

# NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

## Distribution Licensing Rules

EXTRAORDINARY

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PART II

**Statutory Notifications (S.R.O.)**

GOVERNMENT OF PAKISTAN

NOTIFICATION

*Islamabad, the 10th April, 1999*

**S. R. O. 476 (I)/99.**- 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 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 (Distribution) Rules, 1999.

(2) They shall come into force at once,

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

- (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 purposes of this definition (a) "control" shall mean the right, power or ability to influence or determine any decisions in respect of the conduct of affairs of the person under control, and (b) " ownership " shall mean the ownership or the right to own the shares or other voting securities of the person owned ;
- (iii) " applicable documents " means the distribution licence, the second-tier supply authorisation, the NEPRA rules and regulations, the grid code, the distribution code and any documents or instruments issued under any of the Foregoing or pursuant to the exercise of its powers by the Authority under the Act, 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 ;
- (iv) " 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 distribution licence ;
- (v) " authorised " means, in relation to any matter, authorised in writing by the Authority ;
- (vi) " bulk-power consumer " means, in respect of and within the Service Territory, such consumer who receives or purchases, electric power in the amount, voltage level and frequency equal to or greater than the characteristics of supply set out in the distribution licence, provided that, the Authority may change the characteristics of supply for bulk-power consumers located within the Service Territory at the time and in the manner set out in the distribution licence ;
- (vii) " connection charges " means the charges made or levied or to be made or levied for the carrying out of works and provisions and installation of electrical plant, electric lines and circuits and ancillary distribution system together with charges in respect of maintenance and repair of such items in so far as not otherwise recoverable as use of system charges and in respect of disconnection and the removal of electrical plant, electric lines and circuits, and ancillary meters following disconnection, or such, other charges as may be specified in or pursuant to the distribution licence;
- (viii) "consents" means all permissions, approvals or consents required by the licensee from any public sector entity for the purposes of the distribution

business ;

- (ix) " consumer eligibility criteria " means the criteria for the eligibility of consumers to obtain supply of electric power developed by the Authority ;
- (x) " distribution business " means the business of distribution of electric power carried on or to be carried on by the licensee pursuant to and in accordance with the terms of the distribution licence granted to the licensee ;
- (xi) " distribution code " means the distribution code referred to in rule 15 ;
- (xii) " distribution system " means the distribution facilities situated within the Service Territory owned or operated by the licensee for distribution of electric power including, without limitation, electric lines or circuits, electric plant, meters, interconnection facilities or other facilities operating at the distribution voltage, and shall also include any other electric lines, circuits, transformers, sub-stations, electric plant, interconnection facilities or other facilities determined by the Authority as forming part of the distribution system, whether or not operating at the distribution voltage;
- (xiii) " grid code " means the grid code prepared by the national grid company or in the absence of the national grid company by the transmission licensees pursuant to the transmission licences and approved by the Authority, as from time to time revised with the approval of the Authority;
- (xiv) " interconnection facilities " means the equipment, including, without limitation, electrical lines or circuits, transformers, switch-gear, safety and protective devices, meters or electrical plant, used for interconnection services;
- (xv) " Laws " means and includes all statutes and rules and regulations made pursuant thereto, 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;
- (xvi) " licensee " means the licensee to whom a distribution licence is granted in accordance with these rules and shall include its permitted successors and assigns;
- (xvii) "licensee's investment programme" means the licensee's investment programme referred to in rule 17;
- (xviii) " licensee's power acquisition programme " means the licensee's power acquisition programme referred to in rule 12 ;
- (xix) " NEPRA rules and regulations " means the relevant rules and regulations made by the Authority under the Act ;

