# MIDSTREAM AND DOWNSTREAM PETROLEUM THIRD-PARTY ACCESS AND OPEN ACCESS REGULATIONS, 2023

**PETROLEUM INDUSTRY ACT, NO. 6, 2021**
**MIDSTREAM AND DOWNSTREAM PETROLEUM THIRD-PARTY ACCESS AND OPEN ACCESS REGULATIONS, 2023**

Arrangement of Regulations

Regulation:


1. Objectives
2. Application
3. Obligation to provide Third-Party Access
4. Application for Third-Party Access
5. Tariff for Third-Party Access
6. Reporting Obligations
7. Dispute Resolution
8. Offences & Penalties
9. Enforcement
10. Guidelines and Review of Regulations
11. Interpretation
12. Citation.

| [ ] | Commencement |
|---|---|
| In the exercise of the powers conferred on it by sections 32 (g) and 33 of the Petroleum Industry Act, No. 6, 2021 ("Act") and alll other powers enabling it in that behalf, the Nigerian Midstream and Downstream Petroleum Regulatory Authority ("Authority"), makes these Regulations — | |
| **1.** The objectives of these Regulations are to —<br>(a) foster a competitive environment in the midstream and downstream petroleum sector by ensuring equitable and non-discriminatory access to facilities, infrastructure, and services for Third Parties;<br>(b) optimise the utilisation of existing petroleum infrastructure, minimise duplication of investments, and facilitate the efficient movement of petroleum products within the supply chain;<br>(c) facilitate the availability of affordable and diverse petroleum products to consumers by reducing transportation costs and promoting market-driven pricing;<br>(d) establish transparent and accountable mechanisms for Third-Party access, ensuring licensees adhere to clear and equitable terms of access; and<br>(e) provide for the resolution of disputes between licensees and Third Parties and ensuring timely resolution and preventing disruptions to the petroleum supply chain. | Objectives |
| **2.** (1) These Regulations shall apply to activities relating to Third-Party access to facilities, infrastructure, and services in the Nigerian midstream and downstream petroleum industry as well as the movement of petroleum products within the supply chain.<br>(2) Notwithstanding sub-regulation (1), the Authority may by notice designate the midstream and downstream companies to which these Regulations shall apply provided that the Regulations shall apply to all companies operating designated facilities as provided under the Act. | Application |

| | |
|---|---|
| **3.** A licensee with significant market power in the Nigerian midstream and downstream petroleum industry shall be obligated to-<br>(a) provide Third Party access to its facilities, subject to the provisions of these Regulations and any Guidelines that may be issued by the Authority; and<br><br>(b) adhere to the Open Access provisions of the Act, ensuring Third Party access to its facilities and services in a non-discriminatory and transparent manner. | Obligation to Provide Third-Party Access |
| **4.** (1) A Third-Party seeking access to the facility of a licensee shall submit a written application to the Authority, providing details which include-<br>(a) relevant information about the facility to be accessed;<br>(b) the type of services required; and<br>(c) the intended purpose of access.<br><br>(2) Upon receipt of a complete application from the Third-Party, the Authority shall within 30 days afterwards, through written notice, cause the licensee and the Third-Party to engage in a transparent and good faith negotiations to determine the terms and conditions of access.<br><br>(3) The negotiations between the licensee and the Third-Party shall cover matters which include-<br>(a) technical specifications;<br>(b) operational procedures;<br>(c) safety standards; and<br>(d) the financial terms of the access.<br><br>(4) The licensee and the Third-Party shall finalise the access agreement not later than 60 days upon receipt of the notice to commence negotiation from the Authority. | Application for Third-Party Access |
| **5.** (1) A licensee with significant market power in the Nigerian midstream and downstream petroleum industry, not later than 60 days after the commencement of these Regulations, shall submit to the Authority the proposed tariffs for Third-Party access for review and approval.<br>(2) The tariffs, among other things, shall- | Tariff for Third-Party Access |

