

Passed on 23-02-2018

[AS PASSED BY THE SENATE]

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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 (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, 2018.

(2) It shall come into force at once.

2. Amendment of preamble, Act XL of 1997.— In the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), hereinafter called as the said Act, in the preamble, after the first paragraph, the following paragraphs shall be added, namely:—

“AND WHEREAS it is expedient to ensure the elimination of energy poverty in the country, to ensure the highest standards of transparent, certain and effective regulation of the electric power markets of Pakistan, to provide the legal framework within which a competitive electric power market can develop and sustain, to make special provisions for the development of renewable electricity markets in accordance with the international commitments of Pakistan as well as the responsibility of Pakistan to support and encourage measures to effectively mitigate adverse climate change and to effectively manage conflict of interest of the State in relation to development of the electric power markets of Pakistan;”.

3. Amendment of section 1, Act XL of 1997.— In the said Act, in section 1, for sub-section (3), the following shall be substituted, namely:—

“(3) It shall come into force at once, except sections 23A, 23B, 23G and 23H which shall come into force within a period of five years of coming into force of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 or on such earlier date as the Federal Government may, by notification in the official Gazette, appoint.”.

4. Amendment of section 2, Act XL of 1997.— In the said Act, in section 2,—

- (a) in clause (ii), for the word “determine”, wherever occurring, the word “specify” shall be substituted;
- (b) after clause (ii), amended as aforesaid, the following new clause shall be inserted, namely:—
 - “(iia) “captive generating plant” means a power plant setup by any person to generate electricity primarily for his own use and includes a power plant setup by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association;”;
- (c) after clause (iv), the following new clause shall be inserted, namely:—
 - “(iva) “consumer category” means such category of consumers as may be prescribed;”;
- (d) in clause (v), the expression “or sale” shall be omitted;
- (e) for clause (x), the following shall be substituted, namely:—
 - “(x) “electric power service” includes the generation, transmission, distribution, supply, sale or trading of electric power and all other services incidental thereto;”;
- (f) after clause (x), substituted as aforesaid, the following new clauses shall be substituted, namely:—
 - “(xa) “electric power supplier” means a person who has been granted a licence under this Act to undertake supply of electricity;
 - (xb) “electric power trader” means a person who has been granted a licence under this Act to undertake trading in electricity;”;
- (g) in clause (xvi), the expression “for generation, transmission or distribution” shall be omitted;

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- (h) after clause (xvii), the following new clause shall be inserted, namely:-
- “(xviia) “market operator” means a person responsible for the organization and administration of trade in electricity and payment settlements among generators, licensees and consumers;”;
- (i) in clause (xviii), after the word “Chairman”, the words “or a member of the Appellate Tribunal where the context so requires” shall be added;
- (j) after clause (xix), the following new clauses shall be inserted, namely:-
- “(xixa) “national electricity policy” means the policy approved by the Council of Common Interests and made under section 14A;
- (xixb) “national electricity plan” means the plan made under section 14A;”;
- (k) after clause (xx), the following new clause shall be inserted, namely:-
- “(xxa) “Pakhtunkhwa Energy Development Organization” or “PEDO” means the Pakhtunkhwa Energy Development Organization established under the Pakhtunkhwa Energy Development Organization Act, 1993 (Khyber Pakhtunkhwa Act No. I of 1993);”;
- (l) after clause (xxii), the following new clause (xxiia) shall be inserted, namely:-
- “(xxiia) “provincial grid company” means the person engaged in the transmission of electric power and licensed under section 18A;”;
- (m) after clause (xxiv), the following new clauses shall be inserted, namely:-
- “(xxiva) “renewable electricity” means electricity derived from-
- (a) a wind, solar, renewable, biomass, ocean (including tidal, wave, current and thermal), geothermal or hydroelectric source; or

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- (b) hydrogen derived from renewable biomass or water using an energy source described in clause (a);”;
- (xxivb) “service territory” means the area specified in a licence within which the licensee is authorized to conduct business;”;
- (n) clause (xxv) shall be omitted; and
- (o) after clause (xxv), omitted as aforesaid, the following new clauses shall be inserted, namely:–
 - “(xxva) “specified” means specified by regulations made under this Act;
 - (xxvb) “system operator” means a person licensed under this Act to administer system operation and dispatch;”.

5. Amendment of section 3, Act XL of 1997.– In the said Act, in section 3,–

- (a) in sub-section (2), in clause (ii), for the expression “North-West Frontier”, the expression “Khyber Pakhtunkhwa” shall be substituted;
- (b) for sub-sections (3) and (4), the following shall be substituted, namely:–
 - “(3) The Chairman shall be a person known for his integrity and eminence having experience of not less than twelve years in any relevant field including law, business, engineering, finance, accounting or economics preferably in the electric power services business.
 - (4) Every member shall be a person known for his integrity and eminence having experience of not less than twelve years in any relevant field including law, business, engineering, finance, accounting or economics preferably in the electric power services business.”;
- (c) after sub-sections (3) and (4), substituted as aforesaid, the following new sub-section (4A) shall be inserted, namely:–
 - “(4A) The Authority as a whole shall comprise of the requisite range of skills, competence, knowledge and experience relevant to its functions.”;

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- (d) in sub-section (5), for the proviso, the following shall be substituted, namely:—

“Provided that the Chairman or a member shall not be appointed under sub-section (1) or continue in office if he has attained the age of sixty years.

Provided further that the age limit of sixty years shall not apply to any person appointed as Chairman or member before the coming into force of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018.”

6. Amendment of section 4, Act XL of 1997.— In the said Act, in section 4, in sub-section (2), after the word “misconduct”, the words “or fails to disclose a conflict of interest as provided for under this Act” shall be added.

7. Amendment of section 5, Act XL of 1997.— In the said Act, in section 5, for sub-section (1), the following shall be substituted, namely:—

“(1) Subject to the provisions of this Act, the Authority shall in the discharge of its functions and exercise of its powers conduct its proceedings in accordance with regulations made under this Act.”.

8. Amendment of section 7, Act XL of 1997.— In the said Act, in section 7,—

- (a) in sub-section (2),—

- (i) for clause (a), the following shall be substituted, namely:—

“(a) grant licences under this Act;”;

- (ii) after clause (a), substituted as aforesaid, the following new clauses shall be inserted, namely:—

“(aa) specify procedures and standards for registration of persons providing electric power services;

(ab) aid and advise the Federal Government, in the formulation of national electricity plan;”;

(ac) ensure efficient tariff structures and market design for sufficient liquidity in the power markets;

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- (iii) for clauses (b), (c) and (d), the following shall be substituted, namely:-
 - “(b) specify procedures and standards for investment programmes by generation companies and persons licensed or registered under this Act;
 - (c) specify and enforce performance standards for generation companies and persons licensed or registered under this Act;
 - (d) specify accounting standards and establish a uniform system of account by generation companies and persons licensed or registered under this Act;”;
- (iv) in clause (e), for the word “prescribe”, the word “specify” shall be substituted;
- (v) clause (f) shall be omitted;
- (vi) for clause (h), the following shall be substituted, namely:-
 - “(h) settle disputes between licensees in accordance with the specified procedure;”;
- (vii) in clause (i), the word “and”, occurring at the end, shall be omitted;
- (viii) after clause (i), amended as aforesaid, the following new clause (ia) shall be inserted, namely:-
 - “(ia) “promote the development of a market, including trading, in accordance with the national electricity policy and the national electricity plan; and;”;
- (b) in sub-section (3),-
 - (i) in clause (b),-
 - (a) the words “, transmission and distribution” shall be omitted; and
 - (b) after the word “companies”, the words “and persons licensed or registered under this Act”, shall be inserted;

- (ii) in clause (c),-
 - (a) the expression “, transmission and distribution” shall be omitted; and
 - (b) after the word “companies”, the words “and persons licensed or registered under this Act” shall be inserted;
- (iii) in clause (e),-
 - (a) the expression “, transmission and distribution” shall be omitted; and
 - (b) after the word “companies”, the words “and persons licensed or registered under this Act” shall be inserted;
 - (c) in sub-section (4), after the word “Province”, occurring for the third time, the expression “, and such tariff shall not be called into question by the Authority” shall be inserted; and
 - (d) for sub-section (6), the following shall be substituted, namely:-

“(6) In performing its functions under this Act, the Authority shall protect the interests of consumers and companies providing electric power services in accordance with the principles of transparency and impartiality.”.

