



EDO STATE ELECTRICITY REGULATORY COMMISSION

ESERC

ORDER NO: ESERC/ORDER/2026/001

ORDER OF THE EDO STATE ELECTRICITY REGULATORY COMMISSION ON OPERATION AND UNDERTAKING OF REGULATED ACTIVITIES WITHIN THE EDO STATE ELECTRICITY MARKET

1. BACKGROUND

- 1.1 This Order is issued by the Edo State Electricity Regulatory Commission (hereinafter referred to as “the Commission”), established under Section 5(1) of the Edo State Electricity Law, 2025 (hereinafter referred to as “the Law”), pursuant to the powers vested by the Constitution of the Federal Republic of Nigeria 1999 (as amended), the Electricity Act 2023 (as amended) (referred to in the Law as “the Act”), and particularly Section 14(1)(a) of the Law, which empowers the Commission to make and enforce regulations, orders, guidelines and notices as may be necessary and expedient for the regulation of the State electricity market and for the discharge of its functions and powers under the Law.
- 1.2 The Commission was duly constituted and inaugurated by the Governor of Edo State on August 27, 2026, in accordance with Sections 6 and 7 of the Law, and is, under Section 5(3) of the Law, independent in the performance of its functions and not subject to the direction or control of any person or authority.
- 1.3 This Order is made following the transfer of regulatory oversight of the intra-State electricity market in Edo State to the Commission, in accordance with Section 230 of the Act, Sections 56 and 116 of the Law, and Order No. NERC/2024/111 of the Nigerian Electricity Regulatory Commission (“NERC”) dated August 20, 2024.
- 1.4 By Section 116(1)(a) of the Law, the licences, permits, approvals, rules, orders, directives, codes, standards and subsidiary legislation issued by NERC under the Act continued in force until the Commission assumed full regulatory responsibility over intra-State electricity businesses in Edo State. The Commission having assumed that responsibility, the continuing effect of those instruments now rests on Section 117(1) of the Law, and paragraph 3.4 of this Order is made accordingly.

2. PURPOSE AND SCOPE

- 2.1 The purpose of this Order is to declare the regulatory framework that governs the Edo State Electricity Market, to place all persons on notice of their obligations under the Law, and to ensure compliance with the Law towards a safe, efficient, reliable and competitive electricity market in Edo State.
- 2.2 Section 4(1) of the Law provides as follows:

“This Law shall apply to electricity transactions in the State between any person with or in connection with the generation of electricity, transmission, trading, electric power exchange, distribution, the retail supply of electricity, system Operation, the State’s electricity market,

electrification of rural underserved or unserved communities and other aspects of intra-State electricity business.”

- 2.3 Section 29(1) of the Law provides that the issuance of a licence or permit by the Commission is a requirement for any person to engage in electricity generation, including captive generation; electricity transmission, including independent transmission networks and independent transmission network operators; electricity distribution; electricity supply; electricity trading, including retail trading and electric power exchange; and system and market operation.
- 2.4 Section 47(2) of the Law provides that a person shall not construct, own or operate any undertaking in the State, or in any way engage in any of the regulated activities, except in accordance with a licence granted by the Commission pursuant to the Law or a regulation made under it, or as exempted under any Part of the Law.

3. ORDERS

3.1 UNDERTAKING OF REGULATED ACTIVITIES

- 3.1.1 All persons and entities are hereby prohibited from undertaking any regulated activity within the Edo State Electricity Market without a licence or permit issued, or deemed under Section 117(1) of the Law to have been issued, by the Commission. By virtue of Section 47(5) of the Law, it is not a defence that the person or entity holds a licence issued by any other body, including NERC, to undertake the relevant regulated activity, save as expressly provided at paragraph 3.3.4 of this Order.
- 3.1.2 All persons and entities undertaking regulated activities within the Edo State Electricity Market without the requisite licence or permit, other than a person to whom paragraph 3.2 or paragraph 3.3 of this Order applies, are hereby directed to:
- (a) cease undertaking such regulated activities in line with the Law;
 - (b) apply to the Commission for the relevant licence or permit immediately, and in any event within thirty (30) days of the date of this Order, in the form and manner prescribed under Section 30 of the Law; and
 - (c) comply with all applicable provisions of the Law, of this Order and of every Regulatory Instrument preserved under paragraph 3.4.
- 3.1.3 Provided that where compliance with paragraph 3.1.2(a) would interrupt the supply of electricity to consumers, the person or entity concerned shall notify the Commission in writing within seven (7) days of the date of this Order, and the Commission shall make such interim arrangements as it considers appropriate, applying the principles of Sections 36(6) and 37 of the Law, so that no consumer is disconnected as a consequence of an enforcement step taken under this Order.
- 3.1.4 Pursuant to the combined provisions of Sections 47(4) and 98(1) of the Law, any person or entity that fails to comply with the provisions of the Law and this Order does so at the risk of prosecution and, on conviction, of a fine of not less than One Million Naira (₦1,000,000.00) under Section 47(4), or a fine not exceeding Ten Million Naira (₦10,000,000.00) and a daily fine of up to Five Hundred Thousand Naira (₦500,000.00) for every day the offence persists under Section 98(1), together with such custodial or non-custodial sentencing as the court may impose.
- 3.1.5 Unlicensed electricity trading, including retail trading and electric power exchange, is dealt with under Sections 29(1)(e) and 53 of the Law and, as to penalty, under Section 115 of the Law.

