ADR DYNAMICS ILLUMINATING THE ELECTRICITY MARKET; POTENTIAL FOR RESHAPING ECONOMIC TRAJECTORY IN NIGERIA.

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Abstract

Nigeria has one of the largest electricity markets in Africa, but paradoxically characterised by endemic energy poverty and underdevelopment. Perplexed by this paradox, the study examines the impact of an effective dispute mechanism on the electricity market and potential for changing the economic trajectory in Nigeria. The qualitative method of research is adopted, with reliance on primary and secondary data. National legislative frameworks on electricity governance and dispute mechanism are examined, including the Electricity Act (EA) 2023. Findings in the study demonstrate existing nexus between functional electricity markets and economic growth across jurisdictions in the world. The study finds that EA is the regulatory framework on electricity governance, with an established market, which is predominantly shaped by a flexible multi-tier Alternative Dispute Resolution (ADR) system that promotes cost reflective, speedy and expert driven Electricity Dispute Resolution Landscape (EDRL).the study also finds that ADR is significantly illuminating the Nigerian EDRL, and promoting a cohesive market clime underpinned by robust electricity investment; serving as catalyst for engendering energy security, mitigating poverty and promoting sustainable development in Nigeria. Leveraging ADR dynamics, the study recommends for the establishment of an independent court connected ADR system, as part of the broader measures towards entrenching a resilient dispute resolution architecture, in maximising market potential within the electricity industry, and concomitantly reshaping the economic narratives in Nigeria.

Keyword: Dispute Resolution; Electricity Market; Economic Trajectory; National Development

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1.0 Introduction.

The Nigerian electricity market is arguably, the largest in Africa[1] with tremendous opportunities for trade and investments, which can significantly navigate the nation towards the path of socio economic development. The estimated potential of the market at its peak is projected at approximately 28.05 GW in capacity, and a market value worth over USD 503 million by 2030[2]. The market is susceptible to rapid expansion defined by projected rising demand and investment, with annual market prospects for off-grid technologies estimated at about 9.2 billion[3].

The envisioned economic imperatives, realisable under a functional electricity market are the underlying objectives that influenced the reforms as superintended by the Nigerian Electricity Act in 2023[4]. Aimed at unlocking the electricity potential in Nigeria, which have been largely underexploited, these reforms led to the restructuring of the Nigerian electricity governance architecture, by providing a comprehensive legal and institutional framework that has deepened market liberalisation and entrenched a competitive electricity economy in Nigeria. A major milestone recorded under the restructured electricity market is the entrenchment of key reforms in the dispute management landscape, with significant preference for the application of Alternative Dispute Resolution (ADR).

The focal shift in the dispute settlement policy within the electricity market is influenced by observed constraints beleaguering the conventional dispute resolution system. Among these constraints are prolonged delays and endemic corruption attributed to the justice delivery system in Nigeria. Characterised by cost effective, speedy and expert driven dispute resolution dynamics, ADR is consistently gaining global traction as the preferred dispute resolution mechanism, whose influence in the management of disputes is not lost out within the Nigerian electricity market. The dexterity for dealing with novel disputes emerging in a technology driven investment clime, and the availability of multiple choices for potential disputants, influenced majorly by predetermined outcomes, are key drivers

[1] Oyewunmi, Tade, and Ivie Ehanmo. "Emerging trends in resource-rich sub-Saharan Africa and a spotlight on the Nigerian transitional energy market." *Tul. J. Int'l & Comp. L.* 29 (2021): 1.

[2] Chika Izuora, Nigerian Power Market Report in the Nigerian Leadership Newspaper; https://leadership.ng/nigerias-; Accessed on 25th December, 2025

[3] Ibid

[4] https://www3.weforum.org/docs/WEF_Electricity_plus_2023.pdf; Accessed on 25th December, 2025

influencing the increasing preference for ADR. With specific reference to Nigeria, and in the context of promoting market efficiencies, ADR has prospects for engendering private-sector oriented investments under a functional and competitive electricity economy that is sought to be insulated from negative market externalities.

With prospects for optimally harnessing energy potential, the broader objectives of the electricity market is the realisation of energy security, aimed at promoting the standard of living and changing the economic trajectory in Nigeria. Energy security is pivotal to the economic transformation of the Nigerian state and changing the poverty narrative in the country. The quest for energy security, therefore, has influenced the enunciation of avalanche of laws and policies that have largely been unsuccessful in addressing the problem. The study argues that realising the long- term aspiration for energy security is possible through a private sector driven investment architecture under the framework of market liberalism that is predicated on a just efficient and resilient dispute mechanism. The ADR dynamics have potential for meeting these criteria and shaping the dispute management landscape within the electricity market.