9. Substitution of section 8.- In the said Act, for section 8, the following shall be substituted, namely:-

“8. Remuneration of Chairman and Members.-(1) The Chairman and Members of the Authority shall be eligible for such remuneration and allowances as the Authority may, with the approval of the Federal Government, determine.

(2) The remuneration and allowances of the Chairman and Members shall account for -

- (a) the specialised nature of work to be performed by the Authority;

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- (b) the need to ensure the financial self-sufficiency of the Chairman and Members; and
- (c) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills.

10. Insertion of sections 8A and 8B, Act XL of 1997.— In the said Act, after section 8, substituted as aforesaid, the following new sections shall be inserted, namely:—

“8A. Disclosure of interest by members of the Authority.— (1) For the purpose of this and the following section, a person shall be deemed to have an interest in a matter if he has any direct or indirect financial interest, or has any connection with any company connected with the provision of electric power services in such manner which could reasonably be regarded as giving rise to a conflict between his duty to honestly perform his functions under this Act and such interest, so that his ability to consider and decide any question impartially or to give any advice without bias, may reasonably be regarded as impaired.

(2) A member of the Authority having any interest in any matter to be discussed or decided by the Authority or any of its committees shall, prior to any discussion of the matter, disclose in writing to the Authority, the fact of his interest and the nature thereof.

(3) A disclosure of interest under sub-section (2) shall be recorded in the minutes of the Authority prior to any discussion of or decision on the matter and after the disclosure the member of the Authority who has made the disclosure—

- (a) shall not, except as provided in sub-sections (7) to (10), take part or be present in any deliberation or decision of the Authority; and
- (b) shall be disregarded for the purpose of constitution of a quorum of the Authority.

(4) The member of the Authority who fails to disclose his interest as required by this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term which may extend to one year, or a fine not exceeding ten million rupees, or both.

(5) It shall be a valid defence for a person charged with an offence under sub-section (4), if he proves that he was not aware of the facts constituting the offence and that he exercised due care and diligence in discovering those facts which he ought reasonably to have known in the circumstances.

(6) Upon being appointed, a member of the Authority shall give written notice to the Federal Government of all direct or indirect pecuniary interests that he has acquired or acquires in a body corporate carrying on a business in Pakistan. The nature of such interests and the particular and any changes thereof shall be disclosed in the report of the Authority made under clause (a) of sub-section (1) of section 42.

(7) If the Chairman becomes aware that a member of the Authority has the interest, he shall-

- (a) if he considers that the member of the Authority should not take part, or continue to take part, as the case may require, in determining the matter, direct the member of the Authority accordingly, or
- (b) in any other case, cause the member of the Authority's interest to be disclosed to the persons concerned in the matter (including any person whose application is pending decision or adjudication by the Authority).

(8) The member in respect of whom a direction has been given under clause (a) of sub-section (7) shall comply with the direction.

(9) The Chairman of the Authority shall disclose his interest to the persons concerned in the matter including any person whose application is pending decision or adjudication by the Authority.

(10) Subject to sub-section (7), the Chairman or the member who has any interest in any matter referred to in this section shall not take part, or continue to take part, as the case may require, in determining the matter unless everyone concerned in it consents to the Chairman or, as the case may be, the member so taking part.

8B. Notification of interest by others.- (1) Where a person who, in the course of,-

- (a) performing a function or exercising a power, as a delegate of the Authority;

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- (b) performing functions or service as an employee; or
- (c) performing a function or services in any capacity by way of assisting or advising the Authority or any of its committees or any delegate of the Authority,

is required to consider a matter in which he has an interest, such person shall forthwith give to the Authority a written notice stating that he is required to consider the matter and has an interest in it and setting out particulars of the interest.

(2) The person referred to in sub-section (1) shall also declare his interest in accordance with the said sub-section whenever it is necessary to avoid a conflict of interest.

(3) Any person referred to in sub-section (1) who fails to disclose his interest as required by this section shall be guilty of an offence and shall on conviction be liable to imprisonment for a term which may extend to one year, or a fine not exceeding ten million rupees, or both.

(4) It shall be a valid defence for a person charged with an offence under sub-section (3), if he proves that he was not aware of the facts constituting the offence and that he exercised due care and diligence in discovering those facts which he ought reasonably to have known in the circumstances.”.

11. Insertion of section 10A, Act XL of 1997.- In the said Act, after section 10, the following new section 10A shall be inserted, namely:-

“10A. Indemnity.-No suit, prosecution or other legal proceedings shall lie against the Chairman, members, officers or any employee of the Authority for anything done in good faith or intended to be done in pursuance of this Act or any rules or regulations made thereunder.”.

12. Amendment of section 11, Act XL of 1997.- In the said Act, in section 11, the word “special” shall be omitted.

13. Amendment of section 12, Act XL of 1997.- In the said Act, in section 12,-

- (a) in clause (c), after semicolon, the word “and” shall be added;
- (b) for clause (d), the following shall be substituted, namely:-
 - “(d) the power to recommend rules or make or repeal regulations made under this Act.”;

- (c) clause (e) shall be omitted; and
- (d) after clause (e), omitted as aforesaid, the following shall be inserted, namely:-

"CHAPTER IIA- APPELLATE TRIBUNAL"; and

14. Substitution of section 12A, Act XL of 1997.—In the said Act, for section 12A the following shall be substituted, namely:—

"12A. Establishment of the Appellate Tribunal.—(1) The Federal Government shall, by notification in the official Gazette, establish an Appellate Tribunal for the purposes of exercising jurisdiction under this Act.

(2) The Members of the Appellate Tribunal shall be appointed by the Federal Government and shall comprise—

(a) a former judge of a High Court who shall be the Chairman, for a single term of four years on such terms and conditions as may be prescribed and shall be nominated by the Provinces or Federal Government, as the case may be, by rotation in the following order, namely:—

- (i) the member representing the Federal Government;
- (ii) the member representing the Province of the Punjab;
- (iii) the member representing the Province of Khyber Pakhtunkhwa;
- (iv) the member representing the Province of Sindh; and
- (v) the member representing the Province of the Balochistan:

Provided that the Chairman of the Appellate Tribunal shall not be appointed if he has attained the age of sixty-five years.

(b) a Member Finance who shall be a qualified chartered accountant or a qualified cost and management accountant or a qualified chartered financial analyst and shall be nominated by the Provinces or Federal Government, as the case may be, by rotation in the following order, namely:—

- (i) the member representing the Province of Sindh;

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- (ii) the member representing the Province of the Punjab;
 - (iii) the member representing the Federal Government;
 - (iv) the member representing the Province of Khyber Pakhtunkhwa; and
 - (v) the member representing the Province of Balochistan;
- (c) a Member Electricity, who shall be a member of the Pakistan Engineering Council, with a specialization in electrical engineering and shall be nominated by the Provinces or Federal Government, as the case may be, by rotation in the following order, namely:—
- (i) the member representing the Province of Balochistan;
 - (ii) the member representing the Province of Khyber Pakhtunkhwa;
 - (iii) the member representing the Federal Government;
 - (iv) the member representing the Province of the Punjab; and
 - (v) the member representing the Province of Sindh.

