Government of Pakistan
Ministry of Energy
(Power Division)

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# THE ELIGIBILITY CRITERIA (ELECTRIC POWER SUPPLIER LICENCES) RULES, 2023

Islamabad, the 04th September, 2023.

## NOTIFICATION

S.R.O.1107(I)/2023.— 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), read with section 23E thereof, the Federal Government is pleased to make the following rules, the same having been previously published in the daily newspapers and uploaded on the website as required under proviso to sub-section (1) of section 46 of the said Act, namely:—

**1. Short title and commencement.**— (1) These rules shall be called the Eligibility Criteria (Electric Power Supplier Licences) Rules, 2023.

(2) They shall come into force at once.

**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) "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 purpose of this definition—

(i) "control" means the right, power or ability to influence or determine any decision in respect of the conduct of affairs of the person under control; and

(ii) "ownership" means the ownership or the right to own the shares or other voting securities of the person owned;

(c) "applicant" means a person who submits an application before the Authority for grant of a licence to operate as electric power supplier;

(d) "associated companies and associated undertakings" shall have the same meaning as defined in the Companies Act, 2017(XIX of 2017);

(e) "Authority" means the National Electric Power Regulatory Authority established under section 3 of the Act;

(f) "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;

(g) "distribution code" means the distribution code, 2005, as may be amended or substituted from time to time subject to the approval of the Authority;

(h) "electric power supply" means the supply of electric power to a consumer including a bulk power consumer pursuant to sections 23E and 23F of the Act, carried out by an electric power supplier licensed to do so under the Act and these rules;

(i) "grid code" means the grid code prepared and maintained by the system operator pursuant to sections 23G and 23H of the Act and approved by the Authority;

(j) "supply licence" means the licence for electric power supply granted by the Authority pursuant to section 23E of the Act; and

(k) "supplier of last resort" means a person who holds an electric power supply licence for a specified service territory and is obligated to supply electric power to all consumers located in that service territory at the rates determined by the Authority and is also obligated to provide electric power supply to the bulk power consumers of other electric power supplier who defaults on its obligations of electric power supply:

Provided that the supplier of last resort may request the disconnection of any consumer, including a bulk power consumer, for default in payment of power charges or for involvement in theft of electric power.

(2) Words and expressions used but not defined in these rules shall have the same meaning as assigned thereto in the Act.

3. **Eligibility criteria for grant of electric power supply licence.**— Any person submitting an application for grant of electric power supply licence shall fulfill the following eligibility criteria, that the applicant—

(a) company is registered with the Securities and Exchange Commission of Pakistan (SECP):

Provided that the applicant proposing to supply electric power only to bulk power consumers in the Competitive Trading Bilateral Contract Market (CTBCM), other than supplier of last resort, shall be registered with the SECP exclusively for the electric power supply business:

Provided further that a generation company as an applicant for the supply licence shall be registered with the SECP exclusively for its generation as well as supply of electric power business and in such case shall maintain separate accounts for its each business.

(b) shall fulfill minimum solvency requirements as provided in Schedule-I to be verified by the Authority, in order to adequately perform its duties and responsibilities under the Act, relevant rules, regulations, commercial code, its supply licence and any other legal instruments;

(c) has a strategic business plan for three years duly certified by the chief executive officer or chief financial officer or company secretary, demonstrating its capability to undertake electric power supply business;

(d) shall fulfill minimum human resource requirements as provided in Schedule-II to meet all of its service-level commitments and to perform the duties and responsibilities of an electric power supplier in an effective and efficient manner and to provide continuous and reliable electric power supply in accordance with the Act, rules and regulations and other legal instruments;

(e) shall provide an affidavit substantially in the form attached herewith in Schedule-III by its duly authorized officer solemnly declaring and affirming therein that it shall always fulfill the obligations imposed on it under the National Electricity Policy and the National Electricity Plan made under section 14A of the Act;

