ASSESSMENT OF THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR ELECTRICITY GOVERNANCE AND CONSUMER PROTECTION IN NIGERIA

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Abstract

Constant electricity power supply is a major requirement for economic development of any country as it earns a high premium in enhancing the quality of life of the citizens. Over the years, Nigerians have endured electricity outages, notwithstanding attempts by successive administrations to regulate the power sector. Electricity supply has been underwhelming, with national grid breakdowns and system shutdowns becoming the new normal. The players in the sector have not been able to meet the nation's growing demand for electricity for decades. Adopting the doctrinal research methodology, this article argued that despite Nigeria's seeming abundance of natural resources, the country's power sector is fraught with challenges, such as high tariff, inadequate consumer protection, financial incapacity, deficient regulatory framework, inadequate infrastructure, etc. The article also argued that the potential for economic growth is strictly inhibited by unreliable electricity supply, due to the gap between demand and supply. It found that most electricity consumers, particularly the low incomed are not conscious of their legal rights and the available mechanisms for redress. It also found that the Electricity Act (EA) 2023 aimed to arouse measures to improve power generation, transmission, and distribution capacity of the relevant players in the electricity industry, as well as provide for up-to-date standards in fast-tracking power generation by broadening the power sector to embrace renewable energy sources for sustainable energy transition. The article concluded that despite the provisions of the EA for facilitating public, private partnerships (PPPs), there is still the need for further improvements in the regulation to tackle Nigeria's tenacious electricity issues that supports the country's economy outside oil and industrial sector.

Keywords: Legal Framework, Electricity, Governance, Consumer, Protection, Nigeria

1.1 Introduction

Nigeria has had a long-standing problem of epileptic power supply, despite years of structural reforms and investments by succeeding governments to achieve stability. Electricity supply has been underwhelming, with national grid breakdowns and system shutdowns became the new normal. The players in the sector have not been able to meet the nation's growing demand for electricity for decades, with problems of profitability, regulatory uncertainty, liquidity, and policy enforcement plaguing the sector. The latest framework introduced to achieve the nation's power reform objectives is the Electricity Act (EA) 2023, which provides a much-needed comprehensive framework for the operation of a fully decentralized and privatized, competitive, and renewable energy-focused electricity market in Nigeria.[1]

Electricity reform in Nigeria started in 1999, followed by the National Electric Power Policy (NEPP) of 2001 and the Electricity Power Sector Reform (EPSR) Act,[2] both stating the necessity for denationalizing the sector. The reform commenced with the passage of the Public Enterprises (Privatisation and Commercialization) Act,[3] along with the formation of the Technical Committee for Privatisation and Commercialization (TCPC). In addition, the Public Enterprises (Privatisation and Commercialization) Act created the National Council on Privatisation (NCP) with the mandate to make policies regarding privatization-related matters. The Act also created the Bureau for Public Enterprises (BPE) to serve as technical operator. The restructuring aims at the liberalization, corporatization, commercialization, and unbundling of successor companies. To this end, the Power Holding Company of Nigeria (PHCN) was created as

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[1] Jonah Kings, 'Evaluating the Landscape of Electricity Regulation in Nigeria: An In-Depth Analysis of the Electricity Act 2023 and Its Pivotal Reforms in the Power Sector' (October 18, 2023). SSRN < https://ssrn.com/abstract=4613516 <http://dx.doi.org/10.2139/ssrn.4613516> accessed 4 December 2024.
[2] Cap. P10, LFN 2005
[3] No. 25, Cap. 369, LFN 1999

a holding company. Subsequently, generation companies (GENCOs) and distribution companies (DISCOs) were sold to investors to facilitate a competitive electricity market[4] that would enhance stable power supply in the country.

Despite the privatisation and unbundling of the GENCOs and DISCOs, the country continues to experience daily power outages lasting several hours. Thus, stable electricity supply remains a mirage with electricity consumers relying largely on self-generated power supply.[5] In addition, Nigeria's electricity infrastructure is largely characterized by an unstable grid and outdated systems that requires logistics to preserve the lights.[6] Moreso, where electricity consumer rights are breached, they are not satisfactorily addressed. The electricity consumer have no power to rescind the contract with supplier and not entitled to compensation in the event of breach.[7] This paper assesses the legal and institutional framework of electricity governance and consumer protection with a focus on the challenges and opportunities for Nigeria.

2.1 Conceptual Clarifications

2.1.1 Electricity Governance

Electricity governance is based on the idea that strong governance is essential for a stable and efficient electricity system. Strong governance can help to reduce electricity emissions by ensuring that policies are consistent and that new investments are made, control corruption and theft in the electricity sector, mitigate the impact of political

[4] Unbundling of the Power Holding Company of Nigeria (PHCN) into six (6) Generation Companies (GENCOs), eleven (11) Distribution Companies (DISCOs) and the Transmission Company of Nigeria (TCN). See U. A. Dubagari, 'Privatization of Nigeria's Power Sector from the Perspectives of the General Agreement on Trade in Services (GATs)' IOSR Journal of Humanity and Social Science (2018) 23 (1) 16 - 30

[5] Aguda Olukayode Olalekan, 'Constitutional and Institutional Governance of Electricity Sector in Nigeria' *Journal of Energy Research and Reviews* (2023) 14 (4) 32-44.

[6] Ibid.

[7] Jacon Out Enyia and Njong Cleverty Afu, 'Legal and Institutional Framework for the Protection of Electricity Consumer Protection in Nigeria: An Appraisal' Academy of Strategic Management Journal (2025) (22) (1) 1 - 13

shocks on the electricity sector, improve energy access for the poor and reduce electricity prices in the long term. [8]

It is the process of making and implementing policies to manage the electricity sector. It involves the role of various groups in society, including governments, civil society, and private sector actors. The goal of electricity governance is to ensure that the electricity sector perform its functions in the context of the wider socio-economic system. Electricity governance hitches happen when electricity consumers are inadequately represented in the planning process, policy making, regulation, and dispute settlement processes, thus twisting their benefits. [9]

2.1.2 Consumer Protection

Consumer protection halts unfair, misleading, and fraudulent business practices by gathering information from consumers and conducting investigations, instituting legal actions against firms or individuals that breaches the law, developing guidelines to sustain an equitable market, and enlightening consumers and companies on their rights and obligations.[10] It protects the well-being and welfare of consumers through education, mobilization, and representation. It ensures that consumers make up-to-date decisions about their choices and have access to effective dispute settlement mechanisms. It also advocates for companies to give assurance regarding the quality of the goods and services they offer. Consumer associations play significant part in raising awareness and reaching out to the consumers.[11]

[8] Shashmir Janjua, Muhammad Umar Ali, Karam Dad Kallu, et al, 'The Game-Theory for Electric Power Distribution During Power Shortage: A Case Study of Pakistan' (2021) <https://www.mdpi.com/2076-3417/11/11/5084> accessed 15 December 2024.

