Electricity Law

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ARTICLE 1:
The following terms and phrases, wherever mentioned in this Law, shall have the meanings expressed next to them, unless the context requires otherwise:

MINISTRY: The Ministry of Water and Electricity.

MINISTER: The Minister of Water and Electricity.

AUTHORITY: The Electricity and Cogeneration Regulatory Authority.

BOARD: The Board of Directors of the Authority.

LAW: Electricity Law.

PERSON: Natural or corporate person.

ELECTRICITY SECTOR: The Ministry, the Authority, the Electricity Industry, the Consumer and all other entities related to the Electricity Industry.

COGENERATION: The simultaneous production of electricity and desalinated water, or steam used in other production processes, or both.

ELECTRICITY INDUSTRY: Electricity services that Persons undertake or intend to undertake, including electricity generation, Cogeneration and transmission of electricity, its distribution, supply and Trading.

ELECTRICITY ACTIVITY: Any of the activities mentioned under the Electricity Industry.

DOMINANT POSITION: Having the ability to influence the fairness of decision-making or legitimate competition.

CONSUMER: Any Person supplied with electricity services for his own consumption.

LICENCE: An authorisation granted by the Authority to carry out an Electricity Activity pursuant to this Law, its Implementing Regulations and the Authority’s Founding Charter.

LICENSEE: Any Person holding a valid Licence issued by the Authority authorizing him to carry out an Electricity Activity.

TRADING: The sale, purchase, import or export of a product or service included in the Electricity Activity.

TARIFF: The approved monetary charge for the provision of a service or product included in the Electricity Activities.

PRICE: Monetary or in-kind charge agreed upon between two or more Persons for the provision of a service or product included in the Electricity Activities.

ELECTRICITY MARKET: The condition in which sale and purchase of electricity are subject to free market factors where the Price is governed by the law of supply and demand.

CROSS SUBSIDY: The exchange of financial support between two or more regions or (entities).
Chapter Two

GENERAL PROVISIONS
ARTICLE 2:

This Law aims at:

1. promoting Consumer-oriented electricity services and protecting the Consumer’s rights, including his right of choice among competing Licensees carrying out an Electricity Activity, at competitive reasonable Prices based on commercial terms that ensure fairness among Consumers to enable them to receive reliable electricity services;

2. encouraging the private sector to invest and participate in the systematic expansion and development of the Electricity Industry, and protecting the investment and enabling it to realize a fair economic return taking into account the costs of service through a fair and clear electricity Tariff structure to be adopted until an Electricity Market governed by competitive factors is established;

3. ensuring that the Electricity Sector conforms with the Kingdom’s policies, guidelines and requirements concerning security of electricity supplies, economic development and social welfare;

4. increasing the ability of Consumers to obtain electricity services and promote the electrification of areas not served by the Electricity Industry;

5. providing electricity supplies that are safe, secure, reliable and efficient;

6. providing a clear, stable and non-discriminatory regulatory framework for the Electricity Industry;

7. protecting the public interest and the rights and interests of Consumers, Licensees and investors in the development of the Electricity Industry;

8. creating a suitable environment to encourage and support legitimate competition in the Electricity Industry;

9. continuing the systematic development of restructuring the Kingdom’s basic electricity infrastructure through a fair and effective process that enhances competition in the Electricity Industry;

10. ensuring that the Electricity Industry in the Kingdom is of a high standard in the work practices and technologies utilised, including encouragement of research and development in this field;

11. encouraging local and foreign investment and participation in the Electricity Industry; and

12. realising environmental codes and standards in the Electricity Industry.