Contextualising the established nexus between functional markets and economic development of nations, the objective of the study is to examine the regulatory and institutional frameworks on ADR, its scope of application and impact on the Nigerian electricity dispute management landscape. Concomitantly, expanding the scope of this nexus in relative terms, the study further examines the broader macro-economic impact of an efficient dispute mechanism on the electricity industry, with prospects for reshaping the energy narratives and changing the economic trajectory in the Nigerian state.

The study is structured into five sections. Section two is an overview of the regulatory frameworks for ADR in Nigeria. This overview encompasses the examination of sector specific and non-sectorial, investment and dispute regulatory frameworks for ADR relevant to the Nigerian electricity market. Section three of the study examines the various ADR mechanisms and their practical application in resolving electricity disputes in Nigeria, while the fourth section gives an insight on ADR dynamics and future of electricity dispute management landscape, with a corresponding impact on the electricity market and national economic development in Nigeria. The fifth section of the study forms the conclusions and necessary recommendations.

2.0 Regulatory and Institutional Frameworks for ADR in the Nigerian Electricity Market.

2.1. Sector Specific Frameworks for ADR within the Nigerian Electricity Market.

2.1.1. Constitution of the Federal Republic of Nigeria.

The Constitution of the Federal Republic of Nigeria 1999, hereinafter referred to as the constitution provides the legal basis for all commercial and economic undertakings within the Nigerian state. The Nigerian president is empowered by the constitution to administer the national economy directly or through his ministers in specific ministries and agencies[5]. The legislative functions of the state are reposed on the National Assembly to manage the economy alongside the president through legislative oversight[6], and a manner that policies are enunciated for effective governance of the economy. Operating under the aegis of market liberalism as the national economic policy, the government is responsible for promoting a functional economic architecture that promotes robust investment within the framework of social justice and equitable participation, in promoting economic growth and prosperity of her teaming citizens[7]. Undoubtedly, given that efficiency in dispute resolution is a key driver for economic investment, growth and prosperity, the constitution therefore, has provisions for the judicial[8] powers of the state in the determination of disputes in Nigeria.

These powers extend to the application of ADR[9] mechanisms like arbitration, mediation and conciliation in the promotion of international dispute settlement. Electricity investments are by their nature and scope of operations deemed to be transnational in nature, as such disputes emanating from the sector are international in perspective. This perception has influenced the choice of arbitration and other ADR mechanisms as preferred means of dispute resolution by parties, as often reflected in the respective electricity contracts. These ADR mechanisms possess international flavour, and are presumed to operate beyond the prejudices that may influence national courts, thereby justifying their application in resolving electricity disputes which are

[5] Section 5(1) CFRN 1999
[6] Sections 80-88 CFRN 1999
[7] Section 16(1) (d)
[8] Section 6 of the CFRN (1999) as amended
[9] Section 19 of the Constitution

predominantly transnational. The recognition of ADR as a dispute management and resolution mechanism by the constitution has far reaching consequences in the dispute management landscape related to high profile investments, including electricity investments in Nigeria. The increasing traction ADR has gained is reflected in various national legislative frameworks within, and appurtenant to the electricity industry, as well as other non-sectorial regulatory regimes that are relevant to, and applicable in the Nigerian electricity dispute management framework.

Trends in the Nigerian dispute management landscape indicate a strong commitment by the Nigerian government towards entrenching a resilient ADR dispute mechanism in the Nigerian energy sector. The establishment of the Alternative dispute resolution Centres by the Nigerian Upstream Petroleum Regulatory Authority[10] and the newly launched Arbitration and Alternative Dispute Resolution Policy (2024-2028)[11] by the Nigerian government, gives credence to the increasing traction and momentum gained by ADR[12] in the Nigerian dispute resolution process. This aligns with the international frameworks on ADR to which Nigeria is signatory to, and which have been domesticated and form part of the regime on dispute mechanism in the electricity market. These conventions include The United Nations Convention on the Recognition and Enforcement of Awards (New York Convention) 1958, United Nations Commission on International Trade (UNCITRAL) Model Law 2006, and the International Centre for the settlement of Investment Disputes (ISCID) Rules. Therefore, while these international conventions constitute part of the ADR regime applicable in Nigeria, the study shall however be focusing on the national frameworks on ADR and their applications in the Nigerian electricity market.

