **38.2 Payment Process**

38.2.1 Use of the Market Operator Clearing Account

- (a) Each Participant shall remit to the Market Operator Clearing Account, the amount(s) stated on the Invoice to be payable by that Participant, other than the Usage Charge no later than the time specified in Rule 38.1.
- (b) Each Participant shall remit the Usage Charge to the Market Operator Usage Charge Account no later than the time specified in Rule 38.1.

### 38.2.2 Distribution of funds to Participants to whom payments are due

Subject to Rule 31.2.3(b), the Market Operator shall calculate the amounts available in the Market Operator Clearing Account for distribution to Participants to whom payments are due on the Payment Date, and shall remit to the relevant Settlement Account maintained by each Participant to whom payments are due, the amount due to that Participant from the funds available within the Market Operator Clearing Account, no later than the time specified in Rule 31.3.1.

### **38.3 Use of the Market Operator Reserve Account**

If, due to default in making payment by one or more Participants on any Payment Date, there are insufficient funds in the Market Operator Clearing Account to settle the amounts due to Participants and clear the account, the Market Operator shall transfer funds from the Market Operator Reserve Account to the Market Operator Clearing Account in order to clear the Market Operator Clearing Account by Close of Banking Business on that Payment Date.

### **38.4 Payment Delay**

If any Participant becomes aware that, for any reason, it will not or is unlikely to remit any amount due to be remitted to the Market Operator by 10:00 hours on the relevant Payment Date, it shall immediately communicate this fact to the Market Operator by voice communication over a telephone line, giving full details of the delay, including the reasons therefor. Such information shall be confirmed in writing within 24 hours of the telephone communication. The Participant shall make all reasonable efforts to remit the amount due as soon as possible, and by an alternative method, if necessary, to ensure that funds are received as soon as possible after 10:00 hours on the Payment Date.

### **38.5 Payment Default**

38.5.1 If by 10:00 hours on a Payment Date, the Market Operator, in its reasonable opinion, believes that all or any part of any amount due to be remitted to the Market Operator Clearing Account by any Participant has or will not been remitted, the Market Operator shall, notwithstanding the efforts of the Participant to pay the amount as soon as possible pursuant to Rule 38.4, take the actions set out in this Rule 38.5 to enable the Market Operator Clearing Account to clear not later than the Close of Banking Business on the relevant Payment Date, unless the Market Operator deems it fit to postpone the enforcement of Security Cover pursuant to Rule 38.6.

#### 38.5.2 Enforcing the Security of a Defaulting Participant

The Market Operator shall make reasonable endeavours to enforce, as quickly as possible, the defaulting Participant's Security Cover, to the extent necessary to pay the Default Amount.

#### 38.5.3 Use of the Market Operator Reserve Account

If there are funds standing to the credit of the Market Operator Reserve Account, including the proceeds of drawings under credit facilities pursuant to Rule 31.4, the Market Operator shall debit the Market Operator Reserve Account with the Default Amount in order to clear the Market Operator Clearing Account and effect payment to Participants.

#### 38.5.4 Action against a Defaulting Participant

If the Market Operator is not able to recover the Default Amount and the Default Interest, if any, pursuant to Rule 38.5.1, the Market Operator shall, as soon as possible after taking action under Rule 38.5.1, take any steps it deems appropriate in its sole discretion, including those specified in Rule 46, against the defaulting Participant to recover the Default Amount and any Default Interest.

#### 38.5.5 Reduction of Payments to Participants

If there are insufficient funds standing to the credit of the Market Operator Reserve Account, the Market Operator shall reduce payments to Participants to whom payments are due, and to the TSP and itself towards Usage Charge and the System Operation and Market Administration Charge, on that Payment Date, on a proportional basis, to the extent necessary to clear the Market Operator Clearing Account by the close of Banking Business on the Payment Date. Such Participants shall be paid the shortfall in accordance with Rule 38.8 as and when funds are received.

### 38.6 Postponement of Enforcement of Security Cover

In the event that the Market Operator reasonably believes that an outstanding amount, which has not been paid by 10:00 hours on the relevant Payment Date, is likely to be paid by no later than the Close of Banking Business on the next Business Day then the Market Operator may, but shall not be obliged to, delay enforcing that Participant's Security Cover or taking other measures to recover payment until after the Close of Banking Business on the next Business Day, provided that, notwithstanding such delay, the defaulting Participant shall continue to be liable to pay Default Interest on the outstanding amount pursuant to Rule 38.11.

### 38.7 Replenishing Reserve Account Following Payment Default

Where the Market Operator has debited the Market Operator Reserve Account as provided in Rule 38.5.3 then:

- (a) if, after debiting the Market Operator Reserve Account, the Market Operator receives a remittance from a Participant which has not been credited, but which should have been credited to the Market Operator Clearing Account by 10:00 hours on the Payment Date, had it been received as at when due, and default in remittance of which necessitated the debit to the Market Operator

Reserve Account, such remittance shall be credited to the Market Operator Reserve Account in accordance with Rule 38.8;

- (b) the proceeds of any enforcement of the Security Cover pursuant to Rule 38.5.1 shall be credited to the Market Operator Reserve Account;
- (c) if, after taking reasonable action, the Market Operator determines that the Default Amount or Default Interest referred to in Rule 38.11 cannot be recovered even by the enforcement of the Security Cover, such amounts shall be deemed to be owing by Participant in default, and shall be accounted for by way of a Charge in the next Final Settlement Statements of the Participant. Such charge shall be credited to the Market Operator Reserve Account.

### **38.8 Application of Funds Received**

Amounts credited to the Market Operator Clearing Account following payment of a Default Amount, or as a result of the enforcement of the defaulting Participant's Security Cover, shall be applied to the Market Operator Reserve Account to reduce amounts outstanding under any of the Market Operator credit facilities used to fund the Market Operator Reserve Account on the relevant Payment Date, and the balance, if any, shall be applied towards payment of the balance due to any Participant, who has either received no payment or whose payment has been reduced pursuant to Rule 38.5.5 on account of the default, in the same proportion as that in which payments to such Participant had been reduced. Such reimbursement, if any, shall be made on the Business Day next following the receipt of funds in the Market Operator Reserve Account.

### **38.9 Set-Off**

The Market Operator is authorised to recoup, set off or apply any amount to which any defaulting Participant is, or will be, entitled, for or towards the satisfaction of any of that Participant's debts arising under the Settlement and billing process in accordance with Part 7 and 8, or any penalty imposed on the Participant by the Market Operator pursuant to Rule 46.

### **38.10 Order of Payments**

The Market Operator shall apply payments received in respect of amounts owing to Participants to repay the relevant debts in the order in which such debts were created and the first debt to be created shall be settled first and so on thereafter.

### **38.11 Default Interest**

Without prejudice to the ability of the Market Operator to enforce the Security Cover, if any, provided by the defaulting Participant, such Participant shall pay Default Interest on Default Amounts for the period commencing from the relevant Payment Date to the date in which the payment is received by the

Market Operator, together with any related costs incurred by the Market Operator to remedy the default in accordance with this Rule 38.

### **38.12 Interest Accruing while Enforcing the Security Cover**

If the Market Operator has debited the Market Operator Reserve Account, as provided in Rule 38.5.3, and the Market Operator subsequently succeeds in enforcing the Security Cover provided by the defaulting Participant, the Market Operator shall be entitled to withdraw from the proceeds of such security, all costs incurred and Default Interest accrued to the Market Operator as a result of debiting the Market Operator Reserve Account from the date of such debit to the date of enforcement of the security, in addition to the Default Amount in accordance with Rule 38.8.

## **39. PAYMENT ERRORS**

### **39.1 Overpayments**

#### 39.1.1 Notification

If a Participant receives an overpayment on any Payment Date, it shall notify the Market Operator of such overpayment by voice communication over a telephone line. Such communication shall be confirmed in writing within 24 hours of receipt of an overpayment.

#### 39.1.2 Interest on Overpayment

- (a) Subject to paragraph (b), if an overpayment is repaid by a Participant within 10 days from the Payment Date in respect of which the overpayment was made, the Market Operator shall be entitled to interest on the amount of the overpayment at the **[Nigerian Prime Interest Rate] plus [one] percent** from the date the overpayment was received to the time that the repayment is credited to the Market Operator Clearing Account.
- (b) If a Participant has received the overpayment as a result of error on the part of the Market Operator and such overpayment has not been repaid by the Participant within 10 days of the Payment Date, interest shall be payable by the Participant on the overpayment on and from 10 days after the Payment Date.
- (c) Save in the circumstances specified in paragraph (b), if the overpayment, or any part of it, is not repaid by a Participant, within 10 days from the Payment Date, the Market Operator shall be entitled to **Default Interest on the amount of the overpayment** on and from the third day following the Payment Date, until the repayment is credited to the Market Operator Clearing Account, and the Market Operator will be entitled to treat the overpayment, and any interest accruing thereon, as a Default Amount to which Rules 38.5.1 and 38.5.4 shall apply.

#### 39.1.3 Treatment of Amounts Outstanding as a Result of an Overpayment

The Market Operator shall apply the amount of any overpayment repaid, including interest received, to credit any underpaid Participants and itself, proportional to the amounts of the respective underpayments pursuant to Rule 38.5.5, on the same day of receipt, or if not practicable, on the following Business Day.

#### **40. SETTLEMENT IN THE EVENT OF EMERGENCY AND MARKET SUSPENSION**

##### **40.1 Use of Estimated Data**

40.1.1 In the event that the System Operator Controlled Grid is in an Emergency Operating State or Extreme Operating State, or for any other reason, there is a failure of any of the Settlement Software or the Market Operator's business systems, the Market Operator may make reasonable estimates for Preliminary Settlement Statements and Final Settlement Statements, and may implement any temporary variation of the timing requirements relating to the Settlement and billing process outlined in Rules 36 and 37.

40.1.2 Prior to the Effective Date, the Market Operator shall establish a Market Procedure outlining the varied timing requirements and the methodology to be adopted in the circumstances outlined in Rule 40.1.1, including details of the variation to produce estimated data, Preliminary Settlement Statements and Final Settlement Statements and Invoices. The Market Operator shall publish such requirements and methodology on the Website.

##### **40.2 Payment of Estimated Statements and Invoices**

A payment made pursuant to an Invoice issued by the Market Operator on the basis of a Final Settlement Statement that was estimated pursuant to Rule 40.2 shall be deemed to have been made on an estimated basis. Failure to make such estimated payments shall result in the consequences specified in Rule 38 in respect of a failure to make payments calculated in accordance with the usual requirements and methodology.

##### **40.3 Validation and Correction of Estimated Statements and Invoices**

The Market Operator shall use its best efforts to verify the estimated data employed for billing and settlement purposes pursuant to Rule 40.1 and to make the necessary corrections as soon as practicable. Such corrections will be based on actual data and shall be reflected in the next Preliminary Settlement Statements and Final Settlement Statements issued by the Market Operator after the verification.

##### **40.4 Estimated Statements to be Final**

In the event that the Market Operator is of the opinion that, despite its best efforts, it is not possible for it to verify the estimated data employed for billing and settlement purposes because actual data is not reasonably expected to become available to the Market Operator in the foreseeable future, the Market

Operator shall consult with the Participants in order to develop the most appropriate substitute data, including using data provided by Participants. Following such determination of substitute data, the Market Operator shall send revised Preliminary Settlement Statements, Final Settlement Statements and Invoices to the Participants. The provisions of Rule 38 shall apply to payment of revised Invoices issued in accordance with this Rule 40.4. Failure to make payments of such revised Invoices shall result in the same consequences as specified in Rule 38 in respect as a failure to make calculated payments.

## **40.5 Market Intervention and Suspension**

### **40.5.1 Purpose of Rule**

This Rule 40.5 defines the conditions that must be met in order for the Market Operator to suspend the operation of the Imbalance Energy Market and the actions that may be taken pursuant to such suspension.

### **40.5.2 Conditions for Suspension**

The System Operator shall monitor the System Operator Controlled Grid to detect any emergency system conditions and shall employ its best efforts to prevent such emergency system conditions prior to the occurrence thereof. In the event that any such Emergency System Condition actually occurs, the Market operator may declare a Market Suspension in accordance with Rule 40.5.3 and the System Operator shall take immediate action to remedy the condition as soon as possible. Market Suspension will continue until the remedy has been effected successfully.

### **40.5.3 Declaration of Market Suspension**

- (a) The Market Operator is authorised to make a determination that emergency system conditions exist and declare a Market Suspension when, in the judgment of the System Operator, the following conditions are present:
  - (i) widespread systemic failure in telecommunication hardware or software or other System Operator hardware or software occur, which make it impossible for the System Operator to receive or process Nominations or dispatch Generating Groups in accordance with these Rules;
  - (ii) widespread generation unavailability or transmission equipment failures occur, which make it impossible for the System Operator to dispatch Generating Groups in accordance with these Rules;
  - (iii) the System Operator Controlled Grid is in imminent danger of instability, voltage collapse or uncontrollable



cascading outages and such danger cannot be dealt with by the issuance of normal Dispatch Instructions; or

- (iv) there is a shutdown of the whole or substantial part of the System Operator Controlled Grid.
- (b) The System Operator's declaration of a Market Suspension shall be issued to the Market Operator and all Participants simultaneously, through the Website or through such other means as are established for communicating information during a system emergency. The System Operator shall also promptly notify the Commission of the declaration of a Market Suspension and shall seek direction from the Commission in relation to matters specified in Rule 40.5.4(b).
- (c) If it is not possible to notify all Participants of a Market Suspension simultaneously, the System Operator shall attempt to notify all affected Participants as soon as practicable after the declaration of the Market Suspension, and shall subsequently notify all Participants of the declaration, together with an explanation for any delays in making the notification.
- (d) The notification issued by the System Operator to Participants in respect of a Market Suspension shall, as far as practicable, state the nature, extent and expected duration of the Emergency System Condition that triggered the Market Suspension. During the Market Suspension, the System Operator shall provide, as far as practicable, periodic updates to the Market Operator and all Participants of actions taken to remedy the Emergency System Condition.

#### 40.5.4 Procedures During Market Suspension

- (a) In the event that Market Suspension prevents the System Operator from receiving Nominations necessary to Dispatch Generating Groups, the System Operator will, subject to any direction of the Commission to the contrary pursuant to paragraph (b), Dispatch Generating Groups using the last valid Quantity Nomination submitted for each Generating Group where applicable, and in all other cases, will Dispatch Generating Groups as closely as possible to the manner contemplated by these Rules and the Grid Code.
- (b) The System Operator shall determine the System Marginal Price and the Settlement procedure on the basis of determination made by the Commission in that regard.
- (c) The System Operator will post a notice of the Commission's decisions pursuant to paragraph (b) on the Website as soon as practicable. This notice will also describe any special procedures for submission of Nominations during the period of the Market Suspension.



## **PART 9: COMMUNICATIONS**

### **41. COMMUNICATIONS**

#### **41.1 Communications in Respect of the Submission of Nomination**

- (a) Each Generator submitting Nominations to the System Operator in accordance with Part 6 shall do so through CNSD. The System Operator shall, in turn, communicate confirmation of receipt of such Nomination and information on the validity thereof to Participants, in accordance with the provision of Part 6 through CNSD.
- (b) If a Generator is unable to submit a Nomination to the System Operator due to a localised failure of CNSD, the Generator must notify the System Operator by telephone. When so notified, the System Operator shall provide instructions regarding the submission of Nominations and the issuance by the System Operator of confirmations and information on the validity thereof, by facsimile or e-mail.

#### **41.2 Communications in Respect of the Settlement and Billing procedure during the Medium Term Market**

##### **41.2.1 Payments Calendar**

The Market Operator will publish the draft and final Market Operator Payments Calendars and any modifications made thereto in accordance with Rule 31.7 on the Website.

##### **41.2.2 Meter Data**

Each Participant shall provide Meter Data required pursuant to Rule 32.2.2 to the Market Operator through CMDS. In the event of a localised failure of the CMDS, the Participant shall notify the Market Operator by telephone. When so notified, the Market Operator will provide instructions regarding the submission of Meter Data by facsimile or e-mail.

##### **41.2.3 Settlement Statements and Invoices**

The Market Operator shall provide Preliminary Settlement Statements, Final Settlement Statements and Invoices, pursuant to Parts 7 and 8 by CNSD. If a Participant is unable to receive Preliminary Settlement Statements, Final Settlement Statements or Invoices from the Market Operator by the date identified in the Market Operator Payments Calendar due to a localised failure of CNSD, the Participant shall promptly notify the Market Operator by telephone. When so notified, the Market Operator will provide instructions regarding the communication of Preliminary Settlement Statements, Final Settlement Statements and Invoices by facsimile or e-mail.

#### 41.2.4 Payments to the Market Operator

All payments made to the Market Operator pursuant to Rule 38 shall be through CWTS. If a Participant is unable to transfer funds to or from the Market Operator due to a localised failure of CWTS, the Participant must notify the Market Operator by telephone. When so notified, the Market Operator shall provide instructions regarding the transfer of funds by an alternative wire-transfer system.

#### 41.2.5 Communication Procedures in Emergency Conditions

In the event of a widespread or general failure of CNSD, CMDS or CWTS, the communications arrangements set out in Condition 9.6 of the Grid Code shall be utilised:

### **41.3 Rule Communications**

#### 41.3.1 General

Save for communications dealt with in Rules 41.1 and 41.2, and unless otherwise specified elsewhere in these Rules or the Grid Code, Rule Communications may be delivered by hand, post, facsimile, electronic mail and or telephone.

#### 41.3.2 Rule Communications otherwise than by telephone

- (a) This Rule 41.3.2 applies to Rule Communications to be given through a medium, other than by telephone.
- (b) Any Rule Communication shall be in writing and shall be addressed to the recipient at its address (including electronic mail address) or facsimile number, and in case of a Participant, shall be the address or addresses originally provided in the Admission Application, or modified in accordance with these Rules, and published by the Market Operator from time to time on the Website. Such Rule Communications shall be marked for the attention of the Authorised Representative identified by the Participant in the Admission Application and published by the Market Operator from time to time on the Website (identified by name or title), or to such other address (including electronic mail address) or facsimile number and/or marked for the attention of such other person as the recipient person may from time to time specify in writing in accordance with this Rule 41.3.2 to the person giving the notice.
- (c) Any Rule Communication given in writing shall be delivered by hand or sent by prepaid registered post (airmail if overseas), facsimile or electronic mail. Any Rule Communication by facsimile or electronic mail shall be confirmed by forwarding a copy of the same by pre-paid registered post (airmail if overseas), provided that failure to receive such confirmation shall not

invalidate delivery of the Rule Communication in any of the circumstances specified in paragraph (d).

- (d) Any Rule Communication in writing shall be deemed to have been received:
  - (i) in the case of delivery by hand, when delivered; or
  - (ii) in the case of delivery by prepaid registered post, on the second Business Day following the day of posting or (if sent airmail overseas or from overseas) on the fifth Business Day following the day of posting; or
  - (iii) in the case of facsimile or electronic mail, on receipt by the party giving such Rule Communication of a report showing that the Rule Communication has been delivered, provided that if the facsimile or electronic mail was received on a day other than the Business Day, it shall be deemed to have been received on the next following Business Day.
- (e) A party may specify different addresses (including electronic mail addresses) or facsimile numbers and representatives in accordance for the purpose of receiving different categories of Rule Communications or Rule Communications relating to different matters.

#### 41.3.3 Rule Communications by telephone

- (a) This Rule 41.3.2(a) applies to Rule Communications which are required or expressly permitted by these Rules or the Grid Code to be given by telephone.
- (b) Unless otherwise agreed between the relevant parties, a Rule Communication shall not be validly delivered by telephone if it is communicated as a short message or recorded on a telephone answering device.
- (c) For a Rule Communication made pursuant to this Rule 41.3.2(a), a Participant shall use the telephone numbers specified by the Market Operator or the System Operator, as applicable, on the Website and the System Operator or Market Operator, as applicable, shall use the telephone numbers of a Participant as specified on the Admission Application, or modified in accordance with these Rules.
- (d) Where a Rule Communication is given by telephone:
  - (i) unless otherwise specified these Rules or the Grid Code, the relevant parties shall make a record of the time and content of a Rule Communication made by telephone

immediately after the telephone communication is completed and shall keep and maintain such record; and

- (ii) the Rule Communication shall be treated as having been given at the time at which the telephone communication is completed.

## **PART 10: GOVERNANCE, ADMINISTRATION AND ENFORCEMENT**

### **42. PANELS, COMMITTEES AND COUNSELLOR – CONSTITUTION, APPOINTMENT, POWERS AND DUTIES**

#### **42.1 Constitution of Panels and Appointment of Counsellor**

##### 42.1.1 Stakeholder Advisory Panel

- (a) The Commission shall constitute a Stakeholder Advisory Panel, which shall have the functions, powers and responsibilities specified in these Rules and the Grid Code.
- (b) The members of the Stakeholder Advisory Panel shall be appointed in accordance with Rule 42.2.

##### 42.1.2 Dispute Resolution Counsellor

The Commission shall appoint a Dispute Resolution Counsellor in accordance with Rule 42.3, which shall have the functions, powers and responsibilities specified in these Rules.

##### 42.1.3 Dispute Resolution Panel

- (a) The Commission shall constitute a Dispute Resolution Panel, which shall have the functions, powers and responsibilities specified in these Rules and the Grid Code.
- (b) The members of the Dispute Resolution Panel shall be appointed in accordance with Rule 42.3.

##### 42.1.4 Market Surveillance Panel

- (a) The Commission shall constitute a Market Surveillance Panel, which shall comprise 3 members and shall have the functions, powers and responsibilities specified in these Rules.
- (b) The members of the Market Surveillance Panel shall be appointed in accordance with Rule 42.3.

##### 42.1.5 Other Panels and Committees

The Commission may from time to time create one or more other panels or committees as it may determine, to supplement the Panels constituted pursuant to this Rule 42, and such panels or committees shall have such powers and responsibilities as the Commission may specify, provided that the powers and responsibilities of such panels or committees shall not conflict with the functions, powers and responsibilities of the Panels and Committees constituted pursuant to this Rule 42.

## **42.2 Stakeholder Advisory Panel**

### **42.2.1 Functions relating to the Market Rules, Grid Code And the Market Operator Administered Market**

- (a) The duties of the Stakeholder Advisory Panel in respect of these Rules, the Grid Code and the Market Operator Administered Market shall include the following:
  - (i) reviewing these Rules and the Grid Code and proposing and or approving amendments thereto on an on-going basis; and
  - (ii) advising the Commission on such specific technical issues relating to the operation of the Market Operator Administered Market, as may be referred to the Stakeholder Advisory Panel by the Commission.
- (b) In exercising its powers and performance of its duties, the Stakeholder Advisory Panel shall comply with all applicable provisions of these Rules.

### **42.2.2 Number of Members and Quorum**

- (a) The Initial Stakeholder Advisory Panel shall consist of 9 members, while the Final Stakeholder Advisory Panel shall consist of 11 members.
- (b) The quorum for the transaction of business at any meeting of the Stakeholder Advisory Panel shall be a majority of such persons as are members at the time of the meeting, other than the member specified in paragraph (viii) of Rule 42.2.5.
- (c) Where there is a vacancy or vacancies in the Stakeholder Advisory Panel, the remaining members may exercise all the powers of the Stakeholder Advisory Panel, so long as there remains in office, sufficient number of members to form a quorum in accordance with paragraph (b).

### **42.2.3 Qualification**

- (a) Members of the Stakeholder Advisory Panel shall:
- (b) have a level of technical or commercial knowledge and expertise in the operation of power systems and electricity markets that is acceptable to the Commission;
- (c) in the case of members representing a class of Participants or the TSP and the System Operator and the Market Operator, be a member, officer, employee, or agent of such class of Participants, the TSP, the System Operator and the Market Operator, respectively, provided that:



- (i) members representing a class of Participants shall not be a member, officer, employee or agent of a person in another class of Participants, or of the TSP or the System Operator or the Market Operator or of an Affiliate of such person;
- (ii) members representing the TSP or the System Operator or the Market Operator may be members, officers, employees or agents of each other for such periods as the same company holds both a Transmission Licence and a System Operation Licence;
- (d) in the case of members representing Consumers, be a duly authorised representative of registered bodies of Consumers;
- (e) in the case of a member appointed as independent representative by the Commission, not be a member, officer, employee or agent of any other category specified in the composition of the Panel; and
- (f) not have served for up to two terms as a member of the Stakeholder Advisory Panel provided that the period spent by any member appointed to replace a predecessor member whose term had less than two (2) years to run shall not be counted as part of such terms,.

#### 42.2.4 Disqualification

The following persons are disqualified from being a member of the Stakeholder Advisory Panel:

- (a) a person who is less than 18 years or more than 70 years of age;
- (b) a person who is of unsound mind and has been so found by a court of competent jurisdiction in Nigeria or elsewhere;
- (c) a person who is not an individual;
- (d) an undischarged bankrupt;
- (e) a person who is an employee of any Government in Nigeria, provided that such disqualification shall not apply to employees of the TSP, or the System Operator or Market Operator, or a Generator or Distributor owned or controlled by the Government of Nigeria; and
- (f) a person who is a member of the Commission.

#### 42.2.5 Composition

- (a) The Initial Stakeholder Advisory Panel shall have the following members:

- (i) one (1) person representing Successor Generators;
  - (ii) one (1) person representing Independent Power Producers;
  - (iii) one (1) person representing the TSP;
  - (iv) two (2) persons representing Distributors, provided that upon the initiation of the privatisation process, at least one of these representatives shall represent private Distributors;
  - (v) one (1) person representing the Special Trader provided that the term of this representative will end on the initiation of the Medium Term Market;
  - (vi) one (1) person representing the System Operator, and one (1) person representing the Market Operator, both of whom shall have no voting rights; and
  - (vii) one (1) independent representative named by the Commission.
- (b) The Final Stakeholder Advisory Panel, shall upon its full composition, comprise of:
- (i) two (2) persons representing Generators;
  - (ii) one (1) person representing the TSP;
  - (iii) one (1) person representing the System Operator, and one (1) person representing the Market Operator, both of whom shall have no voting rights;
  - (iv) two (2) persons representing Distributors;
  - (v) one (1) person representing Eligible Customers;
  - (vi) one (1) person representing the Traders;
  - (vii) one (1) person representing Consumers in Nigeria; and
  - (viii) one (1) independent person to be nominated by the Commission.

#### 42.2.6 First Members of the Initial Stakeholder Advisory Panel

- (a) The Market Operator shall determine the members of the Initial Stakeholder Advisory Panel in consultation with Participants, provided that each class of Participants shall present lists of proposed representatives for their respective classes of Participants;

- (b) Paragraph (a) does not apply in the case of the independent member to be nominated the Commission.

