



Islamic Republic of Afghanistan



**Ministry of Energy and Water
Power Services Regulation Act**

2016



جمهوری اسلامی افغانستان
وزارت عدلیه

د افغانستان اسلامي جمهوریت
د عدلیې وزارت

ریاست عمومی انسیتوت امور قانونگذاری و تحقیقات، علمی حقوقی
دیپارتمنت قوانین مدنی
مدیریت اسناد و ارتباط

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به وزارت محترم انرژی و آب!

به جواب مکتوب شماره (۵۱۶) مورخ ۱۳۹۴/۱۱/۱۷ مدیریت اجراییه ریاست طرح و تنظیم پالیسی های انرژی شما ارقام است. متن انگلیسی قانون تنظیم خدمات انرژی برق را که عرض تائید به این وزارت ارسال نموده بودید، توسط بورد مترجمین این وزارت تصحیح گردید. اینک متن انگلیسی قانون مذکور به ضمیمه گسیل است.

با احترام
داکتر عبدالصیر "انور"
وزیر عدلیه



Legislative Decree of the President of Islamic Republic of Afghanistan

On Endorsement of Power Services Regulation Act

Article 1:

In pursuance of provision of Article 79 of Afghan constitution , I endorse the Power Services Regulation Act which has been approved in (12) Chapters and (53) Articles based on the Approval No. 19 dated 26/08/2015 of the Cabinet of Islamic Republic of Afghanistan.

Article 2:

The Minister of Justice and Minister of State for Parliamentary Affairs shall be bound to Present this Decree to the National Assembly within (30) days after the first session of this Assembly.

Article 3:

This decree shall come into force from the date of endorsement and shall be published in the Official Gazette along with the approval of the Cabinet and the said law.

Mohammad Ashraf Ghani

President of Islamic Republic of Afghanistan the Approval of the Cabinet of Islamic Republic of Afghanistan on Power Services Regulation Draft Act

No: 19

Dated: 04th of Asad 1394

I, endorse the Power Services Regulation Draft Act which has been approved on 04/06/1394 by the cabinet of Islamic Republic of Afghanistan in twelve chapters and fifty three articles.

Mohammad Ashraf Ghani

President of Islamic Republic of Afghanistan

Power Services Regulation Act

Chapter 1

General Provisions

Basis

Article 1:

This law has been enacted in the light of Provision of Article 10 of the Afghan constitution.

Objectives

Article 2:

The objectives of this law shall be as following:

- 1- To supply electrical energy from natural resources of the country and imported energy.
- 2- To improve the quantity and quality of energy services, and its development and promotion.
- 3- Economic growth and development as well as public welfare.
- 4- Public access to the electricity energy services in exchange to a fair price.
- 5- Non-discriminatory access of the electricity energy service providers to the market.
- 6- Regulation of electricity related affairs throughout the country.

Terminologies

Article 3:

The following terminologies shall convey the following meanings in this Law:

- 1- **Electricity Energy Services:** he services through which the electricity shall be supplied to consumers in exchange of a fixed price.
- 2- **Electricity Power Plants:** the buildings and the equipment that shall be used for generation, transmission and distribution of electricity energy.

- 3 - Electricity Network:** the systems by which the electricity energy shall be supplied using equipment, substations , transformer stations, junctions, cables , lines and other related equipment.
- 4 - License:** a written permit which shall be issued to the applicant in accordance with the provisions of this law for production, import, export, transmission and distribution of the electricity energy and other related activities.
- 5 - Contract:** a written document that shall be concluded between the Ministry of Energy and Water and the holder of the license in accordance with the provisions of this Law in order to construct and assemble the electricity energy facilities, and the rights and obligations of the parties shall be specified therein
- 6 - Tariff:** the written document that shall be used on behalf of the permit holder in accordance with the provisions of this law, to determine the price of electricity consumption.
- 7 - Fees:** financial fund received from license holder in exchange of each unit of production or transmission or Distribution or import and or export of electricity.
- 8 - Consumer:** a natural or legal person/entity who demands and makes use of the electricity paying for the services included in the tariff.
- 9 - Distribution:** Electrical Energy supply to the consumers through medium and low-voltage networks and in exceptional cases, from high voltage networks up to 110 KV.
- 10 - Distribution Procedure:** Technical rules and principles observing which, the operation responsibilities and technical design of all types of distribution networks of the substations, including the criteria on consumer connection to the network and transmission of electricity shall be described in compliance with the national and international standards.