| | |
|---|---|
| (a) be cost-reflective;<br>(b) take into account legitimate costs;<br>(c) ensure reasonable return on investment for the licensee;<br>(d) be transparent, fair, reasonable; and<br>(e) promote market competition. | |
| **6.** Upon commencement of these Regulations, all licensees shall:<br>(a) maintain accurate records of Third-Party access, capacity allocation, and tariff details; and<br><br>(b) at the end of every quarter, submit to the Authority, the records in sub-regulation 6(a) to ensure transparency and accountability. | Reporting Obligations |
| **7.** (1) In case of any dispute between a licensee and a Third-Party in relation to these Regulations, both parties shall be obligated to engage in amicable dispute resolution process in good faith, and failing which they may make recourse to the Authority.<br><br>(2) Where either of the parties involved in the dispute elects to make recourse to the Authority as envisaged in sub-regulation 7(1), such party, within 7 days after the inability to achieve amicable dispute resolution, shall submit a written notice of dispute to the Authority, indicating-<br>(a) a clear description and point(s) of dispute;<br>(b) relevant evidence; and<br>(c) the prayers sought.<br><br>(3) Upon receipt of the notice of dispute as in sub-regulation 7(2), the Authority shall facilitate discussions between the parties through mediation in a confidential manner but without imposing a binding decision on the parties.<br><br>(4) Where the Authority is unable to achieve amicable resolution of the dispute through mediation within 60 days of receipt of the notice of dispute as in sub-regulation 7(2), the Authority shall appoint for the parties, an Arbitrator who is an independent expert with relevant experience in the midstream and downstream petroleum industry and dispute resolution.<br><br>(5) The decision of the Arbitrator shall be final and binding on both parties and such decision shall be based on the evidence presented and the principles of fairness and equity. | Dispute Resolution |

| | |
|---|---|
| **8.** A person who —<br>(a) fails to provide information required under these Regulations; or<br>(b) makes a false declaration to the Authority, or wilfully furnishes any information so required which is in any respect false or insufficient; or<br>(c) fails to comply with any provisions of these Regulations,<br>shall, in addition to the sanctions, fines and penalties contained in the Act, be liable to an administrative penalty of NGN250,000.00 for each day of such default. | Offences & Penalties |
| **9.** In case of non-compliance with these Regulations, the Authority may, in addition to administrative penalty, suspend, or revoke a license, or take any other necessary measures to ensure compliance and protect fair competition. | Enforcement |
| **10.** (1) The Authority may issue guidelines, directives, and notices for effective implementation of these Regulations.<br><br>(2) The Authority shall periodically review these Regulations to ensure effectiveness, relevance, and alignment with industry developments. | Guidelines and Review of Regulations |
| **11.** In these Regulations —<br>"Act" means the Petroleum Industry Act, No. 6, 2021;<br><br>"Facilities" include pipelines, terminals, storage facilities, transportation equipment, and any other related infrastructure used in the midstream and downstream petroleum operations;<br><br>"licensee" means a holder of licence, permit or authorisation issued by the Authority for midstream or downstream petroleum operations in Nigeria;<br><br>"Open Access" means the non-discriminatory, fair, and transparent provision of access to facilities, infrastructure, or services by a licensee to Third Parties under the terms and conditions prescribed in these Regulations.<br><br>"NGN" means Nigerian Naira.<br><br>"Third Party" refers to any person or entity other than the licensee seeking access to the facilities, infrastructure, or services provided by the licensee. | Interpretation |

| | |
|---|---|
| **12.** These Regulations may be cited as the Midstream and Downstream Petroleum Third-Party Access and Open Access Regulations, 2023. | Citation |

Made at Abuja this ..... day of ..... 2023

.....

**Engr. Farouk Ahmed**
**Authority Chief Executive**
**Nigerian Midstream and Downstream Petroleum Regulatory Authority**