- 3.1.6 Any person or entity uncertain as to whether it is engaging in, or is about to engage in, an undertaking or activity requiring a licence or permit under the Law should seek clarification and clearance from the Commission before proceeding. The Commission shall respond within thirty (30) days of receiving a complete request.

3.2 ACTIVITIES THAT DO NOT REQUIRE A LICENCE OR PERMIT

- 3.2.1 Nothing in this Order requires a licence or permit for an activity exempted under Section 29(3) of the Law, namely:

- (a) captive power generation from natural gas, diesel or other fuel sources with a capacity of not more than 70kW/88kVA for residential purposes and 150kW/188kVA for commercial purposes, for the exclusive use of the captive generator;
- (b) captive or embedded power generation from renewable energy sources with a generation capacity of not more than 100kWp; and
- (c) an isolated or interconnected mini-grid with a generation capacity of not more than 50kWp, or such capacity as may be determined by the Commission through a mini-grid regulation.

- 3.2.2 A person carrying on an activity described in paragraph 3.2.1 is not required to apply for a licence or permit under this Order and is not in breach of Section 47(2) or Section 98(1) of the Law by reason only of that activity, but remains subject to the technical and safety requirements applicable under the Law, including Section 113.

3.3 RE-APPLICATION BY HOLDERS OF EXISTING LICENCES AND PERMITS

- 3.3.1 Every holder of a licence, permit, authorisation, approval, consent, direction, permission or certificate issued by NERC under the Act in respect of any regulated activity carried on within Edo State (hereinafter referred to as a "Pre-Existing Licensee"), including the licensee referred to under Section 230(4) of the Act, is hereby directed to apply to the Commission for the regularisation, revalidation and re-issuance of that instrument within thirty (30) days of the date of this Order.

- 3.3.2 An application under paragraph 3.3.1 shall be made in the form and manner prescribed by the Commission and shall be accompanied by:

- (a) a certified copy of the subsisting licence, permit or other instrument issued by NERC;
- (b) the certificate of incorporation and current corporate particulars of the applicant, and, where Section 230(4) of the Act applies, evidence of the incorporation of the subsidiary company and of the transfer of the relevant assets, liabilities, employees and contractual rights and obligations;
- (c) particulars of the applicant's assets, installed and available capacity, network and franchise or supply area within Edo State, and the number and categories of customers served;
- (d) a schedule of all subsisting power purchase, supply, wheeling, use of system, connection and ancillary services agreements relating to Edo State, together with copies of those agreements as required by Section 55(2) of the Law;
- (e) the applicant's most recent audited financial statements; and
- (f) such other information, documents and fees as the Commission may prescribe.

- 3.3.3 This direction is made under Sections 56, 57 and 117 of the Law and, as to the period prescribed, under Section 117(5) of the Law, and is without prejudice to any longer period

allowed to a Pre-Existing Licensee under Section 57(1) of the Law upon receipt of the Commission's formal notification.

- 3.3.4 A Pre-Existing Licensee that applies within the period prescribed at paragraph 3.3.1 shall continue to carry on the activities authorized by its existing instrument, which by Section 117(1) of the Law is deemed to have been issued by the Commission, until the Commission determines its application. Paragraphs 3.1.1 and 3.1.2 of this Order do not apply to such a licensee for so long as it complies with this paragraph.
- 3.3.5 A Pre-Existing Licensee that fails to apply within the period prescribed at paragraph 3.3.1, or that fails to comply with Sections 230(4) and (7) of the Act and Section 56 of the Law, shall by virtue of Section 57(4) of the Law be deemed to be operating an electricity undertaking without a licence and shall be liable to the penalty prescribed under Section 98 of the Law, and the Commission may in addition proceed under Sections 35, 36 and 37 of the Law. Before treating a licensee as so deemed, the Commission shall give it written notice of the failure and a period of not less than twenty-one (21) days in which to remedy it or make representations.
- 3.3.6 The Commission shall determine each application in accordance with Sections 30 and 57(2) of the Law, and may grant a new licence or permit subject to such terms, conditions and modifications as it considers appropriate for compliance with the Law.

