

**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY  
(ELECTRIC POWER PROCUREMENT) REGULATIONS, 2022**

**NOTIFICATION**

Islamabad, <sup>6<sup>th</sup></sup> day of Dec, 2022

**S.R.O.** <sup>2136</sup> (I)/2022. In exercise of the powers conferred by section 32 read with section 47 of the Regulation of Generation, Transmission and Distribution of Electric Power Act 1997 (Act No. XL of 1997) and all other enabling provisions thereof, the National Electric Power Regulatory Authority, is pleased to make the following regulations.—

**PART I  
GENERAL**

**1. Short title, commencement and applicability.—** (1) These regulations shall be called the National Electric Power Regulatory Authority (Electric Power Procurement) Regulations, 2022.

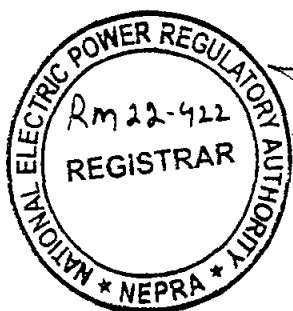
(2) These regulations shall come into force at once.

(3) These regulations shall be applicable on acquisition of electric power by the electric power suppliers, and shall not extend to procurement of electric power falling within purview of the National Electric Power Regulatory Authority (Alternative & Renewable Energy) Distributed Generation and Net Metering Regulations, 2015.

(4) Pursuant and subject to section 45 of the Act, the provisions of these regulations shall have effect, notwithstanding anything contrary or inconsistent therewith contained in any other law, rules, or regulations, for the time being in force with respect to public procurements.

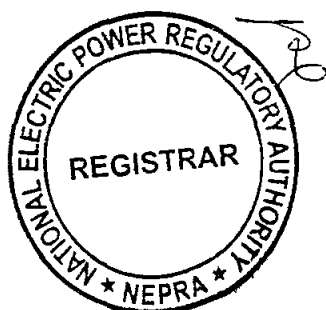
**2. Definitions.—** (1) In these regulations, unless there is anything repugnant in the subject or context,—

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997), as amended from time to time;
- (b) "Authority" means the National Electric Power Regulatory Authority established under section 3 of the Act;
- (c) "applicable documents" means the rules, regulations, terms and conditions of any licence, registration, authorization, determination, any codes, manuals, directions, guidelines,



orders, notifications, agreement or document issued or approved under the Act;

- (d) "application" means an application filed in accordance with these regulations;
- (e) "auction and evaluation committee" means the committee constituted in accordance with regulation 17 of these regulations;
- (f) "auction evaluation report" means the report prepared by the auction and evaluation committee and submitted to the Authority by the Independent Auction Administrator, or the concerned supplier of last resort who conducted the competitive auction, as the case may be, after completion of a competitive auction in accordance with the bidding documents and these regulations;
- (g) "benchmark tariff" means the tariff calculated for the control period of the project at a specified discount rate as approved by the Authority for the purpose of competitive auction;
- (h) "bidding documents" means the documents including templates of agreement(s), RFP(s), and any other supporting document prepared and submitted by the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, and approved by the Authority;
- (i) "Commercial Code" or "Market Commercial Code" means the commercial code prepared and maintained by the market operator pursuant to sections 23A and 23B of the Act and approved by the Authority;
- (j) "competitive auction" means a competitive process of pre-qualification, obtaining bids and auction award, organized and carried out by the Independent Auction Administrator or a supplier of last resort, as the case may be, in accordance with these regulations;
- (k) "competitive supplier" means a person licensed under section 23E of the Act to supply electric power to only those consumers who are located in the service territory specified in its licence and who meet the consumer eligibility criteria as laid down by the Authority in the National Electric Power Regulatory Authority Consumer Eligibility Criteria (Electric Power Suppliers) Regulations, 2022 as amended from time to time;
- (l) "Competitive Trading Bilateral Contract Market" or "CTBCM" means electric power market established in accordance with the high-level and detailed designs approved by the Authority vide its determinations dated 5<sup>th</sup> day of December 2019 and 12<sup>th</sup> day of



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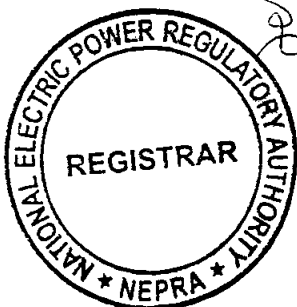
November 2020, respectively, as may be amended by the Authority from time to time;

- (m) "Distribution Code" means the code prepared by the distribution licensee and approved by the Authority, which defines the technical and operational standards and procedures for the distribution licensee and all those connected to the licensee's distribution system, as specified in the National Electric Power Regulatory Authority Licensing (Distribution) Regulations, 2022 as amended from time to time;
- (n) "distribution system" includes the distribution facilities, meters, and any other facilities of the distribution licensee operating at the distribution voltage, and shall include any other electric lines, circuits, transformers, substations, interconnection facilities or other facilities determined by the Authority as forming part of the distribution system, whether or not operating at the distribution voltage;
- (o) "electric power supplier" shall include competitive supplier and a supplier of last resort;
- (p) "global demand forecast" means the system level demand forecast, based on an econometric model, which is prepared by the system operator in accordance with the Grid Code;
- (q) "Grid Code" means the code prepared by the system operator under section 23H of the Act and approved by the Authority;
- (r) "IGCEP" or "Indicative Generation Capacity Expansion Plan" means the rolling generation capacity expansion plan prepared by the system operator in accordance with the Grid Code and approved by the Authority;
- (s) "Independent Auction Administrator" or "IAA" means any entity registered with the Authority to provide the services of organization and administration of competitive auctions for electric power procurement by electric power suppliers;
- (t) "import" means the purchase of electric power from generation facilities located in any territory where the Act does not apply or from a foreign country;
- (u) "market operator" means a person licensed under section 23A of the Act to perform the functions of the market operator;
- (v) "merchant plant" means a generation company which has not entered into any bilateral agreement and makes available its generation facility to the system operator for despatch to sell its



electric power in the CTBCM or for providing ancillary services in accordance with the applicable documents;

- (w) "most advantageous bid" means,- (i) a bid or proposal for providing electric power that after meeting the qualification criteria, is found substantially responsive to the terms and conditions as set out in the bidding documents; and (ii) is evaluated as the highest ranked bid or proposal on the basis of tariff or quality or qualification or any combination thereof, as specified in the bidding documents;
- (x) "new technology" means any alternative and renewable energy technology as defined in the alternative and renewable energy policy approved by the Council of Common Interests;
- (y) "power acquisition programme" means the electric power procurement needs and plan of an electric power supplier as specified in these regulations;
- (z) "power purchase agreement" includes power purchase agreement or energy purchase agreement, as the case may be;
- (aa) "request for proposal" or "RFP" means the document that includes the necessary information, benchmark tariff, parameters, terms, conditions, and bid evaluation criteria for pre-qualified bidders to participate in a competitive auction;
- (bb) "request for qualification" or "RFQ" means the document that establishes the minimum financial and technical qualification requirements to pre-qualify prospective bidders for participation in the subsequent process of competitive auction;
- (cc) "project" means any generation facility;
- (dd) "Registrar" means a person designated by the Authority to register and record the receipt of communications, applications and petitions filed with the Authority and to perform such other duties under these regulations, as may be assigned from time to time;
- (ee) "spatial load forecast" means the load forecast prepared by the distribution companies and electric power suppliers for their network expansion plan(s) and power acquisition programme(s), as the case may be, in accordance with the Distribution Code and other applicable documents;
- (ff) "sponsoring government" means the provincial or federal government that is sponsoring a strategic project;



- (gg) "strategic project" means a project which is approved by the federal government in consultation with the provincial governments as a strategic project;
- (hh) "supplier of last resort" means a person who holds an electric power supply licence for the service territory specified in its licence and is obligated to supply electric power to all consumers located in that service territory at the rates determined by the Authority, and is also obligated to provide electric power supply to the consumers, located within its service territory, of any competitive supplier who defaults on its obligations of electric power supply;
- (ii) "system operator" means a person licensed under section 23G of the Act to administer system operations, dispatch and power system planning; and
- (jj) "Transmission System Expansion Plan" or "TSEP" means the system plan for expansion of transmission capacity prepared in accordance with the Grid Code and approved by the Authority.

