



LESOTHO

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LEGAL NOTICE NO. 38 OF 2012

**Lesotho Electricity Authority
(Application for Licences) Rules, 2012**

Pursuant to Sections 34 and 35 of the Lesotho Electricity Authority Act, 2002¹,
I,

FRANCINA MOLOI

Chairperson of the Board of the Authority, make the following Rules:

Citation and commencement

1. These Rules may be cited as the Lesotho Electricity Authority (Application for Licences) Rules, 2012 and shall come into operation on the date of publication in the gazette.

Interpretation

2. In these Rules unless the context otherwise requires -

“Act” means the Lesotho Electricity Authority Act 2002;

“application” means an application for a licence or an application for an extension of a licence under the Act;

“Authority” means the Lesotho Electricity Authority established under Section 3 of the Act;

“customer” means a person to whom electricity is supplied;

“distribution and supply licence” means a licence granted pursuant to Section 50 of the Act;

“domestic premises” means premises used wholly or mainly for domestic purposes;

“generation licence” means a licence granted pursuant to Section 50

of the Act;

“import and export licence” means a licence granted pursuant to Section 50 of the Act;

“person” has the same meaning as in the Interpretation Act 1977²;

“transmission licence” means a licence granted pursuant to Section 50 of the Act.

Application for a licence to generate, transmit, distribute, supply or import and export electricity

3. (1) A person who wishes to conduct a business of generating, transmitting, distributing, supplying or importing and exporting electricity shall make an application for a licence to the Authority.

(2) An application made pursuant to subrule (1) shall be -

- (a) accompanied by a fee prescribed in schedule IV;
- (b) delivered or sent by prepaid post to the Authority at its principal office;
- (c) signed by the applicant or any person signing on behalf of the applicant, but the person shall state the capacity in which he is signing;
- (d) in the form specified in Schedule I;
- (e) accompanied by documents specified in Schedule II;
and
- (f) accompanied by a summary providing the effect of the business on environment and human health.

(3) Where an application is made in respect of -

- (a) a generation licence, the application shall be as speci-

fied in Schedule III part I;

- (b) a transmission licence, the application shall be as specified in Schedule III part II;
- (c) a distribution and supply licence, the application shall be as specified in Schedule III part III; or
- (d) an import and export licence, the application shall be as specified in Schedule III part IV.

(4) Where a person has made an application in respect of more than one regulated activity, a fee payable shall be the highest of all the application fees.

(5) Where an application is for a licence extension, the applicant may only be required to submit information if such information differs from the information he supplied on the initial application.

Notice of Application

4. (1) The Authority shall, within fourteen days of receipt of the application made pursuant to rule 3, publish a notice in respect of the application.

(2) The notice referred to in subrule 1 shall -

- (a) be published in print and electronic media; and
- (b) contain the following information:
 - (i) particulars of the applicant;
 - (ii) type of business applied for;
 - (iii) likely effects of the business on the environment and human health;

- (iv) area where the business will be conducted; and
- (v) any other information that the Authority may consider necessary.

(3) Residents of an area which may be directly affected by the business shall be given not less than twenty-eight days notice after receipt of the application by the Authority to make written representations or objections to the application.

Exemptions

5. (1) Notwithstanding rule 3 subrule (1), the Authority may exempt the following persons from being licensed -

- (a) a person who generates electricity which does not exceed two megawatts;
- (b) a person who distributes electricity which does not exceed fifty kilowatts for domestic consumption;
- (c) a person who, on-site, supplies electricity which he generates or is supplied to him by a licensed supplier;
- (d) a person who generates electricity and supplies it to one consumer who is in the same premises as the generating station; or
- (e) such other person as the Authority may exempt.

(2) An exemption made pursuant to subrule (1) may be given with terms and conditions.

DATED:.

**FRANCINA MOLOI
CHAIRPERSON OF THE BOARD**

NOTE

- 1. Act No. 12 of 2002
- 2. Act No. 19 of 1977

SCHEDULE I

Rule 3

**APPLICATION FORM IN RESPECT OF A GENERATION LICENCE,
TRANSMISSION LICENCE, DISTRIBUTION AND SUPPLY
LICENCE OR AN IMPORT AND EXPORT LICENCE**

GENERAL PARTICULARS

1. State -

(a) name and address of applicant in full;

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(b) in the case of a partnership or other joint venture, the names and addresses of each party concerned;

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(c) name, address, telephone number, fax and e-mail of person to whom correspondence or enquiries concerning the application should be directed;

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(d) whether the application is in respect of a generation licence, a transmission licence, a distribution and supply licence or an import and export licence;

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(e) whether the application is for a licence or an extension of a licence; and

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(f) the desired date from which the licence or extension is to take effect.

