



## Mini-Grid Acceleration Scheme (MAS)

# Legal and Regulatory Framework for Mini-Grid Projects

### **Rural Electrification Agency**

On behalf of the Federal Ministry of Power, Works and Housing

With the support from the Nigerian Energy Support Programme (NESP)

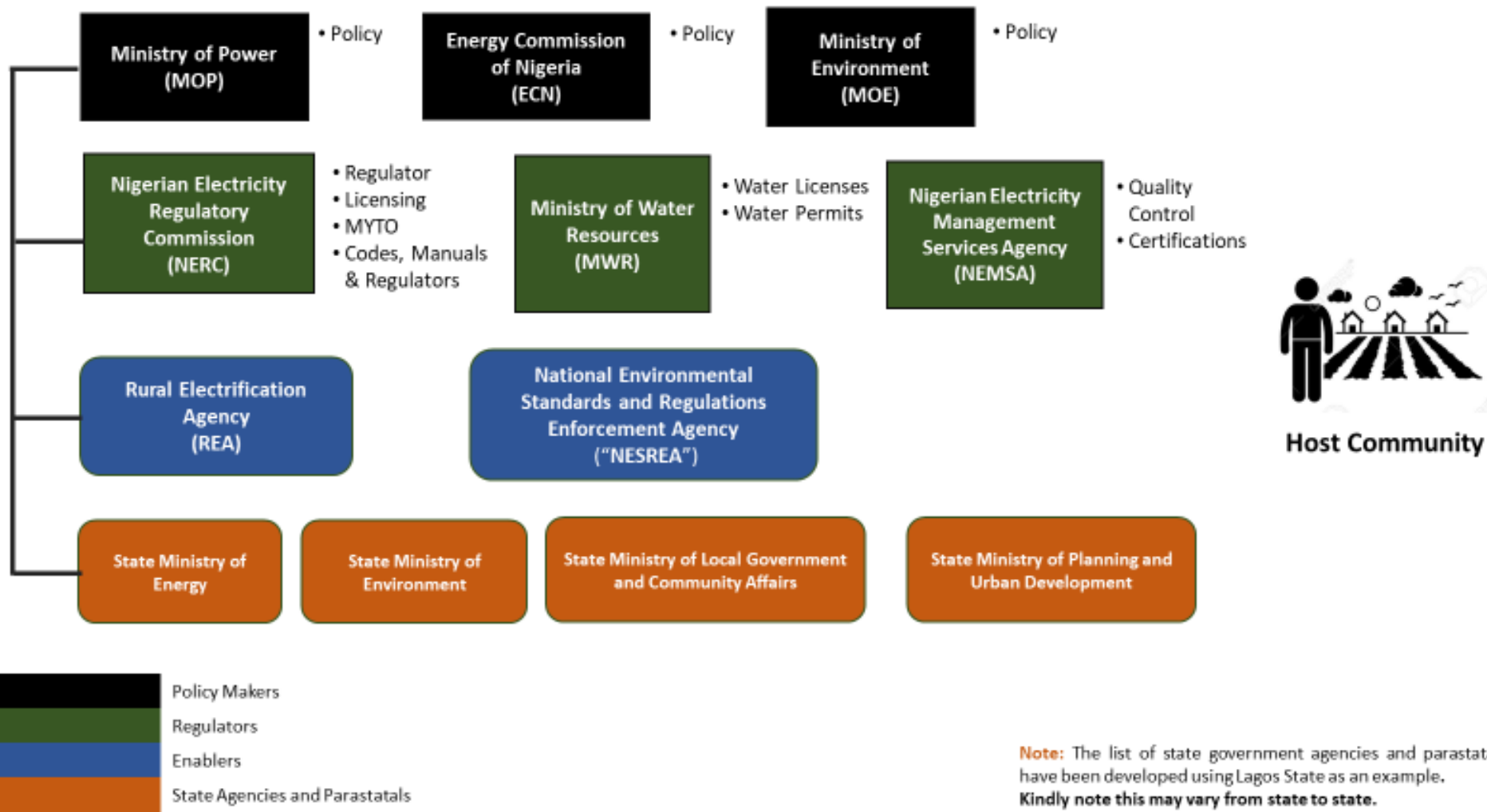
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# Overview