2.1.2. Nigerian Electricity Act 2023

The Electricity Act 2023, hereinafter referred to as (—the Act‖) is the major regulatory framework in the Nigerian electricity industry. The Act is preceded by the Electric Power Sector Reforms Act (EPSRA) 2005 which liberalised the electricity industry with a framework for ADR as a dispute management mechanism in Nigeria. The EPSRA was the

[10]Akinola, Omoniyi Bukola. "THE LANDSCAPE OF ALTERNATIVE DISPUTE RESOLUTION PRACTICE AND PROGRESSION IN NIGERIA." *AWKA CAPITAL BAR JOURNAL* 4, no. 1 (2025).
[11] ibid
[12]

The Policy is multifold: it seeks to establish Nigeria as a preferred venue for arbitration and other ADR mech anisms while ensuring compliance with Nigeria‘s international treaty obligations.

foundational regime for the modern Nigerian electricity market that also established the Nigerian Electricity Regulatory Commission (NERC). Section 71(2) of the Act stipulated that disputes arising within the market were to be referred to arbitration or determined by the Commission. The legislation also made it mandatory for licensee entities in the generating, transmitting and distribution segment of the electricity value chain to use ADR methods, including direct negotiation and arbitration as preferred dispute resolution mechanisms within the electricity market. Pursuant to the market rules established under the EPSRA 2005, there were provisions for appointment of a Dispute Resolution Counsellor (DRC), and mandated to administer the dispute resolution process between market participants.

The EPSRA 2005 was repealed by the Act in 2023. The Act is also predicated on market liberalism as the underlying policy for electricity governance and investment, under a comprehensive legal and institutional framework governing the electricity market[13] in Nigeria. By changing the governance landscape hitherto under federal government dominance, and allowing states to establish, regulate and invest in the electricity market[14], the Act can be said to have introduced revolutionary changes in the governance architecture of the Nigerian electricity market. Notably, the Act provides for dispute management mechanism with vast provisions for the application of ADR as the most preferred dispute mechanism under the emerging electricity market in Nigeria. By deliberate policy shift on dispute management influenced by reforms, ADR is dominant in the dispute management landscape, serving as the basis for resolving disputes by relevant administrative and regulatory institutions in the electricity industry.

The National Electricity Regulatory Commission has been retained under the Act and conferred with vast regulatory powers to oversee the electricity market in Nigeria. Besides its exercise of administrative functions, the commission exercises quasi-judicial powers under the law, in conducting its proceedings[15], with authority to make regulatory guidelines for the conduct of such proceedings.[16] When seized of a matter in its quasi-judicial position, the commission may make interim orders pending the final disposition of the

[13] Section 1 of the Act
[14] Section 2
[15] Section 46(1) of the Electricity Act
[16] Section 46(2) of the Electricity Act

matter before it[17]. The commission is also entitled to hear all matters as provided by law.[18] However, in doing so, the law places an obligation on it to, as much as practicably reasonable, notify all interested persons on the questions in issue, and give them opportunities to make representations[19]. In the exercise of its administrative or quasi-judicial and regulatory functions, the commission is mandated under the law to explore the application of ADR mechanisms spanning arbitration, mediation, conciliation, negotiated settlements or use of expert determination.

The Nigerian Electricity Management Services Agency (NEMSA) is established[20] to carry out major regulatory functions within the Nigerian electricity industry. NEMSA has a dispute settlement process that also places emphasis on the application of ADR. The procedure is that in the event of any dispute within the internal organisation of NEMSA, or against any external person or establishment, NEMSA, shall first apply ADR mechanisms such as mediation, negotiation or conciliation before resorting to court[21]. Potential investors and disputants are mandatorily expected under the Act to, as a matter of necessity, explore ADR mechanisms as a first option, before resorting to litigation.

2.1.3. The Customer Protection Regulations 2023 (CPR2023)

The Customer Protection Regulations 2023 (CPR2023) is a subsidiary regulation of the Electricity Act 2023. The CPR2023 deals with issues touching on consumer‘s protection in the Nigeria electricity supply industry, with a mandatory responsibility reposed on distribution companies to establish consumers‘ protection units within their operational areas and ensure efficient complaint resolution. The CPR 2023 obligates distribution companies within the electricity supply chain to resolve complaints within 15 days of receipt, with exceptions for certain peculiar cases when it becomes impossible by reason of circumstances of the case, or by some cogent reasons that makes it impossible to do so. However, dissatisfied consumers who are still aggrieved with the decision of the service providers can take their complaints to the closest forum Office belonging to the commission (also referred to as the NERC) for redress within 30 days from the date the initial resolution was made by the service providers. In the event consumers are unsatisfied

[17] Section 47(5) of the Electricity Act
[18] Section 48(1) of the Electricity Act
[19] Section 48(2) of the Electricity Act
[20] Section 172 of the Electricity Act
[21] Section 184(5) of the Electricity Act

with the resolution reached at the commission‘s Forum Office, the right of appeal lies with the national body of the commission as the apex regulatory body overseeing Nigeria‘s electricity supply industry.

