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TEMPLARS ThoughtLab

New Lagos Electricity Order: *What It Means for Current Operators and Potential Investors*

Introduction

In line with the decentralization efforts in the Electricity Act, 2023 ("**Electricity Act**"), constituent States in Nigeria have since begun taking steps to establish their own electricity markets and to exercise regulatory independence over their respective markets¹.

Further to this development, Lagos State enacted the Lagos State Electricity Law, 2024 ("**Lagos Electricity Law**"), to regulate electricity activities within Lagos State (the "**Lagos Market**"), and establish the Lagos State Electricity Regulatory Commission ("**LASERC**")². This was followed by the delivery of a formal notification to the Nigerian Electricity Regulatory Commission ("**NERC**"), requesting the transfer of regulatory authority over electricity operations in Lagos State, to LASERC. We previously provided an in-depth analysis of the implications of the Lagos Electricity Law for investors and the operational readiness of the Lagos Market [in our publication here](#).

Consequently, NERC issued Orders Nos. NERC/2024/112 and NERC/2024/113 (the "**NERC Transfer Orders**"), which stipulated that regulatory oversight of the Lagos Market would remain with NERC, until certain conditions precedent are fulfilled. These conditions include the incorporation of Lagos subsidiaries by Eko Electricity Distribution Plc (**EKEDC**) and Ikeja Electric Plc (**IKEDC**) ("**Lagos DisCos**"), as well as the completion of the transfer of assets and liabilities to these newly incorporated

¹ States like Enugu, Ekiti, Bayelsa, Plateau, Oyo, Kogi, Ebonyi, Rivers, Kebbi, Taraba, Imo, Delta, Akwa Ibom, Jigawa, Niger and Abia have enacted their own electricity laws and are in the transition process.

² LASERC is, amongst other things, empowered to regulate, monitor and supervise the operation of the Lagos Market, and license persons engaged in regulated activities in the Lagos Market.

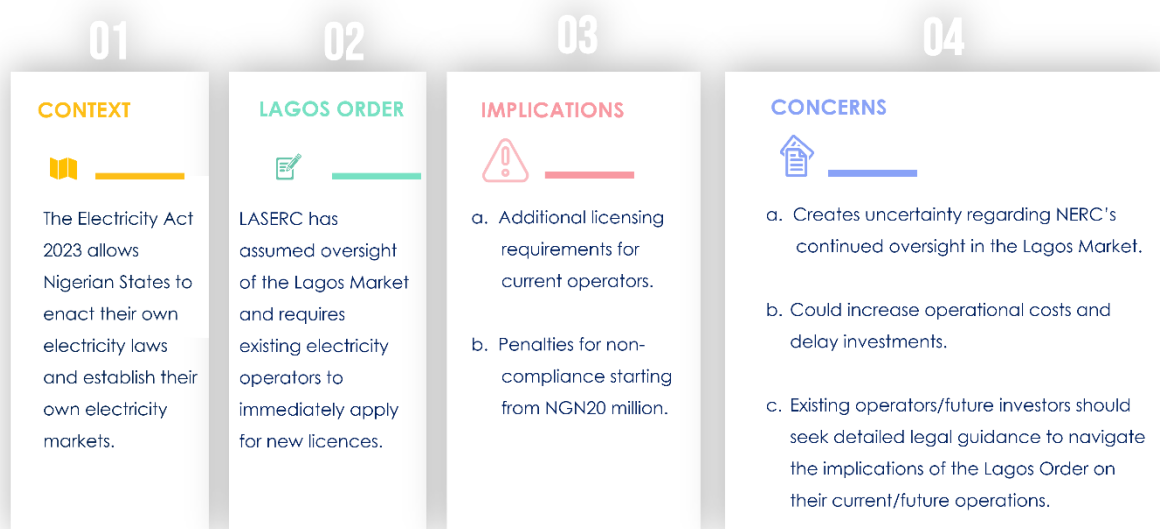
subsidiaries by June 4, 2025 ("Transfer Activities"). This indicated that if these conditions are not met within the stipulated timeframe, NERC would continue to exercise regulatory authority over electricity operators in Lagos State.