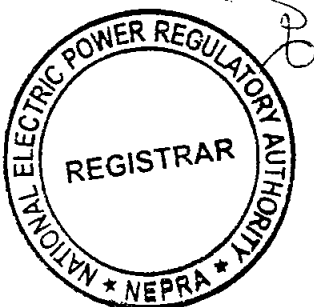
(2) Words and expressions used but not defined in these regulations shall have the same meanings as assigned to them in the Act or the applicable documents.

## PART II PROCUREMENT PLANNING

**3. Preparation of IGCEP and its approval.—** (1) The system operator shall prepare the IGCEP in accordance with these regulations and the Grid Code.

(2) The IGCEP shall be prepared by the system operator while considering, amongst others, the following:

- (a) global demand forecast prepared by the system operator in accordance with the Grid Code;
- (b) strategic project(s) shall be included upon approval by the federal government in consultation with the provincial governments to classify the project(s) as strategic, and an undertaking of the sponsoring government to provide funding to bridge the incremental cost beyond the least cost of any such project;
- (c) electric power project(s) committed to provide electric power to competitive suppliers shall be included against the respective competitive suppliers' demand without being subject to optimization:



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Provided that the market operator shall provide the consolidated demand pertaining to competitive suppliers to the system operator for inclusion in the IGCEP:

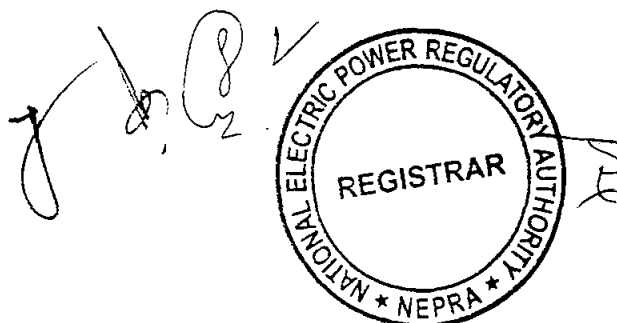
Provided further that every year on rolling basis the market operator shall provide to the system operator a ten-year projected demand that it forecasts to be defected to the CTBCM for inclusion in the IGCEP;

- (d) all projects connected or to be connected with the distribution system, at the distribution voltage, that are not included in central dispatch shall be included without being subject to optimization;
- (e) any plants whose power purchase agreements are expiring during the planning horizon, may be considered for providing electric power to suppliers of last resort subject to fulfilment of least cost criteria and optimization;
- (f) any proposed hydroelectric power project for providing electric power to suppliers of last resort may be considered for optimization on the basis of costs estimated at pre-feasibility stage and approved by a panel of experts, or bankable feasibility study based on detailed engineering design;
- (g) merchant plants (if any) shall be taken into account, without being subject to optimization;
- (h) all projects including import of power, except strategic projects or projects falling within purview of clause (c), (d) and (g), shall be considered subject to fulfilment of the least cost criteria and optimization in the IGCEP; and
- (i) any other requirements provided in the Grid Code.

(3) Subject to the above, the system operator shall submit the IGCEP for approval of the Authority along with all the supporting documents in accordance with the Grid Code.

(4) Optimization or inclusion of any project in the IGCEP shall not create any obligation of electric power procurement from the given project, and any electric power procurement by a supplier of last resort, individually or in combination with other suppliers of last resort shall be subject to approval of the Authority, compliance with these regulations and other applicable documents.

(5) Any candidate project optimized in the IGCEP pursuant to sub-regulation (2), with whom a supplier of last resort has entered into a legally binding commitment to procure electric power with approval of the Authority under these regulations, shall be considered as a committed project in subsequent iterations of the IGCEP.



(6) While preparing the global demand forecast for IGCEP, the system operator shall also collect the individual spatial load forecasts of distribution companies for the first five years of the planning horizon and ensure that the difference between the global demand forecast and consolidated spatial load forecast of the distribution companies is minimized to the extent possible, to achieve demand-supply balance.

(7) The system operator shall ensure that the project data and costs used for the optimization of any project in the IGCEP are firm, verified and validated.

**4. Obligation to plan in advance.—** (1) An electric power supplier shall be responsible for ensuring security of supply for its consumers by planning power procurement in adequate quantity.

(2) An electric power supplier shall ensure that it:

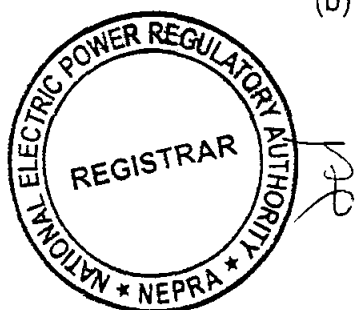
- (a) procures adequate electric power to meet its capacity obligations with prudent spatial load forecasts while using the best available information, to avoid under or over contracting:

Provided that the capacity obligations of an electric power supplier engaged in supply of electric power through the national grid shall be calculated in accordance with the Market Commercial Code;

- (b) adopts efficient and effective power procurement strategy and risk mitigation mechanisms keeping in view the approved IGCEP, TSEP, network expansion plan(s) and power acquisition programme;
- (c) prepares its power acquisition programme in a manner that appropriately accounts for the time that may be required for procurement of electric power and where applicable, regulatory approvals and other relevant factors; and
- (d) maintains creditworthiness, financial health, and sufficient payment capacity, and complies with its electric power procurement and use of system charges payment obligations.

**5. Business plan.—** Every year by or before first week of January, each electric power supplier, shall submit to the Authority for information an updated five years business plan. The business plan shall include at least the following:

- (a) power acquisition programme;
- (b) investment, financing, commercial, technical, consumer service and human resource plans;



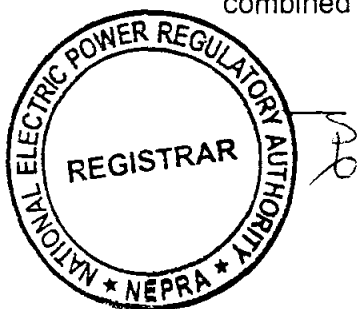
- (c) training, digitalization and modernization plans;
- (d) monitoring and compliance plan;
- (e) power price projections,
- (f) financial statements and five-year cash flow projections; and
- (g) any other relevant information as may be required by the Authority.