- Legal and Regulatory Framework for Mini-Grids
- NERC Mini-Grid Regulations: Background and Objectives
- Types of Mini-Grids
- Licensing/Permitting – Isolated Mini-Grid and Interconnected Mini-Grid Development Process and Permit Requirements
- Key Provisions of the Mini-Grid Regulation – Compensation Mechanics, Compliance and Technical Requirements, Tariffs etc.
- Other Permits/Approvals
- Acquisition of Land for Mini Grid Projects

# Framework - Key public stakeholders



# NERC Mini-Grid Regulations

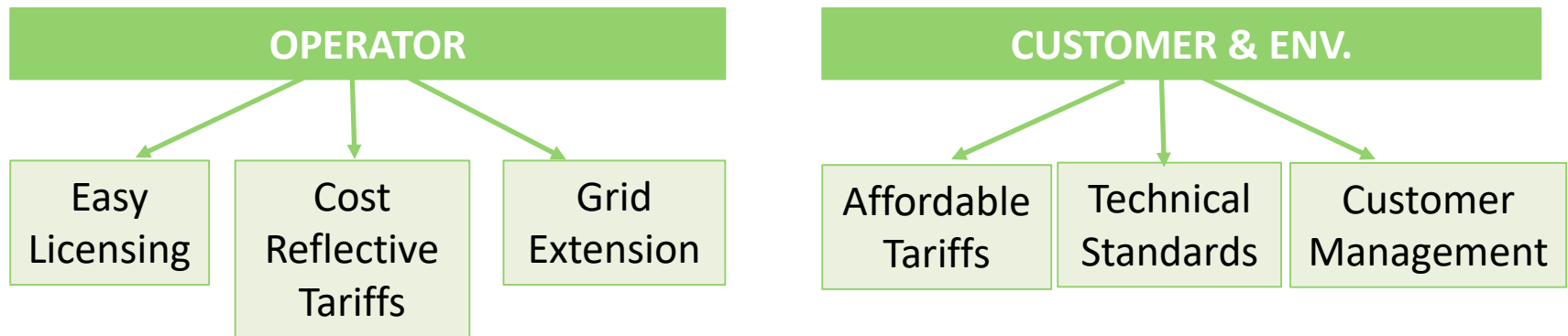
- **Background**

The Nigerian Electricity Regulatory Commission (NERC) on the 24th of May 2017 released Mini-Grid Regulations to govern the development of integrated electricity generation and distribution supply systems between **0-100kW - 1MW** either in **isolation** from the Distribution Companies (Discos) or **interconnected** to the Discos' existing network infrastructure.

- **The NERC Mini-Grid Regulations defines a Mini-Grid as:**

*“any electricity supply system with its **own power Generation Capacity**, supplying electricity to **more than one customer** and which **can operate in isolation from or be connected to a Distribution Licensee’s network**. Within this Regulation, the term Mini-Grid is used for any Isolated or Interconnected Mini-Grid generating between 0kW and 1MW of Generation Capacity”.*