[9] Elsa Barazza, Pei-Hao Li and Neil Strachan, 'Modelling Governance for a Successful Electricity Sector Decarbonization' Energy Research and Social Science (2023) 104 <https://www.sciencedirect.com/science/article/pii/S2214629623003006> accessed 15 December 2025

[10] Federal Trade Commission, 'Bureau of Consumer Protection' (2024) <https://www.ftc.gov/about-ftc/bureaus-offices/bureau-consumer-protection> accessed 15 December 2024.

[11] ACCP, 'Consumer Protection' (2023) <https://www.aseanconsumer.org/cterms-consumer-protection> accessed 16 December 2024

2.1.3 Fair Competition

Fair competition implies a level playing field where all businesses can compete based on their abilities, innovation, and customer value, rather than external factors like wealth, power, or manipulation. [12] Fair trade entails that all competitors should have access to the same resources, information, and technology. Barriers to entry and exit should be minimal, allowing new businesses to compete and existing ones to adapt. Businesses should avoid predatory pricing, misleading advertising, or other practices that harm competitors or consumers. Fair competition leads to better products, lower prices, and more choices for consumers. Fair competition ensures that businesses of all sizes have a chance to succeed based on their merits.[13]

2.1.4 Market Manipulation

Manipulations are acts that infringes the process for guidelines of the electricity market approved by legislation and poses an increased public danger. It is determined by the actions of an individual(s) that disrupt the operations of the wholesale electricity market.[14] Manipulation in electricity governance manifests as systemic inefficiencies, poor corporate governance, and corruption within the power sector, hindering value creation and economic development. Weak regulatory frameworks, incomplete privatization, and a lack of investment in infrastructure[15] as well as influencing the behaviour of the electricity market are key drivers of these issues. Market manipulation is often difficult for market regulators to notice, given that numerous variables affect the price movement of electricity, some of which may not even be adequately measured.[16]

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[12] Bester Keldon, 'Fair Competition for an Evolving Economy' (CIGI Papers, No. 284) <https://www.econstor.eu/bitstream/10419/299981/1/no284.pdf> accessed 25 June 2025

[13] Ibid

[14] Iryna Botnarenko and Valentyna Kyzhna, 'Energy Market Manipulation: Criminal Law Analysis and Signs' (ResearchGate 2023) <https://www.researchgate.net/publication/374302746_Energy_market_manipulation_Criminal_law_analysis_and_signs> accessed 28 July 2025

[15] Adam Hayes, 'Manipulation: Definition, Methods, Types and Example' (Investopedia 2024) <https://www.investopedia.com/terms/m/manipulation.asp> accessed 30 May 2025

[16] CTI Team, 'Market Manipulation' (2024) < https://corporatefinanceinstitute.com/resources/career-map/sell-side/capital-markets/market-manipulation/> accessed 30 May 2025

2.1.5 Subsidies

A subsidy is a form of financial assistance, usually from a government, given to individuals, businesses, or other organizations to encourage certain activities or support specific sectors of the economy. Essentially, it is a way for the government to lower costs for consumers or producers, often to keep prices low or to stimulate economic activity. Subsidies are typically monetary payments or tax breaks. While other organizations can provide subsidies, they are most associated with government actions. Subsidies aim to encourage specific behaviours, like investing in a particular industry, consuming certain goods, or services, or promoting certain social objectives.[17]

Subsidies can lower the cost of goods or services, making them more affordable for consumers or reducing production costs for businesses. It can be seen as a form of market intervention, as they can distort prices and impact supply and demand. For example, payments to farmers to support food production and stabilize prices, and payments to encourage businesses to locate in certain areas or to invest in specific technologies.[18] The potential effect of subsidy is that lower prices can lead to higher demand and greater production of subsidized goods or services. It can also create inefficiencies in the market by artificially lowering prices and affecting competition. Subsidies can increase government spending and contribute to national debt, as well as incentivize businesses to lobby for continued or increased subsidies, rather than focusing on efficiency and innovation. [19]

Basically, electricity governance in Nigeria involves the NERC setting standards and ensuring market efficiency, while consumer protection focuses on rights to safe supply, metering, fair billing, and effective complaint resolution through a multi-tiered system including DISCOs and NERC. Key deductions from the concepts are the mandated metering of new connections, the right to written disconnection notices and refunds for

[17] Ronald P. Steenbilik, 'A Note on the Concept of Subsidy' Energy Policy (1995) (23) (16) 483 - 484
[18] Gordon Scott, 'Understanding Government Subsidies: Types, Benefits and Drawbacks' (Investopedia 2025) < https://www.investopedia.com/terms/s/subsidy.asp> accessed 15 December 2025
[19] Ronald P. Steenbilik, (n. 17)

overbilling, and the responsibility of distribution companies to handle complaints within specific timelines before escalation to the NERC.

2.2 Theoretical Framework

This research adopted two theories: the game theory and the stakeholder theory. These are discussed below.

