



POCKET BOOK

**ELECTRICITY REGULATORY
COMMISSION ACT,
RULES AND GLOSSARY**

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**ELECTRICITY
REGULATORY
COMMISSION ACT,
2017**

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Part-2

Government of Nepal

Ministry of Law, Justice and Parliamentary Affairs

The following Act enacted by the Legislature-Parliament pursuant to sub-article (1) of Article 296 of the Constitution of Nepal has been published for the notice of the general public.

Act No. 13 of the year 2074 (2017)

**Act enacted for the provision of Electricity
Regulation Commission**

Preamble: Whereas it is expedient to make provision of Electricity Regulation Commission in order to maintain balance between the demand and supply of electricity by making the generation of electricity, transmission, distribution or business simplified, regular, systematic and transparent, to regulate the electricity tariff, to protect the right and interest of the electricity consumers, in order to make the electricity service reliable, available to all, qualitative and secured one,

Now, therefore, the Legislature Parliament has enacted this Act pursuant to sub-article (1) of Article 296 of the Constitution of Nepal.

CHAPTER

1

PRELIMINARY

PRELIMINARY

1. **Short Title and Commencement:** (1) The title of this Act shall be
"Electricity Regulation Commission Act, 2074 (2017)."
- (2) This Act shall commence since 91st day of the certification.
2. **Definition:** Unless the subject or context otherwise requires, in this Act:
 - (a) **"Chairperson"** means the Chairperson of the Commission
 - (b) **"Licensed Person"** means the person or corporate body licensed under the prevalent law to generate, transmit, distribute or trade the electricity.
 - (c) **"Commission"** means the Electricity Regulation Commission established under Section 3.
 - (d) **"Consumer"** means the person or institution consuming the electricity.
 - (e) **"Prescribed or as prescribed"** means prescribed or as prescribed in the Rules made under this Act.

- (f) "**Ministry**" means the Ministry of Energy.
- (g) "**Tariff**" means the electricity charge, tariff, fee and other charges payable to the person licensed for distribution by the consumer for the consumption of the electricity service.
- (h) "**Electricity**" means the electricity generated from water, fossil fuel, coal, gas, solar, wind, atomic, bio-mass or any other sources.
- (i) "**Secretary**" means the employee working as the secretary of Commission pursuant to Section 32.
- (j) "**Member**" means the member of the Commission and the term also means the Chairperson as well.

CHAPTER

2

**ESTABLISHMENT &
FORMATION OF THE
COMMISSION**

ESTABLISHMENT AND FORMATION OF THE COMMISSION

3. Establishment of the Commission:

- (1) The Electricity Regulation Commission has been established as a regulatory body to regulate the generation, transmission, distribution or trade of electricity.
- (2) The central office of the Commission shall be located in Kathmandu Valley and the Commission may open branch offices in the other places of Nepal as per necessity.

4. The Commission to be self-governed and a corporate body:

- (1) The commission shall be a self-governing and a corporate body with the perpetual succession.
- (2) The Commission shall have a separate seal for carrying out its activities.
- (3) The Commission may acquire, use, sell, dispose of or otherwise manage the movable and immovable property as a person.
- (4) The Commission may sue and be sued in its own name as a person.

- (5) The Commission may enter into contracts as a person and exercise rights and fulfill responsibilities under the contract.

5. Formation of the Commission:

- (1) The Commission may be formed as follows:
- (A) A person appointed by Government of Nepal out of the persons having worked in the gazetted special class position of the Government of Nepal or having educational degree of at least masters level in economics, commerce, management, accounts, law or engineering subjects and work experience for at least twenty years after obtaining the degree in the area related to the subject -----Chairperson
- (B) Four persons appointed by Government of Nepal out of the persons having educational degree of at least masters level in economics, commerce, management, accounts, law or engineering subjects and work experience for at least fifteen years after obtaining the degree in the area related to the subject -----Member
- (2) The appointment, pursuant to sub-section (1) of the Chairperson and member shall be executed by including at least one woman by applying the principle of proportional inclusion.

- (3) The notice of the appointment of the Chairperson and members shall be published in Nepal Gazette.

6. Disqualification: Notwithstanding any matter contained in Section 5, the following persons shall not be eligible for the appointment to the post of Chairperson or member or remain in the post.

- (a) non-Nepali citizen,
- (b) has obtained the permanent residency permit of the foreign country,
- (c) has been convicted for offence of corruption, rape, human trafficking and transportation, transaction of narcotic drugs, money laundering, misuse of passport, kidnapping or the other criminal offence of moral turpitude,
- (d) has been blacklisted under the prevalent law or at least three years has not been completed after being released from such list,
- (e) he/she himself or his/her joint family member is involved as the promoter, managerial level, shareholder or director, auditor or advisor in any company or the subsidiary company of such company, firm or entity associated with the generation, transmission or trading of electricity or the period of at least three years has been completed after being separated from such status,

Explanation: For the purpose of this part "Shareholder" means a person who owns at least one percent shares of the concerned company,

- (f) has been convicted for offence related to generation, transmission, distribution and trade of electricity and three years has not elapsed after serving the punishment,
- (g) incumbent employee of Government of Nepal, provincial government or local level or the corporate body owned by Government of Nepal, provincial government or local level or a licensed person.
- (h) person declared insolvent for not being unable to pay the loan of creditor.
- (i) member or officer-bearer of any political party.

7. Appointment of Chairperson and Member:

- (1) Government of Nepal shall appoint Chairperson and member of the commission on the recommendation of the following committee:
 - (a) Secretary, Ministry – Convener
 - (b) Electricity expert, nominated by the Ministry – Member
 - (c) Gazetted first class officer assigned by the Ministry – Member Secretary

- (2) For the purpose of making recommendation for appointment of Chairperson and member, the Committee under sub-section (1) shall publish a notice giving at least fifteen days period for the desirous candidates to submit a curriculum vitae along with the application.
- (3) The committee under sub-section (1) shall recommend the name of the qualified candidates out of the applying candidates under sub-section (2) to the Government of Nepal within 21 days of the expiry of the application period. In making recommendation in respect of the members, names of persons for different subjects shall have to be recommended pursuant to clause (b) of Section 5.

Provided that, in case the adequate number of candidates is not available for the different subjects, more than one persons of the same subject may also be recommended.

- (4) The meeting of the committee under sub-section (1) shall be chaired by the convener of such committee and the quorum is deemed fulfilled by the attendance of the convener and a member.
- (5) Meeting of the committee pursuant to sub-section (1) shall be decided by a majority of votes, and in

case of occurrence of tie, the Chairperson shall have the casting vote.

(6) The basis, process and other procedures of the meeting to recommend the candidates for Chairperson and members shall be as prescribed by the committee itself.

(7) The meeting allowance of the convener and members of the committee under sub-section (1) shall be as prescribed by the Ministry of Finance.

8. Tenure: The tenure of the Chairperson and member shall be of five years and the person may be appointed for one more term.

9. Can be removed from post:

(1) Government of Nepal may form an investigation committee to investigate if the Chairperson or any other member lacks work competence or bears bad conduct or person is disqualified pursuant to Section 6 or the person is found unable to perform the responsibilities pursuant to this Act for the post.

(2) The investigation committee pursuant to sub-section (1) shall conduct investigation related to alleged Chairperson and member and submit its report along with its opinion to the Government of Nepal.

- (3) The investigation committee pursuant to sub-section (1) when conducting investigation pursuant to sub-section (2) shall give reasonable opportunity to the alleged Chairperson or member to present their clarifications.
- (4) Government of Nepal shall remove the Chairperson or member in case the investigation committee pursuant to sub-section (1) recommends for the removal of the Chairperson or member.
- (5) The Chairperson or member shall not be permitted to perform the duties for the position upon the commencement of investigation proceedings and until the matter of investigation is closed.
- (6) The remuneration and other facilities of the Chairperson or member of the investigation committee under sub-section (1) shall be as prescribed by the Government of Nepal.

- 10. The post to be held vacant:** The post of the Chairperson or a member shall be held vacant under the following circumstances:
- (a) the resignation submitted by the person to the Government of Nepal for the post is approved,

- (b) the person lacks or does not have qualifications pursuant to Section 5,
- (c) the tenure pursuant to Section 8 is over,
- (d) removal of the person by the Government of Nepal from the post pursuant to Section 9,
- (e) death of the person.

11. Meeting of the Commission:

- (1) The meeting of the Commission shall be held at least once a month.
- (2) The meeting of the Commission shall be held at the date, time and place as prescribed by the Chairperson and by the senior Member in case the post of Chairperson is vacant.

Provided that, in case at least two members submit a written request, in writing to call the meeting of the Commission, the Chairperson or in his/her absence the senior member shall call the meeting of the commission within seven days.

- (3) The Secretary of the Commission shall provide to the members the list of the agenda for discussions at least twenty-four hours before the meeting.
- (4) The Chairperson shall chair the meetings of the Commission and in the absence of the Chairperson, the senior member shall chair the meetings.

Explanation: For the purposes of this section, "senior member" means the member ranked ahead in the appointment.

- (5) The quorum of the meeting of the commission shall be deemed to have been fulfilled by the presence of three members.
- (6) Meeting of the Commission shall be decided by a majority of votes, and in case of occurrence of tie, the Chairperson shall have the casting vote.
- (7) The Commission may, as per necessity, invite an expert of the concerned subject in its meetings.
- (8) Decisions of the Commission shall be recorded in a separate register maintained for such purpose, and the all the members attending the meeting shall sign on such register.
- (9) Other procedures of the meeting of the Commission, shall be determined by the Commission itself.

CHAPTER

3

**FUNCTION, DUTIES
AND POWERS OF THE
COMMISSION**

FUNCTION, DUTIES AND POWERS OF THE COMMISSION

12. Provide Technical Management: The

Commission shall for technical management carry out the following activities related to regulation of the generation, transmission, distribution and trading of electricity:

- (a) To prepare the grid code and the distribution code related to electricity services and implement and monitor the same.
- (b) To determine the standards and procedures for operation and repair-maintenance of electricity services and implement them.
- (b) To prepare necessary criteria and implement them for maintaining the quality and safety standards of national electricity system.
- (d) To determine and responsibilities of operator of electricity system and monitor the implementation.
- (e) To determine the conditions to close down electricity service, its basis and priority.
- (f) To prepare least cost expansion plan for the purpose of internal demand and supply of electricity service and implement or cause to implement the same.

13. Determination of Tariff and Regulation of Sale and Purchase of Electricity:

- (1) The Commission shall carry out the following activities in relation to determination of tariff and to regulate the sale and purchase of electricity:
 - (a) To determine tariff payable by the consumer by determining the terms and conditions of electricity tariff after considering the operation cost, depreciation rate, payment of principal and interest, repair and maintenance expenses, construction, reconstruction, rehabilitation electricity infrastructure and power purchase agreement including annual return for share investment condition.
 - (b) To determine purchase-sale rate and procedure of sale and purchase of electricity between a distribution licensee and generation licensee, trade licensee and body corporate established by Government of Nepal pursuant to prevailing laws until the establishment of whole-sale market of electricity.
 - (c) To grant consent to the licensed persons to enter into power purchase agreement for the purchase and sale of generated electricity.
 - (d) To identify necessary measures to minimize the cost of electricity price and enforce them.
 - (e) To determine transmission and distribution charge (wheeling charge).

- (f) To determine the surcharge for matters relates to electricity services in special circumstances for particular period of time.
- (2) The commission shall determine the tariff pursuant to sub-section (1) within sixty days of the receipt of the entire documents.
- (3) The commission shall publish a notice in the national newspaper following the determination of the tariff pursuant to sub-section (1).
- (4) No redetermination of the electricity tariff shall be there within one year following the determination of tariff under this section.

14. To Maintain Competition and Protect the Interest of the Consumers: The Commission shall carry out the following activities to maintain competition in the electricity market and to protect the interest of the consumers:

- (a) To identify necessary measures for the protection of the interest of the consumers and implement or cause to implement such measures.
- (b) To maintain competitive environment in the prices of the purchase and sale.
- (c) To identify necessary measures to ensure competition in the tariff rates between licensed persons and implement such measures.