- 11 - Power Distribution System:** the total lines and equipment used in transmission of electricity to the consumers through medium and low voltage.
- 12 - Electricity Dispatching Center:** the center which functions to provide reliable and economic power, awareness, timing and to set and schedule production capacity, and the ability to import and transfer the power.
- 13 - Interconnection:** physical, technical, and commercial relationship between the electricity networks made in accordance with the provisions of this law based on the separate agreements.
- 14 - Market Dominant Force:** a natural or legal person/entity holding license for electric energy services and having (40) percent or more of gross income of a specified electrical energy market on the basis of the assessment Electric Power Regulation Department of the Ministry of Energy and Water considering certain categories of services and geographical boundaries.
- 15 - Recognized Standard:** the technical specifications and national, regional and international standards published in the area of electricity power.
- 16 - Electricity Zone:** a certain geographical area determined for the purpose of electricity supply.
- 17 - Renewable Energy Sources:** The stable, unlimited, and non-fossil provision of natural (hydro, wind, solar, biomass and geothermal) resources.
- 18 - Transmission System:** The high voltage power transmission lines and equipment used to transmit the electricity current.
- 19 - Land Area:** a certain area in which the license holder makes construction and installation of electric power generation facilities,

substations, and the transformer stations in accordance with the provisions of this law.

20 - Sub-area: a certain area not included in the license but the license holder carries out some works relating to transmission, distributions, import and export of electricity to the mentioned area on the basis of the owner agreement in accordance with the provisions of this Law.

21 - Accident: a mishap occurred during construction activities, installation and operation of facilities, transmission, distribution, import and export of electricity resulting into physical and material loss , injuries or casualties.

22 - Confidential Information: the technical, financial and business documents and information belonging to design, restoration of insurance status, activities, planning, maintenance, management and financing of energy services and other activities related to the electricity facilities of suppliers, users and consumers.

23 - Transmission System Operator: a person responsible for operation, maintenance and development of transmission in certain areas, and interconnections with other networks to strengthen the system in long-term to meet the requirements of the electric power transmission.

24 - License Holder: the real or legal person/entity that the activity license of electricity generation, transmission, distribution, import and export has been registered and recorded in his/her name in accordance with the provisions of this Law.

25 - Dependent Competitor: the person or party controlled by another person or party, or controls other person or party, and or are two or more persons or parties that are controlled by the same person or party.

Implementing Authority

Article 4:

The Ministry of Energy and Water shall be responsible for implementing the provisions of this law at the state level and may provide electric energy services by itself or through other government institutions, foreign and domestic private sector or in a joint way.

Energy Regulation Authority

Article 5:

In order to achieve the objectives stated in this law and for effective and better electricity service delivery, the Energy Services Regulation Department shall function within the Ministry of Energy and Water.

Abbreviated Name

Article 6:

In the context of this Law, the Energy Services Regulation Authority shall hereinafter be referred to the Authority.

Duties and Authorities of the Agency

Article 7:

The Agency shall have the following duties and authorities:

- 1- To submit electrical energy consumption tariffs for approval to the Government after confirmation of the Ministry of Energy and Water.
- 2- To provide of facilities to attract domestic and foreign investment in the area of energy services under this law.
- 3- To prepare the National Development Program for supply of electricity to rural areas the use of renewable sources in collaboration with the Ministry of Rural Rehabilitation and Development.
- 4- To regulate and guarantee the quality and quantity of electricity in accordance with the provisions of this law.
- 5- To register, issue, extend, suspend, and revoke the activity licenses under this law.

- 6- To address the complaints of consumers and license holders and to resolve disputes arising out of the mentioned issues in accordance with the provisions of this law.
- 7- To create technical, economic, financial, and marketing committees, and other energy advisory committees.
- 8- To appoint auditors to take care of the provisions of this law and the terms set forth in the license.
- 9- To issue orders to prevent violations of the terms of licenses under this law.
- 10- To impose cash fine under this law.
- 11- To establish a single calculating unit system for transparent calculation of power supply and its control.
- 12- To identify dominant personality in the energy supply market.
- 13- To assign dominant personality in the market to provide electricity services to consumers and other license holders without discrimination under this law.
- 14- To continuously monitor electrical energy services all over the country.
- 15- To create electrical energy services database.
- 16- To monitor the activities of the license holders in order to comply with international conventions of power sector to which Afghanistan has acceded.
- 17- To determine technical standards for electrical equipment and its approval through concerned authorities.
- 18- To regulate and monitor the activities of license holders in accordance with the provisions of this law.
- 19- To protect the interests of electricity consumers.
- 20- To prevent the abuse of dominant force in the market.
- 21- To provide healthy competition environment for the license holders.
- 22- To identify the contingent violations of the provisions of this law and the terms of the licenses.

- 23- To oblige the license holders to compensate damages arising from violation of the terms of licenses.
- 24- To submit annual report to the office of the Ministry of Energy and Water.
- 25- To perform other duties stipulated in this law.

