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EXTRAORDINARY
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ISLAMABAD, TUESDAY, DECEMBER 16, 1997

PART I

Acts, Ordinances, President's Orders and Regulation

SENATE SECRETARIAT

Islamabad, the 16th December, 1997

No. F.9(46)/97-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the Acting President on the 13th December, 1997, is hereby published for general information:—

ACT NO. XL OF 1997

*An Act to provide for the regulation of generation, transmission
and distribution of electric power*

WHEREAS it is expedient to provide for the regulation of generation, transmission and distribution of electric power and matters connected therewith and incidental thereto;

It is hereby enacted as follows:—

CHAPTER I

GENERAL

1. **Short title, extent and commencement.**— (1) This Act may be called the Regulation of Generation, Transmission and Distribution of electric Power Act, 1997.

(2) It extends to the whole of Pakistan^{1, 2}.

(3) It shall come into force at once.

¹ This Act shall apply to F.A.T.A. vide SRO.119(I)2007, dated 07-02-2007.

² This Act shall apply to P.A.T.A. of the North-West Frontier Province, except the Tribal Area adjoining Mansehra district and the former state of Amb, vide SRO. SO (FATA)/HD/1-105/06.

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Attention: Registrar
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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, NOVEMBER 26, 2009

PART I

Acts, Ordinances, President's Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND JUSTICE

Islamabad, the 26th November, 2009

No. 2 (I)/2009-Pub.—The following Ordinance Promulgated by the President is hereby published for general information:—

ORDINANCE No. XXIX OF 2009

AN

ORDINANCE

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

WHEREAS it is expedient to further amend the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997) for the purposes hereinafter appearing;

AND WHEREAS the National Assembly is not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

(329)

Price : Rs. 3.00

[1114 (2009)/Ex. Gaz.]

Signature
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NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Ordinance, 2009.

(2) It shall come into force at once.

2. **Amendments of section 31, Act XL of 1997.**— In the Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997 (XL of 1997), in section 31, —

(a) in sub-section (1), for the full stop, at the end, a colon shall be substituted and thereafter the following proviso shall be added, namely:—

“Provided that the Authority shall, on quarterly basis, determine overall electricity tariff and intimate the same to the Federal Government for notification in the official Gazette.”;

(b) in sub-section (4),—

(i) for the word “Authority”, at the end, the words, brackets, figure and letter “Authority within a period of fifteen days of such intimation except where the Federal Government refers the matter to the Authority for reconsideration under sub-section (4A)” shall be substituted; and

(ii) for the first and second proviso the following shall be substituted, namely:—

“Provided further that the Authority shall, on a monthly basis and not later than a period of seven days, review the fuel charges in the approved tariff on account of any variation whatsoever and notify such revision in the official gazette for the purposes of approved tariff applicable with effect from the said notification”; and

(c) after sub-section (4) amended as aforesaid, the following new sub-sections shall be inserted, namely:—

“(4A) The Federal Government may, as soon as possible but not later than fifteen days of receipt of the Authority’s intimation, require

the Authority to reconsider its determination of tariff rates, charges and other terms and conditions made under sub-section (1) and the Authority shall reconsider and determine the same again within a period of fifteen days from the date of the reference by the Federal Government.

(4B) Within three days of the expiry of the period available to the Authority under sub-section (4A), the Federal Government shall notify in the official Gazette,—

(a) the tariff reconsidered and determined by the Authority under sub-section (4A), if available; or

(b) where the Authority has not concluded the reconsideration, the tariff determined by the Authority under sub-section (1).

(4C) Notwithstanding anything contained in this section, the Authority shall continue to conclude its reconsideration under sub-section (4A) and the effect of such reconsideration shall be adjusted by the Authority in the tariff rates, charges or other terms and conditions determined by it under sub-section (1) for the subsequent period.

ASIF ALI ZARDARI,
President.