These appeals are governed by the Nigerian Electricity Regulatory Commission (―NERC Business Rules‖ 2006.). They follow a formal and legalistic process similar to a conventional court hearing. The procedure for initiating an appeal commences when a consumer files a petition that is supported with an affidavit detailing the facts underlying the appeal. Upon receipt of the process, the service provider, being the respondent, has the option to respond with a reply or objection within twenty-one days after receiving the petition. If the respondent introduces new facts, the NERC or commission may permit the consumer to file a rejoinder within twenty-one days.

As the apex regulatory body, the commission conducts a meticulous hearing of the petition, encompassing evidence-taking through examination-in-chief, cross-examination and re-examination of witnesses. It also involves a thorough consideration of legal arguments presented by both parties, and a rigorous evaluation of presented facts. Following this rigorous process, the commission issues a binding decision that carries legal weight. In cases where consumers remain dissatisfied over the decision made by the commission, they can further appeal the decision or apply for a rehearing of the petition within sixty days of the original decision. Upon hearing the appeal or rehearing the petition, depending on the circumstances, the NERC or commission may either reconsider, vary or review its decision.

In given situations where a consumer remains dissatisfied with the decision delivered by the commission, such a party retains the option of seeking redress in a court of competent jurisdiction. This safeguard empowers consumers to fully exercise their constitutionally guaranteed rights through the judicial system that involves a meticulous review of case facts and presented evidence, guided by established legal principles serving as precedents, and ultimately culminating in a binding judgment with the full weight of law.

Although considered a last resort, the right of recourse to court underscores the paramount role of the rule of law in resolving electricity consumers‘ disputes. Additionally, for consumers who prefer alternatives to litigation, there are other dispute resolution forums available, such as negotiation, mediation, conciliation, or arbitration, providing flexibility in addressing disputes when the circumstances warrant. Exploring the ADR options before initiating a lawsuit by an aggrieved consumer or party seems to be the established norm, going by the provisions of the EA and CPR 2023. Acting otherwise, may lead to the suit as initiated by the aggrieved party or consumer not entertained by the court on grounds of jurisdiction, same not having complied with the required statutory pre-action requirements.

In Comag Steel and Construction Company Limited v. Enugu Electricity Distribution Company Plc[22],the Court of Appeal held that by virtue of the express provisions of section 3(5) and (9) of the NERC Customer Complaints Handling Standards Procedures, an aggrieved customer must first exhaust the internal mechanism before approaching the Court. It is submitted that the ratio behind this decision is to emphasis the imperatives of exhausting local remedies, including exploring ADR options, before initiating any action with regards to electricity disputes. This does not amount to ousting the jurisdiction of the court; it is rather intended to make the court a last resort in the event all other mechanisms have been exhausted.

2.2. Non- Sectorial Frameworks for ADR Relevant to the Nigerian Electricity Market

There are non-sector specific investment and dispute regulatory frameworks which have bearing with the Nigerian electricity market. These frameworks contain regulatory provisions on the management of investment disputes in Nigeria through the application of ADR mechanisms. Electricity disputes form the scope of these anticipated disputes, thus making these legislations part of the non-sector specific but relevant regulatory frameworks with provisions on ADR that are applicable in the settlement of disputes within the electricity market. Among these are the Nigerian Investment Promotion Act 2004 and Nigerian Arbitration and Mediation Act 2023.

2.2.1. The Nigerian Investment Promotion Act 2023

The Nigerian Investment Promotion Act[23] is the key legislation governing all forms of investment portfolios, including foreign investments in the Nigerian electricity market. The Act contains provisions on the resolution of investment disputes, spanning amicable resolution of disputes through dialogue or negotiations, as well as through arbitration

[22] (C.A.) E.L.R. 3. 2021

[23] Cap 117 LFN 2004

between foreign investors and the federal government of Nigeria, or any agency or tier of government in Nigeria[24].

2.2.1. The Nigerian Arbitration and Conciliation Act (ACA) 2004

The Nigerian Arbitration and Conciliation Act (ACA) 2004[25] has at all material times before 2023, been the legislation regulating arbitration practice in Nigeria. The ACA 2004 has been repealed by the Arbitration and Mediation Act (AMA) 2023.[26] Being the extant legislation regulating arbitration practice in Nigeria, the AMA 2023, provides for a unified legal framework that promotes fair and efficient settlement of commercial disputes through arbitration and mediation.

It makes applicable the New York Convention in the enforcement of any award made in Nigeria, or any contracting state arising out of International commercial arbitration. The objective of this legislation is to *inter alia*, promote fair resolution of disputes by an impartial tribunal devoid of delay and costs[27] . These legislative frameworks provide for a dynamic ADR architecture, with a wide latitude of flexible choices available for disputants, which can be explored based on their preferences and prevailing circumstances.

