

NEPRA POWER ACQUISITION PROGRAMES
(STANDARDS AND PROCEDURE) RULES, 2017

In exercise of the powers conferred under Section 32 read with Section 46 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the National Electric Power Regulatory Authority, with the approval of the Federal Government, is pleased to make the following Rules namely :—

PART - I

SHORT TITLE, COMMENCEMENT, DEFINITIONS, ETC.

1. Short title, commencement and scope. – (1) These Rules may be called the National Electric Power Regulatory Authority Power Acquisition Programmes (Standards and Procedure) Rules, 2017.

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

(3) These Rules are applicable to the distribution licensees or Market Operator acting as agent on behalf thereof, for submission of their power acquisition programmes.

2. Definitions. – (1) In these Rules, 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) “Applicable Documents” means the rules and regulations issued in pursuance of the Act by the Authority, from time to time, relating to the generation, transmission and distribution licences, the grid and distribution codes and any other documents, instruments, approvals or authorizations issued or granted by the Authority in exercise of its power under the Act;

(c) “Authority” means the National Electric Power Regulatory Authority established under Section 3 of the Act;

- (d) “Communication” means any information, comment, data, filing, summary, written statement, representation, pleadings, correspondence, or evidence submitted to the Authority;
- (e) “Consumer” means a person or his successor-in-interest who purchases or receives electric power for consumption and not for delivery or re-sale to others, including a person who owns or occupies premises where electric power is supplied;
- (f) “Distribution Code” means the distribution code prepared by the distribution licensee 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 licence;
- (g) “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;
- (h) "Licence" means a licence issued for distribution under the Act;
- (i) “Licensee” means a holder of a distribution of electricity licence;
- (j) “Motion” means any or, if so directed by the Authority, written application in relation to any matter under these rules;
- (k) “Petition” means a petition submitted to the Authority for the approval, modification or revision of the power acquisition programme;
- (l) “Pleadings” means the Petition, the replies to the Petition, the intervention request, the reply of intervention request and rejoinders to replies;
- (m) “Presiding Officer” means the presiding officer appointed by the Authority, for the purpose of these Rules, where the context so admits, shall also means the Authority.
- (n) “Proceedings” means the entire process commencing from the date of filling of Petition with the Registrar or, where the Authority initiates the process of approval of power acquisition programme, the date of such initiation by the

Authority, and ending on the date the Authority grants its final decision on a Petition, and shall include any stage during the proceedings.

- (o) “Registrar” means a person designated by the Authority to register and record the receipt of communications and Petitions filed with the Authority and to perform such other duties under these rules as may from time to time be assigned by the Authority;
- (p) “Rules” means National Electric Power Regulatory Authority Power Acquisition Programmes (Standards and Procedure) Rules, 2016;
- (q) “Tariff” means the rates, charges terms and conditions for generation of electric power, transmission, inter-connection, distribution services and sales of electric power to consumers by a licensee;
- (r) “Transmission and/or Distribution Network” means transmission and/or distribution network which comprises and is designated as electric lines, cables, and transformer substations and other plant and equipment operating in transmission and/or distribution network and equipment as defined in the Act, Grid and Distribution Codes.

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

3. Purpose. – These Rules prescribe the procedures, principles and standards to be followed by the Licensees while submitting the proposed power acquisition programme to the Authority for its approval.

PART - II

PROCEDURE

4. Filing of Petition. – (1) The Licensee shall submit a Petition for its proposed power acquisition programme with the Authority by filing it with the Registrar for obtaining prior approval of the Authority.

(2) The Authority may *suo-moto* direct a Licensee to file a Petition for approval of its power acquisition programme by the Authority.

(3) A Petition submitted under sub-rules (1) and (2), in addition to the information required under Rule 10, shall include the following:

- (a) the name and address of the Petitioner;
 - (b) approval of the board of directors of the Licensee for the power acquisition programme;
 - (c) power of attorney in favor of the signatory of the Petition;
 - (d) affidavit to the effect that the information provided in the Petition and power acquisition programme is accurate;
 - (e) historic data for the previous five years regarding load growth;
 - (f) report assessing the position on capacity needs and system constraints for five year period ahead prepared in accordance with the Schedule I; and
 - (g) any other information as may be required by the Authority from time to time.
- (4) The Registrar shall examine the contents of the Petition in order to satisfy himself of the conformity thereof with the provisions of sub-rule (3), and;

- (a) shall return the Petition to the Petitioner with directions to amend and re-file the Petition in accordance with the provisions of sub-rule (3), if the Petition is found by the Registrar not to be in conformity with sub-rule (3):

Provided that, no Petition shall be returned after the expiry of thirty (30) days of filing thereof with the Registrar; or

- (b) where the Petition is found to be in conformity with the requirements of sub-rule (3), shall accept the Petition and endorse thereon a stamp acknowledging the filing along with the number given thereto in the register:

Provided that, where a Petition is re-submitted by the Petitioner and the Registrar is not satisfied of the conformity thereof with sub-rule (3), the Registrar shall place the Petition before the Authority for directions which shall be made by the Authority not later than fifteen (15) days of the date of re-submission thereof by the Petitioner.

