

Tanzania

Electricity Act, 2008

## Electricity (Generation, Transmission and Distribution Activities) Rules, 2019

Government Notice 287 of 2019

Legislation as at 12 April 2019

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Electricity (Generation, Transmission and Distribution Activities) Rules, 2019 (Government Notice 287 of 2019)

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## Tanzania

### Electricity Act, 2008

# Electricity (Generation, Transmission and Distribution Activities) Rules, 2019

## Government Notice 287 of 2019

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### Part I – Preliminary provisions

#### 1. Citation

These Rules may be cited as the Electricity (Generation, Transmission and Distribution Activities) Rules, 2019.

#### 2. Application

These Rules shall apply in governing the regulatory matters related to—

- (a) electricity generation including generation for own use, transmission, distribution and cross border trade in electricity activities in Mainland Tanzania; and
- (b) eligible customers.

#### 3. Interpretation

In these Rules, unless the context otherwise requires:

“**Act**” means [the Electricity Act](#);

*[Cap. 131]*

“**affiliate**” means a legal entity holding shares in the licensee or other legal entity in which the licensee is a shareholder;

“**Authority**” means the Energy and Water Utilities Regulatory Authority established under the provisions of the Energy and Water Utilities Regulatory Authority Act;

*[Cap. 414]*

“**cross-border electricity trade**” means trading in electricity between two states sharing a common border through an inter-connector power line, or between more than two states not sharing common border, but linked through a power pool which involves export or import of electric energy between the states;

“**cross-border electricity trade license**” means a license issued by the Authority to a licensee to conduct cross-border electricity trade;

“**customer**” means a person that receives or purchases regulated services from a licensee;

“**Distribution Code**” is the technical and procedural rules and standards issued by the Authority governing matters pertaining to the distribution of electricity;

“**distribution license**” means an authorization issued by the Authority to a licensee to operate a distribution network;

“**distribution licensee**” means an entity licensed by the Authority to operate a distribution network and includes any entity that is exempted to obtain a distribution license pursuant to section 18 of the Act;

[Cap. 131]

“**distribution network**” means facilities and equipment belonging to a distribution licensee, designed to distribute electrical power for voltage up to 33 kV, that includes overhead lines, ground cables, feeders, transformers, control stations and metering equipment;

“**eligible customer**” means a person who is authorized by the Authority by virtue of these rules to enter into contract for the purchase of electricity directly with any person licensed to generate electricity;

“**generation facility**” means premises, electric energy producing equipment including its auxiliary equipment, transformers, fuel handling equipment, switch-yard and interconnection facilities that are necessary for performing the generation services as shall be specified in a generation license;

“**generation license**” means an authorization issued by the Authority to a licensee to undertake generation services;

“**generation licensee**” means an entity licensed by the Authority to provide generation services and includes any entity that is exempted to obtain a generation license pursuant to section 18 of the Act;

“**generation services**” means electricity generation services including generation for own use and the term “generation activity” shall be construed accordingly;

“**Grid Code**” is the technical and procedural rules and standards issued by the Authority on transmission and system operation;

“**inspector**” means an officer of the Authority or an agent appointed by the Authority pursuant to section 31(2) of the Act to act as an inspector;

[Cap. 131]

“**interconnection point**” means a point where the generation facility output line or electric system feeds into the distribution network or transmission network;

“**letter of intent**” means a statement of intent by a Distribution Licensee to connect and purchase power to be generated by a developer of a project up to ten megawatt;

“**license**” means cross-border electricity trade license, electricity generation license, electricity transmission license or electricity distribution license issued by the Authority;

“**licensee**” means a holder of a cross-border electricity trade license, generation license, a transmission license or a distribution license;

“**licensed facility**” means a premise, electric energy producing facility, transmitting or distributing equipment including its auxiliary equipment, transformer, fuel handling equipment, switch-yard and interconnection facility that are necessary for performing the regulated activity as specified in a respective license;

“**local government authority**” means district authority, urban authority, ward authority or village authority established under the Local Government (District Authorities) Act, and the Local Government (Urban Authorities) Act;

[Cap. 287 and Cap. 288]

“**Minister**” means the minister responsible for electricity matters;

“**power purchase agreement**” means a contract for buying and selling of electric power entered into between a generation licensee and another party;

“**provisional license**” means a license issued by the Authority to allow an applicant to conduct preparatory activities such as carrying out assessments, studies and other activities necessary for application of a license;

“**Prudent Utility Practices**” means those good and prudent practices, methods, and procedures which are attained by exercising that degree of skill, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced international operator engaged in the same or a similar type of a regulated activity in Tanzania and under the same or similar circumstances and conditions to those pertaining in Tanzania and satisfying the health, safety and environmental national or international standards;

“**regulated activity**” means cross-border electricity trade, electricity generation activity, electricity transmission activity or electricity distribution activity and it shall infer “regulated services”;

“**regulatory financial reports or regulatory financial statements**” means financial records or reports prepared and submitted to the Authority by a regulated entity as prescribed in the regulatory financial reporting manual.

“**site**” means the location where the generation facility is located and details of which shall be provided in a license;

“**small power project**” means a power plant using a renewable energy source or waste heat, or cogeneration of heat and electricity, with an export capacity of up to 10 MW;

“**tariff**” means any charge, fee, price or rate for the purchase of a regulated service as shall be approved by the Authority;

“**tariff methodology**” means a methodology used to compute a tariff as approved by the Authority;

“**transmission license**” means an authorization issued by the Authority to a licensee to operate a transmission network;

[Cap. 131]

“**transmission licensee**” means an entity licensed by the Authority to operate transmission network and includes any entity exempted to obtain a transmission license pursuant to section 18 of the Act;

“**transmission network**” means a group of facilities and equipment belonging to a transmission licensee designed to transport electric energy and power at 50 Hz by means of high voltage lines, for voltage of 66 kV and above that includes overhead lines, underground cables, sub-marine cables, dispatchers, transformers, communication networks, control stations and metering equipment; and

“**Wheeling Agreement**” means an agreement for transportation of electric energy from a source connected to an electric grid to an electric load within the grid.

