

[AS PASSED BY THE SENATE]

A

Bill

further to amend the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997

WHEREAS, it is expedient further to amend the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.- (1) This Act shall be called the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 2, Act XL of 1997. - In the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997), hereinafter called the said Act, in section 2, -

(a) after clause (iii), the following new clause (iiia) shall be inserted, namely: -

"(iiia) "consolidated accounts" means the consolidated revenue requirement of public sector licensees, engaged in supply of electric power to consumers, compiled by the uniform tariff applicant, on the basis of individual tariff determined by the Authority of such licensees"; and

(b) after clause (xxvii), the following new clauses (xxviiia) and (xxviiib) shall be inserted, namely:-

"(xxviiia) "uniform tariff applicant" means any entity designated by the concerned Minister in Charge for the purposes of filing uniform tariff application based on consolidated accounts; and

(xxviiib) "uniform tariff application" means an application filed by the uniform tariff applicant for the purposes of determination, modification and revision of the uniform tariff;".

3. Amendment of section 23F, Act XL of 1997. - In the said Act, in section 23F, in sub-section (2), after clause (f), the following new clause shall be inserted, namely:-

- "(g) ensure timely submission of annual or multiyear petitions and quarterly petitions, as specified by the Authority and to the extent applicable to it, ensure timely submission of all information and data to the uniform tariff applicant so that the uniform tariff application duly supported by consolidated accounts is moved by it within a period of fifteen days of intimation of tariff by the Authority under sub-section 4 of section 31 of this Act:

Provided that in the event timely submissions are not made, then the Authority may call for requisite information in terms of section 44 of this Act."

4. Amendment of section 31, Act XL of 1997.- (1) In the said Act, in section 31,-

- (a) in sub-section 4, for the expression " in the public consumer interest, determine a uniform tariff for distribution licensees wholly owned and controlled by a common shareholder," the expression "on the basis of uniform tariff application, determine a uniform tariff for public sector licensees, engaged in supply of electric power to consumers, in the consumer's interest,";
- (b) for sub-section 7 the following shall be substituted, namely: -

"(7) Notification of the Authority's approved tariff or uniform tariff, as the case may be; rates, charges, and other terms and conditions for the supply of electric power services shall be made, in the official Gazette, by the Federal Government within thirty days of intimation of the same by the Authority. In the event the Federal Government fails to notify the tariff so determined by the Authority, or refer the matter to the Authority for reconsideration, within the time period specified, then the Authority may direct immediate application of its recommended and approved tariff or uniform tariff as the case may be, by way of notification of the same, subject to adjustment which may arise on account of reconsideration, if any, subsequently filed by the Federal Government:

Provided that-

- (i) the Federal Government may, as soon as may be, but not later than thirty days of receipt of the Authority's intimation of its approved tariff of public sector licensees involved in distribution and supply business, require the Authority to reconsider its determination of such tariff to the extent of issues common to these licensees. Whereupon the Authority shall, within thirty days, determine these after reconsideration and intimate the same to the Federal Government;
- (ii) the Authority may, on a quarterly basis and not later than a period of fifteen days, make quarterly adjustments in the approved tariff on account of capacity and transmission charges, impact of transmission and distribution losses, variable operation and maintenance and, policy guidelines as the Federal Government may issue and, intimate the tariff so adjusted to the Federal Government prior to its notification in the official Gazette. The Federal Government may, as soon as may be, but not later than fifteen days of receipt of the Authority's intimation of its recommendation for adjustment, require the Authority to reconsider its determination of such quarterly adjustment. In the event the Federal Government does not refer the matter to the Authority for reconsideration, within the time period specified above, then the Authority shall notify the tariff so adjusted in the official Gazette. However, in case of filing of the reconsideration request by the Federal Government, within the time period specified above, the Authority shall, within fifteen days, determine such adjustments after reconsideration and intimate the same to the Federal Government prior to its notification in the official Gazette;
- (iii) the Federal Government in lieu of reconsideration requests may opt to file an appeal, however, in the event the Federal Government moves reconsideration request then it shall not subsequently be entitled to avail the remedy of appeal against the decision of reconsideration request;

(iv) the Authority may, on a monthly basis and not later than a period of seven days, make adjustments in the approved tariff on account of any variations in the fuel charges and policy guidelines as the Federal Government may issue and, notify the tariff so adjusted in the official Gazette.”;

(C) after sub-section (7), the following sub-section shall be inserted, namely:-

“(8) Notwithstanding anything contained in this Act and in addition to the tariff, rates and charges notified under sub-section (7) and this sub-section, each electric power supplier shall collect such surcharges from any or all categories of consumers, as the Federal Government may charge and notify in the official Gazette from time to time, in respect of each unit of electric power sold to any or all categories of consumers and deposit the amount so collected in such manner as may be prescribed. The amount of such surcharges shall be deemed as a cost incurred by the electric power supplier and included in the tariff notified under sub-section (7):

Provided that such surcharges shall be levied for the following purposes, namely: -

- (a) funding of any public sector project of public importance [to the extent decided by the Federal Government]; and
- (b) fulfillment of any financial obligation of the Federal Government with respect to electric power services [to the extent decided by the Federal Government].

Explanation.- For the purposes of this proviso, the term “financial obligation” includes obligations of the Federal Government to make payments in respect of purchase of electric power as well as obligations related to electric power services secured through issuance of sovereign guarantee:

Provided further that the aggregate amount of such surcharges shall not exceed ten percent of the aggregate revenue requirement of all electric power suppliers, engaged in supply of electric power to end consumers, as determined by the Authority.”.

5. Amendment of section 51, Act XL of 1997.- In the said Act, in section 51,-

- (a) The existing provision shall be re-numbered as sub-section (1), thereof; and
- (b) after sub-section (1), re-numbered as aforesaid, the following new sub-section, shall be inserted, namely:-

“(2) All acts done or taken and notifications issued by the Federal Government with respect to electric power services, from the enactment of the Regulation of the Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 till the coming into force of the Regulation of the Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2021, shall be deemed to have been validly made and issued under this Act.”.

STATEMENT OF OBJECTS AND REASONS

NEPRA has been created to introduce transparent and judicious economic regulation, based on sound commercial principles, to the electric power sector of Pakistan. NEPRA reflects the country’s resolve to enter the new era as a nation committed to free enterprise and to meet its social objectives with the aim of improving the quality of life for its people and to offer them opportunities for growth and development. Accordingly, in 1997 the regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 was introduced.

2. Pakistan has been successful in attracting substantial foreign investment in the power sector, but the absence of a transparent regulator regime led investors to secure their investment through long-term contract. Consequently, a substantial part of the sector has been carved out for long-term contract regulation and the rest of the sector has to carry whatever risk arises from changing circumstances and realities. Pakistan has had to pay dearly for the absence of an acceptable and established regulatory environment for the commercial operation of the sector. For effective and regulatory environment for the commercial operation of the sector. For effective and improved of the Regulator, several amendments were made in the NEPRA Act in the year, 2017. Further clarity in working and efficiency of regulator, amendments are being proposed.

3. To further improve the NEPRA Act, these amendments are being presented to forth our clarity and precision in market operation, uniform tariff, timely submissions and determination of quarterly and annual tariffs.

**MINISTER-IN-CHARGE
POWER DIVISION**