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THE ELECTRICITY ACT
(CAP.131)

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RULES
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(Made under section 18(5) and 45))
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THE ELECTRICITY (DEVELOPMENT OF SMALL POWER PROJECTS)
RULES, 2017

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THE ELECTRICITY ACT
(CAP.131)

RULES

(Made under section 18(5) and 45))

THE ELECTRICITY (DEVELOPMENT OF SMALL POWER PROJECTS)
RULES, 2017

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Rules may be cited as the Electricity (Development of Small Power Projects) Rules, 2017.
- Application 2. These Rules shall govern the regulatory and procedural matters related to the development of Small Power Projects in Tanzania.
- Interpretation 3. For the purposes of these Rules, unless the context otherwise requires:
Cap. 131 "Act" means the Electricity Act;
Cap. 414 "Authority" means the Energy and Water Utilities Regulatory Authority established under the Energy and Water Utilities Regulatory Authority Act;
"avoided cost" means the cost the DNO would have incurred had it generated electricity itself or sourced it from another source;
"Backup tariff" means the tariff for electricity sold by a DNO to an SPP for the purposes of providing for the SPP's electrical loads during start up of the power plant;
"Bulk Supply Tariff" means the tariff for sale of electric power in bulk to a DNO who may resell the electric power to a retail customer;
"Clean Development Mechanism Guidelines" means the clean development mechanism guidelines issued by the United Nations Framework Convention on Climate Change (UNFCCC);
"commercial operation date" shall be as specified in an SPPA;
"commercially sustainable" means a situation whereby an entity is able to recover its costs and earn a target return on equity as

specified by the Authority;

"Council" means the EWURA Consumer Consultative Council established under section 30 of the EWURA Act;

"customer" means the end user and includes eligible customers;

"Distribution assets" means poles, low voltage distribution wires and step down transformers and meters which are in the DNO's standards;

"Distribution Network Operators' ("DNO") means a distribution network operator responsible for the operation of a distribution network at 33 kV or below and with at least 10,000 customers;

"EIPC" means the Electricity Infrastructure Procurement Committee established by the regulations of the Minister;

"eligible customer" means:

(a) a person who is authorized by the Authority to enter into contract for the purchase of electricity directly from any person licensed to supply electricity; and

(b) a customer with a peak load of 250kVA or higher;

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"EWURA Act" means the Energy and Water Utilities Regulatory Authority Act;

"Best Utility Industry Practice" means the practices, methods and acts with regard to adequate materials, resources, supplies, fuel, personnel, maintenance, repairs, monitoring, testing, and operation in the international utility industry at a particular time, in the exercise of reasonable judgment based on the facts known or that should have been known at the time of a decision, that would have been expected to accomplish the desired result in a manner consistent with the law, regulations, codes, equipment manufacturers' recommendations, safety, environmental protection and economy;

"Grid" means the Main-Grid, the Mini-Grid or the Regional Grid;

"hybrid" means a system of two or more energy sources used together to provide increased system efficiency and lower costs. A Hybrid generator shall be eligible to sell electricity at the Standardized SPP Tariffs if the electric energy derived from the SPP facility is produced using no more than 25% from fossil fuel or some other non-renewable source on an annual average basis;

"import load factor" means the ratio of the average electric load purchased by an SPP from a DNO measured across one billing interval, to the peak load measured in intervals, typically averaged over fifteen minutes within a period of time corresponding to the billing interval;

"installed capacity" means the capacity that is determined by a manufacturer of a generator which indicates the maximum

output a generator can produce without exceeding the design limits;

“interconnection” means the electrical equipment and materials that allow the transfer of electricity between the DNO’s distribution system and a new electrical system that has not been part of the DNO’s distribution system and includes any transformers, switchgear, switch or relay at the point of interconnection that are necessary for the transfer, but does not include the lines and switchgear at the connection that form part of the transmission or distribution system;

“interconnection certificate” means a document issued by a DNO certifying that an SPP developer has passed construction specifications and that the interconnection test conducted by the DNO is pursuant to these Rules;

“interconnection costs” means those costs incurred to connect to the DNO’s system, and includes those costs, if any, required to upgrade the DNO’s system to receive electricity produced by an SPP;

“interconnection point” means a point where the seller’s facility electric output line or electric system feeds into the electric system to which it delivers power, whether owned by the DNO or another entity and is the point at which the DNO or another entity assumes ownership or wheeling responsibility for the power received and measured by a meter;

“letter of intent” (“LOI”) means a statement of intent by a DNO to connect and purchase power that an SPP developer offers to produce and it shall be in the form prescribed in the Small Power Projects Guidelines;

“licence” means an authorization issued by the Authority to an SPP or SPD to generate and sell electricity and may be issued for a single location or, at the discretion of the Authority, for multiple locations using the same or different generation or distribution technology;

“licensee” means a person who holds a licence issued by the Authority, pursuant to the provisions of the Act;

“Main-Grid” means the interconnected electricity transmission network of Mainland Tanzania, to which the largest cumulative capacity of electricity generating facilities are connected;

“margin” means the average difference between a retail tariff and a bulk supply tariff;

“Mini-Grid” means an electricity distribution network physically isolated from the Main-Grid, that has a generator connected in its network, operated by its owner or a third party, and may be capable of operating in an island mode;

- “Minister” means the minister responsible for electricity matters;
- “Ministry” means the ministry responsible for electricity matters;
- “national uniform tariffs” means a tariff structure for electricity in which all customers in a specified tariff category are charged the same price regardless of the geographic location and differences in the cost of supply;
- “parties” means the seller and a DNO;
- “person” includes an individual, a company, partnership or any association of individuals, whether incorporated or not;
- “price squeeze” means a situation in which the margin is insufficient to allow a Small Power Distributor to cover its distribution costs;
- “provisional licence” means a licence issued by the Authority to allow an SPP developer to conduct preparatory activities like carrying out assessments, studies and other activities necessary for application of a licence;
- “provisional registration” means a temporary authorization by the Authority to any person who has applied for registration without submission of an environmental clearance, provided that the applicant submits to the Authority proof of initiation of the process to acquire the environmental clearance;
- “REA” means the Rural Energy Agency established under the Rural Energy Act;
- “Regional Grid” means an electric power system that serves one or more regions of Mainland Tanzania that may or may not be connected to the Main-Grid;
- “Registration” means an authorization by the Authority to any person who is exempted from obtaining a licence to construct, generate and sell electricity from a Small Power Project at a single location, or at the discretion of the Authority, at multiple locations using the same generation or distribution technologies;
- “regulatory levy” means the levy charged up to 1% of the gross revenue of an SPP Developer which is charged pursuant to section 43 of the EWURA Act;
- “renewable energy” means energy which comes from natural resources, which are renewable;
- “tender Board” means the tender Board of a respective DNO;
- “Request for Proposals” also known for acronym “RFP” means an invitation to Qualified SPP Developers to submit a binding offer to install and operate a small power plant using wind or solar technology or a hybrid system as prescribed in the SPP Rules based on the terms and conditions listed in the Request for Proposals and the Qualified Bidders subsequent bid;