(3) The Member Finance and Member Electricity of the Appellate Tribunal shall be appointed for a period of three years on such terms and conditions as may be prescribed:

Provided that no person who has attained the age of sixty years shall be appointed as Member Finance and Member Electricity:

Provided further that no person shall be eligible to be the Member Finance or Member Electricity, if in case of being a civil servant, they hold a position which is less than BPS-21 or equivalent.

(4) The Members of the Appellate Tribunal shall be citizens of Pakistan and shall be employed on full-time basis.

12B. Qualifications and eligibility.— The Members of the Appellate Tribunal shall—

- (a) have at least a masters or professional degree or qualification from an accredited university;

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- (b) have at least fifteen years of professional work experience;
- (c) have no past record of criminal conviction, other than for minor offences; and
- (d) have no past record of any specific activities or conduct that could reasonably call into question their ability to discharge their duties as a Member of the Appellate Tribunal with honesty, integrity, reliability, competence and objectivity.

12C. Disqualifications.- No person shall be appointed or continue as Member or an employee of the Appellate Tribunal, if such person—

- (a) has been convicted of an offence involving moral turpitude;
- (b) has been or is declared insolvent; or
- (c) is incapable of discharging his duties by reasons of physical or mental unfitness and has been so declared by a duly constituted medical board appointed by the Federal Government.

12D. Automatic disqualification.- If a Member of the Appellate Tribunal remains absent from his position or otherwise fails to undertake his duties for any reason whatsoever for a period of three months it shall be a ground for automatic disqualification of such Member.

12E. Decisions, determinations and quorum.- (1) Decisions and determinations of the Appellate Tribunal shall be taken by majority.

(2) If there are less than three Members of the Appellate Tribunal, the presence of two Members serving shall constitute a quorum:

Provided that in the case of a quorum of two, the decision shall be taken by consensus.

(3) Any decision or determination taken at a meeting where a quorum is present shall constitute a valid and enforceable decision or determination of the Tribunal.

12F. Vacancy in the Appellate Tribunal.-(1) If position of a Member becomes vacant, the Federal Government shall designate a new Member or, where the vacancy arises in the position of the Chairman, the Federal Government shall appoint one of the existing members to serve as Acting Chairman:

Provided that no person shall serve as Acting Chairman for more than a period of three months:

Provided further that the Federal Government shall fill a vacancy in the Appellate Tribunal within a period of three months from the date such vacancy occurs.

(2) The absence of the Chairman or the temporary incapacity of the Chairman shall not affect the other Members' ability to act as the Appellate Tribunal and to exercise its powers and authority under this Act.

12G. Appellate procedures.—(1) Any person aggrieved by a decision or order of the Authority or a single member thereof or a Tribunal established under section 11 may, within thirty days of the decision or order, prefer an appeal to the Appellate Tribunal in the prescribed manner and the Appellate Tribunal shall decide such appeal within three months after the filing of the appeal.

(2) In examining an appeal under sub-section (1), the Appellate Tribunal may make such further inquiry as it may consider necessary and after giving the Authority or the Tribunal and an appellant an opportunity of being heard, pass such order as it thinks fit, confirming, altering or annulling a decision or order appealed against:

Provided that if the decision under appeal is a determination of tariff by the Authority, then the Appellate Tribunal may in case of disagreement with the determination of the Authority, remand the matter back to the Authority with relevant guidelines, which shall be duly considered by the Authority which shall be bound to review its determination within one month of the receipt of such guidelines from the Appellate Tribunal.

(3) The decision of the Appellate Tribunal shall be in writing, detailing the issues raised in the appeal and the arguments adopted by the appellant and the Authority or Tribunal, as the case may be. The Appellate tribunal shall also provide reasons for reaching its decision with reference to the provisions of this Act and the facts of the case.

(4) The Appellate Tribunal shall provide copies of its decision to all the appellants and the respondents including the Authority or Tribunal, as the case may be, not later than five days from the date of rendering its decision.

(5) A decision or order of the Authority or Tribunal, as the case may be, shall be given full force and effect during the pendency of any appeal of such determination.

(6) The decision of the Appellate Tribunal shall be appealable before the High Court having territorial jurisdiction.

12H. Disclosure of interest.– The following shall apply to Members of the Appellate Tribunal including the Chairman, namely:–

- (a) a Member of the Appellate Tribunal shall be deemed to have an interest in a matter if he has any interest, pecuniary or otherwise, in such matter which could reasonably be regarded as giving rise to a conflict between his duty to honestly perform his functions, so that his ability to consider and decide any question impartially or to give any advice without bias, may reasonably be regarded as impaired;
- (b) a Member of the Appellate Tribunal having any interest in any matter to be discussed or decided by the Appellate Tribunal shall disclose in writing to the Secretary to the Tribunal, the fact of his interest and the nature thereof;
- (c) a Member of the Appellate Tribunal shall give written notice to the Secretary to the Appellate Tribunal of all direct or indirect pecuniary or other material or personal interests that he has or acquires in a body corporate involved in a matter before the Appellate Tribunal; and
- (d) a disclosure of interest under clause (a) shall be made a part of the record of the Appellate Tribunal in that particular matter.

12I. Powers of the Appellate Tribunal.– (1) The Appellate Tribunal shall, for the purpose of deciding an appeal, be deemed to be a civil court and shall have the same powers as are vested in such court under the Code of Civil Procedure, 1908 (Act V of 1908), including the powers of –

- (a) enforcing the attendance of any person and examining him on oath;

- (b) compelling the production of documents; and
- (c) issuing commissions for the examination of witnesses and documents.

(2) The Appellate Tribunal may call for and examine any record, information or documents from any person in relation to the matter under appeal before it for the purposes of enabling it to come to a decision.

12J. Panel of experts.- The Appellate Tribunal may maintain a panel of national and international experts in the power sector to assist it in the discharge of its functions under this Act as and when deemed fit by the Appellate Tribunal.

12K. Budget.- The Appellate Tribunal shall have an independent budget which shall comprise–

- (a) an initial grant from the Federal Government; and
- (b) fees and costs associated with the appellate procedures as may be prescribed.”.

15. Amendment of section 13, Act XL of 1997.- In the said Act, in section 13, in sub-section (1), in clause (b), the words “by it as prescribed from time to time” shall be omitted.

16. Insertion of Chapters IIB and IIC, Act XL of 1997.- In the said Act, after section 14, the following shall be inserted, namely:–

**“CHAPTER IIB
NATIONAL ELECTRICITY POLICY AND PLAN**

14A. National electricity policy and plan. – (1) The Federal Government shall, from time to time, with the approval of the Council of Common Interests, prepare and prescribe a national electricity policy for development of the power markets:

Provided that in the development of policies under this section, the Federal Government may seek such input and assistance from the Authority as may be required.

(2) The policies referred to in sub-section (1) shall provide for, *inter alia*–

- (a) development of systems based on optimal utilization of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy;

- (b) development of efficient and liquid power market design;
- (c) integration of national and provincial transmission systems;
- (d) special provisions for ensuring the development of a sustainable renewable energy market with a dedicated and gradually increasing share in the electricity power sector; and
- (e) any other matter pertaining to the development, reform, improvement and sustainability of the power sector.

