

**ENERGY COMMISSION (PLANNING AND COMPETITIVE
PROCUREMENT OF ADDITIONAL ELECTRICITY
GENERATION CAPACITY) REGULATIONS, 2025**

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IN exercise of the power conferred on the Minister responsible for Energy by subparagraph (iii) of paragraph (c) of subsection (1) of section 56 of the Energy Commission Act, 1997 (Act 541) and paragraph (j) of section 50 of the Renewable Energy Act, 2011 (Act 832) and on the recommendation of the Board, these Regulations are made this 23rd day of June, 2025.

Preliminary Provisions

Purpose of Regulations

1. The purpose of these Regulations is to provide for
 - (a) the planning and development of additional electricity generation capacity, and
 - (b) the procurement of additional electricity generation capacity at an economic cost to meet electricity demand in an open, transparent, competitive and sustainable manner,for the effective development and utilisation of energy resources.

Application of Regulations

2. These Regulations apply to the process of planning for and procuring additional electricity generation capacity by a State-owned public utility for the sale of electricity to a consumer of the State-owned public utility.

Planning for Additional Electricity Generation Capacity

Development of integrated power sector master plan

3. (1) The Commission shall, in collaboration with relevant stakeholders, prepare and publish an integrated power sector master plan on the website of the Commission.
 - (2) The integrated power sector master plan under subregulation (1) shall
 - (a) indicate
 - (i) the forecast of electricity demand on the national grid; and

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- (ii) the required electricity supply to meet demand;
 - (b) take into account the
 - (i) most probable future demand and supply scenarios for electricity and the locations of the demand and supply scenarios; and
 - (ii) possible sources of additional electricity generation capacity, taking into account technology and government policy;
 - (c) facilitate cost competitiveness in electricity generation and delivery; and
 - (d) ensure an increase in the resilience of the power system.
- (3) The Commission shall review the integrated power sector master plan at least once every three years.
- (4) For the purpose of subregulation (1), “relevant stakeholders” include the
- (a) Bui Power Authority;
 - (b) Electricity Company of Ghana;
 - (c) Ghana Grid Company;
 - (d) Ghana National Gas Company;
 - (e) Ghana National Petroleum Corporation;
 - (f) Ministry of Energy and Green Transition;
 - (g) Northern Electricity Distribution Company;
 - (h) Public Utilities Regulatory Commission; and
 - (i) Volta River Authority.

Pre-Procurement Procedures

Obligations of the Commission

4. (1) The Commission shall, in accordance with the integrated power sector master plan,

- (a) determine the need for the procurement of additional electricity generation capacity; and

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(b) without delay, inform the Minister and the State-owned public utility of

- (i) the required additional electricity generation capacity; and
- (ii) the period within which the additional electricity generation capacity should be procured.

(2) The Commission shall authorise the State-owned public utility to undertake technical and financial feasibility studies in respect of the electricity generation capacity requirement, including the location of the electricity generation capacity requirement based on a grid impact study.

(3) The Commission shall, in consultation with the Public Utilities Regulatory Commission,

- (a) make a determination on the technical and financial feasibility studies; and
- (b) grant approval for the procurement of the required additional electricity generation capacity in accordance with subregulation (2).

(4) The Commission shall, in collaboration with the Public Utilities Regulatory Commission, oversee the procurement process for the additional electricity generation capacity determined in subregulation (1).

Procurement by State-owned public utility

5. (1) Where a State-owned public utility requires additional electricity generation capacity, the State-owned public utility shall procure the additional electricity generation capacity by competitive tendering in accordance with paragraph (a) of subsection (1) of section 34A of the Public Procurement Act, 2003 (Act 663).

(2) Without limiting the Public Procurement Act, 2003 (Act 663) and for the purpose of these Regulations, the procurement of additional

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electricity generation capacity by a method other than competitive tendering shall be subject to

- (a) the approval by the Minister of the procurement method; and
 - (b) subsequent approval by the Minister before the award of the contract for the procurement of the additional electricity generation capacity.
- (3) The Minister shall, in giving approval under
- (a) paragraph (a) of subregulation (2), take into consideration paragraphs (b) and (c) of subsection (1) of section 40 of the Public Procurement Act, 2003 (Act 663); and
 - (b) paragraph (b) of subregulation (2), consider compliance with the procedure in respect of methods other than competitive tendering under the Public Procurement Act, 2003 (Act 663).

Establishment of Ad-hoc Technical Advisory Committee

6. Without limiting section 9 of the Energy Commission Act, 1997 (Act 541), where the Commission determines the need for additional electricity generation capacity, the Board shall establish an Ad-hoc Technical Advisory Committee to advise on matters related to the procurement of a specific additional electricity generation capacity.

