

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

Licensing (Generation) Rules

EXTRAORDINARY

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PART II

Statutory Notifications (S.R.O.)

GOVERNMENT OF PAKISTAN

NOTIFICATION

Islamabad the 17th April, 2000

S.R.O. 221(I)/2000. — In exercise of the powers conferred by section 46 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority, with the approval of the Federal Government, is pleased to make the following rules, namely:-

1. Short title and commencement.—

- (1) These rules may be called the National Electric Power Regulatory Authority Licensing (Generation) Rules, 2000.
- (2) They shall come into force at once.

2. Definitions.—

- (1) In these rules, unless there is anything repugnant in the subject or context,
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 - (i) “Act” means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
 - (ii) “affiliate” in relation to any person, means any person who owns or controls, or is owned or controlled by, or is under common ownership or control with, that person, and for the purpose of this definition –

- (a) “control” means the right, power or ability to influence or determine any decision in respect of the conduct of affairs of the person under control, and
 - (b) “ownership” means the ownership or the right to own the shares or other voting securities of the person owned;
- (iii) “ancillary services” means the services ancillary or incidental to the safe, reliable, stable and efficient availability and utilization of electrical energy and net capacity and include, without limitation, the following, namely:-
 - (a) energy imbalance service;
 - (b) spinning reserve service;
 - (c) supplemental reserve service;
 - (d) reactive supply and voltage control service; and
 - (e) regulation and frequency response service;
- (iv) “applicable documents” means the Act, the NEPRA rules and regulations, any documents or instruments issued or determinations made by the Authority under any of the foregoing or pursuant to the exercise of its powers under the Act, the grid code, the applicable distribution code, if any, or the documents or instruments made by the licensee pursuant to its generation licence, in each case of a binding nature applicable to the licensee or, where applicable, to its affiliates and to which the licensee or any of its affiliates may be subject;
- (v) “auditors” means the licensee’s auditors for the time being holding office in accordance with the requirements of the Companies Ordinance, 1984 (XLVII of 1984), or such other auditors as may be appointed in respect of the licensee by the Authority from time to time in accordance with these rules or the generation licence;
- (vi) “authorized” means, in relation to any matter, authorized in writing by the Authority;
- (vii) “connection charges” means the charges made or levied or to be made or levied for carrying out works for the installation and maintenance of licensee interconnection facilities;

- (viii) “consents” means all permissions, approvals or consents required by the licensee from any public sector entity for the purposes of the generation business;
- (ix) “dispatch’ means the issuance of instructions to the licensee by the national grid company, the relevant national power control center or any other entity established under the pooling and settlement arrangement, as may be decided from time to time in this regard by the Authority, to schedule and control the operation of the generation facilities in order to make available or commence, increase, decrease or cease the delivery of electric power or the ancillary services, in accordance with the applicable documents;
- (x) “economic dispatch” means the allocation of demand to individual generation plants or units to effect the most economical production of electricity for optimum system economy, security and reliability with due consideration of incremental generation costs, incremental power purchase costs, incremental transmission and distribution losses, load flow considerations and other operational considerations as determined solely by the national grid company, the relevant national power control center or any other entity established under the pooling and settlement arrangement, as the Authority may, from time to time in this regard, decide;
- (xi) “energy imbalance service” means the provision of electrical energy for any hourly or half-hourly mismatch between the supply and demand at any given point of delivery;
- (xii) “generation business” means the business of availability and provision of electric power or ancillary services or other related business through the construction, ownership, management, control or operation of the generation facilities or the licensee interconnection facilities carried out, or to be carried out, by the licensee, whether itself or through an agent or sub-contractor approved in this behalf by the Authority, pursuant to and in accordance with the terms of the generation licence granted to the licensee and, where applicable, includes the second-tier supply business carried out by the licensee;
- (xiii) “grid code” means the grid code prepared by the national grid company with the approval of the Authority;
- (xiv) “hydro licensee” means a generation licensee constructing, owning, operating or managing hydel generation facilities;

