

THE ELECTRICITY (SUPPLY) ACT, 1948

INTRODUCTION

To provide for the co-ordinated development of electricity in India there was a need of a specific legislation and to meet this, on the broad lines of the Electricity (Supply) Act, 1926, in force in the United Kingdom, the Electricity (Supply) Bill, 1948 was introduced in the Central legislature as a specific legislation to facilitate the establishment of the regional co-ordination in the development of electricity transcending the geographical limits of local bodies.

STATEMENT OF OBJECTS AND REASONS

The co-ordinate development of electricity in India on a regional basis is a matter of increasingly urgent Importance for post-war reconstruction and development. The absence of co-ordinated system, in which generation is concentrated in the most efficient unit and bulk supply of energy centralised under the direction and control of one authority is one of the factors that impedes the healthy and economical growth of electrical development in this country besides, it is becoming more and more apparent that if the benefits of electricity are to be extended to semi urban and rural areas in the most efficient and economical manner consistent with the needs of an entire region, the area of development must transcend the geographical limits of a Municipality, a Cantonment Board or a Notified Area Committee, as the case may be, it has, therefore, become necessary that the appropriate Governments should be vested with the necessary legislative powers to link together under one control electrical development in contiguous areas, by the establishment of what is generally known as the "Grid-System". In the circumstances of this country such a system need not necessarily involve interconnection throughout the length and breadth of a Province; regional co-ordination inclusive of some measure of inter-connection may be all that is needed. An essential pre-requisite is, however, the acquisition of necessary legislative power not only to facilitate the establishment of this system in newly licensed areas but also to control the operations, of existing licensees so as to secure fully co-ordinate development.

Government feel that it is not possible to legislate for this purpose within the framework of the Indian Electricity Act, 1910, which was conceived for a very different purpose. In their view what is needed is specific legislation on the broad lines of the Electricity (Supply) Act, 1926, in force in the United Kingdom, which will enable provincial Governments to set up suitable organizations to work out "Grid Schemes" within the territorial limits of the Provinces. Although executive power under the proposed Bill will necessarily vest in the Provinces, two considerations indicate the necessity for central legislation,-

(i) the need for uniformity in the organization and development of the "Grid System", and

(ii) the necessity for the Constitution of semi-autonomous bodies like Electricity boards to administer the "Grid Systems". In the view of Government it is bodies like these which are likely to be the most, suitable organizations for working the Grid Systems is on quasi-commercial lines. Such Boards cannot, However, be set up by Provincial Governments under the existing Constitutional Act as they would be in the nature of trading corporations within the meaning of Entry 33 of the Federal Legislative List.

ACT 54 OF 1948

The Electricity (Supply) Bill, 1948 was passed by the Central Legislature and received its

assent on 10th September, 1948. It came on the Statute Book as THE ELECTRICITY (SUPPLY) ACT, 1948 (54 of 1948).

LIST OF AMENDING ACTS AND ADAPTATION ORDER

1. The Electricity (Supply) Amendment Act, 1949 (57 of 1949).
2. The Adaptation of Laws Order, 1950.
- 3 The Part B State (Laws) Act, 1951 (3 of 1951).
4. The Electricity (Supply) Amendment Act, 1956 (101 of 1956).
5. The Indian Electricity (Amendment) Act, 1959 (32 of 1959).
6. The Electricity (Supply) Amendment Act, 1962 (44 of 1962).
7. The Electricity (Supply) Amendment Act, 1966 (30 of 1966).
8. The Electricity (Supply) Amendment Act, 1976 (115 of 1976).
9. The Electricity (Supply) Amendment Act, 1978 (23 of 1978).
10. The Electricity (Supply) Amendment Act, 1983 (16 of 1983).
11. The Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983).
12. The Electricity (Supply) Amendment Act, 1984 (48 of 1984).
13. The Repealing and Amendment Act, 1988 (19 of 1988).
14. The Electricity laws (Amendment) Act, 1991 (50 of 1991).
15. The Electricity Laws (Amendment) Act, 1998 (22 of I 1998).

THE ELECTRICITY (SUPPLY) ACT, 1948 (54 of 1958) [10th September, 1948]

An act to provide for the rationalisation of the production and supply of electricity, and generally for taking measure conducive to 2[electrical development].

WHEREAS It IS expedient to provide for the rationalisation of the production and supply of electricity, for taking measures conducive to 2[electrical development] and for all matters incidental thereto;

It is hereby enacted as follows:-

CHAPTER I - INTRODUCTORY

1. Short title, extent and commencement.- (1) This Act may be called the Electricity (Supply) Act, 1948.

(2) It extends to the whole of India 2[except the State of Jammu and Kashmir].

4[(3) This section and 2, 3, 4, 4A, 4B, 4C, 15A, 18A, 26A, 28 to 34 (both Inclusive), sub-section (2) of section 39, section 42, sub-section (3) of section 43 and section 57, 57A, 57B, 75A, 76, 77, 77A, 77B, 77C, 82 and 83 and the provisions of the 5[Sixth schedule] shall come into force at once.]

(4) The remaining provisions of this Act shall come into force in a State on such date, not later than two years from the coming into force of the sections, Schedule and Table mentioned in sub-section (3), as the State Government may, by notification in the Official Gazette, appoint:

Provided that the Central Government may respect any State extend the said period of two years and in such event the remaining provisions of the Act shall come into force in that State on such date, not later than the extended period, as the State Government may, by notification in the Official Gazette, appoint. 6[(5) Notwithstanding anything contained in sub-section (4),-

(a) where any provision of this Act, to which sub-section (4) applies, is in force in any State immediately before the commencement of the Electricity.

1. For Statement of Object and Reasons, see Gazette of India, 1947, Pt. V, p. 514, and for Report of select committee see Gazette of India, 1948, pp. 201-203.

The Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, sec. 2 and Sch. 2, 1 (w.e.f. 1-7-1965).

2. Subs. by the A. O. 1950 for "the electrical development of the provinces of India".

3. Subs. by Act 3 of 1951, sec. 3 and Sch., for "except Part B states".

4. Subs. by Act 101 of 1956, sec. 2 (w.e.f. 30-12-1956) and again subs. by Act 115 of 1976, sec. 2, for sub-section (3) (w.r.e.f. 8-10-1976).

5. Subs. by Act 23 of 1978, sec. 2, for "sixth and seventh Schedules". (w.e.f. 3-6-1978).

6. Ins. by Act 23 of 1978, sec. 2 (w.e.f. 3-6-1978).

(Supply) Amendment Act, 1978 (23 of 1978), that provision as amended by the Electricity (Supply) Amendment Act, 1978 (23 of 1978), shall on and from such commencement, be in force in that State.

(b) the provisions of this Act, to which sub-section (4) applies, which are not in force in any State on the commencement of the Electricity (Supply) Amendment Act, 1978 (23 of 1978), shall come into force in that State on such date as the State Government may, with the

concurrence of the Central Government, by notification in the Official Gazette, appoint.]

2. Interpretation.- In the Act, unless there is anything repugnant in the subject context,-

(1) "Authority" means the Central Electricity Authority constituted under section 3;

(2) "Board" means a State Electricity Board constitute under section 5;

(3) "bulk- licensee" mean a licensee who is authorized by his licensee to supply electricity to other licensees for distribution by them.;

1[(3A) "competent government" means the Central Government in respect of a Generating Company wholly or partly owned by it and in all other cases The Government of the state in which the generating station of a Generating Company is Located or proposed to be located;

(4) "controlled station" means a generating station designated in a scheme sanctioned under Chapter V as a controlled station;

2[(4A) "Generating Company" means a company registered under the companies Act 1956(1 of 1956) and which has among its objects the establishment operation and maintenance of generating stations;

(5) "generating station" or "station" means any station for generating electricity, include any building and plant 3[(with step-up transformer, switch-gear, cable, or other appurtenant equipment, if any)] used for that purpose and the site thereof, a site intended to he used for a generating station, and any buildings used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any such-station 4[***];

(6) "licensee" means a person licensed under Part II of the Indian Electricity Act, 1910 (9 of 1910) to supply energy or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying energy 5[but, the provisions of section 26, or 26A of this Act notwithstanding, does not include the Board or a Generating Company];

1. Ins. by Act 50 of 1991, sec. 3 (w.e.f. 15-10-1991).

2. Clause (4a) ins. By Act 115 of 1976 sec. 2 (w.r.e.f. 8-10-1976) and subs. by Act 50 of 1991, sec. 3 (w.e.f. 15-10-1991).

3. Ins. by Act 115 of 1976, sec. 3 (w.r.e.f. 8-10-1976).

4. The word "for transforming, converting or distributing electricity" omitted by Act 1156 of 1976, sec. 3 (w.r.e.f. 8-10-1976).

5. Subs. By Act 115 of 1976, sec. 3, for " but , the provision of section 26 of this Act notwithstanding does not include the Board" (w.r.e.f. 8-10-1976).

(7) "main transmission lines" means all hight pressure cables and over-head lines (not being an essential part of the distribution system of licensee) transmitting electricity from a generating station to another generating station or to a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be

required to accommodate such transformers , switch-gear and other works and the operating staff thereof; 1[(8) "maximum demand" means all relation to any period shall, unless otherwise provided in any general or special order of the state government, mean twice the largest number of kilowatt-hours or kilo-volt-ampere-hours supplied and taken during any consecutive thirty minutes in that period;]

2[(8A) " power system" means all aspects of generation, transmission, distribution and supply of energy; and includes the following or any combination thereof

(a) generating stations;

(b) transmission or main transmission lines;

(c) sub-stations;

(d) tie-lines;

(e) load dispatch activities;

(f) mains or distributions mains;

(g) electric supply-lines;

(h) overhead lines;

(i) service lines;

(j) works;]

(9) "prescribed" means prescribed by rules 3[made under this Act];

4[(9A) "Regional Electricity Board" means a Board constituted by resolution of the Central Government for a specified region for facilitating the integrated operation of the power systems in that region;

(9B) "Regional Load Dispatch Center" means the Center so designated for a specified region where the operation of the power system in that region and the integration of the power system with other regions and areas (within the territory of India or outside) are co-ordinated;]

5[(9C) "State Load Dispatch Center", in relation to a State, means the Center so designated where the operation of the power system in that State and integration of such State power system with other power system are co-ordinated ;]

1. Subs. by Act 101 of 1956, sec. 3, for clause (8) (w.e.f. 30-12-1956)

2. Clause (8A) ins. by Act 115 of 1976, sec. 3 (w.r.e.f. 8-10-1976) and subs by Act 22 of 1998, sec 9(w.e.f. 31-12-1998)

3. Subs by Act 115 of 1976, sec. 3, for "made under section 78" (w.r.e.f. 8-10-1976).

4. Clauses (9A) and (9B) Ins by Act 50 of 1991, sec 3 (w.e.f. 15-10-1991) and subs by Act 22 of 1998, sec 9 (w.e.f. 31-12-1998)

5. Clause (9c) Ins. by Act 22 1998, sec 9 (w.e.f. 31-12-1998)

(10) "regulations" means regulations made by the Board under section 79;

(11) "Reserve Bank" means the Reserve Bank of India;

1[(11A)"sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, convectors, switch-gear, capacitors, synchronous condensers, structures, cables and other appurtenant equipments and any buildings used for that purpose and the site thereof, a site intended to be used for any such purpose and any buildings used for housing the staff of the sub-station;

(11 B) "tie-line" means a line for the transfer of electricity between two, power systems together with switch-gear and other works necessary to, and used for, the control of such line;]

2[(12) "transmission lines" means all works mentioned in sub-section (7) used wholly or partially for the purposes of distribution or transmission of energy;]

(13) "year" means, in relation to the Board '[or a Generating Company], the year commencing on the 1st day of April;

(14) "year of account" means, in relation to a licensee, his financial year;

(15) other expressions have the meanings respectively assigned to them in the Indian Electricity Act, 1910 (9 of 1910).

CHAPTER II - THE CENTRAL ELECTRICITY AUTHORITY

3. Constitution of the Central Electricity Authority.- (1) The Central Government shall constitute a body called the Central Electricity Authority generally to exercise such functions and perform such duties under the Act and in such manner as the Central Government may prescribe or direct, and in particular to

(i) develop a sound, adequate and uniform national power policy, 3[formulate short-term and perspective plans for power development and co-ordinate the activities of the planning agencies] in relation to the control and utilisation of national power resources;

(ii) act as arbitrators in matters arising between the State Government or the Board and a licensee or other person as provided in this Act;

4[(ii) collect and record the data concerning the generation, distribution and utilisation of power and carry out studies relating to cost, efficiency. losses, benefits and such like matters;]

(iv) make public from time to time information secured under this Act and to provide for the publication of reports and investigations;

5[(v) advise any State Government. Board, Generating Company or other agency

1. Ins by Act 115 of 1976, sec 3 (w.r.e.f. 8-10-1976) .

2. Subs by Act 22 of 1998, sec 9 (w.e.f. 31-12-1998).

3. Subs by Act 115 of J 976, sec. 4, for "and particularly to co-ordinate the activities of the agencies" (w.r.e.f. 8-10-1976)

4. Subs by Act 115 of 1976, sec 4, for clause (iii) (w.r.e.f. 8-10-1976) .

5. Ins by Act of 1976, sec 4 (w.r.e.f.s 8-10-1976).engaged in the generation or supply of electricity on such matters as will enable such government, Board, Generating Company or agency to operate and maintain the power system under its ownership or control in an improved manner and, where necessary, in co-ordination with any other government, Board, Generation company or other agency owning or having the control of another power system

(vi) promot and assist in the the timely completion of schemes sanctioned under Chapter V,

(vii) make arrangements for advancing the skill of persons in the generation and supply of electricity;

(viii) carry out, or make arrangements for, any investigation for the purpose of generating or transmitting electricity;

(ix) promote research in matters affecting the generation, transmission and supply of electricity;

(x) advise the Central Government on any matter on which its advice is sought is make recommendation to that Government on any matter if, in the opinion of the Authority, the recommendation would help in Improving the generation, distribution and utilisation of electricity; and

(xi) discharge such other functions as may he entrusted to it by or under any other law]

(2) The Authority shall consist of 1[not more than fourteen members of whom not more than eight shall he full-time members] appointed by the Central Government 2[***]

3[(2A) A full-time member shall he a person who has experience of, and has shown capacity in,-

(a) design, construction, operation and maintenance of generating stations;

(b) transmission and supply of electricity;

(c) applied research in the fie1d of electricity;

(d) applied economics, or

(e) industrial, commercial or financial matters.]

(3)The central Government shall appoint 4[one of the full-time members] to be the chairman of

the Authority.

(4) All the members of the Authority shall hold office during the pleasure of the central Government.

3[(4A) The Chairman of the Authority and the other full-time members shall receive such salary and allowances as may be determined by the Central Government and

1. Subs, by Act 115 of 1976, sec. 4, for "not more than six members" (w.r.e.f. 8-10-1976)

2. The words "of whom at least three shall be the full-time members" omitted by Act 57 of 1949, sec 3

3. Ins by Act 115, of 1976, sec 4 (w.r.e.f. 8-10-1976)

4. Subs by 115 of 1976, sec. 4, for "one of the members" (w.r.e.f. 8-10-1976)

the other members shall receive such allowances and fees for attending the meetings of the Authority, as the Central Government may prescribe (4B) The other terms and conditions of service of the members of the Authority [including, subject to the provisions of sub-section (4), their terms of office] shall be such as the Central Government may prescribe.]

(5) No full-time member of the Authority shall '[have any share or interest for his own benefit, whether in his own name or otherwise,] in any company or other body corporate or an association of persons (whether incorporated or not). or a firm engaged In the business of supplying electrical energy or 2[fuel, in whatever form. for the generation of electricity or in the manufacture of electrical equipment].

(6) The Authority may appoint a Secretary and such other officers and 3[employees] as it considers necessary for the performance of its functions under this Act on such terms as to salary, remuneration, fee, allowance, pension, leave and gratuity, as the Authority may, in consultation with the Central Government, fix:

Provided that the appointment of the Secretary shall be subject to the approval of the Central Government.

4[(7) The Chairman of the Authority may, by order. appoint any two or more members of the Authority to act on behalf of the Authority in relation to any matter referred to In clause (ii) of sub-section (1).

(8) No act or proceeding of the Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Authority.]

4. Power to require accounts, statistics and returns.- It shall be the duty of each 5[State Electricity Board, Generating Company,] State Government Electricity Department or other licensee or person supplying electricity for public or private purposes, or generating electricity for its or his own use 5[or consuming electricity] to furnish 10 the Authority such accounts. statistics. 7[returns or other information] relating to the generation supply and use of electricity as it may require and at such times and in such form and manner as it may direct.

8[4A. Direction by Central Government to the Authority .-{1) In the discharge of Its functions, the Authority shall be guided by such directions in matters of policy Involving public interest as the Central Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

1. Subs by Act 115 of 1916, sec 4. for "be directly or indirectly concerned or Interested In or have any share or interest" (w.r.e.f. 8-10-1976)

2. Subs by Act 115 of 1916, sec 4. for "fuel, solid or liquid, for the generation of electricity" (w.r.e.f. 8-10-1976)

3. Subs by Act 23 of 1978, sec 3 for "servants" (w.e.f. 3-6- 1978)

4. Subs by Act 115 of 1976, sec 4. for sub-section (7) (w.r.e.f . 8-10-1976)

5. Subs by Act 115 of 1976, sec 5, for "State Electricity Board" (w.r.e.f. 8-10-1976)

6. Ins by Act 115 of 1976, sec 5, (w.r.e.f. 8-10-1976)

7. Subs by Act 115 of 1976, sec 5, for "and returns" (w.r.e.f. 8-10-1976)

8. Sections 4A. 48 and 4C ins. by Act 115 of 1976, sec 6 (w.r.e.f. 8-10-1976)

48. Power of Central Government to make rule. -(1) The Central Government may, by notification In the Official Gazette, make rules for carrying out the purposes if this Charter.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely'-

(a) the functions and duties of the Authority and the manner in which such functions and duties shall be exercised and performed, under sub-section (1) of section 3;

(b) the terms and conditions of service of the Chairman and other members of the Authority (including the allowances and fees payable to members, but not including the salaries and allowances payable to the Chairman and other full-time members, of the Authority) under sub-section (4A) and sub-section (48) of section 3;

(c) any other matter which is required to be, or may be. prescribed by the Central Government,

(3) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session Immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4C. Power of Authority to make regulation.-1[(1)] The Authority may 2[by notification in the Official Gazette,] make regulations, not inconsistent with the provisions of this Act and the rules made by the Central Government there under, to provide for all or any of the following matters, namely:-

(a) summoning and holding of meetings of the Authority, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members required to constitute a quorum;

(b) any other matter arising out of the functions of the Authority under this Act for which it IS necessary or expedient to make regulations,]

2[(2) The Central Government shall cause every regulation made under this section to be laid, as soon as after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree In making any modification in the regulation, or both Houses agree that the regulation should not he made, the regulation shall thereafter have effect only In such modified

1. Section 4C re-numbered as sub-section (I) thereof by Act 20 of 1983, sec 2 and Sec. (w.e.f. 15-19841)

2. Ins. By Act 20 of 1983 ,sec 2 and Sch.(w.e.f. 15-3-1984)

Form or to be of no effect the case may he; so, however, that any such modification or annulment shall be without prejudice to the Validity of anything previously done under the regulation.]

CHAPTER III - 1[STATE ELECTRICITY BOARDS, GENERATING COMPANIES, STATE ELECTRICITY CONSULTATIVE COUNCILS AND LOCAL, ADVISORY COMMITTEES]

5.Constitution and composition or State Electricity Boards. -(1) The State government shall as soon as may be after the issue of the notification under sub-section(4)of section 1, constitute by notification in the official Gazette a State Electricity Board under Such name as Shall be specified in the notification .

(2) The Board shall consist of not less than three and not more than seven members appointed by the State Government.

2[***]

3[(4) of the members

(a) one shall be a person who has experience of, and has shown capacity I.

Commercial matters and administration;

(b) one shall be an electronic engineer with wide experience: and

(c) one shall be a person who has experience of accounting and financial matters in a public

utility undertaking, preferably an electricity supply undertaking:

(5) one of the members possessing any of the qualifications specified in sub-section (4) shall be appointed by the State Government to be the Chairman of the Board.

(6) A person shall be disqualified from being appointed or being a member of the board if he is 4[***] a member of 5[Parliament] or of any State Legislature or any local authority.

(7) No Act done by the board shall be called in question on the ground only of the existence of any vacancy in or any defects in the constitution of the Board.

6. Inter-State agreement to extend Board's jurisdiction to another State.-(1).Subject to the provision of this section , the Government of and State may, after It has issued a notification under sub-section (4) of section 1. In lieu of constituting a Board continued for a latter state with the Government of a contiguous State to provide that the board constituted for the latter state Shall exercise the function of the board under this Act in the former state.

(2) Subject to such modifications- (being of a character not affecting the general operation of the agreement) of the terms of the agreement as may from time to time be agreed upon by the State Government concerned, an agreement entered into under

1. Subs. by Act 115 of 1976 ,sec. 7.for "STATE ELECTRICITY BOARDS"(w.r.e.f. 8-10-1976) .

2. Sub-section (3) omitted by act 57 of 1949,sec. 4.

3. Subs by act 101 of 1956,sec. 4,for sub-section (4)(w.r.e.f. 8-10-1976)

4. The words "or within the twelve months last preceding was:' omitted by Act 30 of 1966 ,sec. 2 (W.e.f. 16-9-1966)

5. Subs. By the A.O. 1950 for "the Central" this section shall he for a period of not less than twenty-five years but may be determined earlier by mutual consent

(3) An agreement under this section may-

(a) make such financial arrangements between the participating State Government" as may be necessary for the purposes of the agreement;

(b) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act;

(c) generally make such incidental, supplementary or ancillary provisions, not Inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

7. Effect of Inter-State agreement,-Where an agreement is entered into under section 6, the participating State Governments shall, by notification in the Official Gazette, declare a date on which the agreement shall come Into force, and on and after that date-

(a) the Board constituted for the one State shall have all the powers and duties of a Board under this Act In respect of both States as If they constituted a single State:

1[(b) reference in this Act to-

(i) the State ,

(ii) the State Electricity Consultative Council, and

(iii) the State Legislature, shall, unless the context otherwise requires, be construed as references respectively to

(A) both States,

(B) where more than one State Electricity Consultative Council has been constituted under section 16, to all such Councils, and

(C) the Legislatures both States,]

(c) the provisions of section 60 in relation to the assumption by the Board of the rights and liabilities of the State Government arising before the first constitution of the Board shall apply to the assumption by the Board of the rights and liabilities of the Government of the State to which the exercise of its function under this Act is extended under the agreement, as if in that section for the words "before the first constitution of the Board" there were substituted the words and figure "before the date on which the agreement under section 6 came into force".

2[8. Term or office and conditions for re-appointment of members of the Board. The Chairman and other members of the Board shall hold office for such period, and shall be eligible for re-appointment under such conditions, as may be prescribed .]

1. Subs. By Act 30 of 1966 sec. 3 for clause (b) (w.e.r.f. 16-9-1966)

2. Subs. By Act 57 ,sec. 5 ,for section 8

9. Members not to hold interest in certain concerns.-(1) A member of the Board shall, prior to his appointment. give to the State Government intimation of, and shall ,prior appointment ,give the state government intimation of and shall before taking charge of this office sell or divest himself of , any interest which he may have for his own benefit whether in his own name or otherwise, in any firm or company carrying on the business of supplying electricity or any fuel for the generation of electricity, or of the manufacture, sale or hire of machinery, plant, equipment apparatus or fittings for the generation, transmission, distribution or use of electricity, or any interest in the managing agency or shares or securities of any such company and it shall not be lawful for a member of the Board, so long as he holds office, to acquire or purchase any such interest in any such firm or company and if he, under any will or by succession or gift become, entitled for his own benefit to any such interest, he shall sell the same within three months after becoming so entitled there and he shall also, within three months, sever any connection he may have and cease to have and cease to have any interest, direct or indirect, in any such concern.

(2) Nothing contained in sub-section (1) shall prevent a member from acquiring or holding any share or interest and in ant firm or company other then the firm or company mentioned in sub-section (1):

Provided that if the Board has entered into, or is about to enter into any contract or agreement with any such firm or company in which a member holds any share or interest, he shall disclose the fact and nature of such interest and he shall not be entitle to vote on any design of the board relating to such contract agreement.

(3) A discloser referred to in the proviso to sub-section (2) shall forthwith be recorded in the minutes of the board and communicated to the State Government and the State Government may thereupon give such directions as it may deem proper.

10. Removal or suspension of members.-1[(1)] The State Government may suspend from office for such period as it thinks fit or remove from office any member of the board who -

(a) is found to be lunatic or becomes of unsound mind ;or

(b) is adjudged insolvent; or

(c) fails to comply with the provision of section 9 ;or

(d) becomes or seeks to become a member of :[Parliament] Legislature or any local authority: or

(e) In the Opinion of the State Government-

(i) has refused to act; or

(ii) has become incapable of acting; or

(iii) has so abused his position as a member as to render his continuous presence on the Board detrimental to the interests of the general public: or

(iv) is otherwise unfit to continue as a member; or]

(f) is convicted of an offence involving moral turpitude.

1. Section 10 re-numbered as sub-section (1) therefore by act 101 of 1956 ,sec. 5 (w.e.f. 30-12-1956)

2. Subs by the A.O. 1950, for "the Central"

3. Subs by Act 101 of 1956, sec. 5 ,for clause (e)(w.e.f. 30-12-1956),

1[(2) The State Government may suspend any member pending an inquiry against him.