Composition of the Ad-hoc Technical Advisory Committee

7. (1) The Ad-hoc Technical Advisory Committee shall consist of
- (a) the Executive Secretary of the Commission, as chairperson;
 - (b) two representatives from the Ministry of Energy and Green Transition not below the rank of a Deputy Director nominated by the Minister, one of whom is a woman;
 - (c) one representative from the Office of the Attorney-General and Ministry of Justice not below the rank of a Principal State Attorney nominated by the Attorney-General and Minister for Justice;

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(d) one representative each from the following institutions not below the rank of a Deputy Director:

- (i) the Ministry of Finance nominated by the Minister responsible for Finance;
- (ii) the Public Utilities Regulatory Commission nominated by the Executive Secretary of the Public Utilities Regulatory Commission;
- (iii) the Public Procurement Authority nominated by the Chief Executive of the Public Procurement Authority;
- (iv) the Environmental Protection Authority nominated by the Executive Director of the Environmental Protection Authority; and
- (v) the Electricity Transmission Utility nominated by the Chief Executive Officer of the Electricity Transmission Utility; and

(e) two representatives from the State-owned public utility.

(2) The Board shall appoint the members of the Ad-hoc Technical Advisory Committee after the Commission determines and grants approval for the procurement of the required additional electricity generation capacity under paragraph (b) of subregulation (3) of regulation 4.

(3) The Board shall, in making the appointments under paragraphs (b), (d) and (e) of subregulation (1), have regard to the requisite expertise of the persons.

(4) The Ad-hoc Technical Advisory Committee may co-opt an expert in the procurement of electricity generation capacity.

Functions of the Ad-hoc Technical Advisory Committee

8. The Ad-hoc Technical Advisory Committee shall

- (a) advise the Commission on matters related to
 - (i) the procurement of additional electricity generation capacity; and

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- (ii) compliance with statutory requirements;
- (b) review, recommend and prepare a report on the following documents submitted by the State-owned public utility for approval by the Commission:
 - (i) the technical and financial feasibility report within thirty days after receipt of the technical and financial feasibility report;
 - (ii) the tender package before the tender package is advertised, within twenty days after receipt of the tender package; and
 - (iii) the evaluation report that recommends the preferred tenderer within ten days after receipt of the evaluation report; and
- (c) perform any other functions in respect of the procurement of additional electricity generation capacity determined by the Commission.

Tenure of office of members of the Ad-hoc Technical Advisory Committee

9. The Ad-hoc Technical Advisory Committee shall cease to operate and the membership shall terminate after the specific additional electricity generation capacity has been procured.

Meetings of the Ad-hoc Technical Advisory Committee

10. (1) The Ad-hoc Technical Advisory Committee shall meet for the conduct of business at a time and place determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Ad-hoc Technical Advisory Committee, convene an extraordinary meeting of the Ad-hoc Technical Advisory Committee at a time and place determined by the chairperson.

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(3) The quorum for a meeting of the Ad-hoc Technical Advisory Committee is five members of the Ad-hoc Technical Advisory Committee.

(4) The chairperson shall preside at meetings of the Ad-hoc Technical Advisory Committee and in the absence of the chairperson, a member of the Ad-hoc Technical Advisory Committee elected by the members present from among the number shall preside.

(5) Matters before the Ad-hoc Technical Advisory Committee shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Ad-hoc Technical Advisory Committee may co-opt a person to attend a meeting of the Ad-hoc Technical Advisory Committee but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Ad-hoc Technical Advisory Committee shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this regulation, the Ad-hoc Technical Advisory Committee may determine the procedure for the meetings of the Ad-hoc Technical Advisory Committee.

Disclosure of interest

11. (1) A member of the Ad-hoc Technical Advisory Committee who has an interest in a matter for consideration shall

- (a) disclose in writing the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) is disqualified from being present at or participating in the deliberations of the Ad-hoc Technical Advisory Committee in respect of that matter.

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(2) A member ceases to be a member of the Ad-hoc Technical Advisory Committee, if that member has an interest in a matter before the Committee and

- (a) fails to disclose that interest; or
- (b) is present at or participates in the deliberations of the Ad-hoc Technical Advisory Committee in respect of that matter.

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover any benefit derived by a member who contravenes subregulation (1) in addition to the revocation of the appointment of the member.

Allowances

12. Members of the Ad-hoc Technical Advisory Committee shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

Procurement Procedures

Duties of State-owned public utility

13. (1) A State-owned public utility that seeks to buy additional electricity generation capacity shall

- (a) ensure that the appropriate procurement method as specified in regulation 5 is used for the procurement of additional electricity generation capacity;
- (b) use an open competitive tendering process for the purchase of additional electricity generation capacity;
- (c) develop and submit a tender package to the Commission for review;
- (d) issue the reviewed tender package to prospective tenderers;
- (e) establish an evaluation committee to evaluate the tenders submitted by the prospective tenderers; and

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(f) submit an evaluation report recommending the preferred tenderer to the Commission.

(2) A State-owned public utility shall not procure additional electricity generation capacity from a person who submits a proposal to sell additional electricity generation capacity which is not in response to a request for proposals from the State-owned public utility.

(3) The evaluation committee established under paragraph (e) of subregulation (1) shall not be subject to the direction and control of a person or authority in the performance of the functions of the evaluation committee.

(4) The composition of the evaluation committee shall be in accordance with the Public Procurement Act, 2003 (Act 663).