Transitional Provisions under the Lagos Electricity Law

Notably, the Lagos Electricity Law includes transitional provisions stating that, from the date it comes into effect, any permit, authorization, or approval held by a pre-existing licensee for electricity activities, issued before the Lagos Electricity Law commenced, will remain valid for its remaining duration and will be deemed as issued by LASERC.

However, LASERC retains the authority to:

- a) Require pre-existing licensees to register with LASERC or apply for a new licence or permit;
- b) If deemed necessary for public interest, issue an interim licence to a pre-existing licensee for a specified period as part of transitional arrangements; or
- c) Upon request by a pre-existing licensee, grant a new licence, permit, or authorization.



Issuance of the Lagos Order

Further to the authority above, on June 6, 2025, LASERC issued Order No. LASERC ORDER/001/2025 (the "**Lagos Order**"). This order, amongst other things, announced the immediate commencement of LASERC's regulatory oversight over the Lagos Market and mandated that all existing electricity-related activities within Lagos State must immediately apply to be licensed by LASERC, irrespective of any permits or licences previously issued by other regulatory bodies.

Notably, the Lagos Order and the Lagos State Electricity Regulatory Commission Application for Licences (Generation, Transmission, System Operations, Distribution, Supply & Trading) Regulations, 2025, which subsequently followed, do not specify a deadline for compliance, thereby creating uncertainty for operators and complicating adherence to this new licensing requirement. The implication seems to be that licences or permits granted by NERC for operations in Lagos State will no longer be recognised.

Therefore, to lawfully continue their activities, existing operators must immediately obtain new licences or permits from LASERC. Non-compliance with this directive, according to the Lagos Order, may attract penalties starting from NGN20,000,000, with an additional NGN20,000 imposed for each day of continued violation.

Implication of the Lagos Order on Operations in the Lagos Market

In accordance with the NERC Transfer Orders and the provisions of the Electricity Act, the Transfer Activities necessary for the effective transition of regulatory oversight must be completed prior to LASERC's assumption of authority over the Lagos Market³. Considering that the Transfer Activities have not, to the best of our knowledge, been completed, commencing regulatory oversight of existing and future operators by LASERC could **conflict with the established transfer framework**, potentially undermining the orderly transfer of regulatory control in the Lagos Market.

Therefore, it may be argued that NERC will retain oversight of the Lagos Market until the Transfer Activities are completed, notwithstanding the intentions expressed in the Lagos Order. On the other hand, the Lagos Order may also be argued to be "valid" law, based on the presumption of regularity, unless challenged administratively or judicially by an affected operator⁴. As such, in the interim, a practical approach may suggest that the Transfer Activities may proceed concurrently with the operation of the Lagos Market. However, this approach introduces complexities for market operators and potential investors.

Currently, operators are bound by NERC regulations, but the Lagos Order requires an immediate additional licensing requirement, potentially leading to overregulation. Considering the lack of definitive timeline for compliance with the Lagos Order, this could result in **increased operational burden and costs**, which may impact investment decisions and market efficiency in the state. This situation contradicts the intended spirit of the transition framework in the Electricity Act, which emphasises a collaborative inter-institutional relationship between NERC and LASERC, to promote regulatory harmony in both federal and state markets.

We expect further clarification from LASERC regarding the immediacy and scope of licensing requirements for existing operations. Given the speed with which the regulatory transition has taken shape, **existing operators and prospective investors should seek detailed legal counsel to assess and navigate the implications of the Lagos Order** on their current and future operations in the Lagos Market.

³ See also *Dr. Arthur A. Nwankwo & ors v. Alhaji Umaru Yar'Adua & ors* [2010] 6 SCM 121 at 143, where the courts held that where a statute stipulates the procedure for taking an action, such procedure must be strictly complied with. See also, *Ogologo v. INEC* (2022) LPELR-57030(CA).

⁴ In certain instances, the courts have inferred that laws, regulations or orders enacted or issued by a lawful authority, albeit ultra vires, may be valid for compliance reasons unless challenged judicially or administratively. See *Governor of Lagos State v. Ojukwu* (1986) 1 NWLR (Pt. 18) 621 and *A-G Bendel State v. A-G Federation* (1981) 10 SC 1.