#### 42.2.7 Members of the Final Stakeholder Advisory Panel

- (a) The Commission shall in its discretion, but subject to paragraph (d), appoint the first members of the Final Stakeholder Advisory Panel, which shall comprise the members specified in Rule 42.2.5, provided that members other than representatives of the System Operator and the Market Operator or the independent member nominated the Commission shall be selected from the list(s) or further list(s) provided in accordance with paragraph (b) or (c).

- (b) The members of each class of Participants, acting through a registered organisation representing the class of Participants shall furnish to the Commission, a list of one or more qualified nominees, together with the signed declaration referred to paragraph (c) and the Commission shall select the initial members of the Stakeholder Advisory Panel, other than the members named by the Commission or members representing the System Operator and the Market Operator from such lists, provided that:

- (i) the representative of each class of Participants shall be selected from the list furnished by the registered organisation;

- (ii) the members of each class of Participants shall organise themselves as a registered body under Applicable Law and any nomination by an unregistered organisation of such members shall not be valid; and

- (iii) at the request of the Commission, the organisation representing the affected class of persons shall provide the Commission with one (1) or more further lists of qualified nominee(s), together with the signed declarations referred to in paragraph (c).

- (c) Each person nominated in a list referred to in paragraph (b), and each person nominated for appointment as independent representative or representative of the System Operator or the Market Operator shall be provide to the Commission, a declaration in the form set forth in Appendix 4, signed by the nominee.

- (d) No person, other than the TSP during the period in which it holds both a Transmission and a system operation licence, may alone or in combination with its Affiliates have more than one (1) member, officer, employee or agent as a member of the Final Stakeholder Advisory Panel, provided, for the avoidance of doubt, that the person holding both a Transmission and a system

operation licence shall be entitled to nominate representatives of the TSP, and of the System Operator and the Market Operator.

- (e) The Commission shall select each initial member of the Final Stakeholder Advisory Panel to hold office for such fixed period, not exceeding (3) years, as may be determined by the Commission. The selection shall be made in accordance with such procedure and terms as shall be determined by the Commission.

#### 42.2.8 Vacancies in the Stakeholder Advisory Panel

- (a) In the event that a vacancy occurs in the Stakeholder Advisory Panel at any time after the appointment of first members under Rule 42.2.6, the Commission shall appoint persons to fill the vacancies in accordance with the following procedure:
  - (i) if the vacancy occurs in relation to members other than the independent representative nominated by the Commission, the organizations representing the affected class of persons, or the TSP, the System Operator or the Market Operator, as the case may be, shall promptly provide the Commission with a list of one (1) or more qualified nominees, together with the signed declaration(s) referred to in Rule 42.2.6(c) and if so requested by the Commission, shall furnish such further list or lists and signed declaration(s) as may be required. The Commission shall promptly appoint, at its discretion, a person nominated from such list or further list(s) to fill the vacancy; and
  - (ii) if the vacancy occurs in relation to the independent member of the Stakeholder Advisory Panel, the Commission shall appoint another person to fill the vacancy in accordance with such procedures as shall be determined by the Commission, provided that such procedures shall require any potential appointee to provide the signed declaration referred to in Rule 42.2.6(c).
- (b) Any appointment made pursuant to paragraph (a) shall be subject to the limitation specified in Rule 42.2.6(d)
- (c) Any person appointed to fill a vacancy in the Stakeholder Advisory Panel pursuant to paragraph (a) shall, subject to re-appointment, only serve on the panel for the unexpired term of the member that he replaces.

#### 42.2.9 Chairperson of the Stakeholder Advisory Panel

- (a) The chairperson of the Stakeholder Advisory Panel shall be elected by the members from their number in rotation.

- (b) No person shall be a chairperson for a period exceeding six months.

#### 42.2.10 Term of Membership and Reappointment

- (a) Subject to Rules 42.2.7(c), the term of members of the Stakeholder Advisory Panel other than the initial members appointed pursuant to Rule 42.2.6, the term of each member of the Stakeholder Advisory Panel shall be three (3) years.
- (b) Subject to Rule 42.2.4, a member of the Stakeholder Advisory Panel, whose term has expired, shall be eligible for reappointment by the Commission for a further term not exceeding three years.

#### 42.2.11 Cessation of Office

A member of the Stakeholder Advisory Panel shall cease to hold office whenever he or she:

- (a) dies or resigns;
- (b) is removed in accordance with Rule 42.2.13;
- (c) no longer meets the applicable qualification requirements contained in these Rules;
- (d) becomes disqualified pursuant to Rule 42.2.4; or
- (e) attains the age of 70 years.

#### 42.2.12 Voting

At any meeting of the Stakeholder Advisory Panel, every question shall be decided by a majority of the votes cast on the question. In case of an equality of votes, the chairperson shall be entitled to a second or casting vote, provided that the member appointed as independent representative by the Commission shall not have any vote and shall attend such meetings as an observer.

#### 42.2.13 Additional Matters

- (a) The Commission may from time to time issue regulations prescribing:
  - (i) conflict of interest guidelines or codes of conduct to be observed by members of the Stakeholder Advisory Panel;
  - (ii) the terms of any confidentiality agreement to be entered into by members of the Stakeholder Advisory Panel;

- (iii) the terms and conditions upon which the Stakeholder Advisory Panel may employ external consulting assistance or expert advisory services;
  - (iv) the time and place of, and the procedures to be followed at, meetings of the Stakeholder Advisory Panel; and
  - (v) the manner in which the activities of the Stakeholder Advisory Panel may be audited.
- (b) For the avoidance of doubt, the matters listed above, shall not to prejudicially affect any functions, powers and responsibilities conferred by these Rules on the Stakeholder Advisory Panel.

### **42.3 Dispute Resolution Counsellor and Dispute Resolution Panel**

#### 42.3.1 The Dispute Resolution Counsellor

- (a) The Commission shall appoint a dispute resolution counsellor who shall have the following powers and duties:
- (i) administering and ensuring effective operation of the Dispute resolution provisions of these Rules and the Grid Code;
  - (ii) specifying the format for Notices of Dispute and the Response thereto;
  - (iii) nomination of members of the Dispute Resolution Panel;
  - (iv) assigning members of the Dispute Resolution Panel to arbitrate or otherwise resolve Disputes in accordance with Rule 43; and
  - (v) facilitating the resolution of Disputes governed by the dispute resolution provisions of these Rules and the Grid Code.
- (b) In exercising the powers and performing the duties specified in paragraph (a), the Dispute Resolution Counsellor shall comply with all applicable provisions of these Rules and the Grid Code.

#### 42.3.2 Qualification

- (a) No person shall be appointed by the Commission as the Dispute Resolution Counsellor unless that person:
- (i) has a degree in law from a recognised university, has held a certificate to practice as an advocate for a period of not less than seven years, and holds a current certificate to practice law in Nigeria;

- (ii) has a detailed understanding and experience of dispute resolution practice and procedures that do not involve civil litigation before the courts, such as mediation and arbitration;
  - (iii) has an understanding of the Nigerian electricity industry or the capacity to quickly acquire such an understanding;
  - (iv) or his spouse or relative is not a director, officer, employee or agent of:
    - (1) the TSP or an Affiliate of the TSP;
    - (2) a Participant or an Affiliate of a Participant; or
    - (3) a Licensee or an Affiliate of a Licensee;
  - (v) or his spouse or relative is have no direct or indirect legal or beneficial interest in, or commercial affiliation with:
    - (1) the TSP or an Affiliate of the TSP;
    - (2) a Participant or an Affiliate of a Participant; or
    - (3) a Licensee or an Affiliate of a Licensee; and
  - (vi) has provided to the Commission a signed declaration in the in the form set forth in Appendix 4 hereto.
- (b) For the purposes of Rules 42.3.2, 42.3.10and 42.4.5:
- (i) a person has a commercial affiliation with another person if the first person supplies goods or services to or receives goods or services from the other person, other than goods or services received in the ordinary course of being a customer of the TSP, a Distributor, a Trader or an Affiliate of a Transmission Licensee, Distributor or Trader;
  - (ii) an interest held as the beneficiary of a trust that does not permit the beneficiary to have any knowledge of the holdings of the trust, is not a legal or beneficial interest;
  - (iii) an interest in a mutual fund is not a legal or beneficial interest unless the mutual fund is operated as an investment club where:
    - (1) its shares or units are held by not more than 50 persons and its securities have never been offered to the public;

- (2) it does not pay or give any remuneration for investment advice or in respect of trades in securities, except normal brokerage fees; and
- (3) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operation;
- (iv) “spouse” includes a person with whom another person is living in a conjugal relationship outside of marriage; and
- (v) “relative” has the meaning assigned to that term in the Act.

#### 42.3.3 Disqualification

The following persons are disqualified from being members of the Dispute Resolution Panel:

- (a) a person who is less than 18 years or is of more than 70 years of age;
- (b) a person who is of unsound mind and has been so found by a court of competent jurisdiction in Nigeria or elsewhere;
- (c) a person who is not a natural person;
- (d) an undischarged bankrupt;
- (e) a person who is an employee of the Government of Nigeria; or
- (f) a person who is or has been a member of the Commission.

#### 42.3.4 Term of Appointment and Reappointment

The Dispute Resolution Counsellor shall be appointed for a fixed term of up to ten years and shall be eligible for re-appointment for one additional fixed term of up to ten years.

#### 42.3.5 Removal from Office

The Commission may remove the Dispute Resolution Counsellor from office if the Dispute Resolution Counsellor:

- (a) fails to act in accordance with these Rules;
- (b) is convicted of a serious criminal offence; or
- (c) has engaged in conduct involving serious moral turpitude.

#### 42.3.6 Cessation of Office



The Dispute Resolution Counsellor shall cease to hold office when he or she:

- (a) dies or resigns;
- (b) is removed from office in accordance with Rule 42.3.5;
- (c) no longer meets the qualification requirements set forth in Rule 42.3.2;
- (d) becomes disqualified in accordance with Rule 42.3.3; or
- (e) attains the age of 70 years.

#### 42.3.7 The Dispute Resolution Panel

(a) The Commission shall constitute the Dispute Resolution Panel which shall be responsible for arbitrating or otherwise resolving Disputes between:

- (i) The System Operator or the Market Operator or a transmission licensee and any Participant;
- (ii) The Market Operator and any person who has been denied certification by the Market Operator as a Participant; and
- (iii) Participants;

to the extent that such Disputes are, in accordance with the provisions of these Rules or the Grid Code, governed by Rule 43.

(b) Each member of the Dispute Resolution Panel shall act impartially and shall not favour any party to a Dispute directly or indirectly.

#### 42.3.8 Membership of the Dispute Resolution Panel

(a) The Dispute Resolution Panel will consist initially of at least three (3) qualified members, and upon its full composition at the initiation of the Medium Term Market, shall consist of at least ten (10) qualified persons, each of whom shall be appointed by the Commission in accordance with Rule 42.3.9.

(b) The members of the Dispute Resolution Panel appointed pursuant to paragraph (a) above shall, subject to paragraphs (b) and (c) and Rules 42.3.12 and 42.3.13, serve for a term of five years.

(c) A member of the Dispute Resolution Panel whose term has expired may be re-appointed by the Commission for a further term of five years, provided that:

- (i) no person may serve on the Dispute Resolution Panel for more than two terms;
- (ii) where the term of a member of the Dispute Resolution Panel expires while the member is acting as an Arbitrator in respect of a Dispute then, notwithstanding paragraph (i) of this proviso, the member shall automatically be re-appointed for such time as may be necessary to permit the member to complete the arbitration or other dispute resolution process; and
- (iii) the term of any member re-appointed pursuant to paragraph (b) of this proviso shall not be counted for purposes of determining the member's eligibility for reappointment under paragraph (a) of this proviso.

#### 42.3.9 Appointment of Members of the Dispute Resolution Panel

- (a) The Dispute Resolution Counsellor shall, upon a request in that regard by the Commission, provide the Commission with a list of persons qualified to be appointed to the Dispute Resolution Panel provided that the number of such nominees shall be equal to the number of members specified under Rule 42.3.8 in respect of the Dispute Resolution Panel at the time the request is made.
- (b) The Commission shall work with the Dispute Resolution Counsellor to develop the criteria and processes for the selection of members of the Dispute Resolution Panel and may consult with the Dispute Resolution Counsellor from time to time in that regard.
- (c) The Commission shall appoint the persons nominated in the list referred to in paragraph (a) as the initial members of the Dispute Resolution Panel unless, in the case of any such person the Commission determines that the person:
  - (i) does not meet the criteria established pursuant to paragraph (b) or the qualifications set forth in Rule 42.3.10; or
  - (ii) is disqualified from membership of the Dispute Resolution Panel under Rule 42.3.11.
- (d) The Commission shall request that the Dispute Resolution Counsellor to replace any nominee included on the list referred to in paragraph (a), which the Commission does not appoint to the Dispute Resolution Panel in accordance with paragraph (c) and the Commission shall, subject to paragraph (c) appoint such alternative nominee to the Dispute Resolution Panel.

- (e) The procedure specified in paragraph (d) shall be repeated until the Dispute Resolution Panel has the full complement of members specified in Rule 42.3.8.
- (f) The procedure set forth in this Rule (iii) shall be followed by the Commission in respect of the filling of vacancies in the Dispute Resolution Panel.

#### 42.3.10 Qualification

No person shall be appointed by the Commission as a member of the Dispute Resolution Panel unless that person:

- (a) has a detailed understanding and experience of dispute resolution practice and procedures that do not involve civil litigation before the courts, such as mediation and arbitration;
- (b) has an understanding of the Nigerian electricity industry or the capacity to quickly acquire such an understanding;
- (c) is not, and does not have a spouse or relative that is, a director, officer, employee or agent of:
  - (i) the TSP or an Affiliate of the TSP;
  - (ii) a Participant or an Affiliate of a Participant; or
  - (iii) a Licensee or an Affiliate of a Licensee;
- (d) or his spouse or relative has no direct or indirect legal or beneficial interest in, or commercial affiliation of the nature specified in Rule 42.3.2(b) with:
  - (i) the TSP or an Affiliate of the TSP;
  - (ii) a Participant or an Affiliate of a Participant; or
  - (iii) a Licensee or an Affiliate of a Licensee; and
- (e) has provided to the Commission a signed declaration in the in the form set forth in Appendix 4 hereto.

#### 42.3.11 Disqualification

The following persons are disqualified from being members of the Dispute Resolution Panel:

- (a) a person who is less than 18 years or more than 70 years of age;
- (b) a person who is of unsound mind and has been so found by a court of competent jurisdiction in Nigeria or elsewhere;
- (c) a person who is not an individual;

- (d) an undischarged bankrupt;
- (e) a person who is an employee of the Government of Nigeria;
- (f) a person who is an employee of any Participant or Licensee; or
- (g) a person who is or has at any time been a member of the Commission.

#### 42.3.12 Removal of members of Dispute Resolution Panel

The Commission may remove any member of the Dispute Resolution Panel from office if such member:

- (a) is convicted of a serious criminal offence;
- (b) has engaged in conduct involving serious moral turpitude; or
- (c) is guilty of conduct which prejudicially affects, or is perceived as likely to affect, his impartial status as a member of a Dispute Resolution Panel.

#### 42.3.13 When member of Dispute Resolution Panel ceases to hold office

A member of the Dispute Resolution Panel ceases to hold office when he or she:

- (a) dies or resigns;
- (b) is removed by the Commission pursuant to Rule 42.3.12;
- (c) no longer meets the qualification requirements set forth in Rule 42.3.10 or the criteria established pursuant to Rule (iii)(b); or
- (d) becomes disqualified in accordance with Rule 42.3.11.

#### 42.3.14 Procedures of the Dispute Resolution Panel

The members of the Dispute Resolution Panel shall observe such procedures and exercise such powers as are set forth or referred to in these Rules in resolving Disputes.

#### 42.3.15 Power to impose penalties and make orders

Each member of the Dispute Resolution Panel may, in arbitrating or otherwise resolving a Dispute impose such penalties, make such other order or issues such directives as are specified in these Rules or the Grid Code.

#### 42.3.16 Use of System Operator and the Market Operator personnel

Notwithstanding any provision of these Rules, no member of the Dispute Resolution Panel may, during the course of the arbitration or other resolution of a dispute:

- (a) seek the assistance or use the services of any employee, member or officer of the System Operator or the Market Operator or the TSP or any other Participant without the express consent of the parties to the Dispute; or
- (b) request that an employee, member or officer of the System Operator or the Market Operator or the TSP or any other Participant to provide to him or her any documentation or information except on notice to all parties or for the purpose of securing evidence in a Dispute.

#### 42.3.17 Remuneration of members of Dispute Resolution Panel

The members of the Dispute Resolution Panel shall be entitled to a fee for any arbitration or dispute resolution procedure conducted by them. The fee shall be payable at the rates specified by the Commission from time to time.

## 42.4 Market Surveillance Panel

### 42.4.1 Duties

- (a) The Market Surveillance Panel shall investigate any activity related to the Market Operator Administered Market or the conduct of a Participant and shall report thereon to the Commission in the manner specified in these Rules.
- (b) Without limiting the generality of paragraph (a), the Market Surveillance Panel shall:
  - (i) monitor behaviour of Participants, and notify acts such as abuse of costs and abuse or possible abuse of market power;
  - (ii) monitor the efficiency of these Rules and market design, to identify and correct flaws as early as possible, and to propose mechanisms for solving or mitigating any problem in these Rules or its implementation;
  - (iii) assist the Commission in interpretation and implementation of these Rules;
  - (iv) review proposals on amendment of these Rules;
  - (v) monitor efficiency and impartiality of the System Operator and the Market Operator; and
  - (vi) monitor development of competition and market efficiency.

#### 42.4.2 Reporting

- (a) Upon completion of any investigation, the Market Surveillance Panel shall submit reports to the Commission and such other persons as are specified in Rule 44.
- (b) Subject to paragraph (c), all reports of the Market Surveillance Panel prepared pursuant to paragraph (a) shall be made on a confidential basis to the Commission. A report of the Market Surveillance Panel made upon completion of an investigation respecting the conduct of a Participant shall also be provided to the Participant and the Market Operator in accordance with these Rules.
- (c) The Commission shall make available for public inspection during its normal business hours at its offices, a copy of each report prepared by the Market Surveillance Panel pursuant to paragraph (a) above, subject to editing any portions thereof to remove any confidential or commercially sensitive information pertaining to any person or Participant.

#### 42.4.3 Number of members, quorum and voting

- (a) The Market Surveillance Panel shall consist of three (3) qualified persons.
- (b) The quorum for the transaction of business at any meeting of the Market Surveillance Panel shall be two.
- (c) At all meetings of the Market Surveillance Panel every question shall be decided by a majority of the votes cast on the question. In the case of an equality of votes, the chairperson of the Market Surveillance Panel will be entitled to a second or casting vote.
- (d) Where there is a vacancy or vacancies in the Market Surveillance Panel, the remaining members may exercise all the powers of the Market Surveillance Panel so long as a quorum of the Market Surveillance Panel remains in office.

#### 42.4.4 Term

- (a) Members of the Market Surveillance Panel shall, subject to Rules 42.4.7 and 42.4.8, be appointed for an initial term of five years.
- (b) A member of the Market Surveillance Panel whose term has expired may be re-appointed by the Commission for a further term of five years, provided that no person may serve on the Market Surveillance Panel for more than two terms.

#### 42.4.5 Qualification

No person shall be appointed by the Commission as a member of the Dispute Resolution Panel unless that person:

- (a) has recognized expertise in the operation of competitive electricity markets;
- (b) or his not have or his spouse or relative is not a director, officer, employee or agent of:
  - (i) the TSP or an affiliate of the TSP;
  - (ii) a Participant or an Affiliate of a Participant; or
  - (iii) a Licensee or an Affiliate of a Licensee;
- (c) or his spouse or relative has no direct or indirect legal or beneficial interest in, or commercial affiliation, of the nature specified in Rule 42.3.2(b) with:
  - (i) the TSP or an Affiliate of the TSP;
  - (ii) a Participant or an Affiliate of a Participant; or
  - (iii) a Licensee or an Affiliate of a Licensee; and
- (d) has provided to the Commission, a signed declaration in the in the form set forth in Appendix 4 hereto.

#### 42.4.6 Disqualification

The following persons are disqualified from being members of the Market Surveillance Panel:

- (a) a person who is less than 18 years or more than 70 years of age;
- (b) a person who is of unsound mind and has been so found by a court of competent jurisdiction in Nigeria or elsewhere;
- (c) a person who is not a natural person;
- (d) an undischarged bankrupt; or
- (e) an employee of the Government of Nigeria; or
- (f) a member of the Commission.

#### 42.4.7 Removal of members of Market Surveillance Panel

The Commission may remove any member of the Market Surveillance Panel from office at any time, with or without cause, as the Commission may determine appropriate.

#### 42.4.8 Cessation of Office

A member of the Market Surveillance Panel shall cease to hold office when he or she:

- (a) dies or resigns;
- (b) is removed in accordance with section 42.4.7;
- (c) no longer meets the conditions for qualification for membership stipulated in Rule 42.4.5;
- (d) becomes disqualified for membership under Rule 42.4.6; or
- (e) attains the age of 70 years.

#### 42.4.9 Chairperson

The Commission shall from time to time appoint one of the members of the Market Surveillance Panel to be the Chairperson of the Panel.

#### 42.4.10 Procedures of the Market Surveillance Panel

In the conduct of its activities, the Market Surveillance Panel shall observe the procedures set forth in these Rules.

#### 42.4.11 Consultants

The Market Surveillance Panel may, with the permission of the Commission, engage consultants with expertise in collection and analyses of information pertaining to market behaviour of the Participants and the System Operator and the Market Operator.

### **43. DISPUTE RESOLUTION**

#### **43.1 Interpretation and General Procedural Provisions**

- 43.1.1 The provisions of this Rule 43 shall be construed liberally to secure the most expeditious, just and least expensive determination on its merits, of every proceeding conducted hereunder.
- 43.1.2 Where no procedures are provided for in this Rule 43, an Arbitrator may do whatever is reasonably necessary and permitted by Applicable Law to enable the effective adjudication of any matter before the Arbitrator.
- 43.1.3 An Arbitrator may, if special circumstances or interest of justice require, or with the consent of the parties to the Dispute, dispense with, supplement or vary the application of all or any part of the provisions of Rule 43.6, including any stipulation as to prescribed time periods, in the resolution or the attempted resolution of a Dispute pursuant to this Rule 43.
- 43.1.4 The Counsellor shall from time to time Publish and notify the Participants of the address for service of the Counsellor.



43.1.5 Unless otherwise specified in this Rule 43 or directed by the Counsellor or an Arbitrator, only one copy of any document is required to be served or filed under this Rule 43.

## **43.2 Application**

43.2.1 Subject to Rules 43.2.3 and 44.3.1, the Dispute resolution procedure provided for in this Rule 43 shall apply to:

- (a) any dispute between the System Operator or the Market Operator or the TSP and any Participant which arises under, in connection, or in relation to these Rules or the Grid Code, including a dispute relating to any alleged violation or breach thereof by the System Operator and the Market Operator or the TSP or a Participant, whether or not specifically identified in these Rules as a dispute to which this Rule 43 applies;
- (b) disputes relating to an order of denial by the Market Operator of authorisation to any person to participate in the Market Operator Administered Market;
- (c) a dispute between the System Operator or the Market Operator or the TSP and a Participant specified in these Rules or the Grid Code as being subject to resolution in accordance with or pursuant to these Rules or otherwise agreed by the System Operator or the Market Operator or the TSP and a Participant to be resolved pursuant to this Rule 43;
- (d) any dispute between the System Operator or the TSP and a Participant, in connection with, in relation to or arising from the terms of any agreement, including an agreement between the TSP and such Participant for connection of the Facilities of such Participant to System Operator Controlled Grid, unless the applicable agreement or contract or the Licence of a party to the dispute either provides for an alternative dispute resolution mechanism or provides that the dispute resolution regime provided in this Rule 43 shall not be applicable;
- (e) a dispute between the System Operator and the Market Operator and a Participant or between Participants regarding the interpretation of these Rules or the Grid Code; and
- (f) unless Rule 43.2.2 applies, any other disputes between Participants where all of the Participants which are parties to the dispute consent in writing to the application thereof.

43.2.2 A Participant that, pursuant to Rule 43.2.1(f), has consented to the application of the Dispute resolution procedure provided for in this Rule 43 may, prior to the date on which a party to the Dispute issues a Notice of Dispute pursuant to Rule 43.5.1, withdraw its consent in the event that a Respondent to a counterclaim or crossclaim, other than such Participant, objects to the application of such procedure.

43.2.3 The dispute resolution procedure provided for in this Rule 43 shall not apply to the following:

- (a) any dispute relating to, connected with or arising out of an application by any person to amend a Rule or Condition, which application shall be governed by Rule 45, or a Dispute relating to validity of an Amendment to these Rules or the Grid Code or to any market surveillance or exercise of, or failure to exercise, a power under Rule 44;
- (b) disputes relating to a proposal to amend any provision of these Rules;
- (c) disputes between the Market Operator and a Participant relating to the amount chargeable by the System Operator and the Market Operator as System Operation and Market Administration Charge, unless the dispute relates to or is connected with the manner of calculation of the System Operation and Market Administration Charge payable by the Participant in any given case;
- (d) an award of an Arbitrator made pursuant to this Rule 43;
- (e) any dispute with respect to which these Rules or the Grid Code, other than this Rule 43, provide for an alternative dispute resolution mechanism; and
- (f) any dispute in respect to which these Rules or the Grid Code, provides that the dispute resolution procedure provided for in this Rule 43 shall not apply.

43.2.4 Any award made by an Arbitrator pursuant to this Rule 43 shall:

- (a) be final and binding on the parties;
- (b) be enforceable as an award in accordance with the provision of the Arbitration and Conciliation Act, Cap. 19, LFN 1990; and
- (c) if not complied with, constitute an Event of Default for the purposes of Rule 46.3.1(o)46.3.1(b) and notwithstanding anything in these Rules to the contrary, any order passed by the Market Operator pursuant to Rule 46.3.10 shall be effective immediately.

43.2.5 Without limiting the generality of the foregoing, where any Dispute arises, the parties concerned shall comply with the procedures set forth in this Rule 43 and shall not make such Dispute a subject matter of any civil or other proceeding.