Power purchase agreement

14. (1) The Commission shall, in consultation with the Public Utilities Regulatory Commission, develop and publish on the website of the Commission, a standard template of a power purchase agreement and associated documents as required in the tender package.

(2) A State-owned public utility that seeks to buy additional electricity generation capacity shall

(a) prepare a draft power purchase agreement based on the standard template referred to in subregulation (1);

(b) comply with the

(i) tariff rate-setting guidelines, and

(ii) power purchase agreement approval process published by the Public Utilities Regulatory Commission on the website of the Public Utilities Regulatory Commission;

(c) ensure that the tender price does not exceed a benchmark determined by the Public Utilities Regulatory Commission;

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- (d) negotiate a power purchase agreement with the preferred tenderer;
- (e) submit the commercial terms, including the tender price to the Public Utilities Regulatory Commission for examination and approval;
- (f) conclude the power purchase agreement and submit copies to the Minister, the Commission and the Public Utilities Regulatory Commission; and
- (g) publish the preferred tenderer on the website of the State-owned public utility and the Commission.

(3) The preferred tenderer shall obtain the appropriate licence from the Commission in accordance with the relevant enactment.

(4) For the purpose of paragraph (e) of subregulation (2), “commercial terms” means a contractual arrangement provided in a power purchase agreement which includes

- (a) the commencement of commercial operations;
- (b) the schedule for delivery of electricity;
- (c) penalties for under delivery or non-delivery;
- (d) payment terms for the electricity to be procured;
- (e) insurance for the failure of parties under the agreement to meet an obligation;
- (f) risks associated with
 - (i) a price variation under the agreement;
 - (ii) liquidity;
 - (iii) continuity in supply of electricity by the seller or offtake by the State-owned public utility of electricity; and
 - (iv) any changes in the governing laws of the State-owned public utility;

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- (g) the termination of the agreement between the State-owned public utility that seeks to buy additional electricity generation capacity, and the preferred tenderer;
- (h) an event of default by a party under the agreement;
- (i) the allocation of liabilities;
- (j) a waiver by a party of a term of the agreement; and
- (k) the avenue for dispute resolution by parties under the agreement.

Miscellaneous Provisions

Offences and penalties

15. (1) A person who

- (a) procures additional electricity generation capacity in contravention of subregulation (1) or (2) of regulation 5, or
- (b) procures additional electricity generation capacity from a person who submits a proposal to sell additional electricity generation capacity which is not in response to a request for proposals from a State-owned public utility,

commits an offence and is liable on summary conviction to a fine of not less than five thousand penalty units and not more than seven thousand penalty units or to a term of imprisonment of not less than two years and not more than five years or to both.

(2) A person who commits a subsequent offence under subregulation (1) after an earlier conviction under subregulation (1) is liable on summary conviction to a fine of not less than seven thousand penalty units and not more than eight thousand five hundred penalty units or to a term of imprisonment of not less than five years and not more than seven years or to both.

(3) Where an offence under these Regulations is committed by a body corporate, a member of a partnership or a firm, every director, officer of the body corporate or a member of the partnership or any other

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person concerned with the management of the firm shall be deemed to have committed that offence and is liable on summary conviction to a fine of not less than eight thousand five hundred penalty units and not more than ten thousand penalty units and is in addition liable to the payment of compensation for the damage resulting from the breach.

(4) A person shall not be convicted of an offence under subregulation (3), if it is proved that

- (a) the person exercised due diligence to secure compliance with the provisions of these Regulations; and
- (b) the offence was committed without the knowledge, consent or connivance of that person.

Interpretation

16. In these Regulations, unless the context otherwise requires,

“capacity” means the rated power output of a generator;

“distribution utility” means a person licensed under the Act to distribute electricity without discrimination to consumers in an area or zone designated by the Commission;

“economic cost” means the total value of the generation capacity comprising the monetary and the non-monetary value of the generation capacity;

“power purchase agreement” means an agreement for the sale and purchase of generation capacity concluded between a seller and a State-owned public utility that seeks to buy additional electricity generation;

“Public Utilities Regulatory Commission” means the Public Utilities Regulatory Commission established under the Public Utilities Regulatory Commission Act, 1997 (Act 538);

“seller” means an entity that generates electricity for sale;

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“State-owned public utility” means a public utility, incorporated under the Companies Act, 2019 (Act 992) or by statute,

(a) whose shares are wholly or partially held or controlled by Government; and

(b) that is licensed under the Act to distribute or sell electricity without discrimination to consumers in an area or zone designated by the Board; and

“tender package” means the procurement documentation which may include

(a) an Expression of Interest Document;

(b) the Request for Proposals Document;

(c) the model Power Purchase Agreement;

(d) a Fuel Supply Agreement, where applicable;

(e) a sample Generation Licence to be issued to the winning tenderer;

(f) a sample Connection Agreement to be signed with the electricity transmission utility;

(g) information on the preferred project site and requirements for environmental consent; and

(h) the relevant Licence Application Manual issued by the Commission.

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