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PETROLEUM INDUSTRY ACT, NO. 6, 2021

GAS DISTRIBUTION SYSTEMS REGULATIONS, 2023

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SCHEDULE

B 110

S. I. No. 9 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021

GAS DISTRIBUTION SYSTEMS REGULATIONS, 2023

[14*th Day of March*, 2023] Commencement

In exercise of the powers conferred on it by section 33 (*a*), 111(4)(*a*), 148, 149 and 151 of the Petroleum Industry Act, No. 6, 2021 ("Act") and all 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 — Objectives

(*a*) establish the procedure for the grant of a gas distribution licence for a gas distribution system in a local distribution zone ; and

(*b*) provide sanctions, penalties and administrative fines for failure to comply with the provisions of these Regulations.

2. TheseRegulations shall apply to activities connected with the grant of gas distribution licence for a gas distribution system within a local distribution zone, including gas distribution systems in existence prior to the commencement of these Regulations. Application

3.—(1) A person shall not undertake gas distribution in Nigeria without a gas distribution licence granted by the Authority. Prohibition from undertaking gas distribution without a licence

(2) A gas distribution licence shall be granted in respect of a geographical limit within a local distribution zone determined by the Authority and shall confer on the holder, the exclusive right to distribute and sell its natural gas without discrimination to consumers in that local distribution zone.

(3) A gas distribution licence shall, subject to the provisions of the Act and these Regulations, be valid for a term of 25 years from the date of grant of the licence and may be renewed for further terms of 25 years each subject to terms and conditions as may be prescribed by the Authority.

4.—(1) The Authority shall, by notice published in the Federal Government Gazette, designate local distribution zones in Nigeria. Authority to designate local distribution zones

(2) The Authority shall, in the designation of local distribution zones, adopt a national grid system.

(3) The grid system referred to in subregulation (2) shall be based on the UTM system or any other projection system in use by the office of the Surveyor-General of the Federation.

(4) The Authority shall establish a system for numbering of local distribution zones which shall allow for subdivision and aggregation of the zones.

(5) The basic unit of the grid system shall be a parcel of one square kilometre, subject to adjustment of the zones and national boundary.

(6) The Authority may further subdivide zones into equal units of one hectare or such sub-units as the Authority may deem appropriate.

(7) The national grid system referred to in subregulation (1) shall be used for the administration of gas distribution licences, including—

(*a*) the definition of licence areas ;
(*b*) surrenders ;
(*c*) bid procedures ;
(*d*) conservation measures ; and
(*e*) other regulatory and local distribution zone management procedures.

(8) The boundary of an existing gas distribution system with a petroleum pipeline licence, which does not conform to the new national grid system shall remain unaltered for the duration of the petroleum pipeline licence and any renewals thereafter.

(9) The Authority shall, in the designation of local distribution zones, consider—

(*a*) the geographical area or limit ;
(*b*) natural gas availability ;
(*c*) connectivity with an existing or proposed natural gas pipeline ;
(*d*) availability of alternative gas supply (including LNG, CNG) to the city gate station of the proposed gas distribution system ;
(*e*) the potential demand for a gas distribution licence in such zone ;
(*f*) the population and settlement ; and
(*g*) any other considerations the Authority may deem relevant for safe and sustainable operations.

Bidding process for a local distribution zone

5.—(1) Subject to the provisions of Regulation 7, a gas distribution licence shall only be granted—

(*a*) based on a fair, transparent and competitive bidding process ; and
(*b*) in compliance with the provisions of the Act, these Regulations and the licensing round guidelines issued by the Authority for each licensing round.

(2) The Authority may periodically publish a licensing round plan for local distribution zones.

(3) The Authority may grant a gas distribution licence to a winning bidder, provided that the winning bidder has complied with the requirements of the bid invitation and licensing round guidelines.

(4) The Authority shall issue an offer letter to the winning bidder within 30 days of the conclusion of the bid process.

(5) The grant of a gas distribution licence on a surrendered or revoked local distribution zone shall be by an open, transparent, competitive, and non-discriminatory bidding process conducted by the Authority under subregulation (1).

(6) The winning bidder shall be determined on the basis of the following bid parameters—

(*a*) a single bid parameter, which shall be based on any one of these parameters —

(*i*) a premium to be paid in full prior to the granting of the licence by or on behalf of the winning bidder,

(*ii*) a work programme commitment during the first five years of the licence, or

(*iii*) any other parameter as may be defined specific to a bid round and bidding process; or

(*b*) a combination of the bid parameters specified in paragraph (*a*), based on a points system assessable by the bidder in such a manner that the bidder with the highest aggregate number of points shall be the winning bidder.