(f) shall have the ability to ensure prompt and effective coordination with the system operator, market operator and relevant distribution licensees to comply with the provisions of the grid code, distribution code, commercial code and other relevant legal instruments as applicable; and

(g) shall have the ability to discharge the following public service obligations—

(A) quality of electric power supply service by—

(i) having automated systems or software tools for billing and collection;

(ii) having information exchange system for communications and transactions with the market operator, system operator, distribution licensees, and other relevant entities;

(iii) complying with the performance standards and any codes specified by the Authority for provision of electric power services, particularly, effective and timely billing and collection of charges, customer support services and resolution of consumer complaints;

(iv) ensuring timely dissemination of reporting requirements; and

(v) maintaining the complete and accurate records and data in respect of all aspects of electric power supply business. All such records and data shall, unless provided otherwise under the law, be maintained for a period of five years after the creation of such record or data;

(B) transparency of transactions by—

(i) ensuring compliance with the accounting standards and uniform system of accounts as specified by the Authority and in addition to that ensure compliance with international financial reporting standards (IFRS) as applicable in Pakistan;

(ii) sharing the necessary information and data through website or portal as required by any legal instrument; and

(iii) reporting all the information required by the Authority for the purpose of monitoring;

(C) collection and deposit of following charges, as may be determined by the Authority, in a timely manner, including but not limited to—

(i) transmission use of system charges;

(ii) distribution use of system charges;

(iii) market and system operator fee; and

(iv) any other charges as provided in rule 5 of these rules; and

(D) collection and deposit of any and all surcharges as may be imposed by the Federal Government and applicable taxes in a timely and effective manner.

**4. Provisions with respect to the supplier of last resort.**— (1) Only an applicant holding a distribution licence shall be eligible to obtain a supplier of last resort licence from the Authority in its specified service territory as defined in the distribution licence. Such applicant shall also fulfill the following requirements in addition to the requirements prescribed under rule 3 and the applicant shall—

(a) demonstrate its capability to carry out detailed schemes and programs for supplying electric power to all consumers pursuant to the regulations specified by the Authority;

(b) have a budget developed, demonstrating its financial requirements to ensure that it has adequate financial resources available to engage in electric power supply in an effective and efficient manner;

(c) have the ability to provide electric power supply to the bulk power consumers of other electric power supplier who defaults on its obligations of electric power supply:

Provided that the applicant shall only provide this service to the bulk power consumers located in its service territory as defined in its distribution licence; and

(d) have the ability to ensure timely publication of the Authority's approved rates, charges and other terms and conditions on its website.

(2) The applicant for supplier of last resort licence shall, except EX-WAPDA DISCOs and K-Electric, be registered with the SECP exclusively for its electric power supply and distribution businesses and shall not carry out any other business activity.

(3) Where any person is holding a distribution as well as a supplier of last resort licence, neither such person nor its affiliate or associated company shall be eligible to obtain any other supply licence or electric power trader licence.

**5. Billing, collection and deposit of certain charges.**— (1) Any person who has been granted a licence for supply of electric power as a competitive supplier by the Authority, shall bill and collect from its bulk power consumers, and make timely deposit to the relevant distribution licensee in the designated account, all the (i) grid charges including the amount of cross subsidy and (ii) other costs arising on account of market liberalization and advent of open access, namely, the capacity costs or stranded costs. The said charges shall be deposited by the competitive supplier on accrual basis, i.e. the amount actually billed to the consumers for the billing cycle.

