



NEPRA ELIGIBILITY CRITERIA (DISTRIBUTION LICENCE) RULES, 2020

SUSTAINABLE ENERGY FOR PAKISTAN (SEP) PROJECT

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BRIEF DESCRIPTION OF DELIVERABLE

After introduction of wholesome amendments in NEPRA Act vide Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, the Federal Government is required to prescribe, through rules, the eligibility criteria for issuance of licence to various regulated services under the Act. Earlier, no such requirement existed and any person satisfying licensing rules for generation and distribution could get respective licences. The attached body of rules include the eligibility criteria for obtaining distribution licence which, post 2018 amendments, would be limited to ownership, operation and maintenance of the distribution system. Consumer-end supplies have been segregated from distribution services and designated as a separate licenced activity of electric power supply.

NEPRA ELIGIBILITY CRITERIA (DISTRIBUTION LICENCE) RULES, 2020

Islamabad, _____, 2020

S.R.O. ____ (I)/20.- In exercise of the powers conferred by section 46 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), the Federal Government after consideration of recommendations of the National Electric Power Regulatory Authority and public opinion is pleased to make the following rules, namely:-

1. Short title and commencement.

- (1) These rules may be called the National Electric Power Regulatory Authority Eligibility Criteria (Distribution Licence) Rules, 2020.
- (2) They shall come into force at once.

2. Definitions.

- (1) In these rules, unless there is anything repugnant in the subject or context,
 - (i) "Act" means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997);
 - (ii) "applicable documents" means the Act and the rules, regulations, licences, registrations, directives, codes, standards, guidelines, circulars, orders, determinations, documents, instruments, approvals and authorizations issued by the Authority, from time to time, in exercise of its powers under the Act;
 - (iii) "applicant" means a person filing an application for the grant of distribution licence under the Act;
 - (iv) "bulk power consumer" means a consumer who purchases or receives electric power, at one premises, in an amount of one megawatt or more or in such other amount and voltage level and with such other characteristics as the Authority may specify and the Authority may specify different amounts and voltage levels and with such other characteristics for different areas;
 - (v) "commercial code" means the set of procedures established by the market operator for carrying out the market operations, including commercial operations, processes and functions under the market rules with the approval of the Authority;
 - (vi) "competitive electric power market" means and consists of the legal framework for the development and sustainable operation of an electric power market through arrangements implemented by or under the directions of the Authority for sale and purchase of electric power services;
 - (vii) "distribution system connection charges " means the fee to be charged to the users of the distribution system for carrying out works and provisions and installation of electrical plant, electric lines and circuits and ancillary distribution system together with charges in respect of maintenance and repair of such items, in a manner approved by the Authority;

- (viii) "distribution business " means the business of distribution of electric power by the licensee in accordance with the standards and procedures provided under the distribution code and the commercial code and the terms of the distribution licence granted by the Authority;
- (ix) "distribution code" means the distribution code specified by the Authority setting out the technical and operational relationship between distribution licensee and all entities to be connected to the distribution system as per section 35 of the Act;
- (x) "distribution consumers eligibility criteria" means the criteria laid down by the Authority for receiving distribution service with in the service territory of the licensee on a non-discriminatory basis;
- (xi) "distribution system" means the distribution facilities situated within the Service Territory owned or operated by the licensee for distribution of electric power including, without limitation, electric lines or circuits, electric plant, meters, interconnection facilities or other facilities operating at the distribution voltage, and shall also include any other electric lines, circuits, transformers, sub-stations, electric plant, interconnection facilities or other facilities determined by the Authority as forming part of the distribution system, whether or not operating at the distribution voltage, as specified by the Authority in the licence;
- (xii) "grid code" means the guidelines, standards and procedures of technical and commercial aspects for the access, use and operation of transmission system and transmission facilities of NTDC as modified and approved by Authority from time to time pursuant to section 35 of the Act;
- (xiii) "investment programme" means the licensee's investment programme in satisfaction of its service obligations under the distribution licence approved by the Authority pursuant to specified standards and procedure under section 32 of the Act;
- (xiv) "licensee" means the licensee to whom a distribution licence is granted in accordance with these rules and shall include its permitted successors and assigns;
- (xv) "power acquisition programme" means a recurring scheme for purchase of power to serve consumers under the distribution licence as per standards and procedure specified by the Authority under section 32 of the Act;
- (xvi) "prudent utility practices" means the practices of an operator of an electric power undertaking seeking in good faith to perform its obligations and in the conduct of its undertaking exercising that degree of skill, diligence, prudence and foresight which would reasonably be expected from a skilled and experienced operator and complying with the relevant Laws and codes;
- (xvii) "separate business" means each of the distribution business, or any other business taken separately from one another and from any other business of the licensee or any affiliate of the licensee;
- (xviii) "transmission system" means the system comprising of electrical facilities including, without limitation, electrical lines or circuits, electrical plant, transformers, sub-stations, switches, meters, interconnection facilities or other facilities operating at or above the minimum transmission voltage owned or operated by the national grid company or by one or more transmission licensees

and used for transmission of electric power from the generation facilities to sub-stations or to other generation facilities or between sub-stations or to or from any interconnection facility, or from the distribution facilities of one licensee to the distribution facilities of another licensee or from a generation facility or distribution facility to a bulk- power consumer;