2.2.1 Game Theory

The game theory is used in the optimization of the management of electricity distribution, the approach of electricity procurement, response to the requirements of business and residential electricity consumers and guaranteeing network communication. The application of game theory, in addition to typical gaming behaviour of the current electricity demand side, as well as its application mostly in three parts: distributed electricity users, high-electricity users, and medium- and low-electricity users is important in contemporary power systems.[20]

Due to the rapid advancement of the smart grid and the improvements of the electricity system, demand-side users can contribute to the partnership of the electricity system, with access to public buying of electricity and the power to sell. The demand side of the smart grid and the open electricity market affords users with more choices, and the game theory is likely to be an imperative instrument for the optimization of multi-stakeholder decision-making and resolving numerous difficulties. A key challenge is the allocation of inadequate power supply amongst users with competing needs amidst the demand-supply gap. The allocation of power in short supply is considered as a game-theoretic bankruptcy problem.[21]

[20] Kifayat Ullah, Muhammad Ishaq, Nimrah Fatima Hussain, et al, 'Application of Game Theory in Modern Electric Power System (A Review)' AIP Publishing (2024) (14) (1) <https://pubs.aip.org/aip/adv/article/14/1/010701/2933318/Application-of-game-theory-in-modern-electrical> accessed 15 December 2024

[21] ibid

2.2.2 Stake Holder Theory

The stakeholder theory explains how organizations consider stakeholder interest. It deals with those who are affected by the actions of the company and the influence on a company's business goals. It categorizes stakeholders into three: namely, real stakeholder, stakewatchers and stake keepers.[22] The first category has a tangible stake in the firm and enjoys genuine entitlement, authority, and influence, and the firm is responsible to them. The second category does not have a stake in real terms, but act as representatives or mediators protecting the interests of the first set. They include diverse organisations that shelter customers' rights, the environment, and shareholders, acting as watchdogs. Thus, the representations of the interests of the first category are the basis of their authority. The company has no moral obligation to protect their interest, since they hold power over it. The third category are autonomous regulators such as the governments, courts, and regulatory agencies with no stake in the firm but wield some degree of control and regulate the activities of the firm. They act as gatekeepers, independent of the firm but can indirectly impose duties. The company owes no obligation to them.[23]

The theory presupposes that people supports a firm when they receive value in return, particularly in sustainable ventures and activities. Thus, the incorporation of Community Service (CS) traits in the product is an acknowledgement of the role of the stakeholders in the product development. Consumers are more likely to buy a firm's products or services if it is committed to addressing environmental, social and governance (ESG) issues.[24] The theory labels the composition of a firm as an assembly of numerous individual groups with diverse interests. These interests, put together, characterize the

[22] Mathias Nnadi and Philip Edwin Mutyaba, 'The Moderating Effects of Corporate Sustainability Attributes of Products on the Financial Performance of Firms' (Science Direct 2023) <https://www.sciencedirect.com/topics/social-sciences/stakeholder-theory> accessed 4 December 2024.
[23] ibid
[24] ibid

will of the firm. Essentially, corporate decisions should contemplate the benefits of these collective groups and improve general collaboration.[25]

3.1 Legal Framework

This section examines the legal regime for electricity governance and consumer protection in Nigeria. The following outlines the various streams of laws that underpin electricity governance and consumer protection in Nigeria.

3.1.1 Constitution of the Federal Republic of Nigeria 1999

The Constitution of the Federal Republic of Nigeria (CFRN) 1999 is the ground norm and any law that is not inconsonance with its provision is null and void to the extent of such inconsistency. This means that Acts and Laws made by National and State Legislatures must align with and not deviate from or be inconsistent with any provision of the Constitution. On the issue of electricity governance and consumer protection, the CFRN 1999[26] provides that the Federal High Court has the exclusive jurisdiction to entertain any action brought under the Electricity Act.

3.1.2 Electricity Act (EA)

A core objective of the Electricity Act (EA)[27] is to provide all-inclusive policy that recognizes all sources for the generation, transmission, and distribution of electricity, including the incorporation of renewable energy into Nigeria's energy mix. It repeals the EPSRA 2005 and recognizes the lawmaking powers of states and identifies the difference between electricity supply and distribution. The Act guides the operation of the electricity market and seeks to inspire policies to attract investment across the electricity value chain to foster a competitive electricity market in Nigeria.[28] It provides a much-needed

[25] Robert C. Kelly, 'Agency Theory Vs. Stakeholder Theory: An Overview' (2023) <https://www.investopedia.com/ask/answers/031615/whats-difference-between-agency-theory-and-stakeholder-theory.asp> 5 December 2024.
[26] S. 251 (10)
[27] 2023
[28] Emeka Ezekwesiri, Favour Ogini and Iyanuoluwa Adeyemo, 'A Review of the Electricity Act, 2023 – Impact and Major Issues Arising' (SSRN 2023) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4560855> accessed 26 December 2024

comprehensive framework for the operation of a fully decentralized and privatized, competitive, and renewable energy-focused electricity market in Nigeria.[29]

The Act further allows for a deep-rooted power generation, hybridized generation, co-generation, and the generation of electricity from renewable sources such as solar energy, wind, small hydropower, biomass, and other renewable sources.[30] It also repeals the following Acts: The Hydroelectric Power Producing Areas Development Commission (Establishment, Etc.) Act,[31] and the Nigerian Electricity Management Services Agency (Establishment) Act.[32] The objective, amongst others, is to introduce innovative strategies and regulatory procedures that addresses some of the constraints bedeviling the sector to attain a self-sustaining, lucrative, and satisfactory industry.[33]

3.1.3 Nigerian Electricity Management Services Agency (NEMSA) Act

Subject to the provisions of the Nigerian Electricity Management Services Agency (NEMSA) Act,[34] NEMSA performs the following functions, among others: electrical inspection for the NESI, enforcement of statutory technical standards and guidelines; in particular, but not limited to Electrical Installation Regulations[35] and Electricity Supply Regulations,[36] ensures that key electrical equipment used in Nigeria are of precise quality and standards, specifies standards to electrical plants, electric lines and connectivity to the grid and safety requirements for construction, operation and maintenance of electrical power plants, transmissions systems, distribution networks and electric lines, and test, certifies electrical installations in hazardous locations such as in filling stations,

[29] Kings Jonah, 'Evaluating the Landscape of Electricity Regulation in Nigeria: An In-Depth Analysis of the Electricity Act 2023 and Its Pivotal Reforms in the Power Sector' (SSRN 2023) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4613516 > accessed 26 December 2024