MADR HAKAM KHAN,
Senior Legislative Advisor.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context,—

- (i) "Authority" means the National Electric Power Regulatory Authority established under section 3;
- (ii) "bulk-power consumer" means a consumer who purchases or receives electric power, at one premises, in an amount of one megawatt or more or in such other amount and voltage level and with such other characteristics as the Authority may determine and the Authority may determine different amounts and voltage levels and with such other characteristics for different areas;
- (iii) "Chairman" means the Chairman of the Authority;
- (iv) "consumer" means a person or his successor-in-interest who purchases or receives electric power for consumption and not for delivery or re-sale to others, including a person who owns or occupies a premises where electric power is supplied;
- (v) "distribution" means the ownership, operation, management or control of distribution facilities for the movement or delivery or sale to consumers of electric power but shall not include the ownership, operation, management and control of distribution facilities located on private property and used solely to move or deliver electric power to the person owning, operating, managing and controlling those facilities or to tenants thereof shall not constitute distribution;
- (vi) "distribution company" means a person engaged in the distribution of electric power;
- (vii) "distribution facilities" means electrical facilities operating at distribution voltage and used for the movement or delivery of electric power;
- (viii) "distribution voltage" means any voltage below minimum transmission voltage;
- (ix) "electric power" means electrical energy or the capacity for the production of electrical power;
- (x) "electric power services" means the generation, transmission or distribution of electric power and all other services incidental thereto;
- (xi) "generation" means the ownership, operation, management or control of generation facilities for delivery or sale of electric power and not solely for consumption by the person owning, operating, managing, and controlling those facilities;
- (xii) "generation company" means a person engaged in the generation of electric power;
- (xiii) "generation facility" means the electrical facility used for the production of electric power;
- (xiv) "inter-connection service" means the connection of one company's electrical facilities

to another company's electrical facilities;

- (xv) "KESC" means the Karachi Electric Supply Corporation, a public limited company, incorporated under the Companies Act, 1913;
- (xvi) "licence" means a licence issued for generation, transmission or distribution under this Act;
- (xvii) "licensee" means a holder of a licence;
- (xviii) "member" means a member of the Authority including the Chairman;
- (xix) "minimum transmission voltage" means sixty-six kilovolts or such other voltage that the Authority may determine to be the minimum voltage at which electrical facilities are operated when used to deliver electric power in bulk;
- (xx) "National Grid Company" means the person engaged in the transmission of electric power and granted a licence under section 17;
- (xxi) "Person" shall include an association of persons, concern, company, firm or undertaking;
- (xxii) "Prescribed" means prescribed by rules made under this Act;
- (xxiii) "public sector project" means generation, transmission or distribution facilities constructed, owned, managed or controlled by the Federal Government, a Provincial Government, a local authority or any body owned or controlled by any such Government or authority;
- (xxiv) "regulations" means regulations made under this Act;
- (xxv) "SHYDO" means the Sarhad Hydel Development Organization, established under the Sarhad Hydel Development Organization Act, 1993 (NWFP Act No.1 of 1993);
- (xxvi) "transmission" means the ownership, operation, management or control of transmission facilities;
- (xxvii) "transmission facilities" means electrical transmission facilities including electrical circuits, transformers and sub-stations operating at or above the minimum transmission voltage but shall not include—
 - (a) electrical circuits forming the immediate connection between generation facilities and the transmission grid to the extent that those circuits are owned by a generation company and are directly associated with that company's generation facilities;
 - (b) specified facilities operating at or above the minimum transmission voltage which the Authority, upon an application by licensee under section 20, determines that such facilities shall be owned and operated by a distribution

licensee; and

(xxviii) "WAPDA" means the Pakistan Water and Power Development Authority established under the Pakistan Water and Power Development Authority Act, 1958 (W.P. Act XXXI of 1958).

CHAPTER II

ESTABLISHMENT OF AUTHORITY

3. Establishment of the Authority. — (1) As soon as may be, but not later than thirty days after the commencement of this Act, the Federal Government shall, by notification in the official Gazette, establish a National Electric Power Regulatory Authority consisting of a Chairman to be appointed by the Federal Government and four members, one from each Province, to be appointed by the Federal Government after considering the recommendations of the respective Provincial Governments.