(3) No order of removal shall be made under this section unless the member concerned has been given an opportunity to submit his explanation to the State government, and when such order is passed, the seat of the member removed shall become vacant and another member may be appointed under section 5 to fill up the vacancy.

(4) A member who has been removed shall not be eligible for re-appointment as member or in any other capacity of the board.

(5) if the Board fails to carry out its functions, or refuses or fails to follow the directions issued by the State government under this Act, the State Government may remove the Chairman and the members of the Board and appoint a Chairman and members in their places,]

2[10A. Power of State Government to declare certain transactions void.-(1) The State Government may declare void any transaction In connection with which a member has been removed under sub-clause (iii) of clause (e) of sub-section(1) of section 10 after considering the report on the facts of the case made to It by a District Judge nominated by it in this behalf.

(2) A district Judge nominated under sub-section (1) shall. be fore making his report under that sub-section to the state government to any transaction ,give all the parties interested in the transaction a reasonable opportunity of being heard.

(3) Where a transaction is declared void under this section. It shall not be enforceable by any party to the transaction but the provisions of section 65 of the Indian Contract Act, 1872,shall so far as may be, apply to such transaction as they apply to an agreement which is discovered to be void or a contract which becomes void.

(4) The decision of the State Government declaring any transaction void under this section shall be final and shall not be called In question In any court I

11, Temporary absence of members.-If the Chairman or any other member of the Board IS by infirmity or otherwise rendered temporarily Incapable of carrying out his duties or is absent on leave or otherwise in circumstance not involving the vacation of this appointment , the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made there under.

12. Incorporation of Board.- The Board shall be a body corporate by the name notified under sub-section (1) of section 5, having perpetual succession and a common seal, with power to acquire and hold property both movable and Immovable, and shall by the said name sue and be sued

3[12A. Board may have capital structure.-(1) The State Government may, If it consider expedient so to do, by notification in the Official Gazette, direct that the Board shall. with effect from such date as may be specified in the notification, be a body corporate with such capital, not exceeding ten crores of rupees, as Government may specify from time to time.

1.Ins by All act 101 of 1956 ,sec. 5 (w.e.f. 30-12-1956)

2.Ins by All 101 of 1956. sec 6 (w.e.f .30-12-1956)

3.Ins by Act 23 of 1978,. sec 4 (w.e.r. 3-6-1978)

(2) The State Government may, from time to time, with the approval of Legislature, increase the maximum limit of the capital referred to in sub-section (1) to such extent as that Government may deem fit, so, however, that the increased limit of capital aforesaid shall not exceed the amount representing the aggregate of the outstanding loans of the Board.

(3) Such capital may be provided by the State Government, from time to time, by due appropriation made by the State Legislature by law for the purpose and on such terms and conditions as may be determined by that Government.]

13. Authentication of orders and other instruments of the Board.- and decisions of the Board shall be authenticated by the signature of the , or any other member authorized by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of such member of the Board as may in like manner be authorized in this behalf.

COMMENTS

In the face of note circulated by the Chairman to the members for approval of a tariff, receiving the consent of the members followed by the ratification of revision of the Board in an emergency meeting, such revision of tariff cannot be challenged on the ground that the procedure under sections 13 and 14 was not followed; *Ferro Alloy Corpn.v.A.P.S.E. Board*, AIR 1993 AP 183.

14. Meetings or the Board.-(1) The Board shall hold ordinary meeting intervals as may be provided in the regulations; and a meeting may be convened by the Chairman at any other time for the transaction of urgent business.

(2) The number of members necessary to constitute a quorum at a meeting shall be such as may be provided in the regulations.

15. Appointment or staff.- The Board may appoint a Secretary and such other officers and employees as may be required to enable the Board to carry out its functions under this Act:

[Provided that the appointment of the Secretary shall be subject to the approval of the State Government.]

COMMENTS

So far as the other staff(excluding Secretary) is concerned, it lies with the Board to make appointment of all the officers and employees as may be required to enable the Board to carry out its functions, with total immunity to necessity of the State Government's approval/directions in that behalf. It is only the appointment of the Secretary which is subject to the State Government's approval, by virtue of proviso to this section; *Rakesh Ranjan Verma v. State of Bihar*, AIR SC 1992 SC 1348.

3[15A. 4[*] Objects, jurisdiction, etc., or Generating Companies.-5[***]**

1. Subs by Act 23 of 1978, sec. 5, for "servants." (w.e.f. 3-6-1978).

2. Ins by Act 101 of 1956, sec. 7 (w.e.f. 30-12-1956).

3. Ins by Act 115 of 1976. sec 8 (w.e.f. 8-10-1976).

4. The word "Formation" omitted by Act 50 of 1991, sec. 4 (w.e.f. 15-10-1991).

5. Sub-section (1) omitted by Act 50 of 1991, sec. 4 (w.e.f. 15-10-1991).

1[(2) The objects of a Generating Company shall include

(a) establishment, operation, and maintenance of generating stations and tie-lines, sub-stations and main transmission lines connected therewith;

(b) operation and maintenance of such generating stations, tie-lines, sub-stations and main transmission lines as assigned to it by the competent government or governments.

(3) The Generating Company shall carry on its activities within such areas as the competent

government or governments, as the case may be, may, from time to time, specify in this behalf.]

2[***]

(5) A full-time member of the Board of Directors of a Generating Company shall be a person who has experience of, and has shown capacity in,

(a) design, construction, operation and maintenance of generating stations;

(b) transmission and supply of electricity;

(c) applied economics;

(d) organizing workers;

(e) industrial, commercial or financial matters; or

(f) administration in a Government Department or other establishment.

2[***]

2[***]

16.State Electricity Consultative Council.-(1) The State Government shall constitute a 3[State Electricity Consultative Council] for the State, and in cases to which section 6 and 7 apply, the State Governments concerned shall constitute such one or more 3[State Electricity Consultative Council] or Councils and for such areas as they may by agreement determine.

(2) The 3[State Electricity Consultative Council] shall consist of 4[the members of the Board and, if there are any Generating Company or Generating Companies operating in the State, one representative of the Generating Company or each of the Generating Companies, to be nominated by the Generating Company concerned,] and such other persons being not less than 5[eight] and not more than fifteen as the State Government or the State Governments concerned may appoint after consultation with such representative or bodies representative of the following interests as the State Government or the state governments concerned thinks or think fit, that is to say, local self-government, electricity supply industry, commerce, industry, transport, agriculture, 6[labour employed in the electricity supply industry and consumers of electricity], but so that there shall be at least one member representing each such interest in the Council.

1. Subs by Act 50 of 1991, sec. 5, for sub-sections (2) and (3) (w.e.f. 15-10-1991).

2. Subs-sections (4),(6) and (7) omitted by Act 50 of 1991, sec.4 (w.e.f. 15-10-1991).

3. Subs. by Act 101 of 1956, sec. 8 for "State Electricity Council" (w.e.f 30-12-1956).

4. Subs. by Act 115 of 1976,sec. 9 for "the members of Board" (w.r.e.f. 8-10-1976).

5. Subs. by Act 20 of 1966,sec. 4 for "seven" (w.e.f. 16-9-1976).

6. Subs. by Act 101 of 1956, sec. 8 for "and labour employed in the electricity supply industry" (w.e.f. 30-12-1956).

(3) The Chairman of the Board shall be *ex officio* Chairman of the 1[State Electricity Consultative Council].

(4) The 1[State Electricity Consultative Council] shall meet at least once in a three months.

(5) The functions of the 1[State Electricity Consultative Council] shall be as follows:-

(i) to advise 2[the Board and the Generating Company or Generating Companies, if any, operating in the State] on major questions of the policy and major schemes;

(ii) to review the progress and the work of 2[the Board and the Generating Company or Generating Companies, if any, operating in the State] from time to time;

(iii) to consider such other matters as 2 Board and the Generating Company or Generating Companies, if any, operating in the State] may place before it; and

(iv) to consider such matters as the State Government may by rules prescribe.

3[(6) The Board shall place before the State Electricity Consultative Council the annual financial statement and supplementary statement, if any, and shall take into consideration and comments made on such statement in the said Council before submitting the same to the State Government under section 61.]

COMMENTS

Failure to seek advice of the Consultative Council before revision of the tariffs does not result in invalidation of the revised tariffs, since the consequences of non-compliance of this section is not provided and the nature of function of the Consultative Council and the force of its advice is at best only persuasive; *Hindustan Zinc Ltd. v. A.P.S.E. Board*, AIR 1991 SC 1473.

17, Local Advisory Committee.-(1) The State Government may from time to time constitute for such areas as it may determine Local Advisory Committees, consisting of such number of persons as it may think fit in each case and on such terms and conditions as may be prescribed.

(2) The Board may if it thinks fit consult the Local Advisory Committees concerned on any business coming before it, and shall so do in respect of such business as the State Government may by general or special order in this behalf specify or when required by the regulation so to do.

(3) The Chairman of the Board or such other member of the Board as he may nominate in this behalf shall *ex officio* Chairman of a Local Advisory Committee.

(4) Local Advisory Committees shall meet at such intervals as may be prescribed, and for the transaction of urgent business on such other occasions as the Chairman of the board may require.

1. Subs. by Act 101 of 1956, sec. 8 for "State Electricity Council" (w.e.f 30-12-1956).
2. Subs. by Act 115 of 1976, sec. 9 for "the Board" (w.r.e.f. 8-10-1976).
3. Subs. by Act 20 of 1966, sec. 4 for sub-section (6) (w.e.f. 16-9-1966).

(5) The number of members necessary to constitute a quorum at a meeting of a Local Adversity Comity shall be such as the State Government when constituting the Committee may specify.

CHAPTER IV - POWERS AND DUTIES OF 1[STATE ELECTRICITY BOARDS AND GENERATING COMPANIES]

2[18.General Duties of the Board. - Subject to the provisions of this Act, the Board shall be charged with the following general duties, namely:-

(a) to arrange, in co-ordination with the Generating Company or Generating companies, if any, operating in the State, for the supply of electricity that may be required within the State and for the transmission and distribution of the same in the most efficient and economical manner with particular reference to those areas which are not for the time being supplied or adequately supplied with electricity;

(b) supply electricity as soon as practicable to a licensee or other person requiring such supply if the Board is competent under this Act so to do:

(c) to exercise such control in relation to the generation, distribution and utilization of electricity within the State as is provided for by or under this Act.

(d) to collect the data on demand for and the use of, electricity and to formulate perspective plans in co-ordination with the Generating Company or Generating Companies, if any, operating in the State, for the generation, transmission and supply of the electricity within the State.

(e) to prepare and carry out schemes for transmission, distribution and generally to promoting the use of electricity within the State: and

(f) to operate the generating station under its control in co-ordination with the Generating Company or Generating Companies to, if any, operation in the State and within the Government or any Board or agency having control over a power system.]

COMMENTS

By virtue of sub-sections (a) and (e) of this section, the board shall be charged with the duties, inter alia, to arrange for supply of the electricity that may be required within the state and for the transmission and distribution of the same in the most efficient and economical manner with particular reference to those areas which are not for the time being supplied or adequately supplied with electricity and prepare and carry out scheme for transmission, distribution and generally to promoting the use of electricity within the State, *Eastern U.p.*

Chamber of Commerce and industry v. U.P. State electricity Board ,AIR 1993 All 309.

3[18a .Duties of Generating Companies .-(1) Subject to the provision of this act ,a Generating Company Shall be Charged with the following duties, namely:-

1.Subs by Act 115 of 1976 ,sec for "STATE ELECTRICITY BOARDS"(w.r.e.f. 8-10-1976)

2. Subs by Act 115 of 1976sec. 11 ,for section 18 (w.r.e.f. 8-10-1976)

3. Ins. By Act 115 of 1976 ,sec. 11(w.r.e.f. 8-10-1976)

(a) to establish ,operate and maintain such generating sections and tie-lines ,sub-sections and main transmission line, connected therewith. a, may be required to be established by the 1[competent government or governments]in the relation to the Generating Company;

(b) to operate and maintain in the most efficient and economical manner the generating stations and main transmission lines, assigned to it by the Board or Boards ,as the case may be and the government or agency having control over the power system, if any, connected therewith; and

(c) to carry out ,subject to the provisions of section 21,detailed investigations and prepare scheme ,in co-

ordination with the Board or Boards ,as the case may be ,for establishing generating station and tie lines, sub-stations ,in such a manner as maybe specified by the Authority.

(2) Without prejudice to the generality of its duties under section 18,the Board shall, until a generating company begins to operate in any State, perform the duties of a generating company under this section in this State.]

19. Powers of the Board to supply electricity ,-(1) The Board may subject to the previous of this act ,supply electricity to any license or personal requiring such supply in any area in which a scheme sanctioned under chapter V is enforce:

Provide that the Board shall not-

(a)Supply electricity for any purpose to any licensee for use in any part of the area of the supply of a bulk-licensee without the consent of the bulk licensee, unless the licensee to be supplied has an absolute right of veto of any right of the bulk-licensee to supply electricity for such purpose in the said part of such area, or unless the bulk-licensee is unable or unwilling to supply electricity for the such purpose in the said part of such area on the responsible terms and conditions and within a responsible time, or

(b) Supply electricity for any purpose to any person, not being a licensee for use in any part of the area of the supply of a license with out the constant of the license, unless-

(i)the actual effective capacity of the Lessee's generating station computed in accordance with paragraph IX of the First Schedule .It the time when such supply was required was less than twice the maximum demand ask for by any such person; or

(ii) the maximum demand of the Lessee, being a distributing licensees and taking a supply of energy In bulk is, at the time of the request, less the twice the minimum demand asked for by any such person; or

(ill) the licensee is unable or unwilling to supply electricity for such purpose in the said part of such arera on responsible terms and conditions and within a responsible time .

1. Subs. By Act 50 of 1991 ,sec.5 for "promoting government or promoting governments"(w.e.f. 15-10-1991)

(2) After the Board has declared its intention to supply electricity for any purpose in any area for which purpose and in which area it is under this section competent to supply electricity no licensee shall, the provisions of his license notwithstanding, .It any time he entitled without the consent of the Board to supply electricity of that purpose In that area.

(3) For the purposes of sub-section (1)"absolute right of veto" means in unqualified right veto in a Licensee by virtue of any law, Licensee or other instrument whereby a bulk licensee is prevented from supplying electricity In any Specified area without the consent of the licensee in the licensee in the right of veto vests.

(4) if ant question arises under sub-section (1) as to the responsible ness of the terms or condition or time therein mentioned, it shall be determined 1[by arbitration] as provided in section 76.

20. Power to Board to engage in certain undertakings.-(1) The Board may, in accordance with any regulations made in this behalf, manufacture, purchase, sell or let on hire on the execution on the of a hire-purchase agreement or other wise , any electric machinery, control-gear, fittings wires or .apparatus for lighting. heating, cooling, if motive power or for any other purpose for which electricity can if city he used, or .my industrial or agricultural machinery operated hy electricity, any may install, Connect, repair. maintain if remove such fittings, wires apparatus. Machinery of control-gear and in respect thereof demand and take such remuneration or rents and charges and make such terms and conditions as it deems fit.

(2) The Board may maintain shops and show-rooms for the display, sale or hire of fitting, wires, apparatus and machinery as aforesaid, conduct displays, exhibitions ,and demonstration thereof ,and generally do all things , Including advertising, Incidental to the sale and hire if such fittings, wires, apparatus and machinery and to the promotion and encouragement of the use of electricity.

(3) The Board shall show separately in its accounts moneys received and expended by it in connection with any undertakings in which it engages under this section.

2[20A. Leasing out generating stations.- The State Government may, In respect of any generating station owned by it (including transmission lines and other work, connected therewith) make arrangements with the Board or a Generating company for its operation and maintenance on such terms and conditions as may be agreed upon between the State Government and the Board or the Generating Company, as the case may be.]

21. Powers of Board in relation to water.power.-3[The Board or a Generating Company ,as the case may be ,]. with the previous approval of the State Government, take such measures as 4[in the opinion of the Board as the case may be,] are calculated to advance the development of water-power in the State. and may organize and carry out power and hydrometric[survey work and cause to be made such maps, plan, section, and estimates as are necessary for any of the said purposes 5[and in ,such manner as the Authority may, from time to time. Specify].

1. Ins. by Act 30 of 1966, sec. 5, (w.e.f. 16-9-1966).
2. Sections 20A ins. by Act 44 of 1962, sec 2 (w.e.f. 16-9-1962) and again subs. By Act 115 of 1976 .sec 12,(w.e.r.f. 8-10-1976).
3. Subs. by Act 115 of 1976,sec. 13 for "the Board may" (w.r.e.f. 8-10-1976).
4. Subs. by Act 115 of 1976,sec. 13 for "the in the opinion of the board " (w.r.e.f. 8-10-1976).
5. Subs. by Act 20 of 1966,sec. 13 (w.e.f. 16-9-1976).

Provided that where any such measures relate to a source of water-power al operated upon by a lenses under a licensee, the Board shall give the Licensee of such measure and an opportunity to be heard on any representations he may to desire to make in that behalf and may consider such representation.

22. Power to Board to conduct investigations.-Subject so far as the provisions of this section relate to eater -power to the previous approval of the State Govern the Board may at its own expense conduct such Investigations, experiments and .it think, fit for the improvement of the methods of transmission, distribution, supply of electricity or of the utilization of fuel. water-power or other means of eating electricity. and may establish and maintain laboratories for the testing standardization of electrical instruments and equipment.

23. Loans by Board to licensees.-(1) Subject to any regulations made in this behalf . the Hoard may grant advances to any licensee for the purposes Undertaking on such terms as the Board thinks proper.

(2) The Board in the discharge of Its functions may call upon a licensee to expand his undertaking and offer to advance to him a loan on such terms and conflate It may deem proper for such expansion. and if the licensee refuses. falls or neglect to accept the Board on the terms and conditions offered or to employ his own funds 1[***] for purposes of such exp and to carry out such expansion. the Board may. after giving the licensee six months is writing. purchase his undertaking.

24. Power to Board to contribute to certain associations.- The Board subject to any regulations made in this behalf,-

(1) pay such subscriptions as it thinks fit to any association for the promotion of the common interest of persons engaged In the generation. Distribution and supply of electricity and the members of which consist mainly of persons.

(2) contributes such sums as it thinks fit to funds of any recognized society the object of which is to foster the development and use of electricity or promotion of knowledge and research in respect of electricity or electrical appliances.

25. Consulting engineers.- The Board may, subject to such conditions as m prescribed. from time to time appoint qualified persons to be consulting enigma the Board and pay them such remuneration as it thinks proper.

26. Board to have powers and obligations of licensee under Act 9 of 1910.- Subject to the provisions of this Act, the Board shall, in respect of the whole have all the powers and obligations of a licensee under the Indian Electricity Act, 1910,and this act shall be deemed

to be the license of the Board for the purposes of that Act Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and 2[section 22, sub-section (2) of section 22A and 23 and 27] of the Act

1.The word "on terms similar on the terms offered by the board" omitted by Act 101 of 1956, sec. 9(w.e.f. 30-12-1956)

2.subs. By Act 32 of 1959 , sec 41 for "sections 22,23 and 27 "(w.e.f. 5-9-1959).

Or in 1 clause 1 to V ,clause VII and clause IX to XII]of the Schedule to the act relating to the duties and obligations of a licensee shall apply to the board:

2[Provided further that the provisions of clause VI of the Schedule to that Act shall apply to the board in respect of that area only where distribution mains have been laid by the board and supply of energy through any of them has commenced.]

3[26A. Applicability of the provisions of act 9 of 1910 to Generating company.-

(1)Notwithstanding anything contained in sub-section (2),nothing in the Indian Electricity Act 1910,shall be deemed to require a generating company to take out a licensee under that Act, or to obtain sanction of the State Government for the purpose of carrying on any of its activities.

(2)Subject to the provision of this Act ,1910(9 of 1910)and clause XIV to XVII(both inclusive)of the Schedule thereto, shall, as far as may be apply in relation to a generating company may,in connection with the performance of its duties ,exercise-

(a) all or any of the powers conferred on a licensee by sub-section (1) of section 12 of the Indian Electricity Act,1910,as if-

(i) the reference therein to licensee where the references to the Generating Company;

(ii) the reference to the term and conditions of licensee where a reference a provisions of this act and to the articles of association of the Generating Company; and

(iii)the reference to the area of supply where a reference to the area specified under sub-section

(3)of section 15A in relation to the Generating Company;

(b) all or any of the powers conferred on a licensee by sub-section (1) of section 14 of the Indian electricity Act 1910(9 of 1910),as if-

(i) the references therein to licensee where references to the Generating Company, and

(ii)The Generating company had the power of licensee under the said Act .

(3)The provision of section 30 of the Indian Electricity Act ,1910(9 of 1910)shall not apply to transmission or use of energy by a Generating Company.

(4) For the removal of doubts, it is hereby declare that section 31 to 34 (both inclusive)of the Indian Electricity Act 1910 (9 of 1910),shall apply to a Generating Company.]

1.Subs. by Act 101 of 1956 ,sec. 10,for "clauses I to XII"(w..e.f. 30-12-1956)

2.Ins. by Act 115 of 1976,sec. 14(w.r.e.f. 8-10-1976)

3.Ins. by Act 115 of 1976 ,sec. 14(w.r.e.f. 8-10-1976)

27. Other functions of the Board.-1[The Board or a Generating Company] shall have such further powers and duties as are provided in this Act,

CHAPTER V - 1[THE WORKS AND TRADING PROCEDURE OF THE BOARD AND THE GENERATING COMPANY]

1[28. Preparation and sanctioning of scheme.-(1) For the efficient performance of Its duties under this Act, the Board or a Generating Company, as the case may be, may prepare one or more schemes, relating to the establishment or acquisition of generating stations, tie-lines, sub-stations or transmission lines, as are referred to in clause (e) of section 18 or clause (c) of sub-section (1) of section 18A, as the case may be.

(2) The Board or, as the case may be, the Generating Company which has prepared a scheme may, sanction such scheme either generally or in respect of any part of the area specified in the scheme and where a scheme has been sanctioned in respect of any part of the area, such scheme may subsequently be sanctioned in respect of any other part of that area:

Provided that where the scheme is of the nature referred to in sub-section (1) of section 29, the scheme shall not be sanctioned (generally or for part of an area) by the Board or the Generating Company except with the previous concurrence of the Authority

4[(2A) The Board or, as the case may be, the Generating Company shall, as soon I as may be after it has sanctioned any scheme which is not of the nature referred to I in section 29. forward the scheme to the Authority and, if required by the Authority so to do. supply to the Authority any information incidental or supplementary to the scheme within such period as may be specified by the Authority.]

(3) Every scheme sanctioned under this section shall be published in the Official Gazette and in such local newspapers as the Board or, as the case may be, the Generating Company may consider necessary,]

5[29. Submission of schemes for concurrence of Authority, etc.-6[(1) Every scheme estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification in the Official Gazette, shall. as soon as may be after it is prepared, be submitted to the Authority for its concurrence,]

(2) Before finalization of any scheme of the nature referred to in sub-section (1) and the submission thereof to the Authority for concurrence, the Board or, as the case may be, the Generating Company shall cause such scheme, which among other things shall contain the estimates of the capital expenditure involved, salient features thereof and the benefits that may accrue there from, to be published in the Official Gazette of the State concerned and in such local newspapers as the Board or the Generating Company may consider necessary along with a notice of the date, not being less than two months after the date of such publication, before which licensees and other persons interested may make representations

on such scheme.

1. Subs by Act 115 of 1976, sec 15, for "The Board" (w.r.e.f 8-IO-lq76)
2. Subs. by Act 115 of 1976. sec 16. for the former. Heading (wref 8-10-1976) .
3. Subs by Act 115 of 1976. sec 17. for section 21 (,w.t.e f 8-10-1976)
4. Ins by Act 48 of 1984. 5ec 2 (w.e.f 1.10-984),
5. Section 29 subs by Act: 30 of 1966 sec. 6 (w.e.f 16-9-1966) and again subs.

(3) The Board or, as the case may be, the Generating Company may, after considering the representations, if any, that may have been received by it and after making such inquiries as it thinks fit, modify the scheme and the scheme so finally prepared (with or without modifications) shall be submitted by it to the Authority along with the representations.

(4) A copy of the scheme finally prepared by the Board or, as the case may be, the Generating Company under sub-section (3) shall be forwarded to the State Government or State Governments concerned:

Provided that where the scheme has been prepared by a Generating Company in relation to which the Central Government is the 1[competent government or one of the competent governments], a copy of the scheme finally prepared shall be forwarded also to the Central Government.

(5) The Authority may give such directions as to the form and contents of a scheme and the procedure to be followed in, and any other matter relating to, the preparation, submission and approval of such scheme, as it may think fit.

(6) In respect of any scheme submitted to the Authority for its concurrence under sub-section (1), the Board or, as the case may be, the Generating Company shall, if required by the Authority so to do, supply any information incidental or supplementary to the scheme within such period, being not less than one month, as may be specified by the Authority.]

30. Mat ten to be considered by the Authority,- 2[The Authority shall, before concurring in any scheme submitted to it under sub-section (1) of section 29, have particular regard to, whether or not in its opinion-].