[30] Eruvwun Juweto, 'A Review of the Nigerian Electricity Act, 2023' (2023) <https://www.linkedin.com/pulse/review-nigerian-electricity-act-2023-eruvwun-juweto/> 27 December 2024

[31] No. 7 of 2010, (Amendment) Act 2018, and 2015

[32] 2015

[33] KPMG, 'Commentaries on the Electricity Act, 2023' (2023) <https://kpmg.com/ng/en/home/insights/2023/06/commentaries-on-the-electricity-act--2023.html> accessed 26 December 2024

[34] 2015

[35] No S. 5 of 1996

[36] No1. S.1 6 of 1996

prospecting oil companies, off and onshore flow stations/wells, floating production and offloading (FPSO) vessels, etc and discharge such other functions as may be provided under the Act or conferred by government directives. [37]

3.1.4 Environmental Impact Assessment Act

The Environmental Impact Assessment (EIA) Act[38] is the law that establishes regulations for environmental assessments. The EIA Act ensures that probable scientific and socio-economic effects of all novel manufacturing projects are assessed before the start of the project.[39] The Act helps to ensure that electricity business is carried out responsibly. The goal is to minimize negative environmental impacts and, where possible, enhance the benefits of electricity generation, transmission, and distribution.[40]

3.1.5 Federal Competition and Consumer Protection Commission (FCCPC) Act

The purpose of the FCCPC Act is to remove monopolies and market dominance, alongside protecting the rights of Nigerian consumers. Importantly, the FCCPC Act repeals the Consumer Protection Council Act.[41] It establishes the FCCPC which administers the provisions of the Act. It also establishes the Competition and Consumer Protection Tribunal (CCPT) to adjudicate offences and disputes.[42] The objective of the FCCPC Act is to prohibit unfair commercial practices that promotes fair competition in Nigeria. To fulfill this duty, the Act empowers the FCCPC is to conduct investigations or inquiries considered essential or desirable on any matter under the purview of the Act. Essentially, investigations, search and seizure operations, and market inquiries are

[37] KPMG, (n. 33)
[38] Cap E12, LFN 2004.
[39] Victor Nonso Enebeli and David Chibuike Njoku, 'The legal Framework of environmental Impact Governance in Nigeria' (ResearchGate 2023) <https://www.researchgate.net/publication/371567321_THE_LEGAL_FRAMEWORK_OF_ENVIRONMENTAL_IMPACT_GOVERNANCE_IN_NIGERIA> accessed 7 December 2024.
[40] Ozioma Agu and Kolajo Onasoga, 'Environment Impact Assessment in Infrastructure Development: Legal Framework, and Contribution to Sustainable Development in Nigeria' (Mondaq 2024) <https://www.mondaq.com/nigeria/waste-management/1521564/environmental-impact-assessment-in-infrastructure-development-legal-framework-and-contribution-to-sustainable-development-in-nigeria> accessed 7 December 2024.
[41] S. 165 FCCPA 2019
[42] S. 39 (2)

popular tools used by competition agencies in their competition law enforcement regimes.[43]

3.1.6 Renewable Energy Policies

The Electricity Act supports the expansion and use of renewable energy and stipulates procedures to be deployed to intensify its role to the Nigeria's energy mix.[44] The NERC is authorized to acknowledge renewable energy as one of the sources of energy in Nigeria. This implies that market rules and grid code are imminent in addressing tariff, infrastructure, and the seeming demand and supply challenges facing the incorporation of renewable energy into the Nigeria's energy mix. In addition, the EA authorizes the Ministry of Finance to introduce tax incentives that may be essential to encourage the production and consumption of renewable energy or such other economic policies that would motivate the operation of renewable energy projects in Nigeria.[45]

3.1.7 National Electricity Power Policy

The Electricity Act[46] mandates the Ministry of Power to publish a National Integrated Electricity Policy, and Strategic Implementation Plan (NIEPSIP) in the Federal Government Gazette to guide the general expansion of the electric power sector in Nigeria, within one year from the commencement of the Act. Once issued, all development projects in the electricity sector are expected to confirm with NIEPSIP policy. The NIEPSIP is to incorporate aspects, including the use of both renewable and non-renewable sources for power generation, transmission, distribution, and supply, electricity infrastructure, rural electrification, PPPs, waivers and subsidies and the general development of the electricity value chain in Nigeria.[47]

[43] S. 17 (e)
[44] S. 164
[45] S. 166
[46] S. 3
[47] Ozioma Agu and Kolajo Onasoga (n. 40)

3.1.8 Consumer Protection Regulation (CPR)

The Consumer Protection Regulation (CPR)[48] is made by the NERC pursuant to its powers under the EA. The CPR is a subordinate regulation of the EA 2023, which repeals multitude of former regulations that deal with the consumer protection framework in Nigeria's electricity supply industry. It provides for consumer grievances management measures, meter reading and billing, cash collections and credit management, connection and disconnection, customer service standards, etc. It also provides for dispute resolution mechanisms for electricity consumers.[49]

3.1.9 Meter Asset Provider and National Mass Metering Regulations 2021

The Meter Asset Provider and National Mass Metering Regulations 2021 was passed by the NERC, the objective is to intensify meter deployment, encourage domestic meter production, and job creation in the domestic meter value chain. It is the framework that combines the Meter Asset Providers (MAP) Regulation, 2018, and the National Mass Metering Policy **(**NMMP**)** with the aim of closing metering gap via a fast-tracked rollout of meters; getting rid of the widespread practice of projected billing system, attract private investment in the provision of meters/ metering services and improve revenue at the retail end of the NESI. [50]

3.2 Institutional Framework

Various institutions are involved in the implementation and enforcement of electricity governance and consumer protection in Nigeria. Therefore, some of these institutions are discussed below.