- (xx) " pooling and settlement arrangements " means any arrangements implemented by or under the directions of the Authority for the spot or market based sales and purchases of electric power through an electric power exchange or other means ;
- (xxi) " power acquisition contract " means a contract or other arrangement for the acquisition by the licensee, whether through sale and purchase for consideration or otherwise, of electric power including, where applicable a contract for purchase of electric power on the basis of difference in prices of electric power between the rates pursuant to the pooling and settlement arrangements and the rates determined according to the method stated in such contract ;
- (xxii) " 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 and complying with the relevant Laws and codes ;
- (xxiii) "public sector entity" means any authority, agency, division, or instrumentality of the Federal, Provincial or local Governments, but does not include the Authority;
- (xxiv) " second-tier supplier " means any distribution or generation licensee authorised to carry-out the second-tier supply business ;
- (xxv) "second-tier supply authorisation" means an authorisation to engage in the second-tier supply business;
- (xxvi) "second-tier supply business" means the authorised business, if any, of the licensee or any of its affiliates as a supplier, whether or not carried out pursuant to a power acquisition contract, of electric power to one or more bulk-power consumers within or without the Service Territory;
- (xxvii) "separate business " means each of the distribution business, the second-tier supply business or any other business taken separately from one another and from any other business of the licensee or any affiliate of the licensee ;
- (xxviii) "consumer service manual" means the manual of instructions developed by the licensee and approved by the Authority detailing instructions and guidance to the consumers other than bulk-power consumers occupying domestic, agricultural, industrial or commercial premises for obtaining electric power distribution services, as more fully described in rule 9 ;
- (xxix) " Service Territory " means the area specified in the distribution licence

within which the licensee is authorised to conduct the distribution business and, subject to the provisions of rule 7, the second-tier supply business;

(xxx) " transmission system " means the system comprising of 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 the minimum transmission voltage owned or operated by the national grid company or by one or more transmission licensees and used for transmission of electric power from the generation facilities to sub-stations or to other generation facilities or between sub-stations or to or from any interconnection facility, 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 ;

(xxxi) " use of system " means the use of the distribution system for the transport of electric power by and for and on behalf of the licensee and, in relation to a second-tier supplier other than the licensee, for and on behalf of such second-tier supplier ;

(xxxii) " use of system charges " means the charges made or levied or to be made or levied by the licensee for the use of system for the purposes of the distribution business or the second-tier supply business or in respect of the use of the distribution system by a second-tier supplier but shall not include connection charges ; and

(xxxiii) " 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.

**3. Grant of licence:**----- (1) Subject to and in accordance with the provisions of these rules and the NEPRA rules and regulations, the Authority may grant a distribution licence to any person to engage in the distribution business within the Service Territory.

(2) The provisions of these rules may be augmented or abridged in their application to a distribution licence to the extent and in the manner specified in the distribution licence, and a distribution licence may also contain additional terms and conditions not inconsistent with the provisions of these rules or the Act.

**4. Licence fee:**----- (1) Following and upon the grant of the distribution licence the licensee shall pay to the Authority the licence fee, in the amount and manner and at the times specified in the distribution licence.

(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 **NEPRA** rules and regulations.

**5. Terms and renewal.**----- (1) Except where an applicant for distribution licence consents to a shorter term, the term of a distribution licence shall not be less than twenty years.

(2) Upon the expiry of the term of the distribution licence, unless revoked earlier in accordance with these rules or the terms of the distribution licence or unless not provided for in the distribution licence, the distribution licence may be renewed by the Authority for such further term as may be deemed appropriate by the Authority in the manner provided for in the distribution licence, keeping in view the performance of the licensee during the previous term and the interests of the consumers and the electric power industry as a whole.

**6. Tariff.**----- (1) Unless provided otherwise in the distribution licence, the licensee shall charge only such tariff from the consumers, including the bulk- power consumers, as is approved by the Authority pursuant to and in accordance with the NEPRA (Tariff Standards and Procedure) Rules, 1998.

(2) If the tariff in respect of the Service territory is not already determined by the authority at the time of grant of the distribution licence, the licensee shall, no later than ninety days following the date of grant of the distribution licence, file a petition before the Authority for the determination of tariff in respect of the Service Territory.

(3) If so directed by the Authority, the licensee shall, make a separate statement in the petition for determination of tariff in respect of the use of system and connection charges.

**7. Exclusivity.**----- (1) Subject to the provisions of sub-rule (2), the licensee shall have during the term of the distribution licence the exclusive right in respect of the Service Territory to :-

- (a) distribute electric power to the consumers;
- (b) bill the consumers and collect the tariff for electric power distributed within the Service Territory; and
- (c) engage in other activities incidental to the distribution business.

(2) Subject to and in accordance with the NEPRA rules and regulations, and unless provided otherwise in the distribution licence, the Authority may authorise any licensee to be a second-tier supplier to one or more bulk-power consumers in respect of the Service Territory on such terms and conditions and for such term as may be specified in the second-tier supply authorisation, provided that, the Authority may specify a time period in the distribution licence after which a second-tier supply authorisation shall no

longer be required by any licensee proposing to engage in the second-tier supply business for supply of electric power to one or more bulk-power consumers within the Service Territory.