(5) All Petitions shall be deemed to be submitted on the date of submission thereof with the Registrar, and where re-filed in accordance with the provisions of sub-rules (3) and (4), on the date the Registrar or the Authority, as the case may be, accepts the filing thereof:

Provided that a Communication shall be deemed to be filed on the date on which it is filed with the Registrar.

(6) The Petition for the proposed power acquisition programme is required to be submitted to the Authority every year on dates specified by the Authority for every Licensee.

5. Admission of Petition. – (1) The Petition shall be placed before the Authority for admission no later than fourteen (14) days from the date of filing of the Petition, as provided under sub-rule (b) of Rule 4.

(2) The Authority may call for submission by the Petitioner of any further supporting Communication within the time specified for the purpose of admission of the Petition, and the Authority shall not be required to entertain or admit any Petition until such time that such supporting Communication is furnished.

(3) The Authority may admit the Petition without requiring attendance of the Petitioner.

(4) The Authority shall not pass an order refusing admission without giving the Petitioner an opportunity of being heard through a written representation.

(5) In case the Authority admits the Petition, it may give such orders and directions for the service of notices to –

- (a) the parties affected or interested, or which in the opinion of the Authority are likely to be affected or interested; and
- (b) to persons who, by reason of their calling or expertise, may be of assistance to the Authority in arriving at a just and informed decision, for –
 - (i) filing replies or communications in opposition or in support of the Petition in such form as the Authority may direct, or
 - (ii) or the purposes of expeditious and efficient conduct of the proceedings.

(6) The Authority shall direct the advertisement by publication of the title and brief description of the Petition in any one or more newspapers specified for the purpose by the Authority and such publication shall also contain a notice of the availability of a copy of the Petition at the website of the Authority as well as in the office of the Authority upon payment of prescribed fee.

6. Hearings by the Authority. – (1) At the time of admission of the Petition, the Authority shall determine whether a hearing is required to arrive at a just and informed decision.

(2) In case the Authority orders a hearing, the Registrar shall fix the date of hearing for the parties to present written or oral arguments on the basis of the pleadings and may also frame the issues over which the parties may be allowed to address arguments and present evidence before the Authority and the Authority may decide as to which issues may be allowed to be addressed during the course of the hearing:

Provided that in framing the issues, the Authority may exclude one or more issues or matters raised or stated in the pleadings, and may also include additional issues or matters not raised in the pleadings.

(3) In case the Authority determines not to hold a hearing, it shall inform the parties of its decision. The parties shall, not later than ten (10) days of receiving the notice as aforesaid, file with the Registrar the detailed evidence referred to in the summaries of evidence.

(4) In case the Authority orders a hearing, the date of hearing shall also be specified in the notice of admission, provided that, once hearing in the proceedings has commenced, the notice of the next date of hearing may be of any period as determined by the Authority and may be announced by the Authority at the time of adjournment of the hearing or notices may be given to the parties.

(5) A hearing may be conducted by only one member of the Authority who shall be designated as the presiding officer by the Authority for the purpose:

Provided that the final decision or determination in the proceedings shall be taken by the Authority on the basis of the record of the proceedings.

7. Intervention. — (1) Any interested person who desires to participate in any proceedings may file an intervention request for leave to intervene.

(2) The intervention request shall state the name and address of the person filing the same, objections and the manner in which such person is or is likely to be substantially and

specifically affected by any determination in the proceedings. The intervention request may also contain the contentions of the person making the same, the relief sought and the evidence, if any, in support of the case.

(3) An intervention request must be filed within seven (07) days from the date of publication of notice of admission in the newspapers.

(4) The person filing intervention request shall also serve a copy of the same to the Petitioner and the Petitioner may, if he so elects, file a reply to the intervention request.

(5) If a Petitioner files a reply to the intervention request, he shall also serve a copy of the reply to the person making intervention request.

(6) The Authority may grant leave to intervene, subject to such conditions, if any, as the Authority may deem appropriate.

(7) If the Authority refuses leave to intervene, it may direct the person making the intervention request to file such Communications before the Authority as may have been referred to in the intervention request, and such Communications may be taken into account by the Authority in the determination.

8. Decision of the Authority. – (1) All orders, determinations and decisions of the Authority shall be made in writing.

(2) The decision of the Authority in respect of the Licensee's power acquisition programme shall be communicated within one hundred twenty (120) days of the date of the admission of the Petition.

(3) The Authority may, subject to such terms and conditions as it may deem fit, take a decision to –

(a) approve the Licensee's power acquisition programme with or without modification; or

(b) reject the licensee's Petition for approval of its power acquisition programme.

(4) The decision of the Authority in respect of sub-rule (b) of Rule 3 above shall be accompanied by a statement of reasons for the rejection.

9. Review of Authority's Decision. – Within ten (10) days of the service of the final order, determination or decision of the Authority, the Licensee or any effected party may file a Motion for leave for review with the Authority in accordance with the NEPRA (Review Procedure) Regulations, 2009.