(3) The Federal Government may either on its own motion or on the recommendation of a Provincial Government and subject to the approval of the Council of Common Interests, review or revise the policies referred to in sub-section (1).

(4) The Federal Government, in consultation with the Provincial Governments, shall prepare a national electricity plan in accordance with the policies prepared and prescribed under sub-section (1) and notify such plan once in five years:

Provided that the Federal Government, while preparing or amending the national electricity plan, shall publish the draft national electricity plan and invite suggestions and objections thereon within thirty days of the notification:

Provided further that a Provincial Government may, if required, propose an amendment to the national electricity plan, which may be adopted with the concurrence of the Provincial Governments and the Federal Government.

(5) The Authority shall perform its functions in accordance with the national electricity policy and the national electricity plan.

CHAPTER IIC GENERATION OF ELECTRICITY

14B. Generation.- (1) Subject to sub-section (5), no person shall, except under the authority of a licence issued by the Authority under this Act and subject to the conditions specified in this Act and as may be imposed by the Authority, construct, own or operate a generation facility.

(2) An application for the grant of a licence for generation facility shall specify-

- (a) the type of facility for which the licence is applied;
- (b) the location of the generation facility; and
- (c) the expected life of the generation facility.

(3) The Authority may, after such enquiry as it may deem appropriate and subject to the conditions specified in this Act and as it may impose, grant a licence authorizing the licensee to construct, own or operate a connected generation facility.

(4) In the case of a generation facility connecting directly or indirectly to the transmission facilities of the national grid company, the licensee shall make the generation facility available to the national grid company for the safe, reliable, non-discriminatory, economic dispatch and operation of the national transmission grid and connected facilities, subject to the compensation fixed by the Authority for voltage support and uneconomic dispatch directed by the national grid company.

(5) The Federal Government may, after consultation with the Authority and by notification in the official Gazette, provide a mechanism for the gradual cessation of the generation licences for various classes of generation licence holders, which shall not extend beyond a period of five years from the coming into effect of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, and thereafter, any generation company may establish, operate and maintain a generation facility without obtaining a licence under this Act if it complies with the technical standards relating to connectivity with the grid as may be specified:

Provided that a generation company intending to set up a generating facility shall prepare and submit a detailed scheme covering all financial, geological, hydrological, technical, safety and environmental aspects to the Authority for its concurrence:

Provided further that, while considering the scheme submitted by a generation company intending to set up a hydro-generating facility, the Authority shall consider whether or not in its opinion the proposed river work will prejudice the prospects for the best ultimate development of the river or its tributaries for power generation and are consistent with the requirements of drinking water, irrigation, flood control or other public purposes and shall satisfy itself that necessary approvals have been sought from the concerned authorities of the Federal Government and Provincial Governments.

14C. Captive generation.- (1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate a captive generating plant and dedicated transmission lines:

Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating facility of a generating company.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use:

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the national grid company or the provincial grid company, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Authority.

14D. Duties of generating companies.- (1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected therewith and within the generation facility, in accordance with the provisions of this Act or the rules or regulations made thereunder.

(2) In the case of a generation facility connecting directly or indirectly to the transmission facilities of the national grid company or a provincial grid company, the generation company shall make the generation facility available for the safe, reliable, non-discriminatory, economic dispatch and operation of the national transmission grid and connected facilities, subject to the compensation fixed by the Authority for voltage support and uneconomic dispatch directed by the system operator.

(3) A generating company may supply electricity to any transmission, distribution, supply or market trader licensee in accordance with this Act and the rules and regulations made thereunder and may, subject to section 23E, supply electricity to any consumer.

(4) Every generating company shall-

(a) submit technical details regarding its generating stations to the Authority; and

(b) co-ordinate with the relevant transmission company, for transmission of the electricity generated by it.”.

17. Amendment of Chapter III, Act XL of 1997.- In the said Act, after section 14D, inserted as aforesaid, after the heading "CHAPTER III", in the sub-heading "LICENCES", after the word "LICENCES" the words "AND REGISTRATION" shall be added.

18. Omission of section 15, Act XL of 1997.- In the said Act, section 15 shall be omitted.

19. Amendment of section 16, Act XL of 1997.- In the said Act, in section 16,-

(a) for sub-section (1), the following shall be substituted, namely:-

"(1) Subject to the conditions laid down under this Act, no person shall engage in the transmission of electric power without obtaining a licence issued by the Authority.

(1A) The eligibility criteria for grant of transmission licence shall be prescribed by the Federal Government and shall include, without limitation-

(a) minimum solvency requirements; and

(b) minimum technical and human resource requirements."; and

(b) in sub-section (2),-

(i) in clause (i), the word "and" shall be omitted;

(ii) in clause (ii), for the full stop at the end a semicolon and the word "; and" shall be substituted and thereafter the following new clause shall be added, namely:-

"(iii) any other information as may be specified."

20. Amendment of section 17, Act XL of 1997.- In the said Act, in section 17,-

(a) for sub-section (1), the following shall be substituted, namely:-

"(1) The Authority may, subject to the provisions of this Act and after such enquiry as it may deem appropriate, grant a licence authorizing the licensee to engage in the transmission of electric power subject to such conditions as it may impose:

Provided that only one such licence shall be granted at any one time.";

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- (b) in sub-section (2),-
- (i) after the words "in the", the words "service" shall be inserted; and
 - (ii) the words "except the territory served by KESC" shall be omitted; and
- (c) after sub-section (2), amended as aforesaid, the following new sub-section (3) shall be added, namely:-
- "(3) The eligibility criteria for grant of licence as a national grid company shall be prescribed and shall include, without limitation,-
- (a) minimum solvency requirements; and
 - (b) minimum technical and human resource requirements."

21. Amendment of section 18, Act XL of 1997.- In the said Act, in section 18, in sub-section (2),-

- (a) in clause (c), in the proviso, the word "and" at the end shall be omitted; and
- (b) in clause (d), for the full stop at the end a semicolon and the word "; and" shall be substituted and thereafter the following new clause shall be added, namely:-

"(e) perform the functions of a system operator."

22. Insertion of sections 18A and 18B, Act XL of 1997.- In the said Act, after section 18, amended as aforesaid, the following new sections shall be inserted, namely:-

"18A. Provincial grid company.-(1) The Authority may, subject to the provisions of this Act and after such enquiry as it may deem appropriate, grant a licence authorizing a company owned by a Provincial Government to engage in the transmission of electric power within the territorial limits of such Province, subject to such conditions as it may impose:

Provided that only one such licence shall be granted for each Province at any one time.

(2) The eligibility criteria for grant of license as a provincial grid company shall be prescribed and shall include, without limitation,—

- (a) minimum solvency requirements; and
- (b) minimum technical and human resource requirements.

18B. Responsibilities of provincial grid company.— (1) The provincial grid company shall be responsible to operate and provide safe and reliable transmission services on a non-discriminatory basis, including to a bulk-power consumer who proposes to become directly connected to its facilities.

(2) Without prejudice to the foregoing responsibilities, the provincial grid company shall—

- (a) provide transmission and inter-connection services to the national grid company and to others, wherever necessary, at such rates, charges and terms and conditions as the Authority may determine;
- (b) purchase inter-connection service from the national grid company as may be necessary and to connect its facilities to the national transmission grid at the rates, charges and terms and conditions determined by the Authority;
- (c) follow the performance standards laid down by the Authority for transmission of electric power, including safety, health and environmental protection instructions issued by the Authority or any Governmental agency;
- (d) make available to the general public the tariff specifying the Authority's approved rates, charges and other terms and conditions for transmission services;
- (e) not levy any rate or charge or impose any condition for the transmission of electric power which has not been approved by the Authority as a tariff;
- (f) not cause a division or any associated undertaking to engage in generation and distribution; and
- (g) develop, maintain and publicly make available, with the prior approval of the Authority, an investment program for satisfying its service obligations and acquiring and selling its assets."