**6. Power acquisition programme for new electric power procurement.—** (1) A supplier of last resort shall prepare a rolling five-year power acquisition programme on an annual basis which shall include:

- (a) its requirements in terms of energy and peak demands, in accordance with the Distribution Code and other applicable documents, during the preceding twelve months on actual basis and projections for the subsequent five years;
- (b) existing contracted energy and capacity;
- (c) its capacity obligations as determined by the market operator in accordance with the Market Commercial Code;
- (d) proposed new and firm power procurement during the next three years and indicative procurement for the subsequent two years in accordance with these regulations;
- (e) mode of procurement against each proposed procurement and respective timelines including start and completion of the procurement process and start of operations of the respective projects;
- (f) contracted energy and capacity that is expected to become available during next five years with respective timelines including indication of delay (if any); and
- (g) any other information considered relevant and necessary to explain and justify the proposed power acquisition programme.

(2) The power acquisition programme shall be prepared by the supplier of last resort in line with the IGCEP, TSEP, network expansion plan(s) and approved investment programme of the concerned distribution licensee, demonstrating compliance with its capacity obligations determined in accordance with the Market Commercial Code:

Provided that for a period of five years from the date of notification of these regulations or such earlier period as may be directed by the Authority, a combined power acquisition programme shall be developed and submitted by the





suppliers of last resort, except KE, in consultation with the Independent Auction Administrator.

(3) KE may also consult the Independent Auction Administrator in preparation of its power acquisition programme for participation in any procurement in conjunction with other suppliers of last resort in line with the applicable documents.

(4) The share of respective suppliers of last resort in a project selected to meet their combined capacity obligations shall be allocated on pro rata basis keeping in view their respective capacity obligations.

(5) No new electric power procurement shall be made unless it is approved in the power acquisition programme of the supplier of last resort.

**7. Review and approval of power acquisition programme.—**(1) The Registrar, upon receipt of a power acquisition programme prepared in accordance with the Act, these regulations and other applicable documents, shall review it and place the same before the Authority within seven working days of receipt, thereof, for admission:

Provided that if the Registrar is of the view that the power acquisition programme is not prepared in accordance with these regulations, the Registrar may return the same with such directions as may be deemed appropriate in the matter:

Provided further that if any additional information is required, the Registrar may direct the supplier(s) of last resort to submit the same.

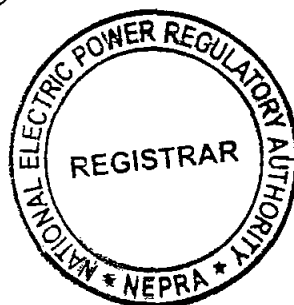
(2) The Authority shall advertise the submitted power acquisition programme and frame such issues as may be deemed appropriate by the Authority for public consultation and hearing.

(3) The power acquisition programme shall be submitted by 30<sup>th</sup> September of every year and approved by the Authority within ninety days from its submission in accordance with these regulations and other applicable documents:

Provided that a supplier of last resort shall submit its power acquisition programme to the Authority within three months from the notification of these regulations and thereafter the power acquisition programme shall be submitted to the Authority along with any proposed changes, on an annual basis i.e., 30<sup>th</sup> September of every year.

(4) The approved power acquisition programme shall be definitive for the initial three years and indicative for the subsequent two years for new electric power procurement.

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(5) A supplier of last resort shall ensure that its tariff petition is prepared and submitted in accordance with the power acquisition programme approved by the Authority under these regulations.

### **PART III IMPLEMENTATION OF POWER ACQUISITION PROGRAMME**

#### **8. New electric power procurement by a supplier of last resort.—**

(1) Any new electric power procurement by a supplier of last resort shall only be in accordance with these regulations and the power acquisition programme approved by the Authority, through competitive auction:

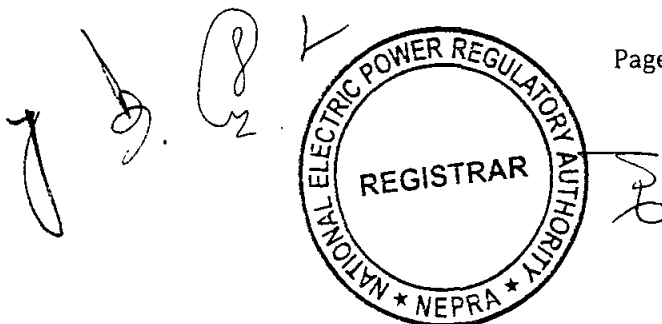
Provided that electric power procurement from:

- (a) hydroelectric power projects shall be as provided in sub-regulation (2) of regulation 26;
- (b) projects based on new technology shall be as provided in regulation 27;
- (c) strategic projects shall be as provided in regulation 28;
- (d) import of electric power shall be as provided in regulation 29;
- (e) negotiated power procurement shall be as provided in regulation 30; and
- (f) generation facilities that were providing electric power to suppliers of last resort under a power purchase agreement or set up by the KE at its own as a generation licensee, and the respective power purchase agreement or term approved under the generation licence for sale of electric power has expired, shall be subject to fulfilment of least cost criteria and optimization in the IGCEP and prior approval of tariff and power purchase agreement by the Authority:

**Explanation.—** For the purposes of this regulation, new electric power procurement shall not include:

- (a) any power purchase agreement that has been executed prior to notification of these regulations; and
- (b) any electric power procurement approved prior to notification of these regulations under the relevant policy approved by the Council of Common Interests.

(2) Competitive auctions for new electric power procurement of a supplier of last resort shall be organized and carried out prudently in a timely manner, in accordance with the timelines given in the approved power acquisition programme.



(3) The connection and power evacuation infrastructure required for any project approved in the power acquisition programme shall be duly accounted for in the TSEP, network expansion plan(s) and concerned distribution licensees' investment programme, as the case may be.

#### **PART IV**

### **COMPETITIVE AUCTIONS AND DUTIES OF THE INDEPENDENT AUCTION ADMINISTRATOR**

**9. Conditions for competitive auction.—** (1) A competitive auction under these regulations for procurement of electric power for supplier(s) of last resort shall be conducted by the Independent Auction Administrator, in accordance with the power policies approved by the Council of Common Interests and applicable documents, till such time the Authority directs that the competitive auction may be conducted by the respective supplier of last resort individually or jointly, as the case may be:

Provided that the Independent Auction Administrator or an electric power supplier conducting the competitive auction, as the case may be, shall prepare a regular and detailed annual competitive auctions plan with precise timelines consistent with the approved power acquisition programme, and demonstrate year-on-year improvements reflecting past experience:

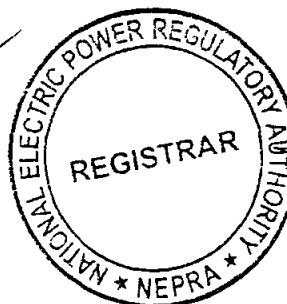
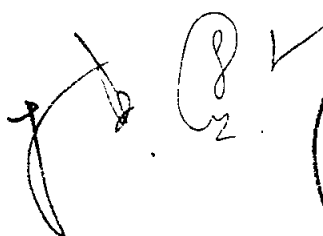
Provided further that procurement of electric power for KE through competitive auction shall be dealt with as follows:

- (a) in the event KE intends to set up a generation facility, optimized in IGCEP, at its own to meet its capacity obligation, KE shall specify the generation facility in its power acquisition programme for approval of the Authority and any such procurement shall be subject to competitive auction to be conducted by the Independent Auction Administrator; and
- (b) where for a project selected in IGCEP, KE does not intend to participate as a generation company, KE shall specify in its power acquisition programme whether it shall conduct competitive auction at its own in accordance with these regulations or seek services of the Independent Auction Administrator.