### **43.3 Continuing Obligations and Stay of Orders**

- 43.3.1 Subject to Rule 43.3.2, where a Dispute involves the payment or recovery of monetary amounts due under these Rules or the Grid Code, other than payment of a financial penalty, the amount shall be due and payable at the time specified for payment under these Rules or the Grid Code, notwithstanding the initiation of a dispute resolution procedure whether under this Rule 43 or otherwise.
- 43.3.2 Where a Dispute in respect of which the dispute resolution process under this Rule 43 has been initiated involves the implementation of an order made or a direction given by the Market Operator pursuant to Rule 46.2.7, 46.3.10, 46.4.5, 46.5.2 or 46.5.9, then, subject to Rule 43.2.4(c), the obligation of the Participant to comply with the order or direction, or to discharge the financial penalty, as is applicable, shall be stayed until 15 days after the appointment of an Arbitrator, and thereafter for such period, if any, as may be determined by the Arbitrator.
- 43.3.3 Where a Dispute, in respect of which the dispute resolution process under this Rule 43 has been initiated, involves payment of a financial penalty imposed by the Market Operator on a Participant, the obligation to pay that financial penalty shall remain stayed until delivery of an award by the Arbitrator.

### **43.4 Negotiation**

- 43.4.1 Subject to Rule 43.4.3, the Parties to a Dispute shall, within the time specified in Rule 43.4.3, make bona fide efforts to negotiate and resolve any Dispute between them prior to filing a Notice of Dispute under Rule 43.5.1. Each person who is a party to a Dispute shall, to this end, designate an individual of sufficiently senior status, in its organisation with authority to negotiate the Dispute and to participate in such negotiations.
- 43.4.2 Parties to a Dispute shall commence the negotiation referred to in Rule 43.4.1:
- (a) where the Dispute involves an order, direction, instruction or other decision of the System Operator and the Market Operator, within 15 Business Days of the date of receipt of the order, direction, instruction or decision; and
  - (b) in all other cases, within 30 Business Days of the later of:
    - (i) the date on which the event that is the subject-matter of the Dispute occurred; or
    - (ii) the date on which the party initiating the negotiation became aware or, with the exercise of due diligence, ought to have become aware, of the event that is the subject-matter of the Dispute,

43.4.3 Rule 43.4.1 shall not apply to a Dispute initiated pursuant to Rule 36.3.5 with respect to a Preliminary Settlement Statement. In respect of such Dispute, the parties to the Dispute shall dispense with the negotiations referred to in Rule 43.4.1 and proceedings may be initiated by any party to the Dispute by filing a Notice of Dispute in accordance with the procedures set forth in Rule 43.5.1 and time set forth in Rule 43.5.2.

#### **43.5 Notice of Dispute and Response**

43.5.1 If the parties to a Dispute cannot resolve the Dispute within 20 Business Days after commencing negotiations, or such other period as the parties may agree pursuant to Rule 43.4.1, or where the Dispute concerns a matter referred to in Rule 43.4.3, either party to the Dispute (the “Applicant”) may:

- (a) immediately notify the other parties to the Dispute that negotiations are terminated;
- (b) within the time specified in Rule 43.5.2, serve a written notice of the Dispute (the “Notice of Dispute”) on any Respondent; and
- (c) file with the Counsellor a copy of the Notice of Dispute, together with proof of service of the Notice of Dispute on each Respondent.

43.5.2 A Notice of Dispute shall be filed within 20 Business Days of the date of issue or receipt, as the case may be, of the notice of termination of negotiation referred to in Rule 43.5.1 to which the Dispute relates, or in case of Dispute referred to in Rule 43.4.3 of the date upon which the Final Settlement Statement is published by the Market Operator.

43.5.3 The Notice of Dispute shall be in such form as established by the Counsellor, shall be signed by a person with authority to bind the Applicant and shall specify, in reasonable detail and to the best of the Applicant’s knowledge:

- (a) the nature of and basis for the complaint;
- (b) the Rules or Conditions in issue;
- (c) the parties to the Dispute and the name of any person having knowledge of or who may be directly affected by the Dispute;
- (d) a concise summary of the facts underlying the Dispute;
- (e) the relief sought and a summary of the grounds for such relief; and
- (f) any documentation upon which the Applicant intends to rely in support of the complaint.

- 43.5.4 The Notice of Dispute shall be accompanied by a summary of the Notice of Dispute for publication in accordance with Rule 43.8.2(a).
- 43.5.5 A Respondent shall, within 10 Business Days of service of a Notice of Dispute, serve a written Response (the “Response”) on the Applicant and on any Respondent to a crossclaim identified in the Response, and shall file with the Counsellor, a copy of the Response, together with proof of service of the Response on the Applicant and on any such Respondent.
- 43.5.6 The Response shall be in such form as is established by the Counsellor, and shall be signed by a person that has authority to bind the Respondent and shall specify, in reasonable detail and to the best of the Respondent’s knowledge:
- (a) the information referred to in Rule 43.5.3, to the extent that the Respondent disagrees with the information relating thereto set forth in the Notice of Dispute;
  - (b) a concise Response to the allegations made against the Respondent in the Notice of Dispute;
  - (c) where the Response includes a counterclaim or crossclaim against the Applicant or any other Respondent, the relief sought, a summary of the grounds for such relief and the information referred to in Rule 43.5.3 in respect of such counterclaim or crossclaim; and
  - (d) any documents upon which the Respondent intends to rely in support of its Response, including any counterclaim or crossclaim, which was not identified by the Applicant.
- 43.5.7 The Response shall be accompanied by a summary of the Response for publication in accordance with Rule 43.8.2(a).
- 43.5.8 Subject to Rules 43.5.9 and 43.5.10, the Counsellor shall reject and shall not take any further action on:
- (a) Any Notice of Dispute which fails to comply with Rule 43.5.3, or any Response which fails to comply with the provision of Rule 43.5.6, provided that such rejection shall not prejudice the right of the Applicant or the Respondent to file a fresh Notice of Dispute or a Response, as the case may be, in accordance with this Rule 43 within such time as the Counsellor may allow;
  - (b) with respect to a Notice of Dispute in respect of which the negotiation referred to in Rule 43.4.1 was not commenced within the time specified in that regard in Rule 43.4.2.

- 43.5.9 Where the Counsellor rejects a Notice of Dispute or a Response pursuant to Rule 43.5.8, the Counsellor shall promptly notify the Applicant or Respondent who filed the Notice of Dispute or Response, as the case may be, and shall provide written reasons for the rejection.
- 43.5.10 The Counsellor may accept a Notice of Dispute which fails to comply with Rule 43.5.3 or a Response which fails to comply with Rule 43.5.6 if all parties to the Dispute consent to the acceptance.
- 43.5.11 Where the Counsellor rejects a Response pursuant to Rule 43.5.8 the Counsellor shall promptly refer the dispute to Arbitrators pursuant to Rule 43.6.1.
- 43.5.12 On receiving a valid Notice of Dispute and Response, the Counsellor shall notify the parties of such fact and request them to appoint Arbitrators pursuant to Rule 43.6.

## **43.6 Arbitration**

- 43.6.1 Each Dispute shall be referred to an Arbitration Tribunal consisting of three Arbitrators, or where the parties agree, to one Arbitrator.
- 43.6.2 In the event that the parties have not agreed for a Dispute to be resolved by a sole Arbitrator within 5 Business Days of the receipt of a notice from the Counsellor pursuant to Rule 43.5.12, each party to the Dispute shall appoint an Arbitrator from amongst the members of the Dispute Resolution Panel. In the event either party fails to appoint an Arbitrator in this regard, the Counsellor shall appoint an Arbitrator for such party. The Counsellor shall appoint the third Arbitrator from amongst the members of the Dispute Resolution Panel.
- 43.6.3 Where the parties agree to the resolution of the Dispute by a sole Arbitrator, the parties shall appoint the sole Arbitrator from amongst the members of the Dispute Resolution Panel within 5 Business Days of receiving the notice from the Counsellor pursuant to Rule 43.5.12. If the parties to the Dispute fail to agree to an Arbitrator, the Counsellor shall appoint the sole Arbitrator from amongst the members of the Dispute Resolution Panel within 3 Business Days.
- 43.6.4 An Arbitrator shall be independent of the parties and shall act impartially. An Arbitrator who is or becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose them to the Counsellor and the parties.
- 43.6.5 An Applicant shall, within the period stipulated in that regard by the Arbitration Tribunal pursuant to Rule 43.6.10, file a written statement indicating the name and address for service of its legal counsel or other representative, and containing its submissions on each issue in Dispute with the Arbitration Tribunal and serve same on any Respondent, together with the following:
- (a) a list of all the documents that it intends to file at the arbitration;

- (b) copies of all such documents;
- (c) a list of witnesses that the Applicant intends to call or that will provide written evidence-in-chief at the hearing of the arbitration; and
- (d) a concise written summary of the anticipated evidence of each witness.

43.6.6 A Respondent shall, within the period stipulated in that regard by the Arbitration Tribunal pursuant to Rule 43.6.10, file a written reply to the Applicant's written statement containing its submissions on each issue in Dispute with the Arbitration Tribunal and serve same on any Applicant. The reply shall be accompanied by, and shall contain all such information as is required in the case of the Applicant's written statement pursuant to Rule 43.6.5.

43.6.7 The Applicant may, within such period as may be stipulated in that regard pursuant to Rule 43.6.10, serve and file written submissions in response to the Respondent's reply.

43.6.8 Where a Respondent has made a counterclaim or a crossclaim in its Response, the Respondent shall, for the purposes of Rules 43.6.5 to 43.6.7 and 43.6.9 and, where appropriate, of Rule 43.6.17, be treated as an Applicant and the Applicant to the Notice of Dispute shall be treated as a Respondent in respect of the counterclaim or crossclaim. For the avoidance of doubt, a crossclaim can only be made against a party to the Dispute.

43.6.9 Where Rule 43.6.8 applies, each Respondent to the counterclaim or crossclaim shall, within such period as may be stipulated pursuant to Rule 43.6.10, file with the Arbitration Tribunal and serve on the Applicant of the counterclaim or crossclaim and any other Respondent, a written reply containing its submissions on each issue in Dispute, which shall be accompanied by, and shall contain all such information as is required in the case of the Applicant's written statement pursuant to Rule 43.6.5 and the Applicant in the counterclaim or crossclaim may serve and file written submissions in reply within the period stipulated in Rule 43.6.10.

43.6.10 The Arbitration Tribunal shall fix the date, time and place for the filing and service of the documents referred to in paragraphs (a) and (b), and shall file a notice of the date, time and place so fixed with the Counsellor.

- (a) In the case of the Applicant, the documents referred to above are:
  - (i) the written statement and other information and documentation referred to in Rule 43.6.5;
  - (ii) any counterclaim or crossclaim required pursuant to Rule 43.6.6; and

- (iii) the reply to a Response pursuant to Rule 43.6.7; and
- (b) In the case of the Respondent, the documents referred to above are:
  - (i) the written reply and other information and documentation referred to in Rule 43.6.6;
  - (ii) written reply to a counterclaim or crossclaim, where applicable and accompanying information and documentation, pursuant to Rule 43.6.8 provided that the date stipulated in this regard shall be no more than 60 days from the date of the service and filing referred to in Rule 43.6.6, or such later date as may be agreed by each party to the arbitration.

#### 43.6.11 Joinder of Parties

- (a) Any Participant that may be directly affected by any award made in a Dispute by the Arbitration Tribunal may, no less than 5 Business Days prior to the date of the hearing of the Dispute, apply to the Arbitration Tribunal, giving notice to the parties to the Dispute, for leave to be joined as a party to the Dispute, or to intervene at the hearing. The Parties to the Dispute shall be allowed to make submissions on such application.
- (b) If the Participant applying to be joined in the Dispute demonstrates that it has sufficient legal interest in the subject matter of the arbitration, as opposed to a commercial interest, and that it may be directly affected by the decision in the arbitration, the Arbitration Tribunal may, in its sole discretion, grant leave to the Participant to be joined as a party to the Dispute or to intervene. The Arbitration Tribunal may impose such terms and subject such Participant to such rights of participation as the Arbitration Tribunal considers reasonable.

43.6.12 The procedures governing the arbitration shall be determined by the Arbitration Tribunal, except as expressly provided herein.

43.6.13 Except with leave of the Arbitration Tribunal, no written statement or other document shall be accepted in evidence at the hearing, nor shall any witness be permitted to give evidence on behalf of an Applicant or a Respondent at the hearing, unless the party has complied with the requirements set forth in Rule 43.6.5, 43.6.6 or 43.6.9, as the case may be.



- 43.6.14 Any party to a Dispute may apply to the Arbitration Tribunal for an order directing such further and other production of materials as are necessary for the proper prosecution of its case, and the Arbitration Tribunal, in its discretion, order the production of such further documents, provided that the Arbitration Tribunal may not order the production by the System Operator or the Market Operator of any Confidential Information which relates to a person who is not a party to the Dispute. The Arbitration Tribunal may admit evidence even such evidence is not admissible as evidence in a court of law.
- 43.6.15 The Arbitration Tribunal may request any agent, employee, officer or director of any party to the Dispute, to provide any information or documentation which is not Confidential Information and which the Arbitration Tribunal considers relevant to the resolution of the Dispute, and the Arbitrator shall provide any such information or documentation to the parties in advance of the hearing at which it is to be considered.
- 43.6.16 The Arbitration Tribunal may request any agent, employee, officer or director of any party to the Dispute, to provide it with any Confidential Information pertaining to such party which the Arbitration Tribunal considers relevant to the conduct of the arbitration, provided that the Arbitration Tribunal shall not provide any such Confidential Information to the parties in advance of the hearing at which it is to be considered. Such Confidential Information disclosed to the Arbitration Tribunal shall be kept by the Counsellor under sealed cover and in safe custody and shall not be disclosed by the Arbitrators to any person, except with the consent of the party to whom it pertains or on direction of the Commission or a court of law.
- 43.6.17 The Arbitration Tribunal may, upon such conditions as to confidentiality as it shall determine and upon notice to the parties, obtain expert advice concerning technical aspects of the Dispute. Arrangements for obtaining such expert advice shall be made by the Arbitration Tribunal or by such party as the Arbitration Tribunal shall determine, provided that where such arrangements are made by the Arbitration Tribunal, the Arbitration Tribunal shall provide to the parties advance notice of the identity of the expert advisor.
- 43.6.18 At the hearing, the Applicant shall provide its case in chief, followed by the Respondent in response, and then the Applicant in reply.
- 43.6.19 Witnesses shall be examined under oath or affirmation and shall be cross-examined. Nothing in this Rule 43.6.19 shall preclude the Arbitrator from dispensing with oral examination-in-chief of a witness provided that a written statement of the witness's evidence is provided in such form as the Arbitrator may deem appropriate.
- 43.6.20 The arbitration shall be open to the public and, except for Confidential Information, all documents filed will form part of the public record of the proceedings.

- 43.6.21 The Arbitration Tribunal shall deliver its award in writing, giving reasons therefor, within 30 days of completion of the hearing or within such longer period as may be agreed by the parties to the Dispute. Where the Arbitration Tribunal is comprised of three Arbitrators, all decisions, including the final award, shall be made by the majority of Arbitrators.
- 43.6.22 The Arbitration Tribunal shall immediately file a copy of its award with the Counsellor, together with a brief summary of the award and the reason therefor.
- 43.6.23 Where, in the case of a Dispute falling within the provisions of Rule 43.2.1(a), the Arbitration Tribunal concludes that a Participant has violated a provision of these Rules or the Grid Code, the Arbitration Tribunal may, in making the award, approve, modify or revoke any financial penalty imposed by the Market Operator or the System Operator. In so doing, the Arbitration Tribunal shall assess such damages or make such further and other orders or directions as the Arbitration Tribunal considers just and reasonable, provided that:
- (a) the financial penalty imposed on the Participant shall not be approved in whole or in part unless the Arbitration Tribunal determines that the breach of these Rules or the Grid Code, as the case may be, could have been avoided by the exercise of due diligence by the Participant or that the Participant's conduct was intentional; and
  - (b) in approving or modifying the amount of the financial penalty, the Arbitration Tribunal shall have regard to the criteria set forth in Rule 46.5.7.
- 43.6.24 Where, in the case of a Dispute coming within Rule 43.2.1(a), the Arbitration Tribunal concludes that the System Operator or the Market Operator has violated, misinterpreted or misapplied a Rule or Condition, the Arbitrator may, subject to Rule 43.6.26 and Rule 47.8, award damages not exceeding the amount claimed or make such further and other orders or directions as the Arbitration Tribunal considers just and reasonable and the Arbitration Tribunal shall direct the System Operator or the Market Operator to comply with these Rules and/or the Grid Code, as the case may be, or to interpret or apply these Rules and/or Grid Code, as the case may be, in a particular manner. Any such direction may be included in the summaries referred to in Rule 43.6.21.
- 43.6.25 In the case of a Dispute referred to in Rules 43.2.1(d), the Arbitration Tribunal may, **subject to Rule 47.9**, award such damages or make such further and other orders or directions as the Arbitrator considers just and reasonable in addition to the applicable orders referred to in Rules 43.6.27 or 43.6.29, as the case may be.

43.6.26 Where any Dispute coming within Rule 43.2.1(a) relates to the terms and conditions upon which the Market Operator has authorised a person to participate in the Market Operator Administered Market, the Arbitration Tribunal may confirm, vary or set aside any decision made by the Market Operator and may order the Market Operator to authorise such person to participate in the Market Operator Administered Market on such other terms and conditions, if any, which the Arbitration Tribunal determines are just and reasonable, provided that the terms and conditions so stipulated by the Arbitration Tribunal are consistent with these Rules and the Grid Code and are non-discriminatory. An award of the Arbitration Tribunal under this Rule 43.6.26 may include the direction to the Market Operator referred to in Rule 43.6.24, regarding application of these Rules and the Grid Code.

43.6.27 The Arbitration Tribunal may:

- (a) in the case of a Dispute referred to in Rule 43.2.1(b), confirm or set aside the order of the Market Operator and order the Market Operator to authorise the person to participate in the Market Operator Administered Market, on such terms and conditions, if any, which the Arbitration Tribunal determines are just and reasonable, provided that:
  - (i) no award shall be made for payment of damages to the Applicant Participant whose Admission Application is found to have been wrongly rejected by the Market Operator; and
  - (ii) the terms and conditions determined by the Arbitration Tribunal shall be impartial and consistent with these Rules and the Grid Code;
- (b) in the case of a Dispute coming within Rules 43.2.1(d) to 43.2.1(f), issue such orders or directions as it may consider just and reasonable.

43.6.28 Subject to Rule 43.6.29, the Arbitration Tribunal may make such award as to the Costs of the Arbitration as it determines just and reasonable. **Save for exceptional cases**, the Arbitration Tribunal shall consider the following principles making awards relating to the Costs of the Arbitration:

- (a) where the award consists of damages for breach of these Rules or the Grid Code, costs, including the Costs of the Arbitration incurred by the successful party, shall be awarded to the successful party;
- (b) where the award consists of the imposition of a financial penalty on a Participant, costs, including the Costs of the Arbitration, shall be awarded to the Market Operator; and

- (c) where the award consists of a direction to the System Operator and the Market Operator to comply with these Rules and/or the Grid Code, or to interpret or apply a Rule or Condition in a particular manner, costs, including the Costs of the Arbitration incurred by a Participant, shall be awarded to the Participant seeking the direction.

43.6.29 The Applicant shall be responsible for his or her own costs and legal expenses associated with his or her participation in the arbitration and, subject to any determination in that regard, shall bear the Costs of the Arbitration in cases where:

- (a) the award consists of a determination by the Arbitration Tribunal that the Applicant is not entitled to any compensation; or
- (b) no award as to costs is made pursuant to Rule 43.6.28.

43.6.30 Where the Arbitration Tribunal determines in the arbitral award that the Applicant is entitled to compensation, the Arbitration Tribunal may determine that some or all of:

- (a) the Applicant's costs and legal expenses associated with participation in the arbitration; and
- (b) the Applicant's share of the Costs of the Arbitration, be recovered by the Applicant.

Provided that where the Arbitration Tribunal makes such award as to costs, the costs shall be paid by the other party to the Dispute, including the System Operator or the Market Operator or the TSP and or other Participant, as the case may be.

43.6.31 A person who intervenes in arbitration shall be responsible for his or her own costs and legal expenses associated with his or her participation in the arbitration. The Arbitration Tribunal may, in appropriate circumstances, require that an intervener bear a portion of the Costs of the Arbitration.

43.6.32 Upon completion of arbitration proceedings, the Arbitration Tribunal shall file the record of the proceedings with the Counsellor. Where such record contains Confidential Information in respect of which a claim for confidentiality has been confirmed by the Arbitrator pursuant to Rule 43.7.1, the Confidential Information, together with the stenographic record of any in camera hearings relating thereto, shall be sealed in an envelope clearly marked "CONFIDENTIAL" or otherwise identified as confidential and protected from disclosure prior to filing with the Counsellor.

- 43.6.33 Upon completion of the arbitration, the Arbitration Tribunal shall file with the Counsellor, an invoice containing an itemised statement of the Costs of the Arbitration and an allocation of such Costs of the Arbitration amongst the parties to the Dispute, together with copies of all bills and other supporting documentation relating thereto.
- 43.6.34 Upon receipt of the invoice referred to in Rule 43.6.33, the Counsellor shall submit a copy of the invoice to the parties to the Dispute and, where applicable, each intervener. Any such party that is liable to pay costs pursuant to these Rules shall, within 10 Business Days of receipt of such invoice, pay to the Counsellor the amount owing thereunder. Such invoice shall create an obligation under these Rules to pay the amount specified as payable by any party in the invoice, and shall not be deemed to constitute an award by the Arbitration Tribunal under Rule 43.2.4, and such amount may be recovered under these Rules without prejudice to any other manner of recovery available for the recovery of such sums under the law.
- 43.6.35 Where, during a pending arbitration, an Arbitrator becomes incapable of acting as an Arbitrator by reason of death, resignation, removal or otherwise, the following Rules shall apply.
- (a) If the Arbitration Tribunal comprises of three Arbitrators, the party which appointed the Arbitrator, or for whom the Arbitrator was appointed by the Counsellor, shall, within 10 Business Days of the occurrence of such vacancy, appoint a replacement Arbitrator from the remaining members of the Dispute Resolution Panel.
  - (b) If the Arbitration Tribunal comprises of only one Arbitrator, the parties shall jointly appoint another member of the Dispute Resolution Panel as arbitrator to fill the vacancy within 10 Business Days of the occurrence of the vacancy.
- 43.6.36 Where the party or parties, as the case may be, have failed to select a replacement Arbitrator within the period specified in Rule 43.6.35, the Counsellor shall appoint a member of the Dispute Resolution Panel as a replacement Arbitrator and shall notify the parties to the Dispute of the appointment in writing.
- 43.6.37 Any Arbitrator appointed to replace an Arbitrator who is unavailable or unable to act may continue the arbitration if the parties to the arbitration consent to such continuance. In the absence of such consent, the replacement Arbitrator shall commence the arbitration afresh.

## **43.7 Confidentiality**

- 43.7.1 Any party may declare any document, or information contained in any document required to be produced during arbitration as Confidential Information and the party making such declaration shall provide written justification thereof to the Arbitrator. If the claim of Arbitration Tribunal confirms the confidentiality of the document or information, having regard, where applicable, to the provisions of Rule 47.4, the Arbitration Tribunal shall establish such procedures as may be necessary to protect the confidentiality and commercial value of such document or information, including:
- (a) requirements for disclosure of same only to counsel and/or other independent advisor who has filed an undertaking as to confidentiality satisfactory to the Arbitration Tribunal; and
  - (b) limiting disclosure of the document and information to hearings in camera at which only representatives of the disclosing party and such counsel and/or other independent advisor may be present.
- 43.7.2 Members of the Dispute Resolution Panel shall enter into such confidentiality agreement as may be required by the Commission.

## **43.8 Record-Keeping and Publication**

- 43.8.1 Subject to Rule 43.8.2, the Counsellor shall maintain a record of all dispute resolution proceedings conducted under this Rule 43. The Counsellor shall be responsible for ensuring that all measures are taken to prohibit access by any other person to any portion of such records which constitute Confidential Information and for this purpose, such information may be sealed and marked “CONFIDENTIAL” or otherwise labelled as being confidential, except as may be required by Applicable Law or permitted by the provisions of Rule 47.4.
- 43.8.2 The Counsellor shall, unless objected to by any party and if so, then with the approval of the Arbitration Tribunal, arrange for Publication on the Commission’s website of the following:
- (a) the summaries referred to in Rules 43.5.4 and 43.5.7;
  - (b) notice of the appointment of the Arbitration Tribunal and the address for service on the Arbitration Tribunal;
  - (c) notice of the date, time and place fixed for hearing pursuant to Rule 43.6.10; and
  - (d) a summary of the award of the Arbitration Tribunal filed pursuant to Rule 43.6.22.

### **43.9 Audit**

The activities of the Dispute Resolution Panel shall be audited in accordance with procedures stipulated by the Commission from time to time.

## **44. MARKET SURVEILLANCE**

### **44.1 Market Monitoring Functions**

44.1.1 The Market Surveillance Panel shall monitor, evaluate and analyse the conduct of Participants and the structure and performance of, and activities in, the Market Operator Administered Markets including, but not limited to identifying:

- (a) inappropriate or anomalous market conduct, including behaviour occasioning or likely to occasion abuse of market power, whether or not a person engages in such conduct unilaterally, or in conjunction with other persons ;
- (b) inappropriate or anomalous market conduct in Dispatch Nomination;
- (c) actual or potential design or other flaws and inefficiencies in these Rules and, the Grid Code and other rules and procedures of the System Operator and the Market Operator;
- (d) actual or potential design or other flaws in the overall structure of the Market Operator Administered Market, including an assessment of whether any one or more specific aspects of the underlying structure of the Market Operator Administered Market is consistent with the efficient and fair operation of a competitive market; and
- (e) such other matters as the Commission may direct in discharge of its functions under sections 80 and 81 of the Act.

44.1.2 To enable it effectively perform the monitoring function referred to in Rule 44.1.1, the Market Surveillance Panel shall develop, with the approval of the Commission, a system for the submission of market information, as well as a criteria for evaluating such information. To this end, the Market Surveillance Panel shall develop and Publish:

- (a) a detailed catalogue of all of the data and/or categories of data required for the proper performance of its duties and the means of acquiring same directly from Participants; and
- (b) a catalogue of the monitoring indices that will serve as a basis for its evaluation and analysis of the data so acquired.