(2) There shall be a Vice-Chairman of the Authority, appointed from amongst the members for a period of one year, by rotation, in the following order, namely:

- (i) the member representing the Province of Baluchistan;
- (ii) the member representing the Province of North-west Frontier;
- (iii) the member representing the Province of the Punjab; and
- (iv) the member representing the Province of Sind.

(3) [The Chairman shall be an eminent professional of known integrity and competence with at least twenty years of related experience in law, business, engineering, finance, accounting, economics, the electric utility business, public administration or management]³[:

Provided that the Chairman shall preferably be a person who is or has been a judge of a High Court or the Supreme Court.]⁴

(4) Every member shall be a professional of known integrity and competence with at least fifteen years of related experience in law, business, engineering, finance, accounting, economics or the electric utility business.

(5) The Chairman and a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of four years and shall be eligible for re-appointment for similar term:

³ Sub. for "The Chairman shall be an eminent professional of known integrity and competence with at least twenty years of related experience in law, business, engineering, finance, accounting, economics or the electric utility business" by the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Ordinance, 2008 (valid upto 20-06-2008).

⁴ Added by the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Ordinance, 2001.

Provided that [a member, other than the Chairman]⁵ shall [retire on attaining]⁶ the age of sixty-five years.

(6) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in, or defect in, the constitution of the Authority.

(7) The principal office of the Authority shall be in Islamabad and it may set up offices at such place or places as it may deem appropriate.

4. Resignation and removal of Chairman, etc.— (1) The Chairman, or a member may, by writing under his hand, resign from his office.

(2) The Chairman or a member may be removed by the Federal Government from his office if, on an inquiry by the Federal Public Service Commission, he is found incapable of performing the functions of his office by reason of mental or physical incapacity or has been found guilty of misconduct.

5. Meetings of the Authority, etc.— (1) The meetings of the Authority shall be presided over by the Chairman or, in his absence, the Vice-Chairman.

(2) Three members shall constitute a quorum for meetings of the Authority requiring a decision by the Authority.

(3) The members shall have reasonable notice of the time and place of the meeting and the matters on which a decision by the Authority shall be taken in such meeting.

(4) The decision of the Authority shall be taken by the majority of its members present, and in case of a tie, the person presiding the meeting shall have a casting vote.

6. Decisions of the Authority.— All orders, determinations and decisions of the Authority shall be taken in writing and shall identify the determination of the Chairman and each member.

7. Powers and functions of the Authority.— (1) The Authority shall be exclusively responsible for regulating the provision of electric power services.

(2) In particular and without prejudice to the generality of the foregoing power, only the Authority, but subject to the provisions of sub-section (4), shall—

- (a) grant licenses for generation, transmission and distribution of electric power;
- (b) prescribe procedures and standards for investment programmes by generation, transmission and distribution companies;
- (c) prescribe and enforce performance standards for generation, transmission and distribution companies;

⁵ Subs. for “a Chairman or a member” by *ibid*.

⁶ Subs. for “not be appointed under sub-section (1) if he has already attained” by the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Ordinance, 1999.

- (d) establish a uniform system of accounts by generation, transmission and distribution companies;
- (e) prescribe fees including fees for grant of licenses and renewal thereof;
- (f) prescribe fines for contravention of the provisions of this Act; and
- (g) perform any other function which is incidental or consequential to any of the aforesaid functions.

(3) Notwithstanding the provisions of sub-section (2) and without prejudice to the generality of the power conferred by sub-section (1) the Authority shall—

- (a) determine tariff, rates, charges and other terms and conditions for supply of electric power services by the generation, transmission and distribution companies and recommend to the Federal Government for notification;
- (b) review organizational affairs of generation, transmission and distribution companies to avoid any adverse effect on the operation of electric power services and for continuous and efficient supply of such services;
- (c) encourage uniform industry standards and code of conduct for generation, transmission and distribution companies;
- (d) tender advice to public sector projects;
- (e) submit reports to the Federal Government in respect of activities of generation, transmission and distribution companies; and
- (f) perform any other function which is incidental or consequential to any of the aforesaid functions.

(4) Notwithstanding anything contained in this Act, the Government of a Province may construct power houses and grid stations and lay transmission lines for use within the Province and determine the tariff for distribution of electricity within the Province.