(a) any river-works proposed 3[***] will prejudice the prospects for the best ultimate development of the river or its tributaries for power-generation, consistent with the requirements of irrigation, navigation and flood-control, and for this purpose the Authority 4[shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate,] that an adequate study has been made of the optimum location of dams and other river-works;

(b) the proposed scheme will prejudice the proper combination of hydro-electric and thermo-electric power necessary to secure the greatest possible economic output of electric power;

1. Subs by Act 50 of 1991, sec. 6, for "promoting government or one of the promoting governments" (w.e.f. 15-10-1991).
2. Subs by Act 115 of 1976, sec. 18, for the original paragraph (w.r.e.f .8-10-1976)

3. The words 'by the board' omitted by Act 115 of 1976, sec 18 (w.r.e.[8-10-1976)

4. Subs. by Act 115 of 1976, sec 18, for "shall satisfy Itself' (w.r.e.f. 8-10-1976)

(c) the proposed main transmission lines will be reasonably suitable for regional requirements;

(d) the scheme provides reasonable allowances for expenditure on capital and revenue account;

(e) the estimates of prospective supplies of electricity and revenue there from contained in the scheme are reasonable;

1[(f)in the case of a scheme in respect of thermal power generation, the location of the generating station is best suited to the region, taking into account the optimum utilization of fuel resources, the distance of load center, transportation facilities, water availability and environmental considerations;

(g) the scheme conforms to any other technical, economic or other criteria laid down by the Authority in accordance with the national power policy evolved by it in pursuance of the provisions contained in clause

(i) of sub-section (1) of section 3 1[and such other directions as may be given by the Central Government].]

1[31. Concurrence of Authority to scheme submitted to it by Board or Generating Company.-(1) Where a scheme is submitted to the Authority under sub-section (1) of section 29, the Authority may, having regard to the matters referred to in section 30, either concur in the scheme without modification or require the Board or, as the case may be, the Generating Company to modify the scheme in such manner as the Authority specifies in the requisition so as to ensure that the scheme conforms to the national power policy evolved by the Authority in pursuance of the provisions contained in clause (i) of sub-section (1) of section 3 and in either case the Authority shall also communicate its decision to the State Government or State Governments concerned:

Provided that where the scheme was submitted for concurrence by a Generating Company in relation to which the Central Government is the 4[competent government or one of the competent governments], the decision shall be communicated also to that Government

(2) Where under sub-section (1) the Authority requires that a scheme may be modified, the Board or, as the case may be, the Generating Company may prepare a revised scheme in accordance with such requisition and submit it to the Authority for concurrence and thereupon the Authority shall, if satisfied that the revised scheme complies with the requisition, concur in the same.

32. Power to alter or extend schemes.- The Board or, as the case may be, the Generating Company may, from time to time, alter or extend a scheme by a supplementary scheme prepared in the manner specified in section 31.

Provided that any alterations or extensions of a scheme which are, in the opinion of the Board or, as the case may be, the Generating Company, minor in character may be made without preparing a supplementary scheme.

1. Ins by Act 115 of 1976. sec. 18 (w.r.e.f. 8-10-1976).
2. Added by Act 50 of 1991, sec 7 (wef. 15-10-1991).
3. Subs by Act 115 of 1976, sec. 19, for sections 31, 32 and 33 (w.r.e.f. 8-10.1976).
4. Subs by Act 50 of 1991 , sec. 8, for . 'the promoting government or one of the promoting governments" (w.e.f. 15.10.1991).

Provided further that where any alteration or extension of the nature referred to In the first proviso is make in respect of a scheme concurred in by the Authority, details of such alteration or extension shall he Intimated to the Authority as soon a" may he after such alteration or extension is made.

33. Provisions applicable to scheme prepared by State Government.- The provisions of section 28 to 32 (both inclusive) shall. so far as may he. apply also In relation to a scheme prepared by a State Government for the generation. Transmutation or distribution of electricity.

34. Controlled Stations-1[(1)] Where a generating station situate within an area to which a scheme I.' In force has been designated In the scheme as a controlled station.the relation between the Board and the licensee owning the station shall. subject to ,any arrangements agreed under section 47, he regulated by the provisions of the first Schedule.

1[(2) Notwithstanding anything contained In thIs Act or any scheme made there unJer, no generatIng station owned by a Generating Company shall he designated a" a controlled station.

35. Supply by the Board to licensees owning generating stations.- The Board may at any time declare to a licensee owning a generating station. other than it controlled station, situate within an area for which a scheme is in force that It is ready to make ,I supply of electricity available to the licensee for the purposes of the undertaking and thereupon. but without provision to the provision on of section 47, the provisions of the Second Schedule shall apply in respect of the relations between the Board and the said Licensee.

36. Power to Board to close down generating stations.- The Board may at any time declare to a licensee owning a generating stilts stilted within an ilea for which a scheme in force that the station shall he permanently closed down, and thereupon but without prejudice to the provisions of section 47. where the station a controlled station the provisions of Part III of the First Schedule. or In other case" the provisions of title Third Schedule. shall apply In respect but the relations between the Board and the said licensee with reference to the station to be closed down.

37. Purchase of generating stations or undertakings or main transmission lines by the Board.-(1) Where under the First or Third Schedule and generating station or undertaking is to be purchased by the Board ,or where a sanctioned scheme provides for the purchased by the Board of a main transmission line belonging to any licensee-

(1) the generating station or undertaking from such date of purchase its may he fixed under title appropriate Schedule, or the main transmission line from such date of. purchase as the Board shall, by notice In writing given not less than one month before the said date, Intimate to the licensee. shall vest In the Board free, save as provided In sub-section (2), from any debt, mortgage, lien or other similar obligation of the licensee of attaching to the station or

undertaking or line, as the case may be, and any such debt, mortgage.

Len or obligation shall, save as aforesaid. Attach to the purchase-money in substitution of the station or undertaking or line;

1. Section 34 re-numbered as sub-section (1) thereof by Act 115 of 1976. sec 20 (w. r.e. f . 8-10-1976)

2. Ins. by Act. 115 of 1976 (w.r.e.f .8-10-1976)

Provided that notwithstanding, any agreement to the contrary the licensee shall pay and the mortgage. charge. line-holder or the purchase money as the case may be in full or part satisfaction of the debt according as the amount of the purchase-money more or less than the amount of his debts.

(b) without prejudice to the provisions of section 47. the Board shall provide lender payment of. the price to be determined in accordance with the Schedule as soon as the amount thereof has been determined. together interest on such amount from the date of purchase to the date of payment or tender of payment as aforesaid at the rate of one *per centum*. Over the average of reserve bank rates between the said date.

(c) the receipt of the licensee shall notwithstanding anything in any other law, be a full and sufficient discharge to the board of the payment due in respect of the purchase.

(2) Where a generating station or undertaking or main transmission line by the Board under this Act is in course of construction. extension or repair date of purchase. the rights and liabilities of the former owner thereof under any constraints for such construction, extension or repair shall be deemed to have been transferred to the Board, except such rights or liabilities acquired or incurred after the date of the notice of purchase without the prior sanction of the Board.

(3) Notwithstanding anything contained elsewhere in this Act,-

(i) where any generating station purchased by the Board under the Act contemplates any plant or apparatus which, while the station was in operation were used jointly for the purposes of generation and transmission or wholly for the purposes of transmission or distribution unless otherwise agreed between the Board and the licensee, such plant or apparatuses shall not be purchased by the Board but shall remain the property of the licensee.

(ii) where under the provisions of section 28 a scheme provides for the purchase of any main

transmission line belonging to any licensee the Board shall not exercise the powers of acquisition thereby afforded without the prior consent of the licensee, which consent shall not be unreasonably withheld.

38. Provision of new generating stations.-[*Rep by the Electricity(supply)Amendment Act ,1976(115 of 1976),sec 21(w.r.e.f. 8-10-1976).*]

39. Operation of Board's generating stations.-1[(1)) Where the Board itself establishes a new generating station or acquires a generating station otherwise for the purpose of closing it down, it shall operate the station itself. but the board may with the action of the State Government make arrangements with any licensee or other person for its operation, if in

the opinion of the Board It is describe so to do.

2[(2) Where a Generating Company has been established having Its activities or partly In a State, the State Government may direct the Board to make over any generating station established or acquired by the Board to the Generating Company subject to such terms and conditions as may be specified in the direction and the Board shall comply with such direction:

1.Section 39 re-numbered as sub-section (1)thereof by Act 115 of 1976,sec. 22(w.r.e.f. 8-10-1976)

2.Ins by Act 115 of 1976. sec. 22 (w.r.e.f. 8-10-1976).

Provided that where the Central Government is the 1[competent government or one of the competent governments] In relation to the Generating Company, no direction shall be made by any State Government under this sub-section without the concurrence of the Central Government.]

2[(3) For the purposes of this section, no direction shall be issued to a Generating Company wholly or partly owned by the Central Government unless and until the prior concurrence of that Government is obtained.]

40. Provision regarding connections with main transmission lines purchased by the Board.-Where the Board has purchased a main transmission line and by reason of the user thereof by the Board any alteration or replacement of switch-gear or other apparatus of any licensee connected with the line becomes necessary, the Board may In its discretion itself carry out such alteration or replacement at its own cost or defray the reasonable expenses Incurred by the licensee in effecting such alteration or replacement; and any question whether such alteration or replacement is necessary or whether the expenses incurred in connection therewith are reasonable shall in default of agreement he determined 3[by arbitration] as provided under section 76.

4[41. Use of transmission lines.-(1) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of interstate transmission system and until the State Commission is established, the State Government and thereafter the State Commission in the case of intra-State transmission system may determine the charges payable to the Central Transmission utility or State Transmission Utility as the case may he, for the use of transmission system by a Board, Its successor entity, generating company, licensee or any other person.

(2) The Central Transmission Utility or State Transmission Utility, as the case may be, may enter into an agreement with any transmission licensee for the exclusive use of the transmission system constructed, maintained and operated by the transmission licensee.

(3) Where the Central Transmission Utility or the State Transmission Utility, as the case may be, considers it necessary to use for any purpose any transmission system or transmission line or main transmission line of a generating company or a licensee, it shall have the power to use such lines to the extent to which the capacity thereof is surplus to the requirements of the generating company or the licensee on payment of charges calculated in accordance with the provisions of the Fifth Schedule.]

1. Subs by Act 50 of 1991, sec. 9,"promoting government or one of the promoting government " (w.e.f. 15-10-1991)

2.In. by Act 50 of 1991, Sec. 9 (w. e.f. 15-10-1991)

3. Ins by Act 30 of 1966, sec. 10 (w.e.f. 16-9-1966).

4 Subs. by Act 22 of 1998, sec. 10, for section 41 (w.e.f 31-12-1998).

42, Powers to Board for placing wires, poles ,etc.-1[(1)](I) Notwithstanding anything contained in section 12 16 and 18 to 19 of the Indian electricity Act. 1910(9 of 1910)but without prejudice to the requirements of section 17 of that Act where provision in such behalf is made in a sanctioned scheme. the Board shall have,for he placing of wires if any wires. Places wall brackets. stays appellate and appliances for the transmission and distribution of electricity. or for the transmission of telegraphic or telephonic communications necessary for the proper co- ordinations of the works of the Board, all the power, which the telegraph authority possesses under Part III of the Indian Telegraph Act.,1885(13 of 1885)with regard to a telegraph established or maintained by the Government .

Provided that where a sanctioned scheme does not make such provision as aforesaid all the provisions of section 12 to 19 of the first -mentioned Act shall apply to the Work of he Board.

2[(2) A Generating Company may, for the placing of wires, rules, will brackets, stays

apparatus and appliance for the transmission of electricity. or for the transmission of telegraphic or communications necessary for the proper co-ordination of the work Generating Company ,exercise all or any of the powers with the Board may exercise under sub-section (1)and subject to the conditions referred to therein.]

COMMENTS

By virtue of the government notification, the sanctioned scheme empowered NTPC with all the powers wasted in the Generating Company and for laying lines and towers thereby leaving line option only 'compensation' as remedy for person owing fields where such lines are laid in transmission of electricity; *Rajak v. NTPC Ltd ,Indore ,AIR 1988 MP 172.*

43, Power to Board to enter into arrangements for purchases or sales of electricity under certain conditions.-(1)The Board may enter Into arrangements with any person producing electricity within the State for the purchase by the Board on such terms as may be agreed, ,of any surplus electricity which that person may be able to dispose of.

(2) Where a sanctioned scheme so provides, the board may, on such term as may be agreed upon, enter into arrangements with any such person without the consent of the state government of the state within which the electricity is to be generated or used.

3[***]

4[43A. Terms, conditions and tariff for sales of electricity by Generating Company.-

(1) A Generating Company may enter into a contract for the sale of electricity generated by it.

1 Section 42 re-numbered as sub-section (1) thereof by Act 115 of 1976 ,sec. 24(w.r.e.f. 8-10-1976)

2. Ins. by Act 115 of 1976,sec. 25(w.r.e.f. 8-10-1976)

3. Sub-section (3) ins. by act 115 of 1976, sec. 25 (w.e.f. 8-10-1976) and omitted by Act 50 of 1991, sec. 10 (w.e.f. 15-10-1991)

4. inc. by Act. 50 of 1991, sec. 11 (w.e.f. 15-10-1991)

(a) with the Board constituted for the State or any of the States in which a generating station owned or operated by the company is located;

(b) with the Board constituted for any other State in which it is carrying on its activities in pursuance of sub-section (3) of section 15A; and

(c) with any other person with consent of the competent government or governments,

1[(2) The tariff for the sale of electricity by a Generating Company to the Board shall be determined in accordance with the norms regarding operation and the plant load factor as may be laid down by the Authority and in accordance with the rates of depreciation and reasonable return and such other factors as may be determined, from time to time, by the Central Government, by notification in the Official Gazette.

Provided that the terms, conditions and tariff for such sale shall, in respect of a Generating Company, wholly or partly owned by the Central Government, be such as may be determined by the Central Government and in respect of a Generating Company wholly or partly owned by one or more State Governments be such as may be determined, from time to time, by the government or governments concerned,]

44. Restriction on establishment of new generating stations or major additions or replacement of plant in generating stations.-(1) Notwithstanding anything contained in any other law for the time being in force or in any licence, but subject to the provision of this Act, it shall not be lawful for a licensee, or any other person, not being the Central Government or any Conjurations created by 2[a Central Act] or any Generating Company), except with the previous consent in writing of the Board, to establish or acquire a new generating station or to extend or replace any major unit of plant or works pertaining to the generation of electricity in a generating station:

Provided that such consent shall not, except in relation to a controlled station, be withheld unless within three months from the date of receipt of an application-

(a) for consent to the establishment or acquisition of a new generating station, the Board-

(i) gives to the applicant being a licensee an undertaking that it is competent to, and will, within twenty-four months from the said date, afford to him a supply of electricity sufficient for his requirements pursuant to his applications or

(ii) shows to the applicant that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source,

(b) for consent to the extension of any major unit of plant or works as aforesaid, the Board-

(i) gives to the applicant being a licensee an undertaking that within twenty-four months from the said date either the station to which the application pertains will become a controlled station in terms of section 34, or the

1 Sub-section (2) omitted by Act 14 of 1998, sec 51

2 Subs by the AO 1950. for "legislation enacted by the Central Legislature"

3 Ins by All 115 of 1976. sec 26 (w.r.e. f. 8-10-1976)

Board will make a declaration to the applicant In tens of section 35 offering him a supply of electricity sufficient for his requirements pursuant to his application, or the Board will make a declaration to In terms of section 36, or

(ii) shows in the applicant that the electricity required by him pursuant his application could be more economically unstained within a reason time from anther appropriate source nr by ether appropriate me

(c) for consent to the replacement of any major unit of plant or works, Board-

(i) gives in the applicant heeling a licensee an undertaking that within teen months from the said date ether the station to which the appliqué pertains will become a controlled station in terms of section 34 01 Board will make a declaration in him In tens of section 36; or

(ii) shows to the applicant that the electricity required heel him perusal his application loud he more economically obtained within a reason time from anther appropriate source or by other appropriate me

(2) There shall he stated In every application under this section such paretic as the Board may reasonably require of the station plant or works, as the case may in respect of which it is made, and where consent is given therein, In acting in purchasing of such constant, the applicant shall not, without the further consent o Board. make any material variation in the particulars so stated.

1[(2A) The Board shall, before giving consent under sub-section (1), to the establishment or acquisition of a new generating station or to the station or to the extension or replacement of any major unit of plant or works, consult the Authority, in cases where the capacity of the new generating section or as the case may be, the additional capacity proposed to be crated by the extinction or replacement exceeded twenty - five thousand kilowatts.

(3) any difference or dispute arising nut of the dispute arising out of the provision of this section shall refferd to the arbitration of the authority.

45. Power to Board to enter upon and shut down generating stations in cc circumstances,-(1) If any licensee falls to close down his generating station pursuant declaration of the Board under section 36, or If any person establishes or extends or replace ant plant or works in any generating section in contraventions of section 44 ,the board may authorize any of its officer to enter upon the premises of such station and shut down the station or plant or the works, as the case may be ,in respect of which the failure or contravention has occurs.

(2) Any expenses incurred by the Board under this section shall be recoverably by it from the licensee or person concurred as an arrear of land revenue, and for purpose the Board shall be deemed to be a public officer within the meaning of s 5 of the Revenue Recovery Act, 1890 (1 of 1890)

(3) Any difference or dispute arising out of the provisions of this section shall be referred to

the arbitration of the Authority.

1. Ins. by Act 115 of 1976. sec 26 (w.r.e.f .8-10-1976)

46. The Grid Tariff.-(1) A tariff to be known as the Grid Tariff shall, in accordance with any regulations made in this behalf, be fixed from time to time by the Board in respect of each area for which a scheme is in force, and tariffs fixed under this section may, if the Board thinks fit, differ for different areas.

(2) Without prejudice to the provisions of section 41, the Grid Tariff shall apply to sales of electricity by the Board to licensee⁵ where 10 required under any of the First, Second and Third Schedules, and shall, subject a⁵ hereinafter provided, also be applicable to sale of electricity by the Board to licensees in other cases:

Provided that if in any such other case it appears to the Board that, having regard to the extent of the supply required, the transmission expenses involved in affording the supply are higher than those allowed in fixing the Grid Tariff, the Board may make such additional charges as it considers appropriate.

(3) The Grid Tariff shall be so framed as to include as part of the charge, and show separately a fixed kilowatt charges component and a running charges component:

Provided that if in respect of any area the electricity to be sold by the Board is wholly or substantially derived from hydro-electric sources, the running charges component may be omitted,

(4) The fixed kilowatt charges component in the Grid Tariff may be framed so as to vary with the magnitude of maximum demand.

(5) Where only a portion of a licensee's maximum demand for the purposes of his undertaking is chargeable at the Grid Tariff the price payable for that portion shall not be greater than the average price which would have been payable had the whole of the said maximum demand of the licensee been chargeable at the Grid Tariff

(6) The Grid Tariff may contain provisions for-

(a) adjustment of price having regard to the power factor of supply taken or the cost of fuel or both;

(b) a minimum charge related to a past or prospective demand of a licensee on the Board.

(7) The Grid Tariff may contain such other terms and conditions, not inconsistent with this Act and the regulations, as the Board thinks fit

47. Power to Board to make alternative arrangements with licensees.- Notwithstanding anything contained in sections 34 to 31 and sub-section (2) of section 46 but subject to any regulations made in this behalf. the Board may make such arrangements as may be mutually agreed with any licensee whose area of supply is situate within an area for which a scheme is in force, in regard to the purchase or sale of electricity and the price thereof, or the purchase, operation or control of any generating station or main transmission lines.

Provided that in making any such arrangement the Board shall not show undue preference to

any licensee.

48. Power to licensee to carry out arrangements under this Act.-Where under any provision of this Act the Board is authorized or required to enter into arrangements with any licensee for any purpose, then notwithstanding anything contained in any law or in licensee memorandum of association or other instrument regulating the constitution or powers of the licensee, it shall be lawful for the licensee to enter into and carry out any such arrangements.

1[49. Provision for the sale of electricity by the Board to persons other licensee~.-

(1) Subject to the provisions of this Act and of regulations, if any made in this behalf, the Board may supply electricity to any person not being a licensee such terms and conditions as the Board thinks fit and may for the purposes of supply frame uniform tariffs.

(2) In fixing the Uniform tariffs, the board shall have regard to all or any of the following factor ,namely :-

(a) the nature of the supply and the purposes for which it is required ;

(b)the co-ordinate development of supply and distribution of electricity within the state in the most efficient and economical manner, with particular reference to such development in areas not for title time being serve adequately served by the Licensee.

(c) the simplification and standardization of methods and rates of charges such supplies.

(d) the extension l and condition of supplies of electricity to sparsely developed area.

(3) Nothing in the foregoing provisions of this section shall derogate from power of the Board. if it considers it necessary or expedient to fix different tariffs the supply of electricity to any person not being a licensee, having regard to geographical position of any area, the nature of the supply and purpose for which supply is required and any other factors.

(4) In fixing the tariff and terms and conditions for the supply of electricity ,the board shall not show undue preference to any person .]

COMMENTS

The terms and conditions notified under this section must relate to the object and purpose for which they are issued., for such power can not be exercised for collateral purpose; *Ferro Alloy Corporation Ltd. v. A.P. State Electricity Board* ,AIR 1993 SC 2005.

50. Board not to supply electricity in certain circumstances.-Nothing contain In sections 34, 35 and 36 shall apply In any case where under section 19. It is not permissible for the Board to supply electricity directly to licensee owing a generating station and nothing in section 46, 47 and 49 shall empower the Board to supp electricity directly to any licensee or person to whom it is not otherwise entitled so to supply electricity.

51. Provisional payments.-Where the price to be raid for electricity by or to the board under this Act cannot be finally ascertained until after to end of the year of account the amount to be paid shall be ascertained as soon as practicable thereafter, but the party form whom by payment is due shall make to other monthly payments, on account of the net amount due in accordance with estimates for the purpose, subject to adjustment as soon after the year of account as the actual liability can be ascertained.

1.Subs. by Act 30 of 1966,sec 11,for section 49 (w.e.f. 16-9-1966)

COMMENTS

Provisional payment is not to be worked out and paid by the consumer as the relevant figures necessary for making estimates are with the Board and only the Board is competent to charge the same from the consumer pending final bill and determination thereof; *Shree Raj syntex, Ltd v. Rajasthan State Electricity Board,*. AIR 1992 Raj. 146

52. Lower limit of power factor in supply by Board.-Unless otherwise agreed between the Board and the licensee. no supply of electricity taken by a licensee from the Board under this Act shall be taken at an average power factor below 085 during the period of maximum demand of the licensee ill any month, and in the event of the average power factor as aforesaid being lower than 085. the licensee shall within a reasonable time take such measures. the cost of which shall not be borne by the Board,as may be necessary to raise it to a value not lower than 085.

53. Provision of accommodation and right of way.-(1) Where the Board for the purposes of any arrangements which It has made with any licensee under this Act requires accommodation on, in, under or over the premises of the licensee for any works or apparatus to be provided by the Board, the licensee shall, if suitable and sufficient accommodation exists, grant such accommodation free of cost to the Board. or if such accommodation does not exist, It shall be provided upon such terms and conditions as may be agreed between the Board and the licensee.

(2) The Board and any licensee shall each have a right of access at all times to his own property on, in, over and under the property of the other

54. Power to Board to connect meters, etc., to apparatus of licensees.- The Board shall have power to connect with the apparatus of any licensee any such correct meters, switch-gear and other equipment as may be necessary to enable it to carry out the provisions of this Act, and such meters, switch-gear and other equipment shall, be provided and maintained by the Board at its own cost

1[55. Compliance of directions of the Regional Electricity Board, etc., by licensees or generating companies,-(1) Until otherwise specified by the Central Government, the Central Transmission Utility shall operate the Regional Load Dispatch Centers and the State Transmission Utility shall operate the State Load Dispatch Centers.

(2) The Regional Load Dispatch Center shall be the apex body to ends lire integrated operation of the power system In the concerned region

(3) The Regional Load Dispatch Center may give such directions and exercise such supervision and control as may be required for ensuring ill terraced grid operations and for achieving the maximum economy and efficiency in the operation of the power system ill the region under its control

(4) Subject to the provisions of sub-section (3), the State Load Dispatch Center ill a State may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and for achieving the maximum economy and efficiency ill the operation of the power system in that State

(5) Every licensee, transmission licensee. Board, generating company, generating stations,

sub-stations and any other person connected with the operation of the power

1. Subs by Act 50 of 1991 sec 12(w.e.f . 15.10-1941)and again subs. By avt 22 of 1998,sec. 11 (w.e.r.f. 31-12-1998)

system shall comply with the directions Issiued by the load Dispatch Centers under sub-section (3)and (4)

(6) All directions Issued by the Regional Load De1ipatch Centers to any trans salon licensee of State transmission lines or by other licensee of the State or generating company (other then those connected to Inter-State transmission system) or sub-station in the State shall be issued through the State Load Dispatch Center and the State Dispatch Center, shall ensure that such directions are duly complied by transmission licensee or generating company or sub-station.

(7) Subject to the above provision, of this section, the Regional Electricity Board in the region from time to time may mutually agree on matters concerning the smooth operation of the integrated grid and economy and efficiency in the operation of the power ,In that region and every licensee, transmission licensee and others valve in the operation of the prowler system shall comply with the decision of Regional Electricity Board .

(8) The Regional Load Dispatch Center or the State Load Dispatch Center, as the case may be shall enforce the decision of the Regional Electricity Boards.

(9) Subject to regulations made under the Electricity Regulatory Commissions Act ,1998 (14 of 1998)by the central commission in the case of Regional Load Dispatch Centers or the State Commission in the case of State Load Dispatch Center any dispute with reference to the operation of the power system including grid operation and as to whether any directions Issued under sub-section (3) or sub-section (4)is responsible or not , shall he referred to the Authority for decision.

Provided that rending the decision of the Authority. the directions of the Regional Load Dispatch Central or the State Load dispatch center as the case may be ,shall be compiled with.