23. Amendment of section 19, Act XL of 1997.- In the said Act, in section 19, in clause (f), for the word "prescribed" the word "specified" shall be substituted.

24. Amendment of section 20, Act XL of 1997.- In the said Act, in section 20,-

- (a) in sub-section (1), the words "in this Act and as may be imposed by the Authority" shall be omitted; and
- (b) after sub-section (1), amended as aforesaid, the following new sub-section (1A) shall be inserted, namely:-

"(1A) The eligibility criteria for grant of distribution licence shall be prescribed and shall include, without limitation,-

- (a) minimum solvency requirements; and
- (b) minimum technical and human resource requirements."

25. Amendment of section 21, Act XL of 1997.- In the said Act, in section 21,-

- (a) in sub-section (1), the words "in this Act and as it may impose" shall be omitted;
- (b) in sub-section (2),-
 - (i) in clause (a),-
 - (a) the word "exclusive" shall be omitted;
 - (b) the expression "and to make sales of electric power to consumers" shall be omitted;
 - (c) for the word "territory", occurring twice, the words "service territory" shall be substituted; and
 - (d) in the proviso, the expression "within such territory as the Authority may, subject to section 22, for a period of fifteen years, allow" shall be omitted;
 - (ii) in clause (b), -
 - (a) the expression "and make sales of electric power shall be omitted;
 - (b) after the word "its", the word "service" shall be inserted; and

- (c) the proviso shall be omitted;
- (iii) in clause (c), the expression "and power sales to consumers" shall be omitted;
- (iv) for clause (d), the following shall be substituted, namely:-
 - "(d) establish, within three months of the issue of its licence for distribution of electric power and make available to the public, the manner and procedure for obtaining its service;"
- (v) for clause (e), the following shall be substituted, namely:-
 - "(e) make its transmission facilities available for operation by any other licensee, consistent with applicable instructions established by the system operator;" and
- (vi) in clause (f), after the word "agency", the words "or Provincial Government" shall be inserted.

26. Amendment of section 22, Act XL of 1997.- In the said Act, in section 22,-

- (a) for sub-section (1), the following shall be substituted, namely:-
 - "(1) Notwithstanding anything contained in section 21, the Authority may permit the sale of electric power to bulk power consumers located in the service territory of the holder of a license under this Act." and
- (b) in sub-section (2), for the words "three years", the words "one year" shall be substituted, for colon a full stop shall be substituted and thereafter the proviso shall be omitted.

27. Amendment of section 23, Act XL of 1997.-In the said Act, in section 23, the words "or the bulk power consumers within its service territory subject to the provisions of section 22" shall be omitted.

28. Insertion of sections 23A, 23B, 23C, 23D, 23E, 23F, 23G and 23H, Act XL of 1997.- In the said Act, after section 23, amended as aforesaid, the following new sections shall be inserted, namely:-

"23A. Market operator licence.-(1) No person shall, unless licensed by the Authority under this Act and subject to the prescribed conditions, act as a market operator:

Provided that any person acting as a market operator on commencement of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, shall within a period of one year apply for a licence under this Act:

Provided further that only one market operator licence shall be granted at one time.

(2) The eligibility criteria for grant of licence as a market operator shall be prescribed by the Federal Government and shall include, without limitation,—

- (a) minimum solvency requirements;
- (b) minimum technical and human resource requirements; and
- (c) public service obligations of the licensee including quality of service, transparency of transactions, timely collection and dissemination of payments, effective collection and dissemination of any and all taxes and surcharges as may be imposed by the Federal Government, etc.

(3) A person eligible for a licence to be licensed as a market operator may make an application to the Authority in such form and manner and on such conditions as may be specified.

(4) An application for licence under sub-section (3) shall be accompanied by a draft commercial code governing the form and manner in which the market operator shall undertake its licensed activities.

(5) The Authority may require an applicant under sub-section (3) to provide such further information as it considers necessary in relation to the application, in such form or verified in such manner as the Authority may direct.

23B. Duties and responsibilities of a market operator.—(1) A market operator may, from time to time and subject to approval by the Authority, make such commercial code as may be required to enable it to carry out its functions as a market operator.

(2) A market operator shall regulate its operations, standards of practice and business conduct of market participants and their representatives in accordance with its commercial code, policies and procedures as approved by the Authority.

(3) The Authority may, if required in the public interest, direct the market operator to make such commercial code or amend its existing regulations as it may specify in writing:

Provided that if the market operator does not comply with the direction of the Authority within a period of thirty days without providing just cause for such non-compliance to the Authority, the commercial code of the market operator shall be deemed to have been made or amended, as the case may be, and shall take effect accordingly.

23C. Electric power trader licence.—(1) No person shall, unless licensed by the Authority under this Act, engage in the trading of electric power.

(2) The eligibility criteria for grant of licence for trading in trade electric power shall be prescribed and include, amongst others,—

- (a) minimum solvency requirements;
- (b) minimum technical and human resource requirements; and
- (c) public service obligations of the licensee including quality of service, transparency of transactions, timely collection and dissemination of payments, effective collection and dissemination of any and all taxes and surcharges as may be imposed by the Federal Government, etc.

(3) An application for a licence under sub-section (1) shall specify—

- (a) the type of service for which the licence is being sought;
- (b) the mode and manner in which the service is proposed to be provided; and
- (c) any other information as may be specified.

23D. Duties and responsibilities of electric power trader.— (1) The Authority may, after such enquiry as it may deem appropriate and subject to the conditions specified, grant a licence for the trading of electric power.

- (2) The licensee shall -
 - (a) possess the right to trade in electric power subject to the conditions of licence;

- (b) be responsible to carry out trade bilaterally between the parties by entering into appropriate contracts containing necessary safeguards with regard to supply of electricity through trading;
- (c) ensure that appropriate meters are in place for the purpose of energy accounting and comply with the specifications as specified by the Authority;
- (d) have requisite agreements with transmission licensees and distribution licensees for transmission or wheeling of electricity, as the case may be;
- (e) declare to the Authority its maximum trading monthly volume and five-year trading plan;
- (f) comply with any direction issued by the system operator;
- (g) publicly make available the Authority's approved applicable rates, charges and other terms and conditions for power sales to consumers;
- (h) maintain accounts in accordance with the manner and procedure laid down by the Authority; and
- (i) any other obligations as may be imposed by the Authority.

23E. Electric power supply licence.—(1) No person shall, unless licensed by the Authority under this Act, engage in the supply of electric power to a consumer:

Provided that the holder of a distribution license on the date of coming into effect of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall be deemed to hold a license for supply of electric power under this section for a period of five years from such date.

(2) The eligibility criteria for grant of licence to supply electric power shall be prescribed by the Federal Government and shall include, without limitation,—

- (a) minimum solvency requirements;
- (b) minimum human resource requirements;

- (c) provisions with respect to a supplier of the last resort, as the case may be; and
 - (d) public service obligations of the licensee including quality of service, transparency of transactions, timely collection and dissemination of payments, effective collection and dissemination of any and all taxes and surcharges as may be imposed by the Federal Government, etc.
- (3) An application for a licence for supply of electric power shall specify—
- (a) the type of service for which the licence is being sought;
 - (b) the mode and manner in which the service is proposed to be provided; and
 - (c) any other information as may be specified.