Chapter 2

Regulation of Energy Services

Obtaining Permit

Article 8:

- (1) Without obtaining the license and concluding contract, no one shall take action on construction, installation and assembly of the equipment, production facilities, transmission, distribution, import and export of Electricity power.
- (2) Real or legal persons/entities that avail the means of production of the electrical energy for their personal usage shall be exempted from the provisions of paragraph (1) of this Article, provided that the technical conditions have been adhered in accordance with the accepted standards.
- (3) Energy services up to one-hundred kilowatts that are supplied for rural areas by the real and legal entities shall be exempted from the provisions of paragraph (1) of this Article.

Qualifications for Permit Applicant

Article 9:

- (1) A person/entity may obtain the license set forth in this law and make the contract that has the following qualifications:
 - 1- Domestic legal person or entity established in accordance with the provisions of Afghan laws and that has obtained the investment license.
 - 2- Foreign legal person or entity established in accordance with the

provisions of the laws of his/her/its subject country and that has obtained investment license based on the provisions of law in Afghanistan.

3 - Having enough capital to provide machinery, equipment and tools and necessary expertise to implement the terms of the license.

4 - Provide a financial guarantee to the agency.

(1) The following persons or entities may not obtain licenses under this law:

1- Legal entity in which the persons set forth in Article 151 of the Afghan constitution, or their immediate relatives are members.

2- Legal entity that its dissolution order has been issued by a competent court.

3- Legal entity that its one or more shareholders or members of its Executive Board or Board of Directors have lost their full legal capacity.

4- Legal entity that its one or more shareholders or members of the Board are performing job in the Ministry of Energy and Water.

5- Legal entity that a competent court has issued the bankruptcy sentence about the member of its Executive Board or Board of Directors.

6- Legal person/entity whose license has been revoked, unless at least two years has been passed from the date of its revocation.

(3) If persons mentioned in Article 151 of the Afghan constitution have been the members of the legal entity mentioned in section (1) of paragraph (1) of this Article before occupation of the duty, they shall be obliged to resign their membership of the legal entity.

(4) In order to obtain a permit, foreign legal persons/entities shall be obliged to establish and activate their permanent agencies in Afghanistan and maintain operation documents relating to the energy services therein.

(5) Companies that apply to obtain the licenses and make contracts shall

be required to submit the names of their shareholders with the amount of capital share of each one to this Department.

Types of Licenses

Article 10:

- (1) The licenses set forth in this law shall be as follows:
 - 1- Electricity Generation License.
 - 2- Electricity Transmission License.
 - 3- Electricity Distribution License.
 - 4- Electrical Energy Import License.
 - 5- Electrical Energy Export License.

- (2) Licenses referred to in paragraph (1) of this Article shall be granted by the Department in exchange for certain fees and provision of a financial guarantee.

- (3) Fees set forth in paragraph 2 of this Article shall be determined by proposal of Ministry of Energy and Water (MEW) and approval of government, and received by the Department and transferred to the government bank account .

- (4) The amount of financial guarantee set forth in paragraph 3 of this Article shall be determined by proposal of the Ministry of Energy and Water and the approval of the government and transferred to the deposit account in the bank.

Validation of License

Article 11:

The validity period of licenses under this Act shall be determined as follows:

- 1- Electricity Generation licenses for a maximum of 25 years.
- 2- Electricity transmission licenses for a maximum of 25 years.
- 3- Electricity distribution licenses for a maximum of 20 years.
- 4- Electricity import licenses for a maximum of 15 years.
- 5- Electricity export licenses for a maximum of 15 years.

Competitive Process:

Article 12:

- (1) In order to ensure public interests, the Department starts a competitive process in relation to the applicants obtaining licenses, for provision of electricity services as follows:
 - 1- Publish notifications for the public awareness about the submitted applications, provided that confidential and specific information set forth in the applications remain confidential.
 - 2- Providing the opportunity of (45) days to the applicants of power supply following publication of the notifications with an aim to submit applications.
- (3) If the department receives another request after publication of notification, it shall evaluate the requests within 25 working days and grant the license to the most qualified applicant, and if any other applicant does not refer, the mentioned applicant shall be granted the license in this case.

Obligation of the License Holder:

Article 13:

The license holder shall be obliged to observe the following:

- 1- The provision of energy services in accordance with the contents of license.
- 2- Preparation of a work plan and budget and other information required to the Department.
- 3- Payment of compensation to the affected party for damage caused by the activities related to the supply of electricity.
- 4- Report the activities and statements of the department on demand.
- 5- Maintain records and books of account and operation costs during the implementation of activities and delivery of energy services.
- 6- Compliance with the laws and regulations of health care, environment and safety (safe technique) of the work area and staff.
- 7- Payment of the income tax and customs duties in accordance with law.

- 8- Regulation of accounting in accordance with Afghan law and international standards.
- 9- Payment of the approved fees.

Recruitment of Workers

Article 14:

- (1) In order to carry out the relevant activities, the Licensee shall be required to hire Afghan workers and provide them with professional training and technical expertise.
- (2) The licensee may hire foreign skilled workers by the permission of the Department, if domestic workers by the same level or higher is not available.