(5) Before approving the tariff for the supply of electric power by generation companies using hydro-electric plants, the Authority shall consider the recommendations of the Government of the Province in which such generation facility is located.

(6) In performing its functions under this Act, the Authority shall, as far as practicable, protect the interests of consumers and companies providing electric power services in accordance with guidelines, not inconsistent with the provisions of this Act, laid down by the Federal Government.

8. Remuneration, etc., of Chairman and members.— (1) The Chairman and members shall be paid such emoluments as may be determined by the Federal Government which shall not be varied

to their disadvantage during their term of office.

(2) The Chairman and members shall not, during their term of office, engage themselves in any other service, business, vocation or employment and before the expiration of two years thereof enter into the employment of, or accept any advisory or consultancy relationship with, any person engaged in the generation, transmission or distribution of electric power in Pakistan or any related undertaking.

(3) The Chairman and members shall not have any direct or indirect financial interest, or have any connection with any company connected with the provision of electric power services for so long as he holds office and for a period of two years thereafter.

9. Chairman, etc. to be public servant.— The Chairman, members, staff, experts, consultants, advisors and other employees of the Authority, when acting or purporting to act in pursuance of any of the provisions of this Act or the rules and regulations, shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

10. Staff and advisers, etc.— (1) To carry out the purposes of this Act, the Authority may, from time to time, employ officers, members of its staff, experts, consultants, advisors and other employees on such terms and conditions as it may deem fit.

(2) All officers, members of staff, experts, consultants, advisors and other employees employed by the Authority shall not be deemed to be civil servants within the meaning of the Civil Servants Act, 1973 (Act LXXI of 1973).

11. Tribunals.— The Authority may, from amongst its professional staff, establish special tribunals for resolving contractual disputes between licensees or such other matters as the Authority may assign.

12. Delegation.— The Authority may delegate to the Chairman, a member or any of its officers or a special tribunal constituted under section 11, all or any of its powers, functions or duties under this Act, except—

- (a) the power to grant, reject, amend, vary or revoke licenses or any condition thereof;
- (b) the power to determine or modify tariffs;
- (c) the power to approve, disapprove or modify an investment program or a power acquisition program;
- (d) the power to make or repeal rules and regulations made under this Act; and
- (e) the power to make orders on an application for review of its orders.

13. Funds.— (1) The operations of the Authority shall be funded from—

- (a) grants from the Federal Government, including an initial grant of one hundred million

rupees; and

- (b) fees and fines collected by it as prescribed from time to time.

14. **Accounts.**—(1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts.

(2) The Accounts of the Authority shall be audited annually by the Auditor General of Pakistan.

CHAPTER III LICENSES

15. **Generation licence.**— (1) 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—

- (i) the type of facility for which the licence is applied;
- (ii) the location of the generation facility; and
- (iii) 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.

16. **Transmission licence.**— (1) 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, engage in the transmission of electric power.

(2) An application for a licence for the transmission of electric power shall specify—

- (i) the type of service for which the licence is being sought; and
- (ii) the territory with location maps and plans to which electric power shall be transmitted.

17. **National Grid Company.**— (1) 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 engage in the transmission of electric power:

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

(2) The licensee referred to in sub-section (1) shall have exclusive right to provide transmission service in the territory specified in such licence except the territory served by KESC.

18. Responsibilities of National Grid Company.— (1) The national grid company shall be responsible to operate and provide safe, reliable transmission and interconnection 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 national grid company shall—
- (a) make available to the general public the tariff specifying the Authority's approved rates, charges and other terms and conditions for transmission and interconnection services;
 - (b) 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;
 - (c) not cause a division or any associated undertaking to engage in generation and distribution:

Provided that this clause shall not apply to the KESC and WAPDA so long as their electric systems remain integrated; and

- (d) 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.

