



## THE NATIONAL ELECTRIC POWER REGULATORY AUTHORITY LICENSING (MARKET OPERATOR) REGULATIONS, 2021

**23A. Market Operator licence.** – (1) No person shall, unless licensed by the Authority under this Act and subject to the prescribed conditions, act as a Market Operator: Provided that any person acting as a Market Operator on commencement of the Regulation of Generation, Transmission and Distribution of Electric power (Amendment) Act, 2018 shall within a period of one year apply for a licence under this Act:

(2) The eligibility criteria for grant of licence as a Market Operator shall be prescribed by the Federal Government and shall include, without limitation, –

(a) minimum solvency requirements;

(b) minimum technical and human resource requirements; and

(c) public service obligations of the licensee including quality of service, transparency of transactions, timely collection and dissemination of payments, effective collection and dissemination of any and all taxes and surcharges as may be imposed by the Federal Government, etc.

(3) A person eligible for a licence to be licensed as a Market Operator may make an application to the Authority in such form and manner and on such conditions as may be specified.

(4) An application for licence under sub-section (3) shall be accompanied by a draft Market Commercial Code governing the form and manner in which the Market Operator shall undertake its licensed activities.

(5) The Authority may require an applicant under sub-section (3) to provide such further information as it considers necessary in relation to the application, in such form or verified in such manner as the Authority may direct.

**23B. Duties and responsibilities of a Market Operator.** – (1) A Market Operator may, from time to time and subject to approval by the Authority, make such Market Commercial Code as may be required to enable it to carry out its functions as a Market Operator.

(2) A Market Operator shall regulate its operations, standards of practice and business conduct of market participants and their representatives in accordance with its Market Commercial Code, policies and procedures as approved by the Authority.

(3) The Authority may, if required in the public interest, direct the Market Operator to make such Market Commercial Code or amend its existing regulations as it may specify in writing: Provided that if the Market Operator does not comply with the direction of the Authority within a period of thirty days without providing just cause for such non-compliance to the Authority, the Market Commercial Code of the Market Operator shall be deemed to have been made or amended, as the case may be, and shall take effect accordingly.

### NOTIFICATION

*Islamabad, \_\_\_\_\_, 2021*

**S.R.O. \_\_\_\_.** In exercise of the powers conferred by Section 47, read with sections 7(2)(a) and 23A of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority hereby notifies the following regulations: —

## **PART I**

### **Definitions**

**1. Title, Commencement and Applicability.** — (1) These regulations shall be called the National Electric Power Regulatory Authority Licensing (Market Operator) Regulations, 2021

(2) These regulations shall come into force at once.

**2. Definitions.** — (1) In these regulations, unless there is anything repugnant in the subject or context, —

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997) as amended from time to time;
- (b) "Applicable Documents" means the rules and regulations licences, registrations, directives, codes, standards, guidelines, circulars, orders, determinations, documents, instruments, approvals and authorizations issued or granted from time to time by the Authority in exercise of its powers under the Act;
- (c) "Application" means an application made by a person, in hard copy form or in electronic form, in accordance with the provisions of these regulations and shall, where the context so permits, include the documents-in-support, and "applicant" shall be construed accordingly;
- (d) "Authority" means the National Electric Power Regulatory Authority established under section 3 of the Act;
- (e) "Market Commercial Code" means the set of standards, procedures and requirements established by the Market Operator for carrying out the Market Operations, including commercial operations, processes and functions, subject to the approval of the Authority;
- (f) "Licensee" means a holder of a Market Operator licence;

- (g) "Market Operator" means the entity licensed by the Authority under these regulations to carry out and discharge the market operations, and be responsible for the organization and administration of trade in the electricity wholesale market and settlement among generators, licensees and consumers that participate in the said market;
- (h) "Market Operations" means the functions, operations and responsibilities to be performed and discharged by the Market Operator, and preparation of market and settlement reports for market participants and others, without including electricity sale-purchase in contracts between market participants, in conformity with provisions/conditions in the Market Commercial Code;
- (i) "Market participant" means a generation company, licensee, bulk power consumer that participates in the the Market in accordance with the Market Commercial Code and other Applicable Documents;

(2) Words and expressions used but not defined in these regulations shall have the same meaning as in the Act, rules and regulations made thereunder and all other Applicable Documents.

## **Part II**

### **Licence**

**3. Market Operator licence.** – (1) There shall be a Market Operator licensed by the Authority to undertake the Market Operations, subject to the relevant rules and regulation as amended from time to time.