## Part II – Licensing procedures

### 4. Obligation to apply for license

- (1) A person shall not conduct any regulated activity without a license.
- (2) A person who contravenes the provisions of sub rule (1) shall be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or both.

## 5. License application procedure

- (1) A person shall apply for a license to the Authority in the manner to be prescribed by the Authority and the application shall be accompanied by the following documents:
  - (a) certified copies of the applicant's registration documents;
  - (b) proof of payment of the application fee;
  - (c) TIN and VAT registration certificate;
  - (d) a copy of the environmental and social impact assessment certificate or clearance for the facility as required in the Environmental Management Act; and  
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  - (e) any other information as may be required by the Authority.
- (2) In addition to the information mentioned under sub-rule (1), an application for a license shall:
  - (a) for a generation license, be accompanied by—
    - (i) a letter of support of the initiative from the Ministry responsible for electricity matters;
    - (ii) proof of support of the project by Local Government Authority;
    - (iii) proof of water rights for applicants intending to generate power from hydro;
    - (iv) proof of land use rights for the facility;
    - (v) proof of authorization of development of the site, including building permit;
    - (vi) feasibility study report;
    - (vii) power purchase agreement, where applicable;
    - (viii) site layout;
    - (ix) description of the generation facility;
    - (x) As-Built drawing; and
    - (xi) commissioning report.
  - (b) for a transmission license, be accompanied by—
    - (i) proof of the availability of electric energy to be transmitted including a power purchase agreement, import licence or any transmission use-of-system agreement;
    - (ii) description of the intended service area;
    - (iii) description of the transmission network;
    - (iv) proof of right of way;
    - (v) feasibility study report;
    - (vi) transmission network expansion plan, if any;
    - (vii) As Built drawing; and
    - (viii) commissioning report.
  - (c) for distribution license, be accompanied by—
    - (i) letter of support of the initiative from the Ministry responsible for electricity matters;

- (ii) proof of support of the project by Local Government Authority;
  - (iii) proof of the availability of electric energy to be distributed;
  - (iv) feasibility study report;
  - (v) description of the area intended to be supplied with distribution services;
  - (vi) description of the distribution network;
  - (vii) expansion plan if any;
  - (viii) As Built drawing; and
  - (ix) commissioning report.
- (d) for cross-border electricity trade, be accompanied by—
- (i) Power Purchase Agreement;
  - (ii) Bilateral Agreement between states, if any; and
  - (iii) Wheeling Agreement where applicable.
- (3) An application for a license shall be accompanied by a non-refundable application fee prescribed by the Authority.

## 6. Publication of license application

- (1) The application received by the Authority shall be evaluated to verify its completeness and legality of information contained therein and thereafter a notice of the application shall be published in at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili with a view to soliciting comments and representations on the application.
- (2) The published license application shall be open for public comments for twenty one days from the date of publication of the notice and the comments and representations submitted shall be considered by the Authority in arriving at the decision on the application.

## 7. Grant of license

- (1) The Authority shall, after the expiration of the twenty one days, and upon determination of public comments, evaluate the application for a license and decide to:—
  - (a) grant the application and issue a license;
  - (b) refer back the application;
  - (c) deny the application;
  - (d) grant an exemption.
- (2) The Authority, while making a decision on whether to grant, deny or grant an exemption, take into consideration the following:
  - (a) protection of the environment;
  - (b) economic efficiency and benefit to the applicant and the public in general;
  - (c) comments and representations received from the public, if any;
  - (d) the compliance of a licensed facility on matters including:
    - (i) safety;
    - (ii) health;

- (iii) security;
  - (iv) hazardous substances;
  - (v) environment;
  - (vi) rural and urban planning requirements; and
  - (e) any other matter relevant to the orderly provision of the cross-border electricity trade, electricity generation, distribution or transmission services in Tanzania.
- (3) Upon expiry of the license granted under this Rule, a licensee may apply for renewal in the manner prescribed by the Authority.
- (4) The application for renewal shall be accompanied by such information or documents as the Authority may require.

## **8. Application for provisional license**

- (1) A person seeking to conduct a regulated activity may, prior to applying for a license, apply to the Authority for a provisional license with a view to conducting some preparatory activities like conducting assessments, studies, financial arrangements and other activities necessary for applying for a license.
- (2) The application for a provisional license shall be lodged to the Authority in a prescribed form accompanied by the following:
- (a) certified copies of the applicant's registration documents;
  - (b) proof of payment of the application fee;
  - (c) project's financing plan;
  - (d) TIN and VAT registration certificate; and
  - (e) a copy of the environmental and social impact assessment certificate or clearance as required in the Environmental Management Act or proof of an initiation of the process to acquire the certificate or clearance; and
- (3) The applicant shall, in addition to the documentation mentioned under sub-rule (2)—
- (a) for generation license; submit—
    - (i) site layout;
    - (ii) generation technology and capacity;
    - (iii) Construction schedule;
    - (iv) a letter of support of the initiative from the Ministry responsible for electricity matters;
    - (v) proof of support of the project by Local Government Authority;
    - (vi) proof of water rights for applicants intending to generate power using hydro, if any;
    - (vii) proof of land use rights for the project or an initiation process to acquire such rights;
    - (viii) proof of authorization of development of the site, including building permit, if any;
    - (ix) pre-feasibility study report or project write up;
    - (x) generation type and capacity;
    - (xi) construction schedule

- (xii) site layout, if any; and
- (xiii) power purchase agreement, memorandum of understanding or a letter of intent, whichever applicable;
- (b) for a transmission license; submit—
  - (i) proof of the availability of electric energy to be transmitted including a power purchase agreement, import license or any transmission use-of-system agreement, if any;
  - (ii) description of the intended service area;
  - (iii) description of the transmission network;
  - (iv) right of way or an initiation process to acquire such rights;
  - (v) Construction schedule;
  - (vi) pre-feasibility study report;
  - (vii) transmission network expansion plan, if any; and
  - (viii) a sketch map of the proposed service area.
- (c) for a distribution licence; submit—
  - (i) letter of support of the initiative from the Ministry responsible for electricity matters;
  - (ii) proof of support of the project by Local Government Authority;
  - (iii) proof of the availability of electric energy to be distributed;
  - (iv) pre-feasibility study report
  - (v) description of the area intended to be supplied with distribution services ;
  - (vi) description of the distribution network;
  - (vii) right of way or an initiation process to acquire such rights;
  - (viii) Construction schedule; and
  - (ix) expansion plan, if any.