(2) The Authority shall determine the (i) grid charges including the amount of cross subsidy and (ii) other costs arising on account of market liberalization and advent of open access, namely, the capacity costs or stranded costs in accordance with the provisions of the National Electricity

Policy, National Electricity Plan and such other economic and social policy objectives as may be provided by the Federal Government to the Authority, including the following, namely:—

(a) the grid charges shall include, but not limited to the use of transmission and distribution system charges, market and system operator fee, metering service charges and cross subsidy. Such grid charges shall be imposed on uniform basis upon all bulk power consumers, namely, bulk power consumers of competitive suppliers shall pay equal amount of such grid charges which are being paid by equally placed other bulk power consumers of the respective supplier of last resort;

(b) the costs arising on account of market liberalization and advent of open access shall be the capacity charges or stranded costs to be paid by all bulk power consumers of a competitive supplier and the amount of such capacity charges shall be the same as the total generation capacity charges recovered from the equally placed bulk power consumers of the suppliers of last resort either in a volumetric form (kWh) or through fixed charges and such charges shall continue to be paid in the said manner till such time as may be reviewed by the Federal Government as per the procedure laid down in sub-rule (3) of this rule;

(c) the above charges shall be imposed on uniform basis across the country till the time the uniform tariff is applicable, and thereafter shall be applicable as per the tariff of each distribution company holding the supplier of last resort licence; and

(d) the periodic adjustment of any component of the above charges shall be made by the Authority from time to time similar to the periodic adjustment of tariff of other consumers of suppliers of last resort.

(3) The principles, set forth in clause (b) of sub-rule (2), may be modified by the Federal Government as per the procedure laid down hereunder—

(a) any proposal for deviation of capacity charges or stranded costs shall be submitted by the Division to which the business of electricity stands allocated to the Ministry of Finance;

(b) for evaluation of any such proposal, the Ministry of Finance shall hire an independent consultant to study the impact of such proposal on the national exchequer and remaining consumers of suppliers of last resort;

(c) upon submission of the final report by the independent consultant to the Ministry of Finance, the Ministry of Finance shall only endorse such proposal where the fiscal space is available in the budget to support such modification in

the charges and shall verify that no burden shall be passed on to the remaining consumers of the suppliers of last resort; and

(d) any proposal endorsed by the Ministry of Finance shall be submitted to the Federal Government for consideration and approval.

(4) The Authority shall, in determining, modifying or revising (i) the grid charges including the amount of cross subsidy and (ii) other costs arising on account of market liberalization and advent of open access, namely, the capacity costs or stranded costs, perform its functions in accordance with the National Electricity Policy, National Electricity Plan and other principles provided by the Federal Government, including the principles contained in sub-rule (2) and as modified from time to time in accordance with sub-rule (3).

**6. Compliance with the eligibility criteria.**— (1) At the time of submission of an application, the applicant shall submit a sworn and verified affidavit to the Authority that it fulfills all the requirements of these rules for grant of the licence.

(2) The Authority while examining an application for grant of a licence under these rules shall ensure compliance with the above eligibility criteria and may require an applicant to submit additional information and documents in support of its application.

(3) The Authority shall periodically review compliance with minimum solvency requirements as set out in Schedule-I:

Provided that in case of a breach of these requirements, appropriate regulatory action shall be taken by the Authority.

(4) All requirements of these rules shall also be incorporated appropriately in the terms and conditions of the licence for ensuring compliance by the licensee during the term of the licence.

(5) While applying for modification, extension or renewal of a licence, the applicant shall fulfill all the eligibility requirements as set forth in these rules.

**7. Term of the licence.**— The supplier of last resort licence shall be granted by the Authority for a minimum term of twenty years. For all other suppliers, the licence shall be granted for a term which may extend up to twenty years, however, the term of the licence shall not be less than ten years.

## SCHEDULE – I

**[see rule 3(b)]**

**Minimum Solvency Requirements:**

(1) The applicant proposing to supply electric power only to bulk power consumers in the Competitive Trading Bilateral Contract Market (CTBCM), other than supplier of last resort, shall fulfill the following minimum solvency requirements:

(i) shall have and maintain minimum long-term credit rating of "A" from a credit rating agency licensed by the SECP and submit a report to the Authority at the time of application;

(ii) shall have and maintain minimum current ratio of 1:1;

(iii) shall have minimum paid-up capital of one hundred and eighty million rupees; and