# Objective of the Mini-Grid Regulations



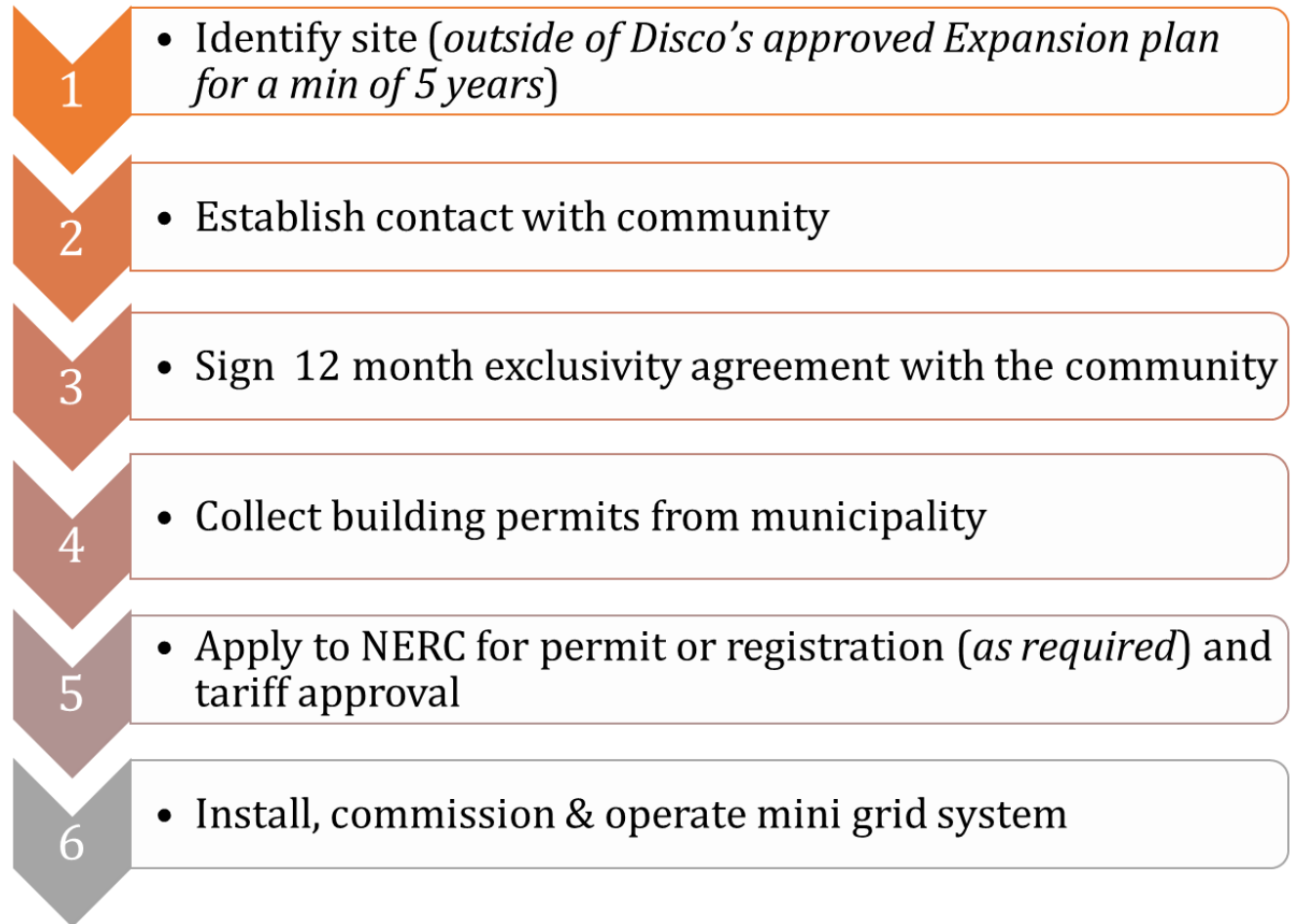
- Incentivize Mini-Grid **Investments** in Nigeria.
- Increase **access to electricity** in unserved and underserved parts of Nigeria (rural and urban areas).
- Grid extension, **increase profitability of loss making areas** and wider coverage of paying customers.
- Encourage the use of **renewables** on a **small scale** (particularly small hydro and solar).

# Types of Mini-Grids

- **Isolated** Mini-Grids:
    - Isolated Mini-Grid with distributed power larger than 100kW and up to 1MW of generation capacity; and
    - Isolated Mini-Grids with distributed power of up to 100kW.
  - **Interconnected** Mini-Grids with distributed power between 0kw and 1MW.
- ❖ **Note:** *A cluster of feeders connected to the same generator may be classified as one or separate Mini-Grids.*

# Isolated Mini-Grid Development Process

## Isolated Mini Grid Development Process



# Requirements for Permits for Isolated Mini-Grids

- Submission of a duly completed **application form**;
- Submission of the executed **agreement between the Community and Mini-Grid Developer** for approval by the Commission;
- NERC confirmation that the Mini-Grid activities will **not interfere** with the **expansion plans** of the Disco as approved by NERC as it relates to the designated Unserved Area;
- Written **consent** of the **Disco** of the intended area (*where the proposed area is within the 5 year expansion plan of the Disco*);
- Proof that the intended geographic location is an **Unserved Area** which has not been assigned to an IEDN or any other Mini-Grid Developer;
- Proof of acquisition or **lease of** all necessary **land** for construction and installation of all assets;
- Proof of any **other** necessary **permits** in favor of the Mini-Grid Developer;
- **Tariff** based on the **MYTO** methodology and approved by NERC;
- Execution of the **Health and Safety confirmation** form.