[48] 2023

[49] Abdulsalam Abbas, 'Navigating Electricity Consumer Disputes in Nigeria: A Legal Perspective' (2024) <https://abdu-salaamabbasandco.com/navigating-electricity-consumer-disputes-in-nigeria-a-legal-perspective/> accessed 27 December 2024

[50] Chinenye Ajayi, 'Understanding the Nigerian Electricity Regulatory Commission's Meter Asset Provider and National Mass Metering Regulations, 2021' (2021) <https://www.linkedin.com/pulse/understanding-nigerian-electricity-regulatory-meter-asset-ajayi/> accessed 29 December 2024

3.2.1 Nigerian Electricity Regulation Commission (NERC)

The EA mandates the NERC to review the National Content Development Regulations concerning the power sector to address the local content requirements for home-grown skills acquisition, manufacturing, and assembling of solar PV components, deep cycle batteries, electro-mechanical components of Small Hydropower (SHP) technology, wind power, boilers, and turbines for co-generation of less than 30 megawatts. The Act also mandates the NERC to ensure steady and favourable pricing mechanisms for renewable energy and to simplify access to the national grid and distribution network.[51]

3.2.2 Nigerian Bulk Electricity Trading Plc

The EA establishes the Nigeria Bulk Electricity Trading Company (NBET), which holds license for the bulk buying and selling of electricity and subsidiary services.[52] It directs the NBET not to enter such agreements and novate its existing contractual rights and obligations to other licensees.[53] In addition, the EA empowers the NERC to issue trading licences authorising the trading licensee to enter a contract with the NBET, including DISCOs for the buying and selling of electricity and ancillary services.[54]

3.2.3 Nigerian Electricity Supply Industries (NESI)

To ensure consistency, the EA establishes all the regulatory agencies in a single legislation. It is a conscious effort by the government to unify and manage the NESI under a single legislative framework. In addition, the EA presents a description of the journey so far in deregulating the NESI for optimum performance. The EA is a well-thought-out legislation given the detailed areas of reform which will go a long way to advance the general investment base of the NESI through improved private-sector involvement.[55]

[51] S. 164
[52] S. 6 (f)
[53] S. 7 (2)
[54] S. 7 (2)
[55] Ibid

3.2.4 Nigerian Electricity Management Services Agency (NEMSA)

The Nigerian Electricity Management Services Agency (NEMSA) Act[56] establishes the NEMSA to take over the management of the Electricity Management Services Limited (EMSL). It also establishes a governing Board with the responsibility to manage the affairs of the board, provide policy guidelines for discharging the functions of the Board, approve the payment to staff (remunerations and allowances), approve appointments, promotions, and discipline of management staff and do such things that are related for efficient performance of it functions.[57]

3.2.5 Rural Electrification Agency (REA)

The EPSRA created the Rural Electrification Agency (REA) in 2006 to ease the delivery of cheap power supply for residential, commercial, industrial, and social activities in the rural and peri-urban areas of the country. Hitherto, REA focused on grid extension investments but shifted to providing off-grid solutions to rural dwellers such as mini-grids and solar home systems. It aims to encourage private sector involvement in rural development through the country's ample renewable energy sources while ensuring that Government agencies, co-operatives, and communities are actively participate in the electricity value chain.[58] REA's functions include the promotion of rural electrification, coordination of rural electrification programs, and the administration of Rural Electrification Fund (REF) to encourage, support, and deliver rural electrification through PPPs in Nigeria.[59]

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[56] S. 1 (3)

[57] Oyinda Omisore, 'Overview: Nigerian Electricity Management Authority (NEMSA) Act' (BusinessDay 2015) <https://businessday.ng/energy/power/article/overview-nigerian-electricity-management-services-authority-nemsa-act/> accessed 27 December 2024

[58] EnergyData.Info, 'Nigerian Rural Electrification Agency' (2024) <https://energydata.info/organization/about/nigerian-rural-electrification-agency> accessed 27 December 2024

[59] REA, 'Rural electrification agency of Nigeria' (2023) <https://www.linkedin.com/company/rural-electrification-agency-of-nigeria/about/> accessed 26 December 2024

3.2.6 Energy Commission of Nigeria (ECN)

The Energy Commission of Nigeria (ECN), established under the Enabling Act[60] became operational in 1989 as the result of the meeting of the Heads of ECOWAS on 29th May 1982 in Cotonou, Benin Republic. Member States agreed to establish an institution within the machinery of government to coordinate and supervise all energy functions and activities within each Member State to be called the Energy Commission.[61]

3.2.7 Federal Ministry of Power

The Federal Ministry of Power (FMP) is the policy-making arm of the Government with the obligation to provide power in the country. In discharging its functions, the ministry is governed by the requirements of the NEPP of 2001, the EPSRA of 2005, the Roadmap for Power Sector Reform of 2010, and the EA 2023.[62] Some agencies, such as the REA, EMSL, and National Power Training Institute of Nigeria (NAPTIN) are affiliated to the ministry. It also oversees the activities of the NERC.[63]

3.2.8 Federal Competition and Consumer Protection Commission (FCCPC)

The FCCPC is an establishment of the Government accountable for the promotion and protection of consumers' the interest in Nigeria. Its mandates include, inform consumers; to eradicate harmful goods from the market and to ensure that goods and services conform with mandatory standards and to receive, intermediate, and provide redress to consumer grievances.[64]

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[60] No. 62 of 1979 as amended by Act No. 32 of 1988 and Act No. 19 of 1989

[61] ECN, 'Energy Commission of Nigeria' < https://energy.gov.ng/> accessed 4 December 2024. (see for Official Journal of ECOWAS, Protocols, Decisions & Directives (1982) (4) 50

[62] FMP, 'Federal Ministry of Power' <https://power.gov.ng/> accessed 4 December 2024.

[63] Charlotte Remteng, Muhammad Bello Suleiman, Chiamaka Maureen Asoegwu and Chysom Nnaemeka, 'Policy and regulatory Framework for Energy in Nigeria' (Energypedia 2023) <https://energypedia.info/wiki/Policy_and_Regulatory_Framework_for_Energy_in_Nigeria> accessed 27 December 2024

[64] CPC, 'Federal Competition and Protection Commission' <https://www.consumersinternational.org/members/members/federal-competition-and-consumer-protection-commission/> accessed 5 December 2024.

