

[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

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

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

It is hereby enacted as follows:—

1. Short title and commencement.— (1) This Act shall be called the Regulation of Generation, Transmission and Distribution of Electric Power (Amendment) Act, 2018.

(2) It shall come into force at once.

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

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

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

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

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

(a) in clause (ii), for the word “determine”, wherever occurring, the word “specify” shall be substituted;

(b) after clause (ii), amended as aforesaid, the following new clause shall be inserted, namely:—

“(iia) “captive generating plant” means a power plant setup by any person to generate electricity primarily for his own use and includes a power plant setup by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association;”;

(c) after clause (iv), the following new clause shall be inserted, namely:—

“(iva) “consumer category” means such category of consumers as may be prescribed;”;

(d) in clause (v), the expression “or sale” shall be omitted;

(e) for clause (x), the following shall be substituted, namely:—

“(x) “electric power service” includes the generation, transmission, distribution, supply, sale or trading of electric power and all other services incidental thereto;”;

(f) after clause (x), substituted as aforesaid, the following new clauses shall be substituted, namely:—

“(xa) “electric power supplier” means a person who has been granted a licence under this Act to undertake supply of electricity;

“(xb) “electric power trader” means a person who has been granted a licence under this Act to undertake trading in electricity;”;

(g) in clause (xvi), the expression “for generation, transmission or distribution” shall be omitted;

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

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

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

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

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

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

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

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

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

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

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

(a) in sub-section (2),—

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

“(a) grant licences under this Act;”;

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

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

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

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

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(iii) for clauses (b), (c) and (d), the following shall be substituted, namely:-

“(b) specify procedures and standards for investment programmes by generation companies and persons licensed or registered under this Act;

(c) specify and enforce performance standards for generation companies and persons licensed or registered under this Act;

(d) specify accounting standards and establish a uniform system of account by generation companies and persons licensed or registered under this Act;”;

(iv) in clause (e), for the word “prescribe”, the word “specify” shall be substituted;

(v) clause (f) shall be omitted;

(vi) for clause (h), the following shall be substituted, namely:-

“(h) settle disputes between licensees in accordance with the specified procedure;”;

(vii) in clause (i), the word “and”, occurring at the end, shall be omitted;

(viii) after clause (i), amended as aforesaid, the following new clause (ia) shall be inserted, namely:-

“(ia) “promote the development of a market, including trading, in accordance with the national electricity policy and the national electricity plan; and;”;

(b) in sub-section (3),-

(i) in clause (b),-

(a) the words “, transmission and distribution” shall be omitted; and

(b) after the word “companies”, the words “and persons licensed or registered under this Act”, shall be inserted;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"CHAPTER IIA- APPELLATE TRIBUNAL"; and

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

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

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

- (a) a former judge of a High Court who shall be the Chairman, for a single term of four years on such terms and conditions as may be prescribed and shall be nominated by the Provinces or Federal Government, as the case may be, by rotation in the following order, namely:—
 - (i) the member representing the Federal Government;
 - (ii) the member representing the Province of the Punjab;
 - (iii) the member representing the Province of Khyber Pakhtunkhwa;
 - (iv) the member representing the Province of Sindh; and
 - (v) the member representing the Province of the Balochistan:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER IIC GENERATION OF ELECTRICITY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Every generating company shall-

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

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

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

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

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

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

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

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

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

(b) in sub-section (2),—

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

“(iii) any other information as may be specified.”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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