19. Special purpose transmission licence.— Notwithstanding anything contained in section 17, the Authority may, in the public interest, grant a licence authorizing the licensee to engage in the construction, ownership maintenance and operation of specified transmission facilities on the conditions that the licensee 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 interconnection 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) make its transmission facilities available for operation by the national grid company consistent with applicable instructions established by such company;
- (d) 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 Government agency;

- (e) make public the tariff specifying the rates, charges and other terms and conditions of service for transmission and interconnection services determined by the Authority; and
- (f) maintain accounts in accordance with the manner and procedure prescribed by the Authority.

20. Distribution licenses.— 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, engage in the distribution of electric power.

- (2) An application for a licence for distribution of electric power shall specify—
 - (i) the type of service for which licence is being sought;
 - (ii) the territory in which electric power shall be distributed; and
 - (iii) the source and scope of electric power and rates paid by it.

21. Duties and responsibilities of distribution licensees.— (1) 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 for distribution of electric power.

- (2) The licensee shall—
 - (a) possess the exclusive right to provide, for such period as may be specified in the licence, distribution service and to make sales of electric power to consumers in the territory specified in the licence and to frame schemes in respect of that territory:

Provided that a generation company may make sales of electric power to bulk-power consumers within such territory as the Authority may, subject to section 22, for a period of fifteen years, allow;

- (b) be responsible to provide distribution service and make sale 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 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 tariff specifying the Authority's approved rates, charges and other terms and conditions for distribution services and power sales to consumers;
- (d) establish, within three months of the Issue of its licence for distribution of electric power and make available to 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) make its transmission facilities available for operation by the national grid company consistent with applicable instructions established by such company;
- (f) follow the performance standards laid down by the Authority for distribution and transmission of electric power, including safety, health and environmental protection instructions issued by the Authority or any Governmental agency;
- (g) maintain accounts in accordance with the manner and procedure laid down by the Authority; and
- (h) 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.

22. Sale to bulk-power consumers.— (1) Notwithstanding anything contained in section 21, for a period of fifteen years from the commencement of this Act, the Authority may permit a generation company or a distribution company to sell electric power to bulk-power consumers located in the service territory of another distribution company and such permission shall be granted—

- (i) on a case to case basis on an application made in writing by a generation company or a distribution company; and
- (ii) if the bulk-power consumer has not defaulted in previous charges of electric power to any other distribution company.

(2) Where a bulk-power consumer intends to stop purchase of electric power from a distribution company, it shall convey its intention by notice in writing three years before such stoppage:

Provided that such consumer shall continue to make payments to the distribution company equal to the amount of cross-subsidy for uneconomic service for which it would otherwise have

provided through purchase of electric power by the bulk power consumer.

23. Sale of electric power to other distribution companies.— A distribution company may sell electric power to other distribution companies and distribute electric power sold by generation companies to other distribution companies or to bulk-power consumers within its service territory subject to the provisions of section 22 in accordance with the rates, charges and other terms and conditions of service for such sales as approved by the Authority.

24. Licensees to be companies.— Except the WAPDA, the SHYDO or any other person specially exempted by the Authority, a generation, transmission or distribution licence shall not be granted to any person unless it is a company registered under the Companies Ordinance, 1984 (XLVII of 1984).

25. Licences of Territory Served by KESC.— (1) Notwithstanding anything contained in this Act and subject to the provisions of this section, the Authority may grant licenses for generation, transmission and distribution of electric power to one or more licensees for the territory served by the KESC at the time of commencement of this Act.

(2) For a period of six months from the commencement of this Act, the KESC shall be deemed to be a licensee under this Act and, shall during the said period apply for an appropriate licence in accordance with the provisions of this Act.

(3) Where a licence under this section is granted to the KESC, the conditions applicable to a licensee under this Act for generation, transmission and distribution of electric power, as the case may be, shall equally be applicable to the KESC.

26. Modifications.— If the Authority is of the opinion that it is in the public interest, it may, with the consent of the licensee, amend or vary the conditions of any licence issued under this Act and in the absence of licensee's consent, the Authority shall conduct a public hearing on whether the proposed amendment or variance is in the public interest and shall make a determination consistent with the outcome to this hearing.

27. Assignment of licence prohibited.— A licensee for generation, transmission and distribution of electric power shall not, without the prior approval of the Authority, surrender, assign or transfer its licence to any person.