- (xv) “incremental generation cost” means the additional cost that would be incurred by producing the next available unit of electrical energy;
- (xvi) “interconnection facilities” means plant and equipment, including the electrical lines or circuits, transformers, switchgear, safety and protective devices or meters used for interconnection services;
- (xvii) “Laws” include all statutes, rules and regulations made pursuant there to, judicial decisions, administrative practices or directions having the force of law in Pakistan, in each case as may be applicable to the licensee or its affiliates;
- (xviii) “licensee” means the licensee to whom a generation licence is granted in accordance with these rules and shall include its permitted successors and assigns;
- (xix) “licensee interconnection facilities” means the interconnection facilities constructed, owned, operated or managed by the licensee;
- (xx) “NEPRA rules and regulations” means the relevant rules and regulations made by the Authority under the Act;
- (xxi) “net capacity” means the aggregate of the maximum rating of the generation facilities constructed, owned, managed, controlled or operated by the licensee under its generation licence, modified for ambient limitations, which is established in the manner specified in the grid code, the generation licence or a power acquisition contract entered into by the licensee, less the capacity used to supply the auxiliary needs;
- (xxii) “pooling and settlement arrangement” means the arrangement for establishing or implementing a wholesale market for the sale and purchase of electrical energy, net capacity or ancillary services under the relevant NEPRA rules and regulations;
- (xxiii) “power acquisition contract” means a contract or other arrangement entered into between the licensee and any purchaser, procurer or recipient of electric power or ancillary services provided by the licensee including, where applicable, a contract for purchase of electric power or ancillary services on the basis of difference in prices of electric power or ancillary services between the rates pursuant to the pooling and settlement arrangement and the rates determined according to the method specified in such contract;

- (xxiv) “prudent utility practices” means the practices of an operator of an electric power undertaking seeking in good faith to perform its obligations and in the conduct of its undertaking exercising that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced operator complying with the Laws and applicable documents;
- (xxv) “public sector entity” means any authority, agency, division or instrumentality of the Federal or Provincial Government or a local authority, but does not include the Authority;
- (xxvi) “reactive supply and voltage control service” means the provision of reactive power through changes to the generator reactive output to maintain transmission line or distribution line voltage;
- (xxvii) “regulation and frequency response service” means the provision for moment-to-moment variations in the demand or supply for maintaining scheduled interconnection frequency;
- (xxviii) “second-tier supplier” means any licensee authorized to carry out the second-tier supply business;
- (xxix) “second-tier supply authorization” means an authorization to engage in the second-tier supply business;
- (xxx) “second-tier supply business” means the authorized business, if any, of the licensee or any of its affiliates as a supplier of electric power or ancillary services to a bulk-power consumer;
- (xxxi) “separate business” means each of the generation business, the second-tier supply business, the provision of ancillary services or any other business taken separately from one another and from any other business of the licensee or any affiliate of the licensee;
- (xxxii) “spinning reserve service” means the provision of additional capacity from generating units that are on-line, loaded to less than their maximum output, and available to serve system demand immediately should a contingency occur;
- (xxxiii) “supplemental reserve service” means the provision of additional capacity from generating units that can be used to respond to a contingency within the period defined in this behalf in the grid code;

- (xxxiv) “technical limits” means the limits and constraints relating to the operation, maintenance and dispatch of a generation facility, as agreed to between an applicant for a licence and the Authority at the time of grant of the generation licence or subsequently as determined by the Authority, or between the licensee and any purchaser, procurer or recipient of electric power or ancillary services from the licensee, consistent with the technical functional specifications set out in the schedule to the generation licence pursuant to sub-rule (2) of rule 3, the grid code and any applicable distribution code and not inconsistent with the applicable documents;
- (xxxv) “transmission system” means one or more systems comprising electrical facilities including, without limitation, electrical lines or circuits, electrical plant, transformers, sub-stations, switches, meters, interconnection facilities or other facilities operating at or above minimum transmission voltage constructed, owned, managed, controlled or operated by the national grid company or by one or more special purpose transmission licensees and used for transmission of electric power from the generation facility to sub-stations or to or from other generation facilities or between sub-stations or to or from any interconnection facilities or from the distribution facilities of one licensee to the distribution facilities of another licensee or from a generation facility or distribution facility to a bulk-power consumer;
- (xxxvi) “unit commitment” means turning-on and bringing up to speed any one or more of the generation units comprised in the generation facilities of the licensee and synchronizing and connecting such units to the transmission system for the delivery of electric power or ancillary services and, where the context so admits, includes the process by which the determination as to which units are to be committed is made;
- (xxxvii) “use of system” means the use of the transmission system or one or more distribution systems for the transport or delivery of electric power or ancillary services;
- (xxxviii) “use of system charges” means the charges made or levied by the national grid company, a special purpose transmission licensee or a distribution licensee, as the case may be, for the use by the licensee of their respective systems for the purposes of its generation business; and
- (xxxix) “WAPDA relevant manuals” means the instructions, manuals or guidelines used by WAPDA in relation to the matters to which such instructions, manuals or guidelines relate.

- (2) Words and expressions used but not defined in these rules shall have the same meaning as in the Act or in the applicable documents.