- 44.1.3 The Market Surveillance Panel may request that a Participant provide it with information, other than that referred to in the catalogue developed under Rule 44.1.2(a), if the Market Surveillance Panels requires such information for the effective performance of its duties.
- 44.1.4 The Market Surveillance Panel shall establish procedures for handling the data acquired by it in the exercise of its functions, including procedures for gathering and or acquiring such data, and for protecting any Confidential Information. Such procedures shall not conflict or be inconsistent with the provisions of Rule 47.4 and shall be included in the confidentiality catalogue referred to in Rule 44.1.2(a).
- 44.1.5 The Market Surveillance Panel shall not disclose Confidential Information pertaining to any Participant, which it acquires in the course of the performance of its functions under Rule 44.1.1, to any other Participant.
- 44.1.6 Each Participant shall provide the Market Surveillance Panel with any data referred to in the catalogue developed by the Market Surveillance Panel pursuant to Rule 44.1.2(a), as well as any other data requested by the Market Surveillance Panel pursuant to Rule 44.1.3.
- 44.1.7 The Market Surveillance Panel shall from time to time as it deems appropriate, and subject to approval of the Commission, re-evaluate and revise the catalogues referred to in Rule 44.1.2 and shall publish such revised catalogues in accordance with the said Rule 44.1.2.
- 44.1.8 Nothing in this Rule 44 shall preclude the Market Surveillance Panel from conducting such monitoring exercise, evaluation or analysis as it determines appropriate at any given time.
- 44.1.9 The Market Surveillance Panel shall, no less than once a year, and more frequently if so requested by the Commission, prepare routine reports on matters within the scope of its responsibilities pursuant to this Rule 44, including a summary of all complaints or referrals filed and all investigations conducted under Rule 44.2. Once annually, such reports shall contain the Market Surveillance Panel's general assessment of the state of competition within, and the efficiency of, the Market Operator Administered Market.
- 44.1.10 The Market Surveillance Panel may, from time to time, in its discretion, consult with Participants in relation to matters within Rule 44.1.1, provided that no Confidential Information shall be disclosed to any Participant without the prior concurrence of all other Participants to whom the Confidential Information relates.
- 44.1.11 Report of Improper Conduct
- (a) If at any time, it comes to the attention of the Market Surveillance Panel that any Participant is engaged in any improper conduct, including failure to comply with any legal requirements falling within the jurisdiction of any person, board,



agency or tribunal including, but not limited to, the Commission, or that that an Amendment to these Rules and or the Grid Code may be required, the Market Surveillance Panel shall prepare and submit to the Commission, a report detailing the improper activity and where applicable, recommending amendment of these Rules and or the Grid Code.

- (b) If the report recommends an Amendment to the Market Rules and or the Grid Code, a copy of such report shall be sent to the Stakeholder Advisory Panel.
- (c) If the report identifies a breach has or might have been committed by a Participant, a copy of such report shall be sent to the Market Operator and the concerned Participant.

## **44.2 Investigations**

- 44.2.1 The Market Surveillance Panel shall have the power and the responsibility to conduct investigations into any of the matters specified in Rule 44.1.1.
- 44.2.2 Any person or authority, other than the Commission, wishing the Market Surveillance Panel to conduct an investigation into any matter referred to in Rule 44.1.1, shall make a complaint or referral in writing to the Market Surveillance Panel, setting out:
  - (a) the name and address of the complainant or person referring the matter;
  - (b) the particulars of the complaint or referral;
  - (c) any information or facts supporting the complaint or referral; and
  - (d) the signature of the person making the complaint or referral or, where that person is not an individual, the signature of a duly authorised officer or duly authorised representative of the person.
- 44.2.3 The Market Surveillance Panel may refuse to commence an investigation into any matter referred to it pursuant to Rule 44.2.2 if, in its sole discretion, it is of the view that an investigation is not warranted and shall, where an investigation has been initiated, have the right to discontinue the investigation, if it determines that the complaint or referral is:
  - (a) frivolous, vexatious, otherwise not material or was not or is no longer warranted;
  - (b) within the exclusive jurisdiction of another person, board, agency or tribunal; or

- (c) the person making the complaint or referral fails to provide the information required pursuant to Rule 44.2.5 within the time specified by the Market Surveillance Panel.
- 44.2.4 In the event that the Market Surveillance Panel, pursuant to Rule 44.2.3 refuses to commence an investigation, or discontinues an investigation which it had commenced, it shall advise the person or authority that filed the complaint or made the referral, and shall also prepare and deliver a report to the Commission, detailing the matters specified in Rule 44.2.13.
- 44.2.5 The Market Surveillance Panel may, prior to making a decision pursuant to Rule 44.2.3, request that the person making the complaint or referral provide additional information relating thereto within such time as may be specified by the Market Surveillance Panel.
- 44.2.6 Upon determining that there is a prima facie case of improper conduct on the part of a Participant in respect of whom a complaint or referral has been made pursuant to Rule 44.2.2, the Market Surveillance Panel shall notify the Participant which is the subject of the complaint or referral that the Participant is the subject of an investigation and shall inform the Participant or cause the Participant to be advised of the outcome of the investigation. Furthermore, upon written request in that regard, the Market Surveillance Panel shall notify the person or authority that made the referral of the outcome of the investigation.
- 44.2.7 For the purposes of carrying out an investigation, the Market Surveillance Panel may request any Participant and the person who made the complaint or referral that resulted in the investigation to provide information in accordance with Rules 44.2.8 and 44.2.9.
- 44.2.8 A request for information pursuant to Rule 44.2.7 shall:
- (a) be in writing;
  - (b) specify the information requested; and
  - (c) specify such time as, in the discretion of the Market Surveillance Panel, it is reasonable for the information to be provided.
- 44.2.9 Information provided to the Market Surveillance Panel pursuant to a request made under Rule 44.2.8 shall, if the Market Surveillance Panel so requires, be certified under oath or statutory declaration by the person to whom the request is directed or, in the case of a person who is not an individual, a duly authorised officer or duly authorised representative thereof, as being correct and complete to the best of that person's knowledge.

- 44.2.10 Upon a request for information by the Market Surveillance Panel pursuant to Rule 44.2.7, any Participant to whom such request is directed shall provide the information so requested, and shall cause any Affiliate that is in possession such information to provide the Market Surveillance Panel with the information.
- 44.2.11 Where a Participant or an Affiliate of a Participant fails to provide the information requested by the Market Surveillance Panel in accordance with Rule 44.2.10, the Market Surveillance Panel may apply to the Commission for an order to secure compliance with its request. The Participant and the Market Surveillance Panel shall comply with any decision made by the Commission in this regard.
- 44.2.12 Upon completion of an investigation, the Market Surveillance Panel shall prepare and submit to the Commission, a written report detailing, among other information:
- (a) the subject matter of the investigation;
  - (b) whether the Market Surveillance Panel initiated the investigation on its own initiative or upon a referral or complaint pursuant to Rule 44.2.2;
  - (c) the findings of the investigation, including in appropriate cases, a statement that it was unable to reach a firm conclusion on the matter investigated and the reasons for such inability;
  - (d) any written response provided by a Participant pursuant to Rule 44.2.15 to a finding of improper conduct on its part by the Market Surveillance Panel; and
  - (e) the recommendations, if any, of the Market Surveillance Panel and the reasons for the recommendations.
- 44.2.13 Where the Market Surveillance Panel decides, pursuant to Rule 44.2.3 either not to initiate or to discontinuing an investigation, it shall prepare and submit to the Commission, a report detailing:
- (a) the nature of the complaint or referral; and
  - (b) the reasons for the decision of the Market Surveillance Panel not to investigate the matter or to discontinue its investigations.
- 44.2.14 Upon review of the report submitted by the Market Surveillance Panel pursuant to Rule 44.2.13, the Commission may approve, modify or reject in its entirety, the decision of the Market Surveillance Panel and may direct, where appropriate, the Market Surveillance Panel to undertake or continue such investigation in accordance with this Rule 44 and the provisions of paragraphs (a) and (b) of Rule 44.2.3 shall not apply in such cases

44.2.15 In the event that the Market Surveillance Panel decides, upon conclusion of an investigation, that a Participant has engaged in improper conduct, including but not limited to breach of these Rules and/or the Grid Code, and the Market Surveillance Panel intends to include such findings in its report to be issued in accordance with Rule 44.2.12, it shall discuss such findings with the and must give the Participant a reasonable opportunity to respond in writing to the findings before including same in the report. Where the Participant has not made any response within a reasonable time specified by the Market Surveillance Panel, the Participant shall be deemed to have elected to make no response.

44.2.16 Where the Market Surveillance Panel determines that action is urgently required in respect of the matters which are revealed during the course of an investigation, the Market Surveillance Panel may make an interim report to that effect to the Commission containing the applicable recommendations.

### **44.3 Dispute Resolution and Other Relief**

44.3.1 The dispute resolution procedures provided by Rule 43 shall not apply to the activities of the Market Surveillance Panel.

44.3.2 Subject to Rule 44.3.1, nothing in this Rule 44 shall prevent any person from asserting any rights it may have under the Applicable Law, these Rules or the Grid Code.

### **44.4 Publication and Provision of Data**

44.4.1 Participants may request that the Market Surveillance Panel provide data which is not Confidential Information collected or created in the course of the monitoring activities described in this Rule 44 and which is not otherwise required to be published by the Market Surveillance Panel or the System Operator and the Market Operator pursuant to these Rules or the Grid Code. Such data may be provided unless, in the opinion of the Market Surveillance Panel, such disclosure is reasonably likely to compromise the work of the Market Surveillance Panel. Where the provision of data imposes a significant burden or expense to the Market Surveillance Panel, the data may be provided on payment of a reasonable fee.

### **44.5 Audit**

44.5.1 The activities of the Market Surveillance Panel shall be audited in accordance with procedures adopted from time to time by the Commission in consultation with the Market Surveillance Panel.

## **45. AMENDMENT OF THE RULES**

### **45.1 Introduction and Interpretation**

This Rule 45 sets forth the procedures pursuant to which Amendments to these Rules and the Grid Code may be made by the Stakeholder Advisory Panel and provides the mechanism for review of these Rules and the Grid Code.

### **45.2 Amendment Process Generally**

45.2.1 The provisions of these Rules and the Grid Code may only be amended when the applicable procedures set forth in this Rule 45 have been followed.

45.2.2 In formulating Amendments to these Rules and the Grid Code, the Stakeholder Advisory Panel and the Rules Working Group shall take into consideration the roles of the TSP, the System Operator and the Market Operator as set forth in the Act, these Rules and the Grid Code.

### **45.3 Rules Report**

45.3.1 Every six months, [on the first week of February and August], the Market Operator shall prepare a Rules Report describing the problems experienced by the Market Operator and the System Operator in the implementation and application of the Market Rules and the Grid Code, and complementary procedures. This report will be submitted by the Market Operator to the Commission, all Participants, the TSP and the Stakeholder Advisory Panel.

45.3.2 The Rules Report shall include:

- (a) problems identified in the implementation and the results of the Market Rules, the Grid Code, Market Procedures and Operating Procedures;
- (b) conflicts of interpretation with Participants or the TSP;
- (c) any exceptions from strict compliance with the provisions of these Rules or its procedures granted to any Participant, including identification of the Participant granted the exception, and the reason therefor; and
- (d) any other relevant matter which may assist in identifying any problems in the performance, feasibility, efficiency and design of these Rules and the Grid Code.

#### **45.4 Rules Working Group**

- 45.4.1 The Rules Working Group shall include representatives of Participants and the System Operator and the Market Operator. The Rules Working Group shall also include a representative of the Transmission Company when reviewing interpretation and implementation of the Grid Code or Operating Procedures.
- 45.4.2 The Stakeholder Advisory Panel will employ the Rules Working Group to assess any problem or gap in the Market Rules, Grid Code or procedures identified in the Rules Report,
- 45.4.3 The Rules Working Group may make proposals to the Stakeholder Advisory Panel for
- (a) acceptance or review of any proposal for review of the Rules that has been presented to the Panel;
  - (b) amendments required to correct, complete or improve the Grid Code and the Rules; and
  - (c) new or updated Operating Procedures and Market Procedures for implementation of the Grid Code and the Rules.
- 45.4.4 The Stakeholder Advisory Panel may delegate to the Rules Working Group, the authority to make an Urgent Amendment to these Rules. The delegation of authority shall be consistent with the function of the Stakeholder Advisory Panel and may be given in respect of any specific Urgent Amendment. In this case, the Rules Working Group shall make amendments in accordance with these Rules.

#### **45.5 Requests for Review or Amendment of Market Rules and the Grid Code**

- 45.5.1 The provisions of this Rule 45.5 do not apply:
- (a) except as expressly provided in Rule 45.6.3, to Amendments proposed by the Stakeholder Advisory Panel pursuant to Rule 45.6; or
  - (b) to Urgent Amendments to these Rules, which shall be made in accordance with Rule 45.7.
- 45.5.2 Amendment Submissions
- (a) Amendments to these Rules and or the Grid Code may be proposed by the System Operator or the Market Operator, a Participant, the Rules Working Group or any other interested person.
  - (b) A proposal for amendment of the Rules shall be in the form of a written submission (the “Amendment Submission”) filed with the Stakeholder Advisory Panel, at such address as may be published by the Stakeholder Advisory Panel from time to time.

- (c) The Amendment Submission shall identify any provision of these Rules and/or the Grid Code in respect of which the person making the submission considers that an Amendment or review may be necessary or desirable and shall include a statement of the reasons for which the Amendment to or review of these Rules and or the Grid Code may be necessary or desirable.
  - (d) The Stakeholder Advisory Panel may request that the person making the Amendment Submission should provide further particulars with respect to the Amendment Submission.
- 45.5.3 The Stakeholder Advisory Panel shall provide to the Commission, a copy of any Amendment Submission received pursuant to Rule 45.5.2.
- 45.5.4 The Stakeholder Advisory Panel shall refer any proposal for amendment of these rules which was not presented by the Rules Working Group to the Rules Working Group for its recommendations thereon.
- 45.5.5 In making decisions relating to amendments of these Rules and or the Grid Code, the Stakeholder Advisory Panel shall take the recommendations of the Rules Working Group into consideration.
- 45.5.6 Where the Stakeholder Advisory Panel is of the opinion that the amendment required by an Amendment Submission is only a Minor Amendment, the Amendment Submission shall be dealt with in accordance with the provisions of Rule 45.5.8.
- 45.5.7 The Stakeholder Advisory Panel shall give written notice to the person who made an Amendment Submission of its determination of the question whether the proposed Amendment is, in the opinion of the Stakeholder Advisory Panel:
- (a) of such a nature that consideration of the Amendment Submission is warranted; or
  - (b) of such a nature that no consideration of the Amendment Submission is warranted.
- 45.5.8 Where the Stakeholder Advisory Panel gives notice under Rule 45.5.7(b), it shall notify the Commission in writing of its opinion that no consideration of the Amendment Submission is warranted.
- 45.5.9 Where the Stakeholder Advisory Panel decides pursuant to Rule 45.5.7(a) to proceed with the request for amendment, the it shall Publish the particulars of the Amendment Submission and its comments thereon and shall give notice thereof to all Participants and to the person who made the Amendment Submission. The notice shall invite Participants and other interested persons to make written submissions to the Stakeholder Advisory Panel concerning the Amendment Submission within such reasonable period as shall be specified in the notice.

- 45.5.10 The written submissions referred to in Rule 45.5.9 must be filed with the Stakeholder Advisory Panel within the time specified in the notice and may indicate whether the person making the submission considers that a meeting is necessary or desirable in connection with the Amendment Submission and in that case, the reasons why such meeting is necessary or desirable.
- 45.5.11 The Stakeholder Advisory Panel may, by written notice issued at any time, invite the person who made the Amendment Submission, the Participants or other interested persons to make such additional written submissions within such reasonable time as the Stakeholder Advisory Panel determines to be appropriate.
- 45.5.12 The Stakeholder Advisory Panel may, where it considers it necessary or desirable, schedule and hold meetings with the person who made the Amendment Submission, as well as Participants and other interested persons who filed a written submission pursuant to Rule 45.5.9 or Rule 45.5.11 in accordance with Rule 45.5.13.
- 45.5.13 The Stakeholder Advisory Panel shall Publish and provide notice of meetings to be held pursuant to Rule 45.5.12 to the persons specified therein. Any other Participant and interested person may, at the discretion of the Stakeholder Advisory Panel, participate in any such meetings.
- 45.5.14 Amendment of Rules 43 and 44
- (a) Where the Amendment Submission relates to or may affect:
- (i) any provision of Rule 43, the Stakeholder Advisory Panel shall, prior to conducting any meetings pursuant to Rule 45.5.13 or, in the absence of such meetings, prior to voting on the matter, consult with the Counsellor on the matter; and
  - (ii) any provision of Rule 44, the Stakeholder Advisory Panel shall, prior to conducting any meetings pursuant to Rule 45.5.13 or, in the absence of such meetings, prior to voting on the matter, consult with the chairperson of the Market Surveillance Panel on the matter.
- (b) In any case coming within paragraph (a), the Counsellor or the chairperson of the Market Surveillance Panel, as the case may be, shall consult such members of the Dispute Resolution Panel and Market Surveillance Panel, respectively, as they determine appropriate prior to consulting with or making recommendations to the Stakeholder Advisory Panel on the matter.



45.5.15 The Stakeholder Advisory Panel shall, as soon as reasonably practicable following any meetings and consultations which may have been held pursuant to Rule 45.5.13 and 45.5.14, convene on one or more occasions as may be necessary, to consider and vote on the Amendment Submission. Before voting, the Stakeholder Advisory Panel shall consider all submissions, written and oral, received pursuant to Rules 45.5.9, 45.5.13 and 45.5.14.

45.5.16 If the Stakeholder Advisory Panel elects, in accordance with 45.5.15, to adopt an Amendment, the Stakeholder Advisory Panel shall submit a written report to the Commission setting out:

- (a) the recommendations of the Stakeholder Advisory Panel and the reasons for its recommendations;
- (b) a copy of the proposed text of the Amendment if any to these Rules and or the Grid Code, the suggested time frame for implementation of the Amendment, the recommendations of the Rules Working Group thereon, and a summary of any objections to the Amendment Submission either contained in written submissions submitted to the Stakeholder Advisory Panel pursuant to notices Rules 45.5.7 or 45.5.9, or brought to the attention of the Stakeholder Advisory Panel during any meetings held pursuant to Rule 45.5.11 or by any other means;
- (c) a summary of the procedure followed by the Stakeholder Advisory Panel in considering the matter;
- (d) a summary of the proposals made in support of and or against the Amendment Submission by the Counsellor the chairperson of the Market Surveillance Panel, as the case may be, provided during the consultations referred to in Rule 45.5.14;
- (e) a record of the vote of each member of the Stakeholder Advisory Panel in respect of each of the recommendations made in the report; and
- (f) a summary of any objections raised by any member of the Stakeholder Advisory Panel to the recommendations, if such objecting member so requests.

45.5.17 The Stakeholder Advisory Panel shall Publish the recommendations contained in the report made to the Commission pursuant to Rule 45.5.16 and shall give notice thereof to all Participants, and to the person who made an Amendment Submission to which the recommendations relate. At the request of any Participant, the Stakeholder Advisory Panel shall provide to the Participant, copies of all submissions received pursuant to Rule 45.5.7 or 45.5.9, together with particulars of any further submissions which were made before the Stakeholder Advisory Panel during the course of any meetings or deliberations that may have been held pursuant to Rules 45.5.11 or 45.5.12, provided that:

- (a) the Participant shall pay a reasonable charge determined by the Stakeholder Advisory Panel, which shall reflect the cost of providing the information; and
- (b) the Stakeholder Advisory Panel shall not disclose any Confidential Information without express written permission of the person to whom Confidential Information relates.

45.5.18 Where the Stakeholder Advisory Panel recommends that an Amendment, which is materially different from the Amendment proposed in the related Amendment Submission, be made to these Rules and or the Grid Code in the report referred to in Rule 45.5.16, to, any Participant and the person who made the Amendment Submission may, within 7 Business Days of the date of giving the notice referred to in Rule 45.5.19, make written submissions to the Commission in accordance with the procedures specified by the Commission objecting to the Stakeholder Advisory Panel's recommendation and setting forth the reasons for the objection.

45.5.19 As soon as reasonably practicable following receipt of the report of the Stakeholder Advisory Panel referred to in Rule 45.5.12 or, where Rule 45.5.18 applies, following the expiry of the deadline for submissions referred to in that Rule, the Commission may:

- (a) confirm the Amendment to these Rules and or the Grid Code, as the case may be, proposed by the Stakeholder Advisory Panel; or
- (b) in the event that any of the circumstances specified in Rule 45.11 are applicable, refuse to accept the Amendment, and in that event, the Commission shall refer the Amendment back to the Stakeholder Advisory Panel for additional review, provided that the Commission may suggest an alternative to the Amendment proposed by the Stakeholder Advisory Panel.

45.5.20 Where the Commission:

- (a) confirms the recommendation to amend these Rules and or the Grid Code, as the case may be, the Market Operator shall Publish its decision, together with a copy of the Amendment, and shall give notice of the decision to all Participants, the person who made the Amendment Submission to which the decision relates and any persons who made submissions pursuant to Rules 45.5.7, 45.5.9 or 45.5.16 in relation thereto. In addition, the Market Operator shall Publish notice of the Amendment in a Nigerian national newspaper. If the Amendment relates to these Rules, the Market Operator shall prepare and publish on the Website, the amended version of the Rules. If the change is to the Grid Code, the System Operator will prepare and publish on the Website the amended version of the Grid Code;
- (b) rejects the adoption of an Amendment to these Rules and or the Grid Code, as the case may be, the Market Operator shall publish

the Commission's decision on the Website and shall give notice of the decision to all Participants and to the person who made an Amendment Submission to which the decision relates.

45.5.21 Where the Commission refers any proposed amendment back to the Stakeholder Advisory Panel, the Stakeholder Advisory Panel shall be at liberty to adopt or reject any recommendation made by the Commission in relation to the proposed amendment pursuant to Rule 45.5.17(b). In the event that the Stakeholder Advisory Panel elects to adopt the Commission's recommendations, Rules 45.5.9 to 45.5.18 shall apply, with such modifications as the context may require, to the reconsideration of the proposed amendment.

#### **45.6 Rule Amendments Initiated by the Stakeholder Advisory Panel**

45.6.1 The provisions of this Rule 45.6 do not apply to Minor Amendments proposed by the Stakeholder Advisory Panel, which shall be made in accordance with Rule 45.8.

45.6.2 Where the Stakeholder Advisory Panel on its own initiative or on the recommendation of the Rules Working Group, determines at any time that an Amendment or a review of a the Rules and or the Grid Code is necessary or desirable, it shall issue a notice (the "Review Notice") of its intention to consider such Amendment or review, together with the reasons therefor to Participants and other interested persons. The Review Notice shall invite the Participants and the interested persons to make written submissions to the Stakeholder Advisory Panel on the proposed amendment within such reasonable period as it may specify.

45.6.3 Rules 45.5.8 to 45.5.19 shall apply with such modifications as the context may require, to the consideration of a Review Notice and any reference therein to an Amendment Submission shall in such cases, be construed as a reference to the Review Notice.

#### **45.7 Urgent Amendments**

45.7.1 Urgent Amendments to the Rules and the Grid Code shall be proposed by the Stakeholder Advisory Panel or recommended by the Rules Working Group to the Stakeholder Advisory Panel, following such consultations, if any with any persons that the Stakeholder Advisory Panel or the Rules Working Group, as the case may be, considers appropriate.

45.7.2 Where the Rules Working Group recommends an Urgent Amendment pursuant to Rule 45.7.1, the Rules Working Group shall report such decision to the Stakeholder Advisory Panel, together with the proposed of the text of the Urgent Amendment.

45.7.3 The Stakeholder Advisory Panel shall, within 30 Business Days of receiving the report referred to in Rule 45.7.2, convene to consider the report and vote to either:

- (a) confirm the Urgent Amendment, in the form proposed by the Rules Working Group or in such form as the Stakeholder Advisory Panel may deem appropriate; or
- (b) reject the Urgent Amendment.

45.7.4 Where an Urgent Amendment is proposed or confirmed by the Stakeholder Advisory Panel pursuant to Rules 45.7.1 or Rule 45.7.3(a) respectively, the Stakeholder Advisory Panel shall forward its decision to the Commission for approval under the Act and shall Publish the decision and proposed text of the Urgent Amendment.

45.7.5 The Commission shall, within 30 Business Days of the date of receipt of the report referred to in Rule 45.7.1, either:

- (a) confirm the Urgent Amendment, in the form proposed by the Stakeholder Advisory Panel; or
- (b) refuse to accept the proposed Urgent Amendment if any of the circumstances specified in Rule 45.11 applies and shall, in such instance, refer the proposed Urgent Amendment back to the Stakeholder Advisory Panel for review, and the Commission may suggest an alternative Urgent Amendment for consideration of the Stakeholder Advisory Panel.

45.7.6 Where an Urgent Amendment is confirmed by the Commission pursuant to Rule 45.7.5(a), the Market Operator shall forthwith publish a notice of such Urgent Amendment on the Website and shall give notice thereof to all Participants.

45.7.7 Where the Commission does not approve an Urgent Amendment, the Stakeholder Advisory Panel may review its decision thereon and shall be at liberty to adopt or reject any alternative Urgent Amendment proposed by the Commission. Rules 45.7.3 and 45.7.4 shall apply to the Stakeholder Advisory Panel's review of its decision and the alternative Urgent Amendment proposed by the Commission, with such modifications as the context may require.

45.7.8 An Urgent Amendment shall come into force on the date on which it is confirmed by the Commission pursuant to Rule 45.7.5(a), or the date that it was approved by the Stakeholder Advisory Panel in the event that the Commission so orders.

## **45.8 Minor Amendments**

45.8.1 If the Stakeholder Advisory Panel, acting on its own initiative or upon receipt of an Amendment Submission, determines that it is necessary or desirable to make any Minor Amendment to the Rules or the Grid Code, it shall hold such consultations, or ask for submissions from such Participants or other interested persons, if any, in addition to the person who made the Amendment Submission, as it considers appropriate.