(2) Subject to meeting the pre-qualification requirements, the competitive auction shall be open for participation by all prospective bidders.

(3) The competitive auction shall be carried out on a site-specific and technology-specific basis as provided in the bidding documents.

Provided that for a specific competitive auction, if the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, finds it appropriate/necessary to opt for site-neutral or



technology-neutral auction, then it may propose the same in the bidding documents with substantiating justification for approval of the Authority.

(4) All competitive auctions shall be designed to include at least the following stages:

- (a) pre-qualification of prospective bidders through RFQ;
- (b) notice of auction and publication of bidding documents;
- (c) period for pre-qualified bidders to submit comments and requests for clarification to the bidding documents, including any material issues or concerns on the terms and conditions of the template power purchase agreement or any other agreement;
- (d) period for response to comments and clarifications;
- (e) bidding process as per RFP;
- (f) evaluation of bids; and
- (g) award of auctions.

(5) Subject to these regulations, the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, may adopt any method of competitive auction as approved by the Authority in the bidding documents.

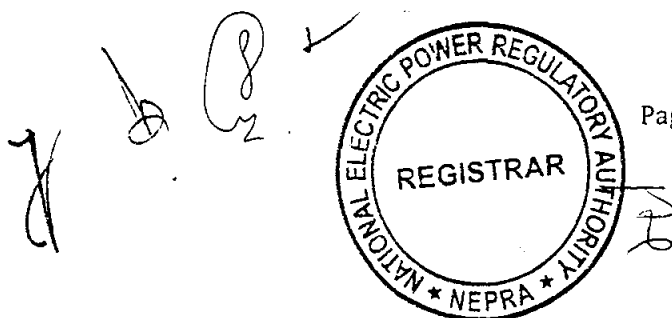
(6) The Independent Auction Administrator or the supplier of last resort, conducting the competitive auction, as the case may be as provided in sub-regulation (1), shall submit bidding documents including RFP and proposal for determination of benchmark tariff (if any) to the Authority for its approval at least two months prior to the proposed date of publication of advertisement for the competitive auction.

(7) The Authority shall process and approve bidding documents including RFP and benchmark tariff (if applicable), within sixty days from the date of submission of the same.

**10. Other services by an Independent Auction Administrator.— (1)**

The Independent Auction Administrator may offer its competitive procurement services to competitive suppliers.

(2) Where the Independent Auction Administrator offers its competitive procurement services to competitive suppliers under sub-regulation (1), the parties may mutually agree on the processes and modes of auction that may be different from the process provided in these regulations.



**11. Coordination and reporting.**— (1) The Independent Auction Administrator shall coordinate with the relevant stakeholders for implementation of the approved power acquisition programmes of supplier(s) of last resort including procurement from hydroelectric power projects, strategic projects, new technology, and import of electric power:

Provided that, before conducting the competitive auction the Independent Auction Administrator shall consult with the federal government and the relevant provincial government, or its designated entities, where the generation facility is to be developed.

(2) The Independent Auction Administrator shall submit a report to the Authority within the first month of each year on its activities and performance, clearly depicting compliance with the terms and conditions of its registration, these regulations, and other applicable documents, while ensuring transparency, independence in the performance of its functions.

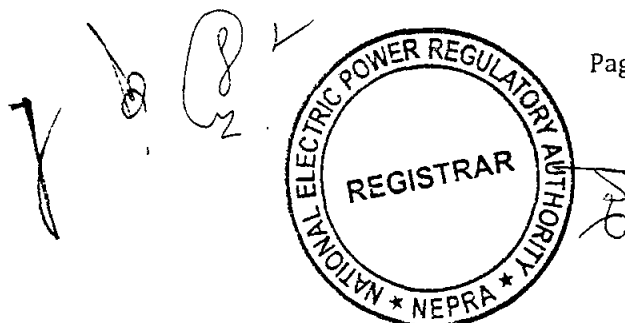
(3) The report shall include any issue identified in implementing competitive auctions and recommendations for improvement in the process and the requirements for competitive auctions.

(4) The Authority may consider the report as part of its monitoring activities and may require additional information or clarifications from the Independent Auction Administrator.

(5) The Independent Auction Administrator may propose any changes in these regulations in the report submitted under sub-regulation (1) with suitable justification in the interest of the power industry for consideration of the Authority.

**12. Principles for competitive auctions.**— (1) In designing, organizing and administering a competitive auction, the Independent Auction Administrator or supplier of last resort, as the case may be, shall ensure that:

- (a) the advertisement for the competitive auction shall be widely published in local and international newspapers for information of the prospective bidders and the general public;
- (b) all prospective bidders have the same access to information. The bidding documents, the information during the auction process and all information on the award shall be made public on the website of the Independent Auction Administrator;
- (c) pre-qualification process is uniform, consistent, transparent, and non-discriminatory in its application to all prospective bidders;
- (d) the bidding documents clearly define qualification requirements, criteria and methodology for the evaluation of bids, benchmark tariff (if determined by the Authority for inclusion in the bidding



documents), and award and allocation of power purchase agreements among the suppliers of last resort;

- (e) bids are invited, received and processed transparently in accordance with the procedure laid down in the RFP;
- (f) bidders comply with technical, operational, and financial qualifications defined in the bidding documents;
- (g) the criteria for award of auctions and evaluation minimize total power purchase costs while considering bids by pre-qualified bidders. Subject to authorization by the Authority, the competitive auction may allow bidders to offer part of the energy or capacity auctioned (partial offers), to award power purchase agreements to more than one bidder, while totalling the auctioned quantities as the sum of energy and/or capacity in awarded contracts;
- (h) the preferred auction award criteria reach the lowest possible price to select the qualified bidder;
- (i) the competitive auction will have at least two qualified bidders, where any bidder shall not have commercial interest in any of the other bidders:

Provided that in special circumstances and exigency, subject to approval of the Authority, the Independent Auction Administrator or supplier of last resort conducting the competitive auction, as the case may be, may accept the bid of a single qualified bidder, if the said bid does not exceed the benchmark tariff; and

- (j) compliance with these regulations, applicable laws, and other applicable documents.

(2) The Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, shall establish an electronic auction platform linked to its website for the purpose of accessing bidding documents, auction information, receiving bids and carrying out the competitive auction process to ensure transparency and promote market confidence, combined with a communications strategy to reach prospective and potential bidders, as many as possible.

(3) The bidding documents may require the bidders to furnish a fixed amount of bid security not exceeding five percent of the estimated value of the procurement.

(4) Where the time period for submission of bids is to be extended, it shall only be done after recording the reasons in writing and in a non-discriminatory

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manner. Advertisement of such extension shall be made in a manner similar to the original advertisement.

(5) The bidding documents may specify any conditions to promote indigenisation and localization of technology equipment and other resources as per the targets provided in the policies of the government.

(6) The bidding documents shall provide a detailed mechanism for blacklisting and debarment of bidders for a specified time, if need arises, with the approval of the Authority.

(7) All procurement under these regulations shall be subject to signing of an integrity pact as specified in the bidding documents.