3. Grant of licence.—

- (1) Subject to these rules and the other NEPRA rules and regulations, the Authority may grant a generation licence to any person to engage in the generation business.
- (2) The location, size, technology, interconnection arrangements, technical limits, technical functional specifications and other details specific to the generation facilities of the licensee shall be set out in a schedule to the generation licence.
- (3) The net capacity of the licensee's generation facilities shall be set out in a separate schedule to the generation licence, after it has been determined to the satisfaction of and in the manner specified by the Authority.
- (4) The Authority may order a public hearing to be held on any application for a generation licence and shall decide the application consistent with the outcome of the public hearing and the procedure for public hearings prescribed under the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998, subject to such modifications as the Authority may specify, shall be applicable to a public hearing on an application for a generation licence.
- (5) The Authority may refuse to issue a licence where the site, technology, design, fuel, tariff or other relevant matters pertaining to the generation facility proposed in an application for a generation licence are either not suitable on environmental grounds or do not satisfy the least cost option criteria in which case the Authority shall indicate its preference for alternative sites, technology, design, fuel, tariff or other relevant matters to the applicant and shall, if so desired by the applicant, allow the applicant a reasonable opportunity to amend the application in accordance with the preferences indicated by the Authority.

Explanation -- For the purposes of sub-rule (5), least cost option criteria shall include the following, namely:-

- (a) sustainable development or optimum utilization of the renewable or non-renewable energy resources proposed for generation of electric power;
- (b) the availability of indigenous fuel and other resources;

- (c) the comparative costs of the construction, operation and maintenance of the proposed generation facility against the preferences indicated by the Authority;
 - (d) the costs and rights-of-way considerations related to the provision of transmission and interconnection facilities;
 - (e) the constraints on the transmission system likely to result from the proposed generation facility and the costs of the transmission system expansion required to remove such constraints;
 - (f) the short-term and the long-term forecasts for additional capacity requirements;
 - (g) the tariffs resulting or likely to result from the construction or operation of the proposed generation facility; and
 - (h) the optimum utilization of various sites in the context of both the short-term and the long-term requirements of the electric power industry as a whole.
- (6) A generation licence may, for good cause, contain additional terms and conditions, not inconsistent with the provisions of the applicable documents, in order to cater for any special circumstances or matters specific to a particular generation licence or in order to provide for the transition towards or implementation of the pooling and settlement arrangement.

4. Licence fee.—

- (1) After the grant of the generation licence, the licensee shall pay to the Authority the licence fee, in the amount, manner and at the time as specified in the generation licence or in the National Electric Power Regulatory Authority (Fee) Rules, 2000.
- (2) Without prejudice to the provisions of rule 8, the Authority shall have the power to levy penalties on the licensee in the event of delay in payment or non-payment of the licence fee due and remaining unpaid in accordance with the provisions of the NEPRA rules and regulations.

5. Term and renewal of generation licence.—

- (1) Except where an applicant for a generation licence consents to a shorter term, the term of a generation licence shall be commensurate with the maximum expected useful life of the units comprised in a generation facility demonstrated to the satisfaction of the Authority.

- (2) Upon the expiry of the term of the generation licence, unless revoked earlier in accordance with these rules or the terms of the generation licence, the generation licence may be renewed by the Authority for such further term as it may deem appropriate in the manner provided for in the generation licence keeping in view the remaining maximum expected useful life of the units comprised in the generation facility, the performance of the licensee during the then expiring term and the interests of the consumers and the electric power industry as a whole.

6. Tariff.—

- (1) Subject to the terms of the pooling and settlement arrangement, the licensee shall charge only such tariff for the provision of electric power or the ancillary services as may be approved or specified by the Authority —
 - (a) pursuant to and in accordance with the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998;
 - (b) in a second-tier supply authorization;
 - (c) pursuant to a power acquisition contract entered into between the licensee and the national grid company, a distribution licensee or a special purpose transmission licensee which conforms to their respective power acquisition programs; or
 - (d) in advance of the award of the generation licence, on the request of the applicant for the generation licence or a public sector entity, for the acquisition, construction, ownership, management, control or operation of the relevant generation facilities at the relevant site, provided that the Authority shall not be required to act on any request for the determination of the tariff in advance of the award of the generation licence and may, in its discretion, either decline to determine the tariff or may determine only one or more components of the tariff, provided further that the Authority may require the licensee to file a petition at a later stage under the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998, for the approval or modification of the tariff according to the then prevailing circumstances and conditions.
- (2) The Authority may allow an interim tariff to be charged by a licensee engaged in the construction of a generation facility, based on the electrical energy supplied to any purchaser or procurer thereof during the testing for commissioning of the generation facility.

- (3) Subject to the terms and conditions of the pooling and settlement arrangement, the tariff for the sale of electric power or ancillary services shall be payable to the licensee by the purchaser thereof.
- (4) If so directed by the Authority, the licensee shall prefer a separate petition under the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998, for the determination of tariff in respect of connection charges.
- (5) The tariff chargeable by a hydro licensee shall be determined, in the first instance, by the Authority and in making such determination, the Authority shall take into account the recommendations of the Government of the Province in which the generation facilities of the hydro licensee are located.

