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PART II

Statutory Notifications (S. R. O.)

GOVERNMENT OF PAKISTAN

NATIONAL ELECTRIC POWER REGULATORY AUTHORITY

NOTIFICATION

Islamabad, the 19th May, 2022

S. R. O. 634 (I)/2022.— In exercise of the powers conferred by section 47 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997) read with all other enabling provisions thereof, the National Electric Power Regulatory Authority is pleased to make the following regulations.—

1. Title and commencement.— (1) These regulations shall be called the National Electric Power Regulatory Authority (Electric Power Trader) Regulations, 2022.

(2) These regulations shall come into force at once.

2. Definitions.— (1) In these regulations, unless there is anything repugnant in the subject or context,

(a) “Act” means the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No. XL of 1997), as amended from time to time;

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- (b) “aggregation” means consolidation of electric power generation or demand of electric power suppliers or both, for trade in the Competitive Trading Bilateral Contract Market;
- (c) “anti-competitive practices” shall include competition restricting agreements or deceptive, marketing practices and shall also include any other practice that distorts fair competition, unfairly eliminates competition or results in abuse of dominant position;
- (d) “applicable documents” means the rules, regulations, terms and conditions of any licence, registration, authorisation, determination, any codes, manuals, directions, guidelines, orders or notifications issued or approved under the Act;
- (e) “Commercial Code” or “Market Commercial Code” means the commercial code prepared and maintained by the market operator pursuant to sections 23A and 23B of the Act and approved by the Authority from time to time;
- (f) “Competitive Trading Bilateral Contract Market” or “CTBCM” means electric power market established in accordance with the high-level and detailed designs approved by the Authority *vide* its determinations dated 5th day of December, 2019 and 12th day of November, 2020 as may be amended by the Authority from time to time;
- (g) “electric power trader” means a person who has been granted a licence under this Act to undertake trading in electricity;
- (h) “licensed activity” means any activity authorised under the electric power trader licence;
- (i) “market participant” means any person who has entered into a market participation agreement with the market operator; and
- (j) “trading” means the purchase and sale of electric power in the CTBCM subject to the Act, these regulations and other applicable documents but shall not include supply of electric power to a consumer, and the expression trade shall be construed accordingly.

(2) Words and expressions used in these regulations but not defined herein shall have the same meanings as assigned to them in the Act.

3. Grant of licence.— (1) Any person who fulfills the eligibility criteria prescribed under section 23C of the Act, may make an application to the Authority in accordance with the National Electric Power Regulatory Authority Licensing (Application, Modification, Extension and Cancellation) Procedure Regulations, 2021 for grant of an electric power trader licence.

(2) The Authority may, after such inquiry as deemed appropriate and subject to the conditions specified in these regulations and other applicable documents, approve the grant of electric power trader licence to the applicant.

4. Functions of electric power trader.— An electric power trader may be licensed by the Authority to perform any or all of the following functions:

- (a) trading;
- (b) import or export of electric power;
- (c) aggregation as per the limits, if any, set by the Authority from time to time; or
- (d) any other functions as may be allowed under the Act or the licence.

5. Fees.— An electric power trader applicant or licensee shall timely pay to the Authority relevant fees including application fee and annual fee as may become due under the applicable documents.

6. Term of the licence.— (1) An electric power trader licence shall be issued for a minimum term of ten years and shall be valid during this period subject to compliance with the Act, the applicable documents and payment of annual fee, as specified from time to time, unless revoked earlier by the Authority.

(2) An electric power trader licence may be renewed, after expiry of its term, upon the licensee's application, subject to satisfactory performance of the licensee, compliance with the Act, the applicable documents, payment of such fees as may be determined and on such terms and conditions as the Authority may deem appropriate.

7. Tariff for electric power trader.— An electric power trader may trade electric power on such rates as may be mutually agreed between the parties:

Provided that a supplier of last resort interested in purchase of electric power from an electric power trader shall seek prior approval from the Authority as to the tariff and other terms and conditions for the purchase of electric power in accordance with the applicable documents.