- “Request for Qualifications also known for acronym “RFQ” means an invitation for SPP Developers to seek qualification to bid for tendered wind and solar small power project with capacity from 1MW to 10MW, as shall be prepared by EIPC and approved by the tender Board;
- “retail tariff” means the tariff charged to customers;
- “site” means an area or a piece of land considered for the construction of an electricity generation plant or electricity distribution infrastructure and its associated activities;
- “site reference number” means the identification number assigned by a DNO in an LOI to a proposed site;
- “seller” means an SPP, VSPP or any other entity that sells electricity to a DNO;
- “Small Power Distributor” (“SPD”) means an entity that generates and sells, or purchases electricity under a bulk supply tariff from a DNO or some other bulk supplier and resells it at retail prices to Customers;
- “Small Power Producer” (“SPP”) means an entity producing electricity with a generating capacity between 100kW up to 10MW at a single site using renewable energy, fossil fuels, a cogeneration technology, or some hybrid system combining a renewable fuel source with other fuel sources mentioned above and either sells the generated power at wholesale to a DNO or at retail directly to a customer or customers;
- “small power project” means a facility that is developed by an SPP, a VSPP or an SPD, that is isolated or connected to the DNO’s grid;
- “SPP developer” means a person who promotes and constructs an SPP for the purpose of selling power to a DNO pursuant to an SPPA or to any other entity subject to terms and conditions they may agree;
- “SPP Guidelines” means guidelines issued by the Authority on development of SPPs;
- “SPP tariff methodology” means a method and a formula developed by the Authority and agreed to by stakeholders to compute a Standardized SPP Tariff;
- “SPP Unit” means a group of employees within the DNO responsible for performing the activities described in rule 48;
- “Standardized Power Purchase Agreement” (“SPPA”) means the power purchase agreement entered between a DNO and the seller for the sale of electric power;
- “Standardized Small Power Producers Tariff” (“Standardized SPP Tariff”) means the tariff agreed on in the SPPA;
- “Tribunal” means the Fair Competition Tribunal established under the Fair Competition Act;

“Very Small Power Producer” (“VSPP”) means an electricity generator with an installed capacity of less than 15kW at a single site selling power to at least thirty retail customers, or of an installed capacity between 15kW and 100kW at a single site that either sells power at wholesale to a DNO or at retail directly to a customer or customers; and

“Working Group” means a team of sector stakeholders and experts with the composition and responsibilities specified under Part IX of these Rules.

PART II

PRELIMINARIES TO THE DEVELOPMENT OF AN SPP USING HYDRO AND BIOMASS TECHNOLOGIES

Elements of the project

4.-(1) SPP development for hydro and biomass projects together with solar and wind projects of less than 1 MW shall be conducted through executing an LOI with a DNO that confirms the physical ability of a DNO to purchase electricity from the SPP delivered at the interconnection point.

(2) The provisions of sub-rule(1) shall not preclude a DNO from receiving power from another SPP at a different interconnection point if a DNO has sufficient capacity to receive power from the SPP and sufficient demand to consume the additional power.

LOI application procedure

5.-(1) An SPP developer using hydro or biomass technologies or solar and wind technology for projects less than 1 MW shall apply to a DNO for a LOI by delivering a request for the LOI that includes the following information:

- (a) the name and address of the entity;
- (b) the location (longitude and latitude) (to be marked on a survey map); If hydropower, identification of the river/stream/canal where the plant is located, head and flow involved, if applicable;
- (c) the resource type;
- (d) the installed power capacity (MW) and planned power export (MW), expected annual energy generation (GWh);
- (e) a copy of a title deed, lease agreement or any other documentation evidencing ownership of land or permission for the use of land;
- (f) business the entity, legal ownership and shareholding structure, identifying parent and subsidiary companies, where applicable, and main business activities; and

(g) pre-feasibility study report.

Acknowledgment of Receipt

6.-(1) A DNO shall, not later than seven working days after receiving a request for an LOI, notify the applicant that its request has been received.

(2) A DNO shall, within fourteen business days after receipt of a request for an LOI, evaluate such request and inform the applicant if the request is incomplete.

(3) Where the request is found to be incomplete, the DNO shall require the applicant to correct the request.

(4) The applicant shall, not later than fourteen business days after receipt of the notification from the DNO, submit a complete and correct request.

(5) A DNO shall, not later than fourteen business days after receipt of a complete and correct request for an LOI, assign a site reference number to the application.

(6) After a site reference number has been assigned pursuant to sub-rule (5) such number shall be used to refer to the site in any subsequent documentation and correspondence between a DNO and an SPP developer regarding the site, including:

- (a) an SPPA or any other agreement;
- (b) the interconnection certificate; and
- (c) the interconnection test record.

(7) DNO may, where necessary, conduct site visits to assess connectivity of the proposed power plant to distribution network before issuance of LOI.

Notice of decision in respect of a request for an LOI

7.-(1) A DNO shall, not later than thirty working days after receipt of a request for an LOI or after correction of the application pursuant to sub-rule (3), notify the applicant of its decision either to grant or deny such request in writing, provided, that no application shall be unreasonably denied.

(2) Where a DNO grants the application under sub-rule (1), it shall publish details of the said grant in at least two newspapers of wide circulation in Tanzania, one in English and another in Kiswahili.

(3) A DNO shall, in making its decision either to grant or deny an application for an LOI take into consideration:

- (a) the ability, after upgrades if necessary, of the DNO's electrical network to accept power from a power plant of the proposed type, size and power export capacity at the proposed location;
- (b) its determination as to whether the proposed project conflicts with other projects in terms of power demand and government future plans for electrification of the

relevant area;

- (c) its determination that all preparatory works for obtaining ownership or use rights of land have been done; and
- (d) viability of the project.

(4) A person who is aggrieved by the decision of a DNO under sub-rule (1) may appeal to the Authority.

Term of an LOI

8.-(1) The term of an LOI shall, in the absence of any contrary provision, be for a period of twelve months from the date of issuance.

(2) A DNO shall not issue an LOI regarding the same site to any other party during this period, unless the LOI has been terminated in accordance with these Rules.

(3) Notwithstanding the provisions of sub-rule (2), a DNO may extend the validity of an LOI for a period of six months at a time, provided that the maximum term including extension for the LOI shall not exceed eighteen months.

(4) The extension issued under sub rule (2) above shall be effective from the date of expiry of the original term of the LOI.

Environmental and social clearances

9. An SPP developer shall obtain all necessary approvals on environmental and social clearance pursuant to relevant laws.

PART III

POWER INTERCONNECTION AND SAFETY STANDARDS

Interconnection point

10. A SPP developer and a DNO shall identify an interconnection point pursuant to the SPP Guidelines.

Reservation of network capacity

11. An LOI shall, in the case of sites operating on hydroelectric indicate the exclusivity of the interconnection to an SPP, during the term of an LOI.