7. Second-tier supply business.—

Subject to the NEPRA rules and regulations, and unless provided otherwise in the generation licence, the Authority may authorize the licensee to engage in second-tier supply business on such terms and conditions and for such period as may be specified in the second-tier supply authorization, provided that a second-tier supply authorization shall not be required by the licensee —

- (a) in case of sale or delivery of electric power or ancillary services to bulk-power consumers situated in the service territory of a distribution licensee, from and after the date and on compliance with the applicable terms and conditions specified in this behalf by the Authority by notification in the official Gazette; and
- (b) in case of sale or delivery of electric power or ancillary services to a special purpose transmission licensee or a distribution licensee, from and after the date of approval of the power acquisition programme of such transmission licensee or distribution licensee,

subject, however, in each case to the terms and conditions of the pooling and settlement arrangement, or the provisions of rule 10 in respect of the unit commitment or the availability of the licensee's net capacity for dispatch by the national grid company.

8. Revocation and suspension.—

- (1) The Authority may appoint an administrator in respect of the generation business or suspend or revoke the generation licence upon the persistent failure of the licensee to comply with the terms and conditions of the licence.

- (2) The Authority shall determine, in each instance depending on the facts and circumstances, the degree of recurrence of a specific breach of any term or condition of the generation licence for the purposes of sub-rule (1), provided that a breach shall be deemed to be recurring on a daily basis where the effects of breach are continuing beyond the time of breach and no measures for rectification thereof are undertaken by the licensee to the satisfaction of the Authority.
- (3) Subject to the provisions of sub-rules (2) and (4), and without limiting the generality of sub-rule (1), the occurrence of the following events shall constitute failure of the licensee to comply with the corresponding obligations which shall, unless expressly excluded or modified, be deemed to have been incorporated in each generation licence, namely:—
- (a) failure to pay the licence fee when due;
 - (b) breach of, or failure in compliance by the licensee with prudent utility practices, 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 standards, safety, reliability, integrity, price and quality of services, the reliability and integrity of the transmission system, a distribution system, a generation facility or the safe, reliable and efficient operation of the electric power industry except where such breach or failure of compliance occurs without the willful or negligent default of the licensee, including without limitation, because of the breach by any other party to a power acquisition contract between such party and the licensee where such breach could not have been prevented by the licensee through adoption of reasonable measures;
 - (c) except for the purpose of amalgamation, reconstruction or reorganization of the licensee approved under the NEPRA rules and regulations, the occurrence of any of the following events, namely:
 - (i) the passing of a resolution by the shareholders of the licensee for winding up of the licensee, with the majority required under the Companies Ordinance, 1984 (XLVII of 1984), to give effect to such resolution;
 - (ii) the appointment of a receiver, official assignee or administrator of the affairs of the licensee which appointment has not been set aside or stayed within ninety days of the date of such appointment; or

- (iii) the making by a court of competent jurisdiction of an order for winding up of the licensee that has not been suspended or set aside within thirty days of the date thereof;
- (d) abandonment by the licensee of the construction of the generation facilities or the operation or management of generation business or any part thereof;
- (e) incurring by the licensee of cumulative operating losses in an amount which materially and adversely affects, or is likely to materially and adversely affect, the financial viability of the licensee and which disables or is likely to disable the licensee from carrying out its generation business and the failure of the licensee to implement measures for improvement of its financial position within the time limit and with the results specified in this behalf by the Authority;
- (f) reduction in net capacity of the generation facilities for reasons other than a planned or maintenance outage or supervening impossibility beyond the control of the licensee which is not remedied within the time specified in this behalf in the applicable documents;
- (g) retirement or de-commissioning by the licensee of any unit or plant comprised in its generation facilities at the time of grant of the generation licence, without prior permission of the Authority;
- (h) assignment or transfer of the generation licence or the transfer, conveyance, loss or relinquishment by the licensee of the ownership or control or the right to own, manage, control or operate the generation business or any material part thereof without an authorization, except where such transfer, conveyance, loss or relinquishment is effected pursuant to a contract approved by the Authority for the management or operation of the generation facilities by a person other than the licensee;
- (i) any statement or representation made or information provided by the licensee in the application for the generation licence or subsequently on the directions of the Authority or pursuant to any applicable documents which is incorrect, inaccurate or misleading in any material aspect and has a material adverse effect on the licensee's ability to perform its obligations under the generation licence or causes the Authority to issue or renew the generation licence in the belief of the accuracy and correctness of such statement, representation or information, irrespective of whether or not the Authority would have issued the generation licence if it had

knowledge of the incorrectness or inaccuracy of such statement, representation or information;