## 9. Publication of provisional license application

- (1) The provisional license application received by the Authority shall be evaluated to verify its completeness and legality of information therein and a notice of the application shall be published in at least two of wide circulated newspapers in Tanzania one in English and another in Kiswahili with a view to soliciting comments and representations on the application.
- (2) A notice under sub rule (1) shall be open for public comments for twenty one days from the date of publication and the comments and representations submitted shall be considered by the Authority in arriving at the decision on the application.

## 10. Grant of provisional license

- (1) The Authority, after the expiration of the twenty one days shall evaluate the application and thereafter make a decision basing on:
  - (a) economic efficiency and benefit to the applicant and the public in general; and
  - (b) comments or representations received from the public, if any.

- (2) Upon expiry of the provisional license granted under this Rule, a licensee may apply for renewal in the manner prescribed by the Authority.
- (3) The application for renewal of a provisional license term shall be accompanied by such information or documents as the Authority may require.

## 11. Exemption

- (1) An operator who undertakes or intends to undertake a regulated activity but with sufficient reasons unable to comply with the licensing requirement may apply to the Authority to be exempted from complying with the requirements of section 8 of the Act.
- (2) Notwithstanding the provisions of sub rule (1), any person undertaking—
  - (a) generation activity with a capacity below one megawatt; or
  - (b) off-grid distribution activities in rural areas where the maximum demand on the off-grid system is below one megawatt; shall be exempted from the requirements of section 8 of the Act.
- (3) The application for exemption under sub-rule (1) shall be made in writing to the Authority stating the following:
  - (a) description of the project including its shareholders, description of the plant, site details and proposed service area; and
  - (b) reasons for the request for exemption.
- (4) A person exempted from the requirements of section 8 of the Act shall be required to register with the Authority and provide the Authority with accurate information related to its generation or distribution services.

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## 12. Publication of application for exemption

- (1) Upon receipt of the application made under rule 11, the Authority shall publish a notice of the application in at least two wide circulated newspapers in Tanzania one in English and another in Kiswahili with a view to soliciting comments and representations on the application.
- (2) A notice under this rule shall be open for public comments for twenty one days from the date of publication of the notice and the comments and representations submitted shall be considered by the Authority in arriving at the decision on the application.

## 13. Grant of exemption

- (1) The Authority shall, after expiration of twenty one days, proceed to evaluate the application and make a decision on whether to grant or deny the application subject to such terms and conditions it may deem fit.
- (2) The Authority shall, while making a decision whether to grant, deny or exemption, certify itself of the following:
  - (a) gravity of the reasons submitted in support of the application for exemption;
  - (b) public interest to be protected; and
  - (c) comments or representations received from the public, if any.

#### 14. Reasons for decision

The Authority shall, in the event that it denies or refers back an application for a license or an exemption, inform the applicant of such decision in writing, including the reasons thereof.

#### 15. Appeal procedure

A person aggrieved by the decision of the Authority may appeal to the Fair Competition Tribunal pursuant to the provisions of [the Fair Competition Act](#).

#### 16. Duration and transfer of license

- (1) The terms of a license and provisional license shall be stated on the face of such license or provisional license, as the case may be.
- (2) A license shall remain valid for the term issued, provided, that the Authority may, on the written application of a licensee, extend the initial period for such further period as the Authority may deem appropriate.
- (3) A license or a provisional license shall not be assigned or transferred to another person without a written approval of the Authority.
- (4) Without prejudice to the provisions of sub-rule (3), a change of ownership where a third party becomes a majority shareholder of a licensee in relation to which a license or a provisional license has been issued shall be communicated to the Authority within fourteen days after acquiring transfer approvals from the relevant authorities.

#### 17. Suspension and revocation

- (1) The Authority may suspend a license for a period up to twelve months in case of:
  - (a) a violation of a license term; or
  - (b) violation of a provision of the Act, these Rules or applicable law;
  - (c) a licensee's failure to pay the regulatory levy to the Authority and such levy remains unpaid thirty (30) days after it has become due and the Authority has given the licensee notice in writing that such payment is overdue.
- (2) The Authority may revoke a license where it determines that a licensee has failed to remedy or desist from an act or omission constituting a violation within the prescribed time despite being ordered to do so by the Authority.
- (3) Notwithstanding the provisions of sub-rule (1) the Authority may:
  - (a) waive a license suspension if it is satisfied that a licensee has abstained from the act that caused the suspension and the reason for suspension no longer exists; and
  - (b) *in lieu* of suspending or revoking a license and subject to the provisions of the Act appoint an administrator in accordance with the guidelines issued by the Authority to replace management of a licensee and manage the affairs of the licensee for such period the Authority may determine.

## **Part III – Obligations of a licensee**

### **18. Generation activities**

- (1) A generation licensee shall be required to:
  - (a) provide reliable generation services to customers;
  - (b) operate and maintain the generation facility;
  - (c) charge the approved tariff to customers; and
  - (d) carry out all works related to the provision of generation services, including engineering, construction, rehabilitation, operation and maintenance of the generation facility in accordance with Prudent Utility Practices and a power purchase agreement.
- (2) A generation licensee may use part of the power generated to meet its own demand at the generation facility.

### **19. Transmission activities**

- (1) A transmission licensee shall be required to:
  - (b) operate and maintain the transmission network;
  - (c) charge the approved tariff to customers or in accordance to the applicable law; and
  - (d) carry out all works related to the conduct of transmission activity, including engineering, construction, rehabilitation, operation and maintenance of the facilities in accordance with applicable law and Prudent Utility Practices.

### **20. Distribution activities**

A distribution licensee shall be required to:

- (a) conduct distribution activity in the service area;
- (b) operate and maintain the distribution network;
- (c) charge the approved tariff to customers
- (d) carry out all works related to the conduct of distribution activity, including engineering, construction, rehabilitation, operation and maintenance of the facilities in accordance with applicable law and Prudent Utility Practices; and
- (e) as far as it is practicable purchase all the required electric energy from least cost generation licensee first.