Preliminary engineering assessment and estimate of interconnection cost

12.-(1) Save for projects that are within the specified distance to the Grid substation as per rule 17, a DNO shall, not later than forty five days after issuing an LOI for hydro and biomass projects of up to 10MW, and solar and wind projects of up to 1 MW, deliver to an SPP developer:

- (a) a preliminary engineering assessment of whether the proposed interconnection point, in its existing condition, can accommodate the full amount of power proposed to be delivered to the DNO by the SPP developer;
- (b) an estimate of the likely interconnection costs; and
- (c) a determination of whether additional engineering

assessment is necessary; the additional engineering assessment, if required by the DNO, shall follow the guidelines for engineering assessment in the DNO's engineering standards as approved by the Authority.

(2) For solar and wind projects above one MW, the cost for construction of interconnection facilities shall be borne by the SPP developer.

(3) Where a DNO intends that an SPP developer pay for any engineering costs, it shall inform the SPP developer of the said costs and await written acceptance of the said costs prior to initiating any work.

Upgrades to
DNO system

13.-(1) A DNO:

- (a) shall where it reasonably determines that the interconnection point in its present condition cannot accommodate the full amount of power proposed to be delivered by an SPP developer, estimate the costs required to upgrade the distribution system to ensure sufficient capacity at the proposed interconnection point; and
- (b) may after estimating the distribution system upgrade costs described in sub-rule (1), require an SPP developer to bear the costs of upgrading such network provided that the DNO may carry out the upgrade itself subject to terms and conditions it may agree with the SPP Developer prior to such upgrading.

(2) A requirement by a DNO that an SPP developer undertake distribution system upgrades as described in sub-rule (1) is subject to agreement by the SPP Developer and such agreement shall be in writing and shall specify that the works shall be carried out in accordance with the DNO's standards.

(3) In the event an SPP developer disagrees with the DNO's upgrade requirements as described in sub-rule (1), the SPP developer may terminate the LOI.

(4) In the event an SPP developer upgrades the DNO's distribution system, ownership of all improvements beyond the interconnection point shall be transferred to the DNO upon commissioning and subject to any agreements concluded by the parties

(5) In the event the parties fail to agree on suitable upgrades or costs under sub-rule (1), an aggrieved party may refer the matter to the Authority for determination.

Appeal

14. A person who is aggrieved by the decision of the Authority under rule 13(6) may appeal to the Tribunal under the provisions of the Fair Competition Act.

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Installed Capacity of an SPP

15.-(1) An SPP may have an installed capacity which is greater than ten MW but shall only export power at the interconnection point not exceeding ten MW.

(2) A DNO may, where the proposed generation capacity of an SPP developer exceeds tenMW, set a maximum generation capacity that it shall allow to connect with the distribution system at the proposed interconnection point.

Application for interconnection and sale of electricity

16.-(1) An SPP developer shall, not later than twelve months after receipt of an LOI from a DNO, deliver to the DNO an application for interconnection and sale of electricity.

(2) Where an SPP developer fails to submit an application for interconnection and sale of electricity to a DNO within the period established in sub-rule (1) and subject to rule 8(2), an LOI shall lapse and the DNO may issue an LOI to a different SPP developer for the same site.

Distance to the interconnection point

17. Save for solar and wind projects above one 1MW where the cost for interconnection facilities are borne by the SPP developer, the DNO shall:

- (a) bear the cost for interconnection facilities for projects that are within ten kilometers from the point of interconnection at the time the SPPA is signed. Nonetheless; and
- (b) at its sole discretion, retain the right to accept or reject projects beyond ten kilometers:
 - (i) for a negotiated discount on the tariff based on the extended distance beyond ten kilometers;
 - (ii) at an SPP developer's offer to bear the costs and build the line beyond the 10 kilometers; or
 - (iii) for a wheeling charge as may be established by the Authority or that a DNO may negotiate on a one-on-one basis with a DNO willing and physically equipped and capable to wheel the power to a delivery point of DNO's choice.

Obligation to pay interconnection costs

18. Subject to the provisions of rule 12, 13 and 17, an SPP developer shall bear all interconnection costs.

Compliance with laws, codes and standards

19. SPPs, VSPPs and SPDs shall be constructed, operated and commissioned in accordance with the applicable laws, safety and other relevant standards, codes, Electricity Industry Best Practices, guidelines or manuals issued by the Authority for

different types of generating and distribution technologies, customer interface, physical security and safety and grid interconnection.

PART IV
PROCUREMENT OF POWER PROJECTS THROUGH
COMPETITIVE BIDDING

Procurement
of wind and
solar power
projects

20.-(1) The provisions of this part shall:

(a) apply to wind and solar projects of capacities between 1 MW and 10 MW; and

(b) not apply to solar and wind power projects of below 1 MW which shall be procured in accordance with the procedure outlined in rule 4(1)

(2) A public owned DNO shall not procure a wind or solar power project save as it is provided under these Rules.

(3) Without prejudice to subrule (2), a private DNO may procure a wind or solar power project using the procedure prescribed under these Rules or use their own procedures,

Provided that, such procedures are competitive and have been approved by the Authority.

Declared
capacity

21.-(1) The Authority shall, subject to limitation to the system reserve margin requirements, declare the capacity to be procured in each bid round for solar and wind projects to the Main-Grid.

(2) SPP Developers may, for solar and wind small power projects connected to isolated Mini-Grids, bid to substitute up to 75% of the DNO's existing generating capacity, where the DNO has identified unmet existing or future demand and in an amount commensurate with existing or planned substation capacity.

Issuance of
RFQ

22.-(1) A DNO may, on its own motion or upon being instructed by the Authority or the Ministry issues RFQ documents inviting small power project developers to submit bids for qualification.

(2) Upon making of a decision or receipt of instructions under sub-rule (1) a DNO shall cause the EIPC to prepare RFQ documents and submit them to the tender Board, for approval before the same are issued.

(3) Project developers shall, upon issuance of RFQ documents by a DNO and if they so wish, submit to a DNO a completed qualification questionnaire detailing:

(a) developer contact information;

(b) project development consortium commercial

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- information;
- (c) development experience with solar power plants or wind farms; and
 - (d) the proposed construction site location and description.
- Validity of RFQ 23.-(1) The RFQ shall remain open for a period of forty-five days and any response to the RFQ submitted after the deadline specified in the RFQ shall not be accepted.
- (2) Qualified bidders who timely submitted a response to the RFQ that passes qualification review shall be invited to submit a binding project proposal in response to the RFP.
- Multiple bids 24. An SPP Developer may submit multiple bids for projects to be developed in the same site as long as the cost of interconnection and the required system upgrade to accommodate the interconnection are factored in a bid price,
- Provided that, bids from such developer shall not exceed 30% of the total declared procurement capacity.
- Evaluation of bids 25.-(1) A DNO shall submit the received bids to EIPC for analysis and evaluation by the deadline date of receipt of the bids from project developers,
- (2) The EIPC shall:
- (a) within 60 days after receipt of the bids from a DNO evaluate the said bids and prepare recommendations to the tender Board; and
 - (b) in evaluating the bids received, seek to identify developers who are capable of constructing and operating a wind or solar small power project, and the bid shall be evaluated on a pass or fail basis.
- (3) The key factors for passing qualification evaluation shall include whether the bidder:
- (a) possesses technical capability to develop a wind or small power project;
 - (b) demonstrates financial solvency and commercial good standing; and
 - (c) possesses land rights and zoning approvals for a proposed project site or clearly demonstrates commitment or assurance of land acquisition through title deed or lease agreement from a legal owner.
- (4) A DNO shall, within seven days after the tender Board made its decision, publish the resulting list of qualified bidders and notify the unqualified bidders about the results.