- (d) To make provision to prohibit syndication of electricity tariff rate.
- (e) To determine the process for the establishment, operation and purchase-sale of whole sale market of electricity.
- (f) To prepare criteria and implement and cause to implement such criteria for the mergers of the licensed persons with each other, purchase of fifty percent or more shares solely or in collusion of its own subsidiary company, sale of plant, acquisition or take over.
- (g) To grant approval for the merger of the licensed person with each other, sale of plant and acquisition or take over.
- (h) To prescribe conditions for the conduct of electricity trade and monitor the same on regular basis.
- (i) To examine or cause to examine from time to time to maintain the quality of electricity flowing in the transmission line.
- (j) To make provision of open access in the electricity system.

15. To enhance the Organizational Capacity: The Commission shall carry out the following activities to enhance the organizational capacity of the licensed persons for the maintenance of corporate governance:

- (a) To determine the standards and basis for the evaluation of the efficiency of the license persons.
- (b) To prepare and implement the code of conduct to make the work and activities of licensed persons respectable.
- (c) To motivate the licensed persons to promote, expand and diversify the electricity market.
- (d) To prepare and implement criteria to ensure uniformity in the internal control, accounting system and methods of auditing of licensed persons.
- (e) To determine matters to be disclosed by officials of the board of directors and other officials of the licensed corporate entities to such entities and require the compliance of the same.
- (f) To conduct, as per necessity, the surprise examination of the accounting system of the licensed persons.
- (g) To give necessary directions and issue criteria to maintain good governance in the works and activities of the licensed persons.

16. To provide Suggestions and make

Recommendations: The Commission shall provide necessary advice and suggestions related to policy reform to the Government of Nepal to make the generation, transmission, distribution or trade of electricity reliable and effective.

- 17. To Examine and Inspect:** (1) The Commission may conduct examination and inspection or cause such examination and inspection of whether or not the licensed person has performed works as per this Act, rules, bylaws, directives or guidelines made under this Act, other prevailing laws or other conditions prescribed at the time of issuance of license.
- (2) In the course of examination and inspection pursuant to sub-section (1), the accounts, records, particulars etc. may be sought from the licensed person or the field based examination and inspection may be conducted.
- (3) The office bearer or employee carrying out the examination and inspection pursuant to sub-section (1) or (2) shall prepare the report and submit to the Commission and based on the report, the Commission may give necessary orders and directions to the concerned licensed person.
- (4) If the orders and the directions given pursuant to sub-section (3) is not complied by the licensed person, then the Commission may impose fines to the licensed person pursuant to sub-section (1) of Section 19.

18. To Resolve Dispute:

- (1) The Commission shall have the authority to resolve dispute arising in the following matters:
 - (a) Dispute relating to electricity arising between the licensed persons,
 - (b) Matters of compensation claims stating that the decision of the licensed is not satisfying or has suffered due to the actions of such person
- (2) Licensed persons or consumer can file complaint before the Commission with respect to dispute matters in sub-section (1) and the Commission shall start hearing and provide decision within 90 days in case of receipt of such complaints.
- (3) When conducting proceedings and settlement of complaints submitted to the Commission, the Commission shall have the authority similar to the courts under prevailing laws to carry out following works:
 - (a) To require any person to attend before the Commission and take the statement or information,
 - (b) To conduct witness examination,
 - (c) To issue orders to submit any documents that is with entities of Government of Nepal, Provincial Government or Local level or public organization,

- (d) To conduct or cause to conduct field inspection and issue orders to submit order to submit evidence.
- (4) A person who is not satisfied with a decision pursuant to sub-section (2), may file an appeal before the High Court, Patan within thirty-five days from the date of such decision.
- (5) Notwithstanding anything contained in Sub-section (1), in case a separate provision to resolve dispute is made in the agreement between the licensed person for the generation, transmission, distribution or trading of electricity, then such dispute shall be resolved according to the same agreement.

19. To Impose Fine:

- (1) The Commission may impose fine of up to Rupees Five Hundred Thousand to a licensed person not complying with order or directions issued pursuant to sub-section (1) of Section 17 or sub-section (3) of Section 37, decisions pursuant to sub-section (2) of Section 18 or any matter under this Act or Rules made under this Act or obstructing or causing to obstruct to electricity service without prior notice.

- (2) The amount of fine pursuant to sub-section (1) shall be deposited in the Consolidated Fund of the Government of Nepal.
- (3) The amount deposited as the fine pursuant to sub-section (1) shall not be included as expenses or investment of the licensed person for the determination of the tariff.
- (4) Any licensed person not satisfied with the fine imposed by Commission pursuant to sub-section (1) may file an appeal before the High Court, Patan within 35 days from the date of the imposition of such fine.

20. May collect Service Fee: The Commission may collect service fee as prescribed from the licensed person on the following matters:

- (a) For granting the approval of grid and distribution code,
- (b) For determining the wholesale power purchase and sale rates,
- (c) For granting approval to power purchase agreement,
- (d) For determining transmission and distribution charge (wheeling charge) including other tariff or charges,
- (e) For granting approval for merger of licensed persons, sale of plant, acquisition or take over,

- (f) For resolving disputes pursuant to Section 18, Provided that household consumer shall not be required to pay any charge to file the complaint.
- (g) Other matters as prescribed by the Commission.

21. To Organize the Public Hearing:

- (1) The Commission shall organize the public hearing as prescribed prior to the determination of tariff pursuant to Section 13.
- (2) The Commission may also make provision for public hearing for the other subject related to its works and functions as per necessity.
- (3) The Commission shall maintain records of the public hearing conducted pursuant to sub-section (1) or (2).

22. Provisions related to Review:

- (1) If any person or entity deems it necessary to review the decision of the Commission, then the application for review along with necessary documents may be filed before the Commission within 15 days of the receipt of information of such decision.

Provided that, this provision shall not be applicable for the decision to impose fine made by the Commission pursuant to Section 19.

- (2) If an application is filed pursuant to Sub-section (1), the Commission shall decide within 15 days whether to continue or amend the decision.
- (3) If the Commission decides to amend the previous decision pursuant to sub-section (2), then order shall be issued not to implement the previous decision.
- (4) Notwithstanding any matter contained elsewhere in the Act, the Commission may re-decide on matters where information is received from any source that licensed person has submitted false documents or has concealed documents or where additional documents are obtained.

CHAPTER

4

**FUNCTION, DUTIES
AND FACILITIES OF THE
CHAIRPERSON AND
MEMBERS**

FUNCTION, DUTIES AND FACILITIES OF THE CHAIRPERSON AND MEMBERS

23. Function Duties and Authority of the

Chairperson: The function, duties and powers of the Chairperson shall be as follows:

- (a) To work as the administrative chief of the Commission,
- (b) To issue necessary directions to the concerned party after regulating, monitoring, supervising and evaluating the work and activities of the Commission,
- (c) To manage the meeting of the Commission,
- (d) To carry out other works as prescribed.

24. Authority, Function and Duties of Member:

- (1) The member shall be an office-bearer working full time in the Commission.
- (2) The member shall perform and exercise the function, duties and authority as prescribed by the Commission and the Chairperson of the Commission.

25. Service Condition and Facility of the Chairperson and Members:

- (1) The Chairperson shall be the chief office-bearer working full time in the Commission.

- (2) The remuneration, facility and other condition of service of Chairperson and members shall be as prescribed.
- (3) Until the provision is made pursuant to subsection (2), the remuneration and other facilities of the Chairperson shall be as prescribed by Government of Nepal.
- (4) A member or a Chairperson, who has made decision on an issue related to a licensee during his or her tenure at the Commission, he or she shall be not involved with such licensee in any manner for a period of one year from the date of retirement from the Commission.

Explanation: For the purpose of this section "involved" means circumstance to work as the director, employee, expert or consultant of the licensed person being permanent, temporary, contract or agreement.

- 26. Oath to be taken:** Before assuming office, the Chairperson shall before the Minister of Energy and the member shall before the Chairperson take the oath of office in the format given in the Schedule.

27. Information to be provided:

- (1) The Chairperson and the Member shall provide written information of the following matters to the Commission within thirty days of his or her appointment:
 - (a) Description of occupation, employment or business and details of the office thereof, of the involvement prior to the appointment to be Chairperson or member,
 - (b) Whether or not oneself or any member of one's family is a shareholder of any licensee and if a shareholder, the description of the shares and whether or not there is any of type of pecuniary interest with the licensed person,
 - (c) Whether or not oneself or any member of one's family of oneself has been director, office-bearer, advisor, employee or auditor of the licensee in the last three years,
 - (d) Details of potential conflict of interest, if any, that may exist at the time of providing information to the Commission to the pursuant to this Section.

- (2) The Commission shall submit to the Government of Nepal, Office of Prime Minister and Council of Ministers, one copy of information pursuant to sub-section (1) and the Office of the Prime Minister and Council of Minister shall keep the record thereof.

28. Not to Misuse the Regulatory Opportunity:

- (1) The Chairperson, member, secretary, employee, auditor, advisor, representative or individual or persons of firm or company working for the Commission under contract shall not, except if required by the prevailing laws, make available or disclose the source of any confidential information which come knowledge because of official capacity or while discharging the duties on behalf of the Commission.
- (2) The confidential information which come into knowledge of the office-bearers under sub-section (1) while discharging work in the official capacity shall not be used or caused to be used for the benefit, facility, privilege or advantage of himself/herself or his or her family member.
- (3) The Chairperson, member, secretary, employee, auditor, advisor, representative or individual or persons of firm or company working for the Commission under contract shall not under official capacity or while discharging the duties on behalf of the Commission while working commission shall not take or extend benefit, facility, privilege or advantage of any kind to oneself or one's family member or any other person.
- (4) If anyone acts in contrary to sub-section (1), (2) or (3), actions shall be initiated pursuant to the

prevailing law concluding that he/she has not performed the duties apropos the official capacity.

29. Prohibition in taking decisions in conflicting interest:

- (1) If the Chairperson, member or any of his or her family member has any pecuniary, personal or business interest in any agenda to be discussed in a meeting of the Commission, then such member shall provide information about such conflict of interest to the Commission prior to the commencement of the meeting.
- (2) Such member should not participate in the meeting wherein the matters mentioned in sub-section (1) will be discussed.
- (3) A decision made contrary to sub-section (1) or (2) shall not be made applicable to any person suffering from such interest.

30. Professional Conduct to be followed:

- (1) The Chairperson, member or employee or advisor of the Commission shall comply with the prescribed professional code of conduct while serving in the position or after the retirement from the position.
- (2) The Chairperson, member or employee or advisor of the Commission shall always keep the interest of the Commission paramount while working in such capacity.

CHAPTER

5

EMPLOYEES OF THE
COMMISSION

EMPLOYEES OF THE COMMISSION

31. Provision relating to Employees:

- (1) There shall be such number of employees as approved by the Government of Nepal to carry out the work of the Commission.
- (2) The Commission shall appoint employees according to the provisions in the bylaws.
- (3) Notwithstanding anything contained in sub-section (2), the Commission may appoint required number of expert employees under contract for the performance of Commission's activities.
- (4) Notwithstanding anything contained in this Section, until the employees are appointed in the Commission, the Ministry may deploy any employee of Government of Nepal to work in the Commission prescribing the time period.

32. Secretary of the Commission: The senior most employee of the Commission shall work as the secretary of the commission.

CHAPTER

6

FUND AND AUDIT

FUND AND AUDIT

33. Fund:

- (1) The Commission shall have its own separate fund and the fund shall consist of the following amounts:
 - (a) Amounts received from the Government of Nepal,
 - (b) Amounts received from any person, association/ organization,
 - (c) Amounts received from any foreign government, person, or international association/organization,
 - (d) Amount received as prescribed by the Commission which shall not be more than one percent of the annual total income derived from the sale of electricity by the distribution licensee,
 - (e) Amount received as prescribed by the Commission which shall not be more than one percent of the annual total income derived from the trading of electricity by the trading licensee,
 - (f) Amount received as prescribed by the Commission which shall not be more than one percent of wheeling charge received by the licensed person exporting electricity using the national grid,
 - (g) Service charge received pursuant to Section 20,
 - (h) Amount received from the other resources.