# Requirements for Permits for Isolated Mini-Grids

## Compliance Requirements

- Accounting Requirements
- Environmental Protection Requirements (EIA requirement)
- Health and Safety Requirements
- Insurance Requirements
- Reporting Requirements

## Technical Requirements

- Permit holders are required to meet relevant **Technical Codes and Standards** and relevant regulations.
- Registered Mini-Grid Operators are not bound by Technical Codes and Standards but are required to maintain **min. tech. requirements** (Annex 7).

# Registration Process for Isolated Mini-grids

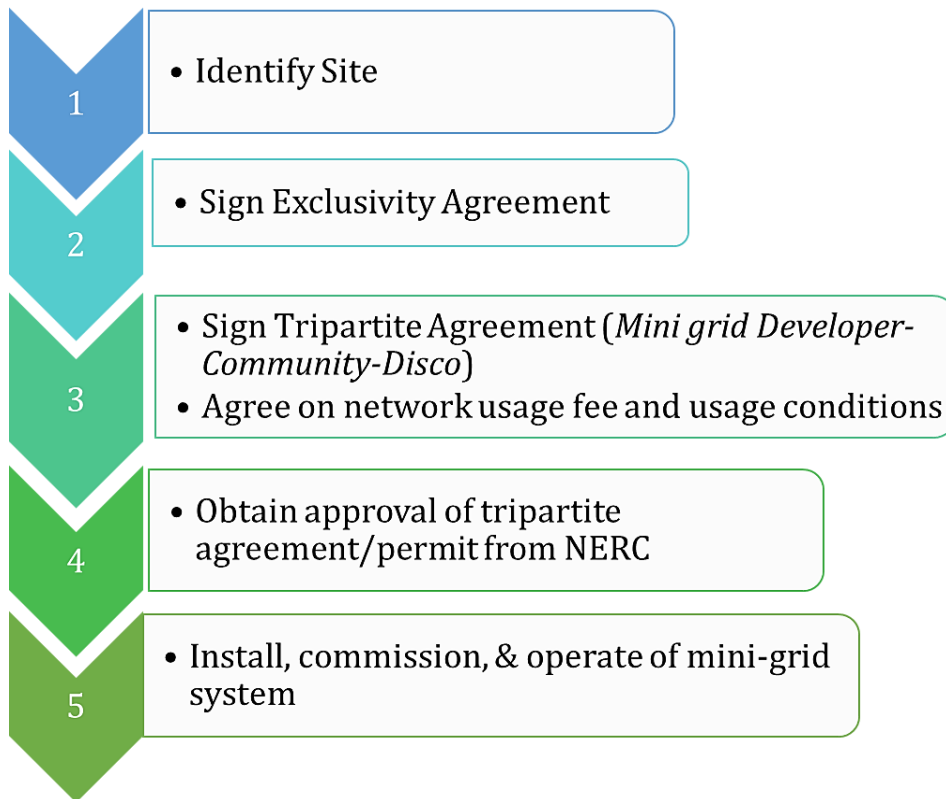
- **For Isolated Mini-Grids with distributed power of up to 100kW**, a Permit is ***optional***, as the Isolated Mini-Grid Developer may only choose to register as a Mini-Grid Developer.
- A Developer is required to complete the Registration process by completing the **Registration form for Mini-Grids below 100kw** (*Annex 2 of the Regulation*).

## Required Information to be provided in the Registration Form

- Particulars of the Applicant (Including details of a Contact Person)
- Legal Status of the Applicant (Partnership, Private Company, Public Company)
- Nature of the Application (Fresh application or Renewal)
- Main Business Activities of the Applicant
- Description of the Project (Including maps and drawings)
- Breakdown of Customer base

**Note:** For the MAS, all selected projects (irrespective of their size) need to go obligatorily for a Mini-grid Permit.

# Interconnected Mini-Grid Development Process



## Requirements for Permits

- Submission of a duly **completed application** to the Commission;
- Proposed retail **tariff** is calculated using the **MYTO** methodology, agreed by the **Mini-Grid Developer**, the **Distribution Licensee** and **Connected Community** and approved by the Commission;
- Execution of a **Tripartite Contract** between the Mini-Grid Developer, the Distribution Licensee and the Connected Community with specifications as provided in S9(1)(c).

