



**NATIONAL ELECTRIC POWER REGULATORY AUTHORITY
(ELECTRIC POWER TRADER) REGULATIONS, 2021**

**DRAFT FOR PREVIOUS PUBLICATION UNDER SECTION 47 (3) OF THE
REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF
ELECTRIC POWER ACT, 1997 (XL OF 1997)**

NOTIFICATION

Islamabad, _____, 2021

S.R.O. ____. In exercise of the powers conferred by section 47 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997) read with all other enabling provisions thereof, the National Electric Power Regulatory Authority hereby notifies the following regulations: —

1. Title and commencement. — (1) These regulations shall be called the National Electric Power Regulatory Authority (Electric Power Trader) Regulations, 2021.

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

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

- (a) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997);
- (b) "aggregation" means consolidation of electric power generation or electric power demand for trade in the wholesale electric power market;
- (c) "Authority" means the National Electric Power Regulatory Authority established under section 3 of the Act;
- (d) "applicable documents" means the rules, regulations, terms and conditions of any licence, registration, authorization, determination, any codes, manuals, directions, guidelines, orders or notifications issued or approved under the Act;
- (e) "application" means an application made to the Authority for grant of electric power trader licence in accordance with the National Electric Power Regulatory Authority Licensing (Application, Modification, Extension and Cancellation) Procedure Regulations, 2021, provisions of the relevant eligibility criteria rules and other applicable documents;
- (f) "applicant" means a person who submits an application before the Authority for grant of electric power trader licence;

- (g) “CTBCM” or “Competitive Trading Bilateral Contract Market” means electric power market established in accordance with the high-level and detailed designs approved by the Authority vide its determinations dated 5th day of December, 2019 and 12th day of November, 2020 as may be amended by the Authority from time to time;
- (h) “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;
- (i) “market participant” means any person who is registered with the Market Operator through a Market Participation Agreement;
- (j) “trading” means the purchase and sale of electric power in the wholesale market subject to the Act and applicable documents and the expression trade shall be construed accordingly:
Provided that trading shall not include supply of electric power to a consumer;
- (k) “wholesale market” or “wholesale electric power market” means the environment where sale and purchase of electric power in bulk, takes place between the generation licensees (after cessation of generation licensing, generation licensees may be read as generation companies), electric power trader licensees, electric power supplier licensees and bulk power consumers subject to the Act and applicable documents.

(2) Words and expressions used in these regulations but not defined herein, unless appear repugnant to the context, shall have the same meanings as assigned to them in the Act, rules or regulations made thereunder and other applicable documents.

3. Electric power trader licence.- (1) No person shall engage in trading of electric power without obtaining electric power trader licence under the Act.

(2) Any person seeking to obtain electric power trader licence shall make an application to the Authority in accordance with the relevant rules and the National Electric Power Regulatory Authority Licensing (Application, Modification, Extension and Cancellation) Procedure Regulations, 2021 and other applicable documents.

(3) The Authority may, after such inquiry as deemed appropriate and being satisfied that the applicant fulfills the eligibility criteria prescribed in the relevant rules, any requirement specified in these regulations and other applicable documents, grant electric power trader licence to the applicant.

4. Functions of electric power trader.- An electric power trader may be licensed by the Authority to perform any or all of the following functions:

- (a) engage in trading;
- (b) import or export electric power, subject to prior permission from the Authority, for trade in wholesale electric power market;

- (c) engage in aggregation as per the limits, if any, set by the Authority from time to time in the interest of promoting fair competition and control abuse of dominant position;
- (d) Any other functions as may be allowed under the Act or the licence.

5. Conditions of electric power trader licence.- (1) An electric power trader licence shall be subject to such conditions as specified in these regulations or other applicable documents including the licence and determination of the Authority allowing grant of electric power trader licence.