(8) The Independent Auction Administrator or the supplier of last resort conducting the auction, as the case may be, shall make available on its website information relating to the competitive auction to the interested parties and the general public. The address of the website shall be published in the public advertisement relating to the competitive auction.

#### **PART V**

#### **PRE-QUALIFICATION OF BIDDERS AND BIDDING DOCUMENTS**

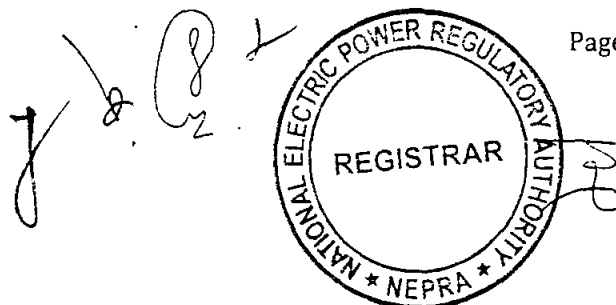
**13. Pre-qualification of prospective bidders.—** (1) The auction design shall provide for pre-qualification of prospective bidders through RFQ for competitive auctions to be conducted as per the approved power acquisition programme under these regulations.

(2) The pre-qualification shall be conducted, prior to submission of RFP to the Authority, by inviting expressions of interest from local and international prospective bidders as per the requirements provided in the RFQ.

Provided that the Authority may review and reject the pre-qualification process at the time of approval of the RFP, if substantial evidence exists that the pre-qualification process was not conducted in accordance with these regulations.

(3) The RFQ shall contain necessary guidelines and information for the prospective bidders, including the pre-qualification criteria, details of the documents and information required from them with the expression of interest.

- (4) The pre-qualification of prospective bidders shall be based on:
- (a) the technical ability to execute the project;
  - (b) financial capability;
  - (c) relevant experience;
  - (d) history of legal, social, environmental and regulatory compliance;



- (e) whether the applicant, or any officer, director, or owner thereof, has been in substantial non-compliance of the terms and conditions of prior competitive auctions or power purchase agreements;
- (f) whether the applicant or any of its affiliate is blacklisted by the Authority or any other government agency; and
- (g) any other factor that may be deemed relevant and appropriate.

(5) Each applicant shall be promptly notified about the results of the pre-qualification stage in writing. A list of pre-qualified bidders shall also be published on the website of the Independent Auction Administrator or the supplier(s) of last resort, as the case may be:

Provided that in the event where an applicant is denied pre-qualification, the written notification to that applicant shall state the reasons for denial of pre-qualification.

(6) Notwithstanding anything contained in these regulations, an applicant may be disqualified, at any stage, if it is established that the information submitted by the applicant is materially incorrect, false, misleading, or fraudulent:

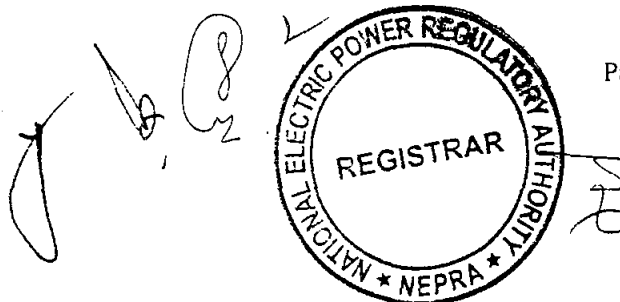
Provided that before disqualification under this sub-regulation, the concerned applicant shall be given an opportunity of hearing and reasons for disqualification shall be recorded in writing and conveyed to the concerned applicant.

**14. Requirement of RFP.—** (1) The Independent Auction Administrator or the supplier of last resort conducting the auction, as the case may be, shall prepare an RFP in accordance with these regulations for the purpose of inviting bids from the pre-qualified bidders. The RFP shall be submitted along with other bidding documents to the Authority for approval.

(2) The RFP and auction design shall provide for a transparent process of bidding to ensure healthy competition.


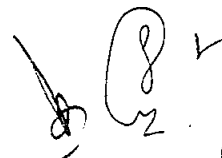
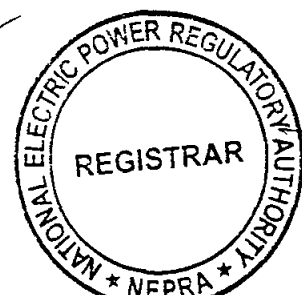
**15. Contents and approval of RFP.—** (1) Subject to the type of auction design and the requirements and principles in these regulations and instructions by the Authority, the RFP shall include, amongst others, the following:

- (a) identification of the suppliers of last resort which will be the purchasers of project(s) to be awarded in the auction;
- (b) the bidding methodology, bid evaluation criteria and formula;
- (c) maximum quantities of energy (in MWh) and/or capacity (in MW) and/or number of projects proposed to be procured through the competitive auction;





- (d) description of the type(s) of generation technologies or project(s) that are to be procured through the auction, including any requirement with respect to:
  - (i) technology and, where applicable, fuel type;
  - (ii) location, timelines, availability;
  - (iii) minimum and maximum allowed size of a project;
  - (iv) if a template connection agreement is included in the bidding documents, proposed locations for new projects and the network company providing connection; and
  - (v) capability of the project to provide the specified ancillary services;
- (e) connection point(s) with commercial metering systems where electric power is to be delivered;
- (f) list and information of pre-qualified bidders;
- (g) detailed feasibility study;
- (h) detailed technical and operational qualifications to be met by the bidders;
- (i) provisions for environmental, social assessments and local benefits sharing, in line with international good practices;
- (j) financial requirements to be met by bidders, including minimum net-worth, revenues, etc., with necessary proof of the same;
- (k) mode and manner of financial commitments from lenders at the time of submission of the bids;
- (l) timetable of the bidding process including its different stages;
- (m) expected date of commencement of supply (commencement of sales in the power purchase agreements) or commercial operations;
- (n) price structure of bids and benchmark tariff (if applicable) and other terms and conditions for electric power procurement;
- (o) minimum period of validity of bids;
- (p) timelines for financial close and commercial operation date of the project;
- (q) any bid bond, performance bond, bid security instrument which the Independent Auction Administrator or the supplier of last

resort conducting the competitive auction, as the case may be, may require to be submitted by the bidder;

- (r) required contract performance guarantee, if any;
- (s) commitment by bidders not to require changes to the provisions of the template power purchase agreement after auction award;
- (t) requirement upon all the bidders to support their respective bids with an affidavit affirming the correctness of the information and assumptions stated therein, along with an undertaking to not conceal any material information in their bids or any supporting documents;
- (u) in case the bid is for a new project, construction milestones to be specified by the bidders, and requirement to submit a statement on affidavit regarding readiness to execute the project unconditionally;
- (v) conditions and criteria for bid disqualification;
- (w) dispute resolution mechanism; and
- (x) any such additional information as may be applicable to the bidding process or as may be required by the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, or the Authority.

(2) The Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, shall submit to the Registrar, the RFP complete in all respects along with a non-refundable fee, calculated in accordance with the applicable documents, who shall place the same before the Authority within seven working days of receipt thereof for admission:

Provided that the Registrar may return the RFP if it is deficient or not in conformity with these regulations.