- (2) The Commission shall obtain the approval of the Ministry of Finance prior to receiving the amounts pursuant to clause (c) of sub-section (1).
- (3) The amount of the fund pursuant to sub-section (1) shall be deposited in an account opened in any commercial bank licensed as "A" category by Nepal Rastra Bank.
- (4) The entire expenses in the name of the Commission shall be incurred from the amount received in the fund pursuant to sub-section (1).
- (5) If the amount deposited in the fund is insufficient for the operation of the Commission, then Ministry of Finance shall make available the necessary amount.
- (6) In the case amount deposited in the fund is more than prescribed, the excess amount shall be deposited in the consolidated fund of the Government of Nepal.
- (7) The operation of account of the fund pursuant to sub-section (1) shall be as prescribed by the Commission.

34. Accounts and Audit:

- (1) The accounts of income and expenditure of the Commission shall be maintained in accordance with the model followed by the Government of Nepal.
- (2) The Commissions shall maintain the internal control system as prescribed and shall have its income and expenditure audited.
- (3) The audit of the Commission shall be performed by the Auditor General.
- (4) The Government of Nepal may, if it so desires, inspect or cause to inspect the account of income and expenditure of the Commission and related books of accounts at any time.

CHAPTER

7

MISCELLANEOUS

MISCELLANEOUS

35. To co-operate with the Commission: Everyone concerned shall provide necessary cooperation for the implementation of work, activities and decision of the Commission.

36. Sub-committee or Working Team may be

formed: (1) The Commission may form sub-committee or task force as per necessity to perform activities pursuant to this Act.

(2) The function, duties, powers and procedures and the facilities receivable by the member of such sub-committee or task force formed pursuant to sub-section (1) shall be as prescribed by the Commission.

37. Directives may be given: The Commission shall, as per necessity, issue direction to the licensed person in order to implement the activities pursuant to this Act and it shall be the duty of the concerned license person to comply with such directions.

38. Annual Report:

(1) The Commission shall prepare report relating to the works and activities performed by it within

three months of the end of each fiscal year and submit the same to the Ministry.

- (2) The report pursuant to sub-section (1) shall include amongst other matters, the programs carried out by the Commission during year, funds received, cost of operating the programs, achievements of the programs and reforms to be undertaken in the future.
- (3) The Commission shall publicly publish the report pursuant to sub-section (1) for the information of the general public.
- (4) The licensed person shall prepare a report of works and activities performed by it within three months of the end of each fiscal year along including the audit report, and submit the same before the Commission.
- (5) The Commission may give necessary directions to the licensed person following the study of the annual report presented pursuant to sub-section (4).
- (6) The licensed person shall make public the summary of the annual report submitted pursuant to sub-section (4).

39. Delegation of Authority: The Commission may delegate as per necessity the powers conferred to it under this Act other than the powers to determine tariff, merger of the licensed persons with each other, sale of plant, approval for acquisition or take over and power to settle dispute to the Chairperson, member, secretary or the sub-committee or taskforce or the officer or the employee of the Commission.

40. Contact with Nepal Government: The Commission, while contacting with the Government of Nepal, shall contact through the Ministry.

41. Power to make Rules: Government of Nepal may frame necessary Rules for the implementation of this Act.

42. To formulate Bylaw:

- (1) The Commission may formulate and implement the bylaws on the following matters subject to this Act and rules made under this Act:
 - (a) Appointment, work, duties, rights, qualification, remuneration, facility and service condition of the employees,

- (b) Procedures for the filing of complaint for dispute resolution and action and resolution of such complaints,
 - (c) other necessary matters relating to internal work operation of the Commission.
- (2) Notwithstanding any matters contained in clause (a) of sub-section (1), the Commission shall have to obtain approval of the Ministry of Finance when the Commission frames bylaws for the appointment, remuneration, service condition and facilities of employees and matters related to additional financial liability of the Government of Nepal.

43. To formulate and implement Directives, Criteria or Code: The Commission may formulate and implement directives, guidelines or code for the matters under its roles, duties and authority in such a manner that they are not contrary to this Act, rule and bylaw made under this Act.

44. Amendment, Repeal and Saving: In the Electricity Act, 2049 (1992):

- (1) In lieu of the words "pursuant to Section 17" the words "as per the prevailing Federal Laws relating

to the Electricity Regulation Commission Law" have been inserted.

- (2) Section 17 and 18 have been repealed.
- (3) The electricity tariff fixed pursuant Section 17 and 18 shall be deemed to have been fixed under this Act.

SCHEDULE

(RELATED WITH
SECTION 26)

OATH

OATH

I..... do swear in the name of god that I will truthfully/ faithfully perform the responsibilities and duties of the Chairperson/member of the Electricity Regulatory Commission without fear, favor, bias, malice or greed. I will not disclose the matters which become known in the course of discharging my duties in any circumstances irrespective of whether I remain or cease to remain in the post, except in case of complying with prevailing laws.

Date:

Signature:

ELECTRICITY REGULATORY COMMISSION RULES, 2018

UNOFFICIAL TRANSLATION

In exercise of powers conferred by Section 41 of the Electricity Regulatory Commission Act-2017, the Government of Nepal has made the following Rules.

CHAPTER

1

PRELIMINARY

PRELIMINARY

1. Short Title and Commencement:

- (1) These Rules may be called the “Electricity Regulatory Commission Rules, 2018”.
- (2) These Rules shall commence forthwith.

2. Definitions: Unless the subject or the context requires otherwise, in these Rules,-

- (a) “Act” means the Electricity Regulatory Commission Act, 2017.
- (b) “Ministry” means the Government of Nepal, Ministry of Energy, Water Resources and Irrigation.
- (c) “National Electricity Transmission System” means the electricity lines prescribed by the Government of Nepal from time to time by incorporating transmission lines of various voltage capacities to be linked for electricity transmission nationally and this term also denotes the substation and switching station associated with the transmission line.
- (d) “Recommendation Committee” means the Recommendation Committee pursuant to Sub-Section (1) of Section 7 of the Act.

CHAPTER

2

APPOINTMENT OF
THE CHAIRPERSON
AND MEMBER

APPOINTMENT OF THE CHAIRPERSON AND MEMBER

3. Submission of Application for the Post of the Chairperson or Member:

- (1) Any candidate who wish to be appointed to the post of the Chairperson or Member shall have to submit an application, accompanied by professional plan of action, to the Recommendation Committee in the format as specified in Schedule-1 within the time-frame of the notice published pursuant to Sub-Section (2) of Section 7 of the Act.
- (2) The candidate submitting an application pursuant to Sub-Rule (1) shall also attach a self-declaration of not being disqualified for that post in the format as specified in Schedule-2.

4. To Recommend for Appointment: The Recommendation Committee shall have to recommend to the Government of Nepal the names of suitable candidates in accordance with Sub-Section (3) of Section 7 of the Act

upon making evaluation on the basis of the plan of action submitted by the candidates applying pursuant Sub-Rule (1) of Rule 3, their interview, educational qualifications and also the experience in the concerned field.

5. Records to be Maintained: The Recommendation Committee shall, after recommending the names of candidates pursuant to Rule 4, submit to the Ministry the applications, personal details and self-declaration submitted for appointment to the post of the Chairperson and Member, and the documents and details relating to evaluation made by the Recommendation Committee and the Ministry shall maintain records of the documents and details so received.

CHAPTER

3

CODE AND
STANDARDS

CODE AND STANDARDS

6. Grid Code and Distribution Code:

- (1) The Commission shall, while developing Grid Code and Distribution Code relating to electricity service pursuant to Clause (a) of Section 12 of the Act, do the same as to be consistent with the grid linked to transnational distribution system and the grid of international level.
- (2) While developing the Grid Code and Distribution Code pursuant to Sub-Rule (1), the Commission may consult the stakeholders and experts in the concerned area.
- (3) The Commission may carry out or cause to be carried out monitoring by forming a Monitoring Committee, also consisting of the stakeholders, in relation to implementation of the Grid Code and Distribution Code developed by the Commission pursuant to Sub-Rule (1).

7. To Develop Standards:

- (1) The Commission may develop the standards with regards to the performance to be abided by the licensee, quality and safety level of the National Grid System and the determination of responsibilities of electricity system operators.
- (2) While developing the standards pursuant to Sub-Rule (1), the Commission may consult the stakeholders and experts in the concerned area.

CHAPTER

4

TARIFF AND
CHARGES

TARIFF AND CHARGES

8. Submission of Application for Fixation of Electricity Tariff:

- (1) A Distribution licensee shall have to submit an application to the Commission, mentioning the criteria referred to in Clause (a) of Sub-Section (1) of Section 13 of the Act for fixation of tariff prior to distributing electricity to the consumers.
- (2) The Commission may, if deems necessary while examining the application submitted pursuant to Sub-Rule (1), solicit additional details and documents from the distribution licensee and it shall be the duty of the distribution licensee to provide the details and documents so solicited.
- (3) The Commission shall, on the basis of the application submitted pursuant to Sub-Rule (1) and also the details and documents referred to in Sub-Rule (2), fix the tariff to be paid by the consumers pursuant to Clause (a) of Sub-Section (1) of Section 13 of the Act.
- (4) The format of the application to submitted pursuant to Sub-Rule (1) shall be as determined by the Commission.

- (5) Notwithstanding anything contained in these Rules, there shall be no bar for the Commission to fix the electricity tariff merely because application from the distribution licensee has not been received.

9. Criteria for Fixation of Electricity Tariff:

- (1) While fixing the electricity tariff to be paid by the consumers pursuant to Rule 8, the Commission shall fix on the following basis:
- (a) Operation cost of electricity system or production mechanism,
 - (b) Depreciation rate,
 - (c) Repayment of principal and interest,
 - (d) Maintenance cost,
 - (e) Mode of construction and operation of electricity structures,
 - (f) Reconstruction and rehabilitation and returns to be received on an annual basis in consideration of share investment,
 - (g) Power Purchase Agreement,
 - (h) Changes in consumers' price index,
 - (i) Revenue rate and changes therein,
 - (j) Policy adopted by the Government of Nepal in relation to electricity development,
 - (k) Other criteria deemed appropriate by the Commission.

- (2) The Commission shall, also take the marginal cost of the electricity generation, the exchange rate of convertible foreign currency, cost of the fuel to be used for the production of electricity and the financial agreement entered between the licensee and the financial institution providing loan or investing capital in the concerned electricity project as the base while fixing electricity tariff pursuant to this Rule.

Provided, however, that while fixing the tariff and other fees/charges of electricity to be consumed by the Government of Nepal itself or a corporate body with more than fifty percent of share capital of the Government of Nepal, the Commission shall fix the tariff and other fees/charges in such a way as to abide by the agreement entered into by the Government of Nepal or by that corporate body with the financial institutions in relation to the concerned electricity project.

- (3) The Commission may develop and implement necessary standards in relation to the fixation of electricity tariff.

10. Fixation of Power Purchase/Sales Rate:

- (1) The Commission may, pursuant to Clause (b) of Sub-Section (1) of Section 12 of the Act, develop

and implement necessary standards for the purpose of fixation of power purchase/sales rate between the persons obtaining distribution license and the persons obtaining generation license or persons obtaining trade license or a corporate body established by the Government of Nepal under the prevailing law.

- (2) The Commission may, while fixing power purchase/sales rate, also bring into use the two-part tariff system – Capacity Charge incorporating loan investment made in the project and Energy Charge incorporating equity, returns, tax, royalty, operation and maintenance cost.
- (3) The Commission may, while fixing power purchase/sales rate, adopt Availability Based Capacity Charge to make the electricity producers responsible by maintaining such a condition in which they are able to produce electricity at their rated capacity.
- (4) While bringing into use the Capacity Charge pursuant to Sub-Rule (3), the Commission shall make a provision in such a way that the generation licensee is entitled to full Capacity Charge where 100% (cent percent) availability is achieved as per the standards prescribed by the Commission

and enjoy less Capacity Charge accordingly in proportion to the degree of availability achieved in case of achievement of less availability.