CHAPTER III

REQUIREMENTS AND OBLIGATIONS OF LICENSEE

10. Time Frame and contents of the power acquisition programme. — The proposed power acquisition programme shall be prepared for the period of five (05) years ahead.

11. Internal scrutiny of the programs by the Licensee. – Prior to filing the Petition for the proposed power acquisition programme with the Authority, the Licensee shall ensure completion of the following steps –

- (a) Identify demand based on historic data of load growth;
- (b) Prioritize different options with respect to their impact;
- (c) Identify funding requirements and sources of funds; whether the Licensee has its own resources or whether the funds will be sourced through loans/grants; and
- (d) performance of detailed sensitivity analysis to confirm robustness of proposals.

12. Compliance with power acquisition programme. – (1) Where a Licensee fails to comply with the requirements of these Rules or such decision of the Authority made in respect of and pursuant to these Rules, the Authority shall exercise all such necessary powers against the Licensee as the Authority considers appropriate as provided for in the Act and Applicable Documents.

(2) Notwithstanding anything contained in sub-rule (1), where a licensee fails to comply with the provisions of these Rules as prescribed above, the Authority may, declare any power purchase agreement or a term thereof to be void.

(3) Where a Licensee fails to submit its power acquisition programme within the time period provided for in these Rules, the Authority may declare all power purchase agreements executed during the respective financial year to be void.

13. Provision of Periodic Information. – The Licensee shall be responsible for providing information and relevant supporting documentation with respect to the power acquisition programme in such form and manner as may be specified by the Authority.

14. Monitoring and Verification. – The Licensee shall submit a report on implementation of power acquisition programme for monitoring and verification within thirty (30) days of the end of every financial year.

CHAPTER IV

STANDARDS

15. Standards. — (1) The Authority shall decide a Licensee's power acquisition programme in accordance with the standards set under this rule.

(2) The Licensees' power acquisition programme shall –

(a) be fair, balanced, reasonable and non-discriminatory,

(b) promote efficiency, security and reliability of supply of electricity,

(c) be in conformity with the Distribution and Grid Code,

(d) be in accordance with its obligation to procure electric power at the best effective price obtainable and the transmission company's least cost expansion plan, and

(e) be consistent with the Act and Applicable Documents.

(3) The evaluation of the power acquisition programme shall take into consideration the following –

(a) load research and accuracy of load forecast;

(b) network modeling;

(c) the ability of the Licensee to demonstrate that it shall continue to supply power to users while satisfying the performance standards prescribed by the Authority;

- (d) prudence and reasonableness of proposed acquisition;
- (e) cost-benefit analysis
- (f) location, type, technology, efficiency and fuel of the generation facilities from which the power is proposed to be acquired;
- (g) that the procurement of additional generation capacity is conducted in a manner which promotes competition; and
- (h) that the average purchase price is arrived at through a standard formula and is not arbitrary;

(4) The Licensee will provide rationale and justification of the proposed power acquisition based on location, type technology and fuel of generation facilities.

(5) Due regard shall be given to the Licensee's ability to plan, operate and expand its systems to meet its obligations under the terms of the Licence.

(6) Inter-Licensee comparisons of power acquisition programmes of different Licensees shall be used as a regulatory approach to measure the management efficiency of a Licensee, with due regard to inherent cost differences due to different geographical locations.

(7) Requisite funding for approved power acquisition programme shall be obtained independently by the Licensee on a least cost basis

(8) Licensees shall have the ability to afford electricity to be purchased from revenues likely to be received from its customers and, where applicable, government provided subsidies or guarantees;

CHAPTER V

MISCELLANEOUS

16. Extension of time. — (1) Subject to the provision of sub-rule (2) of Rule 8, the Authority may, for good cause shown, extend any time limit as prescribed by these Rules.

(2) All requests for extension of the time limit shall be made by Motion before the expiration of the period originally prescribed or as previously extended.

(3) The Authority shall give notice to all parties of its determination upon the Motion made under sub-rule (2) above

17. Penalty. — Any Licensee who contravenes these Rules shall be punishable with fines which may extend to one hundred million rupees and, in the case of a continuing contravention, with an additional fine which may extend to five hundred thousand rupees for every day during which such contravention continues after the first contravention.

Annexure

Form I

[See Rule 4(3) (h)]

DEMAND FORECASTING REPORT

The Demand Forecasting Report shall contain an analysis of the electric supply situation of the relevant Licensee, its historic and current demand profiles and current social, economic and demographic projections and provide an outlook on:

- (a) Projected gross MW demand
- (b) Peak demand and load shedding
- (c) Peak demand at interconnection points, grid identification, voltage, capacity in MVA
- (d) Available generation capacity and general information regarding the generation facilities
- (e) Anticipated generation capacity for which PPAs have been concluded together with information on current state of project EPC and expected commercial operation date
- (f) Recommended injection points on the Distribution Network for additional generation capacity, as well as the upper limit of capacity at any given time
- (g) Planned generation plant retirements
- (h) Current and projected natural gas and other fuel supply capabilities
- (i) Distribution Network constraints and planned augmentation