### **21. Cross-border electricity trade activities**

- (1) A Cross-border Electricity Trade licensee shall be required to:
  - (a) undertake cross-border electricity trade in a manner that does not jeopardize the national grid security;
  - (b) notify the Authority of any change to the cross border agreement that affects the approved tariff;
  - (c) submit to the Authority annually an audited financial report and technical performance;
  - (d) submit to the Authority for approval the Power Purchase Agreement, Wheeling Agreement and applicable charges and tariffs.

- (2) The Authority may make guidelines to provide for operations of cross-border electricity trade.

## **22. General obligations of a licensee**

- (1) A licensee shall while providing a regulated activity observe the rules and guidelines issued by the Authority in matters related to and among others:
- (a) tariffs;
  - (b) license transfer; and
  - (c) payment of fees and levies.
- (2) Notwithstanding the generality of sub-rule (1) a licensee shall be obliged to conduct a regulated activity without any discrimination and bias to customers and shall under no circumstances cease to conduct the regulated activity.

## **23. Customer service charter**

A distribution licensee shall, within three months from the date of issue or transfer of a licence, prepare and submit to the Authority for approval a customer service charter, which shall include:

- (a) an offer to connect or provide services to a potential customer upon receipt of a request from such potential customer;
- (b) an offer to connect any electric power generation licensee, including small power projects, as per the approved arrangement by the Authority;
- (c) obligations of a licensee and that of consumers and the remedy for breaching such obligations;; and
- (d) the minimum service quality and quality of supply standards based on Prudent Utility Practices.

## **24. Compensation for loss suffered**

- (1) A licensee shall be obliged to compensate any person who has suffered any injury, loss of life or property as a result of a regulated activity.
- (2) A person who suffers injury, loss of life or property as a result of a regulated activity shall first lodge a complaint with a licensee with a view to reaching an amicable settlement.
- (3) In the event no settlement is reached under sub rule (2), the person who has suffered injury or loss may refer the matter to the Authority for a decision and the Authority shall deal with such matter pursuant to the provisions of the Energy Water Utilities Regulated Authority Act.
- (4) For the purpose of this rule, a person includes an administrator or administrative executor or executrix of the estate of a deceased person.

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## **25. Annual reports**

A licensee shall submit to the Authority its annual report not later than thirty (30) days after issuance of its audited accounts.

## **26. Performance report**

A licensee shall, on a quarterly and annual basis or any other time as may be required by the Authority, provide a performance report of its regulated activities in a format and content prescribed by the Authority.

## 27. Compliance audit

- (1) A licensee shall, as directed by the Authority from time to time, conduct an audit of its compliance with:
  - (a) these Rules;
  - (b) as appropriate, power purchase agreement, any agreement relevant to the conduct of its generation activity, transmission activity or distribution activity; and
  - (c) any relevant codes.
- (2) The compliance audit described in sub-rule (1) shall be conducted by:
  - (a) an independent auditor; or
  - (b) any other expert with required expertise hired by a licensee.
- (3) The costs associated with the audit described in sub-rule (2) shall be paid by the Authority.
- (4) A licensee shall, within thirty days after completion of the audit described under sub-rule (2), deliver to the Authority the findings of such audit.

## 28. Performance improvement plan

A licensee who is not performing to the required standards shall on annual basis, submit to the Authority a performance improvement plan comprising of key performance indicators in accordance with:

- (a) international best practices;
- (b) Prudent Utility Practices and
- (c) directions issued by the Authority.

## Part IV – Financial provisions

### 29. Financial reporting

- (1) A licensee shall, within ninety days after the start of its financial year submit to the Authority its approved budget for such financial year, which include:
  - (a) operating revenue; and
  - (b) capital and operating expenses.
- (2) A licensee shall, annually submit to the Authority:
  - (a) regulatory financial reports within ninety days from the end of the financial year; and
  - (b) audited financial statements within thirty days after receipt of the same.

### 30. Regulatory financial reporting standards

- (1) A licensee shall submit regulatory financial reports in accordance to the standards specified by the Authority.
- (2) The regulatory financial reporting standards and frequency of reporting shall be as prescribed in the Regulatory Financial Reporting Manual issued by the Authority.

### **31. Maintenance of separate accounts**

- (1) A licensee shall maintain a separate set of accounts for provision of activities not related to the regulated activity.
- (2) A licensee who possesses more than one license shall maintain separate books of accounts and submit a separate report for each license.
- (3) The provisions of sub-rule (2) shall not apply to a licensee who is vertically integrated until when the electricity market is reorganized pursuant to section 41 of the Act.

### **32. Prohibition to cross subsidization**

A licensee shall ensure that there is no cross subsidization between:

- (a) regulated activities; or
- (b) regulated activities and any other activity including activities of affiliates.

## **Part V – Technical provisions**

### **(a) – Generation activity**

### **33. Planned outages and preventive maintenance**

A generation licensee shall:

- (a) undertake the preventive maintenance activities as scheduled in accordance with the manufacturers specification to ensure continuation and reliability of generation services; and
- (b) provide details of proposed planned outages periods to the Authority in writing not less than ninety (90) days before the occurrence of any planned outages.

### **34. Interruptions and emergency repairs**

A generation licensee shall:

- (a) take all reasonable action to restore generation services in the event supply and delivery of electric energy to a customer at the interconnection point is reduced or interrupted for any reason other than unplanned outage;
- (b) immediately upon being made aware of any damage to plant or equipment that poses a danger or a risk of injury to the public or to property, remove such danger or risk of injury prior to carrying out any emergency repair or rehabilitation; and
- (c) promptly repair a damaged plant or equipment and other defects to the generation facility and shall immediately thereafter commission the plant or equipment.

### **35. Service interruptions**

A generation licensee shall:

- (a) within seven days prior to a planned outage notify the Authority and customers in writing in case the generation service is interrupted for the purpose of conducting rehabilitation, preventive maintenance or any other plausible cause beyond the control of the generation licensee; and
- (b) notify customers and report immediately to the Authority in writing in case generation service is interrupted for the purpose of conducting emergency repairs or for any other cause beyond the

control of a licensee, where such interruption affects the delivery of generation services for more than 24 hours.