Renewal of License

Article 15:

- (1) In case of no violation of provisions of this law and the terms of license, the license holder may request the extension of license, 60 working days prior to expiration of the period and provide the appropriate reasons and explanations in written to the Department.
- (2) The Department shall be required to evaluate the application and approve or reject it within 20 working days, and in case of confirmation extend the license, and in case of rejection, notify the applicant in written on its reasons. If not satisfied, the applicant may refer to the authority set forth in the license or contract or the authorities mentioned in Article 41 of this law.

Cases of License Suspension

Article 16:

- (1) If the license holder violates the terms of the license or provisions of this law, the Department may justify him/her in written to correct the defects or advice and warn the license holder as the case may be.

- (2) If the license holder ignores the decision made, the Department may respectively amerce the license holder with the imposition of cash fine or suspend the license within (90) days considering the following conditions:
 - 1- In case of repeated violations after imposition of the fine, up to (20) days.
 - 2- In case of continuing infringement or being failed to resolve the defects despite the warning and without cogent reason, up to (45) days.
 - 3- In case the extension request is proved false or deceptive, up to (60) days.
 - 4- In case of non-payment of the payable fees on due date and receipt of a relevant written notice, up to (90) days.
- (3) In case of being unsatisfied with the suspension order, the license holder may refer to the Dispute Resolution Authority mentioned in the licenses or contracts, or authorities mentioned in Article 41 of the law.

Cases of the License Revocation

Article 17:

- (1) The department may revoke licenses under this law in the following cases:
 - 1- In case of continuous violation of the provisions of Article 16 of this law, despite the punishments envisaged.
 - 2- In case of delay or postponement of the activities under licenses without any cogent reason.
 - 3- In case of non-payment of taxes and land lease tax in the specified time.
 - 4- In case of issuance of bankruptcy order to the holder of license.
- (2) The decision to abolish the license holder's license shall be taken when the Department already has officially warned the license holder regarding the provisions set forth in paragraph (1) of this Article, but the license holder has been disrespectful within the period contained in the warning, without any cogent reason.
- (3) If not satisfied, the applicant may refer to the authority set forth in the license or contract or the authorities mentioned in Article 41 of this law.

- (3) If not satisfied, the applicant may refer to the authority set forth in the license or contract or the authorities mentioned in Article 41 of this law.
- (4) Revocation of license shall not relieve the license holder from liabilities set forth in the license.
- (5) If the license is revoked, the license holder shall be obliged to remove their machineries, equipment, instruments and installations out of the area set forth in the license, or sell it within (6) months after receiving of a written notice, in this case, the Ministry of Energy and Water shall have the priority right to purchase.
- (6) If the equipment, instruments, machineries and installations installed are not sold or removed after the expiration of the period specified in paragraph (5) of this Article, it shall depend to the Ministry of Energy and Water thereafter.

Chapter 3

Establishment, Construction and Installation of Power Production Facilities

Construction and installation of facilities

Article 18:

Construction and assembly of energy generation plants with transmission and distribution systems or without it, shall be carried out after obtaining the license based on a separate contract.

Use of land

Article 19:

- (1) If the land needed for the construction and installation of contracted electric power facilities is governmental property, , the Ministry of Energy and Water shall provide necessary leasing facilities to the contractor within the period specified in the contract according to the terms of the contract and license.
- (2) The Department shall provide the right of having proper traffic road and other easement necessary for construction of the buildings and installation

of power generation facilities.

If the needed land for the easement is a private property, the Department shall obtain the passage permit from the owner or possessor of the property considering the easement rights, in accordance with the law.

- (3) If the owner or occupier of the easement land receives damage as a result of road passage of the license holder, the license holder shall be obliged to compensate the damage.
- (4) If the owner or occupier of the easement land is not satisfied with the offered compensation, he/she may refer to the Department or the Court.

Construction of Rooms and Other Buildings

Article 20:

The license holder may construct rooms and necessary buildings in order to provide energy services and assembly facilities .

Land Lease

Article 21:

- (1) If the land required for activities of energy services, is a private property, the license holder may lease the mentioned, with the consent and agreement of the owner, otherwise the Ministry of Energy and Water may make acquisition of private property to supply the public power.

Easement Right

Article 22:

- (1) If the holder of power generation license needs to commute out of the area under licenses and the mentioned area covers an area greater than the area of the easement rights, and if the land under the license is a governmental property, the department shall be required to obtain a traffic permit from the respective department and if the land is a private property, the license holder shall have to lease it.
- (2) The department may also observing easement rights of the license holder, grant the right of usage of the easement area which is a state property to other persons.