8. General duties and responsibilities of electric power trader.— (1) An electric power trader shall:

- (a) comply with these regulations and relevant provisions of other applicable documents including the Grid Code, the Distribution Code and the Commercial Code;

- (b) have in place all requisite agreements or arrangements, including the agreements with transmission licensees and distribution licensees for use of transmission system or distribution system, for performing the licensed activity;
 - (c) obtain authorisations, approvals or permissions as required under the applicable documents or other relevant laws of the country to be able to perform the licensed activity;
 - (d) have in place, if allowed under the licence, all necessary agreements, in writing, with the concerned entities and approvals from the competent forums before trading with persons outside of Pakistan;
 - (e) establish the necessary infrastructure, adequate communication facilities and relevant systems to undertake the licensed activity;
 - (f) ensure that the agreements entered into by it, comply with the applicable documents and do not prohibit or restrict it in any manner from complying with the applicable documents;
 - (g) promptly inform the Authority of any violation of the Act or the applicable documents that it commits or comes to its knowledge regarding any other market participant;
 - (h) provide to the Authority certified copies of any agreements or arrangements entered into by it, if so required by the Authority;
 - (i) not enter into any arrangement with any person, who is required to obtain a licence or registration or other authorisation from the Authority for such purpose, but does not have such licence or registration or authorisation;
 - (j) not surrender, sell, assign, sub-contract, exchange or otherwise transfer the licence or any right conferred under the licence to any other person without prior written approval of the Authority;
 - (k) submit to the Authority its trading volume and five year trading plan as per Schedule-I;
 - (l) make payment of fees, fines or other charges as may be due under the applicable documents; and
 - (m) not engage in provision of any other electric power service without first obtaining the licence or registration or other requisite approval as may be required under the Act.
- (2) In addition to the duties and responsibilities specified in these regulations, the licensee shall also comply with such other terms and conditions as may be provided in its licence or other applicable documents.

9. Financial and organisational affairs.— (1) An electric power trader shall not, except to the extent authorised by the Authority:—

- (a) stand surety, give guarantees or in any other manner offer or provide security for the indebtedness or obligations, contractual or otherwise, of any other person in a cumulative amount greater than ten percent of the equity of the licensees' shareholders as of the date of the most recent audited balance sheet of the licensee;
- (b) merge with, acquire or offer to acquire shares or other securities or participating interests in any person after the date of the issuance of the electric power trader licence except:—
 - (i) in any person which was an associated undertaking of the licensee on the date of issuance of the electric power trader licence;
 - (ii) as may be required to satisfy its obligations under the laws or the applicable documents;
 - (iii) in order to avoid dilution of the shareholding or participating interest of the licensee in a person in which it holds shares or other securities or participating interests in conformity with the applicable documents.
- (c) recognise any transfer of its shares or other voting securities after the date of issuance of the electric power trader licence where the result of such transfer is for any person to hold in its own right or beneficially own or control voting strength in the licensee equal to or exceeding ten per cent of the total number of votes in any general meeting of the shareholders or the creditors of the licensee:

Provided that the restriction contained in this clause shall not be applicable in case of shares or other voting securities of the licensee being listed on any recognised national or international stock exchange:

Provided further that authority may require the licensee to procure the retention by any of its members of a minimum number of shares or other voting securities, not exceeding the number held by such members on the date of issuance of the electric power trader licence, for such period of time as may be specified by the Authority.

(2) The licensee shall include provisions in its articles of association to give effect to the provisions of clause (c) of sub-regulation (1) so that any purported transfer of its shares or other voting securities in violation of the provisions of clause (c) of sub-regulation (1) shall *ipso-facto* be invalid.

(3) In considering any request of the licensee for dispensation from the application of clause (c) of sub-regulation (1) in case of any proposed transfer, the Authority shall *inter-alia* take into account

- (a) the promotion of competition in the electric power market as a whole; and
- (b) the change, if any, in the control or management of the licensee likely to result from the authorisation, if granted.

(4) The requirements to seek permission from the Authority under this regulation shall be without prejudice to the obligations of the licensee to seek necessary approval for any merger or change in its shareholding under the Competition Act, 2010 (Act No. XIX of 2010) or any other law for the time being in force.

10. Accounting Practices.— (1) An electric power trader shall prepare its accounts in respect of the electric power trading and any other business, if any, in accordance with the applicable documents as may be amended or replaced from-time to time:

Provided that the requirements with regard to maintenance of accounts specified in these regulations shall apply in addition to any other requirement as may be applicable in any other law for the time being in force.