(2) An electric power trader licensee shall.-

- (a) have in place all agreements or arrangements for performing its functions authorized in its licence;
- (b) obtain any required authorisations, approvals or permissions as required under the applicable documents or other relevant laws of the country to be able to perform its obligations under such agreements or the licence;
- (c) have requisite agreements, in writing, with transmission licensees and distribution licensees for use of transmission system or distribution system, as the case may be;
- (d) maintain its accounts as may be specified by the Authority or required under the applicable documents in addition to its other legal obligations for maintenance of accounts under any other law for the time being in force;
- (e) have in place, if allowed under the licence, all necessary agreements, in writing, with the concerned entities and approvals from the competent forums before trading with persons outside of Pakistan;
- (f) establish adequate communication facilities and relevant systems, to ensure appropriate facilitation to the relevant parties and market participants, prior to undertaking any trading activities;
- (g) ensure that the agreements entered by it, comply with the applicable documents and do not prohibit or restrict it in any manner from complying with the applicable documents;
- (h) comply with the relevant applicable provisions of the Grid Code, the Distribution Code and the market commercial code;
- (i) promptly inform the Authority of any violation of the Act or applicable documents that it commits or comes to its knowledge regarding any other market participant;

- (j) ensure its systems are properly secured from physical damage and cyber security threats and do not pose any unnecessary risks to systems of other market participants, licensees or registered persons;
- (k) not engage in abuse of market power to the detriment of fair competition or other anti-competitive practices;
- (l) not change its management control or majority shareholding without prior written approval of the Authority;
- (m) provide to the Authority certified copies of any agreements or arrangements entered into by it, if so required by the Authority;
- (n) shall not enter into any arrangement with any person, who is required to obtain a licence or registration or other authorization from the Authority for such purpose, but does not have such licence or registration or authorization;
- (o) not surrender, sell, assign, sub-contract, exchange or otherwise transfer the licence or any right conferred under the licence to any other person without prior written approval of the Authority;
- (p) in the event, the licensee engages any other person to assist it in the performance of any of its duties, obligations or activities under its licence, the licensee shall ensure that such person is competent and capable of performing all the works efficiently;

Provided that at all times, it shall be the responsibility of the licensee to ensure compliance with the Act and applicable documents and the licensee shall be liable accordingly for any non-compliance thereof;

- (q) submit to the Authority its trading volume and five year trading plan as per Schedule-I;
- (r) comply with the CTBCM design as approved and amended from time to time by the Authority;
- (s) make payment of fees, fines or other charges as may be due under the applicable documents;
- (t) shall ensure, at all times, compliance with the relevant performance standards specified by the Authority; and
- (u) shall not engage in any other business activity.

(3) In addition to the conditions specified in these regulations, the licensee shall comply with such further conditions or directions of the Authority that may be imposed or issued at the time of grant of licence or subsequently from time to time.

6. Accounts.- (1) An electric power trader licensee shall maintain its accounts in accordance with the applicable documents in addition to any other statutory requirement for maintaining its accounts.

(2) Where required by the Authority, the licensee shall prepare and provide such accounts to the Authority as are necessary for the Authority to carry out its functions under the Act.

(3) The audited accounts and other statutory accounts shall be submitted to the Authority in the manner and form as required by the Authority in a timely manner on annual basis or as may be required by the Authority.

(4) Any officer authorised by the Authority shall be entitled to inspect and verify the accounts and relevant records of the licensee and the licensee shall render all necessary assistance to such person.

7. Information technology and operational technology requirements.- All computer programs or systems used by the licensee shall be adequately secured as per the requirements of the applicable documents and relevant information technology and operational technology standards.

8. Electric power trading volume. — (1) The licensee shall be authorized to trade the electric power not exceeding the trading volumes or capacity specified in its license.

(2) In the event the licensee's actual capacity or actual energy traded or either of the two increases from the limits provided in its licence in a year, the licensee shall immediately but not later than one month, apply to the Authority for its change of licence category in accordance with the applicable documents and shall comply with the relevant eligibility criteria and pay the corresponding fee for the appropriate higher category.

9. Prohibition against anti-competitive practices. — (1) An electric power trader licensee shall not impede, prevent or attempt to prevent any other licensee, registered person, market participant or competitor, if any, from engaging or entering into the wholesale electric power market.

(2) An electric power trader licensee shall not engage in any form of anti-competitive activities or activities contrary to trading practices.

(3) An electric power trader licensee shall not enter into any agreement or make a decision in respect of the generation, sale, supply, distribution, acquisition or control of or the provision of electric power services which have the object or effect of preventing, restricting, or reducing competition within the wholesale electric power market unless exempted by the Authority.

10. Term of the licence. — An electric power trader licence shall be issued for a period of ten (10) years and shall be valid during this period subject to payment of annual fees as specified in the applicable documents from time to time, unless revoked by the Authority.

(2) The electric power trader licence may be renewed, after expiry of its term, upon the licensee's application, subject to satisfactory performance of the licensee, compliance with the Act and other applicable documents, payment of such fees as may be determined and on such terms and conditions as the Authority may deem appropriate.