ARTICLE 3:

Observing the powers stipulated in the Founding Charter of the Electricity and Cogeneration Regulatory Authority, the Ministry shall undertake to:

1. propose policies relating to the Electricity Sector and supervise their implementation, following endorsement;

2. prepare, issue, and update the development plans and programmes for the Electricity Sector and ensure their implementation. These include, but are not limited to, the following:

   a. Interconnecting, reinforce-ment, and developing of the transmission network in the Kingdom and providing electricity services to Consumers including the endorsed non-electrified remote areas;

   b. Ensuring the availability of acceptable generation reserve margin and adequate transmission and distribution capacities.
3. represent the Kingdom and promote the Kingdom’s interests in the Electricity Sector in domestic, regional and international bodies, including electrical interconnections and electricity Trading with other countries. The Ministry may delegate such mandate to other official entities;

4. exercise emergency powers that are temporarily granted to the Ministry where there exists or is imminent in the Kingdom an actual emergency or a threat that may affect the supply of fuel, electricity or Cogeneration, which necessitates that the Ministry should - temporarily - have at its disposal exceptional powers for controlling the resources of electricity and Cogeneration and fuel that are available to the Licensees;

5. promote employment of nationals and ensure enforcement of policies in this respect;

6. support research and development activities in relation to the Electricity Industry by specialised institutions, universities and relevant private sector entities;

7. prepare a long term plan, in coordination with parties concerned, to support national industries associated with the Electricity Industry and to adapt modern technologies to local conditions;

8. prepare, endorse and follow-up the execution of electricity conservation programmes in cooperation with the Authority, research centres and other relevant parties and prepare a public awareness plan in coordination with the Ministry of Culture and Information and other related entities;

9. document statistical data and technical information and make it available to the Electricity Sector;

10. propose, in coordination with the Authority, amendments to this Law; and

11. issue, by a decision of the Minister, Implementing Regulations of this Law in relation to the duties of the Ministry.
ARTICLE 4:

The **Authority**, through its **Board** of Directors, shall, in addition to the duties prescribed in its Founding Charter, undertake to:

1. issue the implementing regulations and procedures for the Articles of this **Law** in relation to the duties of the **Authority**. Such regulations and procedures shall include:
   a. technical, environmental, operational and procedural rules;
   b. performance standards to be achieved by **Licensees**;
   c. rules defining the relationships among the **Licensees** and between **Licensees** and **Consumers**;
   d. specifying, categorising and updating the types of **Electricity Activities**; and
   e. regulations necessary for licensing.

2. take necessary measures, as public interest requires, to provide supplemental sources of generation in the event of an expectation of significant shortages in the supply of electricity;

3. take necessary measures to enforce the provisions of this **Law** and the Implementing Regulations for matters related to its duties;

4. monitor the implementation of regulations and rules relating to administrative, accounting and investment activities observed by **Licensees** pursuant to the provisions of this **Law**;

5. work, in coordination with the **Ministry**, the Ministry of Petroleum & Mineral Resources and other relevant entities, to ensure the availability of fuel needed for the **Electricity Industry** and ensure the most appropriate utilisation of fuel resources and types to realize the best possible return for the national economy, and to adopt to this end a long term plan, including but not limited to:
   a. increasing the efficiency of electricity utilisation and production;
   b. taking into consideration approved environmental protection codes and standards; and
   c. encouraging **Cogeneration** projects for water and electricity and giving such projects priority in operation;

6. issue the rules for establishing custodianship on the activities of any **Person** who violates this **Law** or the **Authority’s** Founding Charter.

The **Board** may delegate some of the above-mentioned duties to whomever it deems fit, in accordance with the **Authority’s** work progress demands.
Chapter Three
LICENSING FRAMEWORK
ARTICLE 5:

1. No **Person** shall carry out any **Electricity Activity** except in accordance with a ** Licence** issued by the **Authority** pursuant to the provisions of this **Law** and its Implementing Regulations.

2. The Implementing Regulations of this **Law** shall determine, in accordance with the development of the **Electricity Industry** and expansion of electricity services, the **Electricity Activities** that may be undertaken without the need to obtain the ** Licence** referred to in Paragraph (1) of this Article.

ARTICLE 6:

1. The **Authority** shall prepare and issue a licensing framework which shall cover all aspects of licensing, including the following:
   a. The conditions and procedures required for each type of **Licence**;
   b. Details of the rights, duties, obligations and functions of **Licensees**;
   c. Procedures for the amendment and renewal of **Licences**;
   d. Procedures and conditions relating to the monitoring of **Licensees’** compliance with the provisions of this **Law**, the Implementing Regulations and the conditions of their **Licences**; and
   e. Clear and fair rules for the **Authority**’s approach to licensing, its methodology, requirements, conditions and determination of monetary charges of **Licence**.