3.2.9 Bureau of Public Enterprises (BPE)

In line with provisions of the EPSRA, the BPE is the key stockholder of the NBET Plc established in 2010. It holds a trading license and partakes in bulk buying and selling of electricity and subsidiary services from independent power producers and the successor GENCOs. BPE is task with the formulation of new policy, establishment of a new regulatory framework, operational changes, and institutional functions to the sector. Its central task is to be the main driver of Nigeria's economic transformation program.[65]

Nigeria's electricity governance framework, especially with the new EA has institutions like the NERC focused on regulation and consumer protection, but faces challenges such as overlapping mandates, inadequate enforcement, low tariff collections, and a general lack of awareness among consumers. The Act aims to modernize the grid with technology like Supervisory Control and Data Acquisition (SCADA) and promote investor-friendly practices, yet potential constitutional issues arise from states managing their own tariffs alongside NERC regulation. Addressing these gaps requires stronger judicial activism, enhanced stakeholder collaboration, and more effective institutional support to ensure sector viability and reliable, affordable electricity for consumers.

4.1 Challenges

4.1.1 Metering Gaps

The recurrent issue of insufficient metering by DISCOs, leaving over seven million electricity consumers without meters is one major challenge haunting the NESI. NERC has issued series of regulations, and directives aimed at improving proficiency and consistency within the NESI. It issued an Order on the Operationalization of Tranche A of the Meter Acquisition Fund (the Order) on June 24, 2024, aimed at addressing the metering gap facing the NESI. However, the regulatory measures have not been adequate to cover the national metering gap.[66] In the case of *Ibadan Electricity Distribution*

[65] Ibid
[66] Segun Olabode, Olwasewun Akeem Abayomi, et al, 'Innovative Policies: An Assessment of the Nigeria Electric Power Sector' International Journal of Scientific and Engineering Research (2020) 11 (12) 1142 - 1149

Company Plc (IBEDC) & 7 Ors. v Nigerian Electricity Regulatory Commission (NERC),[67] the court ruled in favour of IBEDC, when it held that NERC exceeded the limit of its statutory authority by issuing Regulation 18 of the Electricity Industry (Enforcement) Regulations, 2014, because the Regulation purportedly empowers the NERC to alter the Board composition and management of Nigerian power sector licensees; a right reserved by statute for shareholders.

4.1.2 Poor Implementation of Consumer Protection

The electricity sector in Nigeria has been bedeviled with consumer protection challenges ranging from inaccurate billings to poor customer care that stems from general incompetence and a disturbing culture of impunity of some service providers.[68] In addition, most electricity consumers had reported unsatisfactory resolution of their complaints with their electricity suppliers. Moreso, lack of awareness and loss of public trust in the effective management of the electricity value chain, have prevented the quest for consumer protection in Nigeria. This situation has led to recourse to self-help, such as, assaults on electricity power employees, unlawful reconnections after authorized disconnection, etc, in the execution of consumer rights.[69] This situation highlights the unsatisfying nature of consumers' rights and protection in Nigeria as provided by the EA and FCCPA. However, the rights of electricity consumers to the provision of stable, reliable, accessible, and affordable electricity supply must essentially be a priority for the government.[70]

4.1.3 Infrastructural Deficits

Infrastructural shortfalls hinder the power sector's capacity to meet the increasing demand of electricity consumers. The sector is characterized by outdated equipment, insufficient

[67] (Suit No. FHC/ABJ/CS/665/2018)

[68] Jennifer Inah, 'FCCPC to Enforce Consumer Protection Regulations in Electricity Sector' (2024) <FCCPC to Enforce Consumer Protection Regulations in Electricity Sector> accessed 27 December 2024

[69] Onyi Iyizoba, 'Rights of an Electricity Consumer in Nigeria' (2021) <https://businessday.ng/energy/article/rights-of-an-electricity-consumer-in-nigeria/> accessed 26 December 2024

[70] Balogun Sofiyullahi, 'Rights of Electricity Consumers and Regulatory Framework for Consumer Protection Under Electricity Law in Nigeria' (SSRN 2020) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3637554> accessed 27 December 2024

gas supply, and poor transmission capacity resulting in recurrent grid failures and undependable electricity supply. In addition, poor infrastructural maintenance culture resulting in an unproductive transmission network is another challenge facing the power sector. Thus, the numerous failures of the national grid, outdated equipment, and lack of capacity to transmit electricity exposes that investment, maintenance, and operational decisions in the Nigeria's power sector does not align with international best practice.[71]

4.1.4 Poor Incentives for Renewable Energy

The incentives for the development of renewable energy, such as wind and solar to mitigating GhG emissions in Nigeria's electricity market is too poor in comparison with countries like South Africa, France, and Switzerland, etc. Incentives like falling prices for renewable technologies would intensify the development of renewable energy generation. Thus, the effects of these incentives are important for assessing policies that encourages a shift to sustainable electricity supply.[72] However, the electricity market in Nigeria is characterized by several dynamics including price unpredictability and the firms have diverse constraints, face different types of uncertainties.[73]

4.1.5 High Electricity Tariff

Electricity is no longer a public service but a luxury. In the face of Nigeria's double-digit inflation, a 300 percent hike in electricity tariff was recently approved by the NERC. This tariff hike has forced businesses to shut down, exacerbate inflation, and suffocate micro, small and medium enterprises (MSMEs).[74] In addition, firms in the electricity sector are constraint to invest in new technology to enable them compete favourably in both local and global markets, and many businesses are grappling with the disruptions in the

[71] Ibid

[72] Joseph A. Cullen and Stanley S. Reynolds, 'Market Dynamics and Investment in the Electricity Sector' International Journal of Industrial Organisation (2023) 89 <https://www.sciencedirect.com/science/article/abs/pii/S01677187000358> accessed 26 December 2024

[73] Talat S. Genc, Henry Thille and Khaled ElMawazini, 'Dynamic Competition in Electricity Markets Under Uncertainty' Energy Economics (2020) 90 <https://www.sciencedirect.com/science/article/abs/pii/S0140988320301778> accessed 26 December 2024