### **36. Reliability of supply**

A generation licensee shall ensure that, from the effective date of the license, and at all times thereafter until the expiration of the license, receives a reliable supply of materials needed for generation activities including spare parts, fuels and water of such quality and in quantity sufficient to meet electric power requirements.

### **37. Metering**

A generation licensee shall:

- (a) install meters to measure the electric energy and any resource needed for generating power, according to rules and measuring procedures and standards stated in an agreement entered into between the licensee and any other person;
- (b) ensure the energy meters are of the agreed inaccuracy limit but in any case not exceeding one half (0.5%) percent;
- (c) verify the accuracy and calibration of the meters and ensure that all meters give accurate and detailed readings except as otherwise provided in the Power Purchase Agreement;
- (d) take necessary measures to prevent tampering with or damage to the meters; and
- (e) test, maintain, and replace the meters according to the manufacturers' recommendations.

### **38. Testing and commissioning**

- (1) A generation licensee shall test:
  - (a) the generation facility's dependable capacity and perform commissioning test as per the terms and conditions of the power purchase agreement; and
  - (b) the generation facility in case of increased capacity or commissioning of a new facility or upgraded facility.
- (2) A generation licensee shall, within thirty (30) working days after conducting the tests in sub-rule (1) above, submit to the Authority a report thereof.
- (3) A generation licensee shall allow the Authority to witness the testing in sub-rule (1) above.

## **(b) – Technical obligations of a transmission licensee**

### **39. Access and offer to connect or provide transmission service**

A transmission licensee shall:

- (a) provide access to the transmission network to all qualified participants on a fair, reasonable and non-discriminatory basis;
- (b) provide transmission services required to allow connection, disconnection and reconnection to or from its transmission network pursuant to the terms of the relevant transmission system connection contract and codes and standards issued by the Authority;
- (c) offer its connection and access to its transmission network on fair, reasonable and non-discriminatory terms to any person that concludes a transmission system connection contract or a transmission system use of system contract;

- (d) after receiving an application to connect to its transmission network evaluate such application pursuant to rules, guidelines Orders and directions of the Authority;
- (e) treat a contract to connect to the transmission network and a contract to use the transmission network as separate and distinct from each other and any other electricity sales contract;
- (f) not later than sixty working days after the receipt of a written request to connect, offer a transmission network connection contract and a plan of implementation of the physical connection to any market participant located within the service area that wishes to connect to the transmission network;
- (g) notwithstanding the generality of sub-rule (f), offer any customer opportunity to connect to a transmission network where there is sufficient capacity in the transmission network;
- (h) not later than thirty working days after being notified of the acceptance of the offer given in sub-rule (f):
  - (i) conclude a transmission use-of-system agreement with such person; and
  - (ii) connect such person;
- (i) notwithstanding the provisions of sub-rules (f), (g) and (h) and upon receipt of a written request, make an offer to provide the requested services within a reasonable time taking into account the complexity of the services requested and best practices; and
- (j) perform all services required to allow connection, disconnection, and reconnection to or from the transmission network.

#### 40. General obligations of a transmission licensee

A transmission licensee shall:

- (a) manage, maintain and operate the transmission network to ensure that under normal circumstances electricity is continuously transferred at a connection point pursuant to:
  - (i) applicable technical designs; and
  - (ii) standards of reliability and quality of service approved by the Authority;
- (b) minimize the number of interruptions or reductions in rated capacity at a connection point pursuant to Prudent Utility Practices; and
- (c) restore the rated capacity as soon as reasonably practicable following an interruption either:
  - (i) at a connection point on the transmission network; or
  - (ii) involving the transmission network.

#### 41. Rights of the transmission licensee

A transmission licensee shall be entitled:

- (a) to disconnect any equipment owned by a transmission system user that adversely affects the integrity and security of the transmission network;
- (b) to have access to system and market operator services on a non-discriminatory basis;
- (c) to work with the system and market operator, to:
  - (i) coordinate outages;
  - (ii) represent the quality, capacity of its own equipment; and
  - (iii) determine on its own liability the forced outages of its own equipment;

- (d) to have access to the reports, non-confidential information and the website of the system and market operator; and
- (e) in the event that the system and market operator or a transmission user fails to comply with the rules, to file a complaint with:
  - (i) the system and market operator; or
  - (ii) the Authority.

#### **42. Transmission network performance report**

A transmission licensee shall provide the Authority with a detailed statement of its transmission network operations, including capacity, outages, losses, efficiency and reliability as the Authority may require.

#### **43. Transmission network planning and land acquisition**

- (1) A transmission licensee shall prepare an asset expansion and development plan for its transmission network.
- (2) A transmission licensee shall, not less than sixty (60) days prior to the beginning of each calendar year, submit the plan prescribed in sub-rule (1) to the Authority for approval.
- (3) The plan described in sub-rule(1) shall be carried out pursuant to specific action plans developed to upgrade the transmission network to an acceptable technical and economic level, taking into consideration:
  - (a) health, safety and environmental standards;
  - (b) load growth; and
  - (c) availability and reliability of transmission services to customers.
- (4) A transmission licensee shall apply to the relevant Authorities for a wayleave right required over any piece of land to enable it to access, construct, maintain or expand the transmission network.
- (5) A transmission licensee shall take all such actions as may be necessary from time to time to maintain the interests in the land acquired under sub-rule (4)

#### **44. Transmission network system expansion plans**

- (1) A transmission licensee shall submit to the Authority for its review a transmission network expansion plan that shall comprise a proposal with factual support to expand or upgrade the transmission network
- (2) The Transmission Network Expansion Plan shall:
  - (a) take into account the national energy policy;
  - (b) be technically, environmentally and economically viable;
  - (c) comply with:
    - (i) the load requirements established by the system and market operator;
    - (ii) requirements for new interconnectors or the agreed expansion of existing interconnectors;
    - (iii) approved standards for reliability and quality of service;
    - (iv) Power System Master Plan; and
    - (v) any requests for expansion filed by transmission users or transmission user applicants.

#### **45. Power factor**

A transmission licensee shall in order to ensure that the transmission network achieves the appropriate power factor:

- (a) install devices and equipment that conform to the best electricity industry practices; and
- (b) ensure that all power supply contracts concluded by the licensee clearly define the counterparty's obligation to install power factor improvement devices at the connection points where power is delivered.