(2) An electric power trader shall ensure that the licensee and each of its associated undertakings maintain accounting and financial reporting arrangements which enable separate accounts to be prepared for each separate business, showing the financial affairs of each separate business as if it were a separate company so that the revenues, costs, assets, liabilities, capital, reserves and provisions thereof, reasonably attributable to each business are separately identifiable in the books of the licensee and its associated undertakings from those of any other business.

(3) In specifying the accounting requirements in the electric power trader licence, the Authority may require the licensee and any of its associated undertakings to:

- (a) maintain and preserve the books of account and accounting records in respect of each financial year for the time specified in the electric power trader licence;
- (b) prepare on a consistent basis from such accounting records in respect of each financial year, accounting statements comprising of a profit and loss account, a balance sheet and a statement of source and application of funds, together with notes thereto, showing separately in respect of each separate business and in appropriate detail the amounts of any

revenue, costs, assets, liabilities, reserves or provisions which have been either:

- (i) charged from or to any other business, whether or not a separate business, together with a description of the basis of that charge; or
- (ii) determined by apportionment or allocation between any separate business together with a description of the basis of the apportionment or allocation.

11. Performance standards and monitoring.— (1) An electric power trader shall comply with the relevant performance standards and public service obligations as provided in the Act and the applicable documents.

(2) An electric power trader shall submit to the Authority annual reports on its performance and compliance with these regulations and other applicable documents including the relevant eligibility criteria rules, and the terms and conditions of its licence.

(3) The Authority may require the electric power trader to provide any special reports on such format as may be deemed appropriate by the Authority.

(4) The Authority may, if deemed necessary for reasons to be recorded in writing, order a performance audit of an electric power trader.

12. Risk and administrative requirements. — (1) An electric power trader shall, subject to the provisions of its licence, promptly and diligently adhere to all reasonable risk-management and risk containment measures, and shall implement risk-mitigation measures.

(2) An electric power trader shall submit to the Authority for its prior approval any changes to its management control, ownership or nature of business.

(3) An electric power trader shall inform the Authority, in writing, at least thirty days prior to any change in its address and other contact details.

13. Prohibition against anti-competitive practices. — (1) An electric power trader shall not impede, prevent or attempt to prevent any other licensee, registered person, market participant or competitor, if any, from engaging in their respective licensed or registered activities.

(2) An electric power trader shall not engage in any form of anticompetitive activities or activities contrary to free and fair competition.

(3) An electric power trader shall not enter into any agreement or make a decision in respect of the generation, sale, supply, distribution, acquisition or control of or the provision of electric power services which have

the object or effect of preventing, restricting, or reducing competition within the CTBCM unless exempted by the Authority.

14. Revocation or suspension of licence.— (1) Without prejudice to the powers of the Authority under the Act, upon being satisfied that the electric power trader is not discharging its functions in accordance with these regulations or terms and conditions of its licence, or becomes insolvent, or otherwise fails to carry on its licensed activity in the interests of the electric power market, or the licensed activity is no longer required, the Authority may, after providing an opportunity to show cause followed by a personal hearing, take such measures as it deems expedient including but not limited to suspension or revocation of the electric power trader licence and take such other actions as may be deemed necessary to safeguard the interests of all the relevant stakeholders.

(2) Where the Authority revokes or suspends licence of an electric power trader, it may appoint an administrator to take over its licensed activity.

15. Maintenance of record.— (1) An electric power trader shall keep complete and accurate record and other data relating to the licensed activity including any contractual arrangements, agreements, and any other information as may be specifically required by the Authority.

(2) All records and data referred to in sub-regulation (1), shall be maintained in good order and condition for a minimum period of five years after the expiry of such record, arrangement or agreement or for such further extended period as the Authority may specifically require.

(3) The Authority shall have the right, upon forty-eight hours prior written notice to the licensee, to examine the records and data of the electric power trader at any time during normal office hours.

16. Information technology and operational technology requirements. — All information systems, computer programs or other systems used by an electric power trader shall be adequately secured as per the requirements of the applicable documents and relevant information technology and operational technology standards.

17. Use of information. — (1) An electric power trader shall ensure that any information received as a result of its licensed activity shall not be revealed or shared with anyone, except in cases where:

- (a) prior written consent is given by the person to whom the information is related; or
- (b) the information is public; or
- (c) the electric power trader is required or allowed to disclose the information to fulfil the conditions of the licence according to the Authority's order, or any other applicable document; or

- (d) disclosure is required under any other law for the time being in force; or
- (e) the information shall be disclosed in the normal course of performing the licensed activity.