2. An application for a **Licence** is to be submitted to the **Authority**. The **Authority** shall issue the **Licence** within a period not exceeding thirty days once the conditions to grant a **Licence** are met in accordance with the provisions of this **Law**. If a **Licence** application is rejected, the applicant may file a grievance with the dispute resolution committee.

3. In the event that a **Licence** is suspended or not renewed, the **Authority** shall make necessary arrangements to ensure the continuity of electricity service according to the rules and procedures stipulated in the Implementing Regulations of this **Law**.

4. Unless otherwise stated in this **Law**, it is prohibited for any **Person** to disclose any confidential information obtained while conducting his duties as a **Board** member, an employee, or a consultant of the **Authority**.

ARTICLE 7:

1. A **Licensee** shall comply with this **Law**, its Implementing Regulations, the conditions of the **Licence** issued to him and the instructions and decisions issued by the **Authority**. **Licensees** shall also comply with **Tariffs** determined pursuant to Article (9) of this **Law** and the rules and procedures established by the **Authority** in relation to **Tariffs**.

2. A **Licensee** shall not cede, give, exchange or lease his **Licence** to others or transfer ownership of the main assets if such transfer adversely affects the performance of the licensed activity, whether by way of sale or mortgage - except as a part of a financing arrangements in the ordinary course of business related to the **Licence** - without the prior consent of the **Authority**, and in accordance with the conditions prescribed by it. The **Authority** shall not unreasonably withhold or delay such consent.
ARTICLE 8:

1. A Licensee may acquire suitable land for a project, or a right of way, in order to undertake an Electricity Activity, or for purposes related to the Electricity Activity, pursuant to the provisions of “the Expropriation of Real Estate for the Public Interest and Temporary Acquisition of Properties’ Law” and according to Clause (3) of the Royal Decree issued regarding such Law.

2. A Licensee shall, in discharging his obligations under his Licence, to the extent and in the manner prescribed in the Implementing Regulations of this Law, have the right of access for his equipment and installations, to the extent necessary, up to the point of connection of his electric system to that of any of his clients.

3. A Licensee providing electricity to Consumers shall have the right to disconnect the supply of electricity to any Consumer in the following cases:

   a. If the Consumer fails to pay his dues following expiry of the statutory notice period;

   b. If the Consumer obtains electricity or supplies it to another Person without the permission of the Licensee;

   c. If the Consumer tampers with any part of the electricity system or its associated meters.
Chapter Four

TARIFFS
ARTICLE 9:

1. The Authority shall periodically review the Tariff structure and submit its recommendations to the Council of Ministers. To this end, the Authority may seek expert advice and require Licensees to provide such information as it considers necessary for such review.

2. In determining the Tariff and its structures, the Authority shall consider:

   a. enabling the Licensee to operate efficiently to fully recover his expenses and realize a reasonable return on the capital invested in activities governed by the Charter;

   b. observing State’s policies and directives;

   c. providing incentives for the continued improvement of technical efficiency, economic efficiency and quality of services;

   d. giving Consumers accurate indices on the costs that their consumption patterns impose on the Licensee’s business;

   e. avoiding discrimination between Consumers of the same category and between Consumer categories;

   f. allowing a Licensee to agree with major Consumers or the users of his services, through direct commercial negotiations, and in accordance with the stipulations of the Implementing Regulations of this Law, on Prices for such services that are different from the approved Tariffs;

   g. the contractual arrangements existing on the date this Law comes into force.
Chapter Five

COMPETITION
ARTICLE 10:

Taking into account the stipulations of the Competition Law, the following shall be realised:

1. The Ministry and the Authority shall promote competition in the Electricity Industry to encourage the private sector to invest therein and to ensure that Consumers have the right of choice in obtaining electricity services; "Dominant Position" in any part of the Electricity Industry, in accordance with the stipulations of the Implementing Regulations of this Law.