- (j) the exercise by the lenders of the licensee of their remedies rendering the licensee, acting through its incumbent management, incapable of performing its obligations in its own right under the applicable documents including the removal of the management of the licensee from the control of the generation business, and the failure of the licensee to obtain approval of the Authority for the appointment of the successor management within one hundred twenty days after such removal;
 - (k) any default by the licensee in making any payment, other than the licence fee, required to be made by it under the applicable documents within ninety days of the due date therefor; or
 - (l) failure of the licensee to comply with the terms and conditions of the generation licence due to supervening impossibility notwithstanding the best efforts of the licensee to so comply, where such non-compliance is material and continues for a period of one hundred eighty consecutive days or for a cumulative period of three hundred sixty days in two calendar years.
- (4) The Authority may, for good cause, provide in the generation licence for the exclusion or modification of any of the provisions set out in sub-rule (3), or may add to the generation licence further conditions or events not inconsistent with the objectives of the Act or the applicable documents.
- (5) Notwithstanding anything contained in this rule, the Authority shall not revoke or suspend a generation licence nor shall appoint an administrator in respect of the generation business where the non-compliance by the licensee with the conditions of the generation licence is a direct result of the failure of the licensee to obtain a consent or its renewal except where such consent is not granted or not renewed because of the failure or inability of the licensee to comply with the laws in relation to such consent.
- (6) Any decision for the suspension or revocation of a generation licence, or the appointment of an administrator in respect of the affairs of the licensee, shall be taken in accordance with the NEPRA rules and regulations.

9. Obligation on economic procurement.—

- (1) The licensee shall ensure that all purchases or procurements made or agreed to be made by the licensee –

- (a) for the procurement, construction or installation of the generation facilities or the licensee interconnection facilities; or
 - (b) in a sum in excess of the sum specified in this behalf in the generation licence for the purposes of the operation and maintenance of its generation facilities including, without limitation, fuel, lubricants, spares, replacements repairs or refurbishments, are made prudently and on commercially reasonable terms and conditions.
- (2) The licensee shall ensure that all financing arrangements for the construction, installation, acquisition, procurement, management or operation of the generation facilities are made prudently and on commercially reasonable terms and conditions.
- (3) Where the costs associated with the purchases, procurements or financing arrangements made or to be made by the licensee in connection with its generation business are subject to review by the Authority in a petition pursuant to the National Electric Power Regulatory Authority (Tariff Standards and Procedure) Rules, 1998, the Authority may disallow the recovery of such costs, in whole or in part, incurred or likely to be incurred by the licensee associated with such purchases, procurements or financial arrangements which, in the opinion of the Authority, are inconsistent with the provisions of sub-rules (1) and (2).
- (4) In determining the prudence and commercial reasonableness of the terms and conditions of the purchases, procurements or financial arrangements, due regard shall be had, among such other matters as may be relevant, to —
 - (a) any payments made or received or to be made or received or other obligations undertaken or to be undertaken in connection with such purchases or procurements;
 - (b) opportunities available to the licensee to enter into hedging agreements;
 - (c) ability of the licensee to discharge its or any of its affiliates' obligations under the Laws or the applicable documents;
 - (d) compliance by the licensee with international competitive bidding practices;
 - (e) timely availability, quality, financing terms and other relevant commercial considerations relating to the procurements or purchases; and

- (f) such other factors and circumstances as may be stated in the generation licence.

10. Connection to transmission system, compliance with grid code, pooling and settlement arrangement.—

- (1) Subject to the terms of the pooling and settlement arrangement, the licensee shall, where its generation facilities are connected directly or indirectly to the transmission system of the national grid company, make available the net capacity of its generation facilities for economic dispatch by the national grid company consistent with the grid code and any applicable distribution code, subject to the condition that such dispatch shall not cause or require the operation of the generation facilities contrary to their technical limits.
- (2) For the purposes of sub-rule (1), a generation facility shall be deemed to be indirectly connected to the transmission system of the national grid company where, notwithstanding the absence of a direct interconnection point between the outgoing busbars of the generation facility and the transmission facilities of the national grid company —
 - (i) it is connected to the transmission or distribution facilities of a special purpose transmission licensee or a distribution licensee, as the case may be, which are connected directly or indirectly to the transmission facilities of the national grid company; or
 - (ii) it is intended by the generation licensee or directed by the Authority that the electric power or ancillary services provided by the generation licensee shall be transported through or received into the transmission system of the national grid company.
- (3) The licensee shall adhere to and comply with the instructions issued, from time to time, by the national grid company regarding the unit commitment consistent with economic dispatch.
- (4) Where the generation facility of another generation licensee is dispatched by the national grid company in disregard of economic dispatch then, in the absence of justifiable reasons pursuant to the applicable documents or otherwise including, without limitation, the terms and conditions of any contract for second-tier supply approved generally or specifically in this behalf by the Authority, the terms and conditions of the pooling and settlement arrangements, transmission system constraints or system requirements, the licensee shall be entitled to receive from the national grid company compensation in the amount and manner determined by the Authority or pursuant to the terms and conditions of the pooling and settlement arrangement, taking into account the amount which would have been payable for electrical energy had the licensee's generation facilities

been dispatched consistent with economic dispatch, less the incremental generation costs avoided by the licensee.