- 45.8.2 After holding such consultations and or taking into consideration any submissions received by it pursuant to Rule 45.8.1, the Stakeholder Advisory Panel shall convene on one or more occasions as may be necessary, to consider and vote on the proposed Minor Amendment. Where the Stakeholder Advisory Panel elects to adopt the proposed Minor Amendment, it shall Publish such Minor Amendment and shall submit a written report to the Commission specifying the Minor Amendment(s) to be made, for the Commission's approval pursuant to the Act. The Stakeholder Advisory Panel shall provide copies of all submissions received pursuant to Rule 45.8.1 to any Participant who requests for the same, provided that the Participant shall pay a reasonable charge determined by the Stakeholder Advisory Panel, which shall reflect the cost of providing the information
- 45.8.3 The Commission shall give notice of the proposed Minor Amendment to all Participants and to other persons who may have made an Amendment Submission in relation thereto.
- 45.8.4 Within 10 Business Days of the date of issuance of the notice referred to in Rule 45.8.3, any Participant or other person who has received the notice may file written objections to the Minor Amendment to which the notice relates with the Commission, in accordance with any procedure specified by the Commission in that regard.
- 45.8.5 Within 15 Business Days of the expiry of the period specified by the Commission for receipt of objections pursuant to Rule 45.8.4, the Commission shall either:
- (a) confirm the Minor Amendment proposed by the Stakeholder Advisory Panel; or
  - (b) refuse to accept the Minor Amendment if any of the circumstances specified in Rule 45.11 applies, and in that case, shall refer the proposed Minor Amendment back to the Stakeholder Advisory Panel for review, and the Commission may suggest an alternative Minor Amendment for consideration of the Stakeholder Advisory Panel.
- 45.8.6 Where the Commission refers the Minor Amendment back to the Stakeholder Advisory Panel pursuant to Rule 45.8.5, the Stakeholder Advisory Panel may review the proposed Minor Amendment by the Commission and may consider the modified Minor Amendment suggested by the Commission. The provisions of this Rule 45.8 shall apply with such modification as the context may require, to such review.
- 45.8.7 Publication
- (a) Where the Commission confirms the adoption of a Minor Amendment pursuant to Rule 45.8, the Market Operator shall publish the Commission's decision on the Website, together with the text of the Amendment.

- (b) Where the Commission rejects the proposed Minor Amendment, the Market Operator shall publish the decision on the Website.

#### **45.9 Notice to Consumer Groups**

- 45.9.1 Any person who represents one or more classes of Energy consumers in Nigeria may request the Market Operator to notify it of matters relating to Amendments to, or reviews of these Rules and the Grid Code.
- 45.9.2 If such person proves to the reasonable satisfaction of the Market Operator that it represents Energy consumers, the Market Operator shall, unless the request is withdrawn, provide the person with all notices that are provided to Participants under this Rule 45, provided that the person provides the Market Operator with an electronic mail address for notification which is compatible with the electronic mail system then in use by the Market Operator.

#### **45.10 Audit**

The activities of the Stakeholder Advisory Panel shall be audited in accordance with procedures adopted from time to time by the Commission.

#### **45.11 Approval by the Commission and Effectiveness of Amendments**

- 45.11.1 Where an Amendment is submitted to the Commission pursuant to this Rule 45 for approval under the Act, the Commission may reject the proposed Amendment if, in its opinion, the proposed Amendment:
  - (a) unfairly discriminates against a Participant or class of Participants;
  - (b) will limit competition, or prevent free entry into the wholesale competitive market;
  - (c) may allow one or more Participants to obtain or retain abusive market power;
  - (d) has potential for abuse of market power by one or more Participants;
  - (e) is not conducive to efficient and economic operation of the wholesale competitive market;
  - (f) materially alters the framework of the wholesale competitive market in Nigeria; or
  - (g) is not consistent with the Applicable Law or policy direction of the Minister issued pursuant to section 33 of the Act.

45.11.2 Subject to Rule 45.7 and to the terms of any order issued by the Commission pursuant to these Rules, any Amendment to these Rules and/or the Grid Code shall come into force on the date specified in the order of the Commission confirming the Amendment, which date shall not be less than 30 days following the date of publication of the Amendment by the Market Operator in accordance with this Rule 45.

## **46. ENFORCEMENT**

### **46.1 Compliance**

46.1.1 The System Operator and the Market Operator shall comply with the Market Rules and the Grid Code.

46.1.2 The Market Operator shall ensure compliance to these Rules by all Participants and all Transmitters.

46.1.3 The System Operator shall ensure compliance to the Grid Code by all Participants and all Transmitters. If the System Operator has evidence that a Participant or a Transmitter has violated or is violating provisions of the Grid Code, the System Operator shall file a complaint with the Market Operator.

46.1.4 Any Participant that has evidence that another Participant or any Transmitter has violated or is violating provisions of the Market Rules or the Grid Code may file a complaint with the Market Operator.

46.1.5 Any Participant or Transmitter that has evidence that the System Operator or the Market Operator has violated or is violating provisions of the Market Rules or the Grid Code may file a complaint with the Stakeholder Advisory Panel. The Stakeholder Advisory Panel shall meet and discuss the matter with the System Operator or the Market Operator, as the case may be. If the Stakeholder Advisory Panel is not satisfied with the response of the System Operator or the Market Operator, the Stakeholder Advisory Panel shall document the charges against the System Operator or the Market Operator and present the facts relating to the complaint to the Commission.

### **46.2 Procedures Concerning Alleged Breaches of these Rules**

46.2.1 The procedures established in this Rule 46 shall only apply to contracts between the System Operator and Participants for procurement for Ancillary Services, and shall not apply to any other contract between the System Operator and Participants.

46.2.2 Where these Rules or the Conditions provide for sanctions or other consequences for breach by a Participant of any particular Rule or Condition, such consequences or sanctions shall apply in the circumstances and in the manner provided for in the relevant Rules or the Conditions, and in addition to any other sanctions that may be imposed pursuant to this Rule.

- 46.2.3 If the Market Operator considers that a Participant may have breached or may be breaching any Rule and or Condition, other than a breach constituting an Event of Default, and that in the circumstances an enforcement action would be taken against that Participant if the breach is established, the Market Operator shall notify the Participant of:
- (a) details of the alleged breach and of the time within which the breach must be remedied;
  - (b) details of the evidence on the basis of which the Market Operator considers that the Participant may have breached or may be breaching these Rules and/or the Grid Code, as the case may be;
  - (c) details of the sanctions which may be imposed if the breach is established;
  - (d) the period within which the Participant may make written representations in response to the allegations; and
  - (e) the right of the Participant to request a meeting with the Market Operator to discuss the matter.
- 46.2.4 Upon expiry of the time by the Market Operator pursuant to Rule 46.2.3(d), the Market Operator shall consider any representations made by the Participant pursuant to the said Rule 46.2.3(d) and Rule 46.2.5, and thereafter may:
- (a) determine that the Participant has not breached any provisions of these Rules or the Grid Code, as the case may be;
  - (b) subject to Rule 46.2.5, determine that the Participant is in breach of these Rules and/or the Grid Code, as the case may be;
  - (c) request that the Participant provide further information in relation to the alleged breach; or
  - (d) conduct such further investigation into the matter as it determines appropriate.
- 46.2.5 Where any Participant who has received notification from the Market Operator that it may have breached or may be breaching any Rule and or Condition has requested a meeting pursuant to Rule 46.2.3(e), the Market Operator shall not make a decision on the matter pursuant to Rule 46.2.3(b) unless and until it has provided the Participant with a reasonable opportunity to meet and discuss the allegations. In such cases, the Market Operator shall take into account, the submission made by the Participant during such meeting.
- 46.2.6 A Participant shall comply with any request for information made by the Market Operator pursuant to Rule 46.2.4(c).



46.2.7 Where the Market Operator determines that a Participant has breached these Rules and or the Grid Code, as the case may be, the Market Operator may do any one or more of the following:

- (a) direct the Participant to undertake, within such period as it may specify in that regard, such activities or actions as may be necessary to comply with these Rules and or the Grid Code, as the case may be;
- (b) direct the Participant to cease, within such period as it may specify in that regard, the act, activity or practice constituting the breach;
- (c) impose additional or more stringent record-keeping or reporting requirements on the Participant;
- (d) issue a non-compliance letter in accordance with Rule 46.5;
- (e) impose financial penalties in accordance with Rule 46.5.10, provided that no such penalties shall be imposed unless the Market Operator is satisfied that the Participant acted intentionally or that the breach could have been avoided by the exercise of due diligence on the part of the Participant; or
- (f) take such other action as may be provided for in these Rules or the Grid Code in respect of the Rule or Condition that has been breached by the Participant.

46.2.8 Subject to Rules 43.3.2, 43.3.3 and 46.3.4(c), any order issued by the Market Operator pursuant to Rule 46.2.7 shall be effective from the sixteenth Business Day following the receipt of the order by the Participant.

46.2.9 A Participant shall comply with any order issued by the Market Operator pursuant to Rule 46.2.7 as soon as the order becomes effective pursuant to Rule 46.2.8.

46.2.10 Any action taken by the Market Operator pursuant to this Rule 46.2 shall be without prejudice to any right of the Market Operator to take action pursuant to Rules 46.3, 46.4 and 46.5, as the case may be.

### **46.3 Suspension Orders and Disconnection Orders**

46.3.1 This Rule 46.3 shall apply to any Participant in respect of which any of the following Events of Default have occurred if:

- (a) the Participant fails to comply with an order of the Market Operator made pursuant to Rule 46.2.7, which has become effective pursuant to Rule 46.2.8;
- (b) the Participant fails to comply with an award made by an Arbitrator and filed under Rule 43.6.21, unless such award has

been set aside or its execution stayed by a court of competent jurisdiction;

- (c) the Market Operator does not receive payment in full of any amount claimed under any Security Cover issued by the Participant within one Business Day of the due time for payment of that claim;
- (d) the Participant fails to renew the Security Cover required from each Participant under these Rules within the time specified in that regard by the Market Operator;
- (e) it becomes unlawful for the Participant to comply with any of its obligations under these Rules or the Grid Code, as the case may be, or any other obligation owed to the Market Operator provided that a claim by the Participant that the fulfilment of any obligation has become unlawful shall suffice in this regard;
- (f) any licence, including a Licence issued by the Commission pursuant to the Act, permit or other authorisation necessary to enable the Participant to conduct its business or activities is suspended, revoked or otherwise ceases to be effective, provided that where a Participant holds more than one licence, permit or other authorisation and only one such, authorisation has so ceased to be effective, the Event of Default and any action taken by the Market Operator with respect thereto shall relate only to that authorisation;
- (g) the Participant ceases or threatens to cease to carry on its Licensed Business or a substantial part thereof;
- (h) the Participant enters into or takes any action indicating an intention to enter into an arrangement, composition or compromise with, or assignment for the benefit of, all or any class of its respective creditors or members, or a moratorium involving any of them;
- (i) the Participant states that it is unable to pay its debts as and when they fall due for payment;
- (j) a receiver or other person exercising similar functions under the laws of any relevant jurisdiction is appointed to manage any property of the Participant which is used in or relevant to the performance by the Participant of its obligations under these Rules, the Grid Code or its Licence;
- (k) an administrator, liquidator, trustee in bankruptcy or other person exercising similar functions under the laws of any relevant jurisdiction is appointed to manage the affairs of the Participant;
- (l) an application is made for the winding up or dissolution of the Participant or a resolution is passed and or any steps are taken to

pass a resolution for the winding up or dissolution of the Participant;

- (m) the Participant is wound up or dissolved;
- (n) the Participant is insolvent or unable to pay its debts under any applicable legislation;
- (o) the Participant ceases to satisfy any material requirement imposed upon it as a condition of its authorisation to participate in the Market Operator Administered Markets;
- (p) the Participant fails to inform the Market Operator of a material change in the information contained in its Admission Application or its current information on matters specified in the Admission Application in accordance with the requirements of Rule 15.4.2; or
- (q) the Participant persistently commits breaches of these Rules or the Grid Code.

46.3.2 A Participant shall notify the Market Operator immediately upon becoming aware of any circumstance that amount to, or may give rise to the occurrence of an Event of Default.

46.3.3 Where an Event of Default has occurred in relation to a Participant, the Market Operator shall:

- (a) issue to the Participant a Default Notice specifying the alleged default and requiring the Participant to remedy the default within such time as may be specified in the Default Notice, which time shall not be more than the longer of:
  - (i) 5 days; or
  - (ii) 2 Business Days; and / or
- (b) make a claim upon the Security Cover maintained by the Participant for such amount as the Market Operator determines represents the amount actually owed by the Participant to the Market Operator, or which forms its contingent liability to the Market Operator under these Rules and the Grid Code.

46.3.4 Where the Market Operator issues a Default Notice to a Participant pursuant to Rule 46.3.3(a) in respect of an Event of Default, the Market Operator shall notify the Commission, the System Operator and the TSP and or other Transmitters, if any, or Distributor to whose Transmission System or Distribution System, as the case may be, the Participant is connected:

- (a) of the issuance of the Default Notice;

- (b) of the time specified in the Default Notice for the Participant to remedy the default; and
  - (c) where applicable, of any action taken by the Participant to remedy the default.
- 46.3.5 A Participant may remedy an Event of Default referred to in Rule 46.3.1, where the Default Notice relates to payment of amounts due to the Market Operator under these Rules, including Rules 46.3.1(b) to 46.3.1(d), 46.3.1(h) and 46.3.1(i) to 46.3.1(n) or the Grid Code, as follows:
- (a) by paying all monies due for payment by it under these Rules and the Grid Code, together with any Default Interest calculated in accordance with Rule 38.11 and any costs and expenses determined by the Market Operator to have been incurred by it by reason of the default; and
  - (b) by providing additional Security Cover which complies with the requirements of Rule 15.3.3.
- 46.3.6 Notwithstanding that the Event of Default may have been remedied by the Participant, the Market Operator may, where it considers that it necessary for preserving the integrity of the Market Operator Administered Market, attach as it deems appropriate to the continued Participation of the Participant in the Market Operator Administered Market.
- 46.3.7 If an Event of Default is not remedied within the time specified in the Default Notice or within such longer period as may be agreed to in writing by the Market Operator, the Market Operator may issue to the Participant, with a copy to the Transmitters and Distributors to whose systems the Participant is connected, a notice indicating its intention to issue:
- (a) a Suspension Order to the Participant, suspending or restricting all or any of the Participant's rights to participate in the Market Operator Administered Market; or
  - (b) the Suspension Order referred to in paragraph (a) and a Disconnection Order to TSP or any other Transmitter, or Distributor to whose Transmission System or Distribution System the Participant is connected, directing the Disconnection of the relevant Facilities or equipment of the Suspended Participant;
- 46.3.8 Pursuant to the notice referred to in Rule 46.3.8, the Participant shall have the right to request, within 5 days or 2 Business Days, whichever is longer, a hearing before the Market Operator to show cause why the Suspension Order, the Disconnection Order, or both, as the case may be, should not be issued.

46.3.9 Where the Participant does not, or notifies the Market Operator that it will not, request a hearing pursuant to Rule 46.3.9, or in the event that it requested a hearing, then upon the conclusion of such hearing in accordance with Rule 46.3.10 the Market Operator may:

- (a) issue a Suspension Order to the Participant suspending or restricting all or any of the Participant's rights to participate in the Market Operator Administered Market;
- (b) issue the Suspension Order referred to in Rule 46.3.9(a) and issue, with notice to the Participant, a Disconnection Order to the TSP or any other Transmitter or Distributor to whose system the Participant is connected, directing Disconnection of the relevant Facilities or equipment of the Suspended Participant from the Transmission System or the Distribution System to which they are connected; or
- (c) make such other order as it considers appropriate.

46.3.10 Where the Participant has requested a hearing pursuant to Rule 46.3.9, the Market Operator shall, within 15 Business Days of the date of receipt of such request, conduct the hearing and shall provide the Participant with a reasonable opportunity to show cause as to why a Suspension Order or Disconnection Order or both should not be issued against it. The Market Operator shall not issue either the Suspension Order or the Disconnection Order until such hearing has been concluded.

46.3.11 The Market Operator shall lift a Suspension Order issued pursuant to Rule 46.3, if the Event of Default in respect of which it was issued is remedied and there are no other subsisting Events of Default with respect to the Suspended Participant, provided that the Market Operator may, upon lifting the Suspension Order, impose such conditions on the authorisation of the Participant to participate in the Market Operator Administered Market as it deems appropriate including, but not limited to:

- (a) establishing a lower trading limit in respect of the Participant than would otherwise be applicable to the Participant under these Rules and the Grid Code;
- (b) establishing a more frequent continuing schedule of payments than would otherwise be applicable to the Participant under these Rules, and the Grid Code; or
- (c) imposing more stringent prudential requirements than would otherwise be applicable to the Participant under Rule 15.3.

46.3.12 The Market Operator may do one or more of the following to give effect to a Suspension Order issued pursuant to this Rule 46.3:

- (a) reject any Nomination submitted by the Suspended Participant;

- (b) withhold payment of any amount otherwise due to the Suspended Participant under these Rules and the Grid Code; or
- (c) make such further order or issue such directions to the Suspended Participant as the Market Operator determines appropriate.

46.3.13 Upon issuing a Disconnection Order to any Transmitter or Distributor pursuant to Rule 46.3.9(b), the Market Operator, or the Transmitter or Distributor to whose system the Facilities or equipment of the Participant is connected, shall upon the later of the date and time specified in the Disconnection Order or the expiry of the period specified in Rule 43.3.2, and subject only to Rules 46.3.14 to 46.3.17, disconnect the Facilities or equipment of the Suspended Participant to whom the Disconnection Order applies. The Transmitter or Distributor, as the case may be, shall not reconnect such Facilities or equipment until such time as it receives the notice referred to in Rule 46.3.18, and shall reconnect such Facilities or equipment on the date and at the time specified in such notice. No costs associated with Disconnection and reconnection shall be borne by the Market Operator.

46.3.14 The Market Operator may at any time and upon notice to the Suspended Participant, extend, stay the operation of or lift a Suspension Order or modify the conditions of any Suspension Order, and shall notify any Transmitters or Distributors, as the case may be, to whose Facilities the Suspended Participant is connected, accordingly.

46.3.15 Where the Market Operator lifts or stays the operation of a Suspension Order issued to a Suspended Participant in respect of whom a Disconnection Order was issued pursuant to Rule 46.3.9(b), the Market Operator shall at the same time lift or stay the operation, as the case may be, of the Disconnection Order and shall advise the Suspended Participant, the Commission, any Transmitters and Distributors to whose system the Suspended Participant is connected, accordingly.

46.3.16 Where the Market Operator extends a Suspension Order issued to a Suspended Participant in respect of whom a Disconnection Order was issued pursuant to Rule 46.3.9(b), the Market Operator may at the same time extend the Disconnection Order for a corresponding period of time and shall advise the Suspended Participant, the Commission, any Transmitter or Distributor, to whose system the Suspended Participant is connected, accordingly.

- 46.3.17 The Market Operator shall, immediately following the issuance of a Suspension Order, publish a notice on the Website and issue a public statement that the right of the Suspended Participant to participate in the Market Operator Administered Market has been Suspended or restricted. The notice shall include details of the suspension or restriction, and shall state whether a Disconnection Order has also been issued in respect of the Suspended Participant.
- 46.3.18 The Market Operator shall issue a public notice promptly after a Suspension Order and, where applicable, a Disconnection Order is lifted, extended, modified or stayed and for this purpose, shall publish same on the Website and in a national newspaper of wide circulation.
- 46.3.19 Subject to Rules 43.3 and 46.3.15, from the time the Market Operator issues a Suspension Order to a Participant, the Suspended Participant shall be ineligible to trade or enter into any transaction in the Market Operator Administered Market to the extent specified in the Suspension Order until such time that the Market Operator notifies the Suspended Participant and all other Participants that the Suspension Order has been lifted or stayed.
- 46.3.20 A Suspended Participant shall comply with the terms of the Suspension Order issued to it, and with any other order relating to the Suspension Order, including any directions or arrangements which may be made by the Market Operator for the purpose of giving effect to the Suspension Order pursuant to Rule 46.3.13.
- 46.3.21 Subject to the express provisions of the Suspension Order, a Suspended Participant shall remain liable for all of its obligations as a Participant, including but not limited to payment of any monies to the Market Operator in respect of any Energy withdrawn from System Operator Controlled Grid by the Suspended Participant while the Suspension Order is in effect. Issuance of a Suspension Order shall not affect any liability or obligation of a Suspended Participant for the payment of any monies to the Market Operator or any other person which was incurred or arose under these Rules and the Grid Code prior to the date on which the Suspension Order was issued or during any period in which the operation of the Suspension Order has been stayed, regardless of the date on which any claim relating thereto may be made.

#### **46.4 Termination Orders and Disconnection Orders**

- 46.4.1 Upon the occurrence of any of the events specified in paragraphs (a) and (b), the Market Operator may issue a Termination Order, terminating the right of a Suspended Participant who is subject to a Suspension Order under which all the Participant's right to participate in the Market Operator Administered Market. The events upon which a Termination Order pursuant to this Rule 46.4.1 may be issued are:
- (a) if the Suspended Participant has not remedied the Event of Default which triggered the issuance of the Suspension Order to

the satisfaction of the Market Operator within 30 Business Days of the date of issuance of the Suspension Order; or

- (b) where the Suspended Participant has notified the Market Operator that it is not likely to remedy such Event of Default.

46.4.2 Notwithstanding that a Participant may have remedied any breach of these Rules or the Grid Code, the Market Operator may by Termination Order terminate a Participant's right to participate in the Market Operator Administered Market if it finds that the Participant persistently breaches these Rules or the Grid Code.

46.4.3 Where the Market Operator intends to issue a Termination Order in respect of any Participant, the Market Operator shall give the Participant notice of its intention, specifying:

- (a) the grounds upon which it proposes to issue the Termination Order and details of any evidence relied upon;
- (b) the time within which the Participant may make written representations on why the Termination Order should not be issued; and
- (c) the right of the Participant to request a hearing before the Market Operator to show cause why the Termination Order should not be issued.

46.4.4 Where the Market Operator issues the notice referred to in Rule 46.4.3 to any Participant, it shall notify the Commission, the System Operator and any Transmitter or Distributor to whose system the Participant is connected, of the notice and its contents.

46.4.5 Following expiration of the time specified in Rule 46.4.3(b), and after considering any representations made by the Participant pursuant thereto, the Market Operator may:

- (a) subject to Rule 46.4.8, issue the Termination Order; or
- (b) make such order, including but not limited to the orders referred to in Rule 46.4.2 or, where applicable, Rule 46.2.7, or both, as the Market Operator determines appropriate including, but not limited to, restricting all or any of the Participant's rights to participate in the Market Operator Administered Market and upon making such order, the Market Operator shall notify the Commission, the System Operator, and any Transmitter or Distributor to whose system the Participant is connected of the order.



- 46.4.6 Where the Market Operator issues a Termination Order in respect of any Participant pursuant to Rule 46.4.5(a), it shall at the same time, if it has not already done so, issue a Disconnection Order for Disconnection of the Participant's Facilities or equipment from the Transmission System or Distribution System to which they are connected. The Market Operator shall notify the System Operator, and any Transmitter or Distributor to whose system the Participant is connected of the Order.
- 46.4.7 The Market Operator after issuing a Disconnection Order pursuant to Rules 46.4.6, or any Transmitter or Distributor, that receives a Disconnection Order from the Market Operator pursuant to Rules 46.4.6 shall, on the date and at the time specified in the Disconnection Order, or on the expiry of the period specified in Rule 43.3, whichever is later, Disconnect the Generation Facility, Load Facility or equipment, as the case may be, of the Terminated Participant referred to in the Disconnection Order. The Transmitter or Distributor, as the case may be, shall not reconnect such Facilities or equipment until the Terminated Participant is again admitted as a Participant in accordance with these Rules. No costs associated with Disconnection and or reconnection shall be borne by the Market Operator.
- 46.4.8 Where the Participant has requested a hearing pursuant to Rule 46.4.3(c), the Market Operator shall conduct a hearing providing the Participant with a reasonable opportunity to show cause as to why a Termination Order should not be issued against it. In such case, the Market Operator shall not make the determination noted in Rule 46.4.5 until such hearing has been held.
- 46.4.9 Upon a Termination Order being made in respect of a Participant, all of the rights of the Terminated Participant to participate in the Market Operator Administered Market shall be terminated.
- 46.4.10 The Market Operator shall, immediately following the issuance of a Termination Order, publish the Termination Order on the Website and issue a public announcement that the right of the Terminated Participant to participate in the Market Operator Administered Market has been terminated and that a Disconnection Order has been issued in respect of the Terminated Participant.
- 46.4.11 A Terminated Participant shall remain subject to and liable for all of its obligations and liabilities as a Participant including, but not limited to, any liability under Rule 47.8, which was incurred or arose under these Rules and the Grid Code prior to the date on which it ceases to be a Participant, regardless of the date on which any claim relating thereto may be made.

46.4.12 A Terminated Participant who wishes to be readmitted as a Participant shall re-apply for authorization to participate in the Market Operator Administered Market, in accordance with the provisions of Rule 15. The Market Operator may impose such terms and conditions as it deems appropriate, including terms that do not apply to other Participants, before readmitting such Participant to participate in the Market Operator Administered Markets.

## **46.5 Non-compliance Letters and Financial Penalties**

46.5.1 This Rule 46.5 sets forth the procedure to be followed by the Market Operator in issuing non-compliance letters and fixing financial penalties to be imposed on Participants for breaches of these Rules and the Grid Code.

46.5.2 Where these Rules or the Conditions provide for the imposition of a sanction in respect of the breach of a Rule or a Condition, the Market Operator shall:

- (a) determine the level of non-compliance by the Participant in accordance with Rule 46.5.3;
- (b) determine the rate of recurrence of non-compliance by the Participant in accordance with Rule 46.5.4;
- (c) based on the findings made pursuant to paragraphs (a) and (b), determine whether to issue a non-compliance letter or impose a financial penalty; and
- (d) where a determination is made to impose a financial penalty, fix the amount of the penalty in accordance with Rule 46.5.6.

46.5.3 The Market Operator shall determine the level of non-compliance referred to in Rule 46.5.2(a) as follows:

- (a) A Level “L1” non-compliance shall be found where the Participant has not fully complied, but has complied in part with all the requirements of any Rule or Condition and where the Participant has, on its own initiative, informed the Market Operator on a timely basis of the non-compliance, the reasons therefor and the manner in, and the time within which such non-compliance will be remedied;
- (b) A Level “L2” non-compliance shall be found where the Participant has failed to comply with all of the requirements of any Rule or Condition and where the Participant has, of its own initiative, informed the Market Operator on a timely basis of the non-compliance, the reasons therefor and the manner in, and the time within which such non-compliance will be remedied;
- (c) A Level “L3” non-compliance shall be found where the Participant has failed to comply, in whole or in part, with all of

the requirements of a Rule or a Condition and has failed to inform the Market Operator of the non-compliance on a timely basis and on its own initiative but, upon request by the Market Operator and within the time specified in the request, informs the Market Operator of the reasons for non-compliance and the manner in, and the time within which such non-compliance will be remedied; and

- (d) A Level “L4” non-compliance shall be found where the Participant has failed to comply, in whole or in part, with all of the requirements of a Rule or a Condition and has failed to inform the Market Operator of the non-compliance on a timely basis and on its own initiative, and has failed to respond to the Market Operator’s request, for a statement of the reasons for such non-compliance and of the manner in which and the time within which such non-compliance will be remedied, within the time specified in the request.