Issuance of
RFP

26.-(1) A DNO shall, within thirty days after the announcement of qualified bidders, issue the Request for Proposals ("RFP") and such request shall remain open for the period of nine and fifteen months for solar and wind projects, respectively.

(2) The RFP to be issued by a DNO under sub-rule (1) shall be prepared by EIPC and approved by the tender Board before the same are issued to qualified bidders.

(3) A DNO shall only issue RFP to qualified bidders inviting them to submit binding project proposals in response to the said RFP.

(4) Qualified bidders shall include the following details/information in their project proposals to a DNO:

- (a) statement of any changes to the information submitted at qualification stage;
- (b) Bid Price as the per-unit (kWh) price fixed for the term of a SPPA, at which a Successful Bidder proposes to sell electricity from a wind or solar SPP between 1MW and 10MW to the DNO, subject to indexation as per Second Schedule;
- (c) declaration of SPPA acceptance;
- (d) proof of land rights and zoning permissions to construct and operate the small power project for the duration of the SPPA;
- (e) proof on environmental protection standards and requirements to operate a PV or wind power plant;
- (f) payment of bid security (2 USD per kW of proposed project installed capacity), which is only refundable, without interest, if:
 - (i) the bid is unsuccessful;
 - (ii) the qualified bidder properly submits a bid withdrawal form to a DNO prior to publication of the list of preferred bidders; or
 - (iii) a preferred bidder makes a second bid security payment.
- (g) exemplary solar plant or wind farm design and performance; and
- (h) Power of Attorney to complete the tendering and project implementation.

Evaluation
of bids

27.-(1) After the deadline date, a DNO shall submit all bids received to EIPC and EIPC shall proceed to open and evaluate the binding project proposals received in response to the RFP.

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(2) The EIPC shall evaluate each binding project proposal using the same criteria as in the qualification stage, and the passing proposals shall be ranked in order of bid price from lowest price to highest up to the capacity to be procured as stated in the RFQ.

Selection of Preferred bidders

28.-(1) A DNO retains the right to reject any project proposal for which the bid price exceeds the Authority's calculation of technology-specific project costs and return on investment at the project energy output over the term of the SPPA.

(2) Any capacity:

- (a) withdrawn by any preferred bidder shall be offered to the next-lowest price project proposal that passed the evaluation; or
- (b) awarded to a preferred bidder but not operating within 24 months may be re-tendered in a subsequent capacity addition round.

Notification to preferred bidders

29. A DNO shall notify preferred bidders and offer them an opportunity to execute an SPPA after posting a second bid security payment (25 USD per kW). The second bid security shall be reimbursable, without interest, only in the event that the preferred bidder:

- (a) reaches commercial operation (COD) of the small power project within 12 months for solar projects and 24 months for wind projects, all counted from the date DNO announces the preferred bidders; or
- (b) properly submits a successful bid withdrawal form for more than 20% of its bid capacity no more than 6 months from the date DNO announces the preferred bidders.

Preferred bidder to finalize remaining project development steps

30. Preferred bidders who choose to execute an SPPA with a DNO shall proceed through the remaining project development steps, which include:

- (a) establishment of a business entity, pursuant to the laws of Tanzania, which has no other business or purpose than building, owning, and operating the small power project, including entering into all necessary agreements to build and operate the project, receive financing under the loan agreements, and sell electricity to the DNO;
- (b) obtaining a provisional licence from the Authority. The information and documentation requested through the RFQ and RFP should be sufficiently comprehensive to obtain a provisional license, but the preferred bidders shall still need to make a formal application;

- (c) reach financial close with all lenders that provide the necessary debt finance in accordance with the loan agreements;
- (d) execute the SPPA, direct agreement, implementation agreement, transmission or distribution agreement, connection direct agreement if and as required in a form and manner by the Authority, a DNO and lenders, respectively;
- (e) executing the contracts or sub-contracts necessary for engineering, procurement and construction of the small power projects;
- (f) executing the contracts or subcontracts necessary for operations and maintenance of the small power project for the duration of the SPPA;
- (g) completing physical construction of the small power project and interconnection facilities;
- (h) commissioning the small power project; and
- (i) commencing commercial operations and successfully exporting electricity to the DNO.

Appeal

31. A person who is aggrieved by the decision of the tender Board under this Part may appeal to the Public Procurement Regulatory Authority pursuant to the provisions of the Public Procurement Act.

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PART V EXECUTION OF AN SPPA

Execution of
SPPA

32.-(1) After successfully winning a tender for solar and wind projects or after acquiring an LOI for hydro and biomass projects and solar and wind projects of less than 1 MW, and thereafter receiving approvals for interconnection, an SPP developer shall conclude an SPPA prescribed in the First Schedule within the validity period of the LOI after a DNO has delivered a detailed statement of interconnection costs to the SPP developer where applicable.

(2) The term of an SPPA shall be for a period of twenty-five (25) operating years after reaching commercial operation date.

(3) The parties to any existing SPPA shall, after coming into force of these Rules, be at liberty to re-negotiate the terms of their existing SPPAs with a view to complying with the term prescribed under subrule (2).

(4) An SPP developer shall sell electricity to a DNO pursuant to an SPPA, provided that this provision shall not bar the SPP developer from selling electricity to any other entity subject to the terms and conditions that the parties may agree upon.

PART VI
COMMISSIONING PROCEDURE

Commercial
Operation
Date

33.-(1) The commercial operation date shall be no later than the commercial operation date specified in an SPPA.

(2) An SPP developer shall submit quarterly progress reports to a DNO and the Authority indicating its progress towards achievement of the commercial operation date.

(3) Where an SPP developer fails to achieve the commercial operation date within the timeframe established in the SPPA, the SPPA shall be void, unless both parties agree to an extension and such extension is approved by the Authority.

(4) The Authority shall, in deciding whether or not to approve the extension of the commercial operation date under rule (3), take into consideration:

- (a) whether the renewable energy resource can be allocated to another SPP developer;
- (b) whether the resources of the DNO can be allocated to another use;
- (c) milestones achieved in project development; and
- (d) the circumstances of the delay.

(5) Any SPP developer who fails to submit quarterly progress reports to the DNO and the Authority commits an offence and shall be liable to a fine of Tanzania Shillings three million.

DNO to
issue
interconnecti
on certificate

34.-(1) An SPP developer who has concluded an SPPA with a DNO may supply power to the Grid only after the DNO has verified that the interconnection and the installed connection equipment comply with the standards specified in the SPPA and the technical guidelines approved by the Authority.

(2) A DNO shall issue an interconnection certificate as evidence of an SPP's compliance with the standards described in rule 19(1).