(xix) "use of system" means the use of the distribution system or transmission system, of the distribution licensee for supply of electric power;

(xx) "use of system charges" means the charges levied by the distribution licensee or the transmission licensee, whichever applicable, for the use of their system for the purposes of distribution or transmission but shall not include connection charges;

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

3. Provision of distribution Services._

(1) The licence to engage in the distribution of electric power shall be issued by the Authority subject to fulfillment of eligibility criteria laid down under these rules.

(2) Any person engaged in the distribution business on commencement of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall, within a period of six months from the notification of these rules, apply to the Authority for the distribution licence in compliance with the provisions introduced thereunder.

4. Eligibility criteria for grant of a distribution licence._

(1) The eligibility criteria for the grant of a distribution licence consists of such solvency, technical, human resource and other relevant conditions as provided under these rules in pursuance of section 20(IA) of the Act.

5. Legal status. An applicant for the grant of a distribution licence must be a company registered under the Companies Act, 2017 with registered office situated within the territory proposed for the provision of distribution services.

6. Solvency requirements._

(1) An applicant for the grant of a distribution licence must demonstrate and maintain:

(i) an investment capacity of 2.5 billion rupees for a distribution company with overhead 11 kV and low-tension network of up to 100 km length, and in case of an underground system of same size, Rs. 8 billion, supported by a due diligence certificate from a scheduled bank or a financial institution;

(ii) tangible net worth greater than or equal to 5 billion rupees for overhead network of up to km;

(iii) a minimum current ratio (current assets divided by current liabilities) of 1.50:1.00; and

(iv) a debt to total capitalization ratio of 40:60)

Provided that, such calculations are supported by an affidavit from the chief executive officer of the applicant attesting to their accuracy.

- (2) An applicant for the grant of a distribution licence must demonstrate shareholders' equity, determined in accordance with the accounting standards applicable under the Companies Act, 2017, of not less than one (1) billion rupees.
- (3) For a period of two years from the date of grant of the distribution licence and commencement of distribution service, the licensee shall not pay any dividend to any shareholders or affiliates if, after giving effect to the payment of dividend or any other payment, the distribution licensee's shareholders' equity is less than five hundred (500) million rupees.

7. Technical and managerial requirements.

- (1) An applicant for the grant of distribution licence must have the requisite technical and human resources to provide continuous and reliable distribution services to its consumers in accordance with the Act, distribution rules & regulations, connection agreements, and other applicable documents.
- (2) The technical and human resource requirements include:
 - (a) capability to comply with all applicable scheduling, operating, planning, reliability, customer registration, and settlement policies, protocols, guidelines, procedures, and other codes approved by the Authority or other applicable documents for 24-hour coordination with control centers for smooth interconnection services, scheduling changes, reserve implementation, curtailment orders and interruption plan implementation;
 - (b) telephone number, e-mail address, and postal address where distribution company's staff can be directly reached at all times;
 - (c) capacity to operate distribution system as a standalone system as well as connected with the transmission system of the national grid company or such other provincial grid or special purpose transmission licensee, if required;
 - (d) ability to act as a market participant under the commercial code;
 - (e) training and experience of the key personnel to provide distribution of electric power in line with the prudent utility practices;
 - (f) capability to comply with all applicable environmental, health and safety protocols;
 - (g) combined experience of the key officials or permanent employees in managerial positions in the competitive electric power industry equals or exceeds 5 years;
 - (h) adequate staffing and employee training to meet all service level commitments; and
 - (i) a customer service plan that describes how the applicant is capable to comply with the Authority specified consumer eligibility criteria for non-discriminatory distribution of electric power.

8. Distribution of electric power.

- (1) An applicant, eligible for the grant of a distribution licence, upon issuance of such licence, shall have the right to distribute electric power within the service territory specified by the Authority to all the electric power suppliers and traders intending to connect to its distribution system.
- (2) A distribution licensee may also distribute electric power sold by generation companies to other distribution companies.

