

-Draft Bill-

The Electricity Act, 2006

The United Republic of Tanzania

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THE ELECTRICITY ACT, 2006

An Act to repeal and replace the Electricity Ordinance, to provide for the regulation of electricity services, regulation and planning of rural electrification, the restructuring of the electricity supply industry and for connected matters.

PART I: PRELIMINARY PROVISIONS

1 Short Title

This Act may be cited as the Electricity Act, 2006.

2 Application

This Act shall apply to Mainland Tanzania.

3 Commencement

This Act shall come into force in whole or in part on such date or dates as the Minister may, by notice published in the Gazette, appoint.

4 Relationship with other legislation

4(1) This Act shall be read as one with the EWURA Act and regulations made pursuant to the EWURA Act.

4(2) In the event that a provision of this Act is found to be contradictory to any provision in respect of a regulatory function provided for pursuant to the EWURA Act, the provisions of this Act shall prevail.

5 Purpose of the Act

The object of this Act is to provide for:-

- a) The roles of the Minister and the Authority with respect to the electricity supply industry;
- b) The licensing and regulation of electricity services;
- c) Access to land for electricity supply installations;
- d) Planning, monitoring and regulation of rural electrification;
- e) The reorganisation and restructuring of the electricity supply industry;
- f) The repeal of the Electricity Ordinance.

6 Interpretation

6(1) In this Act, unless the context requires otherwise:–

“Annual Report” means the report issued by the Authority on an annual basis in terms of Section 48 of the EWURA Act;

“Authorised Area” means the area or areas in which a Distribution Licensee has a non-exclusive right to make sales or provide services to Consumers;

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

- “Consumer” means a person that purchases or receives electricity for consumption and not for delivery or resale to others, including a person that owns or occupies premises where electricity is supplied;
- “Customer Charter” means a document that sets out complaint procedures, Customers’ rights and Customer’s duties;
- “Customer” means a person that receives or purchases services from a Licensee, including Consumers and other Licensees;
- “Distribution Code” means the technical and procedural rules and standards of that name issued by the Authority governing matters pertaining to Distribution;
- “Distribution Licensee” means a Licensee authorised to undertake Distribution activities;
- “Distribution” means the transportation of electrical energy and power by means of medium- to low-voltage lines, facilities and associated meters, including the construction, operation, management and maintenance of such lines, facilities and meters;
- “Donor Agency” means an agency providing grants or concessionary finance;
- “Eligible Consumer” means a Consumer that is authorized by the Authority to conclude contracts for the supply of electricity with any person licensed by the Authority to supply or generate electricity;
- “EWURA Act” means the Energy and Water Utilities Regulatory Authority Act; 2001
- “Fair Competition Commission” means the commission of that name established by the Fair Competition Act; 2004
- “Franchise Area” means the area or areas within which a Distribution Licensee has the right to provide service to any Consumer who is not an Eligible Consumer in that area on an exclusive basis, except as otherwise provided in this Act;
- “Generation Licensee” means a Licensee authorised to undertake Generation activities;
- “Generation” means the production of electrical energy and power from any primary source of energy;
- “Grid Code” means the technical and procedural rules and standards of that name issued by the Authority governing matters pertaining to Transmission and System Operation;
- “Licence” means a licence issued by the Authority pursuant to this Act or the EWURA Act, pertaining to the electricity supply industry;
- “Licensed Activity” means the activities listed in Section 9(1) of this Act;
- “Licensee” means a person in possession of a Licence;
- “Market Operator” means the person licensed by the Authority to administer wholesale trade in electricity;

“Market Rules” means the technical and procedural rules of that name issued by the Authority governing matters pertaining to the administration of wholesale trade in electricity;

“Minister” means the minister responsible for electricity affairs;

“Off-Grid” means an electricity supply system that is not electrically connected, directly or indirectly, to any part of the Transmission System;

“Order” means an instruction issued by the Authority pursuant to this Act or the EWURA Act;

“Performance Agreement” means an agreement between a Licensee and the Authority which establishes incentives and penalties related to the measurable performance of the Licensee, and which is designed to improve the efficiency and effectiveness of the Licensee;

“Permit” means a permit issued by the Authority pursuant to this Act providing permission to:-

- i) Carry out assessments, studies and any other activities that may be necessary to enable the Permit holder to prepare an application for a Licence, or
- ii) Significantly expand the Licensed Activities of a Licensee;

“Power System Expansion Plan” means a planning document prepared and updated on an annual basis by the System Operator, dealing with indicative medium to long-term plans for the expansion of the Transmission system to cater for expected generation and demand developments;

“Priority Customers” means Customers of a Distribution Licensee that, due to the essential nature of their activities, are prioritised by Authority to receive supply when the Licensee suspends electricity supply services;

“Related Business” means any business or company which directly or indirectly, in whole or in part, is owned by the Licensee; owns the Licensee; or is owned by a company which owns or is owned by the Licensee;

“Rural Electrification Strategy and Plan” means the document of that name prepared by the Minister or the Rural Energy Agency dealing with strategies and plans to promote access to electricity in rural areas;

“Rural Energy Agency” means the agency of that name established pursuant to Part IV of the Rural Energy Act;

“Rural Energy Fund” means the fund of that name established pursuant to Part V of the Rural Energy Act;

“Supply” means the sale of electricity to Consumers;

“System Operation” means the activities listed in Section 21(1) of this Act;

“TANESCO” means the Tanzania Electric Supply Company Ltd.; incorporated pursuant to the provisions of the Companies Act;

“Transmission Licensee” means a Licensee authorised to undertake Transmission activities;

“Transmission” means the transportation of electrical energy and power by means of high-voltage lines, facilities and associated meters; including the construction, operation, management and maintenance of such lines, facilities and meters.

6(2) Any reference to “he” or “his” shall mean “she” or “hers” respectively.

PART II: JURISDICTION OF THE MINISTER AND THE AUTHORITY

7 Jurisdiction and Powers of the Minister

The Minister shall:-

- a) Develop, direct and review government policies for the electricity supply industry;
- b) Take all measures necessary to reorganize and restructure the electricity supply industry with a view to attract private sector and other participation, in such parts of the industry, phases or time frames as he deems in the public interest;
- c) Prepare, revise and publish policies, strategies and plans for the development of the electricity subsector;
- d) In co-operation with the Rural Energy Agency, prepare, revise and publish the Rural Electrification Strategy and Plan;
- e) Promote the development of the energy sector, including the development of indigenous energy resources;
- f) Take measures to support and promote rural electrification in accordance with the Rural Energy Act, including the provision of funding for the Rural Energy Fund;
- g) Exercise emergency powers and coordinate emergency responses in close co-ordination with the Authority and Licensees;
- h) Enter into bilateral agreements with other countries to establish the basis for trade of electricity that benefits Tanzanian Consumers;
- i) Conduct inquiries into accidents or national disasters, in close co-ordination with the Authority and electricity supply companies;
- j) Establish regulations necessary for the implementation of his responsibilities pursuant to this Act, including regulations as he thinks fit for the purpose of:-
 - i) Ensuring that supplies of electricity are sufficient to meet expected demand;
 - ii) Protecting the public from dangers arising from the generation, transmission or supply of electricity, or from the installation, maintenance or use of any electrical equipment;
 - iii) Promoting access to electricity in rural areas in accordance with the Rural Energy Act;
 - iv) Promoting research into, and the development of, new techniques relating to the electricity supply industry.

8 Jurisdiction and Powers of the Authority

- 8(1) Pursuant to the terms of this Act and the EWURA Act, the Authority shall:-
- a) Award or withhold Licences and Permits to entities undertaking, or seeking to undertake, a Licensed Activity;
 - b) Establish rules that govern the activities of Licensees;
 - c) Set and enforce tariffs and fees charged by Licensees;
 - d) Approve Licensees' terms and conditions of electricity supply;
 - e) Approve, through licensing, the procurement of new electricity supply installations;
 - f) Advise the Minister on the exercise of his responsibilities pursuant to this Act;
 - g) Establish rules necessary for the exercise of its functions pursuant to this Act, including but not limited to rules relating to:-
 - i) Determination of tariffs and fees;
 - ii) Accounting and reporting standards;
 - iii) Customer service standards;
 - iv) Non-discriminatory access to transmission or distribution facilities that are designated for common carriage;
 - v) The operation and management of the transmission system, to be known as the Grid Code;
 - vi) The operation and management of the distribution system, to be known as the Distribution Code;
 - vii) The trading of electricity, to the known as the Market Rules;
 - viii) Safety.
- 8(2) In the exercise of its functions, the Authority should:-
- a) Protect Consumers' interests through the promotion of competition and the prevention of anti-competitive practices and monopoly abuse;
 - b) Promote access to, and affordability of, electricity services, particularly amongst those residing in rural areas, with disabilities, or of pensionable age;
 - c) Promote least-cost investment and the security of supply for the benefit of Consumers;
 - d) Promote improvements in the operational and economic efficiency of the electricity supply industry and efficiency in the use of electricity;
 - e) Promote appropriate standards of reliability and quality of electricity supply;
 - f) Take into account the effect of the activities of the electricity supply industry on the physical environment;
 - g) Protect the public from dangers arising from the activities of the electricity supply industry;

- h) Promote the health and safety of persons employed in the electricity supply industry.
- 8(3) In the exercise of its functions, the Authority shall consult with the Minister on matters of common concern, including:-
- a) Matters of a security nature,
 - b) Matters of public interest,
 - c) Matters involving:-
 - i) Rural electrification;
 - ii) Acquisition of land by compulsory acquisition;
 - iii) Collection of information pertaining to the electricity supply industry;
 - iv) Preservation of the environment;
 - v) Relations with stakeholders;
 - vi) Cross-border trade in electricity; and
 - vii) Development of other sources of energy affecting electricity supply.
- 8(4) The Authority shall submit to the Minister:-
- a) Its Annual Report as prepared pursuant to Section 48 of the EWURA Act;
 - b) Such other reports on its activities, or on any other activities, as pertain to the electricity supply industry as the Minister may, from time to time, request.

PART III: REGULATION OF THE ELECTRICITY SUPPLY INDUSTRY

SUB-PART A: LICENCES AND PERMITS

9 Duty to Obtain a Licence

- 9(1) The following activities shall be Licensed Activities:-
- a) Generation;
 - b) Transmission;
 - c) Distribution;
 - d) Supply;
 - e) System Operation;
 - f) Import and export of electricity;
 - g) Physical and financial trade in electricity;
 - h) Electrical Installation
- 9(2) No person shall conduct a Licensed Activity in the absence of a Licence, unless:-

- a) Exempted by the Authority from the requirement to obtain a Licence in terms of subsection 10(1) of this Act; or
 - b) The activity is exempted, pursuant to subsection 10(3) of this Act, from the requirement to obtain a Licence.
- 9(3) Notwithstanding Section 50(1) of the EWURA Act, any person in possession of a licence or permit issued prior to the enactment of the EWURA Act shall comply with this Act and all rules issued by the Authority pursuant thereto within one (1) year of the entering into force of this Act.
- 9(4) The grant of a Licence to any person shall not limit the Authority’s power to grant a Licence to another person to provide the same or similar activity within the same area, unless the Licence states otherwise.

10 Exemptions

- 10(1) The Authority may exempt any person from the requirement pursuant to Section 9 of this Act to obtain a Licence.
- 10(2) An exemption may be of a general or specific application, and is subject to such terms, conditions and limitations as may be specified by the Authority.
- 10(3) Persons undertaking generation activities where the installed generation capacity at a single site is less than one (1) megawatt are exempted from the requirement to obtain a Licence in Rural Areas.
- 10(4) Persons undertaking Off-Grid distribution and supply activities where the maximum demand on the Off-Grid system is below one (1) megawatt are exempted from the requirement to obtain a Licence in Rural Areas.
- 10(5) The Authority may establish regulations in respect of activities that are exempted from the requirement to obtain a Licence.
- 10(6) Any person exempted from the requirement to obtain a Licence shall report to the Authority such information on his activities as the Authority may require, and in a format as specified by the Authority.

11 Duration of a Licence

- 11(1) Subject to the provisions of this Act, a Licence shall remain in force for the period specified in it.
- 11(2) A Licensee shall within the period prescribed by the authority, apply for a new License
- 11(3) The Authority may renew a Licence on such terms and conditions as the Authority may determine.

12 Licence Applications and Approval

- 12(1) The Authority shall establish:-
- a) The criteria upon which Licences shall be granted, and
 - b) Licence application procedures.
- 12(2) Licence applications shall include all technical, financial and other information required by the Authority.

- 12(3) Pursuant to rules established by the Authority, the Authority may, during the application process, inspect the applicant's premises and books of account.
- 12(4) The Authority shall, when considering a Licence application, take into account:-
- a) The contribution of the proposed activities to meeting the future electricity needs of Consumers;
 - b) The consistency of the proposed activities with the Tanzanian Energy Plan and the Rural Electrification Strategy and Plan;
 - c) The contribution of the proposed activities to competitive conditions in the electricity supply industry;
 - d) The social and environmental impacts of the proposed activities;
 - e) The impact that the proposed activities may have on the health and safety of employees and the public;
 - f) The legal, technical, economic and financial capacity of the applicant to conduct the proposed activities;
 - g) The costs of the activities and the effect on electricity prices to Consumers;
 - h) Any representations and objections to the proposed activities made by the public; and
 - i) Other public interests affected by the proposed activities.
- 12(5) The Authority shall not approve a Licence for any activity that fails to comply with:-
- a) Technical requirements established by the Authority;
 - b) The requirement to obtain water rights pursuant to Section 15(1) of the Water Utilization (Control and Regulation) Act, and applicable legislation, where such requirement is applicable to the activity;
 - c) Applicable environmental, Consumer protection and public safety standards and requirements.
- 12(6) A Licence issued by the Authority shall include the following information:-
- a) The Name and Address of the Licensee
 - b) The Licence term;
 - c) The Licensed Activities;
 - d) The basis for the determination of tariffs and fees;
 - e) The Licensee's reporting requirements; and
 - f) The Area of Operation.
- 12(7) The Authority may establish Licence conditions in the award of a Licence, where such conditions may include:-
- a) A requirement to maintain separate accounts for a Licensee's separately Licensed Activities;
 - b) The Licensee's debt limits; and
 - c) Any other condition required by the Authority.

13 Suspension, Modification and Revocation of a Licence

- 13(1) The Authority may suspend, modify or revoke a Licence in the event that a Licensee violates the terms and conditions of its Licence or any rules or regulations issued pursuant to this Act: Provided that:-
- a) The violation causes significant damage on public or private interest;
 - b) The violation occurs in a place repeatedly or persists for a considerable period of time; or
 - c) The Authority determines that, as a consequence of the violation, the Licensee is unable to fulfil its legal obligations.
- 13(2) The Authority may modify the terms and conditions of a Licence: Provided that the modification:-
- a) Is by agreement between the Authority and the Licensee;
 - b) Is in the public interest, where the benefits to the public significantly exceed any disadvantages to the Licensee; or
 - c) Is in accordance with subsection 13(1) of this Act.

14 Transfer of a Licence

- 14(1) A Licensee may not transfer its Licence without the prior written consent of the Authority, where transfer refers to:-
- a) The transfer of the Licence to a person other than the Licensee;
 - b) The transfer of the assets that the Licensee requires to conduct its Licensed Activity; or
 - c) A third party becoming a majority shareholder in the Licensee.
- 14(2) The transfer of any Licence in violation of Section 14(1) shall be void.
- 14(3) A Licensee seeking to transfer a Licence shall apply to the Authority to do so.
- 14(4) An application to the Authority pursuant to this Section to transfer a Licence shall be accompanied by the application of the person to whom the Licensee intends to transfer the Licence, together with the proscribed Licence transfer fee.
- 14(5) The Authority shall satisfy itself of the legal, technical, economic and financial capacity of the transferee to undertake the proposed activities; and shall not unreasonably withhold the consent to any application to transfer unless it has reason to believe that the transferee is unable to adequately undertake the Licensed Activities, or the public interest will be prejudiced by the transfer.

15 Permits

- 15(1) Based upon an application received, the Authority may issue a Permit allowing the applicant to carry out assessments, studies and any other activities that may be necessary to enable the applicant to prepare an application for a Licence.
- 15(2) The Authority may, in consultation with the Minister and by way of a public tender, invite applications for a Permit to undertake activities identified in subsection 15(1), and award such a Permit with condition that the Permit holder, upon receipt of such Permit shall apply to the Authority for a Licence.

- 15(3) Where a Licensee intends to significantly expand its Licensed Activities, it should apply to the Authority for a Permit to do so; and no Licensee may significantly expand its Licensed Activities in the absence of such a Permit.
- 15(4) The Authority shall establish:-
- a) Rules to determine when an expansion of Licensed Activities shall be considered significant;
 - b) The criteria upon which Permits shall be required and granted;
 - c) Permit application procedures; and
 - d) Permit conditions and obligations.
- 15(5) The Authority may revoke a Permit if a Permit holder:-
- a) Violates a provision of its Permit;
 - b) Is unable to fulfil its obligations pursuant to the Permit; or
 - c) Fails to initiate work required pursuant to its Permit within the time stipulated in the Permit.
- 15(6) A Permit holder shall not transfer a Permit in the absence of prior written approval by the Authority.
- 15(7) The transfer of any Permit in violation of Section 15(6) shall be void.
- 15(8) A Licensee seeking to transfer a Permit issued by the Authority shall apply to the Authority to do so.

SUB-PART B: RIGHTS AND OBLIGATIONS OF LICENSEES

16 Rights of Licensees

- 16(1) During the term of its License, a Licensee shall be entitled to:-
- a) Conduct its Licensed Activity;
 - b) Plan, maintain, refurbish, install and develop the facilities and equipment required to undertake its Licensed Activity;
 - c) Earn a fair return on its investment: Provided that its investment has been approved by the Authority;
 - d) Collect revenues in accordance with its lawfully approved tariffs and fees;
 - e) Provide, at the request of its Customers, metering and data collection equipment; and
 - f) Access to other Licensees' transmission and distribution systems, where such access is permitted by the Authority;
- 16(2) The Authority may authorise a Licensee to make by-laws to support its operations.

17 General Obligations of Licensees

- 17(1) A Licensee shall only purchase or sell electricity on the basis of contracts that have been approved by the Authority.

- 17(2) A Licensee shall be established as an individual or other judicial and the Authority may examine the foundation documents of a Licensee at any time.
- 17(3) The Authority may waive the requirement that a Licensee fulfil any obligation related to its Licensed Activity established by or pursuant to this Act.
- 17(4) A Licensee shall at all times during the term of validity of the Licence, comply with the provisions of:-
- a) This Act and all other applicable laws;
 - b) The terms and conditions of its Licence;
 - c) Rules issued by the Authority as applicable to the Licensee; and
 - d) Orders of the Authority.
- 17(5) Pursuant to its Licence, rules established by the Authority and applicable contract provisions, a Licensee shall:-
- a) Safely and reliably provide services arising from its Licensed Activities to other Licensees or Consumers that apply for it;
 - b) As required by the Authority, provide all users access to its transmission or distribution assets, on an open and non-discriminatory basis;
 - c) Employ a sufficient number of qualified personnel to ensure that its Licensed Activities comply with its Licence;
 - d) As required by the Authority, conclude a Performance Agreement with the Authority;
 - e) Prior to concluding any contract with another Licensee or with a Consumer, submit such contract to the Authority for its approval, unless such contract comprises standard terms and conditions that previously have been approved by the Authority.
- 17(6) In the conduct of its business, a Licensee shall:-
- a) Ensure that its Customers are treated on a non-discriminatory basis;
 - b) Ensure that comparable services are provided to all of its Customers;
 - c) Not engage in any activities that disrupt or inhibit competition;
 - d) Ensure that none of its separately Licensed Activities give any subsidy to, or receive any subsidy from any other separately Licensed Activity or any Related Business.
- 17(7) A Licensee shall pay licence fees and levies to the Authority pursuant to rules the Authority shall establish, pursuant to Part VIII of the EWURA Act.
- 17(8) A Licensee shall take into account the need to preserve natural beauty, conserve flora, fauna, fisheries and forests, and preserve buildings and sites of geological, archaeological or cultural significance.

18 Information and Reporting Obligations

- 18(1) Licensees shall maintain the confidentiality of information and data it possesses that is related to other Licensees or its Customers.

- 18(2) Licensees shall keep records and accounts pursuant to any rules on accounting and reporting issued by the Authority.
- 18(3) The Authority may specify simplified record keeping and reporting requirements for Licensees, or persons exempted from the requirement to obtain a Licence pursuant to Section 10 of this Act.
- 18(4) Licensees shall submit to the Authority in a true and correct form all data and information required by the Authority to perform its functions pursuant to this Act.
- 18(5) At a frequency to be determined by the Authority, which shall be at least annual, the Licensee shall submit to the Authority a report on its Licensed Activities, pursuant to any accounting and reporting rules established by the Authority, that shall include but not be limited to the following information: -
- a) Financial data;
 - b) Technical data related to systems and equipment;
 - c) Operational parameters; and
 - d) Customer service information.
- 18(6) Persons in possession of more than one Licence shall keep separate accounts and submit separate reports for each Licence.
- 18(7) A Licensee shall notify the Authority annually of any accident that has occurred in any part of the Licensee's works or in connection with its Licensed Activities. Notice of any loss of life or serious personal injury occasioned by any such accident shall be reported to the Authority as soon as possible.

19 Generation Licences

- 19(1) Generation Licences shall include the following information: -
- a) The Name and Address of a Licensee;
 - b) The nature and technology of the generation facilities;
 - c) The location of the generation facilities;
 - d) The duration of the Licence, which shall be not less than the expected useful life of the generation facilities; and
 - e) All applicable licence conditions.
- 19(2) Generation Licensees shall comply with all applicable requirements of the Grid Code.

20 Transmission Licences

- 20(1) Transmission Licences shall include the following information: -
- a) The service territory within which the Licensee is licensed to provide transmission services on an exclusive basis, or the specific transmission facilities to which the Licence applies;
 - b) The duration of the Licence shall be determined by the Authority
 - c) All applicable licence conditions.

- 20(2) Pursuant to its Licence and regulations issued by the Authority, Transmission Licensees shall:-
- a) Comply with all applicable requirements of the Grid Code;
 - b) Maintain, improve and expand its transmission facilities in an economical manner, taking due account of the Power System Expansion Plan;
 - c) Provide transmission services to all users of its facilities on a non-discriminatory basis.
- 20(3) Within three (3) months of receiving a Licence, a Transmission Licensee shall establish and publish procedures governing requests to connection to its transmission facilities, which procedures shall be subject to review and modification by the Authority.
- 20(4) Transmission Licensees shall not refuse an applicant the right to connect to its Transmission Facilities: Provided that the applicant has fulfilled the requirements set out in the procedures described in subsection 20(3); and Provided that Authority finds that the Licensee is able to provide a connection while maintaining transmission services at charges, terms and conditions consistent with the Public Interest.

21 System Operation and Market Operation

- 21(1) The Authority shall designate a person to be the System Operator and license such person to:-
- a) Co-ordinate the power supply system to obtain instantaneous balance between generation and consumption of electricity;
 - b) Be responsible for dispatching all generation installations connected to transmission facilities;
 - c) Co-ordinate planned generation and planned transmission outages;
 - d) Monitor the import and export of electricity;
 - e) Prepare forecasts of generation requirements;
 - f) Recommend amendments to the Grid Code;
 - g) Perform such other functions as may be prescribed in its Licence or in rules issued by the Authority.
- 21(2) The System Operator shall prepare and publish a Power System Expansion Plan, and update such plan on an annual basis, taking due account of the Minister's policies, strategies and plans for the energy sector and proposed developments in generation and demand.
- 21(3) In the performance of its functions, the System Operator shall abide by the Grid Code in the conduct of its Licensed Activities.
- 21(4) The Authority will designate a person to be the Market Operator and license such person to:-
- a) Administer the operations of the wholesale electricity market;
 - b) Admit members to the wholesale electricity market, and require the lodging of securities from such members;

- c) Receive bids and offers to buy and sell electricity in the wholesale electricity market;
- d) Clear, reconcile and settle the wholesale electricity market;
- e) Collect such contract and metering information as may be required to implement its functions pursuant to its Licence
- f) Recommend amendments to the Market Rules.

21(5) In the performance of its functions, the Market Operator shall abide by the Market Rules in the conduct of its Licensed Activities.

22 Distribution Licences

22(1) Distribution Licences shall include the following information:-

- a) The Authorised Area and the Franchise Area of the Licensee;
- b) The duration of the Licence, which shall be for a maximum period of twenty (20) years; and
- c) All applicable licence conditions.

22(2) Pursuant to its Licence and rules issued by the Authority, Distribution Licensees shall:-

- a) Comply with all applicable requirements of the Grid Code;
- b) Comply with all applicable requirements of the Distribution Code;
- c) Comply with all application requirements of rules issued by the Authority in respect of Customer service standards;
- d) Comply with all application requirements of rules issued by the Authority in respect of safety and technical standards;
- e) Maintain, improve and expand its distribution facilities in an economical manner in order to provide universal access within its Franchise Area;
- f) Provide distribution services to all users of its facilities on a non-discriminatory basis.

22(3) Within three (3) months of receiving a Licence, a Distribution Licensee shall:-

- a) Establish and publish procedures governing requests to connect to its distribution facilities, which procedures shall be subject to the Authority's review and approval;
- b) Not refuse an applicant the right to connect to its distribution facilities: Provided that the applicant has fulfilled the requirements set out in the procedures referred to above;
- c) Establish and publish systems and procedures to receive, register, investigate, resolve and report complaints made by its Customers;
- d) Establish and publish a standard contract for the supply of electricity to a Customer, which contract shall include the Customer's rights and duties, and shall be subject to the Authority's review and approval;

- e) Establish and publish a Customer Charter, which charter shall reflect the complaint procedures, Customers' rights and Customer's duties described in subsection (c) and (d).

22(4) Persons in possession of a licence to undertake distribution activities issued prior to the enactment of the EWURA Act shall comply with paragraphs (a), (b), (c), (d) and (e) of subsection 22(3) within three (3) months of the enactment of this Act.

23 Licences to Import or Export Electricity

23(1) The Authority shall establish rules for the terms and conditions for Licences to import or export electricity.

23(2) All applications for a Licence to import or export electricity shall be accompanied by relevant agreements forming the basis for such application.

23(3) Where a Licensee holding an import or export Licence amends the agreements referred to in subsection 23(2), or enters into new agreements, the amended or new agreements shall be submitted to the Authority for verification that the amendments or agreements comply with the rules referred to in subsection 23(1).

23(A) The Authority shall establish rules for the terms and conditions for electrical installation licences

SUB-PART C: TARIFFS AND CHARGES

24 Tariff Regulation

24(1) The Authority may regulate:-

- a) Tariffs for the sale of electricity by Licensees to other Licensees, unless the electricity is sold in markets determined by the Authority to be competitive;
- b) Tariffs for the sale of electricity by Licensees to Customers other than Eligible Consumers;
- c) Charges for connection to, and the use of, any transmission system;
- d) Charges for connection to, and the use of, any distribution system;
- e) Other such prices and charges in respect of goods and services provided by Licensees determined by the Authority to be subject to tariff regulation.

24(2) In regulating tariffs and charges referred to in subsection 24(1), the Authority shall be guided by the following principles:-

- a) Tariffs should reflect the full cost of efficient business operation;
- b) Tariffs should allow Licensees to recover a fair return on their investments, Provided that such investments have been approved by the Authority;
- c) Any costs covered by subsidies or grants provided by Government or Donor Agencies should not be reflected in the costs of business operation;

- d) Tariff adjustments should, to the extent possible, ensure price stability;
 - e) Access charges for use of a transmission or distribution system shall be based upon comparable charges for comparable use;
 - f) No Customer class should pay more to a Licensee than is justified by the costs it imposes upon such Licensee;
 - g) Tariffs should enhance efficiency in electricity consumption, and should encourage adequate supply to satisfy demand.
- 24(3) Regulated tariffs and charges may include automatic tariff adjustments, as approved by the Authority that reflects periodic changes in:-
- a) The cost of fuel,
 - b) The cost of power purchases or the rate of inflation
 - c) The currency fluctuation.
- 24(4) Notwithstanding the provisions of 24(2), the Authority may prescribe maximum tariffs of a generic nature, or simplified tariff methodologies, applicable to Licensees, or persons exempted from the requirement to obtain a Licence pursuant to Section 10 of this Act.
- 24(5) Pursuant to regulations established by the Authority, a Licensee may require an advance financial deposit from a Customer as security for the Customer's future obligations.

25 Tariff Applications and Tariff Changes

- 25(1) A Licensee shall submit its proposed regulated tariffs to the Authority for approval. The Licensee submitting such tariff shall demonstrate that it is in accordance with this Act and rules established by the Authority.
- 25(2) Not less than once every three (3) years, the Authority shall review the regulated tariffs charged by a Licensee, and may make amendments to such tariffs in accordance with the provisions of this Act and rules established by the Authority. Any such amendments shall not be retroactively applied.
- 25(3) If the Authority finds any tariff or charge or any term or condition of electricity service not in compliance with this Act or regulations issued by the Authority, the Authority may require:-
- a) Changes to the tariff or charge or term or condition of electricity service; and
 - b) The Licensee to compensate the affected Customers in amounts established by the Authority.
- 25(4) A Licensee shall not change a regulated tariff unless:-
- a) Such change has been approved by the Authority; and
 - b) The Licensee has provided a sixty (60) day notice of its intention to make such tariff change to the public.
- 25(5) A Licensee's notice pursuant to subsection 25(4)(b) shall clearly indicate the tariff change and the date on which such change shall become effective.

- 25(6) For good cause, the Authority may allow the tariff change described in subsection 25(4)(b) to take effect on less than sixty (60) days' notice.
- 25(7) A Licensee shall demonstrate a change of circumstances or assumption that underlies an existing regulated tariff in its application for a tariff change.

26 Power Purchase Agreements

- 26(1) This section shall be applicable only to legally binding agreements concluded subsequent to the entry into force of this Act.
- 26(2) Pursuant to rules established by the Authority, a Licensee may conclude agreements for the purchase and sale of electricity.
- 26(3) Any agreement described in subsection 26(2) that is concluded in the absence of Authority approval shall be void, unless such agreements relate to:-
- a) The import or export of electricity; or
 - b) The sale of electricity to Eligible Consumers; or
 - c) Electricity purchase and sale in markets determined by the Authority to be competitive.
- 26(4) The costs incurred by a Licensee arising from its obligations pursuant to a power purchase agreement may only influence a Licensee's regulated tariffs if the Authority deems that the costs were prudently incurred.

SUB-PART D: CONSUMER RIGHTS AND PROTECTION

27 Service Obligations

- 27(1) The Authority shall establish rules in respect of a Distribution Licensee's obligations to:-
- a) Serve other Licensees and Consumers;
 - b) Connect other Licensees and Consumers; or
 - c) Disconnect other Licensees and Consumers.
- 27(2) A Distribution Licensee may suspend electricity supply services to its Customers for the following reasons:-
- a) Danger to life, health or safety;
 - b) Danger or risk of damage to property;
 - c) On instruction of the System Operator;
 - d) In the event of insufficient supply of electricity;
 - e) On instruction of the Authority, in the event of an emergency;
 - f) Operational breakdowns in electrical facilities;
 - g) In order to carry out:-
 - i) Connections to its distribution facilities;
 - ii) Scheduled or unscheduled maintenance;
 - iii) Repairs, inspections or refits;
 - iv) Tests or control measurements;

- v) Network expansion; and
 - vi) Other activities that cannot be accomplished without a suspension of services.
- 27(3) Notwithstanding the provisions of sub-section 2, suspension of electricity supply services by a Licensee shall:-
- a) Be as brief as possible;
 - b) Affect the fewest number of Consumers possible; and
 - c) Minimise suspension of supply to Priority Customers in accordance with the Licensee's contingency plans referred to in subsection 27(5).
- 27(4) In non-emergency situations, Licensees shall give advance notice of the suspension of electricity services pursuant to rules established by the Authority.
- 27(5) In the event of an insufficient supply of electricity to meet the demand of all its Customers, the Authority shall require a Licensee suspending electricity services to establish and follow contingency plans to supply Priority Customers.
- 27(6) Pursuant to rules established by the Authority, a Licensee shall compensate Customers that have suffered loss, as a result of a Licensee's unlawful:-
- a) Disconnection of electricity;
 - b) Suspension of electricity services; or
 - c) Quality of supply

28 Disconnection of Electricity Service

- 28(1) Pursuant to its contract or regulations established by the Authority, a Licensee may disconnect the supply of electricity to a Customer that is:-
- a) Unlawfully connected to the electrical system; or
 - b) In breach of its contractual obligation in respect of electricity supply.
- 28(2) A Licensee shall reconnect a Customer's electricity service upon such Customer's full payment of a past due account and reconnection fees. To be re-casted
- 28(3) In the event of a dispute related to a payment obligation, reference for resolution may be made to the Authority.

29 Service Standards and Customer Complaints

- 29(1) Pursuant to rules established by the Authority, a Distribution Licensee shall establish:-
- a) Customer protection standards;
 - b) Service quality standards;
 - c) Performance standards;
 - d) Procedures that are appropriate to the Customers of the Licensee, including simplified procedures for the Licensee's Customers in rural areas;

- e) Programmes to inform Customers on electricity related issues.
- 29(2) A Distribution Licensee shall establish:-
- a) An office to receive and respond to Customer questions, concerns and complaints; and
 - b) Maintain trained staff to address Consumer questions, concerns and complaints in a timely and transparent manner.
- 29(3) The Authority may conduct Customer education programmes and may require Licensees to conduct the same.

SUB-PART E: MONITORING, INSPECTION, INVESTIGATIONS AND COMPLIANCE

30 Monitoring

- 30(1) The Authority shall establish systems and procedures to monitor and measure a Licensee's performance and its compliance with this Act, regulations issued pursuant to this Act and orders issued by the Authority.
- 30(2) Where prices in a part or all of the electricity market have been deregulated, the Authority shall monitor the behaviour of Licensees participating in such parts of the market, and shall initiate an investigation pursuant to subsection 32(1) where any anti-competitive behaviour is suspected.
- 30(3) The Authority may require the Market Operator, once established, to assist the Authority in fulfilling the function described in subsection 30(2).
- 30(4) The Authority may collect from a Licensee any information it reasonably requires to fulfil its functions pursuant to this Act, and a Licensee shall promptly provide such information requested by the Authority.
- 30(5) Upon reasonable prior notice, authorised representatives of the Authority or any person or entity authorised by the Authority shall be given access to inspect the Licensee's premises, installations books and accounts and other documentation for the purpose of investigating the Licensee's compliance with this Act, licence conditions, regulations issued pursuant to this Act and orders of the Authority. The Licensee shall provide any required assistance necessary for the Authority to conduct its work efficiently.
- 30(6) Information provided by a Licensee to the Authority shall be presumed to be public information unless, upon specific request of Licensee, the Authority determines that such information is of a proprietary nature and that the public interest served by disclosure would not justify or offset the potential commercial harm to Licensee.
- 30(7) The Authority shall by regulation made under its Act publish periodic reports on the performance of Licensees, including but not limited to the quality, reliability and security of supply, progress with electrification, investment, efficiency of operations, and other standards of Customer services.

31 Inspection

- 31(1) In order to monitor and assess compliance with this Act and any rules or orders issued by the Authority, the Authority will have the right to:-

- a) Inspect the construction of electricity facilities and works;
- b) Inspect existing facilities to ensure conformity with regulations and standards;
- c) Test metering facilities to ensure their adequacy and accuracy.

31(2) In carrying out its inspections and tests pursuant to subsection 30(2), an officer or authorised representative of the Authority may enter a Licensee's premises at reasonable hours and on reasonable notice.

32 Investigations and Inquiries

32(1) Upon the receipt of a complaint or on its own motion, the Authority may investigate:-

- a) A Licensee for non-compliance with this Act, regulations issued pursuant to this Act and orders issued by the Authority;
- b) Any aspect of a Licensee's tariff;
- c) A Licensee for engaging in anti-competitive behaviour.

32(2) The Authority shall consult with the Fair Competition Commission in any investigation into anti-competitive behaviour.

32(3) The Authority may conduct inquiries into the cause of any accident relating to electricity facilities that may affect the safety of electricity sector operatives, Consumers or the public, and order necessary corrective actions.

33 Compliance

33(1) Where the Authority is of the opinion that a Licensee has violated or is in violation of a condition of its Licence, a requirement pursuant to this Act, rules or regulations issued pursuant to this Act, an order issued by the Authority, or anti-competitive behaviour, the Authority may:-

- a) Direct the Licensee to comply with that condition or requirement or modify its behaviour;
- b) Suspend, modify or revoke the Licence in accordance with section 13 of this Act; or
- c) Impose fines, sanctions and penalties.

33(2) The Authority shall, by way of rules, establish fines, sanctions and penalties in respect of:-

- a) Engaging in any Licensed Activity without a Licence and in the absence of an exemption pursuant to Section 10 of this Act;
- b) Breach of Licence conditions, rules and regulations issued pursuant to this Act or the EWURA Act;
- c) Engaging in anti-competitive behaviour;
- d) Tampering with or adjusting any installation or part of an installation;
- e) Manufacturing or importing or selling any equipment so as to cause or to be likely to cause harm to human life or damage to any equipment or other property;

- f) Without the consent of the Licensee or the Authority, affixing or causing to be affixed any advertisement, bill or notice or any paper against or upon or otherwise defaces any building, post or bracket or other equipment or the enclosure thereof used for or in connection with any electrical installation;
- g) Negligently causing injury or damage to any person or property in respect of any electrical supply installation or equipment or part thereof;
- h) Damaging any meter or other instrument used on or in connection with any licensed installation for recording the output or consumption of energy;
- i) Fraudulently:-
 - i) Abstracting electricity; or
 - ii) Consuming electricity; or
 - iii) Altering the index of any meter or other instrument used on or in connection with any installation for recording the output or consumption of electricity; or prevents any such meter or instrument from duly recording the output or consumption of electricity;
 - iv) Abstracting any oil, lubricant, additive from a transformer any other part of an electrical installation

33(3) Whoever fraudulently abstracts, consumes or uses any electricity shall be deemed to have committed theft; and the existence of artificial means for such abstraction shall be prima facie evidence of such fraudulent activity.

PART IV: ACCESS TO LAND FOR INSTALLATIONS

34 Compulsory Access

34(1) Upon the provision of written notice to the landowner and to the Authority, a Licensee may enter or cross private property for the purpose of operating, repairing or maintaining its facilities.

34(2) A Licensee entering or crossing private property pursuant to subsection 34(1) shall:-

- a) use its best efforts to protect the rights and property of the landowner; and
- b) upon completion of the work, return such property to its former condition.

34(3) A Licensee may remove or trim trees or other high vegetation that may pose a threat to the safe and reliable operation of its facilities if the owner, upon the Licensee's request, fails to do so. Check with Environmental Management Act

34(4) Upon application by the owner of land in, over or upon which a Licensee has placed an electric supply line, the Authority may order the Licensee, subject to any condition that may be imposed by the Authority, to alter the position of the line or remove it.

35 Wayleaves

- 35(1) The Authority will facilitate acquisition of a wayleave to a Licensee around existing and future energy facilities.
- 35(2) Owners of property on or bordering on a wayleave shall not interfere with a Licensee's rights related thereto.
- 35(3) A Licensee shall compensate a property owner for any wayleave granted. Any dispute related to the amount of compensation shall be settled as if the wayleave had been obtained pursuant to the Land Acquisition Act, or amendment thereof.
- 35(4) A Licensee shall be entitled to the free use of public bridges, roads, streets, pavements and other infrastructure for the purpose among other things of laying, connecting, running or maintaining:-
- a) overhead power lines;
 - b) underground cables;
 - c) gas pipelines;
 - d) water pipelines; and
 - e) oil pipelines.

36 Compulsory Acquisition of Land

- 36(1) In the event that a Licensee considers that he requires the acquisition of land for the purpose of providing or maintaining electricity supply in accordance with this Act, its Licence or regulations issued pursuant to this Act, the Licensee may, with the approval of the Authority, request action by the minister responsible for lands in accordance with this section.
- 36(2) The Authority shall provide a copy of its approval to the minister responsible for lands and to the owner of the land or the person having interest in the land in question.
- 36(3) Where the minister responsible for lands is satisfied that the land or interest in land is required for the purpose of providing or maintaining electricity supply services to the public, and that it is required in the public interest, the minister shall pursue the acquisition of the land on behalf of the Licensee in accordance with the Constitution, the Land Act and the Land Acquisition Act.
- 36(4) The Licensee shall, where the minister responsible for lands acquires land on behalf of the licensee pursuant to subsection 36(3), bear all the costs involved.

PART V: RURAL ELECTRIFICATION

37 Rural Electrification Strategy and Plan

- 37(1) In consultation with the Rural Energy Agency and the Authority, the Minister shall prepare a Rural Electrification Strategy and Plan for Mainland Tanzania, and shall periodically amend and update such plan.

- 37(2) In consultation with the Rural Energy Agency and the Authority, the Minister shall submit annually to Parliament a report on the progress and achievement of the Rural Electrification Strategy and Plan which shall contain information relating to:-
- a) Expansion of the main grid in rural areas; and
 - b) Development of off-grid electricity supply systems in rural areas, including New and Renewable energy systems.

38 Monitoring and Evaluation

- 38(1) In consultation with the Rural Energy Agency and the Authority, the Minister shall establish and maintain a rural electrification database for Mainland Tanzania to assist in the monitoring of progress and establishment of the targets of rural electrification.
- 38(2) The Authority may delegate its monitoring functions in respect of electricity supply in rural areas to the Rural Energy Agency: Provided that the Rural Energy Agency submits reports on its monitoring activities to the Authority.
- 38(3) The Minister shall periodically evaluate the impact of the rural electrification program on economic and social development.

39 Implementation Measures

- 39(1) The Minister shall adopt specific policies and may impose specific requirements, levies, relief, organization and regulations for the promotion and development of rural electrification, in accordance with the Rural Energy Act.
- 39(2) The Authority may establish rules to provide for different technical, quality of supply and reporting standards applicable to Licensees' activities in rural areas, where such different standards can reduce the costs of rural electrification and promote investment in rural electrification provided that the Authority shall at all times have in use regulations relating to safety.
- 39(3) The Authority, in Licence conditions or in exemption orders made pursuant to section 10 of this Act, may provide a grace period for compliance with specified standards and regulations.

PART VI: REORGANISATION OF THE ELECTRICITY SUPPLY INDUSTRY

40 Restructuring and Privatisation of TANESCO

- 40(1) In consultation with the Authority, The Minister may:-
- a) Cause TANESCO to be restructured into sections, divisions or subdivisions which may each assume all or some of the objectives, functions and programmes of TANESCO except those to be exercised by the Authority pursuant to this Act;
 - b) Cause any of the sections, divisions or subdivisions of TANESCO to be incorporated as a body corporate pursuant to the Companies Act;
 - c) Transfer any of the property, employees, rights and liabilities to which TANESCO is entitled or is subject to any corporation established pursuant to paragraph (b) above.

- 40(2) Any corporations formed pursuant to subsection 40(1) shall apply to the Authority for a Licence or Licences to undertake their Licensed Activities.
- 40(3) In consultation with the Minister responsible for Finance and the Authority, the Minister may:-
- a) Contract a person to manage TANESCO or any successor company formed in accordance with subsection 40(1);
 - b) Lease assets owned by TANESCO or any successor company formed in accordance with subsection 40(1) to a person or persons;
 - c) Sell and transfer assets owned by TANESCO or any successor company formed in accordance with subsection 40(1) to a person or persons;
 - d) Sell shares that the Government holds in TANESCO or any successor company formed in accordance with subsection 40(1) to a person or persons.
- 40(4) In exercising any of the actions contemplated in paragraphs 40(1)(b), 40(1)(c), 40(3)(b), 40(3)(c) and 40(3)(d), the Minister shall consult with TANESCO's creditors, taking into accounts TANESCO's obligations
- 40(5) In exercising any of the actions contemplated in subsection 40(3), the Minister shall ensure that a competitive process as laid down by laws is followed to select the person or persons taking management responsibility for, or ownership of, TANESCO or any or any successor company formed in accordance with subsection 40(1).
- 40(6) Any actions undertaken by the Minister pursuant to this Section shall not release any person taking ownership of TANESCO or any successor company formed in accordance with subsection 40(1) from the requirement to comply with this Act and the regulations issued pursuant to this Act, including the requirement to obtain a Licence.

41 Employee Rights

- 41(1) Prior to the exercise of any of the actions contemplated in subsection 40(3), the Minister shall solicit, receive and consider employee and other views on the terms and conditions on which any transfer of TANESCO employees shall take place.
- 41(2) The Minister shall take all necessary measures to protect the rights of TANESCO employees as may be affected in any way by the exercise of any of the actions contemplated in subsection 40(3), by requiring that each affected employee be offered the option of:-
- a) Employment in any successor company of TANESCO on terms and conditions not less favourable than the terms and conditions each such employee was entitled to; or
 - b) A reasonable package of termination benefits and pension rights.

- 41(3) In the event that the Minister concludes that retrenchment through redundancy is required with respect to any employee, or that the successor company seeks to terminate the employment of any employee who has opted for employment pursuant to this Act within one (1) year of the commencement of such employment, the Minister shall ensure that any such employee shall be accorded the rights set forth in paragraph 41(2)(b).
- 41(4) The Minister shall ensure that an adequate facility or fund is created by Government to finance the payment of such termination and pension benefits as may be required pursuant to subsections 41(2) and 41(3).

42 Reorganisation of the Electricity Market

- 42(1) Not later than one (1) year after the entry into force of this Act, the Minister shall prepare and publish a policy for the reorganisation of the electricity market, which policy shall stipulate:-
- a) The parts of the electricity market that shall be subject to competition;
 - b) The form of competition that shall be introduced in each relevant part of the electricity market;
 - c) The timeframes for the introduction of competition.
- 42(2) In preparing the policy, the Minister shall take into consideration:-
- a) International best practices regarding competition policies in the electricity sector;
 - b) The effects of competition on Customer services, investment and private sector participation;
 - c) The size and nature of the electricity market in Tanzania;
 - d) Any need to restructure existing entities in the electricity supply industry to give effect to competition; and
 - e) The views of the Authority, the Fair Competition Commission, Consumers and Licensees.
- 42(3) On consultation with the Authority, the Fair Competition Commission, Consumers and entities in the electricity supply industry, the Minister may amend and update the policy at any time.
- 42(4) The Minister shall take such steps as he deems necessary to give effect to the policy, including but not limited to:-
- a) Restructuring of TANESCO or any successor companies;
 - b) The establishment of suitable market institutions.
- 42(5) Where consistent with its powers and functions pursuant to the EWURA Act and this Act, the Authority shall give effect to the policy by:-
- a) Preparation or amendment of the Market Rules, Grid Code, Distribution Code or any other set of rules issued by the Authority;
 - b) Amendment of the definition of Eligible Consumers;
 - c) Deregulation of tariffs in relevant sections of the market: Provided that the Authority is satisfied that competitive conditions in such sections of the market are adequate.

PART VII: MISCELLANEOUS

43 Repeal of Electricity Ordinance

- 43(1) The Electricity Ordinance is hereby repealed.
- 43(2) Any subsidiary legislation or notice made pursuant to the provisions of the Electricity Ordinance which was in force immediately before the commencement of this Act, so far as it is not inconsistent with the provisions of this Act, shall remain in force until such time as they shall be revoked.
- 43(3) Repeal of the Electricity Ordinance shall not affect contracts of employment of any person who, immediately before repeal, is employed by TANESCO.
- 43(4) Consequent upon repeal of the Electricity Ordinance, the following matters in application on the date of coming into force of this Act shall continue to have effect as if made pursuant to this Act:-
- a) Provisions pursuant to the Electricity Ordinance that require supply of electricity to continue to be given;
 - b) Any tariffs fixed pursuant to the Electricity Ordinance;
 - c) Any applications in process and anything done before this Act in relation to the application;
 - d) Any meter of a pattern which is approved pursuant to the provisions of the Electricity Ordinance;
 - e) Any land compulsorily acquired or otherwise in process of transfer in pursuance of provisions of the Electricity Ordinance before this Act came into force;
 - f) Any right of entry into any premises permitted pursuant to the provisions of the Electricity Ordinance;

44 Transition Provisions

Except as otherwise provided in this Act, licences, permits, consents, orders and contract documents granted or made prior to the enactment of this Act in relation to the provision of electricity services shall remain in force for the terms set forth in such instruments or for such longer interim period as the Authority may grant.

45 Indemnity for Employees

No suit, prosecution or other proceeding shall lie against any person employed in the public service for any thing done, or in good faith purporting to be done, in the implementation of this Act.