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2. State -

(a) the legal status of the applicant;

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(b) where the applicant is a body corporate -

(i) the jurisdiction under which it is registered;

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(ii) its registration number if applicable;

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(iii) the full names and addresses of its directors;

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(iv) the name and registered office of any holding or parent company of the applicant;

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(c) the name or names of persons in charge of the business where applicant is registered under any other law;

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(d) the name and address of each person and the number of shares held and the percentage of the aggregate number of shares where a person holds 20 per cent or more of any class of the shares of the applicant.

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(3). Provide particulars of licences under the Act including current applications, previous unsuccessful applications, proposed applications, or applications made by any person related to the applicant.

EXTENSION OF APPLICATION

4. If the application is for a licence extension, describe -
- (a) any modification requested to any of the standard conditions for the type of licence; and
 - (b) the grounds on which the applicant believes that -
 - (i) any such modification is required in order to meet the circumstances of the particular case; and
 - (ii) any such modification is such that the licence holder would not be unduly disadvantaged in competing with other holders of licences of the same type and that no other holder of a licence of the same type would be unduly disadvantaged in competing with the applicant.

SCHEDULE II**Rule 3****DOCUMENTS AND OTHER INFORMATION TO ACCOMPANY AN APPLICATION****Financial Information**

1. In the case of a company, the following documents shall be submitted:
- (a) a copy of -
 - (i) the most recent audited financial statements of the applicant together with the auditor's report;
 - (ii) the audited financial statements of the applicant for the

two preceding financial years, together with the auditor's reports;

- (iii) the most recent interim and management accounts available at the time of the application; and
- (iv) a statement indicating whether the applicant will be able to finance the activities authorised by the licence if the application is granted.

2. In the case where a subsidiary company is the applicant, the following additional documents shall be submitted:

- (a) a copy of -
 - (i) the most recent audited financial statements of the parent company together with the auditor's report;
 - (ii) the audited financial statements of the parent company for the two preceding financial years;
 - (iii) the most recent interim and management accounts for the payment company available at the time of the application; and
 - (iv) a statement indicating whether the applicant will be able to finance the activities authorised by the licence if the application is granted.

3. Where the applicant is not a company, accounts and other information indicating the financial position of the applicant and the statements for the most recent period, together with copies of the latest audited annual accounts where such accounts have been prepared.

Proposed Business

In the case of a company, subsidiary undertaking, partnership, sole proprietor or any other undertaking, the following information shall be provided:

- (a) a business proposal in respect of the application for the next

five years including annual forecasts of costs, sales and revenues and project financing stating the assumptions underlying the figures provided;

- (b) the statement of the first year's forecast of costs, sales and revenues and project financing to be broken down on a month to month basis;
- (c) details of any expected subsequent substantial capital outflows including major decommissioning costs;
- (d) estimates of net annual cash flows for subsequent periods sufficient to demonstrate the financial security and feasibility of the project(s) to which the application relates; and
- (e) expected commencement date of the operations of the business applied for.

Expertise of Applicant

In the case of a company, subsidiary undertaking, partnership, sole proprietor or any other undertaking, a statement giving particulars of the applicant, and of any sub-contractors or other persons on whose expertise the applicant proposes to rely, indicating whether the applicant has or will acquire the necessary skills to undertake the activities in respect of which the application is made shall be provided.

Operational Authorisations or Permits

In the case of a company, subsidiary undertaking, partnership, sole proprietor or any other undertaking, the following information shall be provided:

- (a) copies of authorisations or permits including, trader's licence, environmental impact assessment licence and proof of the applicant's right to use land; and
- (b) power purchase agreement signed by the applicant.

Additional Information

The applicant shall provide any other relevant information that the Authority may require.

SCHEDULE III

Rule 3

PART I

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A GENERATION LICENCE

- (a) a description of the actual or proposed location of a generating station intended to be operated under the licence;
- (b) a description of a proposed location clarifying the nature and extent of the proposed development;
- (c) the name of the generation station;
- (d) the number of generating units to be operated;
- (e) whether or not the generating station will be connected to the transmission system;
- (f) a description of how a station will be fuelled or driven;
- (g) the date when the proposed generating station is expected to be commissioned;
- (h) the maximum and the aggregate power (MW) expected to be available each year for the next five years from the generating station excluding power that is expected to be consumed at the station;

- (i) the expected life of a generating station;
- (j) the capacity of each generating unit for the next five years;
- (k) details of the electric lines linking the generating station to the electricity network;
- (l) a map identifying the location of the generating station to which the application relates; and
- (m) a description of the applicant's proposed arrangements for compliance with the applicable requirements of licence conditions.