(10) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of Regional Load Dispatch Center at until the State Commission is established. the State Government and thereafter the Station Commission In the case of the State Load Dispatch Center of that State may, by notification ,specify the fees and charge to be paid to the Regional Load Dispatch Center ,as the case may be, for undertaking the Load dispatch function entrusted by the Central Government or by the State Government ,as the case may be.

(11)The provision of sub-section (3) of section 4B shall apply in relation to any notification issued by the Central Government or the Central Commission as the Case may be under sub-section (10), as they apply in rules made by that Government under chapter II.]

56. Leases of generating stations.-No licensee shall except with the previous approve in writing of the board may think fit to impose, enter into any arrangement whereby ant generating station is to be let or held on lease by him ,and any such arrangement entered into the contraventions of this sub-section shall be void and of no effect.

1[57. Licensee's charges to consumers.-The provisions of the Sixth Schedule 2[***]

shall be deemed to be incorporated in the license of every licensee. Not being a local authority-

(a) in the case of a license granted before the commencement of this Act, from the date of the commencement of the licensee's next succeeding year of account; and

(b) In the case of a license granted after the commencement of this Act, from the date of the commencement of supply, and as from the said date, the licensee shall comply with the provisions of J[the said Schedule] accordingly, and any provisions of the Indian Electricity Act, 1910 (9 of 1910), and the license granted to him there under and of any other law, agreement or instrument applicable to the licensee shall, in relation to the licensee, be void and of no effect in so far as they are inconsistent with the provisions of section 57 A and 1[the said Schedule],

4[57 A. Rating committees.-(1) Where the provisions of the Sixth Schedule 5[***] are under section 57 deemed to be incorporated in the license of any licensee, the following provisions shall have effect in relation to the said licensee, namely:-

(a) the Board or where no Board is constituted under this Act, the State Government-

(i) may, if satisfied, that the licensee has failed to comply with any of the provisions of the Sixth Schedule; and

(ii) shall, when so requested by the licensee in writing, constitute a rating committee to examine the licensee's charges for the supply of electricity and to make recommendations in that behalf to the State Government:

Provided that where it is proposed to constitute a rating committee under this section on account of the failure of the licensee to comply with any provisions of the Sixth Schedule, such committee shall not be constituted unless the licensee has been given a notice in writing of thirty clear days (which period, if the circumstances so warrant may be extended from time to time) to show cause against the action proposed to be taken:

Provided further that no such rating committee shall be constituted if the alleged failure of the licensee to comply with any provisions of the Sixth Schedule raises any dispute or difference as to the interpretation of the said provisions or any matter arising therefrom and such difference or dispute has been referred by the licensee to the arbitration of the Authority under paragraph XVI of that Schedule before the notice referred to in the preceding provision was given or is so referred within the period of the said notice:

1.Subs by Act 101 of 1956, sec. 14, for section 57 (w.e.f. 30-12-1956)

2.The words "and the Seventh Schedule" omitted by Act 23 of 1978,sec. 6(w.e.f. 3-6-1978)

3. Subs by Act 22 of 1978, sec 6, for "the Sixth Schedules. (w.e.f. 3-6-1978)

4.Ins by Act 101 of 1956, sec, 14 (w.e.f 30-12-1956).

5.The words "and the Seventh Schedule". Omitted by Act 23 of 1978 ,sec. 7.

Provided further that no rating committee shall be constituted in respect of a licensee within three years from the date on which such a committee has reported in respect of that licensee ,unless the state government declares that as an optional circumstance have arisen

rendering the order passed on the recommendation of the previous rating committee unfair to the licensee or any of his consumers.

(b) a rating committee under clause (a) shall, -

(i) where such committee is to be constituted under that clause, be constituted not later than three months after the expiry of the notice referred to in the first provision to that clause.

(ii) Where such committee is to be constituted within three months of the date of such request; of the licensee be constituted within three months of the date of such request.

(c) a rating committee shall, after giving the licensee a reasonable opportunity of being heard and after taking into consideration the efficiency of operation and management and the potentialities of his undertaking, report to the state government within three months from the date of the constitution, making recommendations are not likely to prevent the licensee from earning clear profit sufficient when taken with sums available in the Tariff and Dividends Control Reserve to afford him a reasonable return as defined in the sixth schedule during his next succeeding years of account.

Provided that the state Government may, if it so deems necessary, extend the said period of three months by a further period not exceeding three months within which the report of the rating committee may be submitted to it:

(d) within one month after the receipt of the report under clause (c) the State Government cause to be published in the Official Gazette, and may at the same time make an order in accordance therewith fixing the licensee's charges of the supply of electricity with effect from such date, not earlier than two months or later than three months, after the date of publication of the report as may be specified in the order and the licensee shall forthwith give effect to such order;

(e) the charges for the supply of electricity fixed under clause (d) shall be in operation for such period not exceeding three years as the State Government may specify in the order;

Provided that the State Government may, if so deems necessary, extend the period of three months by a further period not exceeding three years as the licensee from deducting at any time any charge so fixed.

(2) Where a Board is constituted under this Act, the rating committee shall consist of three members as follows:-

(i) one member shall be a person who is or has been a judicial officer not below the rank of district judge;

(ii) one member shall be a member of the board having experience of the accounting and financial matters; and

(iii) one member shall be representative co-opted jointly by the two members referred to in clause (i) and (ii) from an association of licensee of which such association, from such chamber of commerce or similar body as the state government may direct.

(3) Where no board is constituted under this Act the rating committee shall consist of five members of whom three members shall be nominated by the state government, one member shall be nominated by licensee and one member shall be

nominated by the association referred to in sub-section (2) or if there is no such association, by such chamber of commerce or similar body as state government may direct.

(4) Of the three members to be nominated by the state government under sub-section (3), one shall be a person who is or has been judicial officer not below the rank of district judge, one shall be registered accountant within the meaning of the chartered account Act, 1949 (38 of 1949), having at least 10 years experience and one shall be a person with administrative experience

(5) the judicial member of a rating committee as certified by it shall be payable-

(6) A rating committee may act notwithstanding that one of its members is absent.

(7) The expenditure incurred in connection with a rating committee as certified by it shall be payable -

(a) where the rating committee was constituted as the result of a licensee, or where a rating committee has held that the licensee has failed to comply with any of the provisions of the sixth schedule, by the licensee from that part of the clear profit to which the licensee is entitled under this schedule.

(b) in any other case, by the board or the State Government, as the case may be.

(8) Where a licensee makes default in paying any amount which he is liable to pay under sub-section (7), such amount may, on application to civil court having jurisdiction, be recovered from the licensee by the distress and sale of any availed property of the licensee.

1[578. Power of rating committee to call for information etc.-A rating committee constituted under section 57 A may, for the purpose of discharging its functions, by notice in writing, require the licensee to give such information, or to furnish such accounts and other documents in his possession or power, as may be specified in the notice]

58. Power to direct amortization and tariffs policies of licensees being local authorities.-The Board or where no Board is constituted under this Act, the State Government shall have power to direct the amortization and tariff policies of any licensee, begin a local authority a responsible opportunity of being heard, considers expedient for the purpose of the Act; and the licensee, begin a local authority, the provisions of other law or of any rules made or directions given there notwithstanding, shall give effect to any such directions of the Board or the State Government, as the case may be:

1. Ins. by Act 101 of 1956, sec. 14 (w.e.f. 30-12-1956)

1[Provided that the Board shall not issue any directions under this section except after obtaining the prior approval of the State Government]

CHAPTER VI - THE BOARD'S FINANCE, ACCOUNTS AND AUDIT

2[59, General principles for Boards finance.--(1) The Board shall, after taking credit for any subvention from the State Government under section 63, carry on its operations under

this Act and adjust its tariffs so as to ensure that the total revenue in any year of account shall after meeting all expenses properly chargeable to revenues including operating, maintenance and management expenses, taxes (if any) or incomes and profits, depreciation and interest payable on all debentures, bonds and loans such surplus as is not less than three per cent, or such higher percentage, as the State Government may, by notification in the Official Gazette, specify in this behalf, of the value of the fixed assets of the Board in service at the beginning of such year.

Explanation -For the purposes of this sub-section, "value of the fixed assets the Board in service at the beginning of the year" means the original cost of such fixed assets as reduced by the aggregate of the cumulative depreciation in respect of sub assets calculated in accordance with the provisions of this Act and consumers' contributions for service lines.]

(2) In specifying 4[any higher percentage] under sub-section (1), the State Government shall have due regard to the availability of amounts accrued by way of depreciation and the liability for loan amortization and leave-

(a) a reasonable sum to contribute towards the cost of capital works; and

(b) Where in respect of the Board, a notification has been issued under sub-section (1) of section 12A, a reasonable sum by way of return of capital provided by the State Government under sub-section (3) of that section and the amount of the loans (if any) converted by the State Government into capital under sub-section (1) of section 66A .]

60. Board to assume obligations or State Government in respect of matter, which this Act applied.-(1) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government for any of the purposes of this Act before the first constitution of the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for Board; and all suits or other legal proceedings instituted or which might but for issue of the notification under sub-section (4) of section I have been instituted by or against the State Government may be continued or instituted by or against the Board.

5[(IA) All schemes sanctioned by that State Government and transferred to the Board shall, for the purposes of this Act, be deemed to have been sanctioned by the Board.]

1 Ins by Act 101 of 1956, sec 15 (w.e.f. 30-12-1956)

2 Subs by Act 23 of 1978, sec 8. for section 59 (w. e. f. 3-6-1978)

3 Subs by Act 16 of 1983, sec 2, for "leave such surplus, as the State Government may, from 10 lime, specify" (w. e. f. 1-4-1985)

4 Subs by Act 16 of 1983, sec 2. for "the surplus" (w.e.f. 1-4-1985)

5 Ins by Act 101 of 1956, sec 16 (w.e. f. m.-1-2-1956)

(2) All expenditure which the State Government may, not later than 1[one year] after the first constitution of the Board, declare to have been incurred 2[***] on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board under section 64 on the date of the said declaration, and all the assets acquired by such expenditure shall thereupon vest in the Board.

3[60A, Period or limitation extended in tertian cases,-When the right to recover any amount due to the State Government for or in connection with the consumption of electricity is vested in the Board and the period of limitation to enforce such right has expired before the constitution of the Board, or within three years of its constitution, then, notwithstanding anything contained in the Indian Limitation Act, 1908 (9 of 1908) or any other law for the time being in force relating to limitation of action.the Board may institute a suit for the recovery of such amount,-

(i) where it has been constituted before the commencement of the Electricity (Supply) Amendment Act, 1966 (30 of 1966) within three years of such commencement; and

(ii) where it has been constituted after such commencement, within three years of its constitution.]

61, Annual financial statement,-(1) In February of each year the Board shall submit to the State Government a statement in the prescribed form of the estimated capital and revenue receipts and expenditure for the ensuing year.

(2) The said statement shall include a statement of the salaries of 4[members and officers and other employees] of the Board and of such other particulars as may be prescribed.

(3) The State Government shall as soon as may be after the receipt of the said statement cause it to be laid on the table of the 5[House], or as the case may be, 6[Houses] of the State Legislature; and the said statement shall be open to discussion therein, but shall not be subject to vote.

(4) The Board shall take into consideration any comments made on the said statement in the State Legislature.

(5) The Board may at any time during the year in respect of which a statement under sub-section (1) has been submitted, submit to the State Government a supplementary statement, and all the provisions of this section shall apply to such statement as they apply to the statement under the said sub-section.

62. Restriction on unbudgeted expenditure.--(1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding 7[seventy-five thousand] rupees on account of recurring expenditure or exceeding 8[three lakhs]

1. Sub, by Act 23 of 1978, of,sec. 9 for "two months" (w.e.f. 3-6-1978).

2. The words "before the issue of the notification under sub-section (4) of section 1" omitted by Act 23 of 1978, sec. 9(w.e.f. 3-6-1978).

3.Ins by Act 30 of 1966, sec. 12 (w.e.f. 16-9-1966)

4. Subs by Act 23 of 1978,sec. 10 for "members, officers and servants" (w.e.f. 3-6-1978}

5 .Subs by the A.O. 1950, for "Chamber"

6.Subs by the AO. 1950, for "Chambers"

7.Subs. by Act 30 of 1966, sec 13, for "twenty-five thouI8l1d" (w.e.f 16.9-1966)

8 Subs by Act 30 of 1966, sec. 13. for "one lakhs. (w.e.f. 16-9-1966)

of rupees on account of non-recurring expenditure shall be expended by the Board any year of account unless such sum has been included in a statement submitted un sub-section (1) or sub-section (5) of section 61.

(2) Where any such sum is expended under circumstances of extreme urgency 1[, it shall be expended in accordance with the regulations made by the Board with previous approval of the State Government and] a report thereon indicating the source from which it is proposed to meet the expenditure shall be made as soon as practicable to the State Government.

63. Subventions to the Board.- The State Government may, with the approval of the State Legislature from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the State Government may determine.

64. Loans to the Board.-The State Government may, from time to time, advance loans to the Board on such terms and conditions, not inconsistent with the provisions of this Ac, as the State Government may determine.

65. Power of Board to borrow.-(1) The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

(2) Rules made by the State Government for the purposes of this section may empower the Board to borrow by the 2[issue of debentures or bonds] or otherwise and to make arrangements with bankers, and may apply to the Board with such modifications as may be necessary to be consistent with this Act the provisions of the Local Authorities Loans Act, 1914 (9 of 1914) and the rules made thereunder as if the Boar were a local authority.

(3) The maximum amount which the Board may at any time have on loan under sub-section (1) shall be ten crores of rupees, unless the State Government, with the approval of the State Legislative Assembly, fixes a higher maximum amount.

(4) 3[Debentures or bonds issued [by the Board under this section shall be issued transferred, dealt with the redeemed in such manner as may be prescribed.

66. Guarantee of loans.-The State Government may guarantee in such manner as it thinks fit the payment of the principal and interest of any loan proposed to be raised by the Board or of either the principal or the interest;

Provided that the State Government shall, so long as any such guarantees are in force, lay before the 4[House] or, as the case may be, 5[Houses] of the State Legislature in every year during the budget session a statement of the guarantees, if any, give during the current financial year of the State and an up-to-date account of the total sums, if any, which have been paid out of State revenues by reason of any such guarantees or paid into State revenues towards repayment of any money so paid out.

1. Ins. by Act 23 of 1978, sec 11 (w.e.f. 3-6-1978).

2. Subs. by Act 23 of 1978, sec 12, for "issue of bonds or stock" (w.e.f. 3-6-1978).

3. Subs. by Act 23 of 1978, sec 12, for "stock issued" (w.e.f 3-6-1978)

4. Subs. by the A.O. 1950, for "Chamber".

5. Subs. by the A.O.1950, for "Chambers".

1[66A. Conversion of amount of loans into capital.- (1) Notwithstanding anything contained in section 12A, where any loan has been obtained from the State Government by a Board, in respect of which Board a notification has been made under sub-section (1) of that section, or any loan is deemed to be advanced to such Board by the State Government under sub-section (2) of section 60, the State Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that the amount of such loan or any part thereof shall be converted into capital provided to the Board on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of such loan do not include a term providing for an option for such conversion.

(2) In determining the terms and conditions of such conversion, the State Government shall have due regard to the following circumstances, that is to say, the financial position of the Board. the terms of the loan. the rate of interest payable on the loan, the capital of the Board, its loan liabilities and Its reserves.

(3) Notwithstanding anything contained in this Act, where the State Government has, by an order made under sub-section (1), directed that any loan or any part thereof shall be converted into capital, and such order has the effect of increasing the capital of the Board, the capital of the Board shall stand increased by the amount by which the conversion increases the capital of the Board in excess of the capital specified under sub-section (1) of section 12A:

Provided that the amount of the loan so converted together with the capital provided under sub-section (3) of section 12A shall not exceed the amount representing the aggregate of the outstanding loans of the Board after such conversion.]

2[67. Priority of liabilities of the Board.-The Board shall distribute the surplus referred to in sub-section (1) of section 59 to the extent available in a particular year In the following order, namely-

(i) repayment of principal of any loan raised (including redemption of debentures of bonds Issued) under section 65 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(ii) repayment of principal of any loan advanced to the Board by the State Government under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(iii) payment for purposes specified in sub-section (2) of section 59 in such manner as the Board may decide.]

3[67A. Interest on loans advanced by State Government to be paid only after other expense5.-Any interest which is payable on loans advanced under section 64 or deemed to have been advanced under section 60 to the Board by the State Government and which is charged to revenues in any year may be paid only out of the balance of the revenues, if any, of that year which is left after meeting all the other expenses referred to in sub-section (1) of section 59 and so much of such interest as not is paid in any year by reason of the provisions of this section shall be deemed to be deferred liability and shall be discharged in accordance with the provisions of this section in the subsequent year or years, as the case may be.]

1. Ins. by Act 23 of 1978, sec. 13 (w.e.f. 3-6-1978).

2. Section 67 subs. by Act 23 of 1978, sec. 14 (w.e.f. 3-6-1978) and again subs. by Act 16 of 1983, sec. 3 (w.e.f. 1-4-1985).

3. Ins. by Act 16 of 1983, sec. 4 (w.e.f. 1-4-1985).

1[68. Charging or depreciation by Board,-(1) 2[*]** The Board shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification in the Official Gazette, lay down from time to time.3[***]

(3) The provisions of this section shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978 (23 of 1978), comes into force.]

4[69. Accounts and audit.-(1) The Board shall cause proper accounts and records in relation thereto to be kept, including a proper system of internal check and prepare an annual statement of accounts, including the profit and loss account and a balance-sheet in such form 5[as the Central Government may, by notification in the Official Gazette, prescribe by rules made in this behalf in consultation with the Comptroller and Auditor-General of India and State Governments].

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or by such person as he may authorize in this behalf and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorized by him in connection with the audit of the accounts of the Board shall have the rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person authorized by him in this behalf together with the report thereon shall be 6[forwarded to the Authority and to the State Government within six months of the close of the year to which the accounts and audit report relate] and

1. Section 61 subs. by Act 101 of 1956, sec. 18 (w.e.f. 30-12-1956) again subs. by Act 30 of 1966, sec. 5 (w.e.f. 16-9-1966) and again subs. by Act 23 of

1978, sec. 13 (w.e.f. 3-6-1978).

2. The words "Subject to the provisions of section 67," omitted by Act 16 of 1983, sec. 5 (w.e.f. 1-4-1985).

3. Sub-section (2) omitted by Act 16 of 1983, sec. 5 (w.e.f. 1-4-1985).

4. Subs. by Act 101 of 1956, sec. 18, for section 69 (w.e.f. 30-12-1956).

5. Subs. by Act 16 of 1983, sec. 6, for certain words (w.e.f. 1-4-1985).

6. Subs. by Act 23 of 1978, sec. 16, for "forwarded annually to the State Government" (w.e.f. 3-6-1978).

that Government may issue such instructions to the Board in respect thereof as it deems fit and the Board shall comply with such instructions.

(5) The State Government shall-

(a) cause the accounts of the Board together with the audit report thereon forwarded to it under sub-section(4) to be laid annually before the State Legislature; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof on sale at a reasonable price.] 1[(6) The provisions of sub-section (3) of section 4B shall apply in relation to any rules made by the Central Government under sub-section (1) as they apply in relation to rules made by that Government under Chapter II.]

CHAPTER VII - MISCELLANEOUS

70. Effect or other laws.-(1) No provision of the Indian Electricity Act, 1910 (9 of 1910), or of any rules made thereunder or of any instrument having effect by virtue of such law or rule shall, so far as it is inconsistent with any of the provisions of this Act, have any effect:

Provided that nothing in this Act shall be deemed to prevent the State Government from granting, after consultation with the Board, a licence not inconsistent with the provisions of the Indian Electricity Act, 1910 (9 of 1910), to any person in respect of such area and on such terms and conditions as the State Government may think fit.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Electricity Act, 1910 (9 of 1910).

71. Rights and options to purchase under Act 9 or 1910 to vest in Board.-[Rep. by the Indian Electricity {Amendment} Act, 1959 (31 of 1959), sec 41 (w.e.f. 5-9-1959).]

72. Water-power concessions to be granted only to 2[the Board or a Generating Company].- The State Government shall not grant any concession for the development or use of water-power for any electrical purpose to any person other than 2[the Board or a Generating Company], unless the State Government is of opinion that it is not expedient for the Board 3[or the Generating Company so to develop] or use the waterpower concerned.

73. Co-ordination between the Board's schemes and multi-purpose schemes.-Where a multi-purpose scheme for the development of any river in any region is in operation, 4[the Board and the Generating Company shall co-ordinate their activities] with the activities of the persons responsible for such scheme in so far as they are inter-related.

1. Ins. by Act No. 16 of 1983, sec. 6 (w.e.f. 1-4-1985).

2. Subs. by Act 115 of 1976, sec. 27, for "the Board" (w.r.e.f 8-10-1976).

3. Subs. by Act 115 of 1976, sec. 27, for "or that the Board is unable so to develop" (w.r.e.f. 8-10-1976).

4. Subs. by Act 115 of 1976, sec.28, for "the Board shall co-ordinate its activities" (w.r.e.f, 8-10-1976).

74. Powers or entry.-Any 1[officer or other employee] 2[of the Board or of a Generating Company] generally or specially 3[authorised by the Board or by the Generating Company, as the case may be,] in this behalf may at any reasonable time after giving the owner or occupier reasonable notice enter upon any land or premises and there do such things as may be reasonably necessary for the purposes of lawfully using any transmission lines or main transmission lines or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of 4[duties by the Board or by the Generating Company, as the case may be,] under this Act.

75. Annual reports, statistics and returns.-5[*]**

6[7[(1)]8[***] The Board shall, as soon as may be after the end of each financial year, prepare and submit to the State Government 9[before such date and] in such form as may be prescribed a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next financial year; and the State Government shall cause every such report to be laid before the State Legislature as soon as may be after it is received by the State Government.]

(2) The Board shall furnish to the State Government at such times and in such form and manner as may be prescribed or as the State Government may direct, such statistics and returns and such particulars in regard to any proposed or existing scheme as the State Government may from time to time require.

(3) The Board may at any time by notice in writing require any licensee 10[or person or agency] supplying electricity for public or private purposes or generating electricity for his own use to furnish it with such information and accounts relating to such supply or generation and in such form and manner as the notice may specify:

11[Provided that nothing in this sub-section shall be deemed to empower the Board to require a Generating Company to furnish it with any information or accounts.]

12[75A. Annual reports and accounts or Generating Company.-13[*]**

(2) A Generating Company shall, as soon as may be after the end of each year, prepare a report giving an account of its activities during the previous year and shall, within six months from the date of closure of the year, forward to the 14[competent]

1. Subs. by Act 23 of 1978, sec. 17, for "officer or servant" (w.e.f 3-6-1978).

2. Subs. by Act 115 of 1976, sec. 29, for "servant of the Board" (w.r.e.f 8-10-1976).

3. Subs. by Act 115 of 1976, sec. 29, for "authorised by the Board" (w.r.e.f 8-10-1976).

4. Subs. by Act 115 of 1976, sec. 29, for "duties by the Board" (w.r.e.f 8-10-1976).

5. Sub-section (1) omitted by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).

6. Sub-section (1A) ins. by Act 101 of 1956, sec. 19 (w.e.f 30-12-1956).
7. Sub-section (1A) re-numbered as sub-section (1) by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).
8. The words" Without prejudice to the provisions of sub-section (1)" omitted by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).
- 9 Ins. by Act 30 of 1966, sec. 16 (w.e.f. 16-9-1966).
10. Subs. by Act 115 of 1976, sec. 30, for "or person" (w.r.e.f 8-10-1976).
11. Ins by Act 115 of 1976, sec. 30 (w.r.e.f 8-10-1976).
12. Ins. by Act 115 of 1976, sec. 31 (w.r.e.f 1-10.1976).
13. Sub.section (1) omitted by Act 50 of 1991, sec 13 (w.e.f 15.10.1991).
14. Subs. by Act 50 of 1991, sec. 13, for "promoting" (w.e.f 15.10.1991).

government, or where there are more than one 1[competent] government, to all such 1[competent] Governments, the report together with a statement of accounts, in such form and containing such particulars as may be specified by the government or the governments, as the case may be, a copy of the balance-sheet and profit and loss account and the auditor's report, in relation to the accounts of the year aforesaid.

2[(3) For the purpose of preparing the statement of accounts referred to in sub-section (2), the depreciation to be provided every year shall be calculated at such rate as may be specified by the Central Government, by notification in the Official Gazette, in accordance with the provisions of section 43A.]

3[***]

(4) The provisions of 4[sub-section (2) shall be in addition to and not in derogation of the provisions contained in the Companies Act, 1956 (1 of 1956), in relation to reports, statement of accounts and other documents required to be prepared or kept or submitted by a company within the meaning of section 3 of that Act.]

76. Arbitration.-5[*]**

(2) Where any question or matter is, by this Act, required to be referred to arbitration, it shall be so referred-

(a) in cases where the Act so provides, to the Authority and on such reference the Authority shall be deemed to have been duly appointed as Arbitrators, and the award of the Authority shall be final and conclusive; or

(b) in other cases, to two arbitrators, one to be appointed by each party to the dispute.

(3) Subject to the provisions of this section, the provisions of the 6[Arbitration and Conciliation Act, 1996 (26 of 1996)] shall apply to arbitrations under this Act.

7[(3A) Where any question or matter is referred to the Authority for arbitration under this section, the Authority may, having regard to the circumstances of each case, charge such arbitration fee as it may deem reasonable.]