(iv) shall have and maintain net worth at all times in an amount for its electric power supply business as provided hereunder, namely:—

| **Category** | **Energy Supply (GWh Annual)** | **Net Worth (Million Rupees)** |
|---|---|---|
| **(1)** | **(2)** | **(3)** |
| 1. | Up to 60 | 180 |
| 2. | Up to 300 | 700 |
| 3. | Up to 1,250 | 2,300 |
| 4. | Up to 3,000 | 6,000 |
| 5. | Above 3,000 | 12,000 |

Provided that in case of any deficiency in the net worth at any time, after grant of the supply licence, the Authority shall take appropriate regulatory action:

Provided further that the above-mentioned requirements may be revised by the Federal Government from time to time by notification in the official Gazette for the future applicants and for licensees who have already been granted a licence in accordance with these rules.

(2) The Ex-WAPDA DISCOs and K-Electric as applicants proposing to supply electric power in their respective service territories as suppliers of last resort shall be deemed eligible to apply for such licence:

Provided that the Federal Government may, from time to time by notification in the official gazette, prescribe any requirement in order to ensure solvency for the future applicants and for licensees who have already been granted a licence in accordance with these rules.

(3) All other applicants proposing to supply electric power as supplier of last resort in a specific service territory shall have and maintain the following requirements:

(i) shall have and maintain minimum long-term credit rating of "A" from a credit rating agency licensed by the SECP and submit a report to the Authority at the time of application;

(ii) shall have and maintain minimum current ratio of 1:1;

(iii) shall have minimum paid-up capital of one hundred and fifty million rupees; and

(iv) shall have and maintain minimum net worth of five hundred million rupees:

Provided that the above-mentioned requirements may be revised by the Federal Government from time to time by notification in the official gazette for the future applicants and for licensees who have already been granted a licence in accordance with these rules.

## SCHEDULE – II

**[see rule 3(d)]**

**Minimum Human Resources Requirements:**

(1) The applicant proposing to supply electric power to bulk power consumers in the Competitive Trading Bilateral Contract Market (CTBCM), other than supplier of last resort, shall have at least one full-time professional having relevant experience in each of the following disciplines, namely:—

| Sr. No. | Disciplines | Qualification | Required Experience |
|---|---|---|---|
| (1) | (2) | (3) | (4) |
| 1. | Electric power systems | Degree in engineering | Ten years' experience in the power sector |
| 2. | Power procurement, forecasting, energy risk management, contract management | Degree in engineering or sixteen years of education in business management | Five years |
| 3. | Finance | A member of recognized body of professional accountants with five years' experience or MBA (finance)/M.Com with 10 years' experience | |

(2) The Ex-WAPDA DISCOs and K-Electric as applicants proposing to supply electric power in their respective service territories as suppliers of last resort shall employ at least forty percent of their sanctioned strength at all times in order to perform their functions and duties.

*Explanation.*— The "sanctioned strength" shall mean the number of posts in various scales and cadres, which have been duly approved by the board of directors of an applicant.

(3) All other applicants proposing to supply electric power as supplier of last resort in a specific service territory shall fulfill the minimum human resource requirements as provided under clause (2).

(4) The above-mentioned requirements in clause (1), (2) and (3) may be revised by the Federal Government from time to time by notification in the official Gazette for the future applicants as well as for licensees who have already been granted a licence in accordance with these rules.

## SCHEDULE – III

**[see rule 3(e)]**

**Affidavit**

I, [NAME, DESIGNATION], being the duly authorized representative of [NAME OF APPLICANT], duly authorized in this regard by virtue of [BOARD RESOLUTION / POWER OF ATTORNEY] dated [DATE], hereby solemnly affirm and declare that the Applicant is compliant with and shall always fulfill the obligations imposed on it under the National Electricity Policy and National Electricity Plan made under section 14A of the Act.

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[F No.2(3)/2021-Policy]

[Muhammad Naeem],
[Section Officer (Policy)]