Testing prior
to
interconnect-
tion

35.-(1) An SPP developer shall complete commissioning testing after all the construction work has been completed the installation of all required equipment and prior to dispatching power into the DNO network.

(2) Where SPP developer:

- (a) does not have the capacity to do the testing of interconnection facilities as described under sub rule (1), it may request a DNO to do such tests; and

- (b) request a DNO to conduct the test of the interconnection facilities the DNO shall provide to the SPP developer an estimate of costs, if any, expected to be incurred by the DNO and reimbursed by the SPP developer during the commissioning of interconnection facilities.
- (3) An SPP developer's shall:
 - (a) acknowledge acceptance of the costs under sub-rule (3) prior to DNO's carrying out of the interconnection facilities tests; and
 - (b) prior to the commencement of the sale of electricity, demonstrate to a DNO, that all necessary licences and permits have been obtained.

PART VII

CONNECTION TO THE MAIN-GRID OF AN SPP, SPDOR VSPP THAT WAS PREVIOUSLY CONNECTED TO A MINI-GRID

Connection to the Main-Grid of an SPP, SPD or VSPP previously connected to an isolated Mini-Grid

36.-(1) An SPP, SPD or VSPP developer, who has built a distribution system to standards that allow interconnection with the Main-Grid and whose distribution system will be connected to the Main Grid, may apply to the Authority for the right to operate after the interconnection as:

- (a) an SPP selling electricity to a DNO that is connected to and operating the Main-Grid;
- (b) an SPD that purchases electricity from a DNO connected to the Main-Grid under a bulk supply tariff and then resells some or all of that electricity to the SPD's retail customers;
- (c) a combination of an SPP and SPD.

Provided that, the Authority shall not withhold approval for this conversion unless the Authority deems that it is not in the interest of the population in the area covered by the previously isolated mini-grid.

(2) Without prejudice to subrule (1), the Authority shall give its approval either as a modification to an existing:

- (a) license or as a letter of approval to projects that are not required to have a license; and
- (b) an SPP, SPD or VSPP developer, who has been operating as an isolated Mini-Grid and who is then connected to the Main-Grid, may pursue the option of removing its distribution and generation assets, or selling some or all of its distribution assets to the connecting DNO.

(3) The DNO shall have an obligation to purchase the SPP, SPD or VSPP's distribution assets, but not the generation assets based on the principles set forth below:

- (a) the valuation of a mini-grid's distribution assets shall be based on the Rural Energy Agency's average capital cost for installing distribution equipment in rural areas measured on a cost per kilometer basis over a recent calendar or fiscal year minus depreciation measured from the date when the mini-grid's assets were installed provided that:
 - (i) if the mini-grid's distribution capital costs were fully or partly financed through grants, compensation shall be reduced in the same percentage of the capital cost financed by grants;
 - (ii) in case the mini-grid's distribution assets are built in accordance with the Tanzanian Bureau of Standards' (TBS) standards and that the TBS standards are lower than the REA standards, the calculations specified above shall be discounted to reflect the difference;
 - (iii) meters shall not be included in the calculation of distribution assets unless they are the same meters used by the DNO or, if different, are compatible with the DNO's billing and collection system; and
 - (iv) medium voltage (MV) lines shall not be eligible for compensation unless the MV lines are used to connect separate villages that are served by the same mini-grid operator.
- (b) the mini-grid owner may continue to add assets over time to meet increasing demand, and the calculation of depreciation shall reflect the fact that the mini-grid's accumulated distribution assets may have been installed at different times;
- (c) an SPP, SPD or VSPP owner will be eligible to receive compensation if all of the following conditions are met:
 - (i) the distribution facilities have been built at least to TBS standards that would allow the DNO to provide retail service to the VSPP or SPP's customers;
 - (ii) the connection to the Main Grid takes place within two to fifteen years of the mini-grid's date of commercial operation;
 - (iii) the SPP or VSPP is registered or licensed with the Authority; and

- (iv) the SPP or VSPP provides proof that the Ministry responsible for electricity supported the project prior to its development.

(4) Where the mini-grid owner or DNO cannot agree on the eligibility of an asset for transfer to the DNO or compensation amount for the transfer of the mini-grid's distribution assets, either party may request the Authority to determine to determine eligibility and a fair compensation value.

(5) The Authority may hire a third party entity to assist it in making this determination;

(6) If the conditions in subrule (3)(c) are met, the DNO will have an obligation to purchase the offered distribution assets of the SPP or VSPP using the compensation rules specified in subrule (3)(a) and (b);

(7) The DNO shall not have an obligation to purchase a mini-grid's generation assets.

(8) Where an SPP developer who has previously been operating as an SPP on an isolated Mini-Grid now requests the Authority to operate as an SPP selling bulk electricity to a DNO connected to the Main-Grid under sub rule (1)(a):

- (a) the SPP shall have the right to sell power to the Main Grid if it satisfies the same Rules as those that apply to other SPPs connected to the Main-Grid;
- (b) the Mini-Grid SPPA shall terminate and the Parties thereto shall conclude a Main-Grid SPPA that shall come into force when the Main-Grid is interconnected with the SPP; and
- (c) thereafter, the applicable tariff shall be:
 - (i) for SPPAs executed before August, 2015, the Main-Grid Standardized SPP tariff calculated on the basis of avoided cost principles shall apply;
 - (ii) for SPPAs executed after August, 2015, the Main-Grid Standardized SPP tariff calculated on the basis of technology specific cost principles shall apply.

Entity
seeking to
operate as an
SPD

37.-(1) Where an SPP developer seeks to operate as an SPD under rule 36(1)(b) or as a new entity wishes to operate as an SPD it shall submit a request to a DNO with a copy to the Authority asking the DNO to:

- (a) indicate whether sufficient electricity is available for a bulk purchase by the SPD for resale to retail customers; and
- (b) prescribe a bulk supply tariff for the purchase of electricity by the SPD from the DNO.

(2) Where a DNO fails to deliver a written response to the request in sub-rule (1) within thirty business days, then the entity seeking to operate as an SPD may apply to the Authority with a copy submitted to the DNO.

(3) The application shall include a proposed retail tariff and a proposed bulk supply tariff.

(4) The Authority shall consider the application submitted under sub-rule (2) and if the proposed retail tariff:

(a) is the same as the national uniform tariff, it shall allow the application as long as both the SPD and DNO remain commercially sustainable; or

(b) is higher than the national uniform tariff, the applicant shall be required to submit the proposed margin that would be added to the bulk supply tariff using the pricing principles specified in rule 41(2).

(5) Where an SPD owns and operates an isolated Mini-Grid that is not built to DNO's standards it may continue to operate its Mini-Grid even after the DNO's Grid is extended within the connection range.

(6) Notwithstanding sub-rule (5), isolated Mini-Grid retail customers or other potential DNO customers shall not be prevented from connecting to the DNO lines if they meet the DNO's requirements for interconnection.

Bulk supply tariffs to SPDs

38. A bulk supplier of electricity to an SPD shall upon approval of the Authority, charge a tariff which shall, among other factors to be considered, be computed based on tariffs that similarly situated customers are charged.

PART VIII TARIFFS

Tariff for SPPs selling bulk power to Main-Grid, Regional Grids or to DNO-owned Mini-Grids

39.-(1) The Authority shall pursuant to the Act, the EWURA Act and a Standardized Tariff Methodology prescribed by the Authority, revise annually a feed-in tariff for SPPAs signed before coming into force of these Rules that are selling to the Main-Grid, Regional Grid and to DNO-owned isolated Mini-Grids.

(2) An SPP operator shall charge a feed-in tariff or a tariff that has been approved by the Authority.

(3) The feed-in-tariff for wind and solar SPPs shall only be applicable to the DNO's isolated Mini-Grids.

(4) SPPs intending to sell power to the DNO isolated Mini-Grids shall be subject to the Off-takers' preference of suitable areas.

(5) An approved feed-in tariff or other tariff approved by the

Authority shall remain effective until such time as the new tariff becomes effective.

Determina-
tion of feed-
in tariffs

40.-(1) Tariffs shall be determined as follows:

- (a) for parties with SPPAs executed before August 2015, basing on the principle of avoided cost as provided in the Standardized Tariff Methodology prescribed by the Authority;
- (b) for parties with SPPAs executed after August 2015, that generate electricity using hydro or biomass, basing on technology costs;
- (c) for parties with SPPAs executed after coming into force of these Rules with respect to projects connected to isolated Mini-Grids generating electricity using solar and wind with capacity of below 1MW, basing on approval the Authority; and
- (d) for parties with SPPAs executed after coming into force of these Rules, with respect to a project that generate electricity using solar or wind with capacity of 1 MW up to 10MW, during the competitive bidding process.

(2) Notwithstanding any provision in these Rules, an SPP or VSPP developer may wish to offer lower tariffs than the feed-in-tariffs approved by the Authority.

Pricing
Principles
for approval
of a retail
tariff

41.-(1) A SPP that sells electricity to retail customers, shall charge a tariff approved by the Authority that, at a maximum, shall be limited to the sum of:

- (a) operating costs;
- (b) depreciation on capital, whether supplied by the SPP or SPD or others;
- (c) interest expenses;
- (d) reserves to deal with emergency repairs and replacements;
- (e) taxes, and a reasonable return on equity that reflects the risks faced by the SPP or SPD.

(2) An SPD that sells electricity to retail customers shall charge a tariff to be limited to a maximum sum of:

- (a) the reasonable cost of electricity purchased from the DNO or other suppliers;
- (b) operating costs;
- (c) depreciation on capital, whether supplied by the SPD or others;
- (d) interest expenses;

- (e) reserves to deal with emergency repairs or replacements;
- (f) taxes; and
- (g) (viii) a reasonable return on equity that reflects the risks faced by the SPD.

(3) For purposes of calculating a reasonable return on capital in sub rule (1), the regulatory asset base should not include any grants received from the Rural Electrification Agency, Government or donors for the purpose of lowering tariff levels.

(4) The SPP or SPD, may for the purpose of facilitating predictability and to reduce the number of separate regulatory filings, propose a multi-year tariff setting formula for review by the Authority.

(5) An SPP or SPD may, in order to facilitate commercial sustainability, and subject to the Authority's approval, propose tariffs for specific customer categories or for customers within a single category, that takes account the ability to pay of the respective customers.

SPP retail sales to eligible customers

42.-(1) Where an SPP reaches an agreement with an eligible customer to sell electricity to that entity under a power purchase agreement, such agreement shall be exempted from the requirement of tariff approval by the Authority.

(2) The SPP developer shall provide the Authority with a copy of the power purchase agreement and the agreed-upon tariff.

(3) For purposes of these Rules an eligible customer shall be a customer with a peak load of 250kVA or higher.

Retail tariff structure

43.-(1) SPPs and SPDs selling electricity to retail customers shall be permitted to propose a retail tariff structure, including, conventional kWh tariffs, flat tariffs, power tariffs or a combination of the above.

(2) The retail tariff structure to be proposed by SPPs and SPDs undersub rule (1) may include on-bill financing such as financing of connection charges, financing of internal wiring, upgrades necessary to meet minimum electrification requirements, or electrical end-use equipment for productive uses, as well as associated administrative costs.

(3) An SPP and an SPD shall, while measuring and regulating customer's energy consumption, use conventional kilowatt-hour meters, power limiters, prepaid meters or devices with the combination of these functions.

(4) For avoidance of doubt, full cost recovery does not imply automatic approval of any and all booked costs.

(5) The Authority shall ensure that the proposed costs for serving retail customer reflects prudently incurred costs and a

reasonable level of efficiency.

(6) An SPP or SPD may sell power to retail customers at the national uniform tariff, provided that, they demonstrate to the Authority that such tariff shall nevertheless ensure commercial sustainability of the project.

Use of the Authority's spreadsheet in retail tariff determination

44. Notwithstanding the foregoing provisions of these Rules, an SPP developer may, while submitting its application for retail tariff approval to the Authority, submit the proposed tariffs that are calculated based on the spreadsheets provided by the Authority.

Community be notified of any tariff application

45.-(1) An SPP or an SPD shall ensure that it informs the community that is intended to be supplied with the services about any tariff application which is due to be submitted to the Authority.

(2) The communication under sub-rule (1) shall be either by way of public meetings, television, radio broadcast or the use of public notices to the community all to be done or held in both Kiswahili and English.

(3) An SPP or SPD developer shall submit to the Authority, together with the tariff application, proof that it has informed the community about the application, as required under sub-rules (1) and (2).

(4) Any SPP or SPD above 100 kW shall be required to submit a tariff application for approval by the Authority before it is allowed to charge these tariffs to its customers.

Backup tariffs

46.-(1) A DNO shall provide backup power to any SPP who wishes to receive backup power from the DNO, subject to the conditions that:

- (a) the SPP enters into a separate contract with a DNO for the purchase of backup power;
- (b) the SPP is not charged any construction costs, connection fees, fees for deposits for these backup services;
- (c) if the three most recent consecutive billing periods show a power import load factor of 15% or less, then the DNO charges the SPP a tariff for backup power that comprises only an energy (kWh) charge and no demand (kVA) charge.

Provided that the energy charge shall be no higher than the DNO's general usage (T1) tariff; and

- (d) if the import load factor exceeds 15%, then the demand charge (TZS per kVA) and energy charge (TZS per

kWh) shall be equal to the same tariff that other customers are charged.

(2) The request for contract in subrule (1)(a) shall not be unreasonably withheld by the DNO.

PART IX
WORKING GROUP

Composition
of Working
Group

47.-(1) There shall be a Working Group on small power development comprising of:

- (a) one member each from the Ministry and REA who shall be responsible for overseeing policy and financial support matters;
- (b) two members from the Authority to be able to address technical and commercial issues,
- (c) two representatives from a DNO or the association of DNOs, if any;
- (d) one representative appointed by the Authority from among academic institutions by inviting individual experts with sufficient knowledge in SPPs who shall provide advice on academic concepts;
- (e) one representative from Small Power Producers to be nominated by the developers;
- (f) one representative from other stakeholder's groups that the Authority believes to have a direct interest in small power development;
- (g) one representative from the Council; and
- (h) one representative from SPDs.

(2) Each institution in sub-rule(1) may designate an alternate member with sufficient knowledge and skills to handle the requisite tasks under the Working Group on Small Power Development.

(3) Members of the Working Group shall select, from among themselves, a chairperson to serve for a term of twelve-months.

(4) Where the chairperson is not available during a meeting, members of the Working Group may nominate any person to chair that particular meeting.

(5) Each institution in sub-rule(1) may designate a non-voting invitee to provide technical expertise, subject to chairperson's approval.

(6) The Authority shall coordinate and facilitate the activities of the Working Group on Small Power Development.

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(7) The Authority shall, where the DNOs, SPP or SPDs fail to nominate representatives as required under sub-rule (1), proceed in nominating any person from the DNOs and SPPs and SPDs to act as such.

(8) The Authority may recommend to an institution appointing a member under sub-rule (1) to terminate the nomination or appointment of the member to the Working Group due to ineffectiveness of the member, and such institution shall act in accordance with the recommendation of the Authority.

Responsibilities of Working Group

48.-(1) The Working Group shall meet and transact business as required by the Authority and regulate its own proceedings.

(2) The Working Group shall:

(a) be responsible for, *inter alia*:

(i) acting as a representative of the key stakeholders on matters concerning development of SPPs and SPDs;

(ii) advising the Authority on matters related to annual computations of Standardized SPP Tariffs and other regulatory matters affecting small power development; and

(iii) advising the Authority on modification or general improvement of its Rules and guidelines related to small power development.

(b) may give advice to the Authority as a Working Group or, in the absence of a shared Working Group view, as individual members or organizations from the Working Group.

(3) Members of the general public may provide the Authority with their separate views on matters related to the development of SPPs.

(4) All written views provided to the Authority by the Working Group, individual members or other organizations and individuals shall be made available to the general public.

PART X
DNO SPP UNIT

DNO SPP Unit

49.-(1) A DNO shall establish an SPP Unit that will serve as a single point of contact to help coordinate interactions with various divisions within the DNO.

(2) An SPP Unit shall:

(a) facilitate the issuance of letters of intent;

(b) facilitate the conclusion of SPPAs;

(c) review SPP progress reports;

(d) facilitate and coordinate the activities of an SPP and a

- DNO in the construction and installation of interconnection and metering equipment and, as required, upgrading of the DNO system;
- (e) conduct such other activities incidental thereto.
 - (f) upon initial interconnection, witness interconnection testing and facilitate the issuance of an Interconnection Certificate by the DNO;
 - (g) monitor SPP performance and maintain a database of an SPP power production; and
 - (h) represent a DNO as an active participant in the Working Group on Small Power Development to review a Standardized SPP Tariff.

PART XI

REGULATORY FRAMEWORK FOR POWER PROJECTS BELOW 1MW

Mandatory
Registration
for
Generating
Projects
Below 1
MW

50.-(1) A person shall not commence commercial operation of anSPP, SPD or a VSPP unless the project has been licensed or registered by the Authority.

(2) The application for registration shall be in a prescribed form and shall include the following information:

- (a) name and address of the applicant;
- (b) entity registration documents;
- (c) description of the geographic area that the SPP, SPD or VSPP intends to serve;
- (d) description of the generation and distribution infrastructures;
- (e) initial size of the generating facility;
- (f) a description of the generating technology that will be used;
- (g) environmental clearance;
- (h) proof of land use rights; and
- (i) any other information as may be required or prescribed in the guidelines issued by the Authority.

(4) without prejudice to subrule (2), provisional registration may be effected by the Authority at any stage before commissioning of the project by way of a letter without submission of an environmental clearance, provided that the applicant submits to the Authority proof of initiation of the process to acquire the environmental clearance.

(5) The Authority shall, subject to compliance of subrule (2), and upon completion of the construction or installation and submission to the Authority the proof thereof, register the SPP or VSPP and issue a Registration Certificate.

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(6) The registered SPP or VSPP operator shall notify the Authority of the new facility, and the Authority shall determine whether to register a new facility or amend the previous registration to include the new additional facility provided that the operator has met the requirements stipulated in sub rule 2.

Retail Tariff
Setting
and Review

51.-(1) An operator of a VSPP who intends to sell to retail customers shall not be obliged to apply to the Authority for approval of its retail tariffs provided that the operator informs the community of the proposed tariff.

(2) The communication under sub-rule (1) shall be by way of public meetings, television and radio broadcast and the use of public notices all to be done or held in Kiswahili and English, in the location of the project.

(3) The VSPP must provide evidence of the communication in sub-rule (2) before being issued with a Registration Certificate.

(4) Notwithstanding sub rule 1, the Authority may decide to review the VSPP's tariff:

- (a) on its own to ensure that the VSPP's customers are not paying more than would be acceptable under rule 41; or
- (b) upon receipt of a petition signed by at least 15% of the households served by the VSPP.

(5) In evaluating the reasonableness of a VSPP's tariff, the Authority shall use the same pricing principles listed for SPPs and SPDs in rule 41.

(6) The Authority shall not accept comparison of the tariffs charged by the VSPP and the tariffs charged by a DNO as a valid basis for customer complaints.

Exemptions

52.-(1) Notwithstanding any foregoing provision of these Rules of the contrary, all VSPPs are exempted from the provisions of these Rules.

(2) Notwithstanding sub-rule (1), a VSPP may, in order to reduce the risks associated with competing claims on resources, voluntarily and in writing to the Authority submit proof of resource use permits including land and source of energy, water or biomass.

Duty to
obtain LOI
by SPP or
VSPP

53.-(1) Where an operator of an SPP or VSPP intends to sell electricity at wholesale to a DNO, he shall, subject to the provisions of sub-rule (2) be required to apply and obtain an LOI pursuant to the laid down procedure under Part II of these Rules, as well as a PPA and interconnection agreement.

(2) Notwithstanding sub-rule (1), the PPA entered by an SPP or VSPP and a DNO shall be of the same nature and effects as a PPA entered between an SPP and an eligible customer.

VSPP
wholesale
tariffs

54. If an SPP or VSPP decides to sell wholesale power to a DNO, the tariff and the PPA shall be the same that applies to wholesale sales by other Small Power Producers unless the Authority creates a separate wholesale tariff or a power purchase agreement.

PART XII
REPORTING AND COMPLIANCE MONITORING

Availability
of DNO
expansion
plans

55.-(1) After consultation with REA, a DNO shall, on or before the 31st July of each year, make available to the public upon request a document indicating the names of the villages and districts to which the DNO and REA intend to expand its distribution system to serve new Customers in the coming 12 months, 24 months and 36 months.

(2) A DNO shall, on the 31st July of each year, publish in newspapers of wide circulation a list of signed SPPAs and LOIs for the previous year, which shall include the following information for each SPP:

- (a) project name, technology;
- (b) MW of export capacity;
- (c) location including GPS coordinates;
- (d) whether off-grid or on-grid;
- (e) LOI date; and
- (f) expected Commercial Operation Date.

Reporting
requirements

56.-(1) An SPP, a VSPP or an SPD shall, pursuant to these Rules and the SPP Guidelines, submit an annual report to the Authority on the conduct of its facilities and operations in the format to be prescribed by the Authority.

(2) An SPP developer, SPP or SPD shall submit to the Authority its annual report not later than one hundred and twenty days after the end of the SPP's or SPD'S financial year.

(3) An SPP Developer, SPP or SPD shall submit other reports as requested by the Authority.

Penalty

57. An SPP developer, SPP or SPD who:

- (a) refuses to furnish information or to provide statement required by the Authority or knowingly furnishes any false information or statement to the Authority commits an offence and shall be liable to a fine of Tanzania Shillings three million; and
- (b) who refuses to furnish information as required or knowingly provides any false information or statement to the Authority for the second time shall be liable to a

fine of Tanzania Shillings ten million and shall have its licence or provisional licence, as the case may be, suspended for a period of twelve months.

Compliance
Audit

58.-(1) A Small Power Producer or an SPD shall, as directed by the Authority from time to time, conduct an audit of its financial, commercial and technical operations with a view to checking its compliance with:

- (a) these Rules;
- (b) any agreement relevant with the conduct of an SPP or SPD;
- (c) relevant laws; and
- (d) any relevant codes.

(2) The compliance audit described in sub-rule (1) shall be conducted by:

- (a) an independent auditor; or
- (b) any other expert of required expertise hired by a Small Power Producer or an SPD and approved by the Authority.

(3) A Small Power Producer or an SPD shall, within ninety days after completion of the audit described in sub-rule (1), deliver to the Authority the results of such audit.

(4) Notwithstanding the audit procedure provided under sub-rules (1), (2) and (3) the Authority may, on its own, conduct a technical, financial and commercial audit of an SPP or SPD at any time.

(5) The audit under sub-rule (4) may be done by the Authority itself or by an independent auditor who shall be appointed by the Authority.

PART XIII GENERAL PROVISIONS

Indexation

59. Indexation shall be applied to the tariff stated in an SPPA that has been signed in any given year after coming into force of these Rules, on an annual basis in a manner described in the Second Schedule.

Treatment of
Carbon
Credits

60. All Carbon Credits shall be provided, as per procedure prescribed by the Clean Development Mechanism Guidelines.

Transition
provisions

61.-(1) The changes brought by these Rules to the development of small power projects shall not affect the rights of the parties to an already executed SPPA, provided however:

- (a) parties to an executed SPPA that has reached financial closure or Commercial Operation Date, may within nine months from coming into force of these Rules, opt

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to switch over determination of their tariff pursuant to Rule 40;

- (b) parties to an executed SPPA that has not reached financial closure or Commercial Operation Date, may within nine months from coming into force of these Rules, opt to switch over determination of their tariff pursuant to Rule 40; or opt to maintain terms of the executed SPPA so as to reach its planned Commercial Operation Date; and
- (c) parties to an executed SPPA that has not reached financial closure or Commercial Operation Date, who has not reached its planned Commercial Operation Date of the executed SPPA shall not be allowed to renew terms of the executed SPPA nor be allowed to extend the Commercial Operation Date.

(2) Notwithstanding sub-rule (1), no party to an executed SPPA shall be allowed to opt to the change in the computation of tariffs as prescribed under Rule 40, unless such decision is made within nine months after coming into force of these Rules.

(3) An SPP developer for solar and wind projects of the capacity between 1MW and 10MW who has been granted a LOI before coming into force of these rules shall not be affected by these rules.

Regulatory
Levy

62. An SPP developer and an SPD shall, pursuant to the provisions of the EWURA Act and any Rules made thereunder, pay to the Authority the regulatory levy.

General
penalty

63. Any SPP developer, an SPP, an SPD or a DNO who:

- (a) contravenes the provisions of these Rules for which no specific penalty is prescribed shall be liable to a fine of not less than shillings three million; or
- (b) employs an agent, clerk, servant or other person, shall be answerable and liable for any acts or omissions of such persons in so far as they concern an SPP developer, an SPD or a DNO, as the case may be.

Revocation
of GN No.
217of 2016

64.-(1) The Electricity (Development of Small Power Projects) Rules, 2016 are hereby revoked.

(2) Notwithstanding the revocation of the Electricity (Development of Small Power Projects) Rules, 2016, all orders, exemptions or directives made or issued or deemed to have been made or issued under those Rules shall be deemed to have been made under those Rules, and shall remain in force until

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specifically revoked by direct reference or otherwise expire or cease to have effect.

Authority to
supplement
procedures

65. Where procedures are not provided for in these Rules, the Authority may do whatever is necessary and permitted by relevant laws to enable it to effectively and completely adjudicate on the matter before it.

Electricity (Development Of Small Power Projects)

GN. No. 440 (contd.)

First Schedule

STANDARDIZED POWER PURCHASE AGREEMENT

Second Schedule

INDEXATION OF FEED-IN TARIFFS

- (1) For Hydro, Biomass projects of up to 10MW and Solar and Wind projects of up to 1MW, tariffs shall be adjusted annually for inflation in accordance to the following formula:

$$T_y = T_{y-1}(1-W) + [T_{y-1} \times W \times 0.7 \times (CPI_y/CPI_{y-1})] + [T_{y-1} \times W \times 0.3 \times (USCPI_y/USCPI_{y-1})]$$

Where:

T_y is the applicable current year tariff

T_{y-1} is the applicable tariff in the previous year

CPI_y is the Consumer Price Index of December of the previous year

CPI_{y-1} is the Consumer Price Index of December of two previous years

$USCPI_y$ is the United States Consumer Price Index of December of the previous year

$USCPI_{y-1}$ is the United States consumer Price Index of December of two previous years

W is the share of O&M in the tariff as approved by the Authority where for:

Hydro and Wind projects: W = 20%

Solar projects: W = 15%

Biomass projects: W = 35%

- (2) For Solar and Wind projects above 1MW up to 10MW, tariffs shall be adjusted annually for inflation in accordance to the following formula:

$$T_y = T_{y-1}(1-W) + [T_{y-1} \times W \times 0.7 \times (CPI_y/CPI_{y-1})] + [T_{y-1} \times W \times 0.3 \times (USCPI_y/USCPI_{y-1})]$$

Where:

T_y is the applicable current year tariff

T_{y-1} is the applicable tariff in the previous year

CPI_y is the Consumer Price Index of one year after signing the SPPA and that month annually thereafter

CPI_{y-1} is the Consumer Price Index of the month of signing the SPPA and that month annually thereafter

$USCPI_y$ is the United States Consumer Price Index of December of the previous year

$USCPI_{y-1}$ is the United States consumer Price Index of December of two previous years

W is the share of O&M in the tariff as specified in the SPPA

Dar es Salaam,
....., 2017

GODWIN SAMWEL,
Director General