(3) After admission, the Authority if satisfied that all the requirements of these regulations and other applicable laws are met, may with or without modification approve the RFP:

Provided that the Authority may, before approving the RFP, conduct a hearing if deemed necessary, which shall be in accordance with the NEPRA Tariff (Standards & Procedure) Rules, 1998, as amended or replaced from time to time:

Provided further that the Authority shall approve the RFP within sixty days from the date of submission of the same.

**16. Bidding documents.**— Subject to the auction design and these regulations, the bidding documents shall, in addition to the RFP, include:

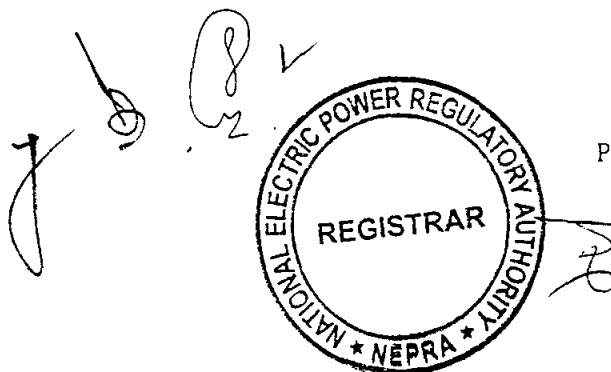
- (a) template of power purchase agreement, to be awarded through the competitive auction that shall be consistent with requirements for contracts in the Market Commercial Code;
- (b) if the competitive auction allows participation of different generation technologies, the bidding document may include different template power purchase agreements depending on the proposed generation technology;
- (c) templates of the security package documents, including but not limited to the connection agreement, land lease or purchase agreement, implementation agreement, buyer participation agreement; and
- (d) any other document as may be applicable.

**17. Auction and evaluation committee.—** (1) The Independent Auction Administrator shall constitute an auction and evaluation committee chaired by an authorized representative of the Independent Auction Administrator and include the following other members, odd in number, who shall have one vote each:

- (a) at least one representative of each supplier of last resort participating in the auction as power purchaser;
- (b) an authorised representative of the relevant provincial government, where the project is to be developed; and
- (c) at least two independent members, one being a technical expert having experience in relevant generation project(s) and one being a financial expert, who have no commercial interest with any prospective bidder, the Independent Auction Administrator, supplier(s) of last resort or their affiliates:

Provided that where the competitive auction is being conducted by the supplier of last resort on its own, the supplier of last resort shall constitute auction and evaluation committee comprising of at least four members, two of whom shall be independent members fulfilling the criteria as stipulated in clause (b).

(2) The auction and evaluation committee shall, including but not limited to, prepare the bidding documents, pre-qualify prospective bidders, and evaluate the bids as required in these regulations and the bidding documents approved by the Authority.



## PART VI BIDDING

**18. Notice of auction.—** (1) Upon approval of the bidding documents by the Authority, notice of invitation to participate in the bidding shall be made available by the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, to the pre-qualified bidders and also publish the same on its website.

(2) The response time for receipt of bids from the date of publication of notice of auction shall not be less than thirty days.

**19. Content of bids.—** (1) The bidders shall be required to submit the bids in compliance with the bidding documents.

(2) Bidding documents shall clearly provide a format on which bids are to be submitted, and the bid security deposit and information to be accompanied with the bids.

**20. Administration of bids.—** (1) The Independent Auction Administrator or the supplier of last resort conducting the auction, as the case may be, shall administer the bidding process in accordance with the auction design defined in the bidding documents.

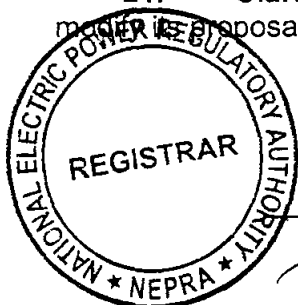
(2) The bids evaluated by the auction and evaluation committee as most advantageous bid shall be selected:

Provided that if there are insufficient valid bids to cover the entire quantities/projects defined in the bidding documents, all or such number of valid bids may be declared successful as the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, may decide:

Provided further that prior to the start of the bidding process and taking into consideration the pre-qualified bidders, the quantities to be auctioned may be reduced to ensure sufficient bids are received to maximize competition; and in such event, the reduced quantities shall be communicated to the pre-qualified bidders and considered as the quantities to be contracted in the bidding documents.

(2) Declaration of a bid as valid or successful, shall not create any vested right or legitimate expectation in favour of the bidder for signing of power purchase agreement and the award of auction shall be decided after the auction evaluation report along with the recommendations of the Independent Auction Administrator or supplier of last resort conducting the competitive auction, as the case may be, have been submitted and approved by the Authority.

**21. Clarification of bids.—** (1) No bidder shall be allowed to alter or modify its proposal after the bids have been submitted. However, the auction and



evaluation committee may seek and accept clarifications to any proposal that do not change the substance of the proposal as described in the bidding documents.

(2) Any request for clarification in the bid shall invariably be in writing. The response to such request shall also be in writing.

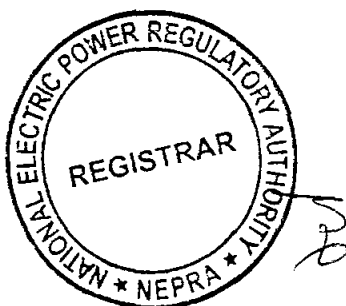
**22. Rejection of bids.—** (1) The Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, upon decision of the auction and evaluation committee, may declare a bid non-responsive and reject the same, for reasons to be recorded in writing, if the bid is in material deviation from the bidding documents, or the quoted bid price(s) is higher than the benchmark tariff (where applicable), or if the bid does not provide all the necessary information or meet the tariff structure provided in the bidding documents.

(2) Where all the bids have been rejected, the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, may call for rebidding and prior to doing so, it shall assess the reasons for rejection and may revise the specifications, evaluation criteria and any other conditions for bidders as deemed necessary, subject to approval of the Authority.

## **PART VII AUCTION EVALUATION REPORT**

**23. Auction evaluation report.—** (1) The auction evaluation report prepared by the auction and evaluation committee shall include:

- (a) brief of the competitive auction process followed, demonstrating compliance with these regulations;
- (b) statement regarding compliance with the bidding documents;
- (c) details of all bidders clearly identifying the qualified bidders;
- (d) description of bidders declared not qualified, and the justification for each disqualification;
- (e) identification and description of rejected bids, and the justification for each rejection;
- (f) details of all valid (responsive) bids;
- (g) results of the evaluation methodology for the lowest combined electric power procurement cost, subject to requirements in the RFP, and whether the auction is considered successful, or deemed null and void along with justification;



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- (h) if the auction was successful, list of all the awarded bidders, including details of all the bids, and information on allocation of quantities and prices to be awarded in the power purchase agreement of each successful bidder with each supplier of last resort;
- (i) any observation by a member of the auction and evaluation committee; and
- (j) any other information that the Authority may require from time to time.

(2) Not later than fifteen days after completion of the bidding process, the Independent Auction Administrator or the supplier of last resort conducting the competitive auction, as the case may be, shall submit to the Registrar the auction evaluation report prepared by the auction and evaluation committee along with its recommendations on the auction evaluation report.

(3) The Registrar, upon being satisfied that the auction evaluation report is complete as per these regulations, shall place the same before the Authority within seven working days of receipt thereof for its consideration and decision:

Provided that the Registrar may return the auction evaluation report if it is deficient or not in conformity with these regulations.