Re-habitation or Fair Replacement

Article 23:

- (1) If the residents are forced to leave the area as a result of infrastructure activities of power services, the Department shall, before implementation of the project and in coordination with the concerned departments, provide them housing in another place as the final option; In this case, the license holder shall, prior to implementation of the project prepare the re-habitation plan of the affected person in consultation with them, and provide financial resources or fair replacement to the displaced residents.
- (2) If the activity set forth in Paragraph (1) of this Article is performed by the Department, it shall, before implementation of the project be obliged to provide financial resources to displaced residents in consultation with the concerned Departments to meet their expenses and compensation.

Transfer of License

Article 24:

- (1) The license holder may propose to the Department the transfer of all or part of the privileges of related license to a person eligible under this law.
- (2) The license holder may only agree the transfer of license when the holder has fulfilled its legal obligations and the transferee is eligible under the terms and conditions of this law and undertakes the obligations of the license holder.

Chapter 4 Tariffs

Implementation of Approved Tariff

Article 25:

- (1) The license holder who is the dominant force in the market may only implement the approved tariffs on the consumers. Approval of tariffs shall be one of the conditions of the license and shall be applied on all license holders without discrimination.

- (2) The tariffs may not be discriminatingly imposed to the benefit or detriment of any person without cogent reasons.
- (3) The departments may, in the following cases revise the tariffs of electricity services:
 - 1- In the event that obvious compromise prevail between the electricity companies in determining the rate of electricity.
 - 2- In the event that one or more companies deliberately have taken measures to destabilize the market in imposition of the tariff.
 - 3- If tariffs are levied by the companies in a deceptive form .

Publishing Tariffs

Article 26:

- (1) The license holder who has a dominant force in the market, shall be obliged to publish the latest tariff of electricity services supplied in the market as follows:
 - 1- Registration of the approved tariffs in the Department.
 - 2- Free of charge publish of the copies of tariffs on the relevant website for public access.
 - 3- Keep copies of tariffs in the respective offices for public use.
- (2) The license holder who is the dominant force in the market shall be obliged to prepare all parts of the tariff to applicants in exchange of a specified amount of remuneration determined by the Department in accordance with the conditions set forth in the license.

Chapter 5

Competition

Determination of Dominant Force in the Market

Article 27:

The holder of license determined by the Department as a dominant force in the market, shall be obliged to submit a written request to the Department within (10) business days according to the procedures, in order to record their new responsibilities as the dominant force in the market.

Misuse of Dominant Force in the Market

Article 28:

- (1) The license holder, who is the dominant force in the market, may not do activities that lead to the misuse of the market. The following shall be deemed to be misusing points of a dominant force in the market:
 - 1- Failure to respond to the competitor's demand on providing limited sources within a month after the demand and with reasonable conditions and limits, provided that such a facility shall be available to the license holder.
 - 2- Bringing together the energy services by imposition of conditions, limits and determination of price by the license holder who has a dominating force in the market and impose it as a condition(s) on the new competitors to reduce competition.
 - 3- Surpassing in the acquisition or preservation of limited resources, including the right of traffic to carry out energy services activities in order to prevent the entry of other competitors in the market.
 - 4- Delivery of services at a price lower than the cost of service or any other rate approved by the Ministry of Energy and Water.
 - 5- Discount on a service that serves to reduce competition and compensate it in another service.

The cases that the Ministry of Energy and Water has specifically approved such discounts in the tariffs are exempted from this provision.
 - 6- Incompetency in implementation of obligations of interpersonal connection under this law.
 - 7- Discrimination in the provision of interpersonal connections access or other services or facilities to competitors. Where the conditions are admissible based on the difference in prices, insufficiency of facilities or available resources, shall be exempted.
- (2) The following measures that prevents the development of the market and entry of the competitors to the market, shall also forbidden:
 - 1- Determination of prices to the competitor upon wholesale transaction increase or decrease the prices in order to harm the competitor or both that makes the benefit or entry of the competitor to the market impossible.

- 2- Asking the license holder or forcing the competitor to avoid the sale.
- 3- Setting up the technical specifications of the relevant network or its price in a way that prevents the network activities and/or the purchasing of the competitor's services.
- 4- Evasion to provide timely technical information, resources, information and other business data needed to new competitors to provide services.
- 5- Using the information gained from competitor on interpersonal connection or supply of services by the license holder who has the dominant force in order to compete with them.

Anti-Competitive Activities

Article 29:

No one shall be permitted to take actions in limiting or disrupting activities related to electricity supply competition in the market; the following shall be considered to include these activities:

- 1- Setting prices or other conditions, or service limits in electricity market.
- 2- Assignment of person who wins the contract in the electricity market.
- 3- Division, partner or determination of electricity markets.

Determination of Misuse of Dominant Market Force and Anti-Competitive Activities

Article 30:

The Department may itself or through the complaint or information, determine misuse of dominant market force or anti-competitive activity of the license holder and shall take necessary measures in this regard. The measures taken by the Department shall be applicable in this regard, unless the other party not satisfied with it and refers to the dispute resolution authority or a court.