3.0. ADR Mechanisms in the Nigerian Electricity Dispute Management Landscape.

3.1. Arbitration.

Arbitration is the resolution of disputes in a semi-judicial manner[28], with an outcome that is binding on the parties[29]. Arbitration is predominantly one of the pronounced ADR mechanisms and has been applied severally in resolving contractual regulatory or investment related electricity disputes dispute without reference to a formal court procedure. The Nigerian regime on electricity arbitration is robust, encompassing regulatory frameworks on dispute management like the Arbitration and Mediation Act 2023, and other investment related frameworks like the Nigerian Investment Promotion Act 2004. Sector specific legislations like the Electricity Act 2023 also have provisions on

[24] Section 26 of the Act.
[25] Enacted by a military decree in March 1988.
[26] Cap A18 Laws of the Federation of Nigeria 2004.
[27] Section 1(1) of the Act.
[28] Thomas J et al, Admiralty and Maritime Law: Cases and Materials (2nd Edition, West Publishing Co 1994) 1.
[29] The Encyclopedia of Forms and Precedents: Arbitration and Alternative Dispute Resolution, Auctioneers, Estate Agent and Valuers, Bailment (2nd edition, Butterworts LexisNexis 1995) Vol 3(1), para 2(11).

arbitration that have promoted the entrenchment of an effective dispute management landscape in the Nigerian electricity market.

In the legal proceedings involving *Process & Industrial Developments Limited (P&ID) and the Federal Republics of Nigeria*[30], P&ID signed a 20-year Gas Supply and Processing Agreement (GSPA) with Nigeria's Ministry of Petroleum Resources in 2010. The terms of contract provided for among other things, the supply of wet gas supplied by Nigeria into lean gas, and return it for power generation, with P&ID profiting from byproducts. However, Nigeria failed to supply the agreed gas, an outcome that made P&ID to initiate arbitration proceedings against Nigeria in 2012 for breach of contract. The tribunal subsequently found Nigeria in repudiatory breach and, in 2017, awarded P&ID $6.6 billion in lost profits (which sums amounted to over $11 billion with interest by 2023). Although an English High Court judgment later found that P&ID committed fraud by presenting false evidence and making corrupt payments, thereby undermining the awards; the case shows how arbitration is a preferred dispute resolution mechanism in such a high profile case against the federal government of Nigeria, and depicting how fraud and corruption can vitiate international arbitration.

In *the Enron & Nigeria case*[31], the Nigerian government signed a Power Purchase Agreement (PPA) with ENPH (a subsidiary of Enron) for a power plant, but later reneged on the agreement. ENPH initiated arbitration with the International Chamber of Commerce (ICC) and got an arbitral award against the Nigerian government. Meanwhile the Enron was involved in scandalous allegations of involvement in massive accounting fraud and inflating earnings and hiding debt, leading to Enron's collapse in 2001. The Nigerian government, in apparent attempt to put up a defense to the award against her, tried to block enforcement of the award in the U.S, arguing that it violated U.S. public policy against rewarding fraud, by citing Enron's fraudulent conduct. It was found that Nigeria breached the PPA, partly due to a "change of mind," and awarded damages, finding Enron's alleged misrepresentations (which Nigeria attempted to use as a defense) were irrelevant to the execution of the contract entered.

[30] [2023] EWHC 2638 (Comm).
[31] Enron Nigeria Power Holding, Ltd. v. Federal Republic of Nigeria, 1 (D.C. Cir. 2016).

3.2. Mediation.

The Mediation mechanism involves a neutral third party referred as mediator, who is vested with the responsibility of assisting disputing parties reach a mutually acceptable outcome that is voluntary, non-binding and confidential. This ADR mechanism has also been recognized by various regulatory and investment related legislative frameworks like the Electricity Act 2023 and the Arbitration and Mediation Act of Nigeria 2023. The Nigerian Electricity Regulatory Commission (NERC) framework, which mandates ADR for market participants and consumers explores the application of mediation as one of the preferred ADR mechanisms. This has underpinning for promoting speedy cost-effective dispute solutions through a Dispute Resolution Counsellor (DRC) and Dispute Resolution Panel (DRP).

Dispute Resolution Counsellors (DRCs) appointed by NERC administer the dispute resolution provisions, which include leveraging mediation as one of the preferred ADR mechanisms. A panel of 10 members appointed by NERC that serves as the main ADR platform for disputes between licensees and market participants, handling mediation and other methods. The procedure is that Parties are encouraged to first attempt direct negotiations. In the event negotiation fails, concerned parties can file formal complaints or petitions with NERC. When this happens, the complaint is referred to the DRP by NERC‘s DRC for resolution where mediation is a key process explored. The DRP members facilitate mediation, aiming for mutually agreeable solutions, offering flexibility and confidentiality. Notably, mediation is often a mandatory part of electricity licensing conditions, obligating companies to explore it as one of the dispute settlement mechanisms.