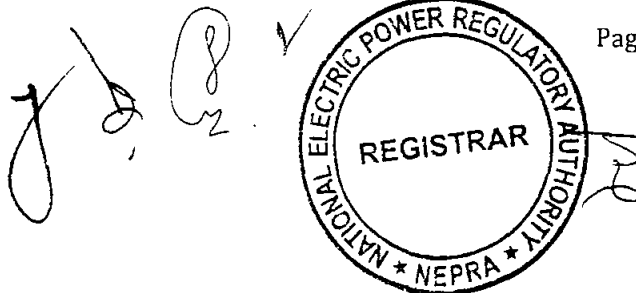
**24. Review of the auction evaluation report.—** (1) The Authority shall review the auction evaluation report in light of the recommendations of the Independent Auction Administrator or the supplier of last resort, as the case may be.

(2) The Authority upon being satisfied that the requirements of these regulations, the bidding documents and other applicable documents have been complied with, shall approve the auction evaluation report within thirty days of submission of the report:

Provided that if deemed necessary for reasons to be recorded in writing, the Authority may, before approving the auction evaluation report, appoint an independent auction auditor to evaluate the auction evaluation report and submit its assessment on the same:

Provided further that the Authority may reject a successful bidder in case the bid submitted is imprudent or unreasonable or there is evidence of deceptive or anti-competitive behaviour, including collusion, predatory pricing, or abuse of dominant position.

(3) Upon approval of the auction evaluation report, the Independent Auction Administrator or supplier of the last resort conducting the competitive auction, as the case may be, shall notify the successful bidders. The decision of approval of the auction evaluation report shall be published on the Authority's website, and the notification of successful bidder shall be published on the website

The block contains a handwritten signature and a circular official stamp. The stamp is from the National Electric Power Regulatory Authority (NEPRA) and is specifically for the Registrar. The text 'NATIONAL ELECTRIC POWER REGULATORY AUTHORITY' is written around the top inner edge of the circle, and 'REGISTRAR' is in the center. 'NEPRA' is written at the bottom of the circle. There are some handwritten marks and a checkmark near the stamp.



IGCEP and approved in the power acquisition programme, without competitive auction subject to fulfilment of the following conditions:

- (a) the concerned government or its designated entity shall provide grounds substantiated through documentary evidence that competitive bidding is not feasible for the project:

Provided that the decision to determine the tariff without competitive bidding shall be taken by the Authority upon review of the substantiated grounds provided by the concerned government or its designated entity;

- (b) procurement is made at a prudent cost of the project determined by the Authority in its tariff determination:

Provided that the project cost determined or approved by the Authority shall not exceed ten percent of the least cost on the basis of which the project was selected in the IGCEP.

(3) After approval of the power acquisition programme of the supplier of last resort, the generation company shall apply for generation licence or concurrence of the Authority under sub-section (5) of section 14B of the Act, as the case may be, and a tariff petition for tariff determination.

(4) Upon determination of the tariff by the Authority under sub-regulation (3), the parties may enter into a power purchase agreement subject to such terms and conditions, including rates and charges of electric power as determined or approved by the Authority.

**27. Procurement from new technology projects.—** (1) Electric power procurement from a new technology project, selected on least cost basis in the IGCEP and approved in the power acquisition programme, may be allowed without competitive auction subject to fulfilment of the following conditions:

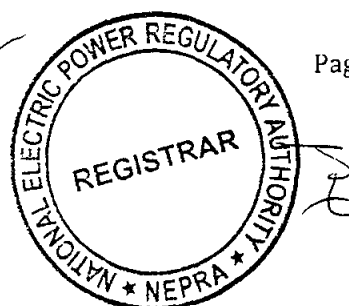
- (a) the concerned government or its designated entity shall provide grounds substantiated through documentary evidence that competitive bidding is not feasible for the project;

Provided that the decision to determine the tariff without competitive bidding shall be taken by the Authority upon review of the substantiated grounds provided by the concerned government or its designated entity; and

- (b) procurement is made at a prudent cost of the project determined by the Authority in its tariff determination:

Provided that the project cost approved by the Authority shall not exceed ten percent of the least cost on the basis of which the project was selected in the IGCEP.

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(2) After approval of the power acquisition programme of the supplier of last resort, the generation company shall apply for generation licence or concurrence of the Authority under sub-section (5) of section 14B of the Act, as the case may be, and a tariff petition for tariff determination.

(3) Upon determination of the tariff by the Authority under sub-regulation (2), the parties may enter into a power purchase agreement subject to such terms and conditions including rates and charges of electric power as determined or approved by the Authority.

**28. Procurement from strategic projects.—** (1) Electric power procurement from a project approved by the federal government as strategic project in accordance with the national electricity policy and subsequently selected in the IGCEP and the power acquisition programme shall be made subject to fulfilment of following conditions:

- (a) the cost on which the strategic project is selected under the least cost principle during the optimization in IGCEP, shall be treated as the least cost of the strategic project;
- (b) funding to bridge the incremental cost beyond least cost of any such project shall be paid by the concerned sponsoring government;
- (c) procurement is made at a prudent cost of the project determined by the Authority in its tariff determination

Provided that the Authority while determining the tariff of the project shall ensure that it does not exceed the least cost of the project as provided in sub-regulations (1) (a).

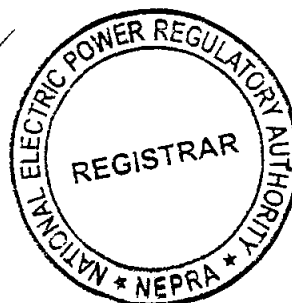
(2) After approval of the power acquisition programme of the supplier of last resort, the generation company shall apply for generation licence or concurrence of the Authority under sub-section (5) of section 14B of the Act, as the case may be, and a tariff petition for tariff determination.

(3) Upon determination of the tariff by the Authority under sub-regulation (2), the parties may enter into a power purchase agreement subject to such terms and conditions including rates and charges of electric power as determined or approved by the Authority.

**29. Import of electric power.—** (1) Electric power procurement from a project based on import of power, selected on least cost basis in the IGCEP and approved in the power acquisition programme, may be allowed subject to fulfilment of the following conditions:

- (a) procurement from the project is approved by the federal government; and

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- (b) procurement is made at a prudent cost of the project determined by the Authority in its tariff determination:

Provided that the prudent cost determined by the Authority shall not exceed ten percent of the least cost on the basis of which the project was selected in the IGCEP.

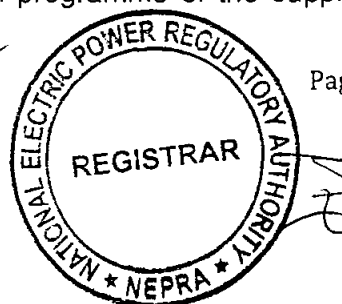
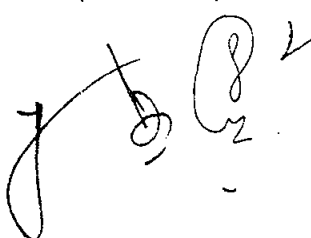
- (3) After approval of the power acquisition programme of the supplier of last resort, the concerned entity shall file the tariff petition for tariff determination.

- (4) Upon determination of the tariff by the Authority under sub-regulation (3), the parties may enter into a power purchase agreement subject to such terms and conditions including rates and charges of electric power as determined by the Authority.