46.5.4 The Market Operator shall determine the rate of recurrence of non-compliance referred to in Rule 46.5.2(b) based on the frequency and duration with which the Participant has been found by the Market Operator to be in breach of these Rules.

46.5.5 Where the Market Operator has determined, based on the findings made pursuant to Rule 46.5.2 that the applicable sanction is the issuance of a letter of non-compliance, the Market Operator shall issue a letter of non-compliance to the Participant.

46.5.6 Where the Market Operator has determined, based on the determinations made under Rule 46.5.2 that the applicable sanction is the imposition of a financial penalty, the Market Operator shall, subject to Rule 46.5.11, and upon consideration of the matters specified in Rule 46.5.7, impose a financial penalty on the Participant according to the table below:

Level of Non-Compliance	Sanctions
L1	Non-compliance letter or a fine not exceeding ₪[ ]
L2	Non-compliance letter or a fine not exceeding ₪[ ]
L3	Non-compliance letter or a fine not exceeding ₪[ ]
L4	A fine ranging between ₪[ ] and ₪[ ]

46.5.7 In fixing the amount of the financial penalty pursuant to Rule 46.5.7, the Market Operator, and where appropriate, the Arbitration Tribunal, shall have regard to:

- (a) the circumstances in which the breach occurred;
- (b) the severity of the breach;
- (c) the extent to which the breach was inadvertent, negligent, deliberate or otherwise;
- (d) the length of time during which the breach remained unresolved;
- (e) the action taken by the Participant in relation to the breach upon becoming aware thereof;
- (f) whether the Participant disclosed the matter to the Market Operator on its own initiative or whether it was prompted or compelled to do so;
- (g) any benefit that the Participant obtained or expected to obtain as a result of the breach;
- (h) any previous breach by the Participant of these Rules, the Grid Code or of the conditions of its Licence;
- (i) the impact of the breach on other Participants;
- (j) the impact of the breach on the Market Operator Administered Market as a whole; and
- (k) such other relevant matters as the Market Operator considers appropriate.

46.5.8 Nothing in this Rule 46.5 shall preclude the Market Operator from making an order under one or more of Rules 46.2.7(a) to 46.2.7(c) or under Rule 46.2.7(f) in respect of a breach of these Rules or Conditions with respect to which a sanction has been imposed pursuant to this Rule 46.5.

46.5.9 Without prejudice to any other enforcement action that may be provided for in these Rules or the Grid Code, the Market Operator shall impose a financial penalty of an amount fixed by the Market Operator having regard to the criteria set forth in Rule 46.5.7 and to the factors noted in Rules 46.5.10(a) to 46.5.10(d), where applicable on a Participant who:

- (a) breaches any Rule or Condition in respect of which no sanction is specified in these Rules or the Grid Code; or
- (b) fails to comply with an order made pursuant to Rule 46.2;

46.5.10 The Market Operator may impose a financial penalty in excess of the amount stipulated in Rule 45.5.6 for the relevant level of non-compliance on a Participant where:

- (a) the Participant breaches a Rule and or a Condition while a declaration that System Operator Controlled Grid is in an Emergency Operating State or an Extreme Operating State was in effect;
- (b) the Participant breaches a Rule or a Condition while a declaration of Market Suspension was in effect;
- (c) the Market Operator determines that the impact of the Participant's breach on the Market Operator Administered Market is particularly severe; or
- (d) the rate of recurrence of non-compliance by the Participant with these Rules and or the Grid Code is of such frequency and or duration as to warrant the imposition of a higher financial penalty.

46.5.11 No additional financial penalty may be imposed in respect of any breach of these Rules or the Grid Code in respect of which a financial penalty has already been imposed pursuant to this Rule 46.5, provided that nothing in this Rule 46.5.11 shall prevent the Market Operator from imposing a financial penalty for:

- (a) failure by a Participant to remedy a breach in respect of which a financial penalty has been imposed; or
- (b) any repetition or continuation of such breach.

## **46.6 Non-compliance by Officers and Agents**

If any director, officer, employee partner or agent of a Participant or the TSP or the System Operator or the Market Operator does any act or refrains from doing any act which if done or omitted to be done, as the case may be, by a Participant or the TSP or the System Operator or the Market Operator would constitute a breach of these Rules or the Grid Code, such act or omission shall be deemed for the purposes of this Rule 46 to be the act or omission of the Participant or the TSP or the System Operator or the Market Operator, as the case may be.

## **47. RECORD RETENTION, DISCLOSURE, ACCESS AND CONFIDENTIALITY**

### **47.1 Record Retention**

47.1.1 The Market Operator and the System Operator shall, in consultation with the Stakeholder Advisory Panel, develop, publish, and from time to time revise, a policy detailing the period for which Records or classes of Records prepared by the Market Operator and the System Operator, the TSP and Participants for or in connection with these Rules and the Grid Code must be retained.

47.1.2 The Market Operator, the System Operator and each Participant shall retain Records or classes of Records prepared for or in connection with these Rules and the Grid Code for such period of time as may be specified in:

- (a) the policy referred to in Rule 47.1.1; or
- (b) any provision of these Rules or the Grid Code, other than this Rule 47.1, if it is longer than the period stipulated in that regard pursuant to paragraph (a).

47.1.3 Subject to Rule 47.1.4, where no period of time is specified in these Rules or in the policy referred to in Rule 47.1.1 in respect of a given Record, the Record shall be retained for a period of seven years which shall run:

- (a) in the case of the person that created the Record, from the date on which the Record was created; and
- (b) in the case of the person that received the Record, from the date on which the Record was received.

47.1.4 Temporary Drafts

- (a) Where a Record is deemed to be temporary draft pursuant to this Rule 47.1.4, only the final form of the Record is required to be retained in accordance with Rule 47.1.2 or 47.1.3; provided that Records that are categorised as provisional under these Rules or the Grid Code shall be deemed to be in final form, and not draft form.
- (b) A Record shall be deemed to be a temporary draft if it:
  - (i) was prepared in one or more draft forms;
  - (ii) was not circulated in any such draft form by the person preparing it; and
  - (iii) is subsequently prepared in final form.

## **47.2 Disclosure**

- 47.2.1 Where a person is required by these Rules or the Grid Code to disclose or provide any Record to another person, such Record shall be disclosed or provided within the time specified in, and in the form and manner required by, the applicable provisions of these Rules or the Grid Code, as the case may be. Where no time is specified for the disclosure, the Record shall be disclosed or provided within a reasonable time.
- 47.2.2 A Record disclosed pursuant to Rule 47.2.1 shall, to the best of the disclosing person's knowledge, be true, correct and complete at the time it is made. No person shall knowingly or recklessly disclose or provide a Record in accordance with Rule 47.2.1 that, at the time and in light of the circumstances in which it is made, is misleading or deceptive or does not state any fact that is necessary for proper understanding of the Record.
- 47.2.3 Where a person discovers that a Record disclosed by it to any other person in accordance with Rule 47.2.1 was, at the time that it was disclosed, incorrect, incomplete, misleading and or deceptive, or that it becomes so thereafter, the disclosing person shall immediately disclose the true, correct and complete Record to the person to whom the Record was originally disclosed.
- 47.2.4 Subject to Rule 47.3, the System Operator and the Market Operator are entitled to use any Record obtained pursuant to these Rules and the Grid Code in furtherance of the performance of their functions and or duties under these Rules, the Grid Code, the Licence or applicable law.

## **47.3 Accessibility**

- 47.3.1 Subject to Rule 47.7, all persons shall have open and non-discriminatory access to all information in possession of the System Operator and or the Market Operator, other than Confidential Information, required by these Rules and the Grid Code to be made available to Participants or other persons.
- 47.3.2 Subject to Rule 47.7, all information, other than Confidential Information, required by these Rules and the Grid Code to be made available to Participants or other persons shall be published by the System Operator or the Market Operator on the Website or otherwise made available in the manner and within the time prescribed in these Rules or the Grid Code, as the case may be. Where no time is specified in respect of the provision of a particular piece of information, such information shall be made available within a reasonable time.
- 47.3.3 In this Rule 47, other than Rule 47.3.2:

- (a) a reference to the System Operator or the Market Operator shall include a reference to all Panels, the Counsellor and Committees; and
- (b) a reference to information shall mean information however recorded, whether in printed form, on film, by electronic means or otherwise.

#### **47.4 Open Access to Information and Confidentiality**

- 47.4.1 The System Operator and the Market Operator shall organise and maintain information on Website, where Participants, the TSP, the Commission, Applicant Participants and the public in general can access non-confidential information on the electricity system and the Market.
- 47.4.2 The Market Operator and the Stakeholder Advisory Panel may agree on an alternative web site as long as it is open access to the public. Any reference in these Rules to the Website shall mean such website or an alternative site agreed by the Market Operator with the Stakeholder Advisory Panel.
- 47.4.3 The following information shall be available for open access to the public on the Website:
  - (a) the Participant Application Form;
  - (b) The Market Participation Agreement;
  - (c) The Market Rules;
  - (d) The Grid Code;
  - (e) Any proposals for amending the Rules that is under consideration;
  - (f) The Market Procedures and the Operating Procedures;
  - (g) Participants' Register;
  - (h) Load forecasts and load statistics; and
  - (i) the prices on the Balancing Market, once the Balancing Market is in operation.
- 47.4.4 The following information shall be available for open access to Participants and the Commission on the Website:
  - (a) The reports prepared by the System Operator or the Market Operator when the Market Rules or the Grid Code establish that such report must be sent to Participants;
  - (b) Maintenance outage plans;



- (c) Expected and actual transmission constraints;
- (d) Day ahead dispatch schedules;
- (e) Ex-post dispatch analysis;
- (f) Ancillary Services provided and costs;
- (g) Expected and actual Must Run Generation, and its cost; and
- (h) System Operator and the Market Operator Audit Report.

47.4.5 Subject to the express provisions of these Rules or the Grid Code, each Participant, as well as the System Operator and the Market Operator shall keep confidential, any Confidential Information which comes into the possession or control of that Participant or the System Operator or the Market Operator pursuant to these Rules, or of which the Participant or the System Operator or the Market Operator becomes aware by any means whatsoever.

47.4.6 No Participant or the System Operator or the Market Operator shall:

- (a) disclose Confidential Information to any person, except as expressly permitted by these Rules or the Grid Code;
- (b) permit access to Confidential Information by any person not authorized to have such access pursuant to these Rules or the Grid Code; and
- (c) use or reproduce Confidential Information for a purpose other than the purpose for which it was disclosed or another purpose contemplated by these Rules or the Grid Code.

47.4.7 Each Participant and the System Operator and the Market Operator shall:

- (a) prevent access to Confidential Information which is in its possession or control, by any person not authorized to have access to such Confidential Information pursuant to these Rules or the Grid Code, and shall in all cases, take appropriate measures to ensure destruction or disposal of records of Confidential Information in its whenever such Confidential Information is no longer required to be retained by it pursuant to these Rules or the Grid Code; and
- (b) ensure that any person to whom it discloses Confidential Information observes the provisions of this Rule 47.4 in relation to that Confidential Information.

47.4.8 Each Participant and the System Operator and the Market Operator shall, promptly upon becoming aware of a breach or a threatened breach of the provisions of this Rule 47 with respect to any Confidential Information:

- (a) notify any person to whom the Confidential Information relates or by whom it was provided; and
- (b) take such reasonable steps as may be required to prevent or assist in the prevention of the unauthorized disclosure, access to, use or reproduction of Confidential Information that may result from such breach or threatened breach.

47.4.9 Each Participant shall maintain such internal measures and procedures as are necessary to enable the Participant protect any Confidential Information in its possession and to otherwise enable the Participant to comply and monitor compliance with its obligations under this Rule 47.

47.4.10 The System Operator and the Market Operator shall maintain such internal measures and procedures, including measures referred to in Rule 47.7.2, as are necessary to enable them protect any Confidential Information in their possession and to otherwise enable them to comply and monitor compliance with its obligations under this Rule 47.

#### **47.5 Exceptions**

47.5.1 Unless prohibited by Applicable Law or by the provisions of these Rules, or the Grid Code, nothing in Rule 47.4 shall prevent:

- (a) the disclosure, use or reproduction of information if, at the time of the disclosure, the information is generally and publicly available by any means other than breach of confidence by the Participant or the System Operator or the Market Operator, as the case may be, who wishes to disclose, use or reproduce the information, or by any person to whom such Participant or the System Operator or the Market Operator has disclosed the information;
- (b) the disclosure of Confidential Information by a Participant or the System Operator or the Market Operator to:
  - (i) any of its directors or employees, where such director or employee requires the Confidential Information for the due performance of that person's duties and responsibilities and, in the case of the System Operator and the Market Operator, where the director or employee has been given the necessary security clearance by the System Operator and the Market Operator ; or
  - (ii) its legal and or other professional advisors, auditor or other consultants, where such persons require the information for purposes of these Rules, the Grid Code or for the purposes of an agreement entered into pursuant to these Rules or the Grid Code, or for the

purpose of advising the Participant or the System Operator and the Market Operator in relation thereto;

- (c) the disclosure, use or reproduction of Confidential Information:
  - (i) by the Participant that provided the Confidential Information pursuant to these Rules or the Grid Code;
  - (ii) with the consent of the Participant that provided the Confidential Information pursuant to these Rules or the Grid Code; or
  - (iii) in the case of Settlement Data or Metering Data, by or with the consent of the Participant to whom such data relates;
- (d) the disclosure, use or reproduction of Confidential Information to the extent required by Applicable Law or by lawful requirement of:
  - (i) any government, governmental and or regulatory body, authority or agency having jurisdiction over a Participant or the System Operator and the Market Operator or an Affiliate thereof; or
  - (ii) any stock exchange in Nigeria having jurisdiction over any Participant, the System Operator and the Market Operator or an Affiliate thereof;
- (e) except as otherwise provided in Rule 43, the disclosure, use or reproduction of Confidential Information if required in connection with legal proceedings, mediation, arbitration or other dispute resolution mechanism relating to these Rules, the Grid Code or to an agreement entered into pursuant to these Rules or for the purpose of advising a person in relation thereto;
- (f) the disclosure of Confidential Information where such disclosure is necessary to protect the health or safety of personnel, equipment or the environment or to maintain the Reliability of the System Operator Controlled Grid;
- (g) the disclosure, use or reproduction of Confidential Information as an unidentifiable and inseparable component of an aggregate set of information majority of which is not confidential;
- (h) the disclosure by the System Operator or the Market Operator of Confidential Information to a Participant to the extent that such disclosure would, in the opinion of the System Operator, assist the Participant, the System Operator and or the Market Operator to respond to or prevent an Emergency, an Emergency Operating State or a High-risk Operating State:

- (i) during an Emergency or where the System Operator System Operator Controlled Grid is in an Emergency Operating State or a High-risk Operating State; or
  - (ii) where an Emergency, an Emergency Operating State or a High-risk Operating State is anticipated by the System Operator;
- (i) the disclosure by the System Operator of Confidential Information to the TSP or other Transmitter for the purposes of:
  - (i) safe and reliable management, operation and maintenance of its Transmission System to the extent that Confidential Information is required pursuant to the terms of the Operating Agreement; or
  - (ii) the verification and or reconciliation of the collection and administration of any applicable Usage Charges;

disclosure by the System Operator or the Market Operator of Confidential Information to another Control Area Operator.

47.5.2 Prior to making any disclosure pursuant to Rule 47.5.1(b), the person wishing to disclose the information shall inform the proposed recipient of the confidential nature of the Confidential Information to be disclosed and shall use all reasonable endeavours, including but not limited to the execution of an appropriate Confidentiality or Non-Disclosure Agreement, to ensure that the recipient keeps the Confidential Information confidential in accordance with the provisions of Rule this 47 and does not use the Confidential Information for any purpose not expressly permitted under these Rules.

47.5.3 Prior to making any disclosure pursuant to Rule 47.5.1(d) or 47.5.1(e), a person from whom the disclosure of Confidential Information is required shall advise the person affected by the disclosure as soon as reasonably practicable, so as to permit the affected person to challenge such request or demand or seek to impose any necessary terms and conditions on any such disclosure.

47.5.4 In making any disclosure pursuant to Rule 47.5.1(f) the disclosing person shall advise the person affected by the disclosure as soon as is reasonably practicable and shall use all reasonable endeavours to protect the confidentiality of the Confidential Information insofar as may be reasonably practicable in the circumstances.

47.5.5 Where the System Operator and or the Market Operator makes any disclosure pursuant to Rule 47.5.1(h):

- (a) the disclosing party shall advise the Participant affected by the disclosure as soon as is reasonably practicable in the circumstances; and

- (b) the Transmitter to whom any disclosure is made shall use the Confidential Information so disclosed solely for the purposes referred to in Rule 47.5.1(h) and shall use all reasonable endeavours to protect the confidentiality of such Confidential Information.

47.5.6 Where the System Operator or the Market Operator makes any disclosure pursuant to paragraph (i) of Rule 47.5.1(h):

- (a) the System Operator or the Market Operator shall advise the Participant affected by the disclosure as soon as is reasonably practicable in the circumstances; and
- (b) the Participant to whom the disclosure is made shall use the Confidential Information so disclosed solely for the purposes of responding to the circumstances described in paragraph (i) of Rule 47.5.1(h) and shall use all reasonable endeavours to protect the confidentiality of such Confidential Information as may be reasonably practicable in the circumstances.

#### **47.6 Cost of Access and Electronic Data Sharing**

47.6.1 Nothing in this Rule 47 shall prevent information which is made available by means of electronic communications from being provided on a read-only basis.

47.6.2 Each Participant and any other person accessing, retrieving or storing information Published or otherwise made available by the System Operator and the Market Operator shall be responsible for its own costs of accessing, retrieving or storing such information.

#### **47.7 Conditions of Access**

47.7.1 Where a request for access to, or disclosure of information in the possession or control of the System Operator or the Market Operator is made by a Participant pursuant to these Rules or the Grid Code, the System Operator and the Market Operator shall only provide such access or disclosure if:

- (a) the System Operator and or the Market Operator are satisfied that they are not precluded by these Rules or the Grid Code from providing such access or making such disclosure to the Participant; and
- (b) the grant of such access, or disclosure of the information would not impose a significant burden on the System Operator or the Market Operator, having regard to the System Operator and the Market Operator's resources.

47.7.2 Where the System Operator and or the Market Operator makes Confidential Information accessible by means of electronic communications, the System Operator and the Market Operator shall

implement access control protocols that differentiate between Participants, provided that this Rule 47.7.2 shall not require the System Operator and or the Market Operator to implement access control protocols that differentiate between individuals, whether such individuals are within the same Participant or otherwise.

## **47.8 Liability**

### **47.8.1 Liability of the System Operator and the Market Operator, and their personnel, Panels and Committee's**

- (a) Subject to Rule 47.8.2, no action or other civil proceeding shall be commenced against the System Operator or the Market Operator or their directors, officers, employees or under these Rules and the Grid Code, or against the Counsellor or member of any Panel or Committee, for any act done or omission made in good faith and in the exercise or performance, or with the intention to exercise or perform any authority, power or duty under these Rules and the Grid Code.
- (b) No action or other civil proceeding shall be commenced against a member of any Panel, Committee, or against the Counsellor for any act done or omission made in good faith in the exercise or performance, or with the intention to exercise or perform any authority, power or duty of the Panel, Committee, or the Counsellor under these Rules or the Grid Code.

### **47.8.2 Liability of the System Operator and the Market Operator**

- (a) Subject to paragraphs (b) and (c) and 47.8.1(b) and Rule 47.8.4, and except as otherwise provided in these Rules or the Grid Code, the System Operator and the Market Operator shall not be liable, whether in contract, tort or otherwise, for any claims, losses, charges, damages, demands, liabilities, judgments, costs, penalties, fees, obligations, expenses and or disbursements made or incurred by a Participant or its directors, officers, employees or agents, arising out of any act or omission of the TSP in the exercise or performance, or in the execution of an the intention to exercise or perform any authority, power or duty under these Rules or the Grid Code, except to the extent that such claims, losses, charges, damages, demands, liabilities, judgments, costs, penalties, fees, obligations, expenses and or disbursements arise out of any wilful misconduct by, or wilful omission of the System Operator or the Market Operator. For the purposes of this paragraph (a), an act or omission by the System Operator or the Market Operator effected in compliance with these Rules and the Grid Code shall be deemed not to constitute wilful misconduct or a negligent act or omission.
- (b) Subject to paragraphs 47.8.1(a) and 47.8.1(b), the TSP shall indemnify and hold harmless any Participant and its directors, officers and employees from any and all claims, losses, charges,

damages, demands, liabilities, judgments, costs, penalties, fees, obligations, expenses and or disbursements incurred, suffered, sustained, required to be paid directly or indirectly, by, or sought to be imposed upon, the Participant, its directors, officers or employees from or in respect of any matter with respect to which liability may be imposed on the System Operator or the Market Operator pursuant to paragraph 47.8.1(a).

- (c) Except as otherwise provided in these Rules, neither the System Operator nor the Market Operator shall in any event be liable to indemnify and or hold harmless, a Participant or the Participant's directors, officers or employees from, and no Participant shall assert or attempt to assert against the TSP, any claim in respect of or in respect of:
  - (i) any indirect or consequential loss or incidental or special damages including, but not limited to, punitive damages; or
  - (ii) any loss of profit, loss of contract, loss of opportunity or loss of goodwill,
- (d) Each Participant shall have a duty to mitigate damages, losses, liabilities, expenses or costs relating to any claims for indemnification that may be made by the Participant pursuant to paragraph 47.8.1(a) above.

#### 47.8.3 Participants' Liability

- (a) Subject to paragraphs **Error! Reference source not found.** and 47.8.1(b), and Rule 47.8.4, and except as otherwise provided in these Rules or the Grid Code, a Participant shall not be liable, whether in contract, tort or otherwise, for any claims, losses, charges, damages, demands, liabilities, judgments, costs, penalties, fees, obligations, expenses and or disbursements made or incurred by the System Operator and the Market Operator and their directors, officers or employees, arising out of any act or omission of the Participant in the exercise or performance, or in the execution of an the intention to exercise or perform any authority, power or duty under these Rules or the Grid Code except to the extent that such claims, losses, charges, damages, demands, liabilities, judgments, costs, penalties, fees, obligations, expenses and or disbursements arise out of any wilful misconduct by, or wilful omission of the Participant. For the purposes of this paragraph 47.8.1(a), an act or omission of a Participant effected in compliance with these Rules or the Grid Code shall not constitute wilful misconduct or a negligent act or omission.
- (b) Subject to paragraphs 47.8.1(a) and 47.8.1(b), a Participant shall indemnify and hold harmless the System Operator and the Market Operator and its directors, officers or employees from any and all claims, losses, liabilities, obligations, actions, judgments, suits,

costs, expenses, disbursements and damages incurred, suffered, sustained or required to be paid, directly or indirectly by, or sought to be imposed upon the System Operator and the Market Operator or their directors, officers or employees from or in respect of any matter with respect to which liability may be imposed on the Participant pursuant to paragraph 47.8.1(a).

- (c) Except as otherwise provided in these Rules, the Grid Code or any agreement between a Participant and the TSP, in no event shall any Participant be liable to indemnify or to hold harmless the System Operator and the Market Operator or their directors, officers or employees from or in respect of:
  - (i) any indirect or consequential loss or incidental or special damages including, but not limited to, punitive damages; or
  - (ii) any loss of profit, loss of contract, loss of opportunity or loss of goodwill.

Neither the System Operator nor the Market Operator shall assert or attempt to assert against any Participant any claim in respect of any of the losses or damages referred to paragraph 47.8.1(b).

Nothing in this Rule 47.8.3 shall be read as limiting the right of the System Operator and the Market Operator to impose a financial penalty or other sanction on a Participant in accordance with the provisions of these Rules and the Grid Code.

The System Operator and the Market Operator shall take all reasonable steps to mitigate any damages, losses, liabilities, expenses or costs that may arise in relation to any claims for indemnification that may be made pursuant to this Rule 47.8.3.