9. Duties and responsibilities of an applicant._

- (1) An applicant shall, along with the application, file a preliminary charges statement setting out rates including use of distribution system charges and connection charges along-with other terms and conditions for various services forming part of the distribution business as per the distribution code for approval of the Authority.
- (2) The distribution licensee shall publicly make available the rates and charges, so approved by the Authority as per sub-rule (1) and subsequent tariff determinations pursuant to regulations specified under the Act.
- (3) An applicant while developing the distribution consumer service plan under rule 7(2)(e) above, shall ensure compliance with all the relevant connection, metering, scheduling sub-codes of the distribution code.
- (4) The distribution consumer service plan once established under section 21(2)(d) of the Act, shall be notified as the distribution consumer service manual, which shall be continuously updated in line with the distribution performance standards specified by the Authority under section 34 the Act.
- (5) The applicant shall, to the satisfaction of the Authority, demonstrate its technical capability as confirmed under rule 7(2)(a) for synchronous operations of its distribution facilities as per instructions of the system operator and where required, its ability to make such facilities available for operation by other licensees.
- (6) The applicant shall undertake to cooperate and diligently participate in the preparation and necessary adoption of procedures, codes and operating standards as specified by the Authority or required by the national grid company or the system operator at the instance of the Authority forming part of the legal framework for the development and sustainable operation of a competitive electric power market.

10. Sale of electric power under the distribution licensee._

- (1) The distribution licensee may sell power to bulk power consumers located within its territory.
- (2) The distribution licensee may also sell electric power to bulk power consumers located in the service territory of holder of a licence subject to prior permission of the Authority:

Provided that, the bulk power consumer intending to stop purchase of electric power shall convey its intention by notice in writing one year before such stoppage.

- (3) The distribution licensee may sell power to other distribution companies.
- (4) The sale of electric power by the distribution licensee shall be in accordance with the power acquisition program approved by the Authority pursuant to specified standards and procedure:

Provided that the tariff containing rates, charges and other terms and conditions for sale of power by a distribution licensee, shall be as approved by the Authority with the permission to enter into long term contracts for power purchases.

- (5) The applicant shall, file its preliminary power acquisition programme along with the application and shall undertake to file a firm-up power acquisition program pursuant to the procedure specified by the Authority, within 12 months of the grant of the distribution licence.

11. Enforcement and Monitoring of distribution licence._

- (1) The applicant shall undertake to ensure compliance with the provisions of the Act, these rules and other applicable documents by filing following reports with the Authority within 18 months from the grant of the distribution licence:
 - (a) report on regulatory accounts relating to provision of distribution business and any other separate business pursuant to the uniform system of accounts specified by the Authority;
 - (b) annual performance report with respect to observance of performance standards for distribution of electric power, as specified by the Authority;
 - (c) investment plan approved by the Authority in line with specified procedure and standards; and
 - (d) such other reports as may specified by the Authority.
- (2) The Authority at its own instance or upon receiving a complaint filed under rule 12 hereof, shall adopt enforcement measures as per chapter IIIA of the Act.

12. Complaints._ A complaint against contravention of any provisions of the Act, these rules and other applicable documents may be filed with the Authority and in case of filing such complaint at the time of grant of the distribution licence or its renewal, the complainant shall be allowed to become a party to the licensing process adopted by the Authority under the Act.

13. Licensing._

- (1) The Authority shall undertake its power to grant distribution licence under the Act in a manner which ensures highest standards of transparency, certainty and effective regulation of the electric power market of Pakistan as specified through licensing regulations.
- (2) The licensing regulations specified by the Authority for processing of the application for the grant of distribution licence shall stipulate, without limitation:
 - (a) a template of the application for grant of the distribution licence;
 - (b) the time period for a preliminary assessment of the application for its compliance with the eligibility criteria under these rules;
 - (c) a reasonable time period from its filing to grant of the licence;
 - (d) a reasonable time period for receiving comments of the interested persons with respect to grant of the distribution licence;
 - (e) a template of the distribution licence; and
 - (f) procedure for renewal and modification of the licence.

14. Declaration._ An applicant, in addition to the information specified by the Authority under the licensing regulations, shall file a declaration in the form and manner attached as Schedule I to these rules.

[ON JUDICIAL PAPER]

SCHEDULE I

DECLARATION

I _____ s/o _____ as duly authorized representative of M/s _____ (the applicant) pursuant to board resolution attached as **Annex-__**, do hereby undertake and declare as under:

- a. the applicant is a legal person as per the certificate of incorporation attached as Annex- ____.
- b. the applicant is fulfilling the standards of solvency as per rule 6 of these rules and certificates to this effect are attached as Annex- ____.
- c. the applicant has experienced and trained human resource capable of maintaining, operating, and scheduling a distribution system in an efficient, reliable and safe manner. The organogram of the applicant along with experience of key personnel and details of their experience required as per Rule 7 of these rules are attached as Annex- ____.
- d. the applicant has filed along with the application for the grant of the licence, the following statements and plans:
 - i. distribution consumer service plan as per rule 7(2)(e) of these rules;
 - ii. a preliminary charges statement under rule 9(1) of these rules setting out rates including use of distribution system charges and connection charges along-with other terms and conditions for various services forming part of the distribution business as per the distribution code; and
 - iii. preliminary power acquisition programme as per rule 10(5) of these rules.

It is hereby affirmed and declared that all material information has been attached to the best of my knowledge and belief.

Dated:

Deponent