TEMPLARS

23 January 2023

Key contacts

Yemisi Awonuga
Partner and Co-Head,
Energy & Natural Resources
yemisi.awonuga@templars-law.com

Desmond Ogba
Partner,
Finance, Energy & Natural Resources
desmond.ogba@templars-law.com

Nabila Gaduya
Associate, Corporate and Commercial
nabila.gaduya@templars-law.com

Exploring Renewable Energy Certificates for Nigeria's Decarbonisation Strategy in the Power Sector.

Background

Since the establishment of the United Nations Framework Convention on Climate Change 1992 (UNFCC), domestic and international climate change policies across the world have been more intentional in relation to energy transition. This is evidenced by the Kyoto Protocol[1] which was later replaced by the Paris Agreement[2], both of which Nigeria is signatory to.

At the recently concluded Conference of Parties to the UNFCC (COP27)[3], where the recurrent themes were energy security, energy poverty, climate change, climate finance, and climate justice, Nigeria reiterated its commitment to the attainment of net zero carbon emissions by 2060. It is worthy of note that the President of the Federal Republic of Nigeria had earlier responded to this worldwide call to action after the 26th Conference of Parties to the UNFCC (COP26) by signing the Climate Change Act 2021("Climate Change Act") into law.

For context, the Climate Change Act provides the legal framework for achieving low greenhouse gas emissions (GHG) as well as promoting sustainable economic growth. In our earlier publication[4], we highlighted some of the salient provisions of the Climate Change Act which include the establishment of the National Council on Climate Change (the "**Climate Change Council**"), a Climate Change Fund (the "**Climate Fund**"), the introduction of a Carbon Budget, and the National Climate Change Action Plan.

[1] Kyoto Protocol 1997
[2] Paris Agreement 2015
[3] 27th Conference of Parties to the UNFCC
[4] Climate Change And Energy Transition: Is Nigeria on Course With Its New Climate Change Act 2021 - https://www.templars-law.com/wp-content/uploads/2021/12/Climate-change-and-energy-transition-is-Nigeria-on-course-with-its-new-Climate-Change-Act-2021.pdf

In furtherance of the commitment of the Federal Government of Nigeria (**FGN**) towards combating climate change and reducing global GHG emissions, the FGN launched Nigeria's Energy Transition Plan (ETP) on the 24th of August 2022 which highlighted the requirements to attaining the 2060 net zero target whilst meeting the nation's energy needs. The objectives of the ETP include, *inter alia*, promoting a fair, inclusive, and equitable energy transition in tandem with Nigeria's energy poverty eradication and economic development strategies, stimulating private sector involvement in energy investments, and serving as a template for Nigeria's commitment to accomplishing carbon neutrality.

The ETP clearly maps out energy transition pathways across five key areas namely: Power, Oil and Gas, Industry, Transport and Cooking. It also proffers decarbonisation strategies for each of these broad areas. Interestingly, and relevant to this discourse, expansion of generation capacity via renewable sources was earmarked as decarbonisation strategy relevant to the power sector.

However, while the provisions of the Climate Change Act and decarbonisation strategies of the ETP may be commendable, the financing of renewable energy projects and the development of a market to accomplish the set goals of the decarbonisation strategy pose a problem due to their capital-intensive nature. Hence, this discourse on Renewable Energy Certificates (REC) which, in our view, may incentivise participation in the renewable energy market, and may be one of the viable solutions to the funding deficit.

It is important to note that none of the Climate Change Act, the Electric Power Sector Reform Act[5](EPSRA) which is the primary statute on the electricity (including renewable energy) sector, or any subsidiary legislation like the National Renewable Energy and Energy Efficiency Policy (NREEP)[6], NERC Mini-Grid Regulation[7], NERC Renewable Energy Feed-In Tariff Regulations[8], and the Renewable Electricity Policy Guidelines[9] provides for the institutionalisation of RECs. Although, the NREEP embraces local development of the renewable energy technology with a view to minimising cost input of renewable energy projects as its key objective, it is silent on implementation strategies to achieving this key objective. Therefore, this paper explores the prospect of institutionalising the REC system as an incentive to attracting foreign and local capital to the renewable energy sector in order to catalyse the implementation of the ETP's decarbonisation strategy in the power sector in particular.

What are Renewable Energy Certificates?

RECs are simply green energy certificates or tradable renewable certificates that serve as proof that energy has been generated from renewable sources. Typically, participants in the renewable energy market who are seeking reputational or compliance credit, or recognition for carbon footprint reduction via their production or consumption of renewable energy will need to obtain RECs to substantiate claims of production or consumption otherwise there might be no credence to their claim of commitment to fostering low carbon emission.

What are RECs?

Renewable Energy Certificates (RECs) are tradeable instruments that evidence the property rights of the environmental, social, and other non-power attributes of renewable energy generation (such as production and consumption of renewable energy).

[5] Electric Power Sector Reform Act 2005
[6] National Renewable Energy and Energy Efficiency Policy 2015
[7] NERC Mini-Grid Regulation 2016

The Renewable Energy Certificates Market

The operation of the REC market is such that participants in renewable energy projects register their renewable energy devices with the relevant REC registry and upon successful registration, RECs are issued for every 1MWh of renewable energy produced from the duly registered device. All certificates are assigned a unique number for ease of verification, tracking and reporting.