- (5) Subject to payment of the use of system charges and connection charges and compliance with the applicable terms and conditions determined in this behalf pursuant to the applicable documents, the licensee shall be entitled to obtain connection to and use of system of the national grid company, a special purpose transmission licensee or a distribution licensee, as the case may be, for purposes of the availability, transport or delivery of electric power or ancillary services in and for the purposes of the conduct of its generation business.
- (6) The licensee shall at all times comply with the provisions of the grid code, including, without limitation, in respect of the availability of the net capacity or in respect of the outages, maintenance and operation of its generation facilities, and shall provide the national grid company with all information reasonably required by the later to enable it to dispatch the generation facilities of the licensee.
- (7) Except to the extent provided otherwise in the generation licence, upon the implementation of any automated system by the national grid company or pursuant to the pooling and settlement arrangement for the receipt or transmission of information or instructions pertaining to the generation facilities or the interconnection facilities or for the automatic control and operation of such facilities, the licensee shall cause its generation facilities and the licensee interconnection facilities to be connected to or controlled and operated by or through such automated system.
- (8) Subject to the terms of the applicable documents, the Authority may, on the request of the licensee, and following consultation with the national grid company, the relevant special purpose transmission licensee or the distribution licensee, as the case may be, likely to be affected thereby, relieve the licensee, in whole or in part and on terms and conditions specified in the authorization in this behalf, from the obligation to comply with one or more provisions of the grid code or the relevant distribution code.
- (9) Upon the implementation of the pooling and settlement arrangement and subject to the terms and conditions thereof, the licensee shall become a member of the pool or electric power exchange and shall in all manner comply with the provisions of the pooling and settlement arrangement in so far as the same apply to it in its capacity as a member of the pool or electric power exchange including in respect of the availability of the generation facilities and the sale, transport or delivery of electric power or ancillary services.

11. Licensee interconnection facilities.—

The licensee may collect connection charges where the licensee is required to or has agreed to provide the licensee interconnection facilities, provided that the connection charges shall not exceed the amount specified in this regard in the applicable documents and shall be collected in the manner specified therein.

12. Ancillary services.—

- (1) From and after the date specified in this behalf by the Authority, by notification in the official Gazette, the licensee shall have the right to offer, provide and charge for ancillary services apart from the electrical energy and net capacity made available or provided pursuant to the generation licence.
- (2) Except as provided otherwise in the generation licence, prior to the date referred to in sub-rule (1), nothing contained in these rules shall be construed so as to —
 - (a) regard ancillary services independent of or separate from electric power; or
 - (b) confer a right on the licensee to offer, provide or charge for ancillary services as services independent of or separate from the availability of net capacity or generation of electrical energy, and all references to the obligations of the licensee in connection with the availability of net capacity or generation of electrical energy shall mean and include ancillary services.
- (3) The provision of ancillary services shall be in accordance with the terms of the applicable documents.

13. Prohibition of discrimination and cross-subsidy.—

- (1) The licensee shall ensure that neither it nor any of its affiliates shall unduly discriminate in any manner between the purchasers, procurers or recipients of electric power or ancillary services provided by the licensee or its affiliates.
- (2) The difference in prices and other terms offered or provided by the licensee or its affiliates to comparable purchasers, procurers or recipients of electric power or ancillary services may, unless authorized in this behalf as part of the tariff or otherwise by the Authority, be presumed to be unduly discriminatory if such difference —
 - (a) is not attributable to the difference in the costs associated with such supply;

- (b) restricts or is likely to restrict competition; or
 - (c) causes or is likely to cause uneconomic pricing.
- (3) For the purposes of sub-rules (1) and (2), due regard shall be had to the circumstances of the availability of net capacity and the generation, transport and delivery of electrical energy or ancillary services including the load, load factors, power factors, conditions of interruptibility, nature or location of premises being supplied, the time of use and, where applicable, the terms and duration of the relevant power acquisition contract.
- (4) The licensee shall ensure that, except where authorized in this behalf, no separate business gives any cross-subsidy to, or receives any cross-subsidy from, any other separate business of the licensee or its affiliates. For the purposes of this sub-rule, the availability of net capacity, the generation of electrical energy, the second-tier supply business, the provision of ancillary services, and any other business of the licensee, shall each be treated as a separate business.
- (5) The provisions of this rule shall not apply to the extent the licensee may be required or permitted under the applicable documents to act in a manner which would otherwise be a breach thereof, including, by virtue of the tariff, conditions for the availability of the generation facilities and connection to a transmission or a distribution system.