(3) Notwithstanding the provisions of sub-rule (2), the Authority may stipulate in the distribution licence not to grant a second-tier supply authorisation to any other licensee in respect of the Service Territory for such period of time or to grant one or more second-tier-supply authorisation for such time period and on such terms and conditions as may be specified in the distribution licence of the licensee, provided that until such time the second-tier supply authorisation is granted to another licensee, the licensee shall have the right to supply electric power to bulk-power consumers located within its Service Territory without requiring to obtain any second-tier supply authorisation in respect thereof.

(4) Subject to the terms and condition of a distribution licence granted to a distribution licensee other than the licensee, and subject further to the provisions of NEPRA the rules and regulations, the licensee shall have the right, during the term of his distribution licence, to apply to the Authority for the grant of a second-tier supply authorisation in respect of the Service Territory of another distribution licensee.

**8. Revocation and suspension.**----(1) Subject to and in accordance with the terms of and the procedure set out in the distribution licence, the Authority may appoint an administrator in respect of the distribution business or suspend or revoke the distribution licence upon the occurrence of any of the following events, namely:----

- (a) failure by the licensee to pay the licence fee when due;
- (b) a breach by the licensee of any of the provisions of the applicable documents which materially and adversely affects the standards, price and quality of service, the reliability and integrity of the distribution system, the transmission system or any generation facility, or the safe, reliable and efficient operation of the electric power industry, save where such breach occurs without the willful or negligent default of the licensee;
- (c) failure of the licensee to prepare or adhere to any codes, programmes or manuals required to be prepared by the licensee and, where applicable, approved by the Authority, pursuant to the applicable documents, where such failure has a material adverse effect on the performance by the licensee of its obligations under the applicable documents or these rules;
- (d) except for the purposes of an 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 for the winding-up of the

licensee, with the majority required under the Companies Ordinance, 1984 (XL VII of 1984), to give effect to such resolution;

- (ii) the appointment of 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 stayed or set aside within thirty days of the date of the order;
- (e) abandonment by the licensee of the operation of the distribution business or any part thereof ;
- (f) the incurring by the licensee of cumulative operating losses as determined in accordance with the NEPRA rules and regulations or, until such time the NEPRA rules and regulations are made, in accordance with the generally accepted accounting principles in Pakistan, consistently applied, without taking into account any depreciation in any financial year in an amount greater than or equal to the sum of 40 percent of the shareholders, equity in the licensee at the end of the preceding financial year in circumstances where the Authority is satisfied that the licensee is either unwilling or unable to raise additional equity within the time specified for the purpose by the Authority;
- (g) the assignment or transfer of the distribution licence or the transfer, conveyance, loss or relinquishment by the licensee of the ownership or control or the right to own, control, or operate the distribution business or any material part thereof without an authorization in accordance with the provisions of the Act or these rules, 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 distribution system by a person other than the licensee ;
- (h) any statement or representation made or information provided by the licensee in the application for the distribution licence or subsequently on the directions of the Authority or pursuant to any applicable documents proving to have been incorrect, inaccurate or misleading in any material aspect and having a material adverse effect on the licensee's ability to perform its obligations under the distribution licence or causing the Authority to issue or renew the distribution license 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 distribution licence if it had knowledge of the inaccuracy of such statement, representation or information ;
- (i) the exercise by the lenders, if any, of the licensee of their remedies under the documentation relating to the loans by such lenders in respect of the distribution business, where the exercise of the remedies renders the licensee incapable of performing its obligations in its own right under these rules or the applicable

documents including, without limitation, the removal of the management of the licensee from the control of the distribution 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;

- (j) any default by the licensee in the making of any payment, other than the licence fee, required to be made by it under the applicable documents within ninety days of the due date therefore; or
- (k) failure of the licensee to comply with the objects, terms and conditions of the distribution licence due to supervening impossibility notwithstanding the best efforts of the licensee to so comply, where such non-compliance continues for a period of ninety days consecutively or for a cumulative period of one hundred twenty days in a calendar year.

(2) The Authority may, at the time of the grant of the distribution licence, delete or modify any of the events set out in sub-rule (1) in their application to any distribution licence or may add in the distribution licence further conditions or events not inconsistent with the objectives of the Act or these rules.