2. Licensees shall register with the Authority any agreement entered into between the Licensees or between the Licensees and the Consumers that may be related to Price, Tariff, the right to use the national network or the right to use the assets associated with the electricity service, in order to ensure that such agreements do not distort or restrict competition conditions, as stipulated in the Implementing Regulations of this Law;

3. Prohibiting Licensees from entering into any agreement or arrangement that impedes, or restricts competition in the Electricity Industry. Any such act shall be null and void;

4. Prohibiting a Licensee with a Dominant Position in the Electricity Industry from any undertaking that may restrict competition, according to the stipulations of the Implementing Regulations of this Law;

5. Licensees shall obtain the Authority’s approval before undertaking any merger with or acquisition of a majority shares or assets of other Licensees, and shall inform the Authority of any initial agreement reached on such a merger; and

6. Licensees shall obtain the Authority’s approval before purchasing five percent (5%) or more of the shares, securities or any other form of ownership rights of another Licensee, or purchasing a lesser percentage that may create a
Chapter Six

RESTRUCTURING OF THE ELECTRICITY INDUSTRY
ARTICLE 11:

The Authority shall, in order to further the restructuring of the Electricity Industry, undertake the following:

1. Review and update the Electricity Industry development plan in order to expand and improve quality of service and take actions towards achieving legitimate competition with emphasis on the following aspects:
   a. Segregating the Electricity Activities licensed at the date of issuance of this Law to enhance Cogeneration, generation of electricity, its transmission, its distribution, its supply, and its Trading, and to increase private sector participation in legitimate competition and to curb monopoly;
   b. Increasing the development of competition in the Electricity Industry in a timely and organised manner.

2. Enable any Licensee, as required, to connect to and use transmission and distribution systems owned by other Licensees on a non-discriminatory basis and in accordance with the provisions of this Law and its Implementing Regulations including, but not limited to, the following:
   a. By instruction of and within a time period specified by the Authority, the owner of the transmission and distribution networks shall prepare network codes for review and approval by the Authority. The codes shall be reviewed periodically as considered necessary by the Authority to realise the objectives of this Law;
   b. Whenever a Licensee requests use of or connection to the transmission or distribution networks, the owner of the transmission or distribution networks shall submit within a time period specified by the Authority a draft agreement in accordance with the conditions and specifications approved by the Authority; and
   c. The licensed owner of the transmission and distribution networks shall submit, for review and approval by the Authority and within a time period specified by the Authority, an explanatory statement of the bases and criteria on which the cost of connection to or the use of his network are based. These bases and criteria shall be reviewed periodically as deemed necessary by the Authority to realise the objectives of this Law.

3. Continuously monitor the Electricity Industry as regards the progress in implementing the matters dealt with in the restructuring plan and its amendments and updates from time to time.

4. Develop the Electricity Industry to the point where a competitive Electricity Market could be established. The Authority shall take the necessary steps for such establishment. The Licensees shall comply with any directives or decisions of the Authority in connection with the competitive Electricity Market.
ARTICLE 12:

The Authority shall, upon transition to the competitive Electricity Market, pursuant to paragraph (4) of Article (11), effect such a transition in a manner that protects the rights of the investors-developers of Electricity Industry projects, provided that such investor-developer does not hold a Dominant Position in his line of business. Such protection shall cover the investors’ right to realise the return on their investments as agreed upon between the investors and the entity that purchases their products and the complete preservation of the rights of such investors-developers through either the mutual commercial agreement with such entity or exempting them from participation in the competitive market.
Chapter Seven

DISPUTES AND VIOLATIONS
ARTICLE 13:

1. A dispute resolution committee shall be formed comprising three legal experts, two experts in the Electricity Industry and a financial expert. A Council of Ministers’ resolution shall be issued for its formation, for a renewable three-year period, upon nomination by the Minister. The resolution shall determine the committee’s chairman.

