

THE ELECTRICITY ACT
(CAP 131)

THE ELECTRICITY (DEVELOPMENT OF SMALL POWER PROJECTS) RULES, 2016

(Made under section 45)

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(Made under section 45)

PART I
PRELIMINARY PROVISIONS

- Citation **1.** These Rules may be cited as the Electricity (Development of Small Power Projects) Rules, 2016.
- Application **2.** These Rules shall govern the regulatory and procedural matters related to the development of Small Power Projects in Tanzania.
- Interpretation **3.** In 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;
- “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 the term shall include eligible customer;

“Distribution Network Operators’ (“DNO”) means a distribution network operator responsible for the operation of a distribution network at 33 kV or below;

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

“eligible customer” means any person who is authorized by the Authority to enter into contract for the supply of electricity directly with any person licensed to generate electricity;

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“EWURA Act” means the Energy and Water Utilities Regulatory Authority Act;

“Best Utility Industry Practice” means those 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 the generator’s manufacturer which indicates the maximum output a generator can produce without exceeding design limits;

“interconnection certificate” means a document issued by a DNO certifying that an SPP developer has passed construction specifications and the interconnection test conducted by the DNO 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 to generate and sell electricity;

“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 transmission and distribution network physically isolated from the Main-Grid;

“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 geographic location and differences in the cost of supply;

“parties” means the seller and a DNO collectively;

“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;

“REA” means the Rural Energy Agency established under the provisions of 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;

“regulatory levy” means the levy charged at 1% of the gross revenue of an SPP Developer which is charged pursuant to the provisions of 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 construction of 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 or any other entity that sells electricity to a DNO;

“Small Power Distributor” (“SPD”) means an entity that purchases electricity at wholesale prices from a DNO or some other bulk supplier and resells it at retail prices to Customers. An SPD may also have a generator that qualifies for SPP or VSPP status and may use this generator to sell power to a DNO or some other DNO or to provide a backup supply of power to its own customers;

“Small Power Producer” (“SPP”) means an entity generating electricity in the capacity between one hundred kW up to ten MW using renewable energy, fossil fuels, a cogeneration technology, or some hybrid system combining fuel sources mentioned above and either sells the generated power at wholesale to a DNO or at retail directly to a customer or customers. An SPP may have an installed capacity greater than ten MW but shall only export power at the interconnection point not exceeding ten MW;

“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 an instructions manual 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;

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“Tribunal” means the Fair Competition Tribunal established under the provisions of the Fair Competition Act;

“Very Small Power Project” (“VSPP”) means an electricity generator with an installed capacity of one hundred kW or less that either sells power at wholesale to a DNO or at retail directly to a customer or customers;

“viable project” means a project involving the construction of a plant which in its conception, design, planning and execution meets the Best Utility Industry Practice(s) in each of the disciplines involved that will render such project feasible with respect to technical, commercial, financial, economic, legal, environmental, regulatory, and other relevant criteria. The concept of viability will include compatibility with the technical requirements, by size, type, and all other technical respects, of the Main-Grid or Mini-Grid to which it will be connected; and

“Working Group” means a team of 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 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 Megawatt 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/entity legal ownership and shareholding structure, identifying parent and subsidiary companies, where applicable, and main business activities;
- (g) shareholders' agreement, if any;
- (h) pre-feasibility study, which means a preliminary study or collection of preliminary studies associated with the planning of a contemplated power plant and the related preliminary or advanced stage data to assess:
 - (i) the quality of the energy resource base to be used;
 - (ii) the technology to be applied;
 - (iii) the installed capacity contemplated for the power plant;
 - (iv) its associated capital and operating costs;
 - (v) the capacity factor at which the plant is expected to operate;
 - (vi) estimated length of the interconnector;
 - (vii) the availability and expected annual electricity sales, including firm energy, if any;
 - (viii) the associated market the plant will serve;
 - (ix) the proposed financial plan including amounts of debt and equity and grants, if any;
 - (x) the possible sources of finance;
 - (xi) the expected financial viability at the applicable tariff, along with financial projections on the project, if any;
 - (xii) the environmental and economic impact; and
 - (xiii) basic information on financial advisors, if any, to assist the applicant,

which together establish a sufficient basis for practitioners knowledgeable in such matters to determine that a viable project is very likely to be conceived, designed, planned, and executed if and when certain key parameters in the areas of technical, commercial, financial, economic, environmental, regulatory, legal, and other

relevant disciplines are further investigated and properly structured; and

- (i) Project Development and Implementation Plan, which means an outline including time schedules for major tasks and milestones, type of contract for implementation, including type of engineering procurement contract if such is contemplated, plus contractor's experience, procurement and tendering arrangements, and project completion support and cost overrun coverage guarantees contemplated, if any.

Acknowledgement
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) If the request is found to be incomplete, a DNO shall require the applicant to correct the request. The applicant shall, not later than fourteen business days after receipt of a notification from the DNO, submit a complete and correct request.

(4) 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.

(5) After a site reference number has been assigned pursuant to sub-rule (4) 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.

Notice of decision
in respect of a
request for an LOI

7. (1) A DNO shall, not later than thirty business 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, provided, that no application shall be unreasonably denied.

(2) In the event a DNO grants an application for an LOI 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; and
- (c) its determination that all preparatory works for obtaining ownership or use rights of land have been done.

(4) A DNO shall, in the event that it denies the application for an LOI, give the reasons for such denial in writing.

(5) Any person who is aggrieved by the decision of a DNO under sub-rule (3) 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 issue. 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.

(2) Notwithstanding the provisions of sub-rule (1), 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.

Environmental and social clearances

9. An SPP developer shall, in respect of an SPP using hydro or biomass technology and wind or solar projects of less than 1 MW, obtain all necessary approvals on environmental and social clearance pursuant to relevant laws.

PART III POWER INTERCONNECTION

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 thirty days after issuing an LOI for hydro and biomass projects, solar and wind projects of up to 1 megawatt, 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 megawatt, the cost for construction of interconnection facilities shall be borne by the SPP developer.

(3) In the event 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 shall, in the event 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.

(2) A DNO 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.

(3) 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.

(4) 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.

(5) 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

(6) In the event the parties fail to agree on suitable upgrades or costs under sub-rule 13 (1), an aggrieved party may refer the matter to the Authority for determination.

Appeal

14. Any 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.

Maximum allowable generation capacity

15. A DNO may, where the proposed generation capacity of an SPP developer exceeds ten megawatt, 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) In the event that 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 Grid sub-station

17. Save for solar and wind projects above one megawatt where the cost for interconnection facilities are borne by the SPP developer, only projects that are within ten kilometers from a DNO's sub-station at the time the SPPA is signed shall be eligible for development of SPP projects. Nonetheless, a DNO shall, at its sole discretion, retain the right to accept or reject projects beyond ten kilometers :

- (a) for a negotiated discount on the tariff based on the extended distance beyond ten kilometers;
- (b) at an SPP developer's offer to bear the costs and build the line beyond the 10 kilometers; or
- (c) 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 and Rule 13, an SPP developer shall bear all interconnection costs.

PART IV

PROCUREMENT OF POWER PROJECTS THROUGH COMPETITIVE BIDDING

Procurement of wind and solar power projects

19. – (1) The provisions of this part shall only be applicable to wind and solar projects and of capacities between 1 MW and 10 MW.

(2) No public owned DNO shall procure a wind or solar power project save as it is provided under these Rules.

(3) 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.

(4) Notwithstanding the generality of sub-rule (1), the provisions of this Part shall not apply to solar and wind power projects of up to 1 MW and such projects shall be procured in accordance with the procedure outlined in Rule 4 (1).

- Declared capacity **20.** – (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 **21.** - (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 information;
 - (c) development experience with solar power plants or wind farms;
and
 - (d) proposed construction site location and description;
- Validity of RFQ **22.** – (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 **23.** 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 **24.** – (1) By the deadline date of receipt of the bids from project developers, the DNO shall submit the received bids to EIPC for analysis and evaluation.
- (2) EIPC shall, within 60 days after receipt of the bids from a DNO evaluate the said bids and prepare recommendations to the tender Board.

(3) EIPC shall, 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/fail basis. 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 has made up a decision, publish the resulting list of qualified bidders and notify the unqualified bidders about the results.

Issuance of RFP

25. – (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 (per kWh) in USD as follows:
 - (i) levelized tariff; and
 - (ii) first year tariff which will be subjected to escalation as per Schedule II;
- (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

26. – (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.

(2) 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

27. – (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 withdrawn by any preferred bidder shall be offered to the next-lowest price project proposal that passed the evaluation.

(3) Any capacity 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

28. 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

29. 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 (project company), 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

30. Any person who is aggrieved by the decision of the tender Board made 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

31. (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 not later than ninety days after a DNO has delivered a detailed statement of interconnection costs to the SPP developer.

(2) The term of an SPPA shall be for a period of twenty-five (25) operating years after reaching Commercial Operation Date.

(3) Notwithstanding the provisions of Rule 29 (2) 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 Rule 31(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

32. (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 Commercial Operation Date within the timeframe established in the SPPA, such 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 to approve the extension of the Commercial Operation Date under Rule 32 (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
interconnection
certificate

33. (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 33 (1).

Testing prior to
interconnection

34. (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) If an SPP developer does not have the capacity to do the testing of interconnection facilities as described under Rule 34 (1), it may request a DNO to do such tests.

(3) In the event an SPP developer request a DNO to conduct the test of the

interconnection facilities as provided for under sub-Rule (2), 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.

(4) An SPP developer's acceptance of the costs under sub-rule (3) is mandatory prior to DNO's carrying out of the interconnection facilities tests.

(5) An SPP developer shall, prior to the commencement of the sale of electricity, demonstrate to a DNO, that all necessary licences and permits have been obtained.

PART VII

SMALL POWER DISTRIBUTORS AND CONNECTION TO THE MAIN-GRID OF AN SPP THAT WAS PREVIOUSLY CONNECTED TO A MINI-GRID

Connection to the Main-Grid of an SPP previously connected to a Mini-Grid

35. (1) An SPP developer who has built a distribution system to standards that allow interconnection with the Main-Grid shall, in the event of an SPP that has been operating on an isolated Mini-Grid and eventually becomes connected to the Main-Grid, apply to the Authority for the right to operate as:

- (a) an SPP selling to a DNO that is connected to and operating on the Main-Grid;
- (b) an SPD that purchases electricity in bulk from a DNO connected to the Main-Grid and then resells that electricity to the SPD's retail customers; or
- (c) a combination of a Small Power Producer and an SPD.

(2) Without prejudice to the options available under sub-rule (1), an SPP developer who has been operating in a Mini-Grid and who is then connected to the Main-Grid, may pursue the option of removing its distribution assets or selling these assets to a DNO or some other party.

(3) In the event a SPP developer who has been operating an SPP that has been previously operated on a Mini-Grid requests the Authority to operate as an SPP selling bulk electricity to a DNO connected to the Main-Grid under Rule 35 (1) (a):

- (a) the SPP shall operate under the same Rules as those that apply to other SPPs connected to the Main-Grid;
- (b) a 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) the applicable tariff paid to the SPP shall be the Mini-Grid tariff until:
 - (i) the interconnection with the Main-Grid; or
 - (ii) the date specified in the notice described under Rule 35 (1), whichever comes later; and

- (d) thereafter, the applicable tariff shall be:
 - (i) for SPPAs executed before coming into force of the Rules, the Main-Grid Standardized SPP tariff calculated on the basis of avoided cost principles shall apply;
 - (ii) for SPPAs executed after coming into force of these Rules, the Main-Grid Standardized SPP tariff calculated on the basis of technology cost principles shall apply.

Entity seeking to operate as SPD

36. (1) If an SPP developer seeks to operate as an SPD under Rule 35 (1) (b) or as a combined the SPP and the SPD under Rule 35 (1) (c) or as a new entity wishes to operate as the SPD then that entity 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 wholesale tariff for the purchase of electricity by the SPD from the DNO.

(2) If 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, which application shall include a proposed retail tariff and a proposed bulk supply tariff.

(3) 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 the SPD remains 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 in order to ensure efficient distribution operations.

(4) If 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.

(5) Notwithstanding the provisions of sub-rule (4), 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

37. (1) A bulk supplier of electricity to an SPD shall charge a tariff as shall be approved by the Authority, which shall, among other factors that will be considered, be computed based on tariffs that similarly situated customers are charged.

(2) A DNO who is a bulk supplier of electricity to an SPD shall, in order to prevent a price squeeze, charge a bulk supply tariff, as shall be approved by

the Authority.

PART VIII TARIFFS

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

38. (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) An approved feed-in tariff or other tariff approved by the Authority shall remain effective until such time as a new tariff becomes effective.

Determination of
tariffs

39. (1) Tariffs shall be determined as follows:

- (a) for parties with SPPAs executed before August 2015, determination of tariff shall be based 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, determination of tariff shall be based on technology costs;
- (c) for parties with SPPAs executed after coming into force of these Rules with respect to the project that generate electricity using solar and wind with capacity of up to 1 Megawatt, determination of tariff shall be as determined by the Authority or equal to the published tariff for 500 kW for biomass projects plus a premium of:
 - (i) 15% for projects connected to Isolated Mini Grid; and
 - (ii) 5% for projects connected to Main Grid;
- (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, determination of tariff shall be as provided during the competitive bidding process.

Application for
approval of a retail
tariff

40. (1) Any SPP or SPD that sells electricity to retail customers, shall charge a tariff that, at a maximum, shall be limited to the sum of operating costs, depreciation on capital, whether supplied by the SPP or SPD or others, debt payments, reserves to deal with emergency repairs and replacements, taxes, plus a reasonable return on capital provided by the SPP or SPD that reflects the risks faced by the SPP or SPD.

(2) 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 sales to eligible customers

41. (1) In the event 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.

Retail tariff structure

42. (1) SPPs and SPDs selling electricity to retail customers are 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 under Rule 42(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) Notwithstanding the provisions of these Rules and for avoidance of doubts full cost recovery does not imply automatic approval of any and all booked costs; the Authority shall ensure that the proposed costs for serving retail customer reflects prudently incurred costs and a reasonable level of efficiency.

(5) 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 REA spreadsheet in retail tariff determination

43. Notwithstanding the 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 REA project evaluation spreadsheets.

Community be notified of any tariff application

44. (1) An SPP or an SDP 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 by way of public meetings, television and radio broadcast and the use of public notices 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).

45. 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 shall enter into a separate contract with a DNO for the purchase of backup power and a request for such a contract shall not be unreasonably withheld by the DNO;
- (b) the SPP shall not be 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 shall charge the SPP a tariff for backup power that comprises only an energy (kWh) charge and no demand (kVA) charge. 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.

PART IX WORKING GROUP

46. (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 nominated by the developers' association;
- (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, among themselves, a chairperson to serve for a term of twelve-months. If the chairperson is not available during a meeting, members of the Working Group may nominate any person to chair that particular meeting.

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

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

(6) The Authority shall, in the event 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.

(7) 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

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

(2) The Working Group shall be responsible for, *inter alia*:

- (a) acting as a representative of the key stakeholders on matters concerning development of SPPs and SPDs;
- (b) advising the Authority on matters related to annual computations of Standardized SPP Tariffs and other regulatory matters affecting small power development; and
- (c) advising the Authority on modification or general improvement of its Rules and guidelines related to small power development.

(3) The Working Group 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.

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

(5) 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

48. (1) A DNO shall establish an SPP Unit that shall 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; and
- (e) conduct such other activities incidental thereto.

(3) An SPP Unit shall, upon initial interconnection, witness interconnection testing and facilitate the issuance of an Interconnection Certificate by the DNO.

(4) An SPP Unit shall monitor SPP performance and maintain a database of an SPP power production.

(5) An SPP Unit shall represent a DNO as an active participant in the Working Group on Small Power Development to review a Standardized SPP Tariff.

PART XI VERY SMALL POWER PROJECTS

Exemptions

49. (1) Save for the provisions of this Part, all VSPPs are exempted from the provisions of these Rules.

(2) Notwithstanding the generality of sub-rule (1), an operation of a VSPP may, in order to reduce the risks associated with competing claims on resources, voluntarily and in writing to the Authority submit itself to be bound by the provisions of these Rules.

VSPP evidence of land and resource use rights

50. In the event an operator of a VSPP opts to be bound by these Rules, that operator shall be required to submit to the Authority the evidence of land and resource use rights.

VSPP LOI

51. (1) In the event an operator of a 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 the generality of sub-rule (1), the PPA entered by the VSPP and a DNO shall be of the same nature and effects as a PPA entered between an SPP and an eligible customer.

VSPP retail tariffs

52. (1) An operator of a VSPP who intends to sell power to a retail customer shall not be obliged to apply to the Authority for approval of its retail tariffs, but the Authority may review the VSPP's retail tariff upon receipt of a petition on the retail tariff charged signed by 15% of the households in the area served by the VSPP.

(2) In the event the Authority decides to review the VSPP's retail tariffs in terms of sub-rule (1) it shall use the same tariff standards prescribed under Part VIII, unless the Authority issues separate tariff standards for VSPPs.

VSPP wholesale tariffs

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

PART XII REPORTING AND COMPLIANCE MONITORING

Notice of DNO expansion plans

54. (1) After consultation with REA, a DNO shall, on or before the 1st of January of each year, issue a document indicating the names of the villages and districts to which the DNO intends 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 1st of January of each year, publish in newspapers of wide circulation a list of signed SPPAs and LOIs 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

55. (1) An SPP developer, an SPP or an SPD shall, pursuant to these Rules and the SPP Guidelines, submit reports to the Authority on the conduct of its facilities and operations.

(2) An SPP developer, SPP or SPD shall submit to the Authority its annual report not later than ninety 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

56. (1) Any SPP developer, SPP or SPD who refuses to furnish information or to provide statement required by the Authority or knowingly furnishes any false information or statement to the Authority shall be liable to a fine of Tanzania Shillings three million.

(2) Any SPP developer, SPP or SPD 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

57. (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

58. 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 Schedule II.

Treatment of
Carbon Credits

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

Transition
provisions

60. (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 to switch over determination of their tariff pursuant to Rule 39;
- (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 39; 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 the provisions of 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 39, unless such decision is made within nine months after coming into force of these Rules.

Regulatory Levy

61. 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

62. (1) Any SPP developer, an SPP, an SPD or a DNO who contravenes the provisions of these Rules for which no specific penalty is prescribed shall be liable to a fine of Tanzania Shillings three million.

(2) An SPP developer, an SPP, an SPD or a DNO that 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.

Penalty for continued contravention

63. Any person who, is in continuous contravention of these Rules shall be liable to a fine of Tanzania Shillings three million for every day on which the contravention occurs or continues.

Revocation of GN No. 321 of 2015

64. (1) The Electricity (Development of Small Power Projects) Rules, 2015 are hereby revoked.

(2) Notwithstanding the revocation of the Electricity (Development of Small Power Projects) Rules, 2015, 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 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.

SCHEDULE I

STANDARDIZED POWER PURCHASE AGREEMENT

SCHEDULE II

INDEXATION

(1) For Hydro, Biomass 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