Measures Preventing Misuse or Anti-Competition Activity

Article 31:

The Department shall be obliged to take the following measures in order to prevent misuse of dominant force and anti-competitive activity:

- 1- To appoint one or more persons to stop the measures which lead to abuse or anti-competitive activities, and/or to reduce its arising impacts
- 2- To review reports prepared by the responsible persons and gain information about stoppage or continuation of prohibited activities and taking actions necessary to eliminate the negative impacts of these activities on the market, competitors and consumers.
- 3- To oblige individuals included in the decision to prepare tariffs based on cost paid and implement it within (20) working days after registration in the Department.
- 4- To deprive offenders who frequently commit crime from adopted decisions on some commercial areas or prohibiting the activities of other entities or their book of accounts, provided that the permit holder has already been warned of such a decision in written and the effectiveness of decision is ensured.

Network Interconnection and Access to it

Commitments related to Interconnection

Article 32:

- (1) The license holder shall be obliged to provide interconnection of the electricity networks with regard to the provisions of this law and the terms of the relevant license.
- (2) The permit holder, who has a dominating force in the market, shall effectively and non-discriminatingly ensure interconnection in possible technical areas amongst other permit holders.
- (3) The permit holder who has a dominating force in the market shall be obliged to

make available to the other license holders, the accounting information, technical specifications, network characteristics, and the conditions and limits along with the price approved by the Department.

- (4) The department may oblige the license holders who have dominant force in the market to make available equal opportunities (including price, timeframe and quality) to affiliated and non-affiliated competitors under identical conditions.
- (5) The license holder may reject the request for interpersonal connection based on justified reasons on lack of technical facilities.
- (6) If the interpersonal connection that has been requested at a specific location is unpractical based on the technical reasons and practical in one or more points , the supplier shall be obliged to explain to the applicant the reasons of all the technical and commercial conditions that allow connection.
- (7) The holder of licenses that do not have a dominating force in the market, shall have the right to negotiate requirements with each other about the conditions of interpersonal connection; in case of failure to reach an agreement, they may refer the relevant decision to the Ministry of Energy and Water. The decision made by the Ministry of Energy and Water shall be applicable on the parties.

Suggesting Interconnection Points

Article 33:

- (1) The licensee who has a dominant force in the market shall be obliged to submit the list of requested connection points in accordance with the provisions of this law to the Department for approval.
- (2) The licensee, who has been identified by the Department as a dominant force in the market, shall within 20 working days of identification, provide the proposal of connection points for approval to the Department which contains the following technical and commercial information:
 - 1- List of all connection standards and services, and its explanation,
 - 2- Location of connection points, conditions and limits of its connection and disconnection,

- 1- All applicable technical requirements and protocols for connection,
- 2- Conditions of testing the operation of connections,
- 3- Power flow control during connection,
- 4- Requirements in order to identify the connection lines,
- 5- The least conditions to notify any changes, annexes and termination conditions of the connection Agreement,
- 6- Other technical data needed to create the possibility of connection in accordance with the provisions of this law.

Commercial proposal includes:

- 1- Applicable tariffs and its conditions and limits, in a manner that shall be appropriate, non-discriminatory and on the basis of estimation on increment in revenues and expenditures,
 - 2- Protectable confidential information,
 - 3- Other commercial information needed to implement interpersonal connection in accordance with the provisions of this law,
- (3) Having received the connection points proposal, the department shall be obliged to release a statement in order to collect public opinion and publish it in the relevant website, and use the connection points after reviewing the comments and responses provided,.
- (4) The department may amend the proposal for interpersonal connection points considering the provisions of paragraph (2) of this article.
- (5) The licensee responsible for providing interpersonal connection in accordance with the provisions of this Law, shall implement the interpersonal connection based on the approved proposal of the interpersonal connection points. Any change to the proposal of interpersonal connection points shall not be allowed before approval and registration in the Department.

Implementation of Suggestion on Connection Points

Article 34:

- (1) Interpersonal connection service provider shall provide the answer within (40) business days from the date of receipt of the request based on approved proposal.
- (2) If the interpersonal connection service provider is not able to connect the requested connection points, it shall be obliged to inform the applicant and suggest another alternative. In case of agreement of the parties to the proposed alternative, the parties shall conclude the related contract and publish them on the website of the Department.

In case of disagreement, the applicant may refer to the Department to resolve the dispute, in this case the decision taken by the Department shall be applicable.

Chapter 7

Access to Properties

Use of Property

Article 35:

- (1) The License holder may himself/herself or through the Department obtain the agreement of relevant authorities in order to build, maintain, and activate the transmission services network, distribution, import and export of electricity from the highways and public properties.
- (2) The department may, at the request of the relevant agencies at their capacity, give necessary guidance to the license holder in relation to the change in the network course, transmission, distribution, import and export of electricity power.
- (3) The department may upon obtaining the consent of relevant agencies or landlord, grant license holder the permit for construction, excavations or extension of cables in the ground, underground or in the electric power networks, as appropriate.