8[(3B) All fees and charges due to the Authority in respect of any arbitration and award and all costs and charges for filing the award Incurred by the Authority may, if they are not paid by the person from whom they are due within a period of one

1. Subs. by Act 50 of 1991, sec. 13, for "promoting" (w.e.f. 15-10-1991).

2. Subs. by Act 50 of 1991, sec. 13, for sub-section (3) (w.e.f. 15-10-1991).

3. Sub-section (3A) ins. by Act 23 of 1971, sec. 11 (w.e.f. 3-6-1971) and omitted by Act 50 of 1991, sec. 13 (w.e.f. 15-10-1991).

4. Subs. by Act 50 of 1991, sec. 13, for "sub-section (1) and" (w.e.f. 15-10-1991).

5. Sub-section (1) omitted by Act 30 of 1966, sec. 17 (w.e.f. 16-9-1966).

6. Subs. by Act 22 of 1991, sec. 12, for "Arbitration Act, 1940 (10 of 1940)" (w.e.f. 31-12-1998).

7. Ins. by Act 101 of 1956, sec. 20 (w.e.f. 30-12-1956) and subs. by Act 22 of 1998, sec. 12 (w.e.f. 31-12-1998)

8. Sub-section (3B) ins. by Act 101 of 1956, sec. 20 (w.e.f. 30-12-1956).

month from the date of a notice given to him by the Authority in this behalf, be recovered from him in the same manner as an arrear of land revenue.]

(4) The arbitrators shall in making their award have regard to the provisions of this Act and any rules and regulations made thereunder relevant to the reference.

(5) The arbitrators may, if they think it expedient so to do, call in the aid of one or more qualified assessors and hear the reference wholly or partially with the aid of such assessors.

(6) The provisions of sub-sections (4) and (5) shall apply to the umpire, if he enters on the reference, as they apply to the arbitrators.

1[77. Penalties.- If any licensee or other person, not being the Board, fails without reasonable excuse to comply with, or give effect to, any direction, order or requirement made under any of the following provisions, namely:-

(a) section 4; or

(b) section 55; or

(c) clause (d) of sub-section (1) of section 57A;

(d) section 57B; or

(e) section 58;or

(f) sub-section (3) of section 75;

he shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to fifty rupees for each day after the first during which the offence continues.

77A. Source from which fines may be paid.-All fines payable by a licensee under this Act or under any other law for the time being in force in respect of any offence committed by the licensee, shall be payable by him from that part of the clear profit to which he is entitled under the Sixth Schedule.

77B. Offences by companies.- (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to

1. Subs. by Act 101 of 1956, sec. 21, for section 77 (w.e.f. 30.12-1956).

Be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "direction" in relation to a firm means a partner in the firm.

77C.Cognizance of offences.- No Court shall take cognizance of an offence under section 77, except on the complaint of.-

(a) in the case of an offence relating to section 4, by an officer of the Authority authorized in that behalf by the Authority.

(b) in the case of any other offence,-

(i) where a Board is constituted, by an officer of the Board authorized by the Board in that behalf;

(ii) where no Board is constituted, by an officer of the State Government authorized by the

State Government in that behalf.]

78. Power to make rules.- (1) The State Government may after previous publication, by notification in the Official Gazette make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

1[(a) 2[the power of the Chairman and the term of office] of the Chairman and other members of the Board, the conditions under which they shall be eligible for re-appointment and their remuneration, allowances and other conditions of services;]

(b) the terms and conditions of appointment of members of 3[State Electricity Consultative Councils] and Local Advisory Committees, the convening of meetings of such Councils and committees, and the conduct of business thereat;

(c) the form in which annual financial statement and supplementary statements under section 61 shall be prepared by the Board, and the particulars to be included therein;

(d) the conditions subject to which the Board may borrow under section 65;

(e) the manner in which stock issued by the Board shall be issued, transferred, dealt with redeemed;

(f) the manner in which the accounts of the Board shall be published under section 69.

1. Subs. by Act 57 of 1949, sec. 6, for clause (a).

2. Subs. By Act 101 of 1956, sec. 22, for "the term of office" (w.e.f. 30-12-1956).

3. Subs. By Act 101 of 1956, sec. 22, for "State Electricity Councils" (w.e.f. 30-12-1956).

(g) the form In which and the date by which the annual report of the Board shall be submitted under section 75, and the form and manner of furnishing statistics and returns by the Board under that section;

(h) the business of the Board upon which the local Advisory Committees concerned shall be consulted.

COMMENTS

The State Government is empowered to frame rules regarding the powers of the Chairman and his term of office as well as that of the other members of the Board, conditions of their re-appointment, remuneration, allowances and service; *State of H.P. v. Kailash Chand Mahajan*, AIR 1992 SC 1277.

1[78A, Directions by the State Government.- (1) In the discharge of its functions, the Board shall be guided by such directions on questions of policy as may be given to it by the State Government.

(2) If any dispute arise between the Board and the State Government as to whether a question is or is not a question of policy, it shall be referred to the Authority whose decision

thereon shall be final.]

79. Power to make regulations.- 2[The Board may by notification in the official Gazette, make regulation] not inconsistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely:-

(a) the administration of the funds and other property of the Board, and the maintenance of its accounts;

(b) the summoning and holding of meetings of the Board, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(c) the duties of 3[officers and other employees]of the Board, and then salaries, allowances and other conditions of service;

(d) all matters necessary or expedient for regulating the operations of the Board under section 20;

(e) the marking of advances to licensees by the Board under section 23 and the manner of repayment of such advances;

(f) the making of contributions by the Board under section 24;

(g) the procedure to be followed by the Board in inviting, considering and accepting tenders;

(h) principles governing the fixing of Grid Tariffs;

(i) principles governing the making of arrangements with licensees under section 47;

1. Ins. by Act 101 of 1956, sec. 23 (w.e.f. 30-12-1956).

2. Subs. By Act 20 of 1983, sec. 2 and Sch., for "The Board may make regulations" (w.e.f. 15-3-1984).

3. Subs. By Act 23 of 1978, sec. 19, for "officers and servants" (w.e.f. 3-6-1978)

(j) principles governing the supply of electricity by the Board to persons other than licensees under section 49;

1[(jj) expending sum not included in statement submitted under sub-section (1) or sub-section (5) of section 61, under sub-section (2) of section 62;]

(k) any other matter arising out of the Board's functions under this Act for which it is necessary or expedient to make regulations;

Provided that regulations under clauses (a) 2[, (d) and (jj)] shall be made only with the previous approval of the State Government and regulations under clauses (h) and (i) shall be made with the concurrence of the Authority.

3[79A. Laying of notification before the State Legislature.-Every notification issued

under section 55 by the State Government, or the State Commission, as the case may be, every rule made by that Government under section 78 and every regulation made by the Board under section 79, shall be laid, as soon as may be, before the State Legislature.]

80. Provision relating to income-tax and super-tax.-(1) For the purposes of the Indian Income-tax Act, 1922 (11 of 1922), the Board shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains.

(2) The State Government shall not be entitled to any refund of any such taxes paid by the Board.

81. Members, officers and servants of the Board to be public servants.-All 4[members and officers and other employees] of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

82. Protection to persons acting under this Act.-No suit, prosecution or other legal proceeding shall lie against 5[any 6[member or officer or other employee] of the Board] for anything which is in good faith done or intended to be done under this Act.

COMMENTS

The section does not imply exclusive and total bar of jurisdiction but is subject to or hedged with condition as to whether the actions taken are in good faith and within the parameters of the Act. So, it is difficult for a court at the threshold without going into or considering the merits to say that the suit is not maintainable; *Secretary, K.S.E.B., Trivandrum v. M. Sainaba*, AIR 1990 Kef 50.

83. Saving of application of Act.-Nothing in this Act shall be deemed to apply to a licensee on which a notice under section 5 or section 7 of the Indian Electricity Act, 1910 (9 of 1910) has been served prior to the coming into force of the sections, Schedule and Table mentioned in sub-section (3) of section 1.

1.Ins. by Act 23 of 1978, sec. 19 (w.e.f. 3-6-1978).

2 Subs. by Act 2J of 1978, sec. 19, for "and (d)" (w.e.f 3-6-1978).

3.Section 79A ins. by Act 20 of 1983, sec. 2 and Sch. (w.e.f. 15-53-1984) and subs. by Act 22 of 1998, sec. 13 (w.e.f. 31-12-1998)

4.Subs. by Act 23 of 1978, sec.20, for "member, officers or servants" (w.e.f 3-6-1978).

5.Subs by Act 30 of 1966, sec.18, for "any person" (w,e.f 16-9-1966).

6 Subs. by Act 23 of 1978, sec. 20, for "member, officer or servant" (w.e.f. 3-6-1978).

(See sections 34 and 36)

ARRANGEMENTS IN RESPECT OF CONTROLLED STATIONS

PART I

Assumption of control

I. (1) The Board shall by notice in writing to the licensee fix a date (hereafter in this Schedule referred to as the date of control), being the first day of a year of account of the licensee, and from such date the licensee shall, except where prevented by causes beyond his control, be under obligation--

(a) subject to such direction as the Board may from time to time give him, to keep the station at all times in good and substantial repair and condition and ready for use, together with adequate staff for operating, maintaining and controlling the station, and not to make any substantial alterations or renewal in, or remove any essential or substantial part of, the station without the consent in writing of the Board;

(b) to operate the station so as to generate such quantity of electricity with such units of plant at such rates of output and at such times, or to cease to generate electricity during such periods, as the Board may direct;

(c) to carry out as soon as may be practicable such reasonable extensions, alterations or renewals of the station or any part thereof as the Board may from time to time direct;

(d) to supply to the Board all the electricity generated at the station.

(2) To enable a licensee to comply with any direction under sub-paragraph (1) requiring extension of the station or any part thereof for purposes of the Board, the Board may, if it considers it expedient and practicable so to do, offer to advance to him a loan upon such terms and conditions as it may deem proper and the licensee 1[may accept the loan from the Board on the terms and conditions offered or may raise a loan from other sources or employ his own funds for the purpose of such extension]:

Provided that notwithstanding anything contained in any law or in any mortgage, charge or instrument executed by the licensee, the loan so advanced by the Board and the interest thereon shall be a first charge on the extension and subject to any prior encumbrance shall also be charged on the undertaking and all the revenues of the licensee and no such loan shall be amortized in any way by the licensee:

Provided further that if at the date of purchase of the station under this Act or of the licensee's undertaking under the Indian Electricity Act, 1910 (9 of 1910), the said principal or any part thereof remains unpaid though due to for redemption or is not on that date due for redemption, then any sum payable by the purchaser as a percentage on account of compulsory purchase under this Act or the said Act shall be reduced by an amount which bears the same proportion to that sum as the amount of the said principal or part thereof remaining unpaid or not being due for redemption as aforesaid bears to the total of the ordinary, preference and debenture capital of the licensee and the loans advanced by the Board under this sub-paragraph.

Explanation.-In the sub-paragraph, the expressions "ordinary capital", "preference capital" and "debenture capital" have the meanings respectively assigned to them in the Sixth

Schedule.

II. From the date of control the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking except such quantity of electricity as the licensee may from the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

1. Subs. By Act 101 of 1956, sec. 24, for certain words (w.e.f. 30-12-1956).

III. Unless otherwise agreed between the Board and the licensee, the licensee, shall not, where he has received a notice under paragraph 1, purchase after the date of control any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of control or for such further period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

IV. The Board shall pay to the licensee, whether or not any electricity is generated at the station, the costs accordance with the provisions of the Eighth Schedule.

V. The price to be paid by the licensee for electricity supplied by the Board shall be determined in the manner provided in the appropriate Part of this Schedule.

VI. The point at which electricity to be supplied under this Schedule shall be delivered by the Board and the licensee respectively shall, unless otherwise agreed between the Board and the licensee, be at the generating station, and the pressure of the supplies shall be such as the Board and the licensee may agree.

VII. Where any licensee owns more than one controlled station--

(a) such of the several controlled stations as are inter-connected shall, for the purposes of this Schedule, be deemed to comprise a single controlled station, and, unless the subject or context otherwise requires, the provisions of this Schedule shall be construed as if the word "combined" had been inserted before the word "station" or the words "generating station" wherever they occur.

(b) the electricity supplied at the several controlled stations by the licensee to the Board, or by the Board to the licensee, shall each respectively be treated as single supplies;

(c) in the application of clause (a) of paragraph XII, the costs of production at each of the several controlled stations shall be separately ascertained, and in the application of clause (c) of the said paragraph

(i) the sums ascertained in accordance with clause (a) of paragraph 1 of the Eighth Schedule in respect of each of the several controlled stations shall be separately allocated between fixed costs and running costs, and

(ii) the sums of the several fixed costs and the sum of the several running costs shall be the

fixed costs and the running costs respectively of the combined station;

(d) in directing the operation of the combined station under clause (b) of sub-paragraph (1) of paragraph 1 the Board shall have regard to the nature and capacity of the licensee's transmission system inter-connecting the several controlled stations and to the requirements of the licensee at each of those stations.

VII. In the event of the licensee failing, except where prevented by causes beyond his control, to perform or continue to perform any obligation imposed upon him under this Part, the Board may give notice to him in writing that on the first day of the licensee's next succeeding year of account the generating station will be purchased by the Board, and on such day the Board shall purchase the station at a price determined in accordance with the Fourth Schedule, and thereafter-

(a) all the provisions of this Schedule except paragraph II and this paragraph shall, in relation to the licensee, cease to have effect;

(b) the Board shall supply the licensee with the electricity required by him under paragraph II at such price and on such conditions as the Board may determine.

PART II

Price to be paid for electricity supplied by the Board under Part I

IX. There shall be agreed between the Board and the licensee in respect of each month of the licensee's year of account-

(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the station as were available for reliable and regular commercial operation on the first day of the month, including the capacity of such plant and works as were temporarily out of commission.

(b) the number and size of units of plant and works, forming part of the aforesaid plant and works, which ought properly to be deemed to be standby if the station were not a controlled station;

(d) the standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account;

(c) the actual effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

X. (1) The licensee shall be entitled to purchase from the station in each month at a price, determined under paragraph XIII a number of kilowatts not exceeding the scheduled effective capacity of the on the first day of that month as determined in sub-paragraph (2).

(2) The scheduled effective capacity of the station shall be agreed between the Board and the licensee in respect of each month of the year of account, and shall be computed in the same manner as the actual effective capacity under paragraph IX, except that there shall be left out of account such unit of plant and works, if any, forming part of the plant and works

referred to in clause (a) of the said paragraph, as the licensee declares to be surplus to his requirements for the time being:

Provided that the licensee shall not declare to be surplus to his requirements any such Units, of plant and works as were installed or were on order at the date of control or which were included in any previous computation of the scheduled effective capacity:

Provided further that if as a result of the licensee declaring as surplus to his requirements any unit, of plants or works, the scheduled effective capacity is in respect of any month computed to be less than the maximum demand of the licensee on the station for the purposes of his own undertaking, then such Units of plant or works and all further additional units of plant or work shall thereafter always be deemed to be surplus to the requirements of the licensee as aforesaid unless the Board decides otherwise.

XI. Of the kilowatt-hours purchased by the licensee from the Board in each month, a number kilowatt-hours not exceeding the number which bears the same proportion to the total number purchased as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month shall be purchased at a price determined under paragraph XIV:

Provided that if the station is a hydro-electric station or if any unit of a combined station is a hydro-electric unit, the number of kilowatt-hours which the licensee shall be entitled to purchase as aforesaid shall be reduced by such amount, if any, as may be agreed between the Board and the licensee, having regard to the number of kilowatt-hours actually supplied in the month from such hydro-electric station or unit.

XII. As soon as practicable after the end of a year of account-

(a) there shall be ascertained in respect of that year the cost of production at the station in accordance with the provisions of the Eighth Schedule;

(b) there shall be deducted from the total sum ascertained in respect of that year under clauses (b), (c), (d), (e) and (f) of paragraph I of the Eighth Schedule, such proportion of the charges referred to in the said clauses as are wholly attributable to so much of the plant and works, if any, as has been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements, and the balance remaining after such deduction shall for the purposes of this Schedule be referred to as the scheduled overhead charges:

Provided that in assessing the said proportion regard shall be had to the period during which any such plant or works were declared to be surplus as aforesaid;

(c) there shall be allocated between fixed costs and running costs in accordance with the provisions of the Ninth Schedule the sum ascertained in respect of that year under clause (a) of paragraph I of the Eighth Schedule, and the amount of running costs divided by the number of kilowatt-hours supplied from the station in that year shall for the purposes of this Schedule be referred to as the running charges component;

(d) there shall be ascertained in respect of that year an amount (in this Schedule referred to as the scheduled fixed works costs) calculated from the expression " $A + \frac{A \times B}{C}$ "

A=the amount of fixed costs ascertained in respect of that year under clause (c);

B=the sum of the scheduled effective capacities for each month of that year;

C=the sum of the actual effective capacities for each month of that year.

XIII. The licensee shall pay to the Board in respect of each month of the year account for the electricity purchased under paragraphs X and XI-

(a) in respect of kilowatts, an amount equal to one-twelfth of the sum of the scheduled overhead charges and the scheduled fixed works costs;

(b) in respect of kilowatt-hours a sum found by multiplying the number of kilowatt-hours supplied by the running charges component;

Provided that if in any year of account the station for any reason ceases to generate electricity for one thousand hours or more, then for the purposes of ascertaining the running charges component and the scheduled fixed works costs under clauses (c) and (d) respectively of paragraph XII-

(i) the said clause (c) shall be construed as if there were substituted for the words "that year" in both places where they occur, the words "the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more" and as if to the said clause the following proviso were added, namely:-

"Provided that so much of the said sum as is represented by the cost of fuel shall be adjusted to take account of the cost which would have been incurred had that fuel been consumed at the average prices prevailing in the actual year of account.";

(ii) in evaluating the expression contained in the said clause (d), the letter C shall be deemed to equal to the sum of the actual effective capacities for each month of the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more:

Provided further that if in any year of account there exist in the station any units of plant or works which have been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements in that year, there shall be added to the running charges component in respect of that year the amount, if any by which that part of the said component attributable to the cost of fuel is less than ninety *per centum* of the corresponding part of the running charges component in respect of the year of account immediately preceding that in which the earliest installed of the said units of plant or works first came into commercial operation in the station, and in ascertaining the corresponding part as aforesaid, the fuel consumed shall be deemed to be of the same average quality and to be consumed at the same average cost per ton as the fuel consumed in the year of account:

Provided further that if in respect of any month of the year of account any units of plant or works previously declared by the licensee as aforesaid to be surplus to his requirements are for the first time taken into account in assessing the scheduled effective capacity for that month, then in addition to the payment referred to in clause (a) the licensee shall pay to the Board a sum equal to any sums previously paid by the Board to the licensee on revenue account (in respect of any period prior to the date on which the said units of plant or works came into commission) by way of interest, depreciation, testing and turning-up expenses attributable to the said units of plant or works; and the sum to be paid as aforesaid shall become due in one or more installments and at such time or times as the Board may direct.

XIV. The price payable by the licensee to the Board for all electricity supplied by the Board to

him in excess of the quantities referred to in paragraphs X and XI shall be the Grid Tariff.

XV. The licensee shall have the right at any time, on giving to the Board prior notice in writing expiring at the end of any year of account, to purchase from the Board at the Grid Tariff the whole of the electricity supplied to him by the Board thereafter.

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the scheduled effective capacity of the station becomes nil, pay to the Board in respect of each month in addition to the Grid Tariff one-twelfth of such proportion as the Board may fix of the annual charges by way of interest and depreciation which would have been payable to the Board in respect of the year of account had the said notice not been given:

Provided further that in assessing the scheduled effective capacity for the purposes of the first proviso all units of plant or works which may have been under this Schedule declared or deemed to be surplus to the requirements of the licensee at the date of the expiration of the said notice and all additional units of plant or works shall after that date always be deemed to be surplus to the requirements of the licensee:

Provided further that after the expiration of the said notice the licensee shall not be entitled any time to purchase electricity from the Board at the price ascertained under paragraph XIII.

PART III

Permanent closing down of a controlled station

XVI. The Board may give the licensee not less than six months' notice in writing expiring at the end of any year of account that from the first day of next succeeding year of account it will not again direct the licensee to generate any electricity in the station, and upon that date (hereinafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

XVII. From the date of closing down paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and on receipt of the notice under paragraph XVI the licensee shall have the option (to be exercised by a date not later than three months prior to the date of closing down) either-

(a) (i) to sell the station at any time after the date of closing down, and

(ii) to purchase the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station or at the option of the licensee the undertaking of the licensee at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XVIII:

Provided that where the station cannot be severed from the distributing system of the licensee or where the severance of the station from the distributing system of the licensee is likely to affect prejudicially the interests of the licensee, the licensee shall be entitled to demand that the Board shall purchase his entire undertaking and on such demand being

made the Board shall purchase the entire undertaking of the licensee.

Any question arising under the proviso to this paragraph shall be referred to arbitration under section 76.

XVIII. Where licensee exercises his option under paragraph XVII in terms of clause (b) thereof, the Board shall comply with the requirement to purchase the station under sub-clause (i) of that clause, and in applying the provisions of Part II to the purchase by the licensee of electricity supplied to him by the Board,-

(a) the station shall, notwithstanding that it has been permanently closed down, be deemed to remain a controlled station in operation but to be such a station which has ceased to generate electricity for one thousand hours or more during each year of account;

(b) clause (a) of paragraph IX shall be construed as if the following were substituted therefore, namely:-

"(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of each month had the station not been closed down under Part III and had no replacement of any major item of such plant or works been carried out;"

(c) clause (a) of paragraph XII shall be construed as if the following were substituted therefore, namely:-

"(a) there shall be ascertained in respect of the year of account such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under Part III as would have resulted from the application of clauses (e) and (I) of paragraph I of the Eighth Schedule and had those assets remained in the ownership of the licensee;"

(d) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted;

(e) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph XIII in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression, "A x B Where-- C "

A=that part of the scheduled overhead charges payable by the licensee to the Board in respect of the most recent year of account during which the station did not cease to generate electricity for one thousand hours or more, which relates to the items referred to in clauses (b),(c) and (d) of paragraph I of the Eighth Schedule;

B=the sum of the scheduled effective capacities for each month of the year of account;

C=the sum of the scheduled effective capacities for each month of the most recent year of account as aforesaid.

PART IV

XIX. Where in respect of any month notified by the Board (and hereinafter In this Schedule referred to as the relevant month), the scheduled effective capacity of the station is

computed under paragraph X to be less than one-half of the actual effective capacity of the station, the Board may give to the licensee six month's notice in writing that on the first day of the year of account next following the date of expiration of such notice the station will be purchased by the Board.

XX. Notwithstanding anything contained in paragraph X, in computing the scheduled effective capacity for purposes of paragraph XIX there shall be left out of account all such units of plant and works as would not reasonably have been required by the licensee for purposes other than supply to the Board had the station not been a controlled station.

XXI. Where a notice under paragraph XIX has been served by the Board on the licensee, the Board shall purchase the station of where a severance of the station from the distributing system of the licensee is not possible or is likely to affect prejudicially the interest of the licensee and the licensee so requires the entire undertaking of the licensee at the date specified in the notice and at a price determined under the Fourth Schedule.

XXII. From the date of purchase of the station or at the option of the licensee the undertaking of the licensee under paragraph XXI the provisions of paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and the licensee shall be required to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XXIII.

XXIII. In applying the provisions of Part II to the purchase by a licensee whose station has been purchased under this Part of electricity supplied to him by the Board,-

(a) the station shall, notwithstanding that it has been purchased by the Board, be deemed to remain a controlled station;

(b) clause (a) of paragraph XII shall be construed as if the reference therein to the provisions of the Eighth Schedule excluded a reference to clauses (b), (c) and (d) of paragraph I of that Schedule, and as if the following proviso were added to the said clause (a), namely:-

"Provided that the annual charges to be included in accordance with clauses (e) and (f) of paragraph I of the said Schedule shall be such as would have resulted had the assets purchased by the Board under Part IV remained in the ownership of the licensee";

(c) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted:

(d) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph XIII in each month of the year of account a sum equal to one twelfth of the amount calculated from the expression,

"A x B Where--C "

A=that part of the scheduled overhead charges payable by the licensee to the Board in respect of the last year of account in which the station was in the ownership of the licensee, which relates to the Items referred to in the clauses (b),(c) and (d) of paragraph I of the Eighth Schedule;

B=the sum of the scheduled effective capacities for each month of the year of account;

C=the sum of the scheduled effective capacities for each month of the said last year {,f
"IC{lunt

THE SECOND SCHEDULE

(See section 35)

SUPPLY BY BOARD TO LICENSEES OWNING STATIONS OTHER THAN CONTROLLED STATIONS

I. Before the end of each year the Board shall declare to the licensee in respect of each of the two next succeeding years the maximum number of kilowatts which it will make available for the purpose of the licensee's undertaking.

II. Where the Board and the licensee agree that the number of kilowatts declared under paragraph I will be inadequate to meet the requirements of the licensee having regard to the capacity of the licensee's generating plant, the Board shall not refuse its consent under section 44, the provision of that section notwithstanding, to the installation by the licensee of such generating plant as he may reasonably require for the purpose of his undertaking, unless the Board is able appropriately to amend its declaration within a reasonable time.

III. The licensee shall be entitled to demand from the Board, and the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, a maximum number of kilowatts in each year not exceeding, without the consent of the Board, the maximum number of kilowatts declared under this Schedule in respect of that year.

IV. The point at which the electricity to be supplied under this Schedule shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

V. The Board shall bear the whole of the cost of the service apparatus required for making the supply under this Schedule available to the licensee.