#### **46. Transmission losses**

- (1) A transmission licensee shall reduce losses of any kind in the transmission network to levels approved by the Authority.
- (2) A transmission licensee shall submit to the authority
  - (a) a statement of the electrical losses on its network during the previous year, together with a plan to reduce such losses; and
  - (b) a quarterly report in respect of electrical losses, together with the licensee's plans to reduce such losses.
- (3) A transmission licensee shall comply with any targets issued by the Authority in respect of loss reductions.

#### **47. Compliance with instructions from system and market operator**

A transmission licensee shall at all times follow the instructions of the system operator and market operator.

#### **48. Submission of information to system and market operator**

- (1) A transmission licensee shall, upon written request of the system and market operator provides all information related to its transmission network.
- (2) The information described in sub-rule (1) may be supplemental to any information provided to be delivered either by the market rules or a license.
- (3) A transmission licensee shall not purchase or sell electricity, except:
  - (a) to cover the losses on the transmission network including operation of transformer stations; or
  - (b) as a customer of other systems, to satisfy its own administrative needs.
- (4) A transmission licensee shall, in the event that the equipment of a transmission system user fails to meet the established technical requirements and standards, identify and report such failure to the Authority and the system and market operator.
- (5) A transmission licensee shall:
  - (a) receive, acknowledge and carry out operation instructions issued by the system and market operator, except when doing so may endanger the licensee's equipment or staff;
  - (b) inform the system and market operator of:
    - (i) any changes to its transmission facilities; or
    - (ii) constraints encountered by a licensee in respect of Transmission System Expansion Plan or scheduling and dispatch;

- (c) submit to the system and market operator the information required under:
  - (i) the Act;
  - (ii) these Rules;
  - (iii) a license; and
  - (iv) market rules; and
- (d) in the event of any change in the information described in sub-rule 5 (c), notify the system and market operator within seven working days from the date of such change.

#### **49. Preparation for emergency situations**

- (1) A transmission licensee shall take such actions as may be reasonably required to:
  - (a) prepare for emergencies;
  - (b) restore the transmission network after a disaster; and
  - (c) take part in exercises and tests.
- (2) A transmission licensee shall establish procedures to ensure the safe and continuous operation of the power system in emergency situations, taking into account the relevant provisions in the market rules and any other relevant codes, rules and standards established or approved by the Authority.

#### **50. Periodic maintenance**

- (1) A transmission licensee shall:
  - (a) undertake preventive periodic maintenance activities to ensure continuation and reliability of transmission services;
  - (b) conduct periodic preventive maintenance on its transmission network pursuant to rules, directions and schedules approved by the Authority;
  - (c) conduct emergency or major maintenance work on the components of the transmission network to ensure the continuous and reliable transmission of electrical energy; and
  - (d) pursuant to maintenance and investment plans approved by the Authority, replace and rehabilitate network components that:
    - (i) are nearing the end of their useful economic life; or
    - (ii) have deteriorated for any reason.
- (2) A transmission licensee shall plan and schedule annual and other long-term maintenance activities with the system and market operator.
- (3) The maintenance plans and schedules described in sub-rule (2) shall be designed:
  - (a) pursuant to rules or guidelines issued by the Authority; and
  - (b) to minimize aggregate delivered energy costs while maintaining transmission network reliability.

## **51. Emergency repairs and rehabilitation**

A transmission licensee shall:

- (a) in the event of damaged plant and equipment that might pose danger or a risk of injury to the public or to property, immediately upon being made aware of such damage, remove such danger or risk prior to conducting any emergency repairs or rehabilitation;
- (b) promptly repair damaged parts of the transmission network and shall reconnect market participants as quickly as possible; and
- (c) conduct all required replacement and rehabilitation activities pursuant to rehabilitation and investment plans approved by the Authority.

## **52. Preventive maintenance**

A transmission licensee shall plan all scheduled transmission service interruptions for the shortest possible time.

## **53. Service interruption**

A transmission licensee shall notify the Authority in writing in the event of a service interruption for emergency repair, rehabilitation or preventive maintenance that affects transmission services for more than two continuous days.

## **54. Outages**

A transmission licensee shall, in consultation with the system and market operator, recover from outages that occur at the transmission network and resume transmission services as quickly as possible.

## **55. Notice of service interruptions**

- (1) A transmission licensee shall, when intending to carry out preventive maintenance, replacement, restoration or any other construction that may lead to an interruption or reduction of transmission services, issue a public notice thereof, not less than three (3) working days prior to undertaking such activities.
- (2) The notice describe in sub-rule (1) shall include date and hour of the transmission service interruption and the date and hour of intended restoration.

## **56. Meters**

- (1) A transmission licensee shall install, maintain, and verify the accuracy of meter installations at all points of off-take from the transmission network.
- (2) A transmission licensee shall in respect of each meter installation described in sub-rule (1), shall comply with metering standards and rules made by the Authority.
- (3) A transmission licensee shall deliver to market participants all data required to calculate the achievement of its bilateral obligations, or to resolve any dispute related to relevant bilateral contracts.
- (4) A transmission licensee shall estimate the electrical energy consumed during the period when a meter is stopped or is malfunctioning pursuant to market rules.

### **57. Performance improvement plan**

- (1) A transmission licensee shall, within a year after receipt of a license, confirm a baseline on operational and organizational matters upon which it shall establish a performance improvement plan to be approved by the Authority.
- (2) The plan required under sub-rule (1) shall:
  - (a) comprise specific targets to improve service by developing key performance indicators and establish methods to monitor achievements; and
  - (b) as necessary, be developed pursuant to rules or directions of the Authority.
- (3) A transmission licensee shall, on an annual basis, review and submit to the Authority for approval the plan described in sub-rule (1).

### **58. Quality assurance plan**

- (1) A transmission licensee shall establish a plan to achieve comprehensive quality assurance in respect of transmission services, and revise it pursuant to the Authority's instructions.
- (2) A transmission licensee shall, not later than ninety (90) days after receipt of the license, submit the quality assurance plan to the Authority for its approval.