3.4 PRESERVATION OF PRE-EXISTING REGULATORY INSTRUMENTS AND TARIFFS

- 3.4.1 The Commission hereby confirms that all regulations, rules, guidelines, orders, codes, directives, standards, bye-laws and other subsidiary instruments (hereinafter collectively referred to as "Regulatory Instruments") which were in force immediately before the date of this Order and which relate to regulated activities within the Nigerian Electricity Supply Industry shall, pursuant to Sections 117(1)(a) and 117(1)(b) of the Law, continue in force, remain binding on all persons lawfully undertaking regulated activities within Edo State, and are deemed to have been made or issued by the Commission under the corresponding provisions of the Law, subject to such amendment, variation, modification, replacement or repeal as the Commission may effect under Section 117(2) of the Law. The Regulatory Instruments include, but are not limited to:
- (a) tariff methodologies, tariff orders, regulations and guidelines;
 - (b) performance standards, technical codes and manuals;
 - (c) grid codes, distribution codes and operating standards;
 - (d) metering codes and regulations;
 - (e) consumer protection, complaint handling and service delivery standards;
 - (f) open access regulations and the associated transmission and distribution use of system charges;
 - (g) health, safety and environmental standards and regulations; and
 - (h) any other regulatory instrument applicable to licensed or permitted activities.
- 3.4.2 Pursuant to Section 117(4) of the Law, any tariff, price or levy which was chargeable within any area of Edo State immediately before the date of this Order in respect of the provision of electricity shall continue to be chargeable by the licensee providing electricity within the area concerned, until alternative provision is made by the Commission under Section 45 of the Law.
- 3.4.3 All licensees and permit holders within the State shall continue to comply with the Regulatory Instruments preserved by this Order and shall ensure that their activities are conducted in accordance with the relevant provisions of the Law and those instruments.

- 3.4.4 The Commission gives notice that it will develop and publish the market rules for the Edo State Electricity Market under Section 60 of the Law, and will publish the licence application regulations, forms, procedures and schedule of fees.

3.5 ENFORCEMENT

- 3.5.1 The Commission shall enforce the Law, this Order and the Regulatory Instruments preserved by this Order, and shall take such steps as may be necessary to secure compliance by licensees, permit holders and all other persons.
- 3.5.2 Where a licensee fails to meet its obligations, the Commission will proceed under Section 35 of the Law, by inquiry, by an order requiring the licensee to remedy the breach and, on failure to comply with that order, by a notice of failure to comply, the imposition of the fine prescribed by Section 35(3)(b) of the Law and the exercise of the powers in Sections 36 and 37 of the Law.
- 3.5.3 Where a person undertakes a regulated activity without a licence, the Commission may, pursuant to Section 98(2) of the Law, issue a cease and desist order against the violator; issue an order to temporarily confiscate the undertaking of the violator, upon the order of a court of competent jurisdiction; enter, seal and take possession of any and all undertakings of the violator, upon the order of a court of competent jurisdiction; direct the violator to apply for the relevant licence on such terms and conditions as the Commission may specify, including the issuing of such a licence upon payment of a licence application fee at ten (10) times the usual application fee; and direct the violator to take such steps as may be necessary to prevent the continuation or recurrence of the contravention.
- 3.5.4 The fines prescribed by Sections 47(4) and 98(1) of the Law are imposed by a court on conviction. Prosecution will proceed before the magistrate courts designated under Section 110 of the Law and in accordance with Section 111 of the Law.
- 3.5.5 All directives and orders of the Commission are enforceable, and the Commission may seek the assistance of the Nigeria Police Force and other law enforcement agencies as provided by Section 19(2) of the Law.

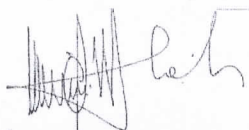
4. EFFECTIVE DATE AND PUBLICATION

- 4.1 This Order shall take effect on the date of its publication on the official website of the Commission. The Commission shall also publish this Order in at least two newspapers circulating in Edo State and shall enter it in the register maintained under Section 41 of the Law.
- 4.2 This Order shall remain in force until reviewed, amended, varied or revoked by the Commission by a subsequent Order, Regulation or similar instrument.

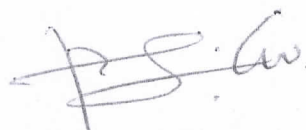
5. QUERIES

- 5.2 Any queries or concerns regarding this Order shall be directed to the Commission at 6th Floor, Block C, Edo State Government Secretariat, Benin City or via eserc@edostate.gov.ng.

Dated: September 11, 2026



Shittu H. Shaibu
Chairman/Chief Executive Officer



Patrick Iluobe, Esq.
Commissioner