(2) The applicant shall make an application to the Authority, which shall be accompanied by:

- (a). copies of memorandum of association and articles of association;
- (b). documents showing that satisfactory system and controls are available to conduct the Market Operations and comply with the provisions of the Market Commercial Code;
- (c). documents showing that adequate financial, technical, organizational and human resources are available to undertake the functions of the Market Operator in a proper and efficient manner on an ongoing basis;
- (d). Market Commercial Code;

- (e). fee as may be specified by the Authority;
  - (f). the list of its board of directors and chairman with their profiles;
  - (g). the list of bodies/power sector entities, which have a direct or indirect control of the Applicant, indicating clearly the way of and their respective rights;
  - (h). Information about the MD or CEO of the Applicant and other officers assigned with competences in organizational and administrative functions of the Applicant i.e. (i) information of competences and functions assigned; (ii) description of their any other professional and/or commercial activities; (iii) declaration of interest stating that such persons do not participate in activities of entities/companies engaged in the generation, trading, distribution and/or supply of electricity;
  - (i). Copies of internal procedures, which prevent from a disclosure of confidential or other commercially sensitive information to companies/entities engaged in the generation, trading, distribution and/or supply or electricity; and
  - (j). specify financial resources in ownership of the applicant or indicate its capability to accumulate those resources that are necessary to carry out functions of the Market Operator along with audited financial statement of the applicant;
  - (k). draft agreements if any, for participation, cooperation and exchange of information with the Market Participants, System Operator other licensees and registered entities;
  - (l). brief of all functions of the Applicant, which it will perform if licensed as Market Operator pursuant to the Act, relevant rules and regulations, and other Applicable Documents;
- (3) The Applicant shall ensure that
- (a). All documents, data and information required under the Regulations shall be submitted in written form and electronically.
  - (b). At any time during the licensing proceedings, the Authority may require from the Applicant and/or any other related entity any additional documents, data and/or information relevant for the license of the System Operator;
  - (c). The Applicant shall inform the Authority about any change in the submitted documents, data and/or information immediately, but in any

case not later than in five (5) working days after the change, and shall submit the corrected documents, data and/or information.

- (d). The Applicant will submit a written request together with the documents specified in these Regulations, in the original and/or certified format.

**4. Grant of Licence.** - (1) The Licence shall be granted to the Licensee to engage in the Market Operations for the entire territory of Pakistan;

(2) The Licensee shall comply with and adhere to the provisions of the Market Commercial Code and other Applicable Documents;

**5. Duties and responsibilities of a Market Operator.** – (1) A Market Operator shall, from time to time and subject to approval of the Authority, make amendments to the Market Commercial Code approved when granted the licence as may be required to enable it to carry out its functions as a Market Operator and other Applicable Documents;

(2) The Licensee shall regulate its operations, standards of practice and business conduct in accordance with these Regulations, terms of its Licence, Market Commercial Code, and other Applicable Documents as approved by the Authority from time to time.

(3) The Licensee shall not charge payment of the market operator fee except those approved by the Authority according to relevant regulations. The Licensee in compliance with the Market Commercial Code is authorized to perform the Market Operation for standardized and non-discriminatory procedures:

- (a) to establish, govern and promote efficient and transparent settlement and payment arrangements and procedures;
- (b) to register and set out the rights and responsibilities of Market Participants in accordance with Market Commercial Code
- (c) to ensure adequate information dissemination for protection of transparency in the power market;
- (d) to promote and enable the development of competitive power markets in accordance with the Act, the approved market design and Applicable Documents;
- (e) administering, implementing and enforcing the Market Commercial Code;
- (f) Determination and enforcement of financial guarantees or security cover requirements of the market participants;

- (g) keeping transparent accounts for the Market Operator as well as for the settlement of participants in the power market;
- (5) The Licensee shall not engage in any form of discriminatory and anti-competitive activities.
- 6. Term of Licence.** - The licence shall be issued for a period of 20 years unless revoked, renewed or extended by the Authority pursuant to these regulations and the terms and conditions specified by the Authority.
- 7. Rights of the Licensee.** - During the term of the licence, the licensee shall be entitled to conduct licensed market operation pursuant to the provisions of the Act, the approved Market Commercial Code and other Applicable Documents;
- 8. Legal and contractual requirements.** - **(1)** The Market Operator shall enter into a written market participation agreement with each person to whom market operation services are provided.
- (2). The licensee shall subject to the terms and conditions of licence and the Market Commercial Code:
- (a) retain all records obtained by it during the course of providing the service, for a period not less than ten (10) years or as provided in the Market Commercial Code and will not discard any record prior the approval of the Authority;
  - (b) treat the information that qualifies as confidential of each Market Participant with mechanisms / arrangements to ensure confidentiality;
  - (c) supply information requested in accordance to the Market Commercial Code and to the Authority regarding the entity being serviced in terms of the written mandate of such entity.

### **PART III**

#### **Obligations**

- 9. General Obligations of the Licensee.** - The licensee shall, at all times during the term of the licence, be obliged to:
- (a) provide reliable, transparent and non discriminatory electricity market operations services;
  - (b) comply with:
    - (i) orders and directions of the Authority;

- (ii) Applicable Documents;
  - (iii) the terms and conditions of its licence, and the procedures, standards and Conditions of the Market Commercial Code; and
  - (iv) employ adequate number of qualified personnel to ensure that the conduct of its market operations;
- (c) ensure that it possesses financial capability, material and human resources, and organizational structure of its licensed activity;
  - (d) pay applicable fees;
  - (e) not engage in any activities that may disrupt or interfere with competition in the power market;
  - (f) submit to the Authority a true and correct form all data and information as the Authority may require;
  - (g) as soon as possible, but in any event not more than thirty (30) days after it becomes aware of the fact, notify the Authority:
    - (i) if it is unable to conduct its licensed activity;
    - (ii) if the conduct of its licensed activity would or might lead to the breach of any of terms and conditions in its licence, or materially affect delivery of market operation services to Market Participants or
    - (iii) any material change in circumstance that adversely affects or may adversely affect performance of the licensed activity.
  - (i) monthly and quarterly operational performance reports and annual Market Operation report, the said reports shall include the Market Operator's compliance with these regulations, licence conditions, the Market Commercial Code, the operational update and development and resources information, and other Applicable Documents.