[74] Gas Outlook, 'Nigeria Electricity Tariff Hike Raises Concern, Prompts Call for Renewables' (2024) <https://gasoutlook.com/analysis/nigeria-electricity-tariff-hike-raises-concern-prompts-call-for-renewables/> accessed 4 August 2025

electricity value chain due to financial limitations.[75] Although the aim of the electricity tariff increment is to reconcile consumer prices with the real cost of supply to improve the financial capability of the sector and attract significant private investment, it is additional financial burden on households, especially the low income families struggling with the rising cost of living.[76]

4.1.6 Financial Constraints

In the aftermath of the privatization of the power sector in 2015, there was an accumulated inherited debt amounting to nearly to N2tn, in addition to an overwhelming N1.3tn debt to GENCOs and gas producers, respectively.[77] Moreso, the budgeted N450bn subsidy proves insufficient against the actual N3tn required. This indebtedness essentially indicates monumental misappropriation of financial resources, poor corporate governance, lack of financial planning, and absence of transparency in the power sector.[78] This financial drain hinders reinvestment and effective operations, thus worsening the challenges facing the sector, and places huge pressure on government finances, stressing the necessity for a more realistic subsidy regime.[79]

4.2 Opportunities

Despite the challenges, the Nigeria's power sector has the potential for growth and remains significant in the overall economic context. Some of the opportunities are discussed below.

4.2.1 Legal and Institutional Reforms

The EA 2023 which repeals the EPSRA 2005 provides for the reorganisation of Nigeria's electricity generation, transmission, and distribution from the federal to the state levels.

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[75] Ibid.
[76] Andersen, 'Electricity rate Hike and the Multidimensional Challenges of the Power Sector' (2024) <https://ng.andersen.com/electricity-rate-hike-and-the-multi-dimensional-challenges-of-the-nigeria-power-sector/> accessed 4 August 2025
[77] Ibid
[78] Clod, 'Can Good Corporate Governance Unlock Power Sector Potential?' <https://www.iodnigeria.org/blog/ciod-weekly-1/can-good-corporate-governance-unlock-power-sector-potential-39> accessed 17 December 2024.
[79] Ibid

Before the EA, there has been operational weakness in the institutional framework ranging from discrepancies, uncertainties, and gaps in the enabling laws to descriptions of these institutions' roles and relations with one another. However, with the mandate for state electricity market under the EA, these challenges could be surmounted, and each state government can put in place institutions that would benefit its market and attract investment.[80]

4.2.2 Investment Opportunities

Nigeria's electricity market can best be described as a place where the demand for electricity exceeds current supply.[81] However, investment opportunities are bounds within various sectors including Gas, Hydropower, Solar, Biomass, Wind, and others. Endowed with both renewable and non-renewable resources, the country can resolve the prevailing power shortages. It has one of the highest unexploited renewable energy potentials.[82] In addition, the EA[83] authorizes a non-license holder (private investor) to invest in the transmission operated by the TCN on project agreement with the license holder. This will resolve the problem of inadequate funding and outdated infrastructures that has negative impact on the sector over time.[84]

4.2.3 Improved Efficiency and Reliability

One important opportunity for efficient electricity governance is that it will improve access and affordability to electricity, which is significant to poverty alleviation, job

[80] Jacob Otu Enyia, Iheanacho Linda Nnebuihe and Njong Cleverty Afu, 'Legal and Institutional Framework for the Protection Electricity Consumer in Nigeria: An Appraisal' Academy of Strategic Management Journal (2023) 22 (1) 1 - 13

[81] Ibid.

[82] Nigeria Energy, 'Why Invest in Nigeria's Energy Market?' (2022) <https://www.nigeriaenergy.com/en/visit/invest-in-nigeria.html> accessed 4 August 2025

[83] 2023

[84] Anderson, 'Overview of the Electricity Act 2023: Implications and opportunities for Investors' <https://ng.andersen.com/overview-of-the-electricity-act-2023-implications-and-opportunities-for-investors/> accessed 25 November 2024.

creation and unlocking the potentials for economic growth in Nigeria.[85] It will also improve the revenue base of the sector and the output of private and public enterprises, which in turn improves service delivery, as well as the financial and technical capacity of the electricity companies. In addition, it will ensure that essential investments are made to rehabilitate the networks, install electric meters for accurate customer billing and enhance service delivery as well as strengthen technical management to improve efficiency and reliability in the sector.[86]

4.2.4 Consumer Empowerment

Consumer empowerment in the Nigeria's power sector is about customers having the rights and responsibilities to ensure they receive fair and reliable electricity service. The provision of electricity in Nigeria is a multifaceted process that involves various stakeholders, with electricity customers often overlooked. However, customers play a pivotal role in driving demand and shaping the direction of the NESI. Recognizing this, the NERC has outlined rights and responsibilities for electricity customers within the value chain. Exercising rights empowers the customers with fair pricing, complaint resolution, and access to billing information. Compliance with customer's rights and obligations fosters transparency and trust between customers and DISCOs which is vital for a healthy power sector.[87]

4.2.5 Economic Development

The potential for economic growth in Nigeria is strictly inhibited by unreliable electricity supply, due to the gap between the demand and supply of electricity. This is because economic development is dependent on the accessible electricity from sources that are affordable and ecologically friendly. Security, climate change, and public health are interconnected with electricity; thus, the living standards of a nation can be associated

[85] World Bank Group, 'Nigeria to Improve Electricity Access and Services to Citizens' (2023) <https://www.worldbank.org/en/news/press-release/2021/02/05/nigeria-to-improve-electricity-access-and-services-to-citizens> accessed 28 December 2024

[86] Ibid

[87] EMRC, 'The Rights and Responsibilities of Electricity Consumers' (2024) < https://www.energymrc.ng/the-rights-and-responsibilities-of-electricity-customers/> accessed 27 December 2024

with the *per capita* electricity consumption.[88] There is also an encouraging affiliation between electricity infrastructure and economic development. The unfortunate state of electricity supply in Nigeria has forced substantial costs on the consumer; the bulk of which relates to the consumer acquiring alternative electricity supply to cushion the effect of electricity instabilities.[89]