- (4) The license holder may use the facilities mentioned in this article only when it does not disturb operation of the existing power networks or preventive measures of maintenance of public roads, water supply, canalization and sewerage, oil and gas pipelines, and telecommunications facilities or other public facilities.
- (5) The cost of repositioning or modifying the existing facilities granted to the new network under this law, shall be borne by the demander, and the cost for protective measures stated in this Article shall be the responsibility of the license holder.

Ancient, Cultural, Historical Traces and the Environment Protection

Article 36:

The license holder shall be obliged to, in accordance with provisions of relevant laws, observe respect for maintenance of the areas having historical, cultural, archaeological and environmental importance.

Joint Space Use

Article 37:

- (1) If the holders of licenses install required devices in a place in where actually another network is operating, they shall obtain the consent of the earlier holders of licenses in this regard.
- (2) If a place is used jointly, the costs based on mutual consent shall be divided amongst parties or else, the parties may submit the matter to the Department for decision making.
- (3) The license holder who has a dominating force in the market shall be obliged to register and record the tariffs, terms and conditions of use of common space in the department.

Chapter 8

Protection of Electricity Consumers

Power Supply Conditions

Article 38:

- (1) The department shall be obliged to adjust the conditions for provision of electricity services considering consumer interests and on the basis of special procedure.
- (2) The procedure shall include the following:
 - 1- Preparation of the statement documents and other instruments in one of the official languages of Afghanistan.
 - 2- The right of access to common property in order to provide energy services on the basis of consent of the owner.
 - 3- The right to use electricity services.
 - 4- Ensuring consumers protection on the use of energy services.
 - 5- Protection of consumer's recorded confidential documents.
 - 6- Compensation of incomplete and defective services to the consumers.
 - 7- Scope of the responsibilities of the license holder.
 - 8- Determination of time period for payment of tariffs and fees .
 - 9- Suspension, disconnection and resupply of electricity energy services.
 - 10- The manner of reviewing consumers complaints.
 - 11- Other issues considered necessary under this law by the department.

Chapter 9

Investment Support

Encourage and Support

Article 39:

The investment in the area of energy services and its infrastructure facilities shall take place in accordance with the provisions of the Investment Law and the provisions of this law, and the investor shall be benefitted from the privileges and possessions of investment under the relevant laws and regulations.

Foreign Investment

Article 40:

- (1) Foreign investment in energy services and its infrastructure facilities shall be subject to the private investment law in the following cases:
 - 1- Access to banking facilities,
 - 2- The transfer of capital and its profit,
 - 3- Transfer of the actual foreign debt and its other payments,
 - 4- Sale of approved enterprise and transfer of its income.
 - 5- Expropriations, compensation and the transfer of its funds and the right of reference to the court.
- (2) The holder of licenses, importers and vendors of the electricity energy equipment shall have to perform their tax obligations under provisions of the law.

Chapter 10

Dispute Resolution

Dispute Resolution Authority

Article 41:

- (1) If disputes arise between the holder of the license and the Department or the holder of licenses and other persons on energy supply activities, the parties may resolve it by mutual negotiation or through the disputes resolving authority set forth in the license or contract. In case, mentioned authority is not specified, they may refer to one of the following references or authorities:
 - 1- Mediation of experts based on consent of parties,
 - 2- The Disputes Resolution Board of the Ministry of Energy and Water ,
The dispute resolution Board shall be determined in the following manner based on proposal of the Ministry of Energy and Water and approval of the government:
 - One of the independent qualified experts,
 - One of the electrical energy services experts,
 - A lawyer proposed by the Afghanistan Lawyers Union

- 3- Commercial Dispute Resolution Center of the Chamber of Commerce and Industry of Afghanistan,
 - 4- Financial Disputes Resolution Commission under the DAB Law.
 - 5- International Center for Settlement of Investment Disputes (ICSID),
 - 6- The United Nations Commission for International Trade Rights Arbitration Law (UNCITRAL),
 - 7- The competent court in Afghanistan,
- (2) In case of conflict, a foreign investor may refer to one of the references contained in items (4 and 5) of paragraph (1) of this Article.
- (3) The decision of is the authority referred to, shall be deemed final.
- (4) In cases under paragraph (1) of this Article, the license shall be valid until the end of that period, unless the license holder demands suspension or transfer of a part of its obligations to the Department.