14. Financial and organizational affairs.—

- (1) The licensee shall not, except to the extent specified in the generation licence or in an authorization —
- (a) stand surety, give guarantees or in any other manner offer or provide security for the indebtedness or obligations of any other person in a cumulative amount greater than twenty five percent of the equity of the licensees' shareholders as of the date of the most recent audited balance sheet of the licensee;
 - (b) acquire or offer to acquire shares or other securities or participating interests in any person after the date of the issue of the generation licence except—
 - (i) in any person which was an affiliate of the licensee on the date of issue of the generation licence and was actively engaged in business by such date;

- (ii) as may be required to satisfy its obligations under the Laws or the applicable documents; or
 - (iii) in order to avoid dilution of the shareholding or participating interest of the licensee in a person in which it holds shares or other securities or participating interests in conformity with the applicable documents;
- (c) recognize any transfer of its shares or other voting securities after the date of issue of the generation licence where the result of such transfer is for any person to hold in its own right or beneficially own or control voting strength in the licensee equal to or exceeding ten percent of the total number of votes in any meeting of the shareholders or the creditors of the licensee:

Provided that, the restriction contained in this clause shall not be applicable in case of shares or other voting securities of the licensee being listed on any recognized national or international stock exchange:

Provided further that, where the Authority is of the view that the continued participation of any shareholder in the licensee is material for the decision by the Authority to grant the licence, the Authority may require the licensee to procure the retention by any of its members of such minimum number of shares or other voting securities, not exceeding the number held by such members on the date of issue of the generation licence, for such period of time, not exceeding six years, as may be specified by the Authority.

- (2) The licensee shall include provisions in its article of association to give effect to the provisions of clause (c) of sub-rule (1) so that any purported transfer of its shares or other voting securities in violation of the provisions thereof shall ipso facto be invalid.
- (3) In considering any request of the licensee for dispensation from the application of the provisions of clause (c) of sub-rule (1) in case of any proposed transfer, the Authority shall, inter alia, take into account—
- a) the promotion of competition in the electric power industry as a whole; and
 - b) the change, if any, in the control or management of the licensee, likely to result from the authorization if granted.

15. Accounting practices and audit.—

- (1) Subject to the terms of the generation licence, the licensee shall prepare and submit the audited accounts in respect of the generation business, the second-tier supply business and other businesses, if any, related to the generation facilities of the licensee, in accordance with the NEPRA rules and regulations, provided that the Authority may, pending the making of the NEPRA rules and regulations, require the licensee to prepare its accounts in respect of each of the foregoing businesses in accordance with the provisions of the Fifth Schedule to the Companies Ordinance, 1984 (XLVII of 1984), and to submit such accounts, duly audited in accordance with the provisions of that Ordinance in respect of each financial year not later than six months following the close of the financial year.
- (2) The licensee shall ensure that the licensee and each of its affiliates maintains accounting and financial reporting arrangements which enable separate accounts to be prepared for each separate business and showing the financial affairs of each such separate business as if it were a separate company so that the revenues, costs, assets, liabilities, capital, reserves and provisions of, or reasonably attributable to, each separate business are separately identifiable in the books of the licensee and its affiliates from those of any other business, in sufficient detail.
- (3) In specifying the accounting requirements in the NEPRA rules and regulations or the generation licence, the Authority may, without prejudice to its powers to delete, modify or supplement such provisions or add further provisions, require the licensee and any of its affiliates to -
 - (a) maintain and preserve the books of account and accounting records in respect of each financial year for the time specified in the NEPRA rules and regulations or the generation licence; and
 - (b) prepare on a consistent basis from such accounting records in respect of each month, accounting statements comprising of a profit and loss account, a balance sheet and a statement of source and application of funds, together with notes thereto, and showing separately in respect of each separate business and in appropriate detail the amounts of any revenue, costs, asset, liability, reserve or provision which has been either-
 - (i) charged from or to any other business, whether or not a separate business, together with a description of the basis of that charge; or

- (ii) determined by apportionment or allocation between any separate business together with a description of the basis of the apportionment or allocation.
- (4) Without prejudice to the provisions of the applicable documents regarding the audit of the accounts of the licensee, the Authority may, after giving the licensee an opportunity to be heard in this regard, appoint independent auditors of national repute from amongst a panel of auditors specified in this behalf by the Authority through a notification in the official Gazette, for the audit of the accounts of the licensee, where the Authority has reason to believe that the accounts provided to the Authority by the licensee do not provide a complete, true and fair view of the generation business or any separate business of the licensee, provided that such audit shall be restricted to accounting matters under question and shall not be carried out more than once in any given financial year.
- (5) The costs of audit as referred to in sub-rule (4) shall be borne by the licensee.