# Compensation Mechanism (1/2)

- Where a Disco extends its network to an Isolated Mini-Grid, the Operator has the option of either converting to an Interconnected Mini-Grid or transferring its assets for compensation.
  - **Extension prior to Initial Period of 5 years** – remaining depreciated value (including development and construction costs) as defined by the Commission plus revenue generated commencing 12 months prior to connection of the Mini-Grid to a Distribution Network.
  - **Extension after Initial Period of 5 years** – remaining depreciated value as defined by the Commission plus revenue generated commencing 12 months prior to connection of the Mini-Grid to a Distribution Network.
- ❖ **Note:** *In both instances, the Mini-Grid Assets will not be handed over until compensation is paid.*

# Compensation Mechanism (2/2)

- Where tariff definition by NERC has changed, the Operator may initiate an **inspection of accounts to determine the depreciated value**. In the interim, the Operator will be paid the value of the asset based on NERC's definition and difference will be paid after the inspection.
- Where the Parties fail to agree in compensation, **NERC** shall act as an **Arbiter**.
- **Same** mechanism applies to a **Registered** Mini-Grid Operator who applies for a **permit**.
- **No compensation** applicable to **Registered** Mini-Grids. On extension, a registered Mini-Grid needs to **decommission** and relocate within 2 months after commencement of grid supply.
- For **Interconnected Mini-Grids** where the **Tripartite Agreement** is not renewed, the DisCo may reintegrate the Mini-Grid into its network subject to proof of endorsement by the community, and notification to NERC.

# Tariff Payments

## Permit Holders

- The tariff has to be calculated using the methodology provided in the regulations (Annexure 15) based on the **MYTO Methodology** designed for Mini-Grids.
- Tariffs are to be subject to technical and non technical **losses** of a max. of **10%** each.
- Tariffs for permit holders can be subject to **review** based on an application by a Permit Holder or an Inspection of accounts by an **authorised person**.

## Registered Operators

- Option 1: Tariff based on the **MYTO methodology**.
- Option 2: An **Agreed Tariff** between the **Operator** and at least 60% of the **community**. The Agreed Tariff may be subject to intervention by NERC where the Operator's rate of return exceeds typical non recourse commercial local currency debt by 6%.

# Other Permits/Approvals

- **Environmental and Social Impact Assessment Certificate:** This is granted by the Federal Ministry of Environment (FME).
- **Building/Installation Permit:** Issued by State and Local Government agencies, and the requirements for obtaining the permits vary across the States in Nigeria.
- **Approval and Development License:** Where the installation constitutes a “Development” under the Urban and Regional Development Act, then a Development Permit from an agency performing the duties of urban and regional planning and development control at the Federal, State or Local Government level would be required.
- **\*\*Factory permit:** This permit is issued by the Director of Factories of the Federation.

# Acquisition of Land for Mini Grid Projects

Land Acquisition Applicable Options	NERC Requirements	Preference for Lenders/Investors
<p>Outright Purchase Option</p> <p>Complete transfer of interest in land by a seller to a purchaser for a given price.</p>	<p>The supporting documents listed under application for registration/ permit specifies either (i) Certified copy of Certificate of Occupancy or (ii) Lease Agreement for Project Site.</p>	<p>Investors or lenders will generally prefer proof of title that shows a clear devolution of title which could be a Deed of Assignment/Long Lease/Deed of Gift</p>
<p>Lease Option</p> <p>Long Term Lease</p>	<p>The template Contract Agreement between the Mini-Grid Operator and the Community annexed to the Mini-Grid Regulation provides that parties shall jointly identify suitable land within the Community for the Mini-Grid Project.</p>	
<p>Land as a Gift</p> <p>This is a charitable transfer of land made gratuitously to a recipient without any consideration paid</p>	<p>The template also includes a provision that states that the Community shall at its own expense procure the land jointly identified to be leased to the Mini-Grid Operator at no cost or a nominal fee of no more than N10, 000 annually.</p>	



# QUESTIONS



# Thank you!

**Dolapo Kukoyi**

Partner

Detail Commercial Solicitors

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