23F. Duties and responsibilities of an electric power supplier.—The Authority may, after such enquiry as it may deem appropriate and subject to the conditions specified, grant a licence for the supply of electric power.

- (2) The licensee shall —
- (a) possess the right to make sales of electric power to consumers in the territory specified in the licence and to frame schemes in respect of that territory;
 - (b) be responsible to make sales of electric power within its territory on a non-discriminatory basis to all the consumers who meet the eligibility criteria laid down by the Authority:

Provided that—

- (i) the licensee may not be required to make sale of electric power to a bulk power consumer who has contracted for electric power supply from another supplier; and
- (ii) the licensee may request the concerned distribution licensee to disconnect the provision of electric power to a consumer for default in payment of power charges or to a consumer who is involved in theft of electric power;

- (c) publicly make available the Authority's applicable rates, charges and other terms and conditions for power sales to consumers;
- (d) establish, within three months of the issue of its licence and make available to the public, instructions specifying—
 - (i) procedures for obtaining service; and
 - (ii) the manner and procedure for metering, billing and collection of the licensee's approved charges and disconnection in case of non-payment of charges, electric power theft and use of energy for purposes other than for which it was supplied and procedures for re-connection and recovery of arrears and other charges;
- (e) maintain accounts in accordance with the manner and procedure laid down by the Authority; and
- (f) develop, maintain and publicly make available, with the prior approval of the Authority, an investment program for satisfying its service obligations and acquiring and selling its assets.

23G. System operator licence.—(1) No person shall, unless licensed by the Authority under this Act, undertake functions as a system operator as may be specified by the Authority, including but not limited to -

- (a) generation scheduling, commitment and dispatch;
- (b) transmission scheduling and generation outage coordination;
- (c) transmission congestion management;
- (d) cross border transmission coordination;
- (e) procurement and scheduling of ancillary services and system planning for long term capacity; and
- (f) such other activities as may be required for reliable and efficient system operations:

Provided that only one such licence shall be granted at any one time:

Provided further that the national grid company shall be deemed to be a system operator for a period of two years from the commencement of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018.

(2) The eligibility criteria for grant of licence as a system operator shall be prescribed by the Federal Government and shall include, without limitation,–

- (i) minimum technical and human resource requirements; and
- (ii) public service obligations of the licensee including quality of service and transparency of transactions.

(3) A person eligible for a licence to be licensed as a system operator may make an application to the Authority in such form and manner and on such conditions as may be specified.

(4) An application for licence under sub-section (3) shall be accompanied by a draft grid code governing the form and manner in which the system operator shall undertake its licensed activities.

(5) The Authority may require an applicant under sub-section (3) to provide such further information as it considers necessary in relation to the application, in such form or verified in such manner as the Authority may direct.

23H. Duties and responsibilities of a system operator.– (1) A system operator shall, from time to time and subject to approval by the Authority, make such grid management code as may be required to enable it to carry out its functions as a system operator.

(2) A system operator shall regulate its operations, standards of practice and business conduct in accordance with policies and procedures as approved by the Authority.

(3) The Authority may, if required in the public interest, direct the system operator to make such grid code or amend its existing grid code as it may specify in writing:

Provided that if the system operator does not comply with the directions of the Authority within a period of thirty days without providing just cause for such non-compliance to the Authority, the grid code of the system operator shall be deemed to have been made or amended, as the case may be, and shall take effect accordingly.”.

29. Amendment of section 24, Act XL of 1997.- In the said Act, in section 24.-

- (i) for the word “SHYDO”, the word “PEDO” shall be substituted; and
- (ii) the expression “generation, transmission or distribution” shall be omitted.

30. Amendment of section 25, Act XL of 1997.- In the said Act, in section 25.-

- (a) in sub-section (1),-
 - (i) after the words “grant licences”, the words “or registration under this Act” shall be inserted;
 - (ii) the expression “for generation, transmission and distribution of electric power” shall be omitted; and
 - (iii) after the words “more licensees”, the words “or registered persons” shall be inserted;
- (b) in sub-section (3), after the words “a licensee”, the words “or registered person” shall be inserted and the expression “for generation, transmission and distribution of electric power, as the case may be” shall be omitted.

31. Insertion of section 25A, Act XL of 1997.- In the said Act, after section 25, amended as aforesaid, the following new section 25A shall be inserted, namely:—

“25A. Registration.— (1) Any person providing electric power services, other than generation under Chapter IIA or an electric power service requiring a licence under this Act, shall be registered with the Authority in the manner and subject to such conditions as may be prescribed.

(2) Without prejudice to the generality of sub-section (1), a person registered under this section, shall at all times–

- (a) maintain the prescribed minimum capital requirement;
- (b) maintain adequate facilities to ensure efficient provision of the service it is registered to provide; and
- (c) comply with the provisions of this Act and the rules and regulations made hereunder.”.

32. Amendment of section 26, Act XL of 1997.- In the said Act, in section 26, after the word “issued”, the words “or registration granted” shall be inserted.

33. Amendment of section 27, Act XL of 1997.- In the said Act, in section 27.-

- (i) for the words “for generation, transmission and distribution of electric power”, the words “or a registered person, as the case may be” shall be substituted; and
- (ii) after the word “licence”, the words “or registration” shall be inserted.

34. Insertion of Chapter IIIA, Act XL of 1997.- In the said Act, after section 27, amended as aforesaid, the following new Chapter IIIA shall be inserted, namely:–

**“CHAPTER IIIA
ENFORCEMENT**

27A. Investigation and proceedings by the Authority.-(1) The Authority may appoint not less than two officers to conduct investigations in respect of any matter that is a violation of this Act, the rules, regulations and codes made thereunder or the conditions of a licence issued or registration granted under this Act, as the case may be.

(2) The Authority, in the notice of appointment of investigation officers under sub-section (1), shall specify–

- (a) the reason for initiation of investigation;
- (b) the possible violations which are to be investigated; and

- (c) the time frame within which the investigation is to be completed:

Provided that a copy of the notice of investigation shall be provided to the persons under investigation, who shall be bound to facilitate the investigation officers in all aspects of the investigation.

(3) When an investigation has been ordered under sub-section (1), an investigating officer may, by notice in writing, require any person to produce before him such books, registers or documents as are in the custody or under the control of that person.

(4) A person who obstructs or hinders an investigating officer while exercising any of the powers under this section or deliberately fails to produce any such books, registers or documents as are required by the Authority or an investigating officer, shall be liable to—

- (a) proceedings under sections 27B and 28, where the Authority is of the view that non-compliance with the investigation would adversely affect the interest of the consumers of the person under investigation and where the person under investigation is a licensee or a registered person; and
- (b) imposition of penalty under section 27B, in all other cases.

(5) Any person aggrieved by the conduct of an investigating officer may lodge a complaint in respect thereof to the Authority.

(6) The Authority shall, within fifteen days of receipt of the complaint under sub-section (5), commence a hearing to determine the veracity of such complaint in accordance with the specified procedure.

27B. Penalty for default or contravention.— Any person who acts in contravention of this Act or the rules and regulations made thereunder or fails to comply with the conditions of a licence issued or registration granted to that person and such person is a party to such contravention shall be punishable in case of—

- (a) a company, with a minimum fine of ten million Rupees which may extend to two hundred million Rupees and, in the case of a continuing default, with an additional fine which may extend to one hundred thousand Rupees for every day during which the contravention continues; and

- (b) an individual, with a minimum fine of one million Rupees which may extend to ten million Rupees and, in the case of a continuing default, with an additional fine which may extend to ten thousand Rupees for every day during which the contravention continues:

Provided that a fine shall only be imposed under this section after providing a reasonable opportunity of being heard to the person alleged to be in contravention:

Provided further that where the person is a generation company, a licensee or a person registered under this Act, a penalty imposed under this section shall not be treated as a cost for the purposes of tariff determination by the Authority.