(2) An electric power trader shall ensure that any of its affiliate or associated business shall not use any of its information to obtain unjustified competitive advantage, and shall ensure that it shall not disclose any information to any other person (including other associated businesses) that may enable that person to obtain any unjustified commercial advantage.

(3) An electric power trader shall undertake all necessary steps to avoid any unauthorised access to the confidential information.

(4) Any information submitted to the Authority by an electric power trader shall be considered public, except in cases where upon specific/special request of the licensee, the Authority decides the information is of proprietary nature and the disclosure of it may adversely impact the public interest or unjustifiably impact the business of the licensee;

(5) The electric power trader shall not enter into agreements which may lead to the violation of the terms and conditions of its licence.

18. Electric power trading volume. — (1) An electric power trader shall be authorized to trade the electric power not exceeding the trading volumes specified in its licence.

(2) In the event the electric power trader's actual capacity or actual energy traded or either of the two increases from the limits provided in its licence, the licensee shall immediately but not later than one month, apply to the Authority for change of its licence category in accordance with the applicable documents and shall comply with the relevant eligibility criteria rules and pay the corresponding fee for the appropriate higher category:

19. Dispute resolution.— Any dispute between an electric power trader and any other licensee, registered person or a generation company, relating to licensed activity, that the parties are not able to resolve as per the dispute resolution mechanism provided in their mutual agreement (if any) or the relevant applicable documents, may be referred to the Authority for a decision under the Act.

Schedule-I

Form for Submission of Trading Volume and other Information
(Information to be submitted on yearly basis, with monthly breakup, to the Authority)
See Regulation 8

Electric Power Trader Name: _____
Licence No: _____
Licence Issuance Date: _____
Contact Details: _____
[Address/Email/Contact Number]

Sr. No.	Purchased from*	Sold to*	Volume of Trading in		Point of Purchase	Point of Sale	Use of Transmission and distribution system charges, as applicable, borne by Seller/ Trader/Buyer	Transmission and distribution losses, as applicable, borne by Seller/ Trader/ Buyer	Outstanding payments/ Settlements, if any, for imbalances in the CTBCM
			Actual (MWh)	Contract(s) (MW)	Common Delivery Point (CDP)				
1	2	3	4	5	6	7	PKR	% of trading volume	PKR
							8	9	10

Note:
* Besides the name of the seller/ buyer, indicate the category of the seller/ buyer namely generation licensee/company, electric power supplier etc.

SYED SAFEER HUSSAIN,
Registrar

**AMENDMENT IN NATIONAL ELECTRIC POWER REGULATORY
AUTHORITY (FEES) REGULATIONS, 2021**

**DRAFT FOR PREVIOUS PUBLICATION UNDER SECTION 47 (3) OF THE
REGULATION OF GENERATION, TRANSMISSION AND DISTRIBUTION OF
ELECTRIC POWER ACT, 1997 (XL OF 1997)**

NOTIFICATION

Islamabad, the 19th May, 2022

S. R. O. 635(I)/2022.— In exercise of the powers conferred by section 47 of the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (Act No.XL, of 1997) read with all other enabling provisions thereof, the National Electric Power Regulatory Authority hereby notifies the following amendments in the National Electric Power Regulatory Authority (Fees) Regulations, 2021.—

1. At the end of the table titled FEES (Annual) in Part I of Schedule of National Electric Power Regulatory Authority (Fees) Regulations, 2021, following new row shall be inserted, namely,—

10.	Electric Power Trader		Annual Fee (PKR)
Category	Capacity (MW)	Energy trade forecasted (GWh/annum)	
I	Up to 50	Up to 300	500,000/-
II	More than 50 up to 100	Up to 600	1,000,000/-
III	More than 100 up to 300	Up to 1800	2,000,000/-
IV	More than 300 up to 700	Up to 4,000	3,000,000/-
	More than 700 up to 1000	Up to 6,000	4,000,000/-
VI	Above 1000	No limit	5,000,000/-
Note: In the event the electric power trader licensee's actual capacity and actual energy traded or either of the two increases from the limits provided above in the respective category in which it is licensed, the licensee shall apply for its change of category in accordance with the applicable documents and shall pay the corresponding fee for the appropriate higher category.			

[No. NEPRA/ LA (Legislation / CTBCM/ NRG- 31 34/7836.)

SYED SAFEER HUSSAIN
Registrar