2. Without prejudice to the ability to use any dispute resolution procedures provided for in any prevailing agreements between parties to a dispute, the dispute resolution committee shall have the power to settle the following:
   a. Disputes, complaints and violations that arise in the Electricity Industry;
   b. Disputes between Licensees;
   c. Disputes between a Licensee and one or more Consumers; and
   d. Any violation of the provisions of this Law, its Implementing Regulations or the Authority’s Charter.

3. Rules of conduct and procedures of the committee shall be set by a decision of the Board.

4. Decisions of the committee shall be issued by a majority vote. If the votes are equal, the side with which the chairman votes shall prevail. The decisions shall be reasoned and shall be announced in a public session. The committee shall not decline to issue a decision on a claim on the ground of absence of a provision in the Law or the regulations governing the dispute. In such a case, the committee shall refer to general rules adopted in the Kingdom. A grievance may be filed against decisions of the committee with the Board of Grievances within sixty days from the date of its notification.

5. Decisions of the dispute resolution committee shall be final upon the expiration of sixty days from the date of notifying the parties against whom they have been issued, unless one of the parties files a grievance.

6. Final decisions shall be implemented by the government entity authorised to enforce judicial rulings.

7. Employees assigned by the Governor of the Authority to investigate violations by Licensees or Consumers are authorized to examine, seize and inspect the books and records of such Licensees or Consumers and to obtain copies of the relevant verification documents.

8. Any dispute or disagreement arising between any Licensee and the Authority may be settled by arbitration in accordance with the provisions of the Arbitration Law.

ARTICLE 14:

Any of the following acts shall constitute a violation of this Law:

1. Engaging in an Electricity Activity without a Licence issued by the Authority;

2. Breach of any of the provision of this Law or its Implementing Regulations or the Authority’s Founding Charter;

3. Failure to comply with any decision issued by the Authority on issues related to the Licensee;

4. The Licensee’s failure to:
   a. provide information or data related to an enquiry from the Authority that are available to or reasonably obtainable by the Licensee in the manner and the form prescribed by the Authority or its representatives;
b. provide electricity services; or

c. obtain necessary approvals in accordance with the provisions of this Law, the Implementing Regulations, and the conditions of the Licence, before merging with another Person or acquiring a majority of his shares or assets pursuant to Article (10) of this Law;

5. Providing the Authority with false or misleading information or data;

6. Contravention of the principles of fair competition or restriction of competition;

7. Deliberately destroying, damaging or confiscating equipment or apparatus of a Licensee;

8. Failure to adhere to the standards and specifications adopted for the preservation of public health, environment and safety;

9. Illegally using or connecting to the electric system, theft of electricity or assisting another Person to commit such violations;

10. Concealing information necessary for the Electricity Industry. The Authority’s Implementing Regulations shall detail the nature of information that may not be concealed for each activity.

ARTICLE 15:

1. Without prejudice to any harsher penalty stipulated in any other law, any Person who commits any violation of the provisions of this Law, the Implementing Regulations or the Authority’s Charter shall be subject to one or more of the following penalties:

   a. A fine not exceeding ten million riyals for each violation;

   b. Cessation of the activity;

   c. Cancellation or suspension of the License.

2. The Authority may impose custodian-ship, according to the rules established by it, on the activities of any Person violating the provisions of this Law or the Authority’s Charter, for urgent and essential cases as may necessitate such action, provided that the matter shall be urgently referred, within a period not exceeding thirty days, to the dispute resolution committee formed under Article (13) of this Law.
Chapter Eight

CONCLUDING PROVISIONS
ARTICLE 16:
The Implementing Regulations of this Law shall be issued within one hundred and eighty days from the date of its publication.

ARTICLE 17:
1. This Law shall be published in the Official Gazette and shall be effective ninety days after its publication.

2. This Law supersedes the Electricity Services Authority Law promulgated by Royal Decree No. M/12 dated 20/03/1392H, and its amendments and all that is in conflict with it.

3. Holders of Licences, certificates, permits or authorisations which were issued by the Authority prior to this Law coming into effect may continue engaging in Electricity Activity for the remainder of their periods of validity.