VI. The price to be paid by the licensee to the Board in respect of each year for electricity supplied under this Schedule shall be the Grid Tariff

THE THIRD SCHEDULE

(See section 36)

CLOSING DOWN OF GENERATING STATIONS OTHER THAN CONTROLLED STATIONS

I. Where the Board proposes under section 36 permanently to close down a generating station other than a controlled station, it shall give the licensee owning the station not less than six months notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account (hereafter in this Schedule referred to as the date of closing down) the station be permanently closed down.

II. From the date of closing down the Board shall be under obligation to supply to the licensee, except where prevented by causes beyond its control, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

III. Unless otherwise agreed between the Board and the licensee, the shall not, where he has received a notice under paragraph I, purchase after the date of closing down any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchases any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of closing down or for such further period, if any, as the Board may allow, continue to purchase electricity under the such other source.

IV. (1) The point at which electricity to be supplied by the Board shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

(2) The Board shall bear the whole of the cost of the service apparatus required for making the supply available to the licensee.

V. The licensee shall have the option, to be exercised by a date not later than three months prior to the date of closing down, either-

(a) (i) to sell the station at any time after the date of closing down, and

(ii) to purchase the whole of the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station 1[or the entire undertaking] at the date of closing down at a price determined under the fourth sub schedule ,and

(ii) to purchase the whole of the electricity supplied to him by the Board on the terms hereafter set out this schedule.

VI. Where the licenses exercises his option under paragraph V under in terms of clause (b) thereof, the Board shall comply with the requirement to purchase under sub-clause (i) of that clause, and the following provision of this Schedule shall apply.

VII. As soon as practicable after the licensee has exercised his option as aforesaid, there shall be ascertained and agreed between him and the Board the following quantities in respect of each year of account subsequent to the date of closing down, namely:-

1. Ins. by Act 101 of 1956, sec. 25 (w.e.f. 30-12-1956)

(a) The maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of the year of account, had the station not been closed down under this Schedule and had no replacement of any major item of such

plant or works been carried out subsequent to the date of closing down.

(b) The number and size of units of plant and works, forming part of the aforesaid plant and works, which would have represented reasonable standby in the station.

(c) The standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account.

(d) The agreed effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

VIII. As soon as practicable after the date of closing down there shall be ascertained in agreement between the Board and the licensee in respect of each of the three consecutive years of account immediately preceding the date of closing down (hereafter in this Schedule referred to as the basic years)-

(a) the sums expended by the licensee and wholly attributable to the generation of electricity under the following heads, namely:-

(i) fuel;

(ii) less oil, water and stores consumed;

(iii) salaries and wages and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servant;

(iv) repairs and maintenance, and renewals not chargeable to capital account;

(v) management, rents, rates and taxes (including super-tax payable by the licensee as a company, but excluding other taxes on profits), insurance of plant and general establishment charges;

(vi) any other expense on revenue account;

(b) the actual effective capacity of the station on the first day of each such year agreed in accordance with the principles set out in paragraph IX of the First Schedule.

IX. As soon as practicable after the beginning of each year of account there shall be ascertained in respect of that year such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under this Schedule as would have resulted from the application of clauses (e) and (f) of paragraph I of the Eighth Schedule, had those assets remained in the ownership of the licensee.

X. The licensee shall be entitled to purchase from the Board in each year of account at a price determined under paragraph XI-

(a) a number of kilowatts not exceeding the agreed effective capacity ascertained in respect of that year under paragraph VII, and

(b) a number of kilowatt-hour not exceeding the number of kilowatt-hours which bears the

same proportion to the total number of kilowatt-hours required by the licensee in that year for the purposes of his undertaking as the agreed effective capacity ascertained in respect of that year bears to the total maximum demand of the licensee in that year for the said purposes.

XI. The price payable by the licensee in respect of each year of account for the quantity of electricity specified in paragraph X shall be-

(a) in respect of kilowatts, a fixed charge equal to the sum of-

(i) an amount calculated from the expression,

"A + A x B ;

B 2 C"

(ii) an amount calculated from the expression

"B x D ;

C"

(iii) the annual charges by way of interest and deprecation ascertained in respect of the year of account under paragraph IX, where-

A=one-third of the total costs during the basic years under head (ii),(iii), (iv) and (vi) set out in clause (a) of paragraph VIII;

B=the agreed effective capacity for the year of account;

C=one-third of the sum of the actual effective capacities [ascertained under clause (b) of paragraph VIII] for each of the basic years;

D=one-third of the total costs during the basic year under head (v) set out in clause (a) of paragraph VIII;

(b) in respect of kilowatt-hours, a running charge per kilowatt-hour ascertained-

(i) by multiplying the total number of tons of fuel consumed in the station in the basic years by the estimate agreed between the Board and the licensee of the cost per ton which would have been incurred in delivering the handling the same quantity of fuel of equivalent calorific value to the furnaces in the station during the year of account, had the station remained in the ownership of the licensee, and

(ii) by dividing the total cost so found by the total number of units sent out from the station in the basic years.

XII. The price payable by the licensee for all electricity supplied to him by the Board in excess of the quantity specified in paragraph X shall be the Grid Tariff.

XIII. The licensee shall have the right at any time on giving the Board prior notice in writing expiring at the end of a year of account of purchase at the Grid Tariff the whole of the

electricity supplied to him by the Board:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the agreed effective capacity of the station becomes nil, pay to the Board in each year of account in addition to the Grid Tariff a sum equal to such proportion, as the Board may fix of the annual charges by way of interest and depreciation ascertained in respect of the year under paragraph IX.

Provided further that after the expiration of the said notice, the licensee shall not be entitled at any time to purchase electricity from the Board at the price ascertained under paragraph XI.

THE FOURTH SCHEDULE

(See, sections 23 and 37 and First and Third Schedules)

PRICE FOR UNDERTAKINGS, GENERATING STATIONS AND MAIN TRANSMISSION LINES PURCHASED BY THE BOARD

I. For the purposes of this Schedule-

(a) "date of vesting" means the date on which the undertaking, generating station, main transmission line or asset forming part of such station or line, as the case may be, vests in the Board;

(b) "original cost" of an asset means the amount of expenses certified or determined under paragraph II to have been properly incurred on and incidental to the provision, of the asset for the purposes of the undertaking, generating station or main transmission line, as the case may be. 1[***]

II. The price to be paid for any undertaking, generating station or main transmission line, as the case may be purchased by the Board under this Act shall be such as may be certified by an auditor appointed by the State Government in this behalf to have been the amount properly incurred on and incidental to the establishment of the undertaking, station or main transmission line, as the case may be, less depreciation thereon 2[calculated in accordance with the provisions of paragraph VI of the Sixth Schedule];

Provided that there shall be added to such sum as aforesaid on account of such purchase of the generating station or main transmission line such reasonable compensation as may be determined by the Board having due regard to the fact that a portion of the undertaking is to be acquired:

Provided further if the Board or the licensee is dissatisfied with the sum so certified, the matter shall, in default of agreement between them, be determined 3[by arbitration] as provided in section 76.

4[***]

IV. The auditor appointed under paragraph II shall be a person qualified under the provisions of 5section 144 of the Indian Companies Act, 1913 (7 of 1913), to act as an auditor of companies.

V. The auditor's cost under this Schedule shall be shared equally by the Board and the licensee concerned.

THE FIFTH SCHEDULE

(See section 41)

CHARGES FOR USE 6[BY BOARD OR GENERATING COMPANY] OF TRANSMISSION LINES AND MAIN TRANSMISSION LINES

1. The following charges and allowances shall be made in respect of a year of account for the use by 7[the Board or the Generating Company] of main transmission lines or transmission

1.Clause (c) omitted by Act 23 of 1978, sec. 22 (w.e.f. 3-6-1978).

2 Subs. by Act 23 of 1978, sec. 22, for "on the scale set out in paragraph III" (w.e.f 3-6-1978).

3.Ins. by Act 30 of 1966, sec. 19 (w.e.f. 16-9-1966).

4.Paragraph III omitted by Act 23 of 1978, sec. 22 (w.e.f. 3-6-1978).

5.See section 224 and 226 of the Companies Act, 1956 (1 of 1956).

6 Subs. by Act 115 of 1976, sec. 32, for "BY BOARD" (w.e.f. 8-10-1976).

7. Subs. by Act 115 of 1976, sec. 32, for "the Board" (w.e.f. 8-10-1976).

lines (hereafter in this Schedule referred to as lines), namely:-

(a) the actual cost of maintenance of the lines, including renewal, thereof not chargeable to capital account;

(b) sum paid in respect of the lines for insurance and as rents, rates and taxes 1[(including all taxes payable on income and profits)];

(c) the proportion of management and general establishment charges properly attributable to the lines;

(d) any other expenses on revenue account properly attributable to the lines;

(e) 2[interest on the depreciated cost of the line shown in the books of the undertaking and properly attributable to the lines (whether defrayed out of capital or revenue) and interest on such working capital as is properly attributable to the lines];

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal interest on which is charged to capital;

(f) If the allowance for depreciation of an amount determined in respect of the lines in

accordance with the provisions of paragraph VI of the Sixth Schedule.

II. If the lines are used partly by 3[the Board or the Generating Company] and partly by the licensee owning them, or if the arrangement for their use comes into force or determines otherwise than at the beginning or end of a year of account, the charges and allowances referred to in paragraph I shall be the proper proportion thereof having regard to the use made of the line by 3[the Board or the Generating Company] and the period of such use during the year and with the addition of the cost of such additional transmission losses as may have been incurred by the licensee as a result of the Board's user of the lines.

4[**III.** For the purposes of clause (e) of paragraph I,-

(i) "depreciated cost of the lines" means original cost thereof as determined in accordance with the provision of sub-paragraph (6) of paragraph XVII of the Sixth Schedule less the amount written off or set aside on account of depreciation of fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,-

(a) where the licensee owning the lines in a local authority, the average rate payable on the money raised by that authority for the purpose of constructing the lines;

(b) in any other case, the Reserve Bank: rate ruling at the beginning of the year referred to in

paragraph I *plus two per centum.*]

THE SIXTH SCHEDULE

5[See section 57 and 57A]

FINANCIAL PRINCIPLES AND THEIR APPLICATION

I. 6[Notwithstanding anything contained in the Indian Electricity Act, 1910 (9 of 1910)

1. Subs. by Act 101 of 1956, sec. 26, for "(including super-tax payable by the licensee as a company, but excluding other taxes on profits)" (w.e.f 30-12-1956).

2. Subs. by Act 101 of 1956, sec. 26, for certain words (w.e.f 30-12-1956).

3. Subs. by Act 115 of 1976, sec. 32, for "the Board" (w.e.f 8-10-1976).

4. Subs. by Act 30 of 1966, sec. 20, for paragraph III (w.e.f 1-4-1966).

5. Subs. by Act 101 of 1956, sec. 27, for "(See section 57)" (w.e.f 30-12-1956).

6 Subs. by Act 101 of 1956, sec. 27, for certain (w.e.f. 30-12-1956).

1[[except sub-section (2) of section 22A]], and the provisions in the licence of a licensee, the licensee shall so adjust his 3[charges] for the sale of electricity whether by enhancing or reducing them that his clear profit in any year of account shall not, as far as possible, exceed the amount of reasonable return:]

3[Provided that such 2[charges] shall not be enhanced more than once in any year of account:

Provided further that the licensee shall not be deemed to have failed so to adjust his 2[charge] if the clear profit in any year of account has not exceeded the amount of reasonable return by 4[twenty] *per centum* of the amount of reasonable return:

Provided further that the licensee shall not enhance the 2[charges] for the supply of electricity until after the expiry of a notice in writing of not less than sixty clear days of his intention to so enhance the 2[charges], given by him to the State Government and to the Board:

Provided further that if the 2[charges] of supply fixed in pursuance of the recommendations of a rating committee constituted under section 57A are lower than those notified by the licensee under and in accordance with the preceding proviso, the licensee shall refund to the consumers the excess amount recovered by him for them:]

Provided also that nothing in this Schedule shall be deemed to prevent a licensee from levying with the previous approval of the State Government, minimum charges for supply of electricity for any purpose.]

5[IA. The notice referred to in the third proviso to paragraph I shall be accompanied by such financial and technical data in support of the proposed enhancement of charges as the State Government may, by general or special order, specify.]

II. (1) If the clear profit of a licensee in any year of account is in excess of the amount of reasonable return, one-third of such excess, not exceeding 6[five per cent.] of the amount of reasonable return, shall be at the disposal of the undertaking. Of the balance of the excess, one-half shall be appropriated to a reserve which shall be called the Tariffs and Dividends Control Reserve and the remaining half shall either be distributed in the form of a proportional rebate on the amounts collected from the sale of electricity and meter rentals or carried forward in the accounts of the licensee for distribution to the consumers in future, in such manner as the , State Government may direct.

(2) The Tariffs and Dividends Control Reserve shall be available for disposal by the licensee only to the extent by which the clear profit is less than the reasonable return in any year of account.

(3) On the purchase of the undertaking under the terms of Its licence any balance remaining in the Tariffs, and dividends, Control Reserve shall be handed over to the purchaser and maintained as such Tariffs and Dividends Control Reserve:

7[Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve may be deducted from the price payable to the licensee.]

1. Ins. by Act 32 of 1959, sec. 42 (w.e.f. 5-9-1959).

2. Subs. by Act 30 of 1966, sec. 21, for "rates" (w.e.f 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 27, for the proviso (w.e.f. 1-4-1957).

4. Subs. by Act 30 of 1966, sec. 21, for "fifteen" (w.e.f 1-4-1966).

5. Subs. by Act 101 of 1956, sec. 27, (w.e.f 1-4-1966).

6 Subs. by Act 30 of 1966, sec. 21, (w.e.f. 1-4-1966).

1[(4) On the purchase of the undertaking after the expiry, or on the revocation, of its licence or otherwise, all amounts of rebate lying undistributed to the consumers on the date of such purchase, shall be handed over to the purchaser who, in turn, shall enter the same in his books of account, under the heading Consumers' Rebate Reserve and any amount lying undistributed In that Reserve shall be carried forward for distribution to the consumer concerned:

Provided that the share of money in the Consumers' Rebate Reserve payable to the consumers who are not traceable or who have ceased to be consumers in relation to that undertaking, may be utilised in the development works of the purchaser.]

III. There shall be created from existing reserves or from the revenues of the undertaking a reserve to be called "Contingencies Reserve".

IV. (1) The licensee shall appropriate to Contingencies Reserve from the revenues of each year of account a sum not less than one-quarter of one *per centum* and not more than one-half of one *per centum* to the original cost of fixed assets, provided that if the said reserve exceeds, or would by such appropriation, be caused to exceed, five *per centum* of the original cost of fixed assets, no appropriation shall be made which would have the effect of increasing the reserve beyond the said maximum.

2[(2) The sums appropriated to the Contingencies Reserve shall be invested in securities authorised under the Indian Trusts Act, 1882 (2 of 1882) and such investment shall be made within a period of six months of the close of the year of account in which such appropriation is made.]

V. 3[(1)] The Contingencies Reserve shall not be drawn upon during the currency of the licence except to meet such charges as the State Government may approve as being-

(a) expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented;

(b) expenses on replacement or removal of plant or works other than expenses requisite for normal maintenance or renewal;

(c) compensation payable under any law for the time being in force and for which no other provision is made.

4[(2) On the purchase of the undertaking, the Contingencies Reserve, after deduction of the amounts drawn under sub-paragraph (1), shall be handed over to the purchaser and maintained as such Contingencies Reserve:

Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve computed as above shall, after further deduction of the amount of

compensation, if any, payable to the employees of the outgoing licensee under any law for the time being in force, be handed over to the Board or the State Government, as the case may be.]

5[VA. (1) There shall be created a reserve to be called the Development Reserve to which shall be appropriated in respect of each accounting year a sum equal to the amount of income-tax and super-tax calculated at rates applicable during the assessment year for which the accounting year of the licensee is the previous year, on the 6[amount of investment allowance] to which

1. Ins by Act 115 of 1976, sec. 33 (w.r.e.f. 8-10-1976).
2. Subs by Act 30 of 1966, sec. 21, for sub-paragraph (2) (w.e.f. 1-4-1966).
3. Paragraph V re-numbered as sub-paragraph (1) thereof by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).
4. Sub-paragraph (2) ins by Act 101 of 1956, sec 27 (w.e.f. 1-4-1957) and subs by Act 30 of 1966, sec 21 (w.e.f. 1-4-1966).
5. Ins. by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957).
6. Subs by Act 23 of 1978, sec. 23, for "amount of development rebate" (w.e.f. 3-6-1978).

the licensee is entitled for the accounting year 1[under section 32A of the Income-tax Act, 1961 (43 of 1961)]:

Provided that if in any accounting year, the clear profit [excluding the special appropriation to be made under Item (va) of clause (c) of sub-paragraph (2) of paragraph XVII] together with the accumulations, if any, in the Tariffs and Dividends Control Reserve less the sum calculated as aforesaid falls short of the reasonable return, the sum to be appropriated to the Development Reserve in respect of such account year shall be reduced by the amount of the shortfall.

(2) Any sum to be appropriated towards the Development Reserve in respect of any accounting year under sub-paragraph (1), may be appropriated in annual installments spread over a period not exceeding five years from the commencement of that accounting year.

(3) The Development Reserve shall be available only for investment in the business of electricity supply of the undertaking.

(4) On the purchase of the undertaking, the Development Reserve shall be handed over to the purchaser and maintained as such Development Reserve:]

2[Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve 3[(whether such amount is in the form of cash or other assets)] may be deducted from the price payable to the licensee.]

4[VI. (a) The licensee shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority. by notification in the Official Gazette, lay down from time to time.

(b) Where in any particular year depreciation cannot be adjusted against revenues, the same

may be carried over to subsequent years.

(c) The provisions of this paragraph shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978 (23 of 1978), comes into force.]

XII. Where contributions are made by consumers towards the cost of construction of service lines constructed after the date on which this Act comes into force only the net cost of such service lines after deducting such contributions shall be Included In the cost of filed assets for the purposes of arriving at the capital base:

Provided that for the purposes of depreciation under paragraph VI, the total original cost of construction of the service lines shall be taken into account.

XIII. (1) Subject to the provisions of sub-paragraph (2) the ordinary remuneration of a managing agent excluding the office allowance mentioned in sub-paragraph (3) but including purchasing commission, if any, shall be based on a percentage of net profits 5[as determined in accordance with the provisions of section 349 of the Companies Act, 1956 (1 of 1956)], and shall not exceed-

(a) in respect of the first Rs 5 lakhs of such net profits--10 per cent.; and

(b) in respect of all net profits In excess of Rs 5 lakhs-- 7 per cent.

(2) The amount paid to a managing agent shall be subject to a minimum payment on account of ordinary remuneration not exceeding two rupees per annum for each complete thousand rupees

1. Subs. by Act 23 of 1978, sec. 23, for "under clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922)." (w.e.f 3-6-1978).

2. Added by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

3. Ins. by Act 23 of 1978, sec. 23 (w.e.f. 3-6-1978).

4. Subs by Act 23 of 1978, sec. 23, for paragraphs VI, VII. VIII, IX, X and XI (w.e.f. 3-6-1978).

5. Subs. by Act 101 of 1956, sec. 27, for "as defined in section 87C (3) of the Indian Companies Act, 1913 (7 of 1913)" (w,e,f. 1-1957).

of paid up share and debenture capital, provide that for purposes of computing the minimum payment should the share and debenture capital be less than rupees five lakhs It shall he taken as rupee five lakhs and should the said capital be greater than rupees one crore it shall he taken as rupees one crore.

(3) An office allowance drawn by a managing agent which shall include the salaries and wage, of all persons employed in the office of the managing agent, but not the salaries of the engineering staff employed for purposes of the undertaking, shall he a percentage of the operating expenditure and the expenditure during the year of account on capital works. The office allowance so drawn shall not exceed-

(a) In respect of the first Rs. 1 lakh of operating expenditure-8 per cent.

In respect of the next Rs. 2 lakhs of operating expenditure-5 per cent.

In respect of the next Rs. 7 lakhs of operating expenditure-2.5 per cent.

In respect of all operating expenditure in excess of Rs. 10 lakhs-1.5 per cent.; and

(b) In respect of the first Rs.1 lakh of capital expenditure incurred during the year of account- 4 per cent.

In respect of the next Rs. 2 lakhs of capital expenditure incurred during the year of account-3 per cent.

In respect of the next Rs. 7 lakhs of capital expenditure incurred during the year of account-1.5 per cent.

In respect of all capital expenditure in excess of Rs. 10 lakhs incurred during the year of account-1.5 per cent.

Operating expenditure for the purposes of sub-paragraph (3) (a) above shall mean the sum of the items of expenditure as defined in sub-paragraph (2) (b) of paragraph XVII with the omission of those under clauses (i), (iv), (ix) and (x) thereof.

1[*Explanation.*- For the purposes of this paragraph, the expression "managing agent" shall include every person by whatever name called, who is in charge of the management of the whole, or substantially the whole, of the undertaking and where more persons than one are placed in charge of the management of the whole, or substantially the whole, of the undertaking, the total remuneration payable to all such persons shall not in the aggregate exceed the limits specified in this paragraph.]

XIV. The Board of Director of an undertaking shall not contain more than ten directors.

XV. (1) Where at any time within three years before the next option of purchase under the licence arises, the licensee proposes to make any capital expenditure which exceeds 2[in any year of account.] twenty five thousand rupees or two *per centum* the capital base, whichever is more, in respect of which any amount would in the event of purchase under the option be payable by the purchase to the license, the licensee, shall, before giving effect to such proposal, apply to the Board or Board is constituted, the State Government for its concurrence.

(2) If the Board or the State Government, as the case may be, does not within one month from the receipt of such application, consent to such expenditure, the licensee may refer the matter to the arbitration of the Authority.

XVI. Any dispute or difference as to the interpretation or any matter arising out of the provisions of this Schedule shall be referred to the arbitration of the Authority.

1[Provide that where a rating committee has been constituted under section 57 A, no such dispute or difference shall be referred to the arbitration of the Authority during the period

1. Added by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

between the date of the constitution of such committee and the date of the order of the State Government made on the recommendations of the committee.]

Definitions

XVII. For the purposes of this Schedule--

(1) "capital base" means the sum of-

1[(a) the original cost of fixed assets available for use and necessary for the purpose of the undertaking subject to the provisions of paragraph XII in respect of service lines, and the excess amount referred to in the proviso to sub-paragraph (2) of paragraph VII in respect of any fixed assets which has ceased to be available for use;]

(b) the cost of intangible assets including expenses on account of new capital issue];

(c) the original cost of works in progress;

1[(d) the amount of investments compulsorily made under paragraph IV of this Schedule together with the amount of such investments made after the commencement of this Act from contributions towards depreciation as in the option of the Authority could not be utilised for the purpose of the business of electricity supply of the undertaking;]

(e) an amount on account of working capital equal to the sum of-

(i) one-twelfth of the sum of the book cost of stores, material and supplies including fuel on hand at the end of each month of the year of account;

(ii) one-twelfth of the sum of 4[cash and bank balances (whether credit or debit)] and call and short- term deposits at the end of each month of the year of account, not exceeding in the aggregate an amount equal to one-quarter of the expenditure under sub-paragraph (2) (b) of this paragraph excluding 5[sub-clause (i), (iv), (iva), (ivb) and (x)]; less--

(i) the amount written off or set aside on account of depreciation of fixed assets and amount, written off in respect of intangible assets in the books of the undertaking before or after the commencement of this Act; 6[***]

(ii) the amount of any loans advanced by the Board 7[***];

8[(iia) the amount of any loans borrowed from organisations or institutions approved by the State Government;

(iib) the amount of any debentures issued by the licensee;]

9[(iii) the amount deposited in cash with the licensee by consumers by way of security;]

1. Subs by Act 101 of 1956, sec. 27, for clause (w.e.f 1-4-1957).

2. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

3. Subs by Act 101 of 1956, sec. 27, for clause (d) (w.e.f. 1-4-1957).
4. Ins. by Act 30 of 1966, sec. 21 for "cash and balances" (w.e.f 1-4-1966).
5. Subs by 30 of 1966, sec. 21, for "clause (i),(iv) and (x) " (w.e.f. 1-4-1966).
6. The word "and" omitted by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).
7. The words "under the provisions of sub-paragraph (2) of paragraph (2) of paragraph I of the First Schedule" omitted by 101 of 1956, sec. 27, (w.e.f. 1-4-1966).
8. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).
9. Subs-clause (iii) ins. by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1959) and subs. By Act 31 of 1966, sec. 21 (w.e.f. 1-4-1966).

1[(iv) the amount standing to the credit of the Tariffs and Dividends Control Reserve 2[at the beginning of the year of account];]

3[(v) the amount standing to the credit of the Development Reserve at the close of the year of account;] 1[(vi) the amount carried forward 2[at the beginning of the year of account] in the accounts of the licensee for distribution to the consumers under paragraph II.]

(2) "clear profit" means--

the difference between the amount of income and the sum of expenditure plus specific appropriations made up in each case as follows-

(a) Income derived from-

(i) gross receipts from sale of energy, less discounts applicable thereby;

(ii) rental of meters and other apparatus hired to consumers;

(iii) sale and repair of lamps and apparatus;

(iv) rents, less outgoings not otherwise provided for;

(v) transfer fees;

(vi) investments, fixed and call deposits, and bank balances;

(vii) other general receipts accountable in the assessment of Indian income-tax and arising from the ancillary or incidental to the business of electricity supply;

(b) 4[expenditure properly incurred on]-

(i) generation and purchase of energy;

(ii) distribution and sale of energy;

(iii) rents, rates and taxes, other than all taxes on income and profits;

(iv) interest on loans advanced by the Board 5[***];

2[(iva) interest on loans borrowed from organisations or institutions approved by the State Government;

(ivb) interest on debentures issued by the licensee;]

(v) interest on security deposits;

(vi) legal charges;

(vii) bad debts;

(viii) auditors' fees;

(ix) management including managing agents' remuneration as provided for in para XII;

(x) depreciation, computed as 6[hereinbefore] set out;

1. Ins.by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Ins by Act 30 of 1966, sec. 21 (w.e.f. 1-4-1966)

3. Sub-clause (v) InS by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957) and again subs. by 30 of 1966, sec. 21 (w.e.f 1-4-1966).