#### 47.8.4 Force Majeure

- (a) Subject to paragraph (n) and any agreement between the System Operator and or the Market Operator and any Participant, other than the agreements and contracts referred to in Rule 47.8.5, the System Operator and the Market Operator shall not be liable to any Participant for any failure or delay in the performance of any its obligations under these Rules or the Grid Code, other than the obligation to make payments of money, to the extent that such failure or delay is due to a Force Majeure Event, provided that the System Operator and the Market Operator shall only be excused from such performance pursuant to this paragraph (a):
  - (i) for so long as the Force Majeure Event continues and for such reasonable period of time thereafter as may be



necessary for the System Operator or the Market Operator to resume performance of the obligation;

- (ii) only to the extent that the failure or delay in performance would not have been occasioned but for such Force Majeure Event; and
  - (iii) if they comply with paragraph (c).
- (b) Subject to paragraph (n) and to any agreement between the System Operator or the Market Operator and a Participant, other than the agreements and contracts referred to in Rule 47.8.5, no Participant shall be liable to the System Operator and or the Market Operator for any failure or delay in the performance of any of its obligations under these Rules or the Grid Code, other than the obligation to make payments of money, to the extent that such failure or delay is due to a Force Majeure Event, provided that the Participant shall only be excused from such performance pursuant to this paragraph (b):
- (i) for so long as the Force Majeure Event continues and for such reasonable period of time thereafter as may be necessary for the Participant to resume performance of the obligation;
  - (ii) only to the extent that such failure or delay would not have been experienced but for such Force Majeure Event; and
  - (iii) if it complies with paragraph (c).
- (c) Neither the System Operator and or the Market Operator, nor any Participant, shall not rely on a Force Majeure Event unless they have given notice of the Force Majeure Event in accordance with paragraph (d) or (e), respectively.
- (d) Where the System Operator or the Market Operator intends to rely on a Force Majeure Event, it shall give notice of Force Majeure Event to Participants and shall post notice thereof on the Website as soon as is reasonably practicable but in any event within 2 Business Days of the date on which the System Operator or the Market Operator becomes aware of the occurrence of the Force Majeure Event. The notice shall include particulars of:
- (i) the nature of the Force Majeure Event;
  - (ii) the effect that such Force Majeure Event has on the System Operator or the Market Operator's performance of its obligations under these Rules or the Grid Code; and

- (iii) the measures that the System Operator and the Market Operator has taken, or proposes to take, to alleviate the impact of the Force Majeure Event.
- (e) Where a Participant invokes a Force Majeure Event, it shall give notice to the System Operator or the Market Operator of the Force Majeure Event as soon as reasonably practicable, but in any event within 2 Business Days of the date on which the Participant becomes aware of the occurrence of the Force Majeure Event, which notice shall include particulars of:
  - (i) the nature of the Force Majeure Event;
  - (ii) the effect that such Force Majeure Event is having on the Participant's performance of its obligations under these Rules or the Grid Code; and
  - (iii) the measures that the Participant has taken, or proposes to take, to alleviate the impact of the Force Majeure Event.
- (f) Subject to paragraph (g), where the System Operator or the Market Operator or a Participant invokes or relies on a Force Majeure Event, it shall use all reasonable endeavours to mitigate or alleviate the effects of the Force Majeure Event on the performance of its obligations under these Rules and the Grid Code.
- (g) Where the Force Majeure Event relied upon by the System Operator or the Market Operator or a Participant, is a strike, lockout, restrictive work practice or other labour disturbance, the settlement or resolution thereof shall be within the sole discretion of the System Operator or the Market Operator or the Participant, as the case may be, involved in such strike, lockout, restrictive work practice or other labour disturbance and nothing in paragraph (f) above shall require the System Operator or the Market Operator or the Participant to mitigate or alleviate the effects of such Force Majeure Event.
- (h) Where the System Operator and or the Market Operator invoke or rely upon any Force Majeure Event, they shall as soon as practicable post on the Website, a notice of any material change in the information contained in the notice referred to in paragraph (d) above or in any previous notice issued and posted pursuant to this paragraph (h).
- (i) Where a Participant invokes or relies upon any Force Majeure Event, it shall as soon as practicable, notify the System Operator and or the Market Operator of any material change in the information contained in the notice referred to in paragraph (e) or in any previous notice issued pursuant to this paragraph (i).

- (j) Where the System Operator and or the Market Operator invoke or rely upon any Force Majeure Event, they shall post on the Website, a notice of the cessation of the Force Majeure Event and of the cessation of the effects of such Force Majeure Event on the System Operator and or the Market Operator's performance of their obligations under these Rules and the Grid Code.
- (k) Where a Participant invokes a Force Majeure Event, it shall give notice to the System Operator and the Market Operator of the cessation of the Force Majeure Event and of cessation of the effects of such Force Majeure Event on the Participant's performance of its obligations under these Rules and the Grid Code.
- (l) The System Operator or the Market Operator shall post on the Website any notice provided to it pursuant to paragraph (e), (i) or (k).
- (m) Nothing in this Rule 47.8.4 shall be read as limiting the right of the Market Operator to impose on any Participant, a sanction other than a financial penalty, in accordance with the provisions of these Rules or the Grid Code.
- (n) Nothing in this Rule 47.8.4 shall excuse the System Operator or the Market Operator or any Participant from performing any of their respective obligations contained in the provisions of these Rules or the Grid Code that govern the System Operator and or the Market Operator or the Participant or while the System Operator Controlled Grid is in an Emergency Operating State or Extreme Operating State.

#### 47.8.5 Contractual Liability

- (a) The liability, indemnification and Force Majeure provisions of Rules 47.8.2, 47.8.3 and 47.8.4 and where applicable, of any other Rule of these Rules or a Condition of the Grid Code, shall apply to any agreement or contract entered into by the System Operator with a Participant for the procurement of Ancillary Services or Reliability Must Run Services and to all acts done or omissions made by the System Operator and or the Participant in the exercise or performance, or with the intention to exercise or perform any authority, power or duty under such agreement or contract.
- (b) In the event of an inconsistency between the liability, indemnification and Force Majeure provisions of these Rules and the Grid Code, and the liability, indemnification and Force Majeure provisions of any such agreement as is referred to in paragraph (a), the liability and indemnification provisions of Rules 47.8.2 and 47.8.3 and, where applicable, of any other Rule of these Rules or Condition of the Grid Code, and the provisions of Rule 47.8.4 shall prevail to the extent of the inconsistency.

## APPENDIX 1: DEFINITIONS

The words, terms and expressions used in these Rules shall have the same meaning as are assigned to them in the Act, unless otherwise specifically defined herein.

“Act”	means the <b>Electric Power Sector Reform Act No. of 2005</b> , as may be amended from time to time;
“Admission Application”	means the document which an Applicant Participant, must submit when applying for admission to the Market pursuant to these Rules, in the form set out in Appendix 3A or such other form as the Market Operator may from time to time prescribe;
“AGC Regulation”	has the meaning assigned to the term in the Grid Code;
“Agreements”	means conditions agreed between the Market Operator and a Participant, or the System Operator and a Participant such as Market Participation Agreement, Reliability Must-Run Agreement, Black Start Agreement, Interconnector Capacity Entitlement Agreement and other agreements executed by the System Operator or the Market Operator in connection with the provision of services, or required for implementing, these Rules or the Grid Code;
“Amendment Submission”	means the requests for review or amendment of the Market Rules or the Grid Code in accordance with these Rules;
“Ancillary Service”	has the meaning assigned to the term in the Grid Code;
“Annual Load Growth Forecast”	means the load forecast for the next ten years prepared by the System Operator for the Generation Adequacy Plan as defined in Rule 21.1.
“Applicant”	means the party to a Dispute that issues a Notice of Dispute and, where the context so requires, includes a Respondent who files a crossclaim or a counterclaim;
“Applicable Law”	means the law of Nigeria;
“Applicant Participant”	means any person who has initiated with the Market Operator, the application process required to become a Participant in accordance with Part 4 of these Rules;

“Applicable Reliability Criteria”	has the meaning assigned to the term in the Grid Code;
“Arbitration Tribunal”	means a tribunal constituted pursuant to Rule 43.6 for the resolution of a Dispute;
“Arbitrator”	means a member of the Dispute Resolution Panel appointed to the Arbitration Tribunal pursuant to Rule 43.6 to arbitrate a Dispute;
“Audit Report”	means the audit report that presents audit results and recommendations on the System Operator and the Market Operator as established in Rule 13;
“Automatic Voltage Regulator”	has the meaning assigned to the term in the Grid Code;
“Availability”	has the meaning assigned to the term in the Grid Code;
“Available Transfer Capacity or ATC”	means Interconnector capacity made available to allow trading of electricity between the System Operator Controlled Grid and other Control Areas.
“Balancing Market:”	mean the Spot Market centrally administered by the Market Operator to settle the imbalances between the Metered Quantities which measure each Participant’s real time Energy flows, and the related Participant’s energy commitments (contracted quantities) in the Contract Market;
“Bank”	means the bank appointed by the Market Operator to administer the payment mechanism in the market Administrator Administered Market;
“Bilateral Contract”	means an agreement between two parties for the sale and purchase of a defined number of megawatt-hours of Energy for one or more Dispatch Periods in a Dispatch Day, which complies with conditions established in the Market Rules. During the Transitional Stage, a bilateral contract with a Distributor will require the authorization of the Commission;
“Bilateral Contract Nomination”	means nomination made by the parties to a Bilateral Contract in accordance with Rule 24.2;
“Billing Period”	means a period commencing at 00.00 hours on the first day of a calendar month, and ending at 00.00 hours on the first day of the following calendar

month, save that the first Billing Period shall commence at 00.00 hours on the Effective Date and end at 24.00 hours on the last day of the following calendar month and the last Billing Period shall commence at 00.00 hours on the first day of the last calendar month prior to termination of these Rules until 24.00 hours on the date of termination of these Rules;

- “Black Start Capability” has the meaning assigned to the term in the Grid Code.
- “Break Point” has the meaning assigned to that term in Rule 23.1.4(c);
- “Bulk Purchase and Resale” means the wholesale purchase of electricity for resale to a Distributor, Trader licensee, or an Eligible Customer, or for the purpose of regional exports;
- “Business Day” has the meaning assigned to the term in Rule 3.3;
- “Calculation Day” means the fifth Business Day following a Dispatch Day;
- “Consumers” has the meaning assigned to the term in the Act;
- “Close of Banking Business” means 4 p.m., Nigerian time;
- “CMDS” means the electronic communication system used by the Market Operator and Participants to process and communicate Settlement Quantity Meter Data;
- “CNSD” means electronic communication system used by the Market Operator and System Operator and Participants to process and communicate information regarding Demand Forecasts, Nominations and certain types of Settlement data;
- “Commercial Metering System
- “CMS” means the system to measure and send to the Market Operator the energy injected or withdrawn from the grid by a Participant. This metering will be used for the settlement process of the Market Operator.
- “Commencement Date” means the date on which the Minister grants approval to these Rules, or such other date as the Minister may specify in that regard;
- “Commission” means the Nigerian Electricity Regulatory Commission (NERC) created under the Act;

“Committee”	means, individually or collectively as the context may require, a committee constituted by the Commission pursuant to Rule 42.1.5;
“Competent Authority”	means any national, state or local agency, authority, department, inspectorate, minister, official, court, tribunal or public or statutory person (whether autonomous or not) of any Government in Nigeria or under the control of any Government in Nigeria, which has jurisdiction over a Participant or the subject matter of the Rule or the Grid Code;
“Condition”	means any condition of the Grid Code;
“Conditions Precedent”	means the conditions specified in Appendix 2 which must be fulfilled prior to effectiveness of these Rules;
“Confidential Information”	<p>means information, other than information furnished by a Participant as part of the application procedure or information required to be Published by the TSP, the Market Operator or the System Operator by these Rules which is:</p> <ul style="list-style-type: none"> <li>a. proprietary to the person disclosing it, and which that person has expressly or impliedly stated to be confidential, where disclosure can reasonably be expected to: <ul style="list-style-type: none"> <li>(i) significantly prejudice the disclosing person’s competitive position;</li> <li>(ii) result in material loss or gain to the disclosing person or another person;</li> <li>(iii) compromise the efficiency of these Rules or the Grid Code; or</li> <li>(iv) result in the disclosing person being in breach of a bona fide arms length confidentiality agreement to which the information is subject; and</li> </ul> </li> <li>b. required by these Rules, the Grid Code or Applicable Law to be kept confidential,</li> </ul>
“Connect”	means a form of physical link to or through the System Operator Controlled Grid, and like terms shall be construed accordingly;
“Connection Point”	means a point of connection between the System Operator Controlled Grid and a Generation Facility

	or Load Facility where a Participant connects to the system to inject or extract, and which will be considered its Market entry or exit point for the purpose of market settlement and energy metering;
“Contract Imbalance Quantity”	has the meaning assigned to that term in Rule 34.2.1(a);
“Contract Market”	means the market for Bilateral Contracts between Participants;
“Contract Nomination”	means the information submitted by a Participant to the Market Operator in respect of the quantities for which it has contracted for one or more days;
“Contract Register”	means the record established and maintained by the Market Operator on the quantity of generation capacity contracted in the Market Administrator Administered Market;
“Contract Settlement Agreement”	has the meaning assigned to the term in Rule 20.4.
“Control Area”	has the meaning assigned to the term in the Grid Code;
“Control Area Operator”	means the party responsible for operation of the Control Area;
“Cost of the Arbitration”	means fee of the Arbitrator and administrative costs associated with the conduct of arbitration;
“Cost of Imbalance Energy”	means the net cost to the System Operator in relation to Instructed Imbalance Energy and Uninstructed Imbalance Energy and of Supplementary Cost Recovery Payment;
“Counsellor”	means the Dispute Resolution Counsellor;
“CWTS”	means the wire transfer system used by the Market Operator and by the Participants for electronic fund transfers;
“Daily Interconnector Capacity”	means Interconnector capacity allocations requested pursuant to Rule 25.1.2;
“Day-ahead Nomination”	means a Nomination made by a Generator on a Pre-dispatch Day in accordance with these Rules in respect of the next following Dispatch Day;
“Day-ahead Price”	means the System Marginal Price forecasted by the System Operator in respect of a Dispatch Day on the Pre-dispatch Day, using forecast load and projected generator availability;



“Day-ahead Schedule”	means a schedule to be prepared by the System Operator in accordance with the Grid Code on each Pre-dispatch Day;
“Default Amount”	means any amount which has become due from a Participant on a Payment Date, but which the Participant has failed to pay;
“Default Interest”	has the meaning assigned to the terms in the Grid Code;
“Default Notice”	means the Notice issued by the Market Operator to a defaulting Participant pursuant to Rule 46.3.3.
“Demand”	has the meaning assigned to the term in the Grid Code;
“Demand Forecast”	has the meaning assigned to the term in the Grid Code;
“Desynchronise”	has the meaning assigned to the term in the Grid Code;
“Discontinuing Participant”	means a Participant who ceases to be a Participant in accordance with Rules 15.7 or 46;
“Distribution Loss Factor”	means the loss factor calculated in accordance with Rule 34.2.2 to represent the reduction in distribution losses;
“Dispatch”	has the meaning assigned to the term in the Grid Code;
“Dispatch Compensation Payment”	means, during the transitional stage, the monthly payment to a Generator which comprises compensation for dispatch instructions minus charge for uninstructed generation;
“Dispatch Day”	means a period in the Dispatch process from 00.00 hours to 24.00 hours in the same calendar day;
“Dispatch Instruction”	means the physical operating instruction issued by the System Operator to a Generating Group for its Dispatch in accordance with Condition 13 of the Grid Code;
“Dispatch Period”	means any thirty-minute interval during a Dispatch Day, the first of which shall commence at 00:00 hours of the Dispatch Day and the last of which shall end at 24:00 hours of that Dispatch Day;

“Dispatch Schedule”	means the schedule developed by the System Operator in accordance with the Grid Code for a Dispatch Period not later than two hours prior to the commencement of the relevant Dispatch Period;
“Dispute”	means a dispute referred between persons and concerning subject matter referred to in Rule 43.1.1;
“Dispute Resolution Counsellor”	means the individual appointed to that office by the Commission pursuant to Rule 42.1.2;
“Dispute Resolution Panel”	means the panel of the same name established by the Commission pursuant to Rule 42;
“Distribution”	has the meaning assigned to the term in the Grid Code;
“Distribution Embedded Unit”	means one or more Distribution embedded Generating Units, which may change from Dispatch Day to Dispatch Day, which is connected to a Distribution System, but not connected directly to the System Operator Controlled Grid, in respect of which a Generator chooses to tender a Nomination;
“Distribution System”	has the meaning assigned to the term in the Grid Code;
“Distributor”	means a Participant holding a Licence for Distribution wires service and a Trading license for sales to Consumers connected to the licensed distribution system;
“Effective Date”	means the date on which all of these Rules come into effect pursuant to Rule 7;
“Eligible Customer”	has the meaning assigned to the term in the Act;
“Embedded Generation”	means the Generation Units directly connected to a distribution network.
“Emergency Operating State”	has the meaning assigned to that term in Condition 9.2 of the Grid Code;
“Energy”	means electrical energy produced, flowing through or supplied by Generation Facilities, the Transmission System or Distribution Systems being the integral with respect to time of the instantaneous power, measured in units of watt hours or standard integers or multiples thereof;
“Energy Price”	means a price at which the Generator offers to supply specified amount of Energy, other than in

	respect of Ancillary Services, as a constituent of the Price Offer;
“Export”	means a flow of Energy from Nigeria to another Control Area;
“Ex-post Unconstrained Generation Schedule”	means a schedule to be prepared by the System Operator on the Calculation Day, in accordance with the Grid Code using the actual parameters of the Generation Unit (as assumed in Dispatch) and metered load inputs, and taking into account the factors specified in Rule 33.2.2;
“Extreme Operating State”	has the meaning assigned to the term in Condition 9.2 of the Grid Code;
“Facility”	means Power Stations, Load Facilities, Transmission Systems, Distribution Systems and or any other equipment that is a component or part of the System Operator Controlled Grid;
“Final Settlement Statement”	means the statement described in Rule 36.2;
“Final Stakeholder Advisory Panel”	means the Panel of the same name constituted by the Commission during the Medium Term Stage of the Market;
“Force Majeure”	in relation to a party, means any event or circumstance, or combination of events or circumstances, (a) that is beyond reasonable control of the party; (b) that adversely affects the performance by the party of its obligations under this Agreement; and (c) the adverse effects of which could not have been foreseen, prevented, overcome, remedied or mitigated in whole or in part by the party through the exercise of diligence and reasonable care and includes, but is not limited to, acts of war (whether declared or undeclared), invasion, armed conflict or act of a foreign enemy, blockade, embargo, revolution, riot, insurrection, civil disobedience or disturbances, vandalism or acts of terrorism; strikes, lockouts, restrictive work practices or other labour disturbances; unlawful arrests or restraints by governments or governmental, administrative or regulatory agencies or authorities; orders, regulations or restrictions imposed by governments or governmental, administrative or regulatory agencies or authorities unless such order, regulation or restriction is imposed as a result of a violation by the party of a

permit, license or other authorization or of any applicable law; and acts of God including lightning, earthquake, fire, flood, landslide, unusually heavy or prolonged rain or accumulation of snow or ice or lack of water arising from weather or environmental problems; provided however, for greater certainty, (i) the lack, insufficiency or non-availability of funds shall not constitute a Force Majeure Event, (ii) an act of the System Operator or the Market Operator effected in accordance with these Rules shall not constitute a Force Majeure in respect of a Participant, (iii) an act of a Participant effected in accordance with these Rules shall not constitute Force Majeure in respect of the System Operator or the Market Operator; and (iv) the TSP, or the System Operator or the Market Operator shall not, for the purposes of this definition, be considered a governmental, administrative or regulatory agency or authority;

- “Forced Outage” has the meaning assigned to the term in the Grid Code;
- “Generate and Generation” means to produce Energy at a Power Station and deliver it to a Power System;
- “Generating Unit” means any equipment that produces Energy, including the mechanical prime mover (e.g. turbine or engine) in the case of conventional hydro or thermal plant or any equivalent principal means of converting another form of energy to electricity, in the case of unconventional generating units such as wind and solar energy. In the case of a multi-generating unit combined cycle block, a generating unit is an alternator plus its associated prime mover within the combined cycle block.
- “Generating Group” means a group of one or more similar generating units within a power plant, together with the associated plant and apparatus, whose Energy output is separately identifiable and separately metered in the connection point. A hydro power plant will be considered a Generating Group unless it has separate meters for each generating unit.
- “Generation Adequacy Report” means the report prepared and submitted to the Commission by the Market Operator, showing the forecasted Load and the contracted generation capacity for the next 10 years, pursuant to Rule 21.2.

“Generator”	means a Participant who is licensed to generate electricity under the Act, including Successor Generation Companies and Independent Power Producers, as well as self-generation authorised by the Commission;
“Good Utility Practice”	has the meaning assigned to the term in the Grid Code;
“Governor Droop”	has the meaning assigned to the term in the Grid Code;
“Grid Connection Agreement”	means an agreement, approved by the Commission, between the TSP and an Applicant Participant for Connection of the Facilities of the Applicant Participant to the System Operator Controlled Grid;
“Grid Code”	means the instructions, rules, procedures, guidelines, etc. for the operation and planning of an interconnected power system and accounting requirements relating thereto to be prepared by the System Operator, as amended from time to time in accordance with these Rules, with the approval of the Commission;
“Import”	means the flow of Energy into Nigeria from another Control Area;
“Imbalance Energy”	means Contract Imbalance Quantity, Instructed Imbalance Quantity and Uninstructed Imbalance Quantity of Energy;
“Imbalance Energy Market”	means the market provided for in Parts 4 and 5 of these Rules in which obligations and prices for Imbalance Energy are determined on the basis of actual dispatch by the System Operator during a Dispatch Day, pursuant to Condition 13 of the Grid Code based on Nominations;
“Instructed Imbalance Quantity”	shall have the meaning assigned to the term in Rule 34.2.1(b);
“Interconnector”	means Facilities used solely for conveying Energy directly to or from a substation or converter station within Nigeria, from or as the case may be, to Facilities in another Control Area;
“Interconnector Energy Trade Nomination”	means the nomination for Import or Export of Energy by a Participant pursuant to Rule 25.7;
“Interconnector Capacity	

Entitlement”	means the capacity granted to a Participant to connect to the Interconnector in accordance with pursuant to Rule 25;
<b>“Independent Power Producer”</b>	
“Interconnector Capacity Entitlement Agreement”	means an agreement between the TSP or the System Operator and a Generator granting Interconnector Capability Entitlement to a Generator;
“Initial Stakeholder Advisory Panel”	means the Panel of the same name constituted by the Commission during the Transitional Stage of the Market;
“Invoice”	means an invoice issued by the Market Operator in accordance with these Rules in the format attached as Appendix 5, as may be amended by the Market Operator from time to time;
“Invoice Amount”	means, in relation to an Invoice, the amount expressed to be payable thereunder;
“Legal Requirement”	means any licence or any present or future legislation, statutory instrument, directive, requirement, regulation, instruction, direction or rule of any Competent Authority, with which compliance is generally required by law or custom;
“Letter of Credit”	means an unconditional and irrevocable standby letter of credit, demand guarantee, charge or bond, in such form as the Market Operator may reasonably approve, issued for the account of a Participant in favour of the Market Operator, allowing for partial drawings and providing for payment forthwith on demand, by: <ul style="list-style-type: none"> <li>a. any Nigerian clearing bank; or</li> <li>b. any other bank: <ul style="list-style-type: none"> <li>(i) with a long-term credit rating of at least AA (by Standard and Poor’s Corporation) or AA2 (by Moody’s Investors Service, Inc.) or equivalent; or</li> <li><b>(ii) which is a holder of a banking licence issued by the Central Bank of Nigeria under the banks and Other Financial Institutions Act, 1991, with total balance sheet assets of not less than [N1,000]</b></li> </ul> </li> </ul>

billion equivalent or whose parent bank, where such a holder is a branch or subsidiary, has total balance sheet assets of not less than [N1,000] billion equivalent and a credit rating of at least A/A2; or

(iii) which is a subsidiary or branch of an international bank, operating in Nigeria, provided that the parent bank meets the criteria set out in sub-paragraph (i) or has total balance sheet assets of not less than [N1,000] billion equivalent and a credit rating of at least A/A2; or

c. such other bank as the Market Operator may approve;

“Licence” has the meaning given to that item in the Act and the word “Licensee” will be construed accordingly;

“Licensed Business” means a business authorised to be carried out by a Licensee pursuant to a Licence;

“Load” has the meaning assigned to the term in the Grid Code;

“Load Database” means the organised data base maintained by the System Operator on metered and forecasted demand and energy at Connection Points of Load Participants;

“Load Participants” means the Distributors, Eligible Customers and Trading licensees that are Participants.

“Load Projection Report” has the meaning assigned to the term in Rule 21.1.