(7) The Authority shall call for bids in accordance with a procedure published on its website and in at least two national newspapers with wide coverage.

(8) Where the Authority calls for bids under this regulation, it shall prescribe in a licensing round guideline the minimum pre-qualification criteria of prospective bidders in terms of technical and financial requirements and previous experience.

(9) The bids received based on the bid parameters prescribed in subregulation (6) shall be considered through an open, transparent and competitive bidding process, and include an electronic bidding process open to the public.

(10) Where a winning bidder fails to comply with the requirements of the bid invitation within a timeframe specified by the Authority, the offer for a licence shall be deemed to have been withdrawn and the Authority may offer the licence to the second highest bidder on the same terms and conditions in the bid invitation.

Licensing round guidelines

6.—(1) The licensing round guidelines shall be accompanied with the model licence and model contract for the local distribution zone for the bid round and shall include the—

(*a*) licence boundary, the term and minimum work obligations ;

(*b*) requirements to be fulfilled by the bidders and the pre-qualification criteria ;

(*c*) bid parameter ;

(*d*) list of documents required and criteria for the evaluation of technicalcapacity, financial competence and legal status of interested parties ; and

(*e*) details and cost for the acquisition of relevant data and studies.

(2) The model licence and model contract for each bid round shall reflect the conditions of the licensing round guidelines for the bid round, and shall in all circumstances include these clauses—

(*a*) description of the local distribution zone ;

(*b*) term of the licence ;

(*c*) minimum work programme and minimum level of investment ;

(*d*) details of guarantees to be provided by the licensee regarding the performance of its licence obligations ;

(*e*) details of obligations regarding surrender, decommissioning and abandonment ;

(*f*) rules for the resolution of disputes including arbitration, mediation, conciliation, or expert determination ;

(*g*) applicable sanctions in the event of failure by the licensee to comply with the terms and conditions of the licence ; and

(*h*) such other clauses as the Authority may deem necessary.

Application for grant of gas distribution licence in a local distribution zone

7.—(1) Notwithstanding the provisions of Regulation 5, a qualified person may apply to the Authority for the grant of a gas distribution licence in the manner prescribed in guidelines issued by the Authority.

(2) The Authority shall in considering an application under this regulation carry out an assessment of the application taking into consideration—

(*a*) whether prior to the application a bid has been submitted to the Authority for the local distribution zone in accordance with Regulation 5 ;

(*b*) the proximity of the proposed gas distribution system to an existing gas distribution system operated by the applicant ;

(*c*) the technical capability of the applicant which shall include previous experience in the construction and operation of a gas distribution system ;

(*d*) the financial capability of the applicant ;

(*e*) the economic case for the licence, including the potential demand for its use ;

(*f*) natural gas availability ;

(*g*) connectivity with an existing or proposed natural gas pipeline ;

(*h*) availability of alternative gas supply (including LNG, CNG) to the city gate station of the proposed gas distribution system ;

(*i*) the population and settlement of a local distribution zone ; and

(*j*) other considerations the Authority may deem relevant for safe and sustainable operations.

(3) The Authority may, within 30 days of the receipt of an application and based on its assessment, either accept or reject the application, provided that where the Authority rejects an application, it shall inform the person of the decision and the reasons for rejecting the application.

(4) The Authority may, upon the application meeting the criteria set out by the Authority and the payment of prescribed fees including any reserve value set by the Authority for the local distribution zone, approve the application and grant a gas distribution licence in the local distribution zone indicated in the application.

Duties of a licensee

8. In addition to the duties specified in the Act, the holder of a gas distribution licence shall —

(*a*) provide,on a quarterly basis, a progress report detailing the clearances obtained, targets achieved, capital and operating expenditures incurred, works-in-progress, and other relevant information ;

(*b*) ensure compliance with the relevant petroleum pipeline regulations made by the Authority ;

(*c*) appoint a person responsible for data submission to the Authority and notify the Authority of such appointment or any change of the appointed official within seven days of the appointment or change ;

(*d*) notify the Authority when a customer is added to the distribution system ; and

(*e*) achieve the work programme approved by the Authority.

Establishment, design, construction, modification, operation or maintenance of a gas distribution pipeline

9. The establishment, design, construction, modification, operation or maintenance of a gas distribution pipeline shall be in compliance with the requirements specified in the petroleum pipeline regulations issued by the Authority.

Public service obligations

10. A licensee shall comply with public service obligations as may by imposed by the Authority.

Existing gas distribution systems

11.—(1) The holder of a petroleum pipeline licence with an existing gas distribution system shall, not later than 90 days from the effective date of these Regulations, apply to the Authority for a gas distribution licence.