3.3. Negotiated Settlements.

This mechanism involves parties engaging in dialogue with a view to resolving any pending disagreements. Negotiation is one of the ADR mechanisms accorded recognition in the electricity dispute management landscape in Nigeria, and increasingly gaining traction due to certain attributes like efficiency and cost-effectiveness compared to litigation. Within the framework of dispute settlement, several specific conflicts, primarily at the community and consumer levels, have been successfully resolved through negotiation as facilitated by the NERC, through intervention in local disputes between Electricity Distribution Companies and communities regarding prolonged power outages, controversial billing system, illegal disconnections and vandalisation of electricity infrastructure.

In the case involving the Enuguabo village in Ufuma, Anambra State and Afikpo in Ebonyi States respectively[32], negotiation were used in resolving what would have exacerbated into complicated disputes. These cases were resolved through exhaustive deliberations that culminated in the signing of a Memorandum of Understanding between the involved parties. This approach addressed the contending issues and enabled the parties adopt an amicable avenue in charting a pathway for sustainable peace. Similarly, the Customer Complaints Units (CCUs) within the distribution companies to NERC's Customer Forum have been able to substantially resolve disputes bothering on individual consumer complaints by leveraging negotiation as a cost effective, time sensitive and relationship sustaining dispute mechanism in Nigeria. The use of negotiation as a mandatory first point of engagement for resolving disputes extends to being one of the licensing conditions for all operators, indicating how it has become a sustainable means of dispute resolution in the industry.

3.4. Conciliation

Conciliation, involving the assistance of a third- party neutral who helps parties in reaching some form of consensus, remains one of the ADR mechanisms for resolving electricity disputes globally and in Nigeria. This mechanism is often mandated by national laws and regulatory bodies. While the outcomes of proceedings related to conciliation are confidential, the process of conciliation is well-established in various jurisdictions. For instance, the Uganda's Electricity Disputes Tribunal (EDT)[33] dispute settlement process mandates a scheduling conference to sort out points of agreement and explore the possibility of mediation or conciliation before proceeding to a full hearing. Interestingly, a lot of disputes are resolved at this stage. Similarly, the Energy Charter Treaty (ECT), at the

32 https://nerc.gov.ng/ /media/nerc-intervenes-to-resolve-electricity-complaints-between-discos-and-communities/; Accessed on the 27th of December, 2025.

33 Temiloluwa O'Peters, **NERC** resolves conflict between Discos, communities, Nigerian Punch Newspaper of March 26, 2022; https://punchng.com/nerc-resolves- conflict-between-discos-communities/; accessed on January 14, 2026.

The Uganda's Electricity Disputes Tribunal (EDT) is established under the Electricity Act, Chapter 145 of the laws of Uganda. This Act regulates the generation, transmission, sale, export, and distribution of electrical en ergy in Uganda.

international plane, provides a framework for the optional conciliation of international energy disputes, where a conciliator can provide an interim decision on issues like tariffs and transit conditions when parties fail to agree within a specific timeframe.[34]

This mechanism is explicitly recognized within the framework of the Electricity Act of Nigeria and can potentially be used in resolving wide latitude of electricity disputers like those emerging from consumer complaints over issues like unjustified billing, alleged meter tampering, or unlawful disconnections. Moreover, Land and Compensation disputes touching on land acquisition for infrastructure projects like power lines and substations, including compensation for crops, trees, or property damage, are often settled through conciliation before or during tribunal proceedings.

Moreover, disagreements over contractual and commercial Issues between energy companies, such as those concerning Power Purchase Agreements (PPAs), grid integration, or transmission tariffs, are often referred to conciliation as a primary alternative dispute resolution (ADR) mechanism to maintain business relationships. Application of conciliation extends to regulatory compliance issues related to permits, licenses and compliance with quality- of- service standards which are often resolved through facilitated dialogue and conciliation. The dynamics of conciliation lies in its speed, confidentiality, and cost-effectiveness compared to litigation, making it a preferred method for parties seeking an amicable solution to electricity disputes.

3.5. Expert Determination

Expert determination has successfully resolved various electricity disputes, particularly those of technical, financial, or valuation-based nature. These cases often involve specific contractual clauses where parties agree to be bound by an independent expert's findings, which are typically faster and more confidential than litigation or arbitration. The scope of expert determination covers disagreements touching the valuation of assets or the calculation of prices in long-term supply contracts, metering and billing errors, consumer-level disputes regarding incorrect charges or faulty meters are often resolved through expert analysis.