Participants in the RECs market may also purchase either bundled or unbundled RECs. Unbundled RECs are substantially cheaper than bundled RECs as they are sold without the original electricity production that they represent. On the other hand, bundled RECs are more expensive as they are sold with their underlying energy. Whatever the case may be, purchasing RECs, bundled or unbundled, validates a claim of use of renewable energy.

Trading of RECs

RECs can be traded in both voluntary and compliance markets. Some countries like the United States of America have renewable portfolio standards requiring electrical utilities to supply a minimum amount of green energy with RECs as evidence, hence a thriving compliance market. However, RECs can also be bought and sold by companies and individuals[10] for non-regulatory reasons in the voluntary market. Compliance markets exist due to policy decisions and so it is customary that there are exact specifications as regards market structure.

African countries such as the Democratic Republic of Congo, South Sudan, Somalia, and Chad issue a similar certificate- the Peace Renewable Energy Certificate(P-REC) in their markets. Developers in the afore-mentioned countries already benefit from the scheme, as revenue generated from P-REC sales aids in financing new projects. Governments, companies, and organisations in the P-REC market benefit from the scheme as it aids them in meeting their sustainability and social responsibility goals.

Distinguishing RECs and Carbon Offset Credits

RECs are often compared to Carbon Offset Credits (COCs) as they both represent the environmental benefits of certain measures which help alleviate GHG emissions. However, they are structurally different instruments with discrete impacts.

While REC is a market-based instrument that represents the rights to the environmental attributes of renewable energy generation, COCs represent specific activities intended to reduce GHG emissions or amplify GHG removal from the atmosphere. Put differently, RECs represent energy that are produced without adding CO2 to the atmosphere while COS refer to removal of CO2 from the atmosphere. Further, RECs are only generated from renewable energy sources such as solar, wind, geothermal, biomass and hydropower while COCs are sourced from any project that lowers, removes or avoids emissions such as abandoned coal mine methane capture, landfill gas capture and improved forest management. Generally, the utilization of either the RECs or COCs instrument is not a question of which is better, given the different impacts

[8] NERC Renewable Energy Feed-in Tariff Regulations 2015
[9] Renewable Electricity Policy Guidelines 2006
[10] Individuals can engage in the voluntary market by either buying from the market directly, via a broker or an online service.

they provide in the mitigation of climate change. However, the understanding of their purposes will guide the various ways in which climate change is adapted or mitigated.

Benefits of RECs in Nigeria's Energy Transition Journey

Benefits of RECs:

Generally, purchasing Renewable Energy Certificates (RECs) aids energy consumers to decrease the cost of their renewable energy while simultaneously validating renewable energy use and carbon footprint reduction claims.

Generally, purchasing RECs aids energy consumers to decrease the cost of their renewable energy while simultaneously validating renewable energy use and carbon footprint reduction claims. It provides an easy way to support the generation of renewable energy and offset carbon emissions without the cost implications of installing expensive facilities such as solar panels, hydro-electric projects or wind farms. This also helps businesses with satisfying reporting and reputational requirements in relation to energy transition, which may serve as evidence of the mandatory annual carbon reduction target required by the Climate Change Act.

Furthermore, we note that RECs are already tradeable globally, hence a more robust local involvement in the RECs market will provide an opportunity for Nigeria to improve foreign exchange earnings. Specifically, a portion of the income generated from the global trade of RECS, particularly from government-funded/Public Private Partnership renewable energy projects, may be deposited to the Climate Fund established under the Climate Change Act. This will increase the pool of resources in the Climate Fund, which the government may utilise towards achieving the relevant GHG reduction targets.

We note that the FGN recently launched a cap-and-trade Emissions Trading Scheme (ETS) aimed at achieving net zero carbon emission targets. This is laudable, as it institutionalises the Nigerian carbon trading market and positions the country to harness benefits which may accrue to the carbon market. However, the ETS is still in the formative stages, and currently does not actively support an expansive growth of renewable energy, hence there is still need for policies that recognize, appreciate, and regulate the market targets of RECs, driven by domestic realities in tune with global benchmarks and standards.

Recommendations

In Nigeria, the REC market is in its embryonic stage, as such it is unclear how companies may utilise or benefit from it in line with Nigeria's ETP. However, in view of the country's commitment to decarbonisation, the benefits already being harnessed by African countries (such as Somalia, Congo, and South Sudan), it is expected that through effective and more expansive legislation, the government can outline and regulate the operations of the RECs market in Nigeria.

Fundamentally, it is pertinent that an efficient REC registry, tasked with the duty of registering renewable energy devices/projects and issuing RECs, is established for the Nigeria electricity sector. The Nigerian Electricity Regulatory Commission can lead this charge in line with the ETP. More effectively, the National Assembly may consider establishing a REC Registry under the Electricity Bill 2022 that is undergoing the law-making process.

Similar to the practice in other countries that have a thriving REC Market, we recommend that the Climate Change Council Issues State Renewable Portfolio

Standards (SRPS) that require energy providers to have a minimum amount/percentage of renewable energy in their supply and a REC as evidence.[11]

In addition, the Climate Change Council may collaborate with regulatory bodies, such as the Federal Inland Revenue Service, to formulate a system which allows for the submission of RECs as a set-off (depending on the value) for relevant carbon tax for corporate entities, or with the Federal Ministries of Power and Finance, to develop a working program or policy for the trading of RECs.

[11] We note that the Electricity Bill 2022 seeks to obligate minimum renewable generation capacity by generation licensees.