NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

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NOTIFICATION

Islamabad, the 19th of June 2018

S.R.O 763(I)/2018 In exercise of the powers conferred by Section 7(2) of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority, in the interest of revising and bringing transparency to the tariff determination process hereby notifies the following guidelines, namely.–

1. **Title and Commencement**. – (1) These guidelines may be called the National Electric Power Regulatory Authority (Benchmarks for Tariff Determination) Guidelines, 2018.

(2) These guidelines shall come into force after three months from the date of notification of these guidelines.

2. **Applicability**. – These guidelines shall be applicable to all applications for tariff determination under the NEPRA Tariff Standards and Procedure Rules, 1998, and the NEPRA Up-front Tariff (Approval & Procedure) Regulations, 2011 filed after the coming into force of these guidelines.

3. **Definitions.** – (1) In these guidelines, 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 (XL of 1997);

(b) "Authority" shall bear the meaning ascribed thereto in the Act;

(c) "capex loan" means debt financing for the purposes of capital expenditure;

(d) "COD" means the date on which the facility initiates commercial operation;

(e) "EPC Costs" means costs associated with execution of a engineering, procurement and construction agreement or contract;

(f) "export credit insurance" means insurance covering payment risks resulting from export credit and includes sinosure;

(g) "IDC" means the rate of interest applied to debt financing during the construction phase of a power project;

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(h) "KIBOR" means the Karachi Inter-Bank Offered Rate;

(i) "LIBOR" means the London Inter-Bank Offered Rate;

(j) "Non-Banking Financing" means a financing arrangement not involving a banking company, scheduled bank or a foreign banking company as defined under the Banking Companies Ordinance, 1962 (LVII Of 1962) and shall include pension funds, mutual funds and venture capital;

(k) "renewable energy" means a source of energy that occurs naturally or is regenerated naturally, including, without limitation:

  (i) Biomass;

  (ii) Fuel cells;

  (iii) Geothermal energy;

  (iv) Solar energy;

  (v) Waterpower; and

  (vi) Wind.

(l) "Revised SBP Financing Scheme for Renewable Energy" means the State Bank of Pakistan scheme for financing power projects notified on 20-06-2016;

(m) "ROEDC" means the rate of return applied to equity during the construction phase of a power project;

(n) "Sukuk" shall have the meaning ascribed to this term in the Sukuk (Privately Placed) Regulations, 2017 as notified and amendment from time to time by exercise of powers under section 512 of the Companies Act, 2017 (XIX of 2017); and

(o) "WACC" means the weighted average cost of capital.

(2) Words and expressions used but not defined in these guidelines shall have the same meaning as in the Act and rules and regulations made thereunder.

4. **KIBOR.** – (1) This clause shall apply to cases where debt financing has been benchmarked against KIBOR.

(2) In case of renewable energy projects eligible for securing debt financing under the Revised SBP Financing Scheme for Renewable Energy, a flat rate of 6% shall be approved for debts with debt repayment periods not exceeding 12 years.

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(3) In case of hydropower projects with capacities up to 50MW and construction periods exceeding 2 years, a spread not exceeding 2.5% over KIBOR shall be approved, on a case to case basis, with savings in the spread allowed to be shared between the power producer and power purchaser in the ratio of 60:40 respectively.

(4) In case of hydropower projects with capacities over 50MW and construction periods exceeding 3 years, a spread not exceeding 2.75% over KIBOR shall be approved.

(5) In case of power projects securing financing through Non-Banking Financing, a spread ceiling lower than standard commercial banking spreads shall be approved, on a case to case basis, and the difference between the approved spread ceiling and the spread achieved by the project shall be shared equally between the power purchaser and power producer.

(6) In case of power projects securing financing through Sukuk, a spread ceiling lower than standard commercial banking spreads shall be approved, on a case to case basis, with savings in the spread to be shared equally between the power producer and power purchaser.

(7) In case of energy projects other than those specified in sub-clauses (2), (3), (4), (5) and (6) above, a spread not exceeding 2.25% over KIBOR shall be approved, with savings in the spread to be shared between the power producer and power purchaser in the ratio of 50:50.

5. LIBOR. – (1) This clause shall apply to cases where debt financing has been benchmarked against:

(i) LIBOR;

(ii) a combination of LIBOR and KIBOR.

(2) In case of wind and solar power projects, a spread not exceeding 4.25% over LIBOR shall be approved, on a case to case basis.