- (5) While implementing Capacity Charge system pursuant to Sub-Rule (4), Capacity Charge shall not be fixed in the case of a project which has not borrowed loans or or has already repaid the loans.
- (6) While fixing power purchase/sales rate pursuant to this Rule, matters like loan interest, depreciation or accumulated depreciation, investment returns, general expenses, operation cost, maintenance cost, revenue, tax, additional capitalization, loan and equity ratio shall be taken as the base.

11. Rate May be Fixed on Mutual Understanding:

- (1) In a case where an agreement has been entered into between the generation licensee and electricity consuming industry or institution as to purchase/sell electricity, the generation licensee and such an industry or institution may specify power purchase/sales rate on a mutual understanding by obtaining consent of the Commission.
- (2) While specifying power purchase/sales rate pursuant to Sub-Rule (1), it shall be done as to be maintained uniformity with the power purchase/

sales rate agreed with other industries or institutions of similar types.

- (3) While specifying power purchase/sales rate pursuant to Sub-Rule (1), it shall not be done in collusion with each other in a manner to have adverse impacts on the consumers.

12. Terms and Conditions of the Agreement to

be Submitted: The licensed persons shall, to conclude an agreement for power purchase/sales pursuant to Clause (c) of Sub-Section (1) of Section 13 of the Act, have to submit also the terms and conditions of the agreement while making an application for the consent of the Commission.

13. Electricity Transmission Charges:

- (1) The Commission may, while fixing electricity transmission charges pursuant to Clause (e) of Sub-Section (1) of Section 13 of the Act, take all or any of the following matters as the base in addition to the criteria to be followed for fixation of purchase/sales rate as referred to in Rule 10:
 - (a) Consumption capacity of the users or amount and distance,
 - (b) Point of Connection
 - (c) Zonal Transmission Charges,

- (d) Investment to be made for the construction or extension of transmission line.
- (2) While fixing electricity transmission charges pursuant to Sub-Rule (1), separate charges may be fixed for National Transmission Grid and other transmission line sections.
- (3) Other criteria relating to fixation of electricity transmission charges shall be as determined by the Commission.

14. To Cause to Be Competed in Tariff Rate of

Electricity Distribution: (1) The Commission shall make a provision for competition in tariff rate of electricity distribution in such a way that the consumers or the proxies of the consumers are permitted to select their service provider.

- (2) Other provisions relating to making competition in tariff rate of electricity distribution and selecting electricity distributor shall be as determined by the Commission.

15. Electricity Distribution Charges: Where any other institutions distribute electricity to the consumers by using the system of an institution licensed for electricity distribution, the distribution

charges/fees to be paid in consideration of using such a distribution system shall be fixed by the Commission.

16. To Regulate Trading Margin: The Commission shall develop and implement the electricity trade standards to carry out regulation in relation to trading margin of electricity trade activities and resale by purchasing electricity between the persons licensed under this Rule.

17. Service Charges May be Prescribed:

- (1) The Commission may, pursuant to Section 20 of the Act, impose the following service charges/fees on the following matters:
 - (a) Seven Thousand five hundred rupees while fixing wholesale purchase/sales rate of electricity,
 - (b) It shall be as follows while giving consent for power purchase agreement:
 - (1) One Hundred Thousand Rupees for 100 kilowatt to 1 megawatt,
 - (2) At the rate of Ten Thousand Rupees per megawatt from above 1 megawatt to up to 1000 megawatt, and
 - (3) Two Million Rupees in lump sum for above that.

- (c) Twenty-Five Thousand Rupees while fixing wheeling charge including any other tariffs or charges of similar kinds.
 - (d) While giving consent for merger between the licensees, sale of plant, acquisition or takeover, One Hundred Thousand Rupees for base price of up to 100 Million Rupees on the basis of base price of such structure or institution and Fifty Thousand Rupees for each additional amount equal/up-to 100 Million Rupees above that,
 - (e) While settling a dispute pursuant to Section 18 of the Act, Five percent of such a claimed price if the dispute is of identified claimed price and the price set by the Commission if the dispute is of unidentified claimed price,
 - (f) In a case where the base price on other matters prescribed by the Commission is disclosed, the amount pursuant to Clause (d) based on such price and the price fixed by the Commission if the base price is unidentified.
- (2) While imposing service charges/fees pursuant to Sub-Rule (1), the Commission shall make public the matters on which service charges/fees are imposed and the names of licensed persons or institutions through its website or daily newspapers of national circulation.

CHAPTER

5

PROTECTION OF
CONSUMERS'
INTEREST AND
PUBLIC HEARING

PROTECTION OF CONSUMERS' INTEREST AND PUBLIC HEARING

18. Protection of Consumers' Interest: The

Commission shall carry out the following acts for the protection of consumers' interest pursuant to Section 14 of the Act:

- (a) Determine and implement the quality of electricity (standards of acceptable voltage change, average period of disruption in electricity distribution and frequency of average disruption) distributed by distribution licensee;
- (b) Determine the performance level of public service providers and give direction to such persons or institutions to perform on the basis thereof;
- (c) Determine the process of grievance redressal mechanism and of settling the grievances of consumers;
- (d) Determine the measures to avoid disruption in electricity distribution and cause to provide compensation in case of disruption for a period longer than prescribed by the Commission;
- (e) Determine and make public the time to be taken for electricity connection and the process thereof;
- (f) Cause the person or institution to compensate for violation of the standards relating to the quality

- prescribed by the Commission; and
- (g) Carry out or cause to be carried out other acts deemed necessary by the Commission for the protection of consumers' interest.

19. Public Hearing to be Conducted:

- (1) The Commission shall conduct a public hearing prior to taking decision on the matters relating to fixation of electricity tariff, fixation of power purchase/sales rate, fixation of transmission charges and power trade.
- (2) The methods to be adopted pursuant to Sub-Rule (1) shall be as mentioned in Schedule-3.
- (3) Other procedures and formats of the public hearing to be conducted pursuant to Sub-Rule (1) shall be as determined by the Commission.

CHAPTER

6

**FUNCTIONS, DUTIES
AND POWERS**

FUNCTIONS, DUTIES AND POWERS

20. Functions, Duties and Powers of the Chairperson:

- (1) In addition to the functions, duties and powers mentioned in the Act and these Rules, other functions, duties and powers of the Chairperson shall be as follows:
 - (a) Prepare or cause to be prepared the short-term and long-term policies, plans and programs of the Commission;
 - (b) Implement, monitor and evaluate or cause to be implemented, monitored and evaluated the approved policies, plans and programs;
 - (c) Formulate or cause to be formulated necessary programs for enhancement of the quality of electricity generation, transmission and electricity;
 - (d) Maintain or cause to be maintained coordination with electricity producers, transmitters and institutions carrying out similar works;
 - (e) Cause to be prepared the matters to be submitted to the Commission;
 - (f) Implement or cause to be implemented the decisions of the Commission; and
 - (g) Cause to be prepared the program and budget necessary for the Commission;

- (2) The Chairperson may, if it is necessary to liaise or conclude any agreement with the regulatory associations/organizations/bodies in the country and abroad on behalf of the Commission, do so by obtaining approval of the Commission.

Provided, however, that prior approval of the Government of Nepal shall be obtained in case of necessity to conclude an agreement on the matters chargeable to or resulting in liabilities on the Commission or the Government of Nepal.

- (3) The Chairperson may delegate the powers conferred on him/her to a member, committee, sub-committee or officer employee of the Commission as necessary.

21. The Chairperson to be Accountable:

- (1) The Chairperson shall be accountable to the transactions to be carried out on behalf of the Commission.
- (2) The Chairperson shall maintain accounts of the revenue and government money to be received by the Government of Nepal under the prevailing law, and deposit or cause to be deposited them in bank.

- (3) It shall be the responsibility of the Chairperson to maintain the records and accounts of revenue, submit statements, have them audited and maintain records thereof.

**22. Functions, Duties and Powers of the Secretary:
The functions, duties and powers of the Secretary shall be as follows:**

- (a) Minute the decisions of the Commission, affix on it the signatures of the Chairperson and members who attended at the meeting of the Commission and certify the decisions;
- (b) Keep safe and care for the decisions of the Commission and the records relating thereto;
- (c) Implement or cause to be implemented the decisions of the Commission;
- (d) Maintain separate records of the decisions relating to dispute settlement and implement or cause to be implemented thereof;
- (e) Keep safe and inspect or cause to be inspected from time to time the applications received by the Commission, applications obtained for review or all the documents related to the applications and the Commission;
- (f) Appoint, control and supervise the employees of the Commission; and
- (g) Carry out other acts in accordance with the directions of the Commission.

23. Internal Control System of the Commission:

- (1) The Commission shall have to develop and implement the internal control system to carry out the performance of the functions to be performed by the Commission in an economic, efficient and effective manner, make the financial reporting system reliable and carry out performance under the prevailing law.
- (2) While developing the internal control system pursuant to Sub-Rule (1), the Commission shall have to make arrangements of necessary matters consistent with the nature of functions to be performed by the Commission, and the matters like environment of control, identification of risk areas, information sharing, monitoring and evaluation etc. shall be included therein.
- (3) In order to carry out monitoring of the internal control system pursuant to Sub-Rule (1), the Commission shall make arrangements of monitoring by assigning the responsibility to any member of the Commission.
- (4) The member assigned pursuant to Sub-Rule (3) shall carry out monitoring and supervision at least twice a year to ascertain if the Commission has performed in an effective manner and has abided

by the financial discipline and directions, and submit a report thereof to the Commission.

- (5) If any irregularity is found in the report submitted pursuant to Sub-Rule (4), the Commission shall give direction to the concerned authority to improve such an irregularity and it shall be the duty of the concerned authority to abide by such direction.

24. Providing Opinion:

- (1) The Government of Nepal may seek opinion of the Commission on any matter relating to electricity generation, transmission and distribution.
- (2) In case opinion is sought pursuant to Sub-Rule (1), the Commission shall have to provide its opinion to the Government of Nepal on such a matter.

CHAPTER

7

**PROFESSIONAL
CONDUCT**

PROFESSIONAL CONDUCT

25. To Maintain Dignity of Office and Discipline:

The member shall demonstrate discipline at work by maintaining dignity of his/her office and post.

26. Punctuality: The member shall carry out his/her prescribed responsibilities by adhering to the office hours specified by the Government of Nepal.

27. Prohibition on Accepting Donation, Gift, Money, Borrowing or Engaging in Financial Dealing: No member by himself/herself or through any member of his/her family shall accept donation, gift and money from or borrow from or engage in financial dealing with the persons related to functions of the Commission, and shall fall into financial temptation or receive commission or unlawful amount.

28. Prohibition on Having Political or Inexpedient Influence or Connection in the course of Work Performance: The member shall stay away from making any political or inexpedient influence with the objective of fulfilling his/her personal interest and shall not establish improper relationship with any institution or person in contrary to the dignity of the post.

29. Not to Participate in Politics: No member shall participate in or obtain membership of any political party or organization or file candidacy in election of any political post or engage in publicity or give statement or solicit votes on behalf of any candidate, political party or organization in such election.

Provided, however, that nothing shall be deemed to be a bar to exercise his/her right to vote under the prevailing law without expressing views on who was or will be voted for.

30. Prohibition on Publication of News:

- (1) No member shall, without obtaining prior approval of the Commission, give or disclose to press or any others the information, any confidential or legally forbidden matters received or any document written or collected by him/her in the course of discharging the duties of office.
- (2) The provision pursuant to Sub-Rule (1) shall be applicable even in the case of former member of the Commission.

31. Not to Publish or Broadcast Article, Statement or Speech: No member shall publish or broadcast article, statement or speech through any media

by using imaginary or real name in a manner to imperil the sovereignty and territorial integrity of Nepal; disturb peace and security, foreign relations and public decency of the country; defame the decisions of the court; contravene to the prevailing law and the policy of the Government of Nepal; and hamper the relations between the Government of Nepal and people.

Provided, however, that nothing shall be deemed to be a bar to write or publish articles of academic and investigative nature on subjects relevant to the profession.

32. Not to Carry Out Acts Which Spread

Communal Hatred: No member shall carry out or cause to be carried out any such an act which creates animosity or spreads communal hatred among the people from different castes, ethnicities, religions, groups, areas and sects of Nepal.