SCHEDULE III

PART II

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF A TRANSMISSION LICENCE

- (a) a description of the actual or proposed locations of the electric lines and electrical plant constituting the proposed transmission system, and the area to which the application relates;
- (b) an indication of the extent to which, and the locations in which, those lines are or will be placed underground;
- (c) an identification of the voltages of the electrical lines forming part of the proposed transmission system;
- (d) particulars of a person from whom the applicant expects receive electricity for transmission each year for the next five years;
- (e) points at which the applicant expects to receive the electricity for transmission;

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- (f) quantities of electricity to be received and transmitted;
 - (g) points of interconnections to other transmission systems;
 - (h) proposed metering arrangements;
 - (i) a forecast of annual maximum demand (MVA) and energy (MWh) to be transmitted through the transmission system in the next five years;
 - (j) an overview map of the transmission system;
 - (k) detailed maps providing information on areas where activities are concentrated;
 - (l) a single line diagram of the transmission system;
 - (m) a description of the applicant's proposed arrangements for compliance with the applicable requirements of licence conditions; and
 - (n) a description of the applicant's proposed arrangements for securing regular and efficient supplies of electricity.

SCHEDULE III

PART III

Rule 3

**FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY
AN APPLICATION IN RESPECT OF A DISTRIBUTION AND SUPPLY LICENCE**

- (a) a description of the actual or proposed location of the system of electric lines and electrical plant and the means by which the applicant proposes to supply electricity;
- (b) plant and lines which are to be constructed and the existing ones;
- (c) parts of the system which will not be owned by the applicant;
- (d) whether or not the distribution lines over which the applicant proposes to distribute electricity for the purpose of supply to customers shall be connected to the transmission system;
- (e) particulars of a person from whom the applicant intends to acquire the electricity which he will distribute each year for the next five years;
- (f) particulars of expected off-take points and quantities;
- (g) a forecast of annual maximum demand (MVA) and energy (MWh) to be distributed in his distribution system each year for the next five years;
- (h) details of the voltage levels and frequency of operation, including details of expected circuit length per voltage level each year for the next five years;

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- (i) details of estimated connections per voltage level;
 - (j) details of existing or proposed embedded generating station, including location and type;
 - (k) details of the maximum power (MVA) expected to be available from the embedded generating station each year for the next five years excluding power expected to be consumed at the station;
 - (l) details of the aggregate power (MVA) expected to be available from each embedded generating station each year for the next five years excluding power expected to be consumed at the station;
 - (m) a detailed map showing the area to which the application relates, including location of in-feeds, overhead lines, cable routes and associated substations;
 - (n) a map showing the actual or proposed configuration of the distribution system including all electric lines and electrical plant affecting connection to the system operated by any other authorised distributor;
 - (o) details indicating that the distribution system through which the applicant would be authorised to convey electricity is going to be operated safely;
 - (p) approximate number and expected maximum demand of customers each year for the next five years;
 - (q) forecast annual maximum demand (MVA) and energy (MWh) to be sold each year for the next five years; and
 - (r) where the application is for an extension to a distribution and supply licence, the annual quantity of electricity supplied by the applicant under the existing licence(s).

SCHEDULE III

PART IV

Rule 3

FURTHER INFORMATION AND DOCUMENTS TO ACCOMPANY AN APPLICATION IN RESPECT OF AN IMPORT AND EXPORT LICENCE

- (a) a description of the actual or proposed contractual arrangements under which imports or exports of electricity will be carried out;
- (b) intended sources of electricity for export and import, and the intended customers;
- (c) proposed duration of contractual arrangements;
- (d) quantities of electricity (MWh) and the peak power (MVA) intended to be imported or exported each year for the next five years;
- (e) infrastructure intended for the transfer and delivery of electricity imported or exported, including details of the proposed contractual arrangements for securing access to these facilities;
- (f) the annual pattern of the intended transfer; and
- (g) the applicant's proposed arrangements for compliance with the applicable requirements of licence conditions.

SCHEDULE IV

Rule 5

APPLICATION FEES

Generation

Application for licence M7,500

Application for extension to licence M2,500

Transmission

Application for licence M5,000

Application for extension of licence M2,500

Distribution and Supply

Application for licence M2,500

Application for extension for licence M1,500

Import and Export

Application for licence M2,500

Application for extension of licence M1,500