16. Operating procedures manual.—

- (1) Not later than one hundred eighty days following the date of issue of the generation licence or the commissioning of the generation facility, whichever occurs later, the licensee shall prepare and file with the Authority, and shall at all times have in force and implement, an operating procedures manual covering all material operational, maintenance and similar other aspects relating to the generation facilities, with such details and particulars as may be specified in, or may be necessary or prudent to include to secure compliance with, the pooling and settlement arrangement, the grid code and the applicable distribution codes.
- (2) The operating procedures manual shall be drawn up consistent in material particulars with the grid code to-
 - a) achieve, observe and maintain the performance standards specified in the NEPRA rules and regulations;
 - b) ensure the development, maintenance and operation of a safe, reliable, efficient, co-coordinated and economical electric power system;
 - c) facilitate competition in the generation and supply of electric power and ancillary services; and
 - d) ensure, subject to the terms of the pooling and settlement arrangement, towards the availability of the generation facilities for

dispatch by the national grid company in a manner consistent with the grid code:

Provided that, pending the preparation or implementation of the grid code, the licensee shall draw up the operating procedures manual in accordance with the existing utility practices or prudent utility practices, whichever imposes or requires superior safety, reliability, stability and efficiency standards.

- (3) The Authority may impose conditions in the generation licence for periodic review of the operating procedures manual and its implementation.

17. Industry standards and codes of conduct.—

- (1) The generation licence may include provisions for the encouragement of the licensee to participate in the development of the industry standards and uniform codes of conduct pursuant to section 35 of the Act, provided that, notwithstanding the absence of any provisions in this regard in the generation licence, the licensee shall have the right to participate in any measures being undertaken by or under the guidance of the Authority for the development of the industry standards and uniform codes of conduct.
- (2) The Authority may prescribe the industry standards and uniform codes of conduct developed after affording a reasonable opportunity to the licensee to participate in the measures referred to in sub-rule (1).
- (3) The licensee shall be obliged to comply with such industry standards and uniform codes of conduct which may be specified by the Authority as having a bearing on the safety, reliability, stability, integrated operability and efficiency of the whole or a material part of the electric power system.

18. Insurance.—

The licensee shall obtain and maintain such types of policies of insurance as may be specified in the generation licence or specified in this behalf by the Authority, by notification in the official Gazette, provided that the licensee shall not be obliged to obtain and maintain any insurance policy until such time the Authority makes and enforces a policy decision for obtaining insurance policies by the entire electric power industry.

19. Maintenance of Records.—

- (1) The licensee shall keep complete and accurate records and other data in respect of all aspects of each of the separate businesses and of their nature in the manner as may be specified in the generation licence.
- (2) All records and data referred to in sub-rule (1) shall, unless provided otherwise under any Laws or the applicable documents, be maintained in

good order and condition for a period of five years after the creation of such record or data, provided that the licensee shall not destroy or dispose of any such records or data after the period aforesaid without thirty days prior notice, in writing, to the Authority and the licensee shall not dispose of or destroy any records or data which the Authority directs the licensee to preserve.

- (3) The Authority may, upon forty-eight hours prior notice, in writing, to the licensee, enter any premises of the licensee where the records and data referred to in sub-rule (1) are kept for the examination or the taking of copies thereof during office hours.

20. Provision of information.—

- (1) The Authority may specify in the generation licence or the NEPRA rules and regulations the extent and scope of the licensee's obligation to furnish to the Authority information regarding any activity of the licensee.
- (2) Subject to sub-rule (1), the licensee shall be subject to penalties specified in the Act or NEPRA rules and regulations for failure to furnish such information as may be required from time to time by the Authority and which is or ought to be or have been in the control or possession of the licensee.

21. Fines and penalties.—

Without prejudice and in addition to the powers of the Authority to suspend or revoke a generation licence or appoint an administrator over the generation business in pursuance of rule 8 or the applicable documents, the Authority may impose such fines and penalties as may be fixed in this behalf from time to time under the applicable documents in the event of breach by the licensee of any provisions of the applicable documents including the generation licence.

22. Resolution of disputes.—

Any dispute or disagreement between licensees relating to any matter arising out of, or in connection with, the activities covered under their respective licences shall be submitted for decision to the Authority under the NEPRA rules and regulations.

**MAJ. GEN.(R) M.HASAN AQEEL
SECRETARY**