## **(c) – Technical obligations of a distribution licensee**

### **59. Access, offer to connect or provide distribution services**

A distribution licensee shall:

- (a) provide distribution services to all users on a fair, reasonable and non-discriminatory basis;
- (b) perform all activities required to allow connection, disconnection, and reconnection to or from a distribution network pursuant to the distribution code, and any relevant codes issued or approved by the Authority; and
- (c) not reduce or discontinue distribution services to a customer unless such customer has failed to pay the tariff or charge within the prescribed period or comply with the terms and conditions of the supply agreement.

### **60. Supply agreement**

- (1) A distribution licensee shall conclude a supply agreement with each customer.
- (2) A distribution licensee shall ensure that its supply agreement contains at the minimum, the following information:
  - (a) the licensee's identity and the address;
  - (b) the scope of the services to be provided;
  - (c) the type of maintenance and customer service support offered;
  - (d) the means by which customers may obtain information concerning tariffs;
  - (e) the duration of the contract;
  - (f) conditions for the renewal or termination of the contract; and
  - (g) any compensation or refund arrangements in the event that contracted quality service levels are not met.

## **61. Distribution network planning and land acquisition**

- (1) A distribution licensee shall, pursuant to rules issued by the Authority, prepare an asset expansion and development plan for its distribution network.
- (2) A distribution licensee shall, not less than two months prior to the beginning of each calendar year, submit the plan described in sub-rule (1) to the Authority for approval.
- (3) The plan described in sub-rule(1) shall be carried out pursuant to specific action plans developed to upgrade the distribution network to an acceptable technical and economic level, taking into consideration:
  - (a) health, safety and environmental standards;
  - (b) load growth; and
  - (c) availability and reliability of distribution services to customers.
- (4) A distribution licensee shall apply to the relevant Authorities for any wayleave right required over any piece of land that may be required to access, construct, maintain or expand the distribution network.
- (5) A distribution licensee shall take all such actions as may be necessary from time to time to maintain the interests in the land acquired under sub-rule (4).

## **62. Load forecast**

- (1) A distribution licensee shall submit the load forecast on an annual basis, and on such time as may be required by the Authority.
- (2) A distribution licensee shall after coming into force of these Rules establish and submit to the Authority for its approval power demand and load forecasts within its distribution network, for three years rolling.
- (3) A distribution licensee shall deliver to the Authority:
  - (a) the actual consumption profiling achieved by the load analysis for each customer category where the power is measured; and
  - (b) the number of customers and a summary of energy needs within each customer category.

## **63. Security and safety of supply**

A distribution licensee shall provide its customers with contact information they can use to notify the licensee of any matter or incident related to the availability of distribution services that:

- (a) causes danger or requires urgent attention; or
- (b) affects or is likely to affect the security of supply, availability or quality of the distribution services.

## **64. Service quality**

- (1) A distribution licensee shall not later than six months after receipt of a license submit to the Authority for approval the quality of distribution service and quality of supply standards.
- (2) The quality of service and quality of supply standards provided in sub-rule(1) shall be based on Prudent Utility Practices.
- (3) A distribution licensee shall not later than ninety days after the approval under sub-rule (1) submit a plan on how to achieve such standards.

## **65. Power factor**

A distribution licensee shall install devices and equipment necessary to ensure that the power factor of the distribution network reaches required levels including installation of the quality measuring equipment in appropriate location in the network.

## **66. Distribution network losses**

- (1) A distribution licensee shall:
  - (a) within one year after coming into force of these Rules, submit a study identifying the level of technical and commercial losses in the distribution network including illegal connections; and
  - (b) propose achievable targets for loss reduction for the approval by the Authority.
- (2) A distribution licensee shall submit to the Authority a statement of the electrical losses on distribution network during the previous year, together with a plan to reduce such losses.

## **67. Preparation for emergency situations**

- (1) A distribution licensee shall:
  - (a) take such actions within allowable technical limits as may be reasonably required for emergency preparedness and restoration of its distribution network; and
  - (b) establish and implement procedures within allowable technical limits to ensure the safe and continuous operation of the distribution network in emergency situations.

## **68. Planned outages for preventive maintenance**

- (1) A distribution licensee shall undertake the preventive maintenance activities to ensure continuation and reliability of distribution services.
- (2) A distribution licensee shall announce to the public details of the planned outages periods not less than seven days before the occurrence of any planned outages.
- (3) A distribution licensee shall while undertaking preventive maintenance, replacement, restoration or any other construction that may lead to the stoppage of provision of distribution services for more than twenty four hours:
  - (a) inform the Authority and the public at least three (3) days prior to suspending the provision of the distribution service; and
  - (b) ensure that all scheduled distribution service interruptions are planned for the shortest possible time.

## **69. Interruption and emergency repairs**

A distribution licensee shall:

- (a) immediately take all reasonable action to restore services in the event supply and delivery of electric energy to customer supply point is interrupted for any reason including unplanned outages;
- (b) in the event of any damage to a plant or equipment that poses a danger or a risk of injury to the public or to property and immediately upon being made aware of such damage, remove such danger or risk of injury prior to carrying out any emergency repair or rehabilitation; and
- (c) promptly repair damaged plant or equipment and other facility defects and reconnect a customer as it shall be provided in the customer service charter.

## 70. Notification of distribution service interruption

A distribution licensee shall notify the Authority and the customers in writing, in case distribution service is interrupted for the purpose of conducting:

- (a) rehabilitation or preventive maintenance and such interruption affects the provision of the distribution services; and
- (b) emergency repair, where such interruption affects the provision of distribution service for more than 48 hours.

## 71. Metering

- (1) A licensee shall:
  - (a) from each installed metering point, deliver to a generation licensee, transmission licensee or any other person all data required in order to calculate the fulfilment of its obligations or resolve any dispute related to any contract;
  - (b) install, maintain, and as per manufacturer's recommendation, verify the accuracy of meter installations at all points of off-take from the distribution network; and
  - (c) in the event that any malfunction or damage occurring to a meter for any reason that is out of the customer's control, repair such malfunction or damage or change the meter as quickly as possible.
- (2) The electric energy consumed during the period when a meter is stopped or is malfunctioning shall be estimated pursuant to:
  - (a) in the case of a large customer the relevant contracts; and
  - (b) in all other cases, and in the absence of any contract estimation based on consumption trends.
- (3) Notwithstanding the provisions of sub-rule (2)(b), where a customer is not satisfied with the estimated amount, he shall refer the matter to the Authority for a decision and the Authority shall deal with such matter pursuant to the provisions of the Energy and Water Utilities Regulatory Authority Act.