(3) Notwithstanding the provisions of sub-rule (1), the Authority shall not revoke or suspend a distribution licence nor shall appoint an administrator in respect of the distribution system or any part thereof where the breach by the licensee of the terms of sub-rule (1) or such additional terms as may be specified in the distribution licence is a direct result of the failure of the licensee to obtain a consent or its renewal despite the best efforts of the licensee including, without limitation, the compliance by the licensee with the Laws applicable in respect thereof.

(4) Any decision for the suspension or revocation of a distribution 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 to connect and supply.**----- (1) Within forty five days after the date of issue of the distribution licence, the licensee shall develop and submit the consumer service manual to the Authority for approval.

(2) The consumer service manual shall contain instructions and guidance in respect of the following matters, namely ;-

- (a) form and manner of application by the consumer to the licensee for obtaining service, along with details of any documents to be submitted in support of the application ;
- (b) time-frame for providing connection and service to the consumers;
- (c) safety and security;
- (d) efficient use of electric power, including with reference to characteristics of

supply or usage such as time of day, week or season ;

- (e) procedure and the time-frame for handling and redressal of different descriptions of complaints by consumers ;
- (f) the procedure and manner for billing, the time for payment of bills and procedure for collection of bills ;
- (g) procedure for notice to consumers before disconnection for non-payment of bills ;
- (h) procedure and manner for installation of meters and other facilities for connection ;
- (i) fees and charges for connection, installation of meters, other facilities for connection and resumption of connection after disconnection ;
- (j) collection of arrears upon or following reconnection ; and
- (k) procedure for disconnection and the charges and penalties for theft of electric power or for use of electric power for purposes other than those specified in the application for connection and service.

(3) The Authority may direct the licensee to include instructions and guidance in respect of matters additional to those specified in sub-rule (2) and, upon being so directed, the licensee shall comply with the directions of the Authority and shall submit to the Authority a revised version of the consumer service manual within fourteen days of being so directed.

(4) Upon submission of the consumer service manual by the licensee, the Authority shall review the consumer service manual and shall grant its approval upon being satisfied as to the adequacy thereof.

(5) The review and approval process, including in respect of any additional matters as may be directed by the Authority in terms of sub-rule (3) or sub-rule (6), shall be completed no later than forty five days following the initial submission of the consumer service manual by the licensee.

(6) The Authority may from time to time direct the licensee to revise the consumer service manual in such manner and with respect to such details as the Authority may direct, provided that the licensee shall not be required to revise the consumer service manual in a manner which may cause the licensee to be in breach of the Laws or the applicable documents.

(7) Upon approval of the consumer service manual by the Authority, the licensee shall provide:-

- (a) ten copies, free of charge, to the Authority;

- (b) at least one copy, free of charge, to any person seeking connection and service from the licensee; and
- (c) such number of copies, upon payment of charges not exceeding the reasonable cost for the preparation and dispatch, to any person requesting for the given number of copies of the consumer service manual as revised from time to time.

(8) The licensee shall connect and supply electric power to any consumer satisfying the consumer eligibility criteria specified in the NEPRA rules and regulations, who seeks connection and supply of electric power in a manner not inconsistent with the consumer service manual or the terms of the distribution licence or which does not result in the licensee being in breach of the Laws or the applicable documents.

**10. Prohibition of discrimination and cross-subsidy.**-----(l) The licensee shall procure that-----

- (a) in respect of bulk-power consumers, neither the licensee nor any of its affiliates shall -
  - (i) supply or offer to supply electric power, including under any power acquisition contract, within the Service Territory or the Service Territory of another distribution licensee on terms as to price, load or other terms which are materially more or less favourable than those on which it supplies or offers to supply electric power to comparable bulk-power consumers; or
  - (ii) discriminate in any manner whatsoever between bulk-power consumers----
 

except, in each case, to the extent that such discrimination or difference in the financial value of supply reasonably reflects the difference in the costs associated with such supply or where such difference is authorised, whether as part of the tariff or otherwise.
- (b) in respect of consumers or groups of consumers other than bulk-power consumers, it shall not ---
  - (i) supply or offer to supply electric power at prices or on other terms and conditions affecting the financial value of the supply which differ from, those on which it supplies or offers to supply electric power to any other consumers or groups of consumers; or
  - (ii) discriminate in any other manner whatsoever between consumers or groups of consumers-----
 

except, in each case, to the extent that such discrimination or difference in the financial value of supply reasonably reflects the

difference in the costs associated with such supply or where such difference is authorised, whether as part of the tariff or otherwise.