“Marginal Generating Group” means the Generating Group that would increase output if total load increased by a marginal amount;

“Market” means the wholesale electricity market for Nigeria;

“Market Operator” means the company or entity licenced to carry on system operation under the Act, in so far as such company or entity is engaged in the administration of the Market, including making, publishing, amending, administering and or enforcing these Rules and settlement of payments among Market Participants pursuant to its Licence;

“Market Operator

Administered Market”	means the Nigerian electricity markets and settlement system administered by the Market Operator in accordance with these Rules;
“Market Operator Clearing Account”	means the trust account established by the Market Operator pursuant to Rule 31.2.2(a);
“Market Operator Market Accounts”	includes the Market Operator Clearing Account, the Market Operator Reserve Account, the Market Operator Surplus Account and any other account designated as such by the Market Operator;
“Market Operator Payments Calendar”	means the calendar issued by the Market Operator pursuant to Rule 31.7, as amended from time to time by the Market Operator in accordance with these Rules;
“Market Operator Register”	means the register of the Facilities all the Participants maintained by the Market Operator pursuant to Rule 15.5;
“Market Operator Reserve Account”	means the trust account established by the Market Operator pursuant to Rule 31.2.2(b);
“Market Operator Surplus Account”	means the trust account established by the Market Operator pursuant to Rule 31.2.2(c);
“Market Participation Agreement”	means the agreement pursuant to which these Rules and Grid Code are made binding on a Participant;
“Market Procedures”	means the processes, methodologies and procedures for data exchange and market administration established by the Market Operator pursuant to these Rules;
“Market Settlement Agreement”	means the agreement defined in Rule 20.4.2;
“Market Suspension”	means the suspension of the Imbalance Energy Market by the Market Operator in accordance with Rule 40.5;
“Market Surveillance Panel”	means the Panel of the same name established by the Commission pursuant to Rule 42;
“Maximum Ramp-down Rate”	means the maximum rate measured in MW/minute by which a Generating Group can decrease the rate



	at which it delivers Energy to the System Operator Controlled Grid;
“Maximum Ramp-up Rate”	means the maximum rate measured in MW/minute by which a Generating Group can increase the rate at which it delivers Energy to the System Operator Controlled Grid;
“Medium Term Market”	means the stage for the implementation of a competitive Market as defined in Rule 6;
“Meter”	means a device that measures and registers the integral active Energy or Reactive Power over a metering interval and may include a data recorder, but shall exclude instrument transformers;
“Meter Data”	means quantities of Energy measured and recorded by a Metering Installation in accordance with the provisions of Condition 19 of the Grid Code;
“Metered Quantity”	means the amount of Energy produced by a Power Station or consumed by a Purchaser, as the case may be, as measured by a Metering Installation at Metering Points in accordance with the procedure specified in the Grid Code;
“Metering Installation”	has the meaning assigned to the term in the Grid Code;
“Metering Interval”	means each of the successive thirty minute periods over which period Meter Data is collected during a Dispatch Day, the first of which shall commence at 00:00 hours on the Dispatch Day and the last of which shall end at 24:00 hours of that Dispatch Day;
“Metering Point”	has the meaning assigned to the term in the Grid Code;
“Metering Data Exchange Format”	means the format for submitting Meter Data to the Market Operator, which shall be Published by the Market Operator on the Website;
“Minister”	has the meaning assigned to that term in the Act;
“Minor Amendment”	means an amendment to these Rules or the Grid Code: <ul style="list-style-type: none"> <li>a. to correct typographical or grammatical errors;</li> <li>b. to effect a change of non-material procedural nature; or</li> </ul>

- c. to effect a change which in the opinion of the Stakeholder Advisory Panel, will not have a material effect on the conditions for participating in the Market Operator Administered Market, the operation of the Market Operator Administered Market or the Reliability of the Power System;

“MW” means megawatt (1,000,000 watts), the unit for Active Power;

“MWh” means megawatt hour;

“Node” means the busbars at the end terminal of a branch of the System Operator Controlled Grid;

“Nomination” means either Day-ahead Nomination or Standing Nomination, as modified in accordance with these Rules;

“Non-AGC Secondary Regulation” means the provision of Secondary Regulation by a Generation Unit not subject to AGC;

“Notice of Dispute” has the meaning ascribed thereto in Rule 43.5;

“Operating Reserve” means the combination of Spinning Reserve, Slow Reserve and Quick Reserve required to meet the reliability requirements of the System Operator Controlled Grid;

“Opportunity Cost” the loss of profit to a Generator resulting from a Generating Group of such Generator being scheduled to provide one or more Ancillary Services while the capacity providing such Ancillary Service or Ancillary Services could have been used for Energy Generation;

“Outage” has the meaning assigned to the term in the Grid Code;

“Panel” means individually or collectively as the context may require, the Stakeholder Advisory Panel, Dispute Resolution Panel or Market Surveillance Panel, or any other panel constituted by the Commission pursuant to Rule 42.1.5;

“Participant” means any person who is party a Market Participation Agreement, in addition to the Market Operator;

“Participant Accession Date”	means the date on which the Applicant Participant becomes a Participant pursuant to Rule 15.2.1(b).
“Participant Application Form”	means the standard form of application issued by the Market Operator for use by persons intending to become Participants.
“Participants’ Register”	means the register containing information on Participants and Applicant Participants which is organised and maintained by the Market Operator pursuant to Rule 15.5.
“Participant Discontinuance Date”	means, in respect of a Discontinuing Participant, the date with effect from which that Participant ceases to be a Participant, in accordance with Rule 15 or Rule 46, as the case may be;
“Payment Date”	means the date for payment of an Invoice in accordance with the Market Operator Payments Calendar;
“Planned Outage”	means an Outage which is planned and intentional;
“Power Station”	means a Registered Facility for the Generation of Energy or providing Ancillary Services, other than Ancillary Services provided by a Transmitter or Distributor through the operation of the Transmission System or Distribution System, and includes any structures and equipment used for that purpose;
“Power System”	has the meaning assigned to the term in the Grid Code;
“Pre-dispatch Day”	means the day immediately preceding the Dispatch Day;
“Preliminary Settlement Statement”	means the statement described in Rule 36.1;
“President”	means the President of the Federal Republic of Nigeria;
“Price Offer”	means the price offered by a Generator to supply Energy, other than Energy supplied in discharge of its obligation to provide Ancillary Service or Reliability Must Run Services, during each Dispatch Period of a Dispatch Day and comprising the elements detailed in Rule 23.1.3;
“Publish”	means, subject to an express provision to the contrary in these Rules and or the Grid Code, the

posting of information on a part of the Commission's website that is accessible to the general public, and Published shall be construed accordingly;

“Purchaser”	means a party authorised to buy Energy under the Applicable Law and who is a Participant;
“Quantity Nomination”	means a nomination offering quantity of Energy on a Dispatch Day in accordance with Rule 23.1;
“Quick Reserve”	has the meaning assigned to the term in the Grid Code;
“Reactive Power”	has the meaning assigned to the term in the Grid Code;
“Reactive Support Service”	means a service provided by the TSP or a Distributor, to enable the System Operator to maintain necessary voltage levels on the System Operator Controlled Grid;
“Record”	means a record of information however recorded, whether in printed form, on film, by electronic means or otherwise and includes: <ul style="list-style-type: none"><li>a. correspondence, memoranda, books, plans, maps, drawings, diagrams, pictorial or graphic works, photographs, films, microfilms, sound recordings, videotapes, machine readable records and any other documentary material regardless of physical form or characteristics, and includes a copy of any of the foregoing; and</li><li>b. any record of information that is capable of being produced or reproduced from a machine readable record under the control of a person by means of computer hardware and software or any other information storage and or retrieval equipment.</li></ul>
“Regional Market or Pool”	means the agreement between the electricity systems of different countries for trading and wheeling electricity;
“Regional Trading”	means buying or electricity from, or selling electricity to, other systems or a regional electricity market or pool through Interconnectors;

“Regional Trading Nomination”	means the information on Regional Trading for the next day submitted to the Market Operator by Participants;
“Registered Information”	means the information recorded by the Market Operator in respect of a Participant and its Facility pursuant to Rule 15.5, as updated from time to time upon the submission updates to the relevant technical data;
“Registered Facility”	means a Facility registered with the Market Operator in accordance with Rule 15;
“Registered Participant”	means a Participant that is registered with the Market Operator in relation to a Registered Facility;
“Release Notice”	means a notice given pursuant to these Rules, by the System Operator to a Generator whose Reliability Must-run Unit is not acquired by the System Operator for providing Reliability Must-run Services during any Dispatch Period;
“Reliability”	has the meaning assigned to the term in the Grid Code;
“Reliability Must-run Agreement”	means an agreement between the Generator and the System Operator for providing Reliability Must-run Service during specified Dispatch Period from designated Reliability Must-run Units of the Generator;
“Reliability Must-run Service”	means the provision by a Reliability Must-run Unit of one or more of the following services in order to maintain the Reliability of the System Operator Controlled Grid: Regulation, Spinning Reserve, Slow Reserve, Quick Reserve, Voltage Support and Energy supply;
“Reliability Must-run Unit”	means a Generating Group which the System Operator identifies for providing Reliability Must-run Services;
“Response”	has the meaning assigned to that term in Rule 43.5.5;
“Respondent”	means a person against whom a complaint is made in a Notice of Dispute, a Response or a crossclaim or counterclaim;
“RMR Period”	means the Dispatch Periods of a Dispatch Day in a 12 month period during which a Reliability Must-

	run Unit is identified as being available to provide Reliability Must-run Services;
“Rule Communication”	means any notice or communication to be given under these Rules by a Participant or the System Operator or the Market Operator, as the case may be, the Grid Code or any Agreement, to any of the persons specified above;
“Rules”	means these Rules, including the Appendices as Modified from time to time in accordance with these Rules with the approval of the Commission;
“Rules Report”	means the report prepared by the Market Operator describing problems in the implementation of these Rules and procedures
“Rules Working Group”	means the group organised by the Market Operator pursuant to Rule 45.4, to assess and review the interpretation and implementation of the Market Rules and its procedures.
“Secondary Regulation”	has the meaning assigned to the term in the Grid Code;
“Security Cover”	means the financial security to be provided and maintained by a Participant in the form and amount specified in Rule 15.3;
“Settlement”	means the process of calculating charges, due from Participants who are required to make payment, and to be paid to Participants who are due to receive payments, pursuant to these Rules;
“Settlement Quantity Meter Data”	means the processed data resulting from application of the validation and collection process stipulated in the Grid Code to Meter Data obtained from a Metering Installation in respect of each Generating Group and a Purchaser, pursuant to Rule 32.3;
“Settlement Statement”	means the document prepared by the Market Operator stating the Charges to be settled, or the payment to be , by each Participant as a result of the trading and activities on the Market Operator Administered Market, and the energy bought and sold in Bilateral Contacts by Participants;
“Settlement Software”	means the suite of computer programmes used by the Market Operator to calculate the Settlement amounts pursuant to these Rules;

“Shutdown”	means a situation when all Generation has ceased in all or substantial part of the System Operator Controlled Grid and there is no Energy supply from another Control Area or other parts of the System Operator Controlled Grid leading to cessation of flow of Energy through the whole or substantial part, as the case may be, of the System Operator Controlled Grid;
“Slow Reserve”	has the meaning assigned to the term in the Grid Code;
“Special Contract”	the meaning assigned to the term in Rule 20.5.1.
“Special Trader”	means the trading Licensee holding a bulk purchase and resale Licence or temporary Licence, authorised to purchase Generation from successor Generation Companies and Independent Power Producers, for resale to Distributors and Eligible Customers pursuant to Part II of the Act;
“Spinning Reserve”	has the meaning assigned to the term in the Grid Code;
“Stakeholder Advisory Panel”	means the Panel of the same name constituted by the Commission pursuant to Rule 42.1.1;
“Standing Nominations”	means a Day-ahead Nomination made for more than one Dispatch Day in accordance with Rule 24.2;
“Successor Distributor”	means a Distributor created pursuant to the restructuring of the National Electric Power Authority of Nigeria;
“Successor Generator”	means a Generator created pursuant to the restructuring of the National Electric Power Authority of Nigeria;
“Suspension Notice”	means the notification issued by the Market Operator to inform a Participant that it is not fulfilling all the eligibility requirements for participation the Market and notifying it that if this situation remains unremedied, the Participant will lose its rights to participate in the Market;
“Suspension Notification”	means the notification issued by the Market Operator to inform a Participant that it has been suspended from the Market and is no longer allowed to participate therein;
“Suspension Order”	means an order issued by the Market Operator pursuant to Rule 46.3;

“Suspended Participant”	is any Participant who has received and is the subject of a valid and continuing Suspension Order;
“Synchronise”	has the meaning assigned to the term in the Grid Code;
“System Marginal Price”	means the Price Offer of the Marginal Generating Group dispatched to meet the Demand in the Ex-post Unconstrained Generation Schedule;
“System Operator”	means the company or entity licenced to provide system operation services under the Act, in so far as the company or entity is engaged in systems operation activities other than the administration of the Market, pursuant to its Licence;
“System Operator and Market Operator Administration Charge”	means the charge established by the System Operator and the Market Operator with the approval of the Commission and imposed by the Market Operator on Participants to recover administration cost relating to system operation and market operation, including any damages or other amount for which a Participant may be held liable pursuant to Rule 43 or any part of Costs of the Arbitration;
“System Operator Control Area”	means the Grid in respect of which the System Operator is the Control Area Operator;
“Technical Metering Specification”	means those specifications set out in Appendix 3 to these Rules;
“Terminated Participant”	means a Participant whose authorisation to participate in the Market Operator Administered Market has been terminated pursuant to a Termination Order;
“Termination Order”	means an order issued by the Market Operator pursuant to Rule 46.4;
“Total Interconnector Capacity”	means capacity of an Interconnector determined by the System Operator to be available for Export and Import across the Interconnector during a Dispatch Day, pursuant to Rule 25.4;
“Trader”	means any Participant, other than a Distributor, which has a trading license and sells to Eligible Customers or Distributors, buying from other Participants and/or from the Market, and/or participates in Regional Trading.



“Transitional Stage”	means the first stage in the implementation of the Market as defined in Rule 6.
“Transmission”	means conveying Energy over a Transmission System at voltages equal to or in excess of 132kV;
“Transmission Constraint”	means a limit imposed on power transfer across any part of the Transmission System due to thermal overload, voltage or stability considerations;
“Transmission Loss Factor or TLFG”	means a fraction not exceeding 1 and representing loss of Energy in its delivery over the Transmission System as determined by the System Operator on a daily basis, provided that the TLFG for a calendar year shall not exceed the limit fixed by the Commission on allowable transmission basis;
“Transmission System”	has the meaning assigned to the term in the Grid Code;
“Transmitter”	means a Licensee authorised to engage in Transmission of Energy and shall, where the context requires, include the TSP;
“TSP”	means the transmission licensee of the national interconnected Transmission System of Nigeria, which provides open access transmission services
“TSP Account”	means the TSP Usage Charge Account;
“System Operator Controlled Grid”	means the Transmission System owned or controlled by the TSP, and under the responsibility of the System Operator in providing system operation services;
“TSP Usage Charge Account”	means the amount established by the TSP pursuant to Rule 31.2.3 for collection of the Usage Charge;
“Uninstructed Imbalance Quantity”	has the meaning assigned to that term in Rule 34.2.1(c);
“Urgent Amendment”	means an amendment required to be made to these Rules and or Grid Code for one or more of the following reasons: <ul style="list-style-type: none"> <li>a. to avoid, mitigate or reduce the risk or effects of conditions that affect the ability of the integrated power system to function normally;</li> </ul>

- b. to avoid, reduce the risk of or mitigate the efforts of the abuse of market power;
- c. to implement standards fixed by the Commission; or
- d. to avoid, reduce or mitigate the effects of an unintended adverse effect of a Rule or Condition.

“Rules Working Group”	means the working group established pursuant to Rule 45.4 to review the performance of these Rules or the Grid Code and its implementation, propose amendment or review proposals for amendments;
“Usage Charges”	means the charges approved by the Commission for the use of the Transmission System;
“Vesting Contracts”	means the contracts established to govern the trading arrangements between Successor Generators and Successor Distributors, or between Successor Generators and the Special Trader, or between the Special Trader and a Successor Distributor at the commencement of the Transitional Stage.
“Voltage Support”	has the meaning assigned to the term in the Grid Code;
“Value Added Tax or VAT”	means the value added tax chargeable under the provisions of the Value Added Tax Act, Cap. Laws of the Federation of Nigeria, 1990 or any tax on the supply of goods or services which is a substitute or replacement thereto
“Website”	the site established by the Market Operator on the world-wide web for the exchange of information amongst the System Operator, the Market Operator, the TSP, Participants, and other interested parties, with such restrictions on access as may determined from time to time by the Market Operator and the Commission.

## **APPENDIX 2: CONDITIONS PRECEDENT**

1. The Conditions Precedent for the Transitional Stage are:
  - (a) passage of the Electric Power Sector Reform Act;
  - (b) establishment and commencement of operations of the Commission;
  - (c) development, implementation and testing by the System Operator, of the systems and procedures required to implement the Grid Code;

- (d) development, implementation and testing by the Market Operator, of the systems and procedures to implement the Market Rules for the Transitional Stage;
- (e) approval of the Grid Code and the Market Rules;
- (f) formalisation of the trading arrangements (vesting contracts) between the companies that will participate in the Transitional Stage Market;
- (g) publication by the Commission, of a list prepared to the best of its knowledge, stating in respect of the initial market, the names and addresses of each Licensee, including interim Licensees, and of each other person then entitled to become a Participant at the date of publication, subject, in each case, to compliance by such Licensee or other person, with all relevant procedures and Legal Requirements;
- (h) publication of the initial transmission Usage Charge by the Commission;
- (i) publication of the initial System Operation and Market Administration Charge by the Commission;
- (j) constitution of the initial Dispute Resolution Panel, and the Initial Stakeholder Advisory Panel;
- (k) approval of the Grid Code by the Minister and implementation of the provisions of the Grid Code; and
- (l) approval of the Market Rules by the Minister and implementation of the provisions of the Market Rules applicable to the Transitional Stage;
- (m) notification by the Market Operator of the initial the Market Operator Payments Calendar pursuant to Rule 31.7.7; and
- (n) the satisfaction of such other conditions, if any, as are specified in the order of the Minister approving these Rules in relation to the commencement thereof.

2. The Conditions Precedent for the Medium Term Market are:

- (a) attainment of a sufficient degree of privatisation of participants;
- (b) installation of sufficient generation to achieve an adequate balance between installed generation capacity, reserve requirements and required load supply;
- (c) entry into the Market of sufficient number of potential competitors to avoid the likelihood of an abusive market power in any Participant;
- (d) satisfaction of infrastructure preconditions, including the necessary metering and information technology required to implement the metering, balancing mechanism and settlement systems in accordance with the Market Rules;

- (e) audit of the Settlement Software for the Medium Term Market by independent auditors competent to perform audits of such software, to determine its consistency with these Rules and the Grid Code;
- (f) constitution of the final Dispute Resolution Panel, Stakeholder Advisory Panel and Market Surveillance Panel; and
- (g) the satisfaction of such other conditions, if any, as are specified in the order of the Minister approving these Rules in relation to the commencement of the Medium Term Market.

During the Transitional Stage the Commission will prepare annual reports on market conditions, detailing, amongst other things, the extent to which the conditions precedent to the initiation of the Medium Term Market have been achieved.

### **APPENDIX 3: ADMISSION REQUIREMENTS**

Each Applicant Participant shall provide the following details, information and documents, as far as are applicable, in addition to any other information that may be required by the Admission Application:

- a. the legal nature of the Applicant Participant, including such further information concerning the constitution of the Applicant Participant as the Market Operator may reasonably require;
- b. the Applicant Participant's communication details for the purposes of communication under Rule 41, if different from the details of Authorised Representative in the Admission Application 3A;
- c. the account details for the purposes of Rule 31;
- d. Technical Information, including:
  - (i) technical data for the Applicant Participant's Generating Units listing the Generating Unit's fixed electrical parameters;
  - (ii) the Applicant Participant's system data, comprising single-line diagrams and the electrical parameters relating to the Applicant Participant's facilities connected to the System Operator Controlled Grid;
  - (iii) the Applicant Participant's load characteristics, providing the estimated parameters of load groupings in respect of, for example, harmonic content and response to frequency deviations;
  - (iv) data relating to Reactive Support Service Facilities other than those owned by the TSP;
  - (v) short circuit infeed to the System Operator Controlled Grid from the Applicant Participant's system at any Connection point;
  - (vi) maximum net capacity of the Generating Unit;
  - (vii) minimum Synchronisation time of the Generating Unit;
  - (viii) minimum level of output for which the Generating Unit must, or is scheduled to run;
  - (ix) the minimum continuous run time of the Generating Unit, if it is scheduled to run;
  - (x) the minimum continuous downtime of the Generating Unit, if it is scheduled to Desynchronise;
  - (xi) the maximum Ramp-up Rate of the Generating Unit;
  - (xii) the Maximum Ramp-up Rate of the Generating Unit
  - (xiii) the maximum Availability;

- (xiv) the Ancillary Service Capability;
  - (xv) the Governor Droop; and
  - (xvi) Automatic Voltage Regulator capability.
  - (xvii) such other details, information and documentation as may reasonably be required by the System Operator;
- e. either:
- (i) evidence that an appropriate Licence under Act has been granted to the Applicant Participant under Part V of the Act, and that the Licence is still subsisting and no notice of revocation has been given in respect thereof, and the Applicant Participant shall have provided a copy of the Licence to the Market Operator; or
  - (ii) confirmation from the Commission to the Market Operator that the Applicant Participant does not require any such Licence as a pre-condition to its admission as a Participant;
- f. if the Applicant Participant is a Generator, a written confirmation that each of its Generating Units shall have a half hourly export meter that is capable of being read remotely;
- g. if the Applicant Participant is a Distributor, a written confirmation that it shall have a half hourly export meter for the supply which is capable of being read remotely;
- h. if the Applicant Participant is an Eligible Customer, a written confirmation that it shall have half hourly import meter for supply which is capable of being read remotely; and
- i. the Applicant Participant shall have demonstrated to the reasonable satisfaction of the Market Operator, its ability to transfer electronically for 3 consecutive days, any Nominations that it is required to make under these Rules and the Grid Code.

**APPENDIX 3-A: PARTICIPANT ADMISSION APPLICATION FORM**

This Admission Application Form shall be completed by an Applicant Participant and submitted to the Market Operator in accordance with these Rules.

**A. APPLICANT IDENTIFICATION INFORMATION:**

**1. NAME OF APPLICANT:**

\_\_\_\_\_

**2. BUSINESS ADDRESS OF APPLICANT PARTICIPANT:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**3. AUTHORIZED REPRESENTATIVE OF APPLICANT PARTICIPANT:**

**a. Name of Authorized Representative:**

\_\_\_\_\_

**b. Business Address of Authorized Representative:**

\_\_\_\_\_

**c. Business Telephone Number of Authorized Representative:**

\_\_\_\_\_

**d. Business Facsimile Telephone Number of Authorized Representative:**

\_\_\_\_\_

**e. Business E-mail Address of Representative:**

\_\_\_\_\_

**4. TYPE OF BUSINESS ENTITY OF APPLICANT PARTICIPANT (Optional) (e.g. Energy Retailer, Power Distributor, Generator, Other – please describe) :**

---

---

**B. FULFILMENT OF DUTIES AND RESPONSIBILITIES:**

1. The Applicant Participant hereby:
  - a. certifies that it has installed and proven to be operational, all computer hardware and software, communication equipment and software, and electronic funds transfer systems required for the tasks, activities and functions that it proposes to undertake, and for the services that it proposes to provide upon admission into the Market; or
  - b. undertakes to install prior to acceptance of its Admission Application, the materials and systems described in B(1)(a) above.
2. The Applicant Participant certifies and agrees that its equipment and facilities are, or shall prior to certification, be available for examination, inspection and testing by the System Operator or the Market Operator. A list of hardware, software, communication equipment and funds transfer systems, or a plan and schedule for completion of installation, as the case may be, is attached herewith.
3. The Applicant Participant further certifies that it employs on its own behalf, or has contracted with entities that employ, personnel who are fully qualified and competent to perform the duties, responsibilities, tasks and functions of a Participant under the Market Rules, the Grid Code and the associated Operating Procedures and Market Procedures. The Participant agrees that the qualifications of such personnel shall be available to the System Operator and the Market Operator for review.



**C. Additional Obligations:**

1. The Applicant Participant agrees to comply with all terms and conditions of the Market Rules, the Grid Code and the associated operating procedures and market procedures, as they may be modified from time to time by the Market Operator and or the System Operator, as the case may be, and where applicable, approved by the Commission.
2. The Applicant Participant undertakes that, prior to confirmation by the Market Operator of its status as a Participant, the Applicant Participant shall provide to the Market Operator, through written notification as a supplement to this Admission Application, any and all changes in the information provided on or attached to this Admission Application form within three (3) Business Days of becoming aware of such change(s). A change in the Applicant Participant's Authorized Representative shall be notified immediately.
3. By submitting this Admission Application, the Applicant Participant shall be deemed to agree to abide by the provision of Parts 1 to 4, and Appendices 1 and 3 of these Rules.
4. The Applicant Participant certifies that all information contained in or attached to this Admission Application is, to the best of its knowledge and belief, true and correct.

\_\_\_\_\_  
**Signature of Applicant Participant's  
Authorized Representative**

\_\_\_\_\_  
**Date:**

**Name:** \_\_\_\_\_

**APPENDIX 3-B: PARTICIPANT INFORMATION FORM**

This form shall be used by a Participant to notify the Market Operator of changes to the information contained in the Admission Application pursuant to Rule 4. All information must be provided to the satisfaction of the Market Operator in order for the notice to be considered complete.

**A. APPLICANT IDENTIFICATION INFORMATION:**

**1. NAME OF APPLICANT:**

---

**2. PARTICIPANT IDENTIFICATION NUMBER:**

---

**3. BUSINESS ADDRESS OF APPLICANT PARTICIPANT:**

---

---

---

**B. INFORMATION TO BE DELETED OR CHANGED**

Admission Application Form

a. Section:

---

b. Delete:

---

c. Insert/Add:

---

**C.**      Effective Date of Change:

---

The Participant certifies that the information contained herein is true and correct to the best of its knowledge and belief.

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
**Signature of Applicant Participant's  
Authorized Representative**

\_\_\_\_\_  
**Date:**

**Name:** \_\_\_\_\_

**APPENDIX 4: DECLARATION BY NOMINEES**

**Declaration by a Nominee for Membership on the Stakeholder Advisory Panel, the Dispute Resolution Panel or Market Surveillance Panel or for the Position of Dispute Resolution Counsellor**

In support of my nomination as a candidate for [membership on the [the Stakeholder Advisory Panel] [the Dispute Resolution Panel]] [the position of Dispute Resolution Counsellor] [Market Surveillance Panel], I hereby declare:

1. That, except as noted below, I am not a member, officer, employee or agent of:
  - (a) any person that is required to obtain a license pursuant to the Act or any Affiliate of such person; or
  - (b) any person that is a Participant or of an Affiliate of such person.
  - (c) The exceptions to the above declarations are as follows:

---

---

---

2. That, except as noted below, I do not have any direct or indirect legal or beneficial interest in or commercial affiliation with:
  - (a) any person that is required to obtain a license pursuant to the Act or of an affiliate of such person; or
  - (b) any person that is a Participant or of an Affiliate of such person.
  - (c) The exceptions to the above declarations are as follows:

---

---

---

3. That my spouse is not a member, officer, employee or agent of:
- (a) any person that is required to obtain a license pursuant to the Act or of an Affiliate of such person; or
  - (b) any person that is a Participant or of an Affiliate of such person.
  - (c) The exceptions to the above declarations are as follows:  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

4. That, except as noted below, my spouse does not have any direct or indirect legal or beneficial interest in or commercial affiliation with:
- (a) any person that is required to obtain a license pursuant to the Act or of an Affiliate of such person; or
  - (b) any person that is a Participant or of an Affiliate of such person.
  - (c) The exceptions to the above declarations are as follows:  
\_\_\_\_\_  
  
\_\_\_\_\_  
  
\_\_\_\_\_

5. That, except as noted below, no relative of myself or my spouse is a member, officer, employee or agent of:
- (a) any person that is required to obtain a license pursuant to the Act or of an Affiliate of such person; or
  - (b) any person that is a Participant or of an Affiliate of such person.
  - (c) The exceptions to the above declarations are as follows:

---

---

---

6. That, except as noted below, no relative of myself or my spouse has any direct or indirect legal or beneficial interest in or commercial affiliation with:

- (a) any person that is required to obtain a license pursuant to the Act or of an Affiliate of such person; or
- (b) any person that is a Participant or of an Affiliate of such person
- (c) The exceptions to the above declarations are as follows:

---

---

---

7. I understand that, for purposes of this declaration:

- (a) “Act” means the Energy Power **Sector Reform Act, 2005**.
- (b) a person has a commercial affiliation with another person if the first person supplies to or from the other person, goods and or services, other than goods or services received in the ordinary course of being a customer of a Transmitter, Distributor or Trading Licensee or an affiliate of a Transmitter, Distributor or Trading Licensee or power retailer;
- (c) an interest held as the beneficiary of a trust that does not permit the beneficiary to have any knowledge of the holdings of the trust is not a legal or beneficial interest;
- (d) an interest in a mutual fund is not a legal or beneficial interest unless the mutual fund is operated as an investment club where:

- (i) its shares or units are held by not more than 50 persons and its securities have never been offered to the public;
  - (ii) it does not pay or give any remuneration for investment advice or in respect of trade in securities, except for normal brokerage fees; and
  - (iii) all of its members are required to make contributions in proportion to the shares or units each holds for the purpose of financing its operation;
- (e) “spouse” includes a person whom I am living in a conjugal relationship outside of marriage; and
- (f) “relative” has a meaning assigned to the term on the Act.

8. I shall promptly disclose any circumstance which causes or is likely to cause a material change to any of the above declarations.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

Name \_\_\_\_\_

**APPENDIX 5: FORMAT OF THE INVOICE**

(TO BE SPECIFIED BY THE MARKET OPERATOR)