28. Suspension and revocation.— (1) The Authority may suspend or revoke any licence issued under this Act for consistent failure of the licensee to comply with the conditions of the licence:

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.

(2) Where the Authority revokes or suspends a licence, it may undertake all or any of the following actions for continuance of the facilities covered under the licence, namely—

(a) permit the licensee to continue operating such facilities under such terms and

conditions as the Authority may specify;

- (b) contract with another person to immediately take over the operation of the facilities; or
- (c) appoint an administrator to take over the operation of the facilities.

(3) The actions specified in sub-section (2) may continue until a successor licensee takes over the charge of the facilities on such terms and conditions as the Authority may determine, including payment of compensation for the plant, machinery and other equipment installed at a facility of the licensee whose licence was revoked.

29. Penalties.— In addition to any penalty to which a licensee may be liable under section 28, the Authority may impose a fine on the licensee which may extend to three hundred thousand rupees for each violation for each day and where any contravention continues, may impose a higher penalty as may be prescribed:

Provided that the licensee shall, before imposition of any penalty under this section, be given a notice to show cause and be provided with an opportunity of being heard.

30. WAPDA and SHYDO to be licensees.— (1) Notwithstanding anything contained in this Act for a period of six months from the commencement of this Act, the WAPDA and the SHYDO shall be deemed to be licensees under this Act, and shall, during the said period, apply for appropriate licenses in accordance with the provisions of this Act.

(2) Where a licence under this section is granted to the WAPDA or the SHYDO, the conditions applicable to a licensee under this Act for generation, transmission and distribution of electric power, as the case may be, shall equally be applicable to WAPDA or SHYDO.

31. Tariff.— (1) As soon as may be, but not later than six months from the commencement of this Act, the Authority shall determine and prescribe procedures and standards for determination, modification or revision of rates, charges and terms and conditions for generation of electric power, transmission, inter-connection, distribution services and power sales to consumers by licensees and until such procedures and standards are prescribed, the Authority shall determine, modify or revise such rates, charges and terms and conditions in accordance with the directions issued by the Federal Government[:

Provided that the Authority shall, on quarterly basis, determine overall electricity tariff and intimate the same to the Federal Government for notification in the official Gazette.]⁷

- (2) The Authority while determining the standards referred to in subsection (1) shall—
 - (a) protect consumers against monopolistic and oligopolistic prices;
 - (b) keep in view the research, development and capital investment program costs of licensees;
 - (c) encourage efficiency in licensees' operations and quality of service;

⁷ Inserted by the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Ordinance, 2009.

- (d) encourage economic efficiency in the electric power industry;
 - (e) keep in view the economic and social policy objectives of the Federal Government; and
 - (f) determine tariffs so as to eliminate exploitation and minimize economic distortions.
- (3) The procedures established under sub-section (1) shall include—
- (a) time frame for decision 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.

(4) 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, in the official Gazette, by the Federal Government upon intimation by the Authority [within a period of fifteen days of such intimation except where the Federal Government refers the matter to the Authority for reconsideration under sub-section (4A)]⁸:

[Provided further that the Authority shall, on a monthly basis and not later than a period of seven days, review the fuel charges in the approved tariff on account of any variation whatsoever and notify such revision in the official Gazette for the purposes of approved tariff applicable with effect from the said notification.]⁹

[(4A) The Federal Government may, as soon as possible but not later than fifteen days of receipt of the Authority's intimation, require the Authority to reconsider its determination of tariff, rates, charges and other terms and conditions made under sub-section (1) and the Authority shall reconsider and determine the same anew within a period of fifteen days from the date of the reference by the Federal Government.

(4B) Within three days of the expiry of the period available to the Authority under sub-section (4A), the Federal Government shall notify in the official Gazette,—

- (a) the tariff reconsidered and determined by the Authority under sub-section (4A), if available; or
- (b) where the Authority has not concluded the reconsideration, the tariff determined by the Authority under sub-section (1).

⁸ Inserted by *ibid*.