4. Subs by Act 101 of 1956, sec 27, for "expenditure incurred on" (w.e.f. 1-4-1957).

5. The words "under sub-paragraph (2) of paragraph 1 of the First Schedule" omitted by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

6. Subs by Act 101 of 1956, sec 27, for ".hereinafter" (w.e.f 1-4-1957).

(ix) other expenses 1[(excluding interest on debentures and loans)], admissible under the law for the time being in force in the assessment of Indian Income-tax and arising from ancillary or incidental to the business of electricity supply;

2[(xii) contributions to provident fund, staff pension and gratuity computed under any law for the time being in force or any such scheme as is approved by the State Government;

(xiia) expenses on apprentice and other training schemes;]

1[(xiii) bonus paid to the employees of the undertaking-

(a) where any dispute regarding such bonus has been referred to any tribunal or other authority under any law for the time being In force relating to Industrial or labor disputes, in accordance with the decision of such tribunal or authority;

(b) other case, with the approval of the State Government;]

(c) special appropriations sufficient to cover-

(i) previous losses (that is to say excess of expenditure over income) which have arisen

from the business of electricity supply to the extent in any year 3[permitted by the State Government];

(ii) all taxes on Income and profits;

(iii) Installments of written down amounts in respect of intangible assets and new capital issue expenses to the extent in any year actually appropriated for the purpose in the book of the undertaking:

Provided that the amounts so appropriated shall not exceed the amount found by dividing the written down cost of such assets by the number of complete years remaining before the next option of purchase under the licence arises.

(iv) contributions to the Contingency Reserve, computed as 4[hereinbefore] set out;

(v) contributions towards arrears of depreciation;

1[(va) contributions to the Development Reserve referred to in paragraph VA;]

5[vb) debt redemption obligation of the private licensees which may be done on a year to year basis, taking into account the requirement of debt redemption and resource generation through depreciation, retained surplus,]

(vi) other special appropriations permitted by the State Government.

(3) "debenture capital" means- capital raised against debentures or other the instruments creating a charge or lien on assets of the undertaking.

1. Ins. by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Subs. by Act 30 of 1966, sec. 21, for sub-clause (xii) (w.e.f. 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 27, for "actually appropriated for the purpose in the books of the undertaking" (w.e.f. 1-4-1957).

4. Subs. by Act 101 of 1956, sec. 27, for "hereinafter" (w.e.f. 1-4-1957).

5. Ins. by Act 50 of 1991, sec. 14 (w.e.f. 15-10-1991).

(4) "intangible assets" means--

underwriter's commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting the business of electricity supply excluding any amount paid on account of goodwill.

(5) "ordinary capital" means--

in the case of a company, the amount of ordinary capital paid up and attributable to the undertaking of the licensee; in other cases the net amount standing to the credit of the proprietor or proprietor's account or accounts whether in capital, personal or any other

account howsoever called and property attributable to the business of electricity supply.

(6) "original cost" means in respect of any asset the sum of-

(a) the cost of the asset to the licensee, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use,¹[(b) interest charges on capital expenditure incurred during the period between the date of grant of the licence and the date when the undertaking commences supply, from borrowed money and properly attributable to the assets as actually accrued up to the date of such supply, as well as interest incurred on outlays for subsequent expansions,]

(c) a proper addition on account of supervision not exceeding fifteen per centum of the cost referred to in sub-paragraph (a),so, however, that the original cost of any asset shall not in any case exceed the original cost attributed thereto in the books of the undertaking.

(7) "Preference Capital" means- amount of paid up capital attributable to the undertaking of the licensee, issued on such preferred terms as are sufficient to qualify it for such description.

(9) "Reasonable return" means- in respect of any year of account, the sum of the following:-

(a) the amount found by applying the standard rate to the capital base at the end of that year, ³[(b) the income derived from investments other than those included in the capital base under the provisions of clause (d) of sub-paragraph (1);]

(c) an amount equal to one-half of one *per centum* on any loans advanced by the Board ⁴[***]; ⁵[(c-1) an amount equal to one-half of one *per centum* on the amounts borrowed from organisations or institutions approved by the State Government; (c-2) an amount equal to one-half of one per centum on the amounts realised by the issue of debentures;] ⁶[(d) an amount equal to one-half of one per centum on the accumulations in the Development Reserve created under paragraph VA of this Schedule;]

1. Subs by Act 50 of 1991, sec. 14, for clause (b) (w.e.f 15-10-1991).

2. Clause (8) omitted by Act 23 of 1978, sec. 23 (w.e.f 3-6-1978).

3. Subs by Act 101 of 1956, sec. 27 for clause (b) (w.e.f. 1-4-1957).

4. The words "under sub-paragraph (2) of paragraph I of the First Schedule" omitted by Act 101 of 1956, sec 27 (w.e.f. 1-4-1957).

5. Ins. by Act 30 of 1966, sec 21 (w.e.f. 1-4-1966).

6. Ins by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957).

¹[(e) such other amount as may be allowed by the Central Government, having regard to the prevailing tax structure in the country.] ²[(10) "standard rate" in respect of any year of account means--

(a) in relation to that part of the capital base for that year of account which is equivalent to the capital base as on the 31st day of March, 1955, seven *per centum* per annum;

(b) in relation to the remaining 3[capital base for that year, the Reserve Bank rate ruling at the beginning of that year plus--

(i) two *per centum* for investment made up to the date of the commencement of the Electricity Laws (Amendment) Act, 1991; and

(ii) five *per centum* for investments made thereafter:]

Provided that the Central Government may, by notification in the Official Gazette, and with effect from such date as may be specified therein, increase or decrease the standard rate specified in clause (b), if, after consultation with the Authority, that Government considers it necessary so to do to ensure that any rise or fall in the Reserve Bank rate does not affect the reasonable return in any subsequent year of account in relation to that part of the capital base which is equivalent to the capital base as computed on the last date of the previous year of account;]

(11) "Written down cost" mean- original cost less the amounts set aside or written off on account of depreciation in the books of the undertaking.

THE SEVENTH SCHEDULE

[omitted by the Electricity Supply (Amendment) Act, 1978, (23 of 1978),sec.24 (wse.f. 3-6-1978).]

THE EIGHT SCHEDULE

(Seethe First and Third Schedules)

DETERMINATION OF COST OF PRODUCTION OF ELECTRICITY AT GENERATING STATIONS

I. For the purposes of the First and Third Schedules, the cost of production of electricity at a generating station shall be ascertained by calculating and taking into account the following costs, charges and allowances In respect of the year of account, namely:-

(a) sums expended for fuel, oil, water and stores consumed, for salaries and wages, and any contribution by the licensee for pensions, provident fund, superannuating and insurance of 4[officers and other employees], for repairs and maintenance and for renewals not chargeable to capital account;

(b) sums paid in respect of the station for insurance and as rents, rates and taxes 5[(including all taxes payable on income and profit)];

1. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

2. Sub-paragraph (10).subs. by Act 101 of 1956, sec. 27 (1-4-1957) and again subs. by Act 30 of 1966, see. 21, (w.e.f. 1-4-1966).

3. Subs. by Act 50 of 1991,sec. 14, for certain words (w.e.f 15-10-1991).

4. Subs. by Act 23 of 1978,sec. 25, for "officer and servants" (w.e.f. 3-6-1978).

5. Subs. by Act 101 of 1956,sec. 29, for "(including super-tax payable by the licensee as company but excluding other taxes on profits)" (w.e.f. 30-12-1956).

(c) the proportion of management and general establishment charges properly attributable to the station:

(d) any other expense on revenue account properly attributable to the station;

(e) 1[interest till the depreciated cost of the station shown in the books of the undertaking, and properly attributable to the station (whether defrayed out of capital or revenue) and interest on working capital properly attributable to the station and the production of electricity therein]:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal on which interest is payable out of capital;

(f) an allowance for depreciation of an amount determined in respect of the station in accordance with the provisions of paragraph VI of the six Schedule.

II. 2[For the purposes of clause (e) of paragraph I-

(i) "depreciated cost of the station" means original cost thereof as determined in accordance with the provisions of sub-paragraph (6) of paragraph XVII of the Sixth Schedule *less* the amount written off or set aside on account of depreciation on fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,-

(a) on such part of the principal on which interest is payable within the meaning of the said clause as has been advanced on loan by the Board under paragraph I of the First Schedule, the actual rate charged by the Board plus one-half of the *per centum* per annum on the loan in the year of account;

(b) on the balance of the said principal-

(i) where the licensee owning the station is a local authority, the average rate payable in the year of account on the money raised by that authority for the purposes of the station;

(ii) in any other case, 3[the Reserve Bank rate ruling at the beginning of that year *plus two per centum*].

THE NINTH SCHEDULE

(See the First Schedule)

ALLOCATION OF COSTS OF PRODUCTION AT GENERATING STATIONS

I. For the purpose of this Schedule-

(a) the average load factor of a station shall be expressed as a percentage, and shall be ascertained by multiplying the number of kilowatt-hours supplied from the station during the year of account by 100 and dividing the product so obtained by the product by the average monthly maximum demand multiplied by the number of hours during which the station was In commission In the year of account;

1. Subs. by Act 101 of 1956, sec. 29, for certain words (w.e.f. 30-12-1956).

2. Subs. by Act 30 of 1966, sec. 22, for certain words (w.e.f. 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 29, for "5 *per annum*"(w.e.f. 30-12-1956).

(b) the average monthly maximum demand shall be the arithmetical average of the monthly maximum demands on the station in those calendar months during which the station was in commission in the year of account;

(c) a station shall be deemed to be in commission when the whole or any portion of the plant in the station is generating electricity or is in readiness to generate electricity upon demand

(d) "cost of fuel" means the sums expended for fuel consumed plus the cost of any transport, handling, preparation or treatment incurred in connection with the delivery of fuel to the boiler hoppers, furnaces or engines and in connection with the disposal of the products or residues of combustion, plus the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants properly attributable to such delivery or disposal, *less* any sums received from the sale of any products or residues of combustion;

(e) "cost of oil, water and stores" means the sums expended for oil, water and stores consumed;

(f) "cost of repairs, maintenance and renewals" means the sums expended for repairs and maintenance and for renewals not chargeable to capital account, together with the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of 1[officers and other employees] properly attributable to repairs, maintenance and renewals;

(g) "salaries and wages" means the sums expended for salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants, *less* the proportion of sums properly attributable to the cost of fuel under clause (d) and to the cost of repairs, maintenance and renewals under clause (f).

II. Of the cost of production of electricity at a generating station ascertained in accordance with the Eighth Schedule, the following costs, charges and allowances in respect of the year of account shall be allocated as "fixed costs", namely:-

(a) of the costs, charges and allowances set out in clause (a) of paragraph I of the said Schedule, portions calculated from the appropriate formulae set out in paragraph III;

(b) the whole of the costs, charges and allowances set out in the remaining clauses of paragraph I of the said Schedule.

III. The portion of the following costs, charges and allowances as fixed to be allocated costs shall be ascertained from the formula hereinafter set out against each, namely:-

(a) cost of fuel 100

$100+12.8L$

(b) cost of oil, water and stores 100

$100+9.66L$

(c) salaries and wages 100

$100+0.38L$

(d) cost of repairs, maintenance and renewals 100

$100+0.0001NL$

1.Subs. by Act 23 of 1978, sec. 25, for "officers and servants" (w.e.f 3-6-1978)

Where-

$1[L=$ the percentage average load of the station;]

$N=$ the number of hours during which the station was in commission in the year of account.

IV. The amount of the difference between the costs of production at a generating station ascertained in accordance with the Eighth Schedule and the fixed costs in respect of the year of account determined in accordance with this Schedule shall be allocated as "running costs".

V. The foregoing provisions of this Schedule shall not apply in any case where it is agreed between the Board and the owner of the station that the circumstances or conditions of operation in the station, whether temporary or continuing, are such that the said provisions ought not reasonably to be applied; and in such case the allocation between fixed costs and running costs shall be made in such manner as the Board and the said owner may agree.



The co-ordinate development of electricity in India on a regional basis is a matter of increasingly urgent Importance for post-war reconstruction and development. The absence of co-ordinated system, in which generation is concentrated in the most efficient unit and bulk supply of energy centralised under the direction and control of one authority is one of the factors that impedes the healthy and economical growth of electrical development in this country besides, it is becoming more and more apparent that if the benefits of electricity are to be extended to semi urban and rural areas in the most efficient and economical manner consistent with the needs of an entire region, the area of development must transcend the geographical limits of a Municipality, a Cantonment Board or a Notified Area Committee, as

the case may be, it has, therefore, become necessary that the appropriate Governments should be vested with the necessary legislative powers to link together under one control electrical development in contiguous areas, by the establishment of what is generally known as the "Grid-System". In the circumstances of this country such a system need not necessarily involve interconnection throughout the length and breadth of a Province; regional co-ordination inclusive of some measure of inter-connection may be all that is needed. An essential pre-requisite is, however, the acquisition of necessary legislative power not only to facilitate the establishment of this system in newly licensed areas but also to control the operations, of existing licensees so as to secure fully co-ordinate development.

Government feel that it is not possible to legislate for this purpose within the framework of the Indian Electricity Act, 1910, which was conceived for a very different purpose. In their view what is needed is specific legislation on the broad lines of the Electricity (Supply) Act, 1926, in force in the United Kingdom, which will enable provincial Governments to set up suitable organizations to work out "Grid Schemes" within the territorial limits of the Provinces. Although executive power under the proposed Bill will necessarily vest in the Provinces, two considerations indicate the necessity for central legislation,-

(i) the need for uniformity in the organization and development of the "Grid System", and

(ii) the necessity for the Constitution of semi-autonomous bodies like Electricity boards to administer the "Grid Systems". In the view of Government it is bodies like these which are likely to be the most, suitable organizations for working the Grid Systems on quasi-commercial lines. Such Boards cannot, however, be set up by Provincial Governments under the existing Constitutional Act as they would be in the nature of trading corporations within the meaning of Entry 33 of the Federal Legislative List.

ACT 54 OF 1948

The Electricity (Supply) Bill, 1948 was passed by the Central Legislature and received its assent on 10th September, 1948. It came on the Statute Book as THE ELECTRICITY (SUPPLY) ACT, 1948 (54 of 1948).

LIST OF AMENDING ACTS AND ADAPTATION ORDER

1. The Electricity (Supply) Amendment Act, 1949 (57 of 1949).
2. The Adaptation of Laws Order, 1950.
3. The Part B State (Laws) Act, 1951 (3 of 1951).
4. The Electricity (Supply) Amendment Act, 1956 (101 of 1956).
5. The Indian Electricity (Amendment) Act, 1959 (32 of 1959).
6. The Electricity (Supply) Amendment Act, 1962 (44 of 1962).
7. The Electricity (Supply) Amendment Act, 1966 (30 of 1966).
8. The Electricity (Supply) Amendment Act, 1976 (115 of 1976).
9. The Electricity (Supply) Amendment Act, 1978 (23 of 1978).

10. The Electricity (Supply) Amendment Act, 1983 (16 of 1983).
11. The Delegated Legislation Provisions (Amendment) Act, 1983 (20 of 1983).
12. The Electricity (Supply) Amendment Act, 1984 (48 of 1984).
13. The Repealing and Amendment Act, 1988 (19 of 1988).
14. The Electricity laws (Amendment) Act, 1991 (50 of 1991).
15. The Electricity Laws (Amendment) Act, 1998 (22 of I 1998).

THE ELECTRICITY (SUPPLY) ACT, 1948 (54 of 1958) [10th September, 1948]

An act to provide for the rationalisation of the production and supply of electricity, and generally for taking measure conducive to 2[electrical development].

WHEREAS It IS expedient to provide for the rationalisation of the production and supply of electricity, for taking measures conducive to 2[electrical development] and for all matters incidental thereto;

It is hereby enacted as follows:-

CHAPTER I - INTRODUCTORY

1. Short title, extent and commencement.- (1) This Act may be called the Electricity (Supply) Act, 1948.

(2) It extends to the whole of India 2[except the State of Jammu and Kashmir].

4[(3) This section and 2, 3, 4, 4A, 4B, 4C, 15A, 18A, 26A, 28 to 34 (both Inclusive), sub-section (2) of section 39, section 42, sub-section (3) of section 43 and section 57, 57A, 57B, 75A, 76, 77, 77A, 77B, 77C, 82 and 83 and the provisions of the 5[Sixth schedule] shall come Into force at once.]

(4) The remaining provisions of this Act shall come into force in a State on such date, not later than two years from the coming into force of the sections, Schedule and Table mentioned in sub-section (3), as the State Government may, by notification in the Official Gazette, appoint:

Provided that the Central Government may respects any State extend the said period of two years and in such event the remaining provisions of the Act shall come into force in that State on such date, not later than the extended period, as the State Government may, by notification in the Official Gazette, appoint. 6[(5) Notwithstanding anything contained in sub-section (4),-

(a) where any provision of this Act, to which sub-section (4) applies, is in force in any State immediately before the commencement of the Electricity.

1. For Statement of Object and Reasons, see Gazette of India, 1947, Pt. V, p. 514, and for Report of select committee see Gazette of India, 1948, pp. 201-203.

The Act has been extended to Dadra and Nagar Haveli by Reg. 6 of 1963, sec. 2 and Sch. 2, 1 (w.e.f. 1-7-1965).

2. Subs. by the A. O. 1950 for "the electrical development of the provinces of India".

3. Subs. by Act 3 of 1951, sec. 3 and Sch., for "except Part B states".

4. Subs. by Act 101 of 1956, sec. 2 (w.e.f. 30-12-1956) and again subs. by Act 115 of 1976, sec. 2, for sub-section (3) (w.r.e.f. 8-10-1976).

5. Subs. by Act 23 of 1978, sec. 2, for "sixth and seventh Schedules". (w.e.f. 3-6-1978).

6. Ins. by Act 23 of 1978, sec. 2 (w.e.f. 3-6-1978).

(Supply) Amendment Act, 1978 (23 of 1978), that provision as amended by the Electricity (Supply) Amendment Act, 1978 (23 of 1978), shall on and from such commencement, be in force in that State.

(b) the provisions of this Act, to which sub-section (4) applies, which are not in force in any State on the commencement of the Electricity (Supply) Amendment Act, 1978 (23 of 1978), shall come into force in that State on such date as the State Government may, with the concurrence of the Central Government, by notification in the Official Gazette, appoint.]

2. Interpretation.- In the Act, unless there is anything repugnant in the subject context,-

(1) "Authority" means the Central Electricity Authority constituted under section 3;

(2) "Board" means a State Electricity Board constituted under section 5;

(3) "bulk- licensee" means a licensee who is authorized by his licensee to supply electricity to other licensees for distribution by them.;

1[(3A) "competent government" means the Central Government in respect of a Generating Company wholly or partly owned by it and in all other cases The Government of the state in which the generating station of a Generating Company is Located or proposed to be located;

(4) "controlled station" means a generating station designated in a scheme sanctioned under Chapter V as a controlled station;

2[(4A) "Generating Company" means a company registered under the companies Act 1956(1 of 1956) and which has among its objects the establishment operation and maintenance of generating stations;

(5) "generating station" or "station" means any station for generating electricity, include any building and plant 3[(with step-up transformer, switch-gear, cable, or other appurtenant equipment, if any)] used for that purpose and the site thereof, a site intended to be used for

a generating station, and any buildings used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any such-station 4[***];

(6) "licensee" means a person licensed under Part II of the Indian Electricity Act, 1910 (9 of 1910) to supply energy or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying energy 5[but, the provisions of section 26, or 26A of this Act notwithstanding, does not include the Board or a Generating Company];

1. Ins. by Act 50 of 1991, sec. 3 (w.e.f. 15-10-1991).

2. Clause (4a) ins. By Act 115 of 1976 sec. 2 (w.r.e.f. 8-10-1976) and subs. by Act 50 of 1991, sec. 3 (w.e.f. 15-10-1991).

3. Ins. by Act 115 of 1976, sec. 3 (w.r.e.f. 8-10-1976).

4. The word "for transforming, converting or distributing electricity" omitted by Act 115 of 1976, sec. 3 (w.r.e.f. 8-10-1976).

5. Subs. By Act 115 of 1976, sec. 3, for " but , the provision of section 26 of this Act notwithstanding does not include the Board" (w.r.e.f. 8-10-1976).

(7) "main transmission lines" means all high pressure cables and over-head lines (not being an essential part of the distribution system of licensee) transmitting electricity from a generating station to another generating station or to a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers , switch-gear and other works and the operating staff thereof; 1[(8) "maximum demand" means all relation to any period shall, unless otherwise provided in any general or special order of the state government, mean twice the largest number of kilowatt-hours or kilo-volt-ampere-hours supplied and taken during any consecutive thirty minutes in that period;]

2[(8A) " power system" means all aspects of generation, transmission, distribution and supply of energy; and includes the following or any combination thereof

(a) generating stations;

(b) transmission or main transmission lines;

(c) sub-stations;

(d) tie-lines;

(e) load dispatch activities;

(f) mains or distributions mains;

(g) electric supply-lines;

(h) overhead lines;

(i) service lines;

(j) works;]

(9) "prescribed" means prescribed by rules 3[made under this Act];

4[(9A) "Regional Electricity Board" means a Board constituted by resolution of the Central Government for a specified region for facilitating the integrated operation of the power systems in that region;

(9B) "Regional Load Dispatch Center" means the Center so designated for a specified region where the operation of the power system in that region and the integration of the power system with other regions and areas (within the territory of India or outside) are co-ordinated;]

5[(9C) "State Load Dispatch Center", in relation to a State, means the Center so designated where the operation of the power system in that State and integration of such State power system with other power system are co-ordinated ;]

1. Subs. by Act 101 of 1956, sec. 3, for clause (8) (w.e.f. 30-12-1956)

2. Clause (8A) ins. by Act 115 of 1976, sec. 3 (w.r.e.f. 8-10-1976) and subs by Act 22 of 1998, sec 9(w.e.f. 31-12-1998)

3. Subs by Act 115 of 1976, sec. 3, for "made under section 78" (w.r.e.f. 8-10-1976).

4. Clauses (9A) and (9B) Ins by Act 50 of 1991, sec 3 (w.e.f. 15-10-1991) and subs by Act 22 of 1998, sec 9 (w.e.f. 31-12-1998)

5. Clause (9c) Ins. by Act 22 1998, sec 9 (w.e.f. 31-12-1998)

(10) "regulations" means regulations made by the Board under section 79;

(11) "Reserve Bank" means the Reserve Bank of India;

1[(11A)"sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, convectors, switch-gear, capacitors, synchronous condensers, structures, cables and other appurtenant equipments and any buildings used for that purpose and the site thereof, a site intended to be used for any such purpose and any buildings used for housing the staff of the sub-station;

(11 B) "tie-line" means a line for the transfer of electricity between two, power systems together with switch-gear and other works necessary to, and used for, the control of such line;]

2[(12) "transmission lines" means all works mentioned in sub-section (7) used wholly or partially for the purposes of distribution or transmission of energy;]

(13) "year" means, in relation to the Board '[or a Generating Company], the year commencing on the 1st day of April;

(14) "year of account" means, in relation to a licensee, his financial year;

(15) other expressions have the meanings respectively assigned to them in the Indian Electricity Act, 1910 (9 of 1910).

CHAPTER II - THE CENTRAL ELECTRICITY AUTHORITY

3. Constitution of the Central Electricity Authority.- (1) The Central Government shall constitute a body called the Central Electricity Authority generally to exercise such functions and perform such duties under the Act and in such manner as the Central Government may prescribe or direct, and in particular to

(i) develop a sound, adequate and uniform national power policy, 3[formulate short-term and perspective plans for power development and co-ordinate the activities of the planning agencies] in relation to the control and utilisation of national power resources;

(ii) act as arbitrators in matters arising between the State Government or the Board and a licensee or other person as provided in this Act;

4[(ii) collect and record the data concerning the generation, distribution and utilisation of power and carry out studies relating to cost, efficiency, losses, benefits and such like matters;]

(iv) make public from time to time information secured under this Act and to provide for the publication of reports and investigations;

5[(v) advise any State Government, Board, Generating Company or other agency

1. Ins by Act 115 of 1976, sec 3 (w.r.e.f. 8-10-1976) .

2. Subs by Act 22 of 1998, sec 9 (w.e.f. 31-12-1998).

3. Subs by Act 115 of J 976, sec. 4, for "and particularly to co-ordinate the activities of the agencies" (w.r.e.f. 8-10-1976)

4. Subs by Act 115 of 1976, sec 4, for clause (iii) (w.r.e.f. 8-10-1976) .

5. Ins by Act of 1976, sec 4 (w.r.e.f.s 8-10-1976).engaged in the generation or supply of electricity on such matters as will enable such government, Board, Generating Company or agency to operate and maintain the power system under its ownership or control in an improved manner and, where necessary, in co-ordination with any other government, Board, Generation company or other agency owning or having the control of another power system

(vi) promote and assist in the the timely completion of schemes sanctioned under Chapter V,

(vii) make arrangements for advancing the skill of persons in the generation and supply of electricity;

(viii) carry out, or make arrangements for, any investigation for the purpose of generating or transmitting electricity;

(ix) promote research in matters affecting the generation, transmission and supply of electricity;

(x) advise the Central Government on any matter on which its advice is sought is make recommendation to that Government on any matter if, in the opinion of the Authority, the recommendation would help in Improving the generation, distribution and utilisation of electricity; and

(xi) discharge such other functions as may be entrusted to it by or under any other law]

(2) The Authority shall consist of 1[not more than fourteen members of whom not more than eight shall be full-time members] appointed by the Central Government 2[***]

3[(2A) A full-time member shall be a person who has experience of, and has shown capacity in,-

(a) design, construction, operation and maintenance of generating stations;

(b) transmission and supply of electricity;

(c) applied research in the field of electricity;

(d) applied economics, or

(e) industrial, commercial or financial matters.]