**30. Negotiated power procurement.—** (1) Where a supplier of last resort intends to procure electric power from a project connected or to be connected with distribution system at the distribution voltage on negotiated rates and where competitive auction is not feasible, such a project shall be separately identified in the power acquisition programme along with the following information and documents:

- (a) the prudence of the procurement, in particular avoiding over contracting, and the benefits compared to other procurement opportunities;
- (b) the adequacy of the distribution system to receive and deliver the energy from the proposed project;
- (c) if the request corresponds to electric power procurement from an embedded/small generation connected directly to the distribution system at the distribution voltage, a letter of interest for supply of electric power by the generation company including information on the name of the proposed seller, generation type(s) (resource, technology and fuel type), size, location, timeline, connection point(s), quantities (energy and/or capacity), and duration and type of agreement, negotiated rates, commitment by the seller to comply with the Distribution Code, and any other information to describe the proposed power procurement;
- (d) analysis of the concerned supplier of last resort showing that the proposed procurement shall result in a decrease in the average power purchase price; and
- (e) the impact of the proposed power procurement on the basket price of the supplier of last resort.

- (2) The Authority may approve procurement under sub-regulation (1) at the time of approval of the power acquisition programme of the supplier of last



resort if the Authority is satisfied that such procurement shall result in a decrease in the average power purchase price of the supplier of last resort.

(3) While approving projects under this regulation, or otherwise as deemed appropriate, the Authority may require availability of coordination procedures and systems among the concerned distribution licensee, system operator and the project connected with the distribution system at distribution voltage for operation, scheduling, and dispatch in accordance with the applicable documents.

(4) After approval of the power acquisition programme of the supplier of last resort, the concerned generation company shall apply for generation licence, or concurrence of the Authority under sub-section (5) of section 14B of the Act, as the case may be.

(5) Upon grant of generation licence or concurrence by the Authority, as the case may be, under sub-regulation (4), the parties may enter into a power purchase agreement.

Provided that the supplier of last resort shall submit the power purchase agreement on the basis of which the rates and other terms and conditions for such procurement shall be approved by the Authority.

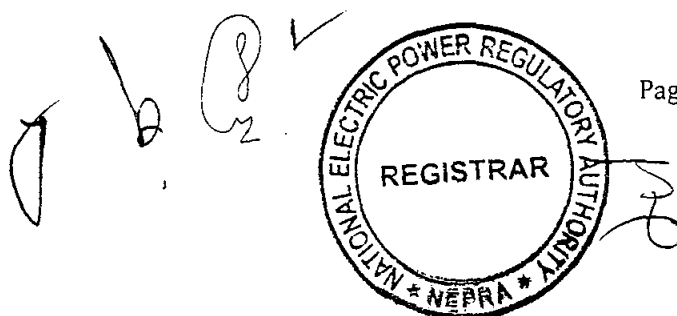
#### **PART IX APPROVAL OF POWER PURCHASE AGREEMENT**

**31. Power Purchase Agreement.—** (1) The power purchase agreement to be executed by the supplier(s) of last resort shall invariably be in line with the template(s) of the power purchase agreement approved by the Authority, the tariff of the respective power project determined or approved by the Authority, and the generation licence or concurrence, as the case may be, for which the supplier(s) of last resort shall submit a certificate of compliance before execution of the power purchase agreement:

Provided that if there is any agreed change or deviation from the template approved by the Authority, the tariff determination, or generation licence or concurrence as the case may be, in such case, before executing a power purchase agreement, the supplier(s) of last resort shall file its power purchase agreement initialed by the respective parties for its approval by the Authority:

Provided further that any addition of schedules to the power purchase agreement shall also be submitted to the Authority by the supplier of last resort, duly initialed by the respective parties, for its approval prior to its execution.

(2) In case where the template of power purchase agreement has not been approved by the Authority, the supplier(s) of last resort shall, before execution, file the power purchase agreement initialed by the respective parties for its approval by the Authority.



**PART X  
MISCELLANEOUS**

**32. Electric power procurement as a result of imbalances in electric power market.—** (1) Nothing in these regulations shall prevent an electric power supplier or a bulk power consumer from procurement of electric power required as a result of imbalances arising in the electric power market provided such procurement and settlement of imbalances is in accordance with the Market Commercial Code approved by the Authority.

(2) The Authority may set a limit for any or all electric power suppliers for procurement of electric power as a result of imbalances in the competitive electric power market or issue such other directions as may be deemed appropriate in the interest of ensuring consumers' interest and avoiding any manipulation or circumvention of applicable documents.

**33. Legacy contracts.—** (1) Notwithstanding anything contained in these regulations, any lawful power purchase agreement entered into by or on behalf of a supplier of last resort prior to notification of these regulations shall be continued without any change or modification till expiry of the power purchase agreement:

Provided that any proposed amendment in the power purchase agreement falling within purview of sub-regulation (1) shall be initialled by the respective parties and submitted to the Authority for its approval before its execution.

(2) Any project falling within purview of sub-regulation (1), after expiry of the power purchase agreement, may be considered for electric power procurement by the concerned suppliers of last resort subject to the condition that it qualifies as least cost procurement as per the IGCEP, the procurement is justified under the power acquisition programme of the supplier of last resort in accordance with these regulations and the procurement is approved by the Authority.

**34. Credit rating of suppliers of last resort.—** (1) Each supplier of last resort, shall every two years, get itself credit rated from a credit rating agency licensed by the Security and Exchange Commission of Pakistan and which is on the panel of State Bank of Pakistan.

(2) The credit rating report of the supplier of last resort shall be submitted to the Authority for its information along with corrective measures being taken and/or to be taken to improve the financial health and credit worthiness. The Authority may, if deemed necessary, issue directives to the supplier of last resort regarding measures to improve financial health and credit rating.

**35. Provincial participation.—** Notwithstanding anything contained in these regulations, the rights available to the provincial governments under the power policies approved by the Council of Common Interests, with respect to

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competitive auction or any part thereof may be exercised by the provincial governments.

**36. Complaints and dispute resolution.—** (1) All complaints regarding compliance with the RFP or these regulations, shall be referred to the Authority for decision:

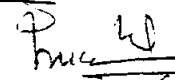
Provided that a dispute between a bidder and the Independent Auction Administrator or supplier of last resort conducting the competitive auction, as the case may be, shall be addressed as per the dispute resolution mechanism provided in the RFP.

(2) After execution of the power purchase agreement, all disputes between the parties shall be settled in accordance with the mechanism set forth in the said agreement.

**37. Repeal and savings.—** (1) Upon notification of these regulations, the following regulations shall be repealed.-

- (a) National Electric Power Regulatory Authority Interim Power Procurement (Procedure and Standards) Regulations, 2005;
- (b) National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2017;
- (c) National Electric Power Regulatory Authority (Import of Power) Regulations, 2014; and
- (d) National Electric Power Regulatory Authority Upfront Tariff (Approval & Procedure) Regulations, 2011.

(2) Notwithstanding any repeal effected by these regulations, for any competitive process initiated or submitted to the Authority prior to notification of these regulations, the procedure for notification of successful bidder and approval of tariff shall be the same as provided in the National Electric Power Regulatory Authority Competitive Bidding Tariff (Approval Procedure) Regulations, 2017.

  
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(Syed Safeer Hussain)  
Registrar