[34] Articles 7(7) and 26 of the Energy Charter 1988

In determining the ideal ADR mechanisms well-suited for deciding if a product or service meets industry specifications, or given many commercial energy contracts requiring specific technical issues or opinions can be best reserved for expert determination. The use of expert determination is recognized and accorded legal affirmation under the Nigerian Electricity Act 2023. The Act provides for given circumstances where the commission is allowed, while hearing a matter which entails the consideration of any professional or technical question, to consult or engage the services of any person(s) who may so advise it accordingly[35].

4.0 ADR Led Electricity Dispute Management Landscape and Economic Development in Nigeria.

The illumination of the dispute settlement landscape by the ADR dynamics has increasingly shaped the global business clime, including the global energy investment architecture The increasing preference for ADR is reflected in the scope of its application of ADR spanning multifarious aspects of dispute resolution in the electricity industry, including but not limited to regulatory, investment related and contractual disputes; traversing the generation, transmission and distribution segments of the electricity value chain in Nigeria. It is being explored by regulatory authorities in the management of disputes involving investors as well as resolving internal disputes in the various administrative and regulatory agencies in Nigeria.

For instance, the Nigerian National Electricity Regulatory Commission (NERC) leverages on ADR mechanisms in the resolution of disputes involving investors. The premium accorded to this dispute resolution method is shown in the emphasis placed on the application of ADR with regards to complaints from consumers, such that the regulatory commission is mandated by law to provide detailed guidelines on ADR which must be necessarily followed as a first option in resolving disputes within the electricity industry. This method has proved over time to prevent the escalation of disputes that would otherwise be flooding the courts which are already overstretched. ADR also plays a vital role in the dispute management processes of administrative agencies like NEMSA[36]. The advantages of ADR include cost effective, speedy and expert driven solution in the

[35] Section 49 of the Electricity Act
[36] Footnote 14.

resolution of either contractual, regulatory or administrative disputes within the electricity sector.

ADR provides a multitier dispute mechanism that can be leveraged to resolve disputes, by taking considering the dynamics of the situation and predetermined outcomes required by potential disputes, based on the peculiarities of each isolated dispute. This creates variety of choices for disputants to explore and navigate the complexities of corporate, contractual and regulatory disputes that may potentially undermine trade and investment in the electricity sector. While commercial energy contracts requiring specific technical issues or opinions can be reserved for expert determination, broader legal disputes are reserved for other ADR mechanisms like arbitration, mediation, conciliation or negotiated settlement. The choice of a particular mechanism to be explored are guided by the discretion of by concerned parties and tailored to suit their individual or corporate expectations.

The dynamics of ADR also plays out in the resolution of electricity disputes when different mechanisms may be applicable in resolving a particular dispute. There are situations where in a given set of facts culminating into a dispute, different ADR mechanisms can be applied. There are also situations when the ADR mechanisms are complementary to each other, providing parties with opportunities for adopting one as precursor, or condition precedent for the utilisation of the other, in resolving electricity disputes in Nigeria. Instances suffice where there are provisions for the compulsory application of dialogued settlement or mediation before resorting to arbitration. There are other situations where more than one ADR mechanism is explored in resolving a particular dispute. This presents the graphic picture of an integrated, multi-tier and complementary dispute resolution landscape, which is compatible with the trends and spirit of international dispute management and control.

This foregoing underscores why ADR seems to exert dominance in the Nigerian electricity dispute landscape. The National Policy on Arbitration and ADR 2024[37] has further elevated ADR practice in Nigeria in manner that is relevant to the electricity market by providing for small claims arbitration designed for disputes under five million Naira disputes. This framework is designed for little disputes involving metering and billing. Decisions from these proceedings are expected to be reached within 60 days. Additionally, the policy also

[37] Footnote 13

encourages the inclusion of Multi-Tiered Dispute Resolution Clauses in investment and licensing Contracts spanning negotiation, mediation and arbitration as first options before resorting to litigation, with specified timelines for the determination of ADR options.

Furthermore, the policy provides for mandatory judicial support for ADR, by among other things, upholding the arbitrability of electricity contracts. The ADR dominated electricity dispute resolution landscape has far reaching implications for the Nigerian electricity market. Fundamentally, it has capacity for attracting Investment in the market. This is not unconnected

with the fact that a Clear, predictable and enforceable dispute resolution process is coterminous with robust investment by boosting investor‘s confidence. The confidence in the electricity market largely shapes market stability and could be leveraged by potential financiers, including those financing new power generation facilities, transmission lines, and renewable energy projects in promoting sustainable investments. This confidence is predicated on assurances that potential disputes would be addressed with dispatch, commercial agreements will be upheld, and corporate rights of entities in the market clime are accorded the fullest legal protections. Given the high capital intensive, technically sensitive and long duration of energy transactions, the imperatives for a functional dispute resolution in protecting these energy assets and investments cannot be overemphasised.

