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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

**CABINET SECRETARIAT
(Cabinet Division)**

NOTIFICATION

Islamabad, the 5th September, 2015

S. R. O. 911 (I)/2015.— In exercise of the powers conferred by section 46 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997), the National Electric Power Regulatory Authority, with the approval of the Federal Government, is pleased to direct that the following amendments shall be made in the National Electric Power Regulatory Authority (Market Operator Registration, Standards and Procedure) Rules, 2015, namely:—

In the aforesaid Rules,—

- (a) in rule 3, in sub-rule (13), after the word, “may” the words “after giving a public hearing on the draft commercial code,” shall be inserted;

(3189)

- (b) in rule 3, in sub-rule (13), for full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that any revision, amendment and alteration in the commercial code shall, before approval by the Authority, be subject to the requirement of a public hearing.”

- (c) the existing substantive provision of rule 7 shall be numbered as sub-rule (1) thereof and thereafter the following new sub-rule (2) shall be added namely:—

“(2) Without prejudice to the generality of the foregoing, upon being satisfied that the market operator is not discharging its functions in accordance with these rules or the terms and conditions of its registration certificate, the commercial code or neglects to so act or otherwise fails to carry on its business in the interests of the market participants, the Authority may—

- (a) remove or suspend the directors and management of the market operator;
- (b) appoint an administrator to take over the operation of the market operator for such time or until such event as the Authority may approve; or
- (c) amend, revise and modify the commercial code:

Provided that any amendment, revision and modification in the commercial code shall be subject to the requirement of a public hearing.”

- (d) after rule 7, amended as aforesaid, the following new rule 7A shall be inserted, namely:—

“7A Without limiting the generality of rule 7, the occurrence of the following events shall constitute a failure of the market operator to comply with the corresponding obligations which shall, unless expressly excluded or modified, be deemed to have been incorporated in terms and conditions of its registration, namely:-

- (a) failure to pay any fee or charges to the Authority when due;

- (b) breach of or failure to comply with these rules, the commercial code or any provision of the applicable documents, any instructions issued pursuant to the applicable documents or any codes, programs or manuals required to be prepared pursuant to the applicable documents which materially and adversely affect the integrity of the market;
- (c) except with the prior approval of the Authority, the occurrence of any of the following events, namely:
 - (i) the passing of a resolution by the members of the market operator for winding up of the market operator, with the majority required under the Companies Ordinance, 1984 (XLVII of 1984), to give effect to such resolution; or
 - (ii) the appointment of a receiver, official assignee or administrator of the affairs of the market operator; or
 - (iii) any change in the articles and memorandum of association of the market operator.
- (d) incurring of cumulative losses by the market operator in an amount which materially and adversely affects, or is likely to materially and adversely affect, the financial viability of the market operator and which disables or is likely to disable the market operator from carrying out the market operations and the failure of the market operator to implement measures for improvement of its financial position within the time limit and with the results specified in this behalf by the Authority;
- (e) any statement or representation made or information provided by the market operator in its application for the registration or subsequently on the directions of the Authority or pursuant to any applicable document which is incorrect or misleading in any material aspect and has a material adverse effect on the market operator's ability to perform its obligations under these rules or causes the Authority to issue or renew the registration in the belief of the correctness of such statement, representation or information, irrespective of whether or not the Authority would have registered the market operator if it had knowledge of the incorrectness or mis-statement of such statement, representation or information; or

- (f) any default by the market operator in making any payment, required to be made by it under the commercial code within the time prescribed therein or ninety days of the due date therefore, whichever is more.”;
- (e) in rule 16,
 - (i) for the word “Any”, occurring for the first time, the words “In addition to the rights and obligations of the market participants under their respective licences and existing power purchase agreements, any” shall be substituted; and
 - (ii) for the word “shall” the word “may” shall be substituted; and
- (f) in rule 18, after the word “Authority” the words “and existing power purchase agreement unless otherwise mutually agreed between market participants and the market operator.” shall be inserted.

[No. 1/1/2007-RA.III (NEPRA)-Pt.]

MUHAMMAD ASHFAQ,
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