27C. Prohibition order.— (1) The Authority may, after recording reasons in writing, for continuing violations of this Act or the rules or regulations made thereunder—

- (a) prohibit a generation company, a licensee or a registered person, from providing electric power services; or
- (b) in the case of a generation company, prohibit any or all persons from purchasing electricity from such generation company; or
- (c) require a generation company, a licensee or a registered person, to improve the provision of electric power services so as to ensure compliance with this Act and the rules and regulations made thereunder.

(2) The Authority may, either on its own motion or on the application of a generation company, a licensee or a registered person, against whom a prohibition or requirement has been imposed under sub-section (1), rescind or vary such prohibition or requirement if the Authority is satisfied that no violation of this Act or rules or the regulations made thereunder exists to that extent.”.

35. Amendment of section 28, Act XL of 1997.— In the said Act, in section 28,—

- (a) for sub-section (1), the following shall be substituted, namely:—

“(1) Notwithstanding anything contained in section 27B, the Authority may suspend or revoke any licence issued or registration granted under this Act for consistent failure of the licensee or registered person to comply with the conditions of the licence or registration:

Provided that before taking action under this section, the Authority shall issue a notice to show cause and may provide an opportunity to rectify the omission subject to such conditions as the Authority may specify.”;

- (b) in sub-section (2),-
 - (i) after the word “licence”, occurring twice, the words “or registration” shall be inserted; and
 - (ii) in clause (a), after the word “licensee”, the words “or registered person” shall be inserted;
- (c) in sub-section (3),-
 - (i) after the word “licensee”, occurring twice, the words “or registered person” shall be inserted; and
 - (ii) after the words “whose licence”, the words “or registration” shall be inserted.

36. Omission of section 29, Act XL of 1997.- In the said Act, section 29 shall be omitted.

37. Amendment to section 30, Act XL of 1997.- In the said Act, in section 30, for the expression “SHYDO”, wherever occurring, the expression “PEDO” shall be substituted.

38. Insertion of Chapter IIIB, Act XL of 1997.- In the said Act, after section 30, amended as aforesaid, the following expression shall be inserted, namely:-

**“CHAPTER IIIB
TARIFF”**

39. Substitution of section 31, Act XL of 1997.- In the said Act, for section 31, the following shall be substituted, namely:-

“31. Tariff.- (1) The Authority shall, in the determination, modification or revision of rates, charges and terms and conditions for the provision of electric power services, be guided by the national electricity policy, the national electricity plan and such guidelines as may be issued by the Federal Government in order to give effect to the national electricity policy and national electricity plan.

(2) The Authority, in the determination, modification or revision of rates, charges and terms and conditions for the provision of electric power services shall keep in view—

- (a) the protection of consumers against monopolistic and oligopolistic prices;
- (b) the research, development and capital investment programme costs of licensees;
- (c) the encouragement of efficiency in licensees, operations and quality of service;
- (d) the encouragement of economic efficiency in the electric power industry;
- (e) the economic and social policy objectives of the Federal Government; and
- (f) the elimination of exploitation and minimization of economic distortions.

(3) Without prejudice to the generality of sub-section (2), the following general guidelines shall be applicable to the Authority in the determination, modification or revision of rates, charges and terms and conditions for provision of electric power services, namely: –

- (a) tariffs should allow licensees the recovery of any and all cost prudently incurred to meet the demonstrated needs of their customers:

Provided that assessments of licensees' prudence may not be required where tariffs are set on other than cost of service basis, such as formula based tariffs that are designed to be in place for more than one year;

- (b) tariffs should generally be calculated by including a depreciation charge and a rate of return on the capital investment of each licensee commensurate to that earned by other investments of comparable risk;

- (c) tariffs should allow licensees a rate of return which promotes continued reasonable investment in equipment and facilities for improved and efficient service;
- (d) tariffs should include a mechanism to allow licensees a benefit from and penalties for failure to achieve the efficiencies in the cost of providing the service and the quality of service;
- (e) tariffs should reflect marginal cost principles to the extent feasible, keeping in view the financial stability of the sector;
- (f) the Authority shall have a preference for competition rather than regulation and shall adopt policies and establish tariffs towards that end;
- (g) tariffs may be set below the level of cost of providing the service to consumers categories consuming electric power below such consumption levels as may be prescribed, as long as such tariffs are financially sustainable;
- (h) tariffs should, to the extent feasible, reflect the full cost of service to consumer categories with similar service requirements;
- (i) tariffs should seek to provide stability and predictability for customers; and
- (j) tariffs should be comprehensible, free of misinterpretation and shall state explicitly each component thereof.

Provided that the Authority shall strike a balance to the extent possible, among the general guidelines in order to optimize the benefits to all persons likely to be affected by the determination, modification or revision of rates, charges and terms and conditions.

(4) Subject to sub-sections (2) and (3), the Authority shall, in the public consumer interest, determine a uniform tariff for distribution licensees wholly owned and controlled by a common shareholder, on the basis of their consolidated accounts.

(5) The Authority may specify procedures for the determination, modification or revision of rates, charges and terms and conditions for the provision of electric power services, including without limitation, –

- (a) time frame for decisions by the Authority on tariff applications;
- (b) opportunity for customers and other interested parties to participate meaningfully in the tariff approval process; and
- (c) protection for refund, if any, to customers while tariff decisions are pending.

(6) The time frame for determination by the Authority on tariff petition shall not exceed four months after the date of admission of the tariff petition:

Provided that this time frame shall commence after the applicant has complied with all requirements of rules and regulations and the Authority has admitted the tariff petition.

(7) Notification of the Authority's approved tariff, rates, charges and other terms and conditions for the supply of electric power services by generation, transmission and distribution companies shall be made by the Federal Government in the official Gazette, within fifteen days of intimation of the final tariff by the Authority:

Provided that 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."

40. Amendment of section 32, Act XL of 1997.- In the said Act, in section 32,-

- (a) in sub-section (1), for the word "prescribe", the word "specify" shall be substituted;
- (b) in sub-section (2),-
 - (i) for the word "prescribed", the word "specified" shall be substituted; and
 - (ii) after the word "company", the expression ", the provincial grid companies" shall be inserted.

41. Insertion of Chapter IIIC, Act XL of 1997.- In the said Act, after section 32, amended as aforesaid, the following shall be inserted, namely:-

**"CHAPTER III C
PERFORMANCE AND STANDARDS"**

42. Amendment of section 34, Act XL of 1997.- In the said Act, in section 34, for the word "prescribe", the word "specify" shall be substituted.

43. Amendment of section 35, Act XL of 1997.- In the said Act, in section 35,-

(a) for the words "encourage the development of", the word "specify" shall be substituted;

(b) after clause (a), the following new clauses shall be inserted, namely:-

"(aa) the technical standards for construction of electrical plants, electric lines and connectivity to the grid;

(ab) the grid standards for operation and maintenance of transmission lines;"

44. Insertion of section 35A, Act XL of 1997.- In the said Act, after section 35, amended as aforesaid, the following new section 35A shall be inserted, namely:-

35A. Offices of complaints regarding over-billing etc. (1) Notwithstanding anything contained in section 38 or section 39, the Authority may establish district level complaint offices to hear and decide complaints regarding overbilling, non-compliance of instructions respecting metering and collection of approved charges, disconnection in case of non-payment of charges, electric power theft and use of energy for purposes other than for which it was supplied.