4.2.6 Technological Advancement and Innovation

The Nigeria's electric power sector has undergone successive innovative policies, particularly in technological advancement. The aim is to lessen Nigeria's financial commitment to electric power infrastructure, after the implementation of the Public-Private-Partnership (PPP) policies.[90] This transferred the development of technology infrastructure to private investors while the management of the power sector focus on other methods of developing the sector. Thus, innovative power generation, transmission. distribution and financial facilities are available and accessible either through public or private funds.[91] In addition, local production of electrical equipment in Nigeria can be much more cost competitive than imports, thus most the demand are met by imports, due to low volume of production. However, electrical equipment such as wires, power generating machines, inverters, transformers, conductors, meters, switch gears, capacitors, distribution boards, and voltage regulators, etc use in Nigeria has the potential for growth. [92]

[88] Sunday Olayinka Oyedepo, 'Energy and Sustainable Development in Nigeria: The Way Forward' Energy, Sustainability and Society (2012) (2) (15) <https://energsustainsoc.biomedcentral.com/articles/10.1186/2192-0567-2-15> accessed 28 December 2024

[89] Emmanuel Omoniyi Awe and Malachy A. Ugbaka, 'Electricity Infrastructure and Economic Growth in Nigeria' (ResearchGate 2021) <https://www.researchgate.net/publication/355290264_Electricity_Infrastructure_and_Economic_Growth_in_Nigeria_Impact_Analysis> accessed 26 December 2024

[90] Umar Abubakar Dubagari, (n. 4)

[91] Segun Olabode, Olwasewun Akeem Abayomi, et al, (n. 66)

[92] ITA, 'Electricity: Power System and Renewable Energy' (2023) < https://www.trade.gov/country-commercial-guides/electricity-power-systems-and-renewable-energy> accessed 27 December 2024

5.1 Conclusion and Recommendations

The primary objective of any business is to make profit and significant reduction of cost is one of the strategies that companies adopt for the purpose of maximising profits. Over the years, companies have moved their production plants from Nigeria to neighbouring countries due to high electricity costs and lack of stable electricity supply in the country. The EA aims to arouse measures to improve power generation, transmission, and distribution capacity of the relevant players in the electricity industry, as well as provide for up-to-date standards in fast-tracking power generation by broadening the power sector to embrace renewable energy sources for sustainable energy transition. Despite this inspiring development, issues such as high tariff rates and billing, poor maintenance of electrical equipment and deficient institutions continue to affect the seeming potentials for investment in the sector. To address these issues and promote consumer protection anchored on efficient electricity governance in Nigeria, the legal instruments must provide a tailored support to overcome these barriers. The research, therefore made the following recommendations.

i. Reform of the Electricity Sector through Constant Review of the Laws

Nigeria must undertake significant reforms to align its electricity systems with international standards. Strengthening its regulatory frameworks, particularly in electricity governance, is essential. The government should revise existing laws and introduce new policies that mandates sustainable electricity in key industries, including agriculture, energy, and manufacturing. For example, enforcing stricter regulations on GENCOs and DISCOs would help mitigate the epileptic power supply, while customer protection, including electricity tariff policies should be reformed to encourage the importation of technologies and equipment, facilitating the transition to a more sustainable renewable energy.

ii. Incorporation of Consumer Safeguards in the Electricity Act

There is a growing need for Nigeria to reform its existing legal framework to incorporate sustainable electricity as a central objective. While competition in the power sector remains the core objective of the EA, sustainable electricity clauses should be embedded within all trade agreements with electricity marketers. This could be achieved by

incorporating explicit consumer safeguards into the EA rather than the FCCCP, as well as other key agreements, to ensure that electricity policies are pursued to the later. In addition, the EA should require EIAs as part of its business negotiations, which would ensure that the long-term effects of electricity policies on natural resources and ecosystems are fully considered. Strengthening these provisions would incentivize investors to adopt more eco-friendly production methods, particularly in sectors such as agriculture, mining, and oil, which are crucial to Nigeria's economy but also responsible for significant environmental harm. In addition, the consumer protection council should embark on awareness campaign about consumer protection that would warrant adequate compensation for electricity consumers, in the event of breach by the DISCOs.

iii. Prioritizing Environmental and Social Considerations in Dispute Settlement

The EA's dispute settlement mechanism should also evolve to recognize sustainable electricity supply as a key principle in resolving electricity customer grievances. Currently, the system focuses on addressing violations of customers' rights, but neglects the environmental and social impacts of electricity systems. By integrating sustainability into the legal reasoning of dispute settlements, the electricity law can encourage investors to prioritize environmental and social considerations when engaging in electricity trading. This shift would align electricity supplies in Nigeria with global sustainability goals and create a legal precedent for sustainable development in the country.

iv. Technical Assistance

Government must expand its technical assistance programs to aid investors in building the institutional capacity needed for sustainable electricity supply. Nigeria's infrastructural deficits, such as unreliable power supply, due to obsolete equipment and poor funding hinder its ability to adopt modern technologies for sustainable electricity supply. Government can address these gaps by offering technical assistance that focuses on developing sustainable infrastructure, such as renewable energy systems, green logistics, and eco-friendly manufacturing processes. This could be done with partnership/consultation with international organizations like the World Bank which can provide financial resources for these projects. Strengthening Nigeria's infrastructure is

crucial for enabling the country to meet global sustainability standards and increase its competitiveness in environmentally conscious markets.

v. Enhanced Private Sector Participation

Private sector is a critical component of sustainable electricity supply, and government should actively promote foreign investment in the Nigeria's electricity industry. Although this has been incorporated into the EA, its implementation has been a matter of controversy. The NERC has a critical role to play in promoting sustainable electricity supply in Nigeria by diligently discharging its constitutional responsibility without compromising its role for national development. Nevertheless, Nigeria must improve its domestic policies to create an enabling environment for sustainable electricity supply. A coordinated approach that involves legal reforms, electricity systems automation, capacity building, and technical and financial support will be essential for Nigeria to achieve sustainable electricity supply and enhance its competitiveness in the global economy. By prioritizing sustainability, Nigeria can ensure that stable electricity supply is a key to economic growth. Thus, more private involvement should be encouraged to enhance competition and discourage monopolistic practices in the sector.