⁹ Sub. for "Provided that the Federal Government may, as soon as may be, but not later than fifteen days of receipt of the Authority's intimation, require the Authority to reconsider its determination of such tariff, rates, charges and other terms and conditions. Whereupon the Authority shall, within fifteen days, determine these anew after reconsideration and intimate the same to the Federal Government:

Provided further that the Authority shall, on a monthly basis review and revise the approved tariff on account of any variations in the fuel charges and policy guidelines as the Federal Government may issue in this behalf and recommend the tariff so revised to the Federal Government for notification in the official Gazette." by *ibid*.

(4C) Notwithstanding anything contained in this section, the Authority shall continue to conclude its reconsideration under sub-section(4A) and the effect of such reconsideration shall be adjusted by the Authority in the tariff, rates, charges or other terms and conditions determined by it under sub-section(1) for the subsequent period.]¹⁰

[(5) Each distribution company shall pay to the Federal Government such surcharge as the Federal Government, from time to time, notify in respect of each unit of electric power sold to the consumers and any amount paid under this sub-section shall be considered as a cost incurred by the distribution company to be included in the tariff determined by the Authority.]¹¹

32. Investment and power acquisition Programmes.— (1) The Authority shall, within eighteen months from the commencement of this Act, prescribe procedures and standards for the Authority's prior approval of the transmission companies' and distribution companies' investment and power acquisition programmes.

(2) Any procedure prescribed by the Authority under this section shall advance the goal of minimizing regulatory oversight of contracts entered into by the national grid company and distribution companies.

(3) Any investment program or power acquisition program, approved by the Authority under this section shall take into account the national energy plans issued by the Federal Government.

(4) Upon the Authority's approval of an investment programmes or a power acquisition program, the Authority shall, subject to such terms and conditions including rates and charges of electric power, permit the distribution company to enter into long term contracts for power purchases.

33. Organizational matters.— Subject to the procedures established by the Authority under this Act, the Authority may, in the public interest, with or without modifications, approve the following activities by a licensee for generation, transmission and distribution, namely:—

- (a) the undertaking of a merger or a major acquisition or sale of facilities;
- (b) the expansion of the licensee's business activities; and
- (c) the undertaking of a re-organization of the licensee's business structure.

34. Performance Standards.— The Authority shall prescribe performance standards for generation, transmission and distribution companies to encourage safe, efficient and reliable service, including standards for—

- (i) service characteristics such as voltage and stability;
- (ii) scheduled and unscheduled outages;
- (iii) reserve margins where applicable;

¹⁰ Inserted by *ibid.*

¹¹ Added by the Finance Act, 2008.

- (iv) time required to connect new customers; and
- (v) principles and priorities of load shedding.

35. **Industry standards and codes of conduct.**— The Authority shall encourage the development of industry standards and uniform codes of conduct so as to provide—

- (a) planning criteria for safety, reliability and cost effectiveness of generation, transmission and distribution facilities;
- (b) construction practices and standards of such facilities;
- (c) operating standards and procedures;
- (d) maintenance schedules;
- (e) maintenance of adequate spinning reserves and plans to satisfy demand;
- (f) equipment specification and standardization; and
- (g) load-shedding and restoration procedures.

36. **Uniform system of accounts.**— The authority shall prescribe a uniform system of accounts which shall be followed by the licensee of generation, transmission and distribution facilities within such period as may be prescribed.

37. **Review of public sector projects.**— (1) For the purposes of co-ordination, in the case of any public sector project, the advice of the Authority shall be sought by the agency planning to undertake such project.

(2) The provision of sub-section (1) shall not apply to public sector projects which do not supply electricity to the national grid.

CHAPTER-IV ADMINISTRATION

38. **Provincial offices of inspection.**— (1) Each Provincial Government shall—

- (a) establish offices of inspection that shall be empowered to—
 - (i) enforce compliance with distribution companies' instructions respecting metering, billing, electricity consumption charges and decision of cases of theft of energy; and
 - (ii) make determination in respect of disputes over metering, billing and collection of tariff and such powers may be conferred on the Electric Inspectors appointed by the Provincial Government under section 36 of the Electricity

Act, 1910 (Act IX of 1910), exercisable, in addition to their duties under the said Act.