33. Not to Establish and Operate Company and

Carry Out Business: No member shall carry out the following works without obtaining prior approval of the Government of Nepal:

- (a) Participation in establishment, registration or operation of any bank or company,
- (b) Carrying out of any trade or business which is

- required to get registered under the prevailing law,
- (c) Obtaining license of electricity generation and transmission or purchasing share of or otherwise getting involved in any form with a company or institution carrying out such functions.

34. Not to Carry Out Act that Harms the Interest the Commission: No member shall carry out any such an act which harms the interest of the Commission.

35. Not to Cause Damage or Loss to the Commission: No member shall cause loss or harm to the Commission intentionally, carelessly or negligently.

36. Membership of Institution: No member shall become a member of any institution other than that of his/her occupational, professional and social institution/organization in contrary to the prevailing law and the policy of the Commission.

37. Property Details to be Submitted: The member shall submit the details of moveable and immovable property available in the name of himself/herself and his/her family members to the prescribed body in such a format as specified under the prevailing law.

- 38. Work Performance to be Carried Out According to the Policy Approved by Government of Nepal:** The member shall carry out work performance in a manner to be capable of facing the challenge emerged in the course of State governance by keeping in mind seriously the essence and spirit of the policies approved by the Government of Nepal.
- 39. Professionalism and Expertise:** The member shall carry out his/her work performance as a professional and expert according to the concept of modern State by adhering to the notion and practice of the citizens as per the policy of open society, open politics and liberal economy.
- 40. Clean, Logical and Good Conscience:** The member shall carry out his/her work performance in a clean, logical, good conscience and justified manner.
- 41. Concept/View of Stakeholders to be Considered:** Motivated by the objective of doing good in the interest and welfare of the general people, the member shall carry out his/her work performance by seriously studying, considering and analyzing the suggestions/inputs, views and concepts/views received from all stakeholder citizens, groups or professional associations/

organizations without being limited to the interest of any specific person.

42. Not to Do Job or Service Anywhere Else: (1)

The member shall not do any job or otherwise serve as a consultant, advisor, and expert or in any capacity as to enjoy financial gain or any facility anywhere else.

- (2) Notwithstanding anything contained in Sub-Rule (1), the member may carry out the following works:
- (a) Participate in the function of national or international educational, academic or research associations/organizations or in the function of regional or international associations/organizations to which Nepal is a Member State;
 - (b) Participate, deliver speech or present work paper at programs in the country and abroad without contrary to the policies of the Government of Nepal;
 - (c) Provide service for human welfare, charity and social good in a manner to not hamper the business of the office; and
 - (d) Affiliate to any other social organizations as to not enjoy financial gain or facility, hamper the business of the office and harm the interest of the Government of Nepal.

Explanation: For the purpose of this Clause, “ Social Organization” means such a community based social association/organization which is active in the society for a long time in pursuance to fulfill the social needs and this term also includes the organizations related to literature, arts, culture, sports, music, science, religion or other genres or areas of similar kinds registered under the prevailing law.

43. Not to Obtain Permanent Resident Status: No member shall obtain or otherwise apply to obtain permanent resident status of any foreign country.

44. Conduct of Employees of the Commission:

- (1) The employees of the Commission shall follow the conducts to be followed under these Rules and the conducts pursuant to the employee by-laws developed by the Commission.
- (2) Any employee who fails to follow the conducts pursuant to Sub-Rule (1) shall be liable to departmental action according to the employee by-laws developed by the Commission.
- (3) In case the employee to be punished with departmental action is deputed by the Government of Nepal, the concerned agency shall be written requesting it to initiate departmental action against such employee.

CHAPTER

8

MISCELLANEOUS

MISCELLANEOUS

45. Requirement to Obtain Prior Approval of the Commission to Make Change in Share Structure:

Any company or institution licensed to carry out functions related to electricity generation, transmission, distribution or trade shall obtain prior approval of the Commission to issue shares publicly or to purchase/sell shares which constitutes change of more than Five percent in share structure.

Provided, however, that no prior approval shall be required to purchase/sell shares of a company or institution listed in Nepal Stock Exchange.

46. Minimum Cost Extension Action Plan:

- (1) The Commission shall develop Minimum Cost Extension Action Plan by incorporating the matters related to electricity generation, transmission and distribution for domestic demand and supply of electricity service pursuant to Clause (f) of Section 12 of the Act.
- (2) While developing the Minimum Cost Extension Action Plan pursuant to Sub-Rule (1), the Commission may consult with the stakeholders and experts in the concerned area.

- (3) The Commission may, from time to time, cause the concerned producers, transmitters and distributors to submit details with respect to whether acts have been performed as per the Minimum Cost Extension Action Plan or not and may also carry out monitoring thereof.

47. Remuneration and Facilities of the Chairperson and Member:

- (1) Remuneration and facilities of the Chairperson and member shall be as equal to that of a member of National Planning Commission and an officer of special class of the Government of Nepal, respectively.
- (2) In addition to the remuneration and facilities pursuant to Sub-Rule (1), the Commission may provide performance based additional allowances to the Chairperson and member from its income by obtaining consent of the Government of Nepal, Ministry of Finance.

48. Amount to be Deposited in the Consolidated Fund:

- (1) In case there is a deposit of more than One Hundred Fifty percent of average operation cost of the Commission of latest Three Fiscal Years in

the Fund referred to in Sub-Section (1) of Section 33 of the Act, the Commission shall deposit such a surplus amount in the Federal Consolidated Fund.

- (2) Notwithstanding anything contained in Sub-Rule (1), if the amount available in the Fund is insufficient to conduct any project and additional amount is needed, the Commission may keep required additional amount in that Fund by obtaining consent of the Government of Nepal.

49. To Obtain Consent of the Government of Nepal: The Commission shall, in the course of implementation of these Rules, obtain consent of the Government of Nepal, Ministry of Finance on such a matter that will impose financial liabilities on the Government of Nepal.

50. Repeal and Saving:

- (1) The Electricity Tariff Fixation Rules, 1994 is hereby repealed.
- (2) Any act performed or action taken under the Electricity Tariff Fixation Rules, 1994 shall be deemed to have been performed or taken under the Rules.

SCHEDULE

1

RELATING TO
SUB-RULE (1) OF
RULE 3

RELATING TO SUB-RULE (1) OF RULE 3

Application for the Post of the Chairperson/Member

To,
The Recommendation Committee,

.....

I wish to submit this application requesting you to appoint me to the post of the Chairperson/Member of the Commission, as I possess the following qualifications and work experience according to the Electricity Regulatory Commission Act, 2017.

1.	Name:
2.	Address, -
	Permanent: Temporary:
3.	Age, - Date of Birth: Current Age:
4.	Educational Qualifications, - Name of Academic Degree: Name of Academic Degree:
	Name and Address of Educational Institution:
	Secured Percentage:
	Name of Academic Degree:
	Name of Academic Degree:
	Name and Address of Educational Institution:
	Secured Percentage:
5.	Work Experience in the Concerned Area, - (1) (2) (3)
6.	Specialized Area, -
7.	Attached Documents, - (1) (2) (3) (4)
8.	Signature: Date:

SCHEDULE

2

RELATING TO
SUB-RULE (2) OF
RULE 3

RELATING TO SUB-RULE (1) OF RULE 3

Self-Declaration

I hereby make this self-declaration of not having the following disqualifications to be appointed to the post of the Chairperson/Member of the Commission as referred to in Section 6 of the Electricity Regulatory Commission Act, 2017. If I am proven not to be consonant with this self-declaration for any reason whatsoever, I agree to be punished according to the law.

- (a) Non-Nepali Citizen,
- (b) Having obtained permanent resident status of a foreign country,
- (c) Having convicted of offences related to corruption, rape, trafficking in persons, drug smuggling, money (asset) laundering, abuse of passport and kidnapping, and of other criminal offences involving moral turpitude,
- (d) Having included in black list under the prevailing law or at least Three years have not elapsed after removal from such list,
- (e) I myself or any member of the same family being

worked in the capacity of a promoter, manager, shareholder, or director, auditor or advisor in any company engaged in electricity generation, transmission, distribution or trade or any subsidiary company, firm or organization of such company, or at least Three Years have not elapsed after retirement from that capacity,

- (f) Three Years have not elapsed from the date of serving sentence after being convicted of and punished in criminal offences relating to electricity generation, transmission, distribution or trade,
- (g) Incumbent employee of the Government of Nepal, Provincial Government or Local Level or of corporate body under the ownership of the Government of Nepal, Provincial Government or Local Level or of licensee,
- (h) Declared insolvent due to failure of repayment of debts to lender,
- (i) Being a member or office-bearer of any political party.

Signature:

Name:

Address:

Date:

SCHEDULE

3

RELATING TO
SUB-RULE (2) OF
RULE 19

RELATING TO SUB-RULE (1) OF RULE 3

Methods of Public Hearing

1. Procedures of conducting program for public hearing and subjects to be included:

A public notice shall be published in a daily newspaper of national circulation by mentioning the following subjects along with the venue, date and time of public hearing no less than Fifteen days before conduction of the public hearing:

- (a) Details related to domestic consumers, traders/businesspersons, representative organizations of general consumers, concerned Local Level and media to be participated in the public hearing,
- (b) Name of official and representative to be participated in the public hearing on behalf of the Commission and mode of contact with him/her,
- (c) Name of power producer institutions/organizations, distribution licensees, transmitter institutions/organizations, power purchasers/sellers and representatives of the persons licensed for thereof to be participated in the public hearing, and mode of contact with him/her,
- (d) Subject/theme and area of public hearing,
- (e) Matters related to code of conduct of public hearing,

- (f) Matters related to code of conduct to be followed by the persons attending the public hearing, wishing to hold conversation or participating in question-answer,
- (g) Matters related to criteria and standards of fixation of tariff,
- (h) Name of licensed person or institution,
- (i) Number of customers in the area where public hearing is to be conducted and electricity units to be consumed,
- (j) Necessary details relating to electricity transmission line and electricity connection.

2. Procedures of conduction of public hearing program:

- (a) The Commission shall itself conduct the public hearing.
- (b) The Chairperson and member shall attend the public hearing turn by turn.
- (c) Agenda along with subjects of discussion to be held in the public hearing shall be prepared and distributed,
- (d) Venue of public hearing shall be fixed considering the number of participants.
- (e) People's representatives of Local Level, subject experts, intellectuals of the concerned field, local media and journalists, representatives from

organizations/institutions related to electricity distribution and consumption and representatives working for protecting the interest of consumers shall be involved in the public hearing.

- (f) Subjects/issues raised and response made to address such subjects/issues in the course of public hearing shall be noted down and it shall be certified by the official attended on behalf of the Commission.

3. Subjects/themes to be presented in public hearing

- (a) Objectives of the program shall be explained.
- (b) Information about the subject-matters shall be provided.
- (c) Information shall be provided about the method of questioning and answering by the participants.
- (d) Code of conduct to be followed by the participants while putting forth queries or questioning and answering in the course of public hearing shall be explained.
- (e) Public hearing shall be reviewed as a whole.

4. Code of conduct of public hearing program

- (a) No one shall make presentation in a manner to imperil the sovereignty and territorial integrity of Nepal, threaten to social harmony, cause gender discrimination, harm the relations of any specific class/group or community or provoke ethnic hatred.
- (b) No presentation shall be made against the political system or political mechanism of Nepal or its administrator or any political level or agency.
- (c) No presentation shall be made on such a matter/issue which is under consideration in a court.
- (d) No one shall be permitted to select subjects and make presentation on the basis of guesswork.
- (e) Polite and decent language shall be used.
- (f) Answer shall be given or another speaker shall be provided with an opportunity to speak, only after the concerned participant completes his/her saying.
- (g) Visual records of the program shall be maintained.

GLOSSARY
OF KEY
REGULATORY
TERMS



USAID
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Nepal Hydropower Development Project (NHDP)

GLOSSARY OF KEY REGULATORY TERMS

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Nepal Hydropower Development Project (NHDP)

GLOSSARY OF KEY REGULATORY TERMS

INTRODUCTION

INTRODUCTION

This glossary of key regulatory terms is prepared to serve as a preliminary reference document for the Electricity Regulatory Commission, the Nepal Electricity Authority, and all other power sector stakeholders in Nepal.