(3)The central Government shall appoint 4[one of the full-time members] to be the chairman of

the Authority.

(4) All the members of the Authority shall hold office during the pleasure of the central Government.

3[(4A) The Chairman of the Authority and the other full-time members shall receive such salary and allowances as may be determined by the Central Government and

1. Subs, by Act 115 of 1976, sec. 4, for "not more than six members" (w.r.e.f. 8-10-1976)

2. The words "of whom at least three shall be the full-time members" omitted by Act 57 of 1949, sec 3

3. Ins by Act 115, of 1976, sec 4 (w.r.e.f. 8-10-1976)

4. Subs by 115 of 1976, sec. 4, for "one of the members" (w.r.e.f. 8-10-1976)

the other members shall receive such allowances and fees for attending the meetings of the Authority, as the Central Government may prescribe (4B) The other terms and conditions of service of the members of the Authority [including, subject to the provisions of sub-section (4), their terms of office] shall be such as the Central Government may prescribe.]

(5) No full-time member of the Authority shall '[have any share or interest for his own benefit, whether in his own name or otherwise,] in any company or other body corporate or an association of persons (whether incorporated or not). or a firm engaged In the business of supplying electrical energy or 2[fuel, in whatever form. for the generation of electricity or in

the manufacture of electrical equipment].

(6) The Authority may appoint a Secretary and such other officers and 3[employees] as it considers necessary for the performance of its functions under this Act on such terms as to salary, remuneration, fee, allowance, pension, leave and gratuity, as the Authority may, in consultation with the Central Government, fix:

Provided that the appointment of the Secretary shall be subject to the approval of the Central Government.

4[(7) The Chairman of the Authority may, by order, appoint any two or more members of the Authority to act on behalf of the Authority in relation to any matter referred to in clause (ii) of sub-section (1).

(8) No act or proceeding of the Authority shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, the Authority.]

4. Power to require accounts, statistics and returns.- It shall be the duty of each 5[State Electricity Board, Generating Company,] State Government Electricity Department or other licensee or person supplying electricity for public or private purposes, or generating electricity for its or his own use 5[or consuming electricity] to furnish 10 the Authority such accounts, statistics, 7[returns or other information] relating to the generation supply and use of electricity as it may require and at such times and in such form and manner as it may direct.

8[4A. Direction by Central Government to the Authority .-{1) In the discharge of Its functions, the Authority shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing.

(2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Central Government thereon shall be final.

1. Subs by Act 115 of 1916, sec 4. for "be directly or indirectly concerned or Interested In or have any share or interest" (w.r.e.f. 8-10-1976)

2. Subs by Act 115 of 1916, sec 4. for "fuel, solid or liquid, for the generation of electricity" (w.r.e.f. 8-10-1976)

3. Subs by Act 23 of 1978, sec 3 for "servants" (w.e.f. 3-6- 1978)

4. Subs by Act 115 of 1976, sec 4. for sub-section (7) (w.r.e.f. 8-10-1976)

5. Subs by Act 115 of 1976, sec 5, for "State Electricity Board" (w.r.e.f. 8-10-1976)

6. Ins by Act 115 of 1976, sec 5, (w.r.e.f. 8-10-1976)

7. Subs by Act 115 of 1976, sec 5, for "and returns" (w.r.e.f. 8-10-1976)

8. Sections 4A, 4B and 4C ins. by Act 115 of 1976, sec 6 (w.r.e.f. 8-10-1976)

48. Power of Central Government to make rule. -(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Charter.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely'-

(a) the functions and duties of the Authority and the manner in which such functions and duties shall be exercised and performed, under sub-section (1) of section 3;

(b) the terms and conditions of service of the Chairman and other members of the Authority (including the allowances and fees payable to members, but not including the salaries and allowances payable to the Chairman and other full-time members, of the Authority) under sub-section (4A) and sub-section (48) of section 3;

(c) any other matter which is required to be, or may be. prescribed by the Central Government,

(3) Every rule made by the Central Government under this Chapter shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session Immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

4C. Power of Authority to make regulation.-1[(1)] The Authority may 2[by notification in the Official Gazette,] make regulations, not inconsistent with the provisions of this Act and the rules made by the Central Government there under, to provide for all or any of the following matters, namely:-

(a) summoning and holding of meetings of the Authority, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members required to constitute a quorum;

(b) any other matter arising out of the functions of the Authority under this Act for which it IS necessary or expedient to make regulations,]

2[(2) The Central Government shall cause every regulation made under this section to be laid, as soon as after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree In making any modification in the regulation, or both Houses agree that the regulation should not he made, the regulation shall thereafter have effect only In such modified

1. Section 4C re-numbered as sub-section (I) thereof by Act 20 of 1983, sec 2 and Sec. (w.e.f. 15-19841)

2. Ins. By Act 20 of 1983 ,sec 2 and Sch.(w.e.f. 15-3-1984)

Form or to be of no effect the case may he; so, however, that any such modification or annulment shall be without prejudice to the Validity of anything previously done under the regulation.]

CHAPTER III - 1[STATE ELECTRICITY BOARDS, GENERATING COMPANIES, STATE ELECTRICITY CONSULTATIVE COUNCILS AND LOCAL, ADVISORY COMMITTEES]

5. Constitution and composition or State Electricity Boards. -(1) The State government shall as soon as may be after the issue of the notification under sub-section(4)of section 1, constitute by notification in the official Gazette a State Electricity Board under Such name as Shall be specified in the notification .

(2) The Board shall consist of not less than three and not more than seven members appointed by the State Government.

2[***]

3[(4) of the members

(a) one shall be a person who has experience of, and has shown capacity I.

Commercial matters and administration;

(b) one shall be an electronic engineer with wide experience: and

(c) one shall be a person who has experience of accounting and financial matters in a public utility undertaking, preferably an electricity supply undertaking:

(5) one of the members possessing any of the qualifications specified in sub-section (4) shall be appointed by the State Government to be the Chairman of the Board.

(6) A person shall be disqualified from being appointed or being a member of the board if he is 4[***] a member of 5[Parliament] or of any State Legislature or any local authority.

(7) No Act done by the board shall be called in question on the ground only of the existence of any vacancy in or any defects in the constitution of the Board.

6. Inter-State agreement to extend Board's jurisdiction to another State.-(1).Subject to the provision of this section , the Government of and State may, after It has issued a notification under sub-section (4) of section 1. In lieu of constituting a Board continued for a latter state with the Government of a contiguous State to provide that the board constituted for the latter state Shall exercise the function of the board under this Act in the former state.

(2) Subject to such modifications- (being of a character not affecting the general operation of the agreement) of the terms of the agreement as may from time to time be agreed upon by the State Government concerned, an agreement entered into under

1. Subs. by Act 115 of 1976 ,sec. 7.for "STATE ELECTRICITY BOARDS"(w.r.e.f. 8-10-1976) .

2. Sub-section (3) omitted by act 57 of 1949,sec. 4.

3. Subs by act 101 of 1956,sec. 4,for sub-section (4)(w.r.e.f. 8-10-1976)

4. The words "or within the twelve months last preceding was:' omitted by Act 30 of 1966

,sec. 2 (W.e.f. 16-9-1966)

5. Subs. By the A.O. 1950 for "the Central" this section shall be for a period of not less than twenty-five years but may be determined earlier by mutual consent

(3) An agreement under this section may-

(a) make such financial arrangements between the participating State Government" as may be necessary for the purposes of the agreement;

(b) provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this Act;

(c) generally make such incidental, supplementary or ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

7. Effect of Inter-State agreement,-Where an agreement is entered into under section 6, the participating State Governments shall, by notification in the Official Gazette, declare a date on which the agreement shall come into force, and on and after that date-

(a) the Board constituted for the one State shall have all the powers and duties of a Board under this Act in respect of both States as if they constituted a single State:

1[(b) reference in this Act to-

(i) the State ,

(ii) the State Electricity Consultative Council, and

(iii) the State Legislature, shall, unless the context otherwise requires, be construed as references respectively to

(A) both States,

(B) where more than one State Electricity Consultative Council has been constituted under section 16, to all such Councils, and

(C) the Legislatures both States,]

(c) the provisions of section 60 in relation to the assumption by the Board of the rights and liabilities of the State Government arising before the first constitution of the Board shall apply to the assumption by the Board of the rights and liabilities of the Government of the State to which the exercise of its function under this Act is extended under the agreement, as if in that section for the words "before the first constitution of the Board" there were substituted the words and figure "before the date on which the agreement under section 6 came into force".

2[**8. Term or office and conditions for re-appointment of members of the Board.** The Chairman and other members of the Board shall hold office for such period, and shall be eligible for re-appointment under such conditions, as may be prescribed .]

1. Subs. By Act 30 of 1966 sec. 3 for clause (b) (w.e.f. 16-9-1966)

2. Subs. By Act 57 ,sec. 5 ,for section 8

9. Members not to hold interest in certain concerns.-(1) A member of the Board shall, prior to his appointment. give to the State Government intimation of, and shall ,prior appointment ,give the state government intimation of and shall before taking charge of this office sell or divest himself of , any interest which he may have for his own benefit whether in his own name or otherwise, in any firm or company carrying on the business of supplying electricity or any fuel for the generation of electricity, or of the manufacture, sale or hire of machinery, plant, equipment apparatus or fittings for the generation, transmission, distribution or use of electricity, or any interest in the managing agency or shares or securities of any such company and it shall not be lawful for a member of the Board, so long as he holds office, to acquire or purchase any such interest in any such firm or company and if he, under any will or by succession or gift become, entitled for his own benefit to any such interest, he shall sell the same within three months after becoming so entitled there and he shall also, within three months, sever any connection he may have and cease to have and cease to have any interest, direct or indirect, in any such concern.

(2) Nothing contained in sub-section (1) shall prevent a member from acquiring or holding any share or interest and in ant firm or company other then the firm or company mentioned in sub-section (1):

Provided that if the Board has entered into, or is about to enter into any contract or agreement with any such firm or company in which a member holds any share or interest, he shall disclose the fact and nature of such interest and he shall not be entitle to vote on any design of the board relating to such contract agreement.

(3) A discloser referred to in the proviso to sub-section (2) shall forthwith be recorded in the minutes of the board and communicated to the State Government and the State Government may thereupon give such directions as it may deem proper.

10. Removal or suspension of members.-1[(1)] The State Government may suspend from office for such period as it thinks fit or remove from office any member of the board who -

(a) is found to be lunatic or becomes of unsound mind ;or

(b) is adjudged insolvent; or

(c) fails to company with the provision of section 9 ;or

(d) becomes or seeks to become a member of :[Parliament] Legislature or any local authority: or

(e) In the Opinion of the State Government-

(i) has refused to act; or

(ii) has become incapable of acting; or

(ii) has so abused his position as a member as to render has continuous Board detrimental to the interests of the general public: or

(iv) is otherwise unfit to continue as a member; or]

(f) is convicted of an offence involving moral turpitude.

1. Section 10 re-numbered as sub-section (1) therefore by act 101 of 1956 ,sec. 5 (w.e.f. 30-12-1956)

2. Subs by the A.O. 1950, for "the Central"

3. Subs by Act 101 of 1956, sec. 5 ,for clause (e)(w.e.f. 30-12-1956),

1[(2) The State Government may suspend any member pending an inquiry against him.

(3) No order of removal shall be made under this section unless the member concerned has been given an opportunity to submit his explanation to the State government, and when such order is passed, the seat of the member removed shall become vacant and another member may be appointed under section 5 to fill up the vacancy.

(4) A member who has been removed shall not be eligible for re-appointment as member or in any other capacity of the board.

(5) if the Board fails to carry out its functions, or refuses or fails to follow the directions issued by the State government under this Act, the State Government may remove the Chairman and the members of the Board and appoint a Chairman and members in their places,]

2[10A. Power of State Government to declare certain transactions void.-(1) The State Government may declare void any transaction in connection with which a member has been removed under sub-clause (iii) of clause (e) of sub-section(1) of section 10 after considering the report on the facts of the case made to it by a District Judge nominated by it in this behalf.

(2) A district Judge nominated under sub-section (1) shall, before making his report under that sub-section to the state government, give all the parties interested in the transaction a reasonable opportunity of being heard.

(3) Where a transaction is declared void under this section. It shall not be enforceable by any party to the transaction but the provisions of section 65 of the Indian Contract Act, 1872, shall so far as may be, apply to such transaction as they apply to an agreement which is discovered to be void or a contract which becomes void.

(4) The decision of the State Government declaring any transaction void under this section shall be final and shall not be called in question in any court.

11, Temporary absence of members.-If the Chairman or any other member of the Board is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of this appointment, the State Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

12. Incorporation of Board.- The Board shall be a body corporate by the name notified under sub-section (1) of section 5, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued

3[12A. Board may have capital structure.-(1) The State Government may, If it consider expedient so to do, by notification in the Official Gazette, direct that the Board shall. with effect from such date as may be specified in the notification, be a body corporate with such capital, not exceeding ten corers of rupees, as Government may specify from time to time.

1.Ins by All act 101 of 1956 ,sec. 5 (w.e.f. 30-12-1956)

2.Ins by All 101 of 1956. sec 6 (w.e.f .30-12-I956)

3.Ins by Act 23 of 1978,. sec 4 (w.e..r. 3-6-1978)

(2) The State Government may, from time to time, with the approval of Legislature, increase the maximum limit of the capital referred to in sub-section (1) to such extent as that Government may deem fit, so, however, that the increased limit of capital aforesaid shall not exceed the amount representing the age the outstanding loans of the Board.

(3) Such capital may be provided by the State Government, from time to t due appropriation made by the State Legislature by law for the purpose ar to such terms and conditions as may be determined by that Government.]

13. Authentication or orders and other instruments or the Board.- and decisions of the Board shall be authenticated by the signature of the , or any other member authorized by the Board in this behalf, and all other in issued by the Board shall be authenticated by the signature of such member of the Board as may in like manner be authorized in this behalf.

COMMENTS

In the face of note circulated by the Chainman to the members for approval of a tariff, receiving the consent of the members followed by the ratification of revision o the Board in an emergency meeting, such revision of thrift cannot be challenged on t that the procedure under sections 13 and 14 was not followed; *Ferro Alloy Corpn.v.A.P.S.E. Board*, AIR 1993 AP 183.

14. Meetings or the Board.-(1) The Board shall hold ordinary meeting intervals as may be provided in the regulations; and a meeting may be corn the Chairman at any other time for the transaction of urgent business.

(2) The number of members necessary to constitute a quorum at a meet be such as may be provided in the regulations.

15. Appointment or start.- The Board may appoint a Secretary and such other officers and 1[employees] as may be required to enable the Board to carry out its functions under this Act:

2[Provided that the appointment of the Secretary shall be subject to the approval of the State Government.]

COMMENTS

So far as the other staff(excluding Secretary) is concerned, it lies with the Board to make appointment of all the officers and employees as may be required to enable the Board out its functions, with total immunity to necessity of the State Government's approval/directions in that behalf. It is only the appointment of the Secretary which is subject to the State

Government's approval, by virtue of proviso to this section; *Rakesh Ranjan Verma v. State of Bihar*, AIR SC 1992 SC 1348.

3[15A. 4[*] Objects, jurisdiction, etc., or Generating Companies.-5[***]**

1. Subs by Act 23 of 1978, sec. 5, for "servants." (w.e.f. 3-6-1978).
2. Ins by Act 101 of 1956, sec. 7 (w.e.f. 30-12-1956).
3. Ins by Act 115 of 1976. sec 8 (w.r.e.f 8-10-1976).
4. The word ."Formation" omitted by Act 50 of 1991, sec. 4 (w.e.f. 15-10-1991).
5. Sub-section (1) omitted by Act 50 of 1991, sec. 4 (w.e.f. 15-10-1991).

1[(2) The objects of a Generating Company shall include

(a) establishment, operation, and maintenance of generating stations and tie-lines, sub-stations and main transmission lines connected therewith;

(b) operation and maintenance of such generating stations, tie-lines, sub-stations and main transmission lines as assigned to it by the competent government or governments.

(3) The Generating Company shall carry on its activities with in such areas as the competent government or governments, as the case may be, may, from time to time, specify in this behalf.]

2[***]

(5) A full-time member of the Board of Directors of a Generating Company shall be a person who has experience of, and has shown capacity in,

(a) design, construction, operation and maintenance of generating stations;

(b) transmission and supply of electricity;

(c) applied economics;

(d) organizing workers;

(e) industrial, commercial or financial matters; or

(f) administration in a Government Department or other establishment.

2[***]

2[***]

16.State Electricity Consultative Council.-(1) The State Government shall constitute a 3[State Electricity Consultative Council] for the State, and in cases to which section 6 and 7 apply, the State Governments concerned shall constitute such one or more 3[State Electricity Consultative Council] or Councils and for such areas as they may by agreement determine.

(2) The 3[State Electricity Consultative Council] shall consist of 4[the members of the Board and, if there are any Generating Company or Generating Companies operating in the State, one representative of the Generating Company or each of the Generating Companies, to be nominated by the Generating Company concerned,] and such other persons being not less than 5[eight] and not more than fifteen as the State Government or the State Governments concerned may appoint after consultation with such representative or bodies representative of the following interests as the State Government or the state governments concerned thinks or think fit, that is to say, local self-government, electricity supply industry, commerce, industry, transport, agriculture, 6[labour employed in the electricity supply industry and consumers of electricity], but so that there shall be at least one member representing each such interest in the Council.

1. Subs by Act 50 of 1991, sec. 5, for sub-sections (2) and (3) (w.e.f. 15-10-1991).
2. Subs-sections (4),(6) and (7) omitted by Act 50 of 1991, sec.4 (w.e.f. 15-10-1991).
3. Subs. by Act 101 of 1956, sec. 8 for "State Electricity Council" (w.e.f 30-12-1956).
4. Subs. by Act 115 of 1976,sec. 9 for "the members of Board" (w.r.e.f. 8-10-1976).
5. Subs. by Act 20 of 1966,sec. 4 for "seven" (w.e.f. 16-9-1976).
6. Subs. by Act 101 of 1956,sec. 8 for "and labour employed in the electricity supply industry " (w.e.f. 30-12-1956).

(3) The Chairman of the Board shall be *ex officio* Chairman of the 1[State Electricity Consultative Council].

(4) The 1[State Electricity Consultative Council] shall meet at least meet once in a three months.

(5) The functions of the 1[State Electricity Consultative Council] shall be as follows:-

(i) to advise 2[the Board and the Generating Company or Generating Companies, if any, operating in the State] on major questions of the policy and major schemes;

(ii) to review the progress and the work of 2[the Board and the Generating Company or Generating Companies, if any, operating in the State] from time to time;

(iii) to consider such other matters as 2 Board and the Generating Company or Generating Companies, if any, operating in the State] may place before it; and

(iv) to consider such matters as the State Government may by rules prescribe.

3[(6) The Board shall place before the State Electricity Consultative Council the annual financial statement and supplementary statement, if any, and shall take into consideration and comments made on such statement in the said Council before submitting the same to the State Government under section 61.]

COMMENTS

Failure to seek advice of the Consultative Council before revision of the tariffs does not result

in invalidation of the revised tariffs, since the consequences of non-compliance of this section is not provided and the nature of function of the Consultative Council and the force of its advice is at best only persuasive; *Hindustan Zinc Ltd. v. A.P.S.E. Board*, AIR 1991 SC 1473.

17, Local Advisory Committee.-(1) The State Government may from time to time constitute for such areas as it may determine Local Advisory Committees, consisting of such number of persons as it may think fit in each case and on such terms and conditions as may be prescribed.

(2) The Board may if it thinks fit consult the Local Advisory Committees concerned on any business coming before it, and shall so do in respect of such business as the State Government may by general or special order in this behalf specify or when required by the regulation so to do.

(3) The Chairman of the Board or such other member of the Board as he may nominate in this behalf shall *ex officio* Chairman of a Local Advisory Committee.

(4) Local Advisory Committees shall meet at such intervals as may be prescribed, and for the transaction of urgent business on such other occasions as the Chairman of the board may require.

1. Subs. by Act 101 of 1956, sec. 8 for "State Electricity Council" (w.e.f 30-12-1956).

2. Subs. by Act 115 of 1976, sec. 9 for "the Board" (w.r.e.f. 8-10-1976).

3. Subs. by Act 20 of 1966, sec. 4 for sub-section (6) (w.e.f. 16-9-1966).

(5) The number of members necessary to constitute a quorum at a meeting of a Local Adversity Comity shall be such as the State Government when constituting the Committee may specify.

CHAPTER IV - POWERS AND DUTIES OF 1[STATE ELECTRICTY BOARDS AND GENERATING COMPANIES]

2[18.General Duties of the Board. - Subject to the provisions of this Act ,the Board shall be charged with the following general duties ,namely:-

(a) to arrange ,in co-ordination with the Generating Company or Generating companies. if any. operating in the Stale. for the supply of electricity that may be required within the Stale and for the transaction and distribution of the same In the most efficient and economical manner with particular reference to those areas which are not for the lime being supplied for adequately .supplied with electricity;

(b) supply elect city as soon as practicable to a licensee or other person requiring such supply if the Board is competent under this Act so to do:

(c)to exercise such control in relation to the generation, distribution and utilization of electricity within the State of the as is provided for by or under this Act.

(d) to collect the data on demand for and the use of, electricity and to formulate perspective plans in co-ordination with the Generating Company or Generating Companies, If any, operating in the State. for the generation. Transition and supply of the electricity within the State.

(e) to prepare and carry out schemes for transmission. distribution and generally to promoting the use of electricity within the State: and

(f) to operate the generating station under its control in to co-ordination with the Generating Company or Generating Companies to ,if any, operation in the State and within the Government or or any Board or agency having control over a power system.]

COMMENTS

By virtue of sub-sections (a) and (e) of this section ,the board shall be chard with the duties, inter alia ,to arrange for supply of the electricity that may be required within the state and for the transmission and distribution of the same into the most efficient and economical manner with particular reference to those areas which are not for the time being supply or adequately supply within the electricity and prepare and carryout scheme for transmission, distribution and generally to promoting the use of electricity within the State ,*Eastern U.p. Chamber of Commerce and industry v. U.P. State electricity Board* ,AIR 1993 All 309.

3[18a .Duties of Generating Companies .-(1) Subject to the provision of this act ,a Generating Company Shall be Charged with the following duties, namely:-

1.Subs by Act 115 of 1976 ,sec for "STATE ELECTRICITY BOARDS"(w.r.e.f. 8-10-1976)

2. Subs by Act 115 of 1976sec. 11 ,for section 18 (w.r.e.f. 8-10-1976)

3. Ins. By Act 115 of 1976 ,sec. 11(w.r.e.f. 8-10-1976)

(a) to establish ,operate and maintain such generating sections and tie-lines ,sub-sections and main transmission line, connected therewith. a, may be required to be established by the 1[competent government or governments]in the relation to the Generating Company;

(b) to operate and maintain in the most efficient and economical manner the generating stations and main transmission lines, assigned to it by the Board or Boards ,as the case may be and the government or agency having control over the power system, if any, connected therewith; and

(c) to carry out ,subject to the provisions of section 21,detailed investigations and prepare scheme ,in co-

ordination with the Board or Boards ,as the case may be ,for establishing generating station and tie lines, sub-stations ,in such a manner as maybe specified by the Authority.

(2) Without prejudice to the generality of its duties under section 18,the Board shall, until a generating company begins to operate in any State, perform the duties of a generating company under this section in this State.]

19. Powers of the Board to supply electricity ,-(1) The Board may subject to the previous of this act ,supply electricity to any license or personal requiring such supply in any area in which a scheme sanctioned under chapter V is enforce:

Provide that the Board shall not-

(a) Supply electricity for any purpose to any licensee for use in any part of the area of the supply of a bulk-licensee without the consent of the bulk licensee, unless the licensee to be supplied has an absolute right of veto of any right of the bulk-licensee to supply electricity for such purpose in the said part of such area, or unless the bulk-licensee is unable or unwilling to supply electricity for the such purpose in the said part of such area on the responsible terms and conditions and within a responsible time, or

(b) Supply electricity for any purpose to any person, not being a licensee for use in any part of the area of the supply of a license with out the constant of the license, unless-

(i) the actual effective capacity of the Lessee's generating station computed in accordance with paragraph IX of the First Schedule .It the time when such supply was required was less than twice the maximum demand ask for by any such person; or

(ii) the maximum demand of the Lessee, being a distributing licensees and taking a supply of energy In bulk is, at the time of the request, less the twice the minimum demand asked for by any such person; or

(ill) the licensee is unable or unwilling to supply electricity for such purpose in the said part of such arera on responsible terms and conditions and within a responsible time .

1. Subs. By Act 50 of 1991 ,sec.5 for "promoting government or promoting governments"(w.e.f. 15-10-1991)

(2) After the Board has declared its intention to supply electricity for any purpose in any area for which purpose and in which area it is under this section competent to supply electricity no licensee shall, the provisions