(2) For the purposes of sub-rule (1), due regard shall be had to the circumstances of supply including, without limitation, the volume of supply, load factors, conditions of interruptibility, location of premises being supplied and, where applicable, the terms and duration of the relevant power acquisition contract.

(3) The licensee shall procure that 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 purpose of this sub-rule, those parts of the distribution business and the second-tier supply business consisting in supply of electric power to (a) consumers, (b) bulk-power consumers within the Service Territory; and (c) bulk-power consumers located in the service territory of another distribution licensee, shall each be treated as a separate business.

(4) The provisions of sub-rules (1), (2) and (3) of this rule shall not apply to the extent that the Authority requires the licensee, pursuant to or under the terms of the distribution licence or otherwise, to act in a manner that would otherwise be a breach thereof, by virtue of the tariff, conditions for use of system and connection to the distribution system.

**11. Use of system and obligation to offer terms.**----(1) Within ninety days following the date of issue of the distribution licence, and if so provided in the distribution licence, the licensee shall, if and to the extent not covered in or comprising part of the tariff, prepare and submit to the Authority for approval, statements in a form approved by the Authority setting out the basis upon which the use of system charges and connection charges in each case, as part of the distribution business, shall be calculated (hereinafter referred to as the "charges statement") in all cases in such manner and with such detail as shall be necessary to enable any licensee seeking to become a second-tier supplier in respect of the Service Territory to make a reasonable estimate of the charges which may be payable by such person for the use of system.

(2) The charges statement shall include such details and shall set out the methods by which and the principles on which the use of system charges and connection charges will be calculated, as may be specified in the distribution licence, keeping in view the characteristics of the distribution system.

(3) If and to the extent not covered in or comprising part of or determined through or under the tariff, the use of system charges and connection charges shall be calculated on a basis which reflects the costs prudently incurred or to be incurred, less any gains achievable through efficiencies, in the provision, procurement, installation, operation or maintenance of the facilities for use of system or the connection including, without limitation, in respect of any works extension, replacement or reinforcement of the distribution system or any parts thereof, as the case may be, together with a reasonable rate of return on the capital represented by such costs.

(4) The licensee may periodically revise the information set out in and, with the approval of the Authority, alter the form of the charges statement and shall, at least once in each year the distribution license is in force, revise such charges statement in order that the information set out therein remains up to date and accurate in all material respects.

(5) The licensee shall revise the charges statement from time to time in such manner and detail as may be directed by the Authority, provided that the licensee shall not be required to revise the charges statement in a manner which may cause the licensee to be in breach of any Laws or the applicable documents.

(6) The licensee shall provide a copy of the charges statement to---

(a) the Authority free of charge; and

(b) to any person requesting for a copy upon payment of charges, not exceeding the reasonable cost for the preparation and dispatch thereof.

(7) The licensee shall offer to enter into an agreement for use of system and connection to the system to any person authorised in this behalf by the Authority on, *inter alia*, such terms and conditions and with such details as may be specified in the distribution licence, the second-tier supply authorisation of such other licensee or the NEPRA rules and regulations, provided that the obligation of the licensee stipulated in this sub-rule shall continue in full force and effect beyond the time period mentioned, if any, in the distribution licence after which a second-tier supply authorisation shall no longer be required by any licensee proposing to engage in the second-tier supply business for supply of electric power to one or more bulk-power consumers within the Service Territory.

(8) The licensee shall offer terms for agreements as specified in this rule as soon as practicable but in any event no later than ninety days after the receipt of a request to this effect by the licensee, provided that the licensee shall not be obliged to enter or offer to enter into an agreement if to do so would be likely to cause the licensee to be in breach of the Laws or the applicable documents or where the licensee seeking such agreement does not undertake to be bound by the distribution code.

(9) In the event of any dispute between the licensee and the licensee seeking to become a second-tier supplier in respect of the terms of the agreement referred to in sub-rule (7), the dispute may be referred by either the licensee or such other licensee for resolution to the Authority pursuant to the NEPRA rules and regulations. The decision taken by the Authority on any such referral as aforesaid shall, subject to the provisions of sub-rule (10), be binding on the other licensee and the licensee shall forthwith enter into an agreement with the licensee seeking to become a second-tier supplier on the terms settled by the Authority.