An electricity market governed by regulations and dispute resolution efficiency has prospects for promoting fair, just and equitable treatment for all stakeholders. This has underpinning for facilitating competitiveness and effective market participation that would de-emphasis monopoly. The absence of any entity exercising market dominance under a competitive market economy allows for proper allocation of resources, leading to economies of scale in an innovative and investment driven clime that encourages harnessing the abundant renewable energy potential in Nigeria.[38] This includes diversifying the energy mix to resources, especially through off-grid solutions in underserved rural areas, which can boost local economies and promote sustainable development.

In essence, a well-functioning dispute mechanism shaped by ADR has propensity for ensuring contract stability, promoting regulatory certainty and improving operational efficiency in the Nigerian electricity market. This is the ideal market that can enhance optimum exploitation of the abundant electricity sources in Nigeria, promote energy

[38] Foot note 4

diversification with focus on the renewables and entrenching energy sovereignty and security within the most populated black nation in the world.

Entrenching energy security under a functional electricity market has a corresponding impact on national economic growth and development. This is owing to the fact that energy poverty has the bane of development in Nigeria. Therefore, a functional electricity market that promotes energy security can potentially impact on vital aspects of the national economy like the manufacturing and transformative industrialisation, where stable and reliable electricity would lower the cost of production for many small and medium enterprises in Nigeria. This trend will eventually increase productivity, revive ailing industries and contribute significantly to the national GDP in Nigeria.

5.0 Conclusions and Recommendations

Nigeria has a robust energy profile spanning the conventional and renewable sectors but regrettably caught by the paradoxical web of ‗resource curse', characterised by endemic energy poverty and underdevelopment amid abundance resources domiciled in the country. This paradox has elicited the attention of scholars and policy makers, with various postulations on how to resolve this impasse. The Nigerian electricity market has tremendous opportunities for trade and investments, which can significantly navigate the nation towards the path of socio- economic development. The Electricity Act 2023 has an ambitious objective of entrenching a legal and institutional framework that would promote robust electricity investment and possibly change the energy and economic trajectory in Nigeria. Realising these imperatives, however, demands a functional electricity market economy that is predicated on an efficient dispute mechanism.

There seems to be consensus that functional markets largely influence national development across all jurisdictions in the world. Given the established nexus between an efficient dispute mechanism and functional market with implications for economic development, the study has examined the various regulatory and institutional frameworks on dispute mechanism within the restructured electricity market in Nigeria. The Nigerian electricity governance architecture provides for a dispute mechanism with significant preference for ADR. The shift in dispute settlement policy within the electricity market is influenced by observed constraints beleaguering the conventional dispute resolution system. Characterised by cost effective, speedy and expert driven dispute resolution dynamics, ADR is consistently gaining global traction as the preferred dispute resolution mechanism. This is complemented by its dexterity for dealing with novel disputes and availability of multiple choices for potential disputants.

ADR provides a multitier dispute mechanism that can be leveraged by disputants to explore and navigate the complexities of corporate, contractual and regulatory disputes that could otherwise, potentially undermine trade and investments within the Nigerian electricity industry. While commercial energy contracts requiring specific technical issues or opinions can be reserved for expert determination, broader legal disputes are reserved for other ADR mechanisms like arbitration, mediation, conciliation or negotiated settlement. The choice of mechanisms to be explored are guided by the discretion of concerned parties.

The ADR dominated electricity dispute resolution landscape has far reaching implications for the Nigerian electricity market. Fundamentally, it has capacity for attracting Investment in the market under a competitive and innovative economy that is private driven; capable of engendering efficient allocation of resources and leading to economies of scale. The efficient allocation of resources can promote the optimum exploitation of the vast energy potential domiciled in Nigeria. In essence, a well-functioning dispute mechanism shaped by ADR has illuminated significantly and will continue to radiate the Nigerian electricity dispute management landscape, and acting as purveyor, in ensuring contract stability, promoting regulatory certainty and improving operational efficiency in the Nigerian electricity market. This is the ideal market that can enhance optimum exploitation of the abundant electricity sources in Nigeria, promote energy diversification with focus on the renewables, in entrenching energy sovereignty and security within the most populated black nation in the world.

The Nigerian electricity markets is the largest in Africa with potential for redefining the nation‘s economic trajectory. Therefore, Leveraging ADR dynamics, what is required is the establishment of an independent national electricity court regime with exclusive jurisdiction over electricity related disputes. The proposed specialised electricity court is expected to incorporate ADR dynamics as her dispute resolution mechanism under a well detailed and defined court connected ADR system, with practice guidelines to that effect. This would be part of the broader measures towards entrenching a resilient dispute resolution architecture, in maximising market potential within the electricity industry and reshaping the economic narratives in Nigeria.