(2) Where, prior to the effective date of these Regulations, the holder of petroleum pipeline licence with an existing gas distribution system has entered into an agreement to provide distribution services on terms and conditions inconsistent with the provisions of the Act or these Regulations, the existing gas distribution system with a petroleum pipeline licence may, with the approval of the Authority, continue to provide such services on the same terms and conditions until the expiration of the petroleum pipeline licence.

(3) The holder of petroleum pipeline licence with an existing gas distribution system shall, prior to the grant of a gas distribution licence,comply with the technical standards and specifications, safety standards and quality-of-service standards prescribed by the Authority.

(4) A person who, prior to the effective date of these Regulations, has established, constructed, or is operating a gas distribution system without a petroleum pipeline licence shall not later than 90 days from the effective date of these Regulations apply to the Authority for a gas distribution licence :

Provided that the application for a gas distribution licence shall be in accordance with the provisions of the petroleum pipeline regulations and any other applicable regulations made by the Authority.

(5) The activities of an existing gas distribution system shallbein accordance with any other applicable regulations made by the Authority for the establishment construction, modification, operation or maintenance of pipelines.

Fees.
Schedule.

12. The fees in the Schedule to these Regulations shall be applicable to the licensing of gas distribution systems in Nigeria.

Offences

13. A person who —

(*a*) fails to obtain a licence required in these Regulations,

(*b*) fails to provide the information required in these Regulations,

(*c*) makes a false declaration to the Authority or wilfully furnishes information so required which is in any respect false or insufficient, or

(*d*) fails to comply with any provision of these Regulations or any directive given or condition of a licence issued in these Regulations,

may, in addition to the sanctions, fines and penalties contained in the Act, be liable to an administrative penalty of not more than USD 1,000,000,and any licence granted in these Regulations may be suspended or revoked.

Authority to make guidelines.

14. The Authority may issue guidelines, rules, and directives for the effective implementation of these Regulations.

Interpretation

15. In these Regulations —

"*Act*" means the Petroleum Industry Act, No. 6, 2021 ;

"*Authority*" means the Nigerian Midstream and Downstream Petroleum Regulatory Authority ;

"*city gate station*" means the point where custody transfer of gas from gas pipeline, processing plants or CNG and LNG bulk storage facility to a gas distribution system network takes place ;

"*CNG*" means compressed natural gas ;

"*gas distribution licence*" has the meaning ascribed to it in the Act ;

"*gas distribution network*" has the meaning ascribed to it in the Act ;

"*gas distribution pipeline*" means a low pressure pipeline for the purpose of conveying natural gas to customers in a gas distribution system ;

"*gas distribution system*" means a set of interconnected distribution pipelines for natural gas including the entirety of equipment or infrastructure that enable the optimal operation of the distribution pipelines, such as CGS, PRMS, any storage, pigging or other appurtenances which cover the physical investments of a licensee in that area ;

"*gas distributor*" has the meaning ascribed to it in the Act ;

"*geographic limit*" means an area specified in a gas distribution licence issued by the Authority for the establishment of a local distribution zone ;

"*licensee*" means an entity who is a holder of a gas distribution licence in a local distribution zone ;

"*local distribution zone*" has the meaning ascribed to it in the Act ;

"*LNG*" means liquified natural gas ;

"*piped natural gas*" means processed natural gas transported through pipelines in a gas distribution system network for consumption by any customer in domestic, commercial, or industrial segments ;

"*petroleum pipeline licence*" means a licence issued by the Authority for the operation of a petroleum pipeline ;

"*premium*" means the totality of the reserve value set by the Authority and the value of the bid made by an applicant in a licensing round in respect of a local distribution zone which shall be paid by the applicant prior to the grant of a gas distribution licence over a local distribution zone ;

"*USD*" means United States Dollars ;

"*UTM*" has the meaning ascribed to it in the Act ; and

"*work programme*" means a programme of activities specified in a gas distribution licence and approved by the Authority for implementation in the local distribution zone applicable to the gas distribution licence.

Citation

16. These Regulations may be cited as the Gas Distribution Systems Regulations 2023.

SCHEDULE *Regulation* 12

FEES

The fees specified in the table below shall apply to the grant and renewal of a gas distribution licence :

S/N	*Name*	*Fee*
1.	Application for grant of gas distribution licence in a local distribution zone	USD 10,000
2.	Grant of a gas distribution licence	USD 100,000
3.	Annual operating charge	USD100,000
4.	Renewal of a gas distribution licence after 25 years	USD 250,000

Made at Abuja this 14th day of March, 2023.

ENGR. FAROUK AHMED
Authority Chief Executive
Nigerian Midstream and Downstream
Petroleum Regulatory Authority