(10) The Authority may specify in the distribution licence the factors and considerations the Authority shall take into account in settling the terms of dispute

between the licensee and the licensee seeking to become a second-tier supplier.

(11) If the licensee or the second-tier supplier proposes to vary the terms of any agreement referred to in sub-rule (7), in a manner not provided for in the agreement, and the licensee and the second-tier supplier can not agree to the terms of variation, the Authority may, on the request either of the licensee or the authorised supplier, settle the dispute relating to such variation in accordance with the NEPRA rules and regulations.

**12. Power acquisition contracts and obligation to purchase economically.-**

(l) Subject to the provisions of this rule 12 or the distribution licence-----

- (i) the licensee shall, pending the approval of the licensee's power acquisition programme in terms of sub-rule (4), purchase or procure all of its electric power supplies from or through the national grid company; and
- (ii) the licensee may, following the approval of the licensee's power acquisition programme in terms of sub-rule (4), purchase or procure all or part only of its electric power supplies from or through any one or more licensees in accordance with the licensees' power acquisition programme.

(2) To the extent possible under the applicable documents, the licensee shall ensure that -

- (i) the licensee and any of its affiliates purchase electric power at the best effective price reasonably obtainable having regard to the security, reliability and diversity of the sources of electric power; and
- (ii) the terms of any power acquisition contracts entered into by the licensee or any of its affiliates are settled in accordance with and adequately reflect the provisions of this rule,

and where the costs associated with the purchase of electric power supplies by the licensee are subject to review by the Authority in connection with a petition pursuant to the NEPRA (Tariff Standards and Procedure) Rules, 1998, the Authority may disallow the recovery of such part of the costs incurred or likely to be incurred by the licensee associated with the purchase of electric power pursuant to such power acquisition contract which, in the opinion of the Authority, are inconsistent with the provisions of this rule or the licensee's power acquisition programme.

(3) In determining whether the effective price at which the electric power is purchased or is agreed to be purchased by the licensee is the best effective price reasonably obtainable at the time of entering into the power acquisition contract by the licensee, due regard shall be had to--

- (a) any payments made or received or to be made or received or other obligations undertaken or to be undertaken for the grant of, in connection with or pursuant to the power acquisition contract ;

- (b) upon the implementation of pooling and settlement arrangements, the opportunities available to the licensee to enter into hedging agreements ;
- (c) the ability of the licensee to discharge its or any of its affiliates' obligations under the Laws or the applicable documents ;
- (d) the compliance by the licensee with international competitive bidding practices for purchase of power ;
- (e) the licensee's power acquisition programme approved by the Authority; and
- (f) such other factors and circumstances as may be stated in the distribution licence.

(4) The licensee shall, no later than ninety days following the date of notification of the NEPRA rules and regulations, submit its power acquisition programme to the Authority for approval subject to and in accordance with the provisions of the NEPRA rules and regulations.

(5) Subject to such exceptions as may be provided in the distribution licence, the power acquisition contracts entered into by the licensee shall be drawn-up consistent with the licensee's power acquisition programme approved by the Authority in accordance with the NEPRA rules and regulations, provided that deviations therefrom in the power acquisition contracts may be authorised.

(6) Until such time the NEPRA rules and regulations are notified in the official Gazette, the Authority may-----

- (a) authorise the licensee to enter into power acquisition contracts with terms not exceeding one year, and
- (b) approve, for a term not exceeding one year from the date of such approval, power acquisition contracts already entered into by the licensee  
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in each case subject to the provisions of sub-clause (i) of sub-rule (1), and sub-rules (2) and (3), or such further conditions as the Authority may impose.

(7) Save and to the extent authorised or approved in terms of sub-rule (6), the costs associated with the power acquisition contracts entered into by the licensee prior to the approval of the licensee's power acquisition programme in terms of sub-rule (4) may be disallowed by the Authority in an amount which, in the opinion of the Authority, is a result of uneconomic purchasing by the licensee in a manner inconsistent with the provisions of clause (i) of sub-rule (2) and sub-rule (3).