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## 72. Detection and prevention of theft, damage and meter interference

A distribution licensee shall take all reasonable steps to detect and prevent:

- (a) theft of electricity in the service area;
- (b) damage to or fault in any electric plant, electricity meter in the service area;
- (c) interference with any electricity meter in the service area; and
- (d) any unrecorded consumption of electricity in the service area.

## 73. Performance improvement plan

- (1) A distribution licensee shall, within a year after coming into operation of these Rules confirm a baseline on operational and organizational matters upon which it shall establish a performance improvement plan to be approved by the Authority where the baseline is below the required standard.

- (2) The plan required under sub-rule(1) shall:
  - (a) comprise specific targets to improve service by developing comprehensive key performance indicators and establish methods to monitor achievements; and
  - (b) as necessary, be developed pursuant to rules or directions of the Authority.
- (3) A distribution licensee shall, on an annual basis, review and submit to the Authority for approval the plan described in sub-rule (2).

## **Part VI – Designation of an eligible customers**

### **74. Application to be eligible customer**

- (1) Any person with the requisite criteria and intends to be designated as an eligible customer shall apply to the Authority in the manner prescribed in the Schedule.
- (2) The application under sub-rule 1 shall be accompanied by the following documents:
  - (a) proof of electric energy consumption capacity;
  - (b) wheeling Agreement if any; and
  - (c) letter of clearance from supplying utility that the Applicant has no outstanding liability against the utility where applicable.

### **75. Criteria for designation as eligible customer**

An application for designation as an eligible customer shall meet the following criteria:

- (a) the applicant must be supplied at the voltage levels not less than 33 kilovolt;
- (b) the Applicant must have the maximum demand of two megawatt or more; and
- (c) in case the Applicant is being supplied power by a distribution licensee, must obtain a letter of clearance from such licensee to prove to the Authority that there is no pending/un-cleared obligations.

### **76. Rights of eligible customer**

Any person designated as an Eligible Customer by the Authority shall have the following rights:

- (a) to purchase electricity from a generation licensee of its choice;
- (b) to enter into a Power Purchase Agreement with a generation licensee without an approval of the Authority; and
- (c) to negotiate electricity tariff based on mutual understanding with the seller.

### **77. Overriding effect**

The provisions of this Part shall have the overriding effect over any other rules made by the Authority and in case of inconsistency the provisions of this part shall apply.

## Part VII – Compliance monitoring and enforcement

### 78. Inspection

- (1) The Authority shall, upon reasonable notice to the licensee, inspect the regulated facility and documents, and a licensee shall render necessary assistance in the course of inspection of its regulated activity
- (2) During inspection the Authority may:
  - (a) make copies or take extracts from any such book, accounts or records kept by the licensee under the applicable law; and
  - (b) inspect machinery, equipment, appliances, meters, fittings, apparatus and take measurements or record technical data including power consumption, voltage levels, frequency, and access the implementation of the customer service charter.

### 79. Obligations of the authority during inspection

- (1) During inspection, an officer or representative of the Authority shall be required to do the following:
  - (a) identify himself to a licensee or customer with identity card issued by the Authority;
  - (b) explain to a licensee or customer the purpose of the inspection;
  - (c) conduct himself with fairness, objectivity and integrity;
  - (d) not engage in any form of discrimination, bias or harassment;
  - (e) refrain from taking part in duty where they have or may appear to have conflict of interest;
  - (f) carry out inspection in a professional manner in accordance with the requirements of these Rules, codes, guidelines, inspection checklist, standards, applicable laws and prudent utility practices; and
  - (g) not use force or abusive, threatening and insulting language to a licensee.
- (2) A person aggrieved by an act of the officer or representative of the Authority during inspection may, within fourteen (14) days from the date of the act, report the matter in writing to the Authority.

### 80. Prohibited acts

A licensee shall not:

- (a) hinder or obstruct an officer or representative of the Authority in the exercise of any of the powers conferred upon him by these Rules or Act;
- (b) use abusive, threatening or insulting language;
- (c) refuse or fail to comply with a lawful order, direction or notice; and
- (d) when required to answer a question, refuse or fail to answer such question to the best of the licensee's knowledge, information and belief.

## **Part VIII – General provisions**

### **81. Decommissioning plan**

- (1) A licensee shall, within a period of not less than six months prior to the expiry of the term of a license and in the absence of any extension to its term or application for a renewal or transfer, submit to the Authority for its approval, the decommissioning plan of a licensed facility that includes:
  - (a) a schedule of dismantling, re-exportation, if any, and disposal of balance of the licensed facility; and
  - (b) a method statement for restoration of the land and surroundings to their original state and to the satisfaction of all the responsible authorities.
- (2) A licensee shall, after the expiry of the term of the license and in the absence of any application for a renewal or extension thereof, implement the decommissioning plan described in sub-rule (1).
- (3) A licensee shall, in the event that the licensed facility is not removed as per the decommissioning plan as required in sub-rule (2), be liable for the payment of any charge or penalty that may be imposed by any relevant authority.

### **82. Decommissioning during license revocation**

Notwithstanding the provisions of the foregoing provisions a licensee shall, in the event of revocation of its licence and in the absence of any other licensee taking over the operation of the licensed facility, decommission the generation facility in accordance with Prudent Utility Practices.

### **83. Offences**

A person who contravenes the provisions of these Rules commits an offence and shall, upon conviction, be liable to a fine of not less than three million shillings or imprisonment for a term of not less than two years or to both.

### **84. Revocation of GN. 442/2018**

The Electricity (Generation, Transmission and Distribution Activities) Rules, 2018 are hereby revoked.

## **Schedule (Made Under Rule 74(1))**

### **Application form for designation of eligible customers**

*[Please note: Forms have not been reproduced. Please refer to the publication document.]*