**10. Market Obligations of the Licensee.** - The Licensee shall, at all times during the term of the licence, be obliged to:

- (a) provide correct and reliable information regarding prices, number of market participants, percentage of market share, forecasted prices and statistics of trading to the market participants and the public;
- (b) maintain accounts related to transactions and settlement related to the Market Operations, the System Operator, Market Participants;
- (c) provide information on the Market Operator charges/fee approved by the Authority;

**11. Force Majeure** — In circumstances where damage arises as a result of force majeure, or solely by fault of the aggrieved party or a third party, the System Operator does not bear any liability.

**12. Technical Obligations of the Licensee.** - The Licensee shall, at all times during the term of the licence, be obliged to:

- (a) support and coordinate with the System Operator;
- (b) establish an efficient system of collecting, organizing and processing data sent by the System Operator for the purpose of market settlement
- (c) register contracts of Market Participants in accordance with the Market Commercial Code; and
- (d) perform quantitative settlement of balancing the energy based on the data delivered by the undertakings responsible for related registers;

**13. Use of Information**

(1) The Licensee shall ensure that any information received as a result of its licensed activity shall not be revealed or shared with anyone, except in cases where:

- (a) prior written consent is given by the Person to whom the information is related to; or
- (b) information is public; or
- (c) the Licensee is required or allowed to disclose the information to fulfill the conditions of the Licence according to the Market Commercial Code, the Authority's order, or any applicable legal provision; or
- (d) the information shall be disclosed in the normal course of performing the Licensed activity.

(2) Licensee shall undertake any necessary step to save the confidential information in the Licensee ownership and in compliance with the Market Commercial Code;

(3) Information sent to the Authority by the Licensee shall be considered public except in cases where upon specific/special request of the Licensee, the Authority decides the information as of an ownership nature, the disclose of which would not serve public interest.

(4) Licensee shall not enter into agreements which may lead to the violation of Licence conditions.



**14. Accounting and Reporting. -**

(1) The Licensee shall keep accounting registers and shall prepare financial balances, which shall be kept separately for the Licensed Activity and any other activity in which the Licensee is engaged. The Licensee shall submit to the Authority annual audited copy of the audited financial Accounts;

(2) If the licensee foresees an emergency situation as defined by the Legislation in force, the Licensee shall inform the Authority without delay and the information shall describe the measures taken by the Licensee to prevent or improve the foreseen emergency situation effects;

**15. Maintenance of Records, Provision and Disclosure of Information. -** The Licensee shall:

(a) keep complete and accurate records and data related to its Licensed activity; and

(b) pursuant to the Authority's directions, promptly provide to the Authority documents, records or information related to its Licensed activity as the Authority may lawfully require.

**16. Financial and organizational affairs. —** The licensee shall not, except to the extent specified in the terms and conditions of licence or when authorized, —

(a) stand surety, give guarantees or in any other manner offer or provide security for the indebtedness or obligations of any other person; and

(b) acquire or offer to acquire shares or other securities or participating interests in any person after the date of the granting of the licence;

**17. Risk requirements. —** (1) The Market Operator shall, subject to the provisions of its licence: -

(i) Promptly and diligently adhere to all reasonable risk-management and risk containment measures.

(ii) Promptly and diligently adhere to and implement risk-reduction measures.

(2) The Market Operator shall report to the Authority any:

(i) Material changes to its management, ownership, and nature of business; and

(ii) Other information that the Authority may require from time to time.

## **PART IV**

### **Miscellaneous**

**18. Prohibited activities.** — The Licensee shall not at any time, directly or indirectly, acquire or undertake, any beneficial interest in or associate itself with, as far as the generation, distribution, electric power supplier or trading businesses of electric power are concerned with any other licensee or persons involved in the generation and distribution businesses or intending to generate or distribute, supply or trade electric power in Pakistan. The Licensee shall not levy any rate or charge which has not been approved by the Authority as a fee/tariff;

**19. Confidentiality.**— In any application, document-in-support or information required to be furnished under these regulations, the applicant or the Licensee may, as the case may be, request the Authority to permit the applicant or the Licensee to withhold information the disclosure of which may materially and adversely affect the interests of the applicant or the Licensee; or in respect of which the applicant or the Licensee is under a contractual or other valid and enforceable obligation of non-disclosure.

Provided that, the Authority shall have the power to call for review such information in order to determine whether the request for confidentiality by the applicant or the Licensee shall or shall not be allowed.