(8) Power acquisition contracts entered into by the licensee and subsisting as of

the date of the issue of a distribution licence to a successor to the licensee shall continue to be effective and binding on the successor distribution licensee to the extent the terms and conditions thereof are consistent with the licensee's power acquisition programme, provided that the Authority may direct the licensee or its successor distribution licensee to adopt or implement measures specified by the Authority in order to reduce the tariff, provided further that the obligation of the licensee or its successor distribution licensee to adopt or implement any such measures shall be subject to the availability on reasonable commercial terms of financial or other resources for the purposes of the adoption or implementation of such measures.

**13. Financial and organizational affairs.**-(l) The licensee shall not, except to the extent authorised in the distribution licence or otherwise -

- (a) stand surety, give guarantees or in any other manner offer or provide security for the indebtedness or obligations, contractual or otherwise, of any other person ;
- (b) acquire or offer to acquire shares or other securities or participating interests in any person after the date of the issue of the distribution licence except--
  - (i) in any person which was an affiliate of the licensee on the date of issue of the distribution licence;
  - (ii) as may be required to satisfy its obligations under the Laws or the applicable documents;
  - (iii) in a person which conducts an authorised business ; or
  - (iv) 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 distribution 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 per cent of the total number of votes in any general 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 the Authority may require the licensee to procure the retention by any of its members of a minimum number of shares or other

voting securities, not exceeding the number held by such members on the date of issue of the distribution license, for such period of time as may be specified by the Authority.

(2) The licensee shall include provisions in its articles of association to give effect to the provisions of sub-clause (c) of sub-rule (1) so that any purported transfer of its shares or other voting securities in violation of the provisions of clause (c) of sub-rule (1) shall *ipso-facto* be invalid.

(3) In considering any request of the licensee for dispensation from the application 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 authorisation if granted.

**14. Accounting Practices.**----- (1) Subject to and in accordance with the terms of the distribution licence, the licensee shall prepare the accounts in respect of each of the distribution business, the second-tier supply business and other businesses, if any, in accordance with the NPERA rules and regulations, provided that the Authority may, pending the notification in the official Gazette of the NEPRA (Uniform System of Accounts) Rules, require the licensee to prepare its accounts in respect of each of the distribution business, the second-tier supply business and the separate businesses, if any, in accordance with the provisions of the Fifth Schedule to the Companies Ordinance, 1984 (XLVII of 1984).

(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 thereof, 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 for the purposes of determination of the revenue requirements of the licensee.

(3) In specifying the accounting requirements in the distribution 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 -----

- (i) maintain and preserve the books of account and accounting records in respect of each financial year for the time specified in the distribution licence;

- (ii) prepare on a consistent basis from such accounting records in respect of each financial year, 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---
  - (a) charged from or to any other business, whether or not a separate business, together with a description of the basis of that charge; or
  - (b) determined by apportionment or allocation between any separate business together with a description of the basis of the apportionment or allocation.

**15. Distribution code.**----- (1) No later than one hundred twenty days following the date of issue of the distribution license, the licensee shall prepare and submit to the Authority for approval; and shall at all times have in force and implement, a distribution code covering all material technical, design, planning, development, operational, maintenance and other aspects relating to the distribution system with such details and particulars as may be specified by the Authority in the distribution license.

(2) The distribution code shall be drawn up to ensure strict compliance by the licensee with the provisions of the grid code including, without limitation, the instructions from time to time of the national grid company or the relevant transmission licensee in respect of the use and operation of the distribution system.

(3) The distribution code shall be consistent in material particulars with the grid code and shall be drawn-up with the aim, among others as may be specified in the distribution license-----

- (a) to achieve the performance standards specified in the NEPRA rules and regulations within the time limit and in the manner specified in this respect in the distribution licence ;
- (b) towards the development, maintenance and operation of a safe, efficient, co-ordinated and economical system for the distribution of electric power ;
- (c) to facilitate competition in the supply of electric power;
- (d) to secure and ensure compliance by the licensee in the operations and maintenance of the distribution system and any transmission facilities declared by the Authority pursuant to clause (xxvii) of section 2 of the Act to be comprised in the distribution system with the grid code; and

- (e) towards the availability for operation by the national grid company in a manner consistent with the grid code, of any transmission facilities declared by the Authority pursuant to clause (xxvii) of section 2 of the Act to be comprised in the distribution system which may be directed by the Authority to be operated by the national grid company:

Provided that, in respect of clause (a), the Authority may, pending the notification of the NEPRA rules and regulations, require the distribution licensee to draw up the distribution code for the purposes of operation of the distribution system in accordance with the WAPDA relevant manuals or prudent utility practices in such manner and subject to such conditions as the Authority may specify.