(2) The manner and procedure whereby consumers and licensees may make complaints under this section shall be specified:

Provided that the office of complaints shall, on receipt of a complaint, before taking any action thereon, give notice to the licensee or any other person against whom such complaint has been made to show cause and provide such licensee or such other person an opportunity of being heard.

(3) If, on inspection by an office of complaints, a willful contravention against a licensee or any other person is established, a person and any such person that is party to the contravention shall be punishable in case of -

- (a) a licensee, with a fine under section 27B;
- (b) an employee of a licensee who is found to be party to the contravention complained of, to imprisonment for a term which may extend to three years or to a fine which may extend to ten million Rupees or to both;
- (c) a consumer that is a company, with a fine under section 27B; and
- (d) any other individual who is found to be party to the contravention complained of, to imprisonment for a term which may extend to three years or to a fine which may extend to ten million Rupees or to both.

45. Amendment of section 36, Act XL of 1997.- In the said Act, in section 36, for the words "prescribe" and "prescribed", the words "specify" and "specified" shall respectively be substituted.

46. Amendment of section 38, Act XL of 1997.- In the said Act, in section 38, in sub-section (3) for the word "prescribed", the word "specified" shall be substituted.

47. Insertion of Chapter IV A, Act XL of 1997.- In the said Act, after section 39, the following shall be inserted, namely:-

**"CHAPTER IVA
MISCELLANEOUS"**

48. Amendment of section 44, Act XL of 1997.- In the said Act, in section 44,-

- (a) the word "prescribed", occurring for the first time, shall be omitted;
- (b) the words "fine or other" shall be omitted; and
- (c) for the expression "as prescribed from time to time", the words "under this Act" shall be substituted.

49. Substitution of sections 46 and 47, Act XL of 1997.- In the said Act, for sections 46 and 47, the following shall be substituted, namely:-

"46. Rules.- (1) The Federal Government may, either on its own motion or on the recommendation of the Authority and by notification in the official Gazette, make rules for matters required to be prescribed under this Act:

Provided that the power to make rules conferred by this section shall be subject to consultation with the Authority and the Provincial Governments and be subject to previous publication for eliciting public opinion thereon within a period of not less than fourteen days from the date of publication:

Provided further that in case of a disagreement between the Federal Government and the Provincial Governments, such rules shall be referred to the Council of Common Interests for a decision thereon.

(2) Without prejudice to the generality of the foregoing powers, such rules may provide for—

- (a) the procedure for seeking nominations of members of the Authority and the Appellate Tribunal from the Provincial Governments;
- (b) publication of rates and charges of electricity consumption;
- (c) procedure for submission of various reports to the Council of Common Interests or to the Federal Government and the manner of preparation of such reports;
- (d) procedure for inquiry and investigation into the affairs of an applicant for a licence and for any contravention of any provision of this Act;
- (e) the seeking of information; and
- (f) any other matter incidental or consequential.

47. Regulations.— (1) The Authority may, for carrying out its functions under this Act and by notification in the official Gazette, make regulations not inconsistent with the provisions of this Act and the rules.

(2) Without prejudice to the foregoing powers, such regulations may provide for—

- (a) appointment of officers, members of staff and such other persons and the terms and conditions of their service;
- (b) the form and manner of applications to be made for a licence for generation, transmission or distribution facilities;
- (c) the fees and documents to be accompanied with the applications for licences;

- (d) procedure for metering, billing and collection of electric power charges by the licensees;
- (e) procedure for resolving disputes amongst the licensees and consumers;
- (f) the manner and procedure of show cause notices; and
- (g) any other matter incidental or consequential.

(3) The power to make regulations conferred by this section shall be subject to the condition of previous publication and before making any regulations the draft thereof shall be published in two newspapers of wide circulation for eliciting public opinion thereon within a period of not less than thirty days from the date of its publication.”.

50. Addition of sections 48, 49, 50 and 51, Act XL of 1997.—In the said Act, after section 47, substituted as aforesaid, the following new sections shall be added, namely:—

“48. Power of the Authority to issue directives, circulars, guidelines, etc.— The Authority shall have the power to issue such directives, codes, guidelines, circulars or notifications as are necessary to carry out the purposes of this Act and the rules and regulations made hereunder.

49. Cognizance of Offences.— Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act No. V of 1898), no court other than the court of sessions shall take cognizance of an offence under this Act except on a complaint by an officer authorized in this behalf by the Authority.

50. Savings.— (1) Notwithstanding anything contained in the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, or any repeal effected thereby, nothing shall affect, or be deemed to affect, anything done or any action taken, or purported to have been taken, including any rule, regulation, notification, determination, order or notice made or issued, any approval, appointment or declaration made, any operation undertaken or direction given, any proceedings taken, or any penalty, punishment or fine imposed under this Act before the commencement of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018.

(2) Subject to sub-section (1), any order, rule, notification, regulation, appointment, conveyance, deed, document or direction made, fee directed, determination given, proceedings taken, instrument executed or issued, or thing done under or in pursuance of any provision of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall, if in force before the commencement of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, continue to be in force and shall have effect as if made, directed, passed, given, taken, executed, issued or done under or in pursuance of this Act:

Provided that, pursuant to the coming into effect of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018, the rules and regulations issued under this Act shall be brought into conformity with the amended provisions of this Act, wherever required, within a period of one year from the date of coming into effect of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018.

(3) Any person appointed to any office prior to the coming into force of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall be deemed to have been appointed to that office under and by virtue of this Act and any condition or term of service or employment modified through the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall not have retrospective application or effect.”

51. Validation.—Anything done, actions taken, orders passed, instruments made, notifications issued, agreements made, proceedings initiated, processes or communications issued, powers conferred, assumed or exercised by the Federal Government in terms of sub-section (5) of section 31 on or after the first day of July, 2008 till the coming into force of the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018 shall be deemed to have been validly done, made, issued, taken, initiated, conferred, assumed and exercised and shall be deemed to have effect accordingly.”.

STATEMENT OF OBJECTS AND REASONS

In the late nineties, the power sector was unbundled and Water and Power Development Authority's distribution function was segregated and transferred to eight corporate entities exclusively licensed in the distribution business with the newly formed National Electric Power Regulatory Authority (NEPRA). The 2002 Power Policy was introduced to facilitate and encourage private sector participation in the sector. It was expected that under the supervision of NEPRA the power sector would be radically turned around and the public footprint would be gradually reduced in the wake of competitive tariff structures.

2. However, the expected outcomes were not successfully met. In part this was because of a regulatory framework which did not adequately cater for moving to competitive and therefore efficient power sector transactions. The framework also placed excessive focus on tariff setting by the regulator. Over time, this resulted in an illiquid power sector with persisting system inefficiencies. A strategy was therefore needed to make the unbundling plan to its next logical phase, i.e. the establishment of a power market and introduction of proportionate regulatory models.

3. Consequently, in 2013, the Council of Common Interests (CCI) approved the National Power Policy of 2013, laying down key components of a development strategy for achieving an efficient, competitive and sustainable power sector in Pakistan. The Policy not only affirmed the resolve of the Federal Government to *"...limit its role to policy making"* and to ensure that *"unless necessary, service delivery will be promoted through a fiercely competitive and transparent private sector"*, it also approved the strengthening of NEPRA as a *"a world class regulatory authority with sophisticated and efficient capacity to establish tariffs and set the foundation for a competitive bidding process"*.

4. In light of the decision of the CCI, the Bill has been designed to achieve the aforesaid objectives. A matrix containing the redline version of the amendments is enclosed at **ANNEX A** for ready reference.

SARDAR AWAIS AHMED KHAN LEGHARI
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MINISTER-IN-CHARGE