11. Fees.- The electric power trader applicant or licensee shall timely pay relevant fees including annual fee and application fees as may become due under the applicable documents to the Authority.

12. Use of information. — (1) The electric power trader licensee shall ensure that any information received as a result of its licensed activity shall not be revealed or shared with anyone, except in cases where:

- (a) prior written consent is given by the person to whom the information is related; or
- (b) the information is public; or
- (c) the electric power trader licensee is required or allowed to disclose the information to fulfil the conditions of the licence according to the Authority's order, or any other applicable document; or
- (d) the information shall be disclosed in the normal course of performing the licensed activity.

(2) The electric power trader licensee shall ensure that any affiliate or associated business shall not use any of its information to obtain unjustified competitive advantage, and shall ensure that it shall not disclose any information to any other person (including other associated businesses) that may enable that person to obtain any unjustified commercial advantage.

(3) The electric power trader licensee shall undertake all necessary steps to avoid any unauthorized access to the confidential information.

(4) Information submitted to the Authority by the electric power trader licensee shall be considered public, except in cases where upon specific/special request of the licensee, the Authority decides the information is of proprietary nature and the disclosure of it may adversely impact the public interest or unjustifiably impact the business of the licensee;

(5) The electric power trader licensee shall not enter into agreements which may lead to the violation of the terms and conditions of its licence.

13. Maintenance of Record.— (1) The electric power trader licensee shall keep complete and accurate record and other data relating to the licensed activity including any contractual arrangements, agreements, and any other information as may be specifically required by the Authority.

(2) All records and data referred to in sub-regulation (1) above shall be maintained in good order and condition for a minimum period of five years after the expiry of such record, arrangement or agreement or for such further extended period as the Authority may specifically require.

14. Performance monitoring. — (1) The electric power trader licensee shall submit to the Authority periodic reports on its performance and compliance with these regulations and other applicable documents including the relevant eligibility criteria rules, and the terms and conditions of its licence.

(2) The Authority may require the electric power trader licensee to provide any special reports on such format as may be deemed appropriate by the Authority and order a performance audit of the electric power trader licensee.

15. Risk and administrative requirements. — (1) The electric power trader licensee shall, subject to the provisions of its licence, promptly and diligently adhere to all reasonable risk-management and risk containment measures, and shall implement risk-mitigation measures.

(2) The electric power trader licensee shall submit to the Authority for its prior approval any changes to its management control, ownership, and/or nature of business.

(3) The electric power trader licensee shall intimate the Authority, in writing, any change in its address and other contact details.

16. Resolution of disputes. — Any dispute or disagreement between the electric power trader licensee and any other person, registered person or licensee providing electric power services relating to any matter arising out of, or in connection with, the activities covered under the Act and applicable documents or the terms and conditions of the licence may be submitted for decision of the Authority.

17. Performance standards.- The electric power trader licensee shall comply with the relevant performance standards and public service obligations as provided in the Act or the applicable documents.

18. Power to suspend or revoke licence.— Without prejudice to the powers of the Authority under the Act, upon being satisfied that the electric power trader licensee is not discharging its functions in accordance with these regulations or terms and conditions of licence, or becomes insolvent, or otherwise fails to carry on its business in the interests of the market, or the licensed activity is no longer required, the Authority may, after providing an opportunity to show cause followed by a personal hearing, take such measures as it deems expedient including but not limited to suspension or revocation of licence and take such other actions as may be deemed necessary to safeguard the interests of all the relevant stakeholders.

Schedule-I

Form for Submission of Trading Volume and other Information (Information to be submitted on Monthly Basis to the Authority)

Electric Power Trader Licensee Name: _____
 Licence No: _____
 Licence Issuance Date: _____
 Contact Details: [Address/Email/Contact Number] _____

S. No.	Purchased from*	Sold to*	Volume of Trading in		Point of Purchase	Point of sale	Use of Transmission System charges borne by seller/ Trader/ buyer*	Transmission losses borne by Seller/ Trader/ Buyer*	Use of Distribution System Charges / Any other charges (please Specify)	Outstanding payments/settlements (if any) for imbalances in wholesale market
			MWh	Contracted						
1	2	3	4	5	6	7	8	9	10	11

Note:

*Moreover, besides the name of the seller/ buyer, indicate the category of the seller/ buyer namely generator, captive power plant, distribution licensee, bulk power consumer (when applicable) etc.

Strike out whichever is not applicable.