- (4) The Authority may impose conditions in the distribution licence for---
  - (a) the periodic review of and revisions to the distribution code and its implementation;
  - (b) supply of copies thereof to any person requesting for a copy;
  - (c) approval of revisions to the distribution code proposed by the licensee, second-tier suppliers, the national grid company, any transmission licensee or a, generation licensee ; and
  - (d) avoidance of discrimination or undue preference by the licensee or any of its affiliates.

(5) The Authority may, following consultation with the licensee, issue directions relieving the licensee of its obligations under the distribution code in respect of such parts of the distribution system and to such extent as may be specified in the directions.

(6) Compliance with the provisions of this rule shall not require the licensee to impose any contractual obligations on the consumers to comply with the distribution code.

**16. Uniform industrial standards and codes of conduct.**---(1) The licensee shall participate in such measures and activities as may be initiated by the Authority for the development of uniform industry standards and codes of conduct in accordance with the NEPRA rules and regulations, in the manner specified in the distribution licence.

(2) The distribution licence may provide incentives to participate and consequences for failure to participate in the measures and activities referred to in sub-rule (1).

**17. Investment programmes, acquisition and disposal of assets.**-----(l) The

licensee shall, no later than one hundred eighty days following the notification of the NEPRA rules and regulations, submit the licensee's investment programme to the Authority for approval.

(2) The licensee's investment programme shall be drawn up consistently with the provisions of the NEPRA rules and regulations.

(3) The licensee shall not, except under a prior authorisation, acquire, whether on ownership basis, lease, hire-purchase, or other mode of possession or use, any tangible or intangible asset of a nature or value inconsistent with or which is not expressly or by necessary implication stated in the licensee's investment programme approved by the Authority in accordance with the NEPRA rules and regulations, provided however that, until such time the licensee's investment programme is approved by the Authority in terms of sub-rule (1), the Licensee may acquire assets required for the operation and maintenance of the distribution system or assets of a value not exceeding the value specified for the purpose by the authority in the distribution licence.

(4) The licensee shall not, except under a prior authorisation, sell or dispose in any manner any of the tangible assets comprised in the distribution system or any intangible assets accruing or likely to accrue to the licensee from the distribution business or the second-tier supply business in a manner inconsistent with or which is not expressly stated in the licensee's investment programme approved by the Authority in accordance with the NEPRA rules and regulations, provided that until such time the licensee's investment programme is approved by the Authority in terms of sub-rule(1), the licensee may dispose or sell assets of a value not exceeding the value specified for the purpose by the authority in the distribution licence.

(5) The Authority may impose additional conditions in the distribution licence or may specify the procedure in respect of the manner of acquisition or disposition of or the creation or permitting the subsistence of any encumbrance over the assets comprised in the distribution system or accruing or likely to accrue from the distribution business.

**18. Insurance.**----- The licensee shall obtain and maintain such policies of insurance as may be specified in the distribution licence, provided that the licensee shall not be obliged to obtain and maintain any insurance until such time the Authority makes and enforces a policy decision for insurance to be obtained 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 the distribution business and the second-tier supply business, of the nature and in the manner as may be specified in the distribution licence.

(2) All such records and data shall, unless provided other wise under the Laws or the applicable documents, be maintained 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 written notice to the Authority. The licensee shall not dispose of or destroy any records or data which the Authority directs the licensee to preserves.

(3) The Authority shall have the right, upon forty-eight hours prior written notice to the licensee, to examine the records and data of the licensee at any time during normal office hours.

**20. Provision of information.**----(1) The Authority may specify in the distribution license the extent and scope of the licensee 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 such penalties as may be specified in the 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. Power to amend or grant dispensation.**--- The Authority may amend, delete or supplement the provisions of these rules, in whole or in part, in their application in respect of a distribution licence at the time of grant of such licence, provided that, following the issue of a distribution licence, the Authority may amend the terms of the distribution licence only in accordance with the NEPRA rules and regulations.

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MAJ.GEN (R) MUHAMMAD HASAN AQEEL

Secretary,

**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY**