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I THE UTILITY INVESTMENT APPROVAL REGULATIONS, 2012¹

CITATION AND COMMENCEMENT:

1. These Regulations are made by the Maldives Energy Authority (MEA) on the recommendation of the Ministry of Environment and Energy, under the Public Utilities Law 4/96 (the Act), and the Presidential decrees under the provisions of the Act, may be cited as The Utility Investment Approval Regulations 2012 and shall come into force on...

APPLICATION AND SEVERABILITY:

2. These regulations shall be applicable to electricity operators covering:
 - a. Generation Licensees including IPPs
 - b. Transmission Licensees
 - c. Distribution Licensees

INTERPRETATION:

3. Any word or expression defined for the purposes of the Act shall unless the context otherwise requires, have the same meaning ascribed thereto when used in these Regulations.

4. Definitions

"Act" means the Public Utilities Law 4/96;

"application" means an application for a license, an application for a permit or an application for a transfer, renewal or modification of a license or permit under the Act; and references to an application in respect of a license or permit shall be construed accordingly;

"Authority" means the Maldives Energy Authority;

"capital investment" means any non-recurring capital expenditure program for the acquisition, construction or improvement of a permanent facility in a particular sector i.e. generation, transmission, distribution and/or supply or a geographical region;

"electricity distribution and/or supply license or permit" as defined in the Electricity Licensing Regulations 2012;

"electricity generation license or permit" as defined in the Electricity Licensing Regulations 2012;

"electricity transmission license" as defined in the Electricity Licensing Regulations 2012;

¹ Regulations for submission, review and approval of utility investment proposals

“control period” means a period fixed by the Authority, is the minimum period for which the Capital Investment Plan should be submitted by the licensee(s);

“license” means a document or instrument authorizing any person to import, export, generate, transmit, distribute and/or supply electrical energy, in the manner described in such document or instrument;

“licensee” means a person authorized by a license or permit to import, export, generate, transmit, distribute and/or supply electrical energy;

“network services” means electrical energy transmission or distribution services, including such ancillary services necessary to maintain voltages and frequency within the agreed limits;

“permit” means an authorization granted to a person to enable the carrying out the generation or distribution of electrical energy of a capacity not exceeding XX kW;

5. Unless the context otherwise requires, other expressions appearing in these Regulations shall have the same meaning, if any, as they have in the Public Utilities Law 4/96.

6. In these Regulations, unless the context otherwise requires-

(a) any reference to a numbered Regulation or Schedule is a reference to the Regulation or Schedule bearing that number in these Regulations;

(b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the Regulation in which the reference occurs;

(c) words importing the singular include the plural and vice versa; (d) and words importing a gender include any gender;

7. Any reference to a statute shall include any statutory amendments, modification or re-enactment thereof and subsidiary legislation made there under after the date when these Regulations come into force

INVESTMENT APPROVAL PROCESS AND TIMELINES

8. Every licensee(s) will be required to follow the investment approval process as laid down in these regulations.

9. The Investment approval process shall comprise the following activities along with the following timelines:

S. No.	Activity	Responsibility	Timelines
A	Filing of the Capital Investment Plan for the duration of the control period at least 3 months prior to the commencement of the control period. The Capital Investment Plan shall be accompanied by all supporting documents, reports, annexure, line diagrams and feasibility studies are required to justify the proposed investments by the licensees	Licensees	At least 3 months prior to the commencement of the control period

S. No.	Activity	Responsibility	Timelines
B	Preliminary Review of the Capital Investment Plan and seeking additional information, if required	Authority	15 days from the date of receipt of the Capital Investment Plan by the Licensees
C	Submission of additional information as required by the Authority	Licensees	30 days from the date of filing of initial Capital Investment Plan
D	Consultations/Technical Validation Sessions with the Licensees and Public Consultation, if required	Authority	45 days from the date of filing of the initial Capital Investment Plan
E	Review and Evaluation of the Capital Investment Plan by the Authority based on the criteria specified in the Annexure 1, and decision of the Authority on the application for approval of the Capital Investment Plan	Authority	60 days from the date of filing of the initial Capital Investment Plan

10. Subject to the timelines specified in the above clause, the Authority shall specify the decision on the Capital Investment Plan filed by the Licensees within a period of 60 days from the date of receipt of the application for approval of the Capital Investment Plan.

11. The approved Capital Investment Plan shall form the basis of tariff setting of the licensee.

CAPITAL INVESTMENT PLAN

12. The Licensee shall file for approval of the Authority a Capital Investment Plan at least for the duration of the control period at least 3 months prior to the commencement of the control period, in accordance with Clause 9.

13. The Capital Investment Plan shall be accompanied by all supporting documents, reports, annexure, line diagrams and feasibility studies are required to justify the proposed investments by the licensees.

14. The Capital Investment Plan shall be developed in accordance with the guidelines specified in Annexure I.

FEASIBILITY REPORTS

15. For those Capital Investment Schemes exceeding MRF **XXX**, the Licensee should submit Feasibility Reports for the Authority's Approval in addition to the details required as part of Section 4 of Annexure I. The feasibility reports should clearly establish that the proposed capital investment proposal is the least cost plan.

16. The feasibility reports must clearly outline the scope and objectives of the proposed Scheme and explain how the Schemes meets the evaluation criteria mentioned herein.

17. The feasibility reports must be accompanied by such information, particulars and documents to support the details contained in the plan including technical reports, design criteria, supplier/contractor quotations, term sheets of financing agencies etc., as may be required to enable assessment of the nature involved in ex-ante, investment approval or in

– principle approval subject to the conditions mentioned in these regulations.

INVESTMENT APPROVAL FOR EMERGENCY WORKS AND INTERIM INVESTMENT APPROVAL

18. In case during the control period duration, additional capital expenditure is required for emergency work which has not been approved in the Capital Investment Plan, the Licensee shall submit an application (containing all relevant information along with reasons justifying emergency nature of the proposed work) seeking approval by the Authority. In such cases, the Authority shall provide in-principle approval of such capital expenditure.

Provided that the Licensee(s) shall submit all the required details for approval of the Capital Investment Plan as per the Section 4 of Annexure I within a period of 15 days from the date of in-principle approval of such capital expenditure

19. The Authority under normal circumstances will not alter the Capital Investment Plan finalized for the control period. However, in case the estimated Capital expenditure exceeds 20% of the approved Capital Investment, the licensees will be required to file for approval of the Authority before incurring such expenditure.

VARIATION IN APPROVED INVESTMENTS

20. In case the capital expenditure incurred for approved schemes is in variation from the approved in the Capital Investment Plan, the Authority shall true up the approved amount and the incidental cost after prudence check at the end of control period:

Provided the any additional capital expenditure incurred on account of time over run and/or unapproved changes in scope of approved schemes shall not be allowed by the Authority:

Provided that capital expenditure incurred on unapproved schemes and not covered under the Capital Investment Plan shall not be allowed by the Authority except for investments incurred under Clause 18.

CONTROL PERIOD

21. The duration of the control period shall be **XX** years, starting **<insert date>**.

22. The Authority may during initial two years from the date of notification of these regulations, vary the duration of the control period for licensees based on the level of preparedness and the ability of the licenses to respond to the requirement of these regulations.

Provided that upon expiry of the such period, all licensees will be required to file for the Capital Investment Plan for the control period, as per the Clause 9, 12, 13, 14 and 17.

PUBLIC CONSULTATION PROCESS

23. The Authority at its sole discretion may initiate a public consultation process before finalization of the Capital Investment Plan.

FINES FOR VIOLATION OF INVESTMENT APPROVAL REGULATIONS

24. Any licensee if found to violate the provisions of these regulations will be liable to pay a fine ranging from MRF XX to MRF XX, as decided by the Authority based on the nature of the violation committed.

25. The Authority based upon its own discretion may provide the licensee the opportunity of

being heard before levy of such fine.

26. The fines for violation mentioned in these regulations shall be without prejudice to any other violation and fines in terms of the Act or any other law.

MISCELLANEOUS

27. Power to Amend

- i. The Authority shall, at all times have the power, either on an application made by any interested or affected party or suo moto, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Officers of the Authority, if the Authority considers the same to be appropriate.

28. Power to Remove Difficulties

- i. If any difficulty arises in giving effect to any of the provisions of these Regulations, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

29. Inherent Powers of the Authority

- i. Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Authority to make such Orders as may be in the public interest.
- ii. Nothing in these Regulations shall bar the Authority from adopting in conformity with provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Authority, in view of the special circumstances of a matter or a class of matters and for reasons to be recorded in writing, deems it just or expedient for deciding such matter or class of matters.

ANNEXURE I: GUIDELINES FOR INVESTMENT SUBMISSION, REVIEW AND APPROVAL

1. BACKGROUND

- a) Under Public Utilities Law 4/96, the Authority has the power to specify the terms and conditions for the determination of tariff and in doing so it is required to be guided by the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments so that generation, transmission, distribution and supply of electricity is conducted on commercial principles and the consumer's interest is safeguarded. The need to link tariff adjustments to increases in the productivity of capital employed has also to be kept in view.
- b) While Capital Investment is required to be made by Licensees for various purposes like the creation of new infrastructure to meet load growth, to meet statutory requirements, to strengthen the existing system and increase its efficiency, replace old/ obsolete assets, any such capital investment increases the capital base and consequently the reasonable return thus affecting the tariff to consumers. It is therefore necessary to ensure that such capital investment schemes being proposed are necessary and justified, and do not impose an unnecessary burden on consumers by way of tariff.
- c) For evaluation of these and future proposals in respect of all Licensees, the methodology and evaluation criteria are outlined below

2. OBJECTIVES

The objectives are:

- a) To lay down the approach for ex-ante assessment of major investment schemes for considering the Investment Approval or in – principle approval subject to the conditions cited in the provisions of these regulations.
- b) To spell-out the evaluation criteria for such ex-ante assessment.

3. INVESTMENT APPROVAL GOVERNING CONDITIONS

The Licensee shall make an application to the Authority for obtaining prior approval of the Authority for schemes involving major investments as per the procedure which the Authority may specify from time to time and demonstrate to the satisfaction of the Authority that:

- a) there is a need for the major investment in the Generation, Transmission or Distribution System which the Licensee proposes to undertake;
- b) the Licensee has examined the economic, technical and environmental aspects of all viable alternatives to the proposal for investing in or acquiring new assets to meet such need; and
- c) the Licensee has explored all possible avenues and is sourcing funds in the most efficient and economical manner.

4. INVESTMENT REVIEW AND EVALUATION PROCESS

- a) The Authority shall grant approval of Capital Investment of Schemes after examining the necessity of the Capital Investment Scheme in line with the criteria and evaluation process specified in this section.
- b) When submitting an application for the approval of the Capital Investment Scheme, the Licensee will be expected to indicate clearly and separately (a) the Scope and (b) the Objectives of the proposed scheme. The application should cover all the aspects mentioned in these guidelines and should explain how the scheme measures up to the evaluation criteria. The Scheme would be given approval considering primarily its scope and objective, while keeping in view the criteria.
- c) The Capital Investment Scheme Proposals will be, inter alia, subjected to the following evaluation and filtering mechanism:

i. **Need and Necessity for the Investment**

o **Demand Side Requirement / Customer Service**

- a. Whether the equipments are operating close to their rated capacities & capital investment is inevitable:
 - To reduce the load on the existing equipment in order to prolong the life of the equipment.
 - To increase the reliability of the system
 - To facilitate the creation of back-up facilities during scheduled maintenance operations.
- b. Whether the investment is necessary for increasing administrative efficiency which in turn will result in better services to the consumers

o **Technical Justification**

- a. Does the Scheme meet Design Criteria which are in keeping with prevailing norms/standards notified by the MEA
- b. Whether Replacement of Old Equipment is necessary for equipment which has outlived its normal life-span.
- c. Is the useful life of the equipment reasonable
- d. What is the average rate of technology obsolescence for that equipment
- e. Does the investment improve reliability of supply
- f. Whether the investment is necessary for a reduction of energy losses in the system

o **Urgency**

- a. Whether the capacity planned is commensurate with demand growth
- b. Is it possible to defer the investment for its optimization

o **Prudence of the Investment**

- a. Whether other alternatives have been considered, with brief details of the results, and the basis on which the proposed alternative was selected.
- b. Whether the investment results in duplication of existing infrastructure (owned by any other Licensee, or that Licensee itself)
- c. Is the proposed investment a necessity for the conduct of business, or is it a luxury, the burden of which is being passed on to consumers.

ii. **Statutory and/or Policy Requirement**

- Whether the proposal is in line with the mandates provided of the Government of Maldives in various acts or policies

iii. **Safety Requirements**

- Whether the investments meet the technical standards and safety requirement laid down by the MEA and other relevant authorities

iv. **Cost and Benefit Analysis of the proposed investments**

o **Cost Assessment**

- a. Whether Cost Estimates and likely escalations are reasonable and in keeping with market rates
- b. Whether Recurring Costs associated with the Scheme are reasonable
- c. Whether the least cost option has been considered
- d. What is the actual amount of expenditure, if any, on the Scheme incurred to date by the Licensee

o **Benefits Assessment**

- a. What are the broad quantitative and qualitative benefits to consumers

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- b. Is the Return on Investment justifiable from the consumer's point of view
 - c. What is the likely net impact on consumers over a 5-year period considering the recurring costs and broad Cost-Benefit analysis
 - d. What are the results / benefits observed so far, if applicable
- d) A comprehensive Capital Investment Plan shall aim to cover and justify the above mentioned aspect in as much details as possible, along with providing the detailed description of the proposed schemes, the scope of work and all the supporting documents therein.