Chapter 11

Violations and Disciplinary Actions

Fines

Article 42:

- (1) A person, who makes construction of facilities or infrastructure of supply, distribution, transfer, import and export of electricity energy without obtaining licenses, shall be obliged to pay a fine equivalent to five percent of the total investment.
- (2) If the licensee misuses the dominant force in the market, it shall in addition to compensation for damages, be also fined an amount equivalent to ten percent of total loss compensation.
- (3) If the licensee who has a dominating force in the market, without a valid reason denies access to the network or the use of common locations, in addition to compensation for damage to the permit holder shall also be obliged to pay a fine equivalent to ten percent of loss compensation.
- (4) If the licensee without obtaining the approval of the tariff takes measures in publication of the tariff, or receives payments more than specified fees, in

addition to compensation shall be obliged to pay a fine equivalent to the illegal fees received.

- (5) If the licensee does not provide to the Department the copies of documents containing technical and financial information, expenses, interpersonal connections, internal protocols, changes and increases, shall be obliged to pay a fine equivalent to fifty percent of the fee determined by the respective license.
- (6) If the licensee fails to deliver services as subsidies in accordance with the criteria of license or provides the services contrary to the provisions of this law, it shall be obliged to pay the amount equivalent to the subsidy.
- (7) If the licensee transfers the license to another person without prior consent of the department, it shall be obliged to pay a fine equivalent to ten percent of the total investment.
- (8) If the licensee operates the electricity energy equipment without prior permission of the Department or uses the appliances and equipment that would cause threat, severe damage and frequent interference and disconnection of the electricity, in addition to compensation for damage shall also pay a fine equivalent to twenty percent of compensation.
- (9) If the licensee does not pay the fees by the due date, it shall be obliged to pay a cash fine equivalent to two fold of the determined fee.
- (10) If the licensee makes the use of electricity energy machineries and installation in private land areas without the right of use, it shall be obliged to pay for the damages incurred to the affected person.
- (11) If the licensee does not provide the requested information to the Department or refuses the legal demands necessary for the consumers information access in accordance with the provisions of this law, it shall be obliged to pay a fine equivalent to fifty percent of the fee determined by the respective licenses.

Non-Satisfaction

Article 43:

If a person does not consent to the fine imposed by the Department, he/she may refer the objection to the dispute resolution authority.

Chapter 12

Final provisions

Lease of Electricity Power Plants

Article 44:

The Authority may lease the electrical energy plants in accordance with the relevant provisions of the law. The lease period, conditions, and manner of use shall be specified in the contract.

Terms of Use of the Instruments and Equipments

Article 45:

- (1) The equipments and tools of the electricity network may be used when they comply with the approved standards of the Ministry of Energy and Water.
- (2) The department shall issue the permit for operation of the equipment of the electricity network used by the holders of licenses in Afghanistan according to the regional and international standards and the relevant procedures.
- (3) The owner of approved equipments under paragraph (2) of this Article shall be obliged to hold the documentation that show the source and approving department.

Preparing the Grounds for Access of General Public to the Energy Services

Article 46:

MEW shall be obliged to step by step ensure and prepare the grounds for access of general public to the energy services in terms of its quality and quantity in accordance with the objectives set forth in this Law and national development within the country.

Correction of Defects in case of Violation

Article 47:

- (1) If the holder of the license violates the terms of license, procedures, regulations or provisions of this Act, the department may issue a written guidance on correction of the deficiencies within the certain period, or impose fines under this Act or suspend or revoke the relevant license.
- (2) Cash fine under the law shall be imposed by the Department and transferred to the government account.

Publication of Documents through Website

Article 48:

- (1) The Department may publish the notifications, decisions, licenses, suggestions and agreements related to interpersonal network connection and other such non-confidential documents through the relevant website.
- (2) The Departments may make available to the applicants the copy of documents set forth in paragraph (1) of this article in exchange of price specified by law.

Delivery of Payments to the Government Account

Article 49:

Fees, the right to lease state property and other payments shall be transferred to the government account and in case of refusal or delay in delivery of payments, the mentioned funds shall be obtained as a debt from other assets of the permit holder as prescribed by a competent court.

Language used in Preparation of Documents

Article 50:

- (1) The preparation of documents and correspondence may be conducted in English and the native language of the license holder, in addition to one of the two official languages (Pashto and Dari).

- (2) Document presented in foreign language shall be translated by an authorized translator into one of the two languages (Pashto or Dari) by the expenses of the license holder and deemed valid after confirmation of the legal authorities.

Transitional Provisions

Article 51:

- (1) Licenses that have been issued prior to the enforcement of this law shall be valid if not contrary to the provisions of this Act.
- (2) If the licenses referred to in paragraph (1) of this article violate the provisions of this law, the license holders shall be obliged to obtain the relevant licenses from the Department within six months after the enforcement of this law in accordance with the terms of the license, otherwise it shall be invalid.

Proposal for Regulation and Enactment of Procedure

Article 52:

MEW may propose regulations and impose procedures not contrary to the provisions of this Act for the better implementation of this law.

Date of Enforcement

Article 53:

This law shall come into force from the date of endorsement and published in the Official Gazette.