(3) In case of hydropower projects with capacities over 50MW and construction periods exceeding 2 years, a spread not exceeding 4.60% over LIBOR shall be approved on case to case basis.

(4) In case of power projects other than those specified in sub-clauses (2) and (3) above, a spread not exceeding 4.5% over LIBOR shall be approved on case to case basis

(5) In case of power projects with export credit insurance, the approved spread ceilings shall be reduced by 50 basis points.

Provided that in case of savings greater than 50 basis points, the difference between the approved spread ceiling reduced by 50 basis points and the spread achieved by the power producer shall be shared equally between the power purchaser and power producer.

6. Capital Structures. – (1) Capital structures for all energy projects shall be approved within the debt-equity ratio limits prescribed in Schedule I of these guidelines.

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(2) Notwithstanding the foregoing, capital structures for all Technologies, except Hydel shall be approved on a 80:20 debt-equity ratio.

Provided that, in case of a formal requirement by a lender for a debt-equity ratio other than 80:20, the Authority may approve a capital structure within the debt-equity ratio limits prescribed in Schedule I of these guidelines.

Provided further that in case the Authority approves a debt-equity ratio other than 80:20, the return approved on equity shall be adjusted to maintain a WACC at the same level as under a 80:20 debt-equity ratio capital structure.

(3) For Hydel Projects, Debt : Equity shall be approved in the range of 80 : 20 to 75 : 25

Provided that, in case of a formal requirement by a lender for a debt-equity ratio other than 80:20 to 75:25, the Authority may approve a capital structure within the debt-equity ratio limits prescribed in Schedule I of these guidelines.

Provided further that in case the Authority approves a debt-equity ratio other than 80:20 to 75:25, the return approved on equity shall be adjusted to maintain a WACC at the same level as under a 80:20 to 75:25 debt-equity ratio capital structure.

(4) In case of a capital structure with equity exceeding 30% of total capital cost, the Authority shall treat equity in excess of 30% of total capital cost as debt.

7. **ROEDC and IDC.** – (1) This clause shall apply to cost-plus tariffs.

(2) The rates of ROEDC and IDC shall be approved by the Authority at the time of tariff petition, by way of a Reference Tariff, on the basis of justified equity injections and debt drawdown patterns submitted by the applicant.

(3) In case of a material deviation between the rates of ROEDC and IDC approved by the Authority at the time of tariff determination and the actual rates achieved at COD, and where such deviations are not substantiated or justified, the Authority shall rationalize the tariff as per the equity injections and debt drawdown patterns approved at the time of tariff petition.

8. **Financing Fees.** – (1) This clause shall apply to debt financing through capex loans.

(2) In case of hydropower projects with capacities up to 50MW and construction periods exceeding 3 years, or power projects with new technologies, a financing fee not exceeding 2.5% of debt shall be approved.

(3) In case of power projects other than those specified in sub-clause (2), a financing fee not exceeding 2.00% of debt shall be approved.

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9. **Insurance.** – (1) Insurance costs shall be approved as a percentage of EPC Costs at rates prescribed in Schedule II of these guidelines.

(2) Average construction periods for each technology shall be as per the timelines prescribed in Schedule II of these guidelines.

(3) In case of technologies not specified in Schedule II, insurance cost and average construction periods shall be approved by the Authority on a case to case basis.

10. **Withholding tax.** – Withholding tax on dividends shall not be allowed as a pass-through item in any technology.

11. **Relaxation of Guidelines.** – The Authority may in a particular case, or class of cases, for reasons to be recorded in writing, relax, adjust, modify, revise or dispense with any provision of these guidelines subject to such conditions as it may deem fit.

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(Syed Safeer Hussain)
Registrar

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Schedule I
(*See* Section 6)

Debt-Equity Ratios

Maximum Percentage of Capital allowable as Equity	Minimum Percentage of Capital allowable as Debt
30%	70%
Minimum Percentage of Capital allowable as Equity	**Maximum Percentage of Capital allowable as Debt**
20%	80%

Schedule II
(*See* Section 9)

Insurance Costs

Technology	Average Construction Period Allowed	Insurance Cost During Construction (as a % of EPC Cost)	Insurance Cost During Operation (as a % of EPC Cost)
Wind	15 - 18 months	0.50%	0.40%
Solar	12 months	0.40%	0.40%
Thermal	24 - 30 months	0.75%	0.70%
Hydel (upto 50MW)	36 months	1.00%	1.00%
Hydel (over 50MW)	6 Years	2.00%	1.00%

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