- (b) establish procedures whereby distribution companies and consumers may bring violations of the instructions in respect of metering, billing and collection of tariff and other connected matters before the office of inspection; and
- (c) enforce penalties determined by the Provincial Government for any such violation.

(2) The Provincial Governments may, upon request by the Authority, submit to the Authority—

- (a) a copy of any document in the charge of the Provincial Government relating to Provincial offices of inspection; and
- (b) other reports, statements and information as the Authority determines to be necessary or appropriate for the Authority's periodic assessment of the effectiveness of inspection made by Provincial Officers of inspection.

39. **Complaints.**— (1) Any interested person, including a Provincial Government, may file a written complaint with the Authority against a licensee for contravention of any provision of this Act or any order, rule, regulation, licence or instruction made or issued thereunder.

(2) The Authority 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.

40. **Enforcement of orders of the Authority.**—The Authority's determinations on decisions by tribunals set up under section 11 of this Act shall be deemed to be decrees of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908).

41. **Sum payable to the Authority to be recoverable as land revenue.**—All sums payable to the Authority in accordance with the provisions of this Act and the rules shall be recoverable as arrears of land revenue.

42. **Reports of the Authority.**— (1) The Authority shall submit, to the Council of Common Interests and to the Federal Government, at the end of every financial year, but before the last day of September of that year—

- (a) a report on the conduct of Its affairs for that year including anticipated developments for the following year; and
- (b) report on the state of electric power services in the country identifying the ownership, operation, management, efficiency and control of electric power facilities, amount of transmission and generation capacity, present and future demand of electricity, cost of electric power services and other matters relating to electric power services.

43. **Inspection by public.** — (1) The Authority shall maintain public files that shall be

kept open in convenient form for public inspection and examination during reasonable business hours.

(2) Subject to procedures and standards for confidentiality, the Authority's public files shall include all relevant documents to be maintained and indexed as the Authority deems fit.

(3) The Provincial Governments shall keep open in convenient form for public inspection and examination during reasonable business hours all complaints, responses and decisions relating to the Provincial inspection offices.

44. Information.— The Authority may call for any information, required by it for carrying out the purposes of this Act from any person involved directly or indirectly, in the provision of electric power services or any matter incidental or consequential thereto. Any such person shall be liable to provide the prescribed information called by the Authority, failing which he shall be liable to a fine or other penalty as prescribed from time to time.

45. Relationship to other laws.— The provisions of this Act, rules and regulations made and licenses issued thereunder shall have effect notwithstanding anything to the contrary contained in any other law, rule or regulation, for the time being in force and any such law, rule or regulation shall, to the extent of any inconsistency, cease to have any effect from the date this Act comes into force and the Authority shall, subject to the provisions of this Act, be exclusively empowered to determine rates, charges and other terms and conditions for electric power services:

Provided that nothing in this Act shall affect the jurisdiction, powers or determinations of the Corporate Law Authority or the Monopoly Control Authority.

46. Rules.— (1) The Authority may, with the approval of the Federal Government, by notification in the official Gazette, make rules to carry out the purposes of this Act.

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

- (a) procedure for seeking nominations of members from the Provincial Governments;
- (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 licenses;
- (d) determination of rates, fees, charges and other terms and conditions of licenses;
- (e) publication of rates and charges of electricity consumption, procedure for metering, billing and collection of electric power charges by the licensees;
- (f) procedure for resolving disputes amongst the licensees and consumers and the licensees;
- (g) 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;

- (h) procedure for inquiry and investigation into the affairs of an applicant for a licence and for any contravention of any provision of this Act;
- (i) the manner and procedure of show cause notices;
- (j) safe, effective and least environmentally harmful supply of electric power;
- (k) performance and industrial standards for supply of electric power;
- (l) standards for investment programmes or power acquisition programmes for transmission and distribution companies;
- (m) the seeking of information, and the fines or penalties for failure to furnish information; and
- (n) any other matter incidental or consequential to the implementation of this Act.

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

(2) Without prejudice to the foregoing powers, such regulations may provide for appointment of its officers, members of staff and such other persons and the terms and conditions of their service.
