

DEFINITION OF “GOOD CAUSE” MADE NECESSARY BY THE PROHIBITION CLAUSE IN THE NIGERIAN ELECTRICITY REGULATORY COMMISSION (NERC) REGULATION FOR THE PROCUREMENT OF GENERATION CAPACITY 2014.

The Nigerian Electricity Regulatory Commission (NERC) Regulation for Procurement of Generation Capacity, 2014, was made to ensure that licences are issued upon the reasonable expectation that the purposes for which licences are issued are met.

The Regulation prohibits, unless otherwise approved by the Commission for good cause, the solicitation of bids or proposals for the provision of generation capacity outside the application of the Regulation and the entry into any contract involving the purchase of electrical output of any generation facility to which the Regulation apply.

In order to define “*good cause*” in unambiguous terms, the Commission passed resolutions in line with due process and defined “*good cause*” as follows:

- i. **Renewable and Alternative Power-** Renewable energy based power projects such as solar, wind, biomass or small hydro which require no fuel supply agreement and in respect of which feed-in tariffs have been approved pursuant to the Feed-In Tariff Regulation, 2015;
- ii. **Environment-related Projects-**that is, where a guaranteed fuel source for the generation of power may be a solution to waste disposal challenges, e.g. a sawmill desirous of using saw dust for biomass power, a sugar factory using bagasse for power generation or a landfill generating power from landfill gas etc.;
- iii. **Grid Stability-** As the country runs on one transmission grid and its stability is paramount to the development of the NESI, the siting of a plant in an area which will contribute to maintaining stability of the grid may be acceptable to the Commission as a project which is developed for “good cause.” This may however only be done with the involvement of the System Operator (SO) after the carrying out of stability studies;
- iv. **Excess Generation-** Companies with existing Captive Power Generation Permits intending to sell and supply their excess power to the national grid. The relevant NERC Regulation has already stipulated that a licence is required if the excess capacity is above 1MW. This includes off-grid generation Companies with available excess capacity which can be utilised to increase supply to consumers;

- v. **Available Fuel Source**- Companies with available fuel provided that such companies undertake competitive procurement and take efficient price;
- vi. **Government-Funded projects**- to be considered on a case by case basis;

In accordance with the provisions of this Regulation, the Commission has stopped further receipt of licence applications with the exception of those coming under the “good cause” provision as determined by it.