The terms in this glossary are generic in nature, and do not specifically refer to the legal, policy, or regulatory framework for the electricity sector of Nepal. The purpose is to provide generic definitions for commonly used terms relevant to the regulation of electricity sector, which can serve as a starting point, before the reader undertakes any detailed research.

KEY REGULATORY TERMS

A

A&G expenses: Refer “Administration and general expenses”.

ABT: Refer “Availability Based Tariff”.

Abuse of dominant position: Misuse of dominant market power by a firm for the purpose of maintaining or increasing its favourable market position.

Access: Could mean:

(1) Market access: Ability for a potential participant to enter a market; or

(2) Electricity access: The ability of a consumer to obtain an electricity connection.

Access often requires an initial, fixed investment.

Access charge: A fee charged in exchange for a connection to a network that permits access to a service or product. Example: the fee charged for the use of a utility’s transmission or distribution system.

Accountability: The system of procedures which results in clear assignments of responsibility and clear documentation when obligations are met.

Accounting: The bookkeeping methods involved in maintaining a financial record of business transactions and in the preparation of statements concerning the assets, liabilities, and operating results of a business. The three main accounting statements are; (i) the Income Statement, (ii) the Balance Sheet, and (iii) the Statement of Cash Flows.

Accounting segregation: Keeping the accounting for different businesses or parts of businesses within companies separate so that costs and revenues can be clearly identified with their associated enterprise. For example, separate accounting for generation, transmission, and distribution segments within a single vertically integrated utility.

Accrual Accounting: The method of recording transactions by which revenues and expenses are reflected for the period in which they are considered to have been earned and incurred, respectively, whether or not such transactions have been settled finally by the receipt or payment of cash or its equivalent.

Administration and general expenses: Expenses such as establishment charges, stationery expenses, marketing expenses, etc.

ADR: Refer “Alternative dispute resolution”.

Aggregate Revenue Requirement (ARR): Aggregate revenue requirement for a utility, approved by the regulator, for an annual period. This usually covers generation / power purchase expenses, O&M expenses, depreciation, interest expenses, taxes etc. Usually, a tariff is determined in such a way that excess revenue is equal to ARR.

Aggregate technical and commercial (AT&C) losses: The concept of Aggregate Technical & Commercial losses provides a realistic picture of loss situation in the context it is measured. It is a combination of technical loss, theft, inefficiency in billing, default in payment, and inefficiency in collection.

$AT\&C\ losses = \{1 - (Billing\ Efficiency \times Collection\ Efficiency)\} \times 100;$

where, $Billing\ Efficiency = \frac{(Total\ units\ billed)}{(Total\ units\ input)}$

and $Collection\ efficiency = \frac{(Revenue\ collected)}{(Amount\ billed)}$

Alternative dispute resolution (ADR): A substitute for litigation (adversarial lawsuit) as a means to settle disputes without recourse to the formal judicial system. The process could involve either arbitration or negotiated settlements.

ARR: Refer “Aggregate Revenue Requirement”.

AT&C losses: Refer “Aggregate technical and commercial losses”.

Availability Based Tariff (ABT): A mechanism in which at least a portion of recovery of the project tariff is linked with the availability of project to generate power, rather than the actual generation. ABT allows recovery of at least a portion of fixed costs, even when it is not able to generate power due to constraints imposed by the buyer, or grid constraints.

Average cost of service: A distribution utility’s cost of service is the cost it incurs in supplying one kWh of electricity to a consumer. The utility’s average cost of service can easily be determined as:

Average cost of service

$$= \frac{\textit{Total cost incurred by distribution utility in a financial year}}{\textit{Total sales of the distribution utility in a financial year}}$$

Auxiliary consumption: Not all of the energy generated can be sent out from the plant for sale. There are some internal loads and losses which results in net generation being lower than gross generation – the difference being expressed as auxiliary consumption in percentage terms.

$$\begin{aligned} & \text{Auxiliary consumption in \%} \\ & = \frac{(\text{Gross generation} - \text{Net generation})}{\text{Gross generation}} \end{aligned}$$

B

Barriers to entry: Factors that make market entry extremely costly for outside firms. Factors including political restrictions, patents, and high costs of equipment needed to participant in the market can discourage or make it impossible for a potential market participant to enter a market, particularly since firms already established in an industry hold a variety of advantages.

Base rate: The interest rate that banks and other financial institutions use as a basis for all their other rates. For example, the interest paid for loans will be above this rate.

Bilateral contract: A legal commitment for one party to purchase and another party to sell; for example, a direct contract between a power producer and a user.

Billing cycle: The time period during which a utility calculates customer service use and delivers a bill stipulating a due date for payment.

Bulk power supply: Wholesale supply of power in bulk quantities.

Business plan: A business plan of utility is prepared for a multi-year period, and usually includes (i) a capital investment plan, (ii) a power purchase plan, (iii) a strategy for expansion, (iv) a human resources plan, (v) a plan for IT implementation, etc. In some cases, regulators have the authority to review and approve the business plan.

C

CAGR: Refer “Compound Annual Growth Rate”.

Capacity Utilization Factor (CUF): A power plant does not necessarily generate at the same capacity at all times. The generation varies from time to time based on differences in resource availability and technical constraints. CUF acts as an indicator of plant utilization.

$$CUF \text{ in } \% = \frac{\text{(Gross generation (in KWh))}}{\text{(Plant capacity (in KW) } \times 24 \times 365)}$$

Capital cost: The Capital cost of a new project is comprised of the following:

- the expenditure incurred or projected to be incurred during construction up to the project's Commercial Operations Date (COD);
- interest during construction;
- gain or loss resulting from foreign exchange rate variations on the loan during construction; and
- capitalized initial spares, subject to the ceiling rates.

Capital Expenditure: Amount incurred towards capital works.

Capital investment plan: A detailed plan of capital investments, provided in a scheme-wise, category-wise, and year-wise manner, inclusive of physical targets and financial costs. It is prepared for a multi-year period, and is also usually subject to review and approval by the regulator.

Capitalization: Amount of capital expenditure capitalized as part of capital cost, after commissioning of the asset.

COD: Refer “Commercial Operation Date”.

Commercial losses: Energy losses in electricity utilities for reasons other than technical losses.
Example: Loss resulting from a non-functioning electricity meter, and loss resulting from unauthorized connections.

Competitive market: A market in which price is determined by market forces, including demand-supply interactions and competition. The price may be determined at energy exchanges, through bid processes, or through contractual negotiations.

Commercial Operation Date (COD): Date of commencement commercial operation for a project, which is typically a few days after commissioning, by conducting a successful trial run to establish that the project is functioning properly. COD has to be supported by documentary evidence such as certificate of an Independent Engineer on the results of performance test.

Compound Annual Growth Rate (CAGR): a geometric progression ratio that provides a constant rate of return over a given time period.

$$CAGR, \text{ in } \% = \left(\frac{\text{End value}}{\text{Beginning value}} \right)^{\frac{1}{\text{Number of periods}}} - 1$$

Concession: A grant of right to exploit a natural resource (often water or mineral assets) for a specified period of time, in which the concessionaire or concession holder takes on certain obligations—such as meeting network expansion targets or delivering a service at a regulated price. The concession contract establishes the mutual responsibilities for the parties involved.

Contract demand: The contracted / approved demand for a consumer, in KW or KVA, as agreed with the distribution utility. In most cases, the consumer also pays a fixed charge towards such demand.

Contract path: An arrangement for power transfer between systems. When utility systems interchange power, the transfer is presumed to take place across the “contract path,” the most direct physical transmission between two interconnected entities, even though the power flows according to network conditions.

Controllable factors: Factors that are under the control of regulated utilities. For example, employee expenses, repair and maintenance expenses, and depreciation.

Cost of Service regulation: Cost of Service regulation allows the utilities to recover their costs, in addition to obtaining a reasonable return on their investments. Cost of Service regulation does not necessarily mean that all the costs can be recovered. The regulator is free to undertake prudence verification of costs, and can disallow non-prudent costs from getting recovered through tariff. The reasonable return component provides an incentive to the utility to invest in the electricity business.

Cross subsidy: The extent to which one category of consumer subsidizes another category.

CUF: Refer “Capacity Utilization Factor”.

Customer charge: A fixed monthly charge on a customer’s utility bill that does not change with energy consumption or contract demand.

D

Debt Equity Ratio: Ratio of debt to equity. For example, 70:30.

Debt Service Reserve Account (DSRA): It is an account maintained separately by the developer, by utilizing the project revenues, established as per the requirement of financing documents. The primary purpose of the DSRA is to protect the developer against unexpected volatility, or interruption in the cash flow available to service the debt.

Declared Capacity: The Capacity of generation, available at the project's interconnection point (as defined in the PPA) as declared by the generating station to the relevant load dispatch center / system operator. Based on legal and regulatory framework, Declared Capacity may need to be provided for each 15 minute, or for each hour, or for each day. There may also be a requirement of day ahead / week ahead / month ahead declarations.

Deemed Generation: The energy that a generating station was capable of generating but could not generate due to the conditions of grid or power system beyond the control of generating station or

did not generate in response to the instructions from either the procurer or load dispatch center.

Demand charges: Charge based on KW or KVA of demand. Usually they are billed on a monthly basis based on contract demand / recorded maximum demand / a percentage of contract demand, etc. Usually billed for industrial and commercial consumers, and rarely billed for residential consumers.

Demand Side Management (DSM): Controlling the use of energy on the customer's side of the meter. DSM includes energy conservation, energy efficiency, load shifting, load flattening etc. For example, use of energy efficient appliances, or charging a higher tariff for energy consumption at peak hours.

Depreciation: A mechanism for distributing the cost of depreciable asset less estimated net salvage over the estimated useful life of the asset. Depreciation is not a cash outlay, but an accounting tool for allocating cost over the service life of the physical asset. The regulatory treatment of depreciation is slightly different from the conventional accounting of depreciation. In the regulatory context, depreciation is allowed against loan repayment requirements during the period when loan is outstanding.

Design Energy: Annual energy generation potential of a hydropower plant, as estimated / certified by an independent agency, based on hydrology and other factors.

Deviation charges: Refer “Imbalance charges”.

Diminishing balance method: Refer “Written Down Value Method”.

Discount Factor: The Discount Factor is utilized for discounting future cash flows. It is a key factor in determining the levelized tariff. Usually, the discount factor is taken as the weighted average cost of capital (WACC).

Distributed Generation: Generating networks that produce small amounts of energy to meet local (substation level) peak loads, thereby eliminating the need to upgrade or build additional local distribution lines.

Discovery: Formal written questions posed by the regulator and respondents / interveners in a utility rate (tariff petition) or other case in order to “discover” the details behind a utility request. The utility’s answers to discovery often become part of the official “record” of a case upon which the regulator bases its decisions.

DSM: Refer “Demand Side Management”.

DSRA: Refer “Debt Service Reserve Account”.

E

Econometric method: The combination of economic theory with statistical methods to produce a system of equations for forecasting energy demand. Thus, electricity demand may be estimated as a function of correlated variables such as GDP growth and per-capita income. The method is data intensive, and is suited more for total demand estimation rather than consumer category wise estimation which is required for tariff process.

Economic dispatch: Methodology adopted by system operator for scheduling of generating stations in an economical manner, when excess energy is available. Under economic dispatch, the generating stations are scheduled in the ascending order of their marginal cost. Thus, projects with low energy / variable charges are scheduled first, and projects with high energy / variable charges are scheduled later. There could be exceptions such as purchase from must-run sources (renewable energy and nuclear energy).

Economic regulation: The administration of a set of rules and restrictions developed or approved by regulatory or governmental bodies through rulemaking and supported by way of fines and other

penalties. The main scope for regulation is to prevent market failures—situations in which markets do not efficiently organize production or allocate goods and services to consumers, and to prevent abuse of dominant position. Tariff regulation is a key element of economic regulation.

Electricity Regulatory Commission (ERC): The ERC acts as an independent body to regulate the sector, and to protect the interests of all stakeholders. This includes regulation of tariff charged by utilities.

Employee expenses: Expenses incurred to pay salaries and other employee expenses. These could be linked to inflation indices and planned pay-scale revisions. Impact of pension funds and other terminal benefits may also have to be considered.

End use method: An estimation based on end use. For example, energy consumption for street lighting connection category may be calculated as: average number of street lighting connections in the year x average capacity (in KW) of each street lighting connection x average hours of operation in a year for each street lighting connection.

ERC: Refer “Electricity Regulatory Commission”

F

Feed-in tariff (FIT): Refer “Generic tariff”.

FEHS: Refer “Free Energy for Home State”.

FERV: Refer “Foreign Exchange Rate Variation”.

Financial Closure: A project is said to have achieved financial closure when all the conditions to initial drawdown of loans under the financing documents are achieved. This may include requirements such as contribution of equity by the shareholders and/ or the sponsors into the project company. Financial closure enables drawdown of loans so that project construction can start.

FIT: Refer “Feed-in tariff”.

Fixed asset register: Ideally, Regulators prefer that the utility keep a well-maintained fixed asset register prepared after proper physical verification. The register is required to track book costs, depreciation and life of each of the assets, or at least each of the major assets. The register is also expected to track physical location, asset retirement, move to scrap, move to store for maintenance etc.

Fixed costs: Expenses that are not affected by the level of output; e.g., administrative overhead, loan repayments, etc.

Force Majeure: A French term that literally means "greater force." Natural and unavoidable catastrophes (such as war, cyclone and earthquake) can interrupt the expected course of events and restrict participants in a Contract from fulfilling their respective obligations. Force Majeure clause, when included in the Contract, excuses the parties from liability in case of occurrence of such unforeseen event beyond the control of the respective parties.

Foreign Exchange Rate Variation (FERV): A mechanism for adjustment and recovery of variations in loans and repayments, as a result of foreign exchange rate variation. FERV is handled through tariff adjustments, or other mechanisms specified by the regulator.

Formula rate plans (FRP): FRP uses pre-specified formulas to calculate automatic rate adjustments to keep the utility's actual rate of RoE within or near a specified band around the authorized RoE. FRPs are not intended to replace a detailed tariff review. General tariff reviews happen in the conventional

PBR manner for each tariff period. However, during a tariff period, through FRP, adjustments to RoE are provided, resulting in adjustments to tariff.

Free Energy and Power: A percentage of generation from a hydropower plant, to be provided as free power to the Government or a Government instrumentality (an arm of Government or a company owned by the Government).

Free Energy for Home State (FEHS): A percentage of generation from a hydropower plant, to be provided as free power to the state / province in which the plant is located.

Fuel cost adjustments: An adjustment to the customer's bill when the actual cost of fuel at the supplier's generating station varies from a previously specified unit cost.

G

Generic tariff: Generic tariff is arrived at, for each technology, based on a standard set of cost and performance parameters. Even if the individual projects may vary in terms of cost and other parameters from the assumptions of generic tariff,

the project can still obtain only the generic tariff, irrespective of whether it is making profit / loss. This is also known as “Feed in Tariff” and “Preferential Tariff”. Obligation on the utility to connect and pay a set price for a set period of time. Often determined by legislation and applied to new, renewable energy sources (wind, solar, tidal, biomass, geothermal).

Grid: A system of interconnected high voltage transmission lines, usually managed by a system operator.

Grid code: A grid code is a technical specification, which defines the parameters a facility connected to a public electric network, must meet to ensure safe, secure, economic and proper functioning of the electricity system. The facility can be an electricity generating plant, a consumer, or a transmission network.

Gross generation: Total generation of a power plant. Usually, a part of generation is used to run the auxiliary loads, so that gross generation, reduced by the auxiliary consumption provides the net generation.

IDC: Refer “Interest during Construction”.

Imbalance charges: In some power markets, a commercial mechanism may exist to enforce discipline among market participants. Deviation charges may be applicable on entities such as generators, for their actual deviation in generation from the generation schedule given on a day ahead basis.

Independent Power Producer (IPP): Any owner and operator of facilities for independent power production, i.e., not set up by distribution utilities / consumers themselves to meet their requirements.

Independent System Operator (ISO): The entity that dispatches electricity (directs it from where it is generated to where it is needed) within a grid. Ideally, an ISO should not own any transmission lines or power plants, so that it is in principle, independent.

Interest during Construction (IDC): Interest incurred on borrowings during the time of construction of a project. Usually, the IDC is capitalized as part of capital cost once the project is commissioned.

Internal Rate of Return (IRR): Used to evaluate a project's financial viability. Calculated from a project's

cash outflows and inflows. It is the discount rate at which the net present value of the project becomes zero.

IPP: Refer “Independent Power Producer”.

IRR: Refer “Internal Rate of Return”.

ISO: Refer “Independent System Operator”.

L

LDC: Refer “Load Dispatch Center”.

Levelized tariff: Each generation project will have its costs and therefore its tariffs changing on a yearly basis. Different projects will also have different trends of tariff. For example, one project may have a 10-year loan repayment period while another will have a 12-year repayment. A levelized tariff allows the computation of a single comparable tariff value for each project, based on its respective tariff for each of the years of PPA tenure. A levelized tariff takes into account the time value of money, and therefore is based on a discount factor.

License: Permission to engage in a certain activity, or to provide a specific service, granted by the relevant governmental authority. A license includes rights and obligations (technical and of both the licensee and

the granting authority. A license, or at least parts of a license is a public document.

Licensed Person: Refer “Licensee”.

Licensee: A legal person who holds a valid license for undertaking a licensed business activity such as electricity generation, transmission or distribution.

Licensing: The process in which an authorized government body gives permission for a firm to operate.

Lifeline rates: Rates designed to promote universal access. For example, a very low / zero tariff may be fixed for initial 20 units of electricity, so that even vulnerable and poor communities can access electricity.

Load Dispatch Center (LDC): The entity / facility that manages the dispatch of generating stations, and shutdown / control of loads — usually under the control of System Operator.

Local Area Power: Refer “Local Free Power”.

Local Free Power: A fixed quantum of electricity supplied free of cost by a hydropower plant, to supply the local areas near the project. The hydropower plant may

also be required to build the local network infrastructure to enable supply of such power in the local area.

M

Market Barrier: Anything that interferes with market participants or entrants participating in a market. Barriers may be artificial (example, a high tariff charged by a monopoly), or natural (example, the low capacity to pay of certain market participants).

Merit Order Dispatch: Refer “Economic Dispatch”.

Monopoly: Exclusive control of a market by a single provider, supplier or seller.

Multi-Year Tariff (MYT): Tariff determined for multiple years, as part of a single tariff order.

Multi-Year Rate Plan (MRP): In case of MRPs, an initial tariff determination happens at the start of tariff period, during which tariff for following 3-5 years are approved in advance. In some cases, there are also provisions for interim adjustments. The performance targets are also published in advance for the multiyear tariff period. Thus, the utility can plan to improve its performance over a long term, in line with the performance targets.

Must Run Sources: Power plants that are not subject to “Economic Dispatch” by the system operator. Examples are renewable energy plants, and in some countries, also nuclear power plants.

MYT: Refer “Multi Year Tariff”.

N

Natural monopoly: A market situation in which a single firm that can produce a given level of output at a lower total cost than can any combination of firms. This occurs with economies of scale (relative to the size of the market) and has been used to justify public monopolies governed by regulation. Public utilities, especially network based utilities such as those relating to wires and pipelines are natural monopolies.

Net generation: Net generation is the amount of energy exported from a power plant, after deducting auxiliary consumption from the gross generation. Typically, energy sale is linked to net generation.

Net present value (NPV): The value today of anticipated future incomes and expenditures. The formula is shown below, where CF_i is the cash flow in period i , and r is the discount rate.

$$NPV = \sum_{i=1}^n \frac{CF_i}{(1+r)^i}$$

Non-peak time: A time other than peak time, which could be normal time or off-peak time.

Normative equity: Equity considered by the regulator, when the same is beyond the normative debt-equity levels. For example, if the regulatory expectation is to have a maximum equity of only 30%, for a project with 40% equity, only 30% can be considered as equity (normative equity) whereas remaining 10% will have to be treated as a normative loan. Such treatment is adapted as equity is usually costly than debt, and it will be unfair to pass on such excess costs to the consumers.

Normative performance parameters: Performance levels fixed by the regulator when making a tariff determination and order. Such performance parameters might cover technical parameters, including auxiliary consumption, and financial parameters such as interest rate and O&M expenses.

NPV: Refer “Net present value”.

O

O&M expenses: Refer “Operation and maintenance expenses”.

Obligation to serve: A utility’s requirement to provide service to anyone willing to pay its set rates. Utilities have traditionally assumed this obligation in exchange for an exclusive monopoly franchise. Also, refer “Universal service obligation”.

Off-peak Time: Time periods of low demand experienced by electricity utilities. For example, night-time around mid-night. It could vary from utility to utility, and from location to location.

Operation and maintenance (O&M) expenses: A combination of employee expenses, repair and maintenance expenses, administrative expenses and other general expenses.

Open access: The ability of service providers to use a network operator’s network under terms and conditions that facilitate access. Open access allows wheeling of power from a generator to a buyer, through an electricity network which is owned neither by the generator, nor by the buyer, by payment of relevant network / open access charges to the network operator.

P

PAF: Refer “Plant Availability Factor”.

Payback period: The amount of time anticipated for the recovery of the initial investment in a project. For example, if an investment of \$100,000 generates net revenue of \$25,000 per year (revenue less operating costs) the payback period will be four years.

Peak-load Pricing: Pricing a product at higher levels during periods of highest demand. Such an approach signals users that continuing high levels of usage are imposing high costs on the system (as when the system capacity must be expanded sooner than otherwise would be the case).

Peak Time: Time of peak demand for the utility. It could vary from utility to utility, and from location to location. Usually, there are separate morning and evening / night peak times.

Performance based regulation (PBR): Any rate-setting mechanism that links rewards to desired results or targets by setting rates (or rate components) for a given time according to external indices rather than a utility’s actual cost of service. This type of

regulation gives utilities greater incentives to reduce costs than cost-of-service regulation. Under PBR, performance incentive (and penalty) mechanisms are built in, and therefore utility's profits are also linked to their performance. The performance may be measured in terms of metrics such as reliability, service quality, responsiveness etc.

Petition: A petition is a filing before a regulator, with a specific prayer / request. For example, a tariff petition.

Plant availability: Indicates whether plant machinery was available for generation irrespective of other factors such as low water availability or low electricity demand. Typically applicable for plants with two part tariffs, with fixed charges being linked to availability.

Plant Availability Factor (PAF): The Plant Availability Factor (PAF) for any period means the average of the daily declared capacities (DCs) for all the days during the period expressed as a percentage of the installed capacity in MW, less the normative auxiliary energy consumption.

$$PAF \text{ in } \% = \sum_{i=1}^N \frac{DC_i}{N \times IC \times (1 - AUX_n)}$$

IC = Installed Capacity of the generating station or unit in MW,

*DC_i = Declared Capacity in MW for the *i*th time block of the period,*

N = Number of time blocks during the period, and

AUX_n = Normative Auxiliary Energy Consumption in %

Plant Load Factor (PLF): A power plant does not necessarily generate at the same capacity at all times. The generation varies from time to time based on demand and technical constraints. PLF acts as an indicator of plant utilization for generation. For example, a 100% PLF means continuous generation at the same rated plant capacity.

$$PLF \text{ in } \% = \frac{\text{Gross generation (in KWh)}}{\text{Plant capacity (in KW)} \times 24 \times 365}$$

PLF: Refer “Plant Load Factor”.

PLR: Refer “Prime Lending Rate”.

POLR: Refer “Provider of Last Resort”.

Preferential Tariff: Refer “Generic Tariff”.

Price cap regulation: Price cap regulation allows the utility to change its price level according to an index that is typically comprised of an inflation measure “I” and a “productivity offset,” which is more commonly called the X-factor. With price cap regulation, prices are initially set to allow the company to receive its cost and returns. Thereafter, prices are allowed to rise, on average, at the rate of inflation, less an offset, namely

$$\% \Delta P \leq I - X$$

where $\% \Delta P$ is the average percentage change in prices allowed in a year,

I is the inflation index,

and *X* is the offset

Prime Lending Rate (PLR): Maximum interest rate charged by the banks for the loans advanced by them.

Project specific tariff: A Project specific tariff determines tariff based on the prudent estimation of costs, revenues, returns and performance for each projects separately. This allows the generating companies to pass on any extra ordinary costs to the consumers, while at the same time ensuring that any project related efficiency benefits are also passed on to consumers.

Provider of Last Resort (POLR): In competitive markets, POLR is the default service provider, as long as consumers do not exercise their choice to select a competitive supplier. In cases of sudden liquidation / cessation of business activities of a competitive supplier, POLR comes in as the service provider for the consumers of such suppliers.

Prudently incurred costs: Prudence indicates whether a cost is incurred by a utility in a reasonable manner or not. Prudence of cost is typically established based on parameters such as:

- Compliance to the targets / standards laid out by the Commission;
- Compliance to relevant rules, directives and guidelines; and
- Degree to which the cost was controllable by the utility.

The burden of proof, for establishing that its costs were prudent, rests on the utility.

Public hearing: A hearing conducted by a regulator to solicit the views of public on a predetermined issue. For example, a public hearing on proposed tariff revision.

Q

Quasi-judicial body: An entity such as an arbitrator, commission or tribunal board, with powers and procedures that resemble those of a court of law or judge, and which is obliged to objectively determine facts and draw conclusions from them so as to provide the basis of an official action.

R

Rate case: The process in which a utility and affected parties and stakeholders present information and proposals for future prices and quality targets. The appearance of a utility before a regulatory authority can be very formal (almost like a court case) or semi-formal, depending on rules framed by the regulatory and on the legal framework.

Ratemaking: The process of rate / tariff fixation.

Rate setting: The process of rate / tariff fixation.

RAV: Refer “Regulatory asset value”.

R&M expenses: Refer “Repair and maintenance expenses”.

Regulated utilities: Utilities whose operations and / or tariffs are regulated by a regulator.

Regulation: The process in which the designated government / statutory authority provides oversight and establishes rules for firms in an industry. Regulation places constraints on behaviour, establishes good (or bad) incentives, and addresses issues that are politically contentious. Decisions are implemented through a rule or order issued by an executive authority or regulatory agency of a government and having the force of law.

Regulator: A term used to refer to the administrative body that undertakes regulation. It might take the form of a Commission with multiple members or sometimes with only one member. Regulators have a duty to ensure that interest of all relevant stakeholders are protected in an efficient and socially beneficial manner.

Regulatory asset base: Capital employed in the licensee's regulated business, as approved by the regulator.

Regulatory Assets: Costs incurred by regulated firms and approved by state regulatory agencies for

recovery over a period of years. Instead of being treated as expenditure outlays in a single year, these costs are booked as assets and are depreciated over time so as to avoid tariff shocks.

Regulatory asset value (RAV): The value approved by the regulator, for the capital employed in the licensee's regulated business. One method of calculation of RAV is by summing an estimate of the initial market value of each licensee's regulated asset base at the time of corporatization / privatisation, and all subsequent allowed additions to it at historical cost, and deducting annual depreciation amounts calculated in accordance with established regulatory methods. A deduction is also made in certain cases to reflect the value realised from the disposal of assets comprised in the regulatory asset base.

Regulatory Commission: A regulator, established in the form of a Commission, consisting of Commissioners / Members.

Renewable purchase obligation (RPO): Refer "Renewable Portfolio Standard".

Renewable Portfolio Standard (RPS): A requirement that suppliers of electricity in a state (or region)

include a certain percentage of renewables in the mix of power they sell.

Repair and maintenance expenses: Operational expenses towards repairs and maintenance, such as cost of consumables, labour costs for repair etc.

Respondent: Every petition, filed by a petitioner before a regulator, requires the existence of one or more respondents, who can be the affected parties, interested parties or other stakeholders.

Retail competition: A system that permits customers to buy energy services from more than one retail provider.

Return on Capital Employed (ROCE): Return provided on the overall capital of the utility, not just the equity.

Return on Equity (ROE): Return provided on the equity investment component, though at an attractive rate.

Revenue cap regulation: Revenue cap regulation allows utilities to recover allowed amounts of revenue independent of their sales volumes. The general

goal of Revenue cap regulations is to remove a disincentive for utilities to embrace energy efficiency or other measures that reduce consumer usage levels. Revenue cap regulation is more appropriate than price cap regulation when costs do not vary appreciably with units of sales (high proportion of fixed costs); and there are prospects for significant, uncertain changes in the demand for the regulated services.

ROCE: Refer “Return on Capital Employed”.

ROE: Refer “Return on Equity”.

Royalty: In the context of hydropower, royalty is the amount charged by the Government from hydropower developers, for allowing them to set up the project and utilize hydropower for electricity generation. The royalty may be Energy Royalty, linked to energy generation / revenues, and Capacity Royalty, linked to the project capacity.

RPO: Refer “Renewable Portfolio Standard”.

RPS: Refer “Renewable Portfolio Standard”.

S

SAIDI: Refer “System Average Interruption Duration Index”.

SAIFI: Refer “System Average Interruption Frequency Index”.

Salvage value: Salvage value is the estimated value that an owner is paid when an item is sold at the end of its useful life.

Single part tariff: Tariff specified entirely in NPR per kWh.

SLM: Refer “Straight Line Method”.

Stakeholders: Interested or affected parties. In case of electricity, this could be consumers, Government, utilities, financial institutions etc.

Standards of performance: Minimum performance standards fixed by regulators for utilities. This could include parameters such as time taken for issue of connections, time taken to resolve complaints on supply disruption, time taken to replace transformers etc.

Straight Line Method (SLM): Straight-line depreciation method charges cost evenly throughout the useful life of a fixed asset. This depreciation method is appropriate where economic benefits from an asset are expected to be realized evenly over its useful life.

Subsidy: A grant of financial assistance in a tariff, provided by the government, for weaker sections of society. This is typically an executive decision, and regulator's role is limited to taking into consideration the government's commitment on subsidy, and to ensure that utility is compensated by the government for such subsidy.

Suo Motu petition: Petition / proceedings initiated by a regulator on its own.

System Average Interruption Duration Index (SAIDI): A system index of average duration of interruption in the power supply indicated in minutes per customer.

SAIDI

$$= \frac{\text{Total duration of interruptions for a group of customers}}{\text{Total number of all customers}}$$

System Average Interruption Frequency Index

(SAIFI): A system index of average frequency of interruptions in power supply.

SAIFI

$$= \frac{\text{Total number of interruptions for a group of customers}}{\text{Total number of all customers}}$$

System Operator: Entity responsible for grid operation and load dispatch functions.

T

T&D losses: Refer “Transmission and distribution losses”.

Take and Pay tariff: Tariff arrangement, wherein the supplier will be paid only for the actual electricity offtake by the buyer. Even if the supply is reduced as per the requirement of buyer, the supplier will only be paid for the actual supplied energy.

Take or Pay tariff: Tariff arrangement, wherein the supplier will be paid for the entire electricity that is available for generation, irrespective of demand from the buyer. If the supply is reduced according to the requirement of buyer, the supplier will still be paid for the actual supplied energy along with payment for energy that otherwise would have been supplied.

Sometimes, a Take or Pay Tariff is also linked to the concept of “deemed generation” which is the generation lost on account of back-down instruction from the buyer. For non-hydro power projects, the compensation for reduced offtake need not be the full tariff, but only a part of it, so as to compensate for fixed costs.

Tariff petition: A detailed claim, with supporting data, analysis and documents, filed by an electricity utility, before the regulatory, to approve its tariffs / rates.

Tariff: Tariff is the rate charged by an electricity utility, for providing its services to an entity. A regulator usually approves it as part of a tariff order.

Technical losses: Losses in electricity network on account of technical factors, such as loss due to resistance of conductors, and losses inside transformer.

Time of Day (ToD) billing: ToD billing reflect the different costs a company incurs in providing service during peak and off-peak periods. Thus could involve pricing a product at higher levels during periods of highest demand, and lower during periods of low demand.

Time value of money: A dollar today is more valued than dollar tomorrow. Thus, it is not possible to assess an investment simply by adding up the total cash inflows and outflows over time. Discounting is used to determine present value of future amount. By undertaking discounting, all future cash flows are aggregated to a present value, after considering the time value of money.

ToD: Refer “Time of Day billing”.

Trading: Purchase of electricity for the purpose of re-sale. For example, purchase of electricity from generators for the purpose of reselling it to retail customers.

Trading Margin: Profit allowed to be made by a power trader, while undertaking a trade / resale of power. The regulatory may impose restrictions / ceiling limit on trading margin, to prevent power traders from making abnormal / exploitive profit, especially during time of energy shortage.

Transmission and distribution losses: Energy losses in electricity transmission and distribution network.

Transmission charge / tariff: Rate approved for use of transmission network.

Trend method: The most commonly used methodology for demand forecasting. Utilizes historical growth trends of past years, and adopt the same after adjustments, for arriving at the sales for future period.

True up process: Process of reviewing a utility's past performance based on earlier approved tariff, and actual performance. This is undertaken to avoid any genuine under recovery / over recovery of costs.

Two part tariff: Tariff with a fixed / capacity charge component (in NPR) and a variable / energy charge component (in NPR per kWh). It allows a partial recovery of costs even if the plant is not generating due to reasons such as low demand or low water availability, as long as the plant equipment is available for generation.

U

Unbundling: Separating components of a previously vertically integrated network. For example, separating electricity service into its basic components

(generation, transmission distribution, and retail). Unbundling has the potential to improved industry performance, usually by allowing some of the segments to be also opened to private ownership and / or competition.

Uncontrollable factors: Factors that are beyond the control of regulated utilities. For example, change in law, change in tax rates, and price of fuel.

Uniform System of Accounts (USOA): Uniform systems of accounts are standardized charts of accounts, formats and manuals developed to reflect the specific operating and financial characteristics of an industry, such as electricity.

Universal Service Obligation (USO): Distribution utility's obligation to provide electricity supply to any applicant within its service area, subject to reasonable time for providing the connection, and payment of required charges. Utilities have traditionally assumed this obligation in exchange for an exclusive monopoly franchise.

USO: Refer "Universal Service Obligation".

USOA: Refer "Uniform System of Accounts".

V

Vertically integrated utility: An electricity utility that undertakes all the major functions of electricity business, such as generation, transmission and distribution within the same legal entity. Electric utilities have been vertically integrated historically, with a single firm owning assets and being responsible for generation, transmission, and distribution systems, as well as for the metering and billing activities (retail).

W

WACC: Refer “Weighted Average Cost of Capital”.

WDV: Refer “Written Down Value Method”.

Weighted Average Cost of Capital (WACC):

WACC is the average of the costs of equity and debt, multiplied by their respective weight / share in financing.

Wheeling: Transmission of electricity by a company that does not own or directly use the power it is transmitting. Wholesale wheeling is the term used when there are bulk transactions in the wholesale

market. This word is often used as a synonym for transmission. Retail wheeling allows power producers direct access to retail customers.

Wheeling charge / tariff: Rate charged for wheeling service.

Wholesale electricity market: An electricity market in which bulk consumers have a choice in terms of sources of power, which could be individual generating stations, distribution companies with excess power, or power traders. The wholesale market is where electricity is traded (bought and sold) before being delivered to end consumers.

Wholesale energy competition: Giving an energy distributor the option to buy power from a variety of producers, while the producers compete to sell their power to a large number of distribution utilities.

Working capital: Working capital is required for short-term financing. Working capital requirements for the purpose of tariff determination is usually calculated on normative basis. For example, working capital could cover the following:

- Operation and Maintenance expenses for 1 month
- Maintenance spares at 15% of O&M expenses
- 1 months equivalent of receivables

Written Down Value Method: A method of calculation of depreciation, which is also sometimes called as the diminishing balance method. This accounting technique reduces the value of an asset by a set percentage each year towards depreciation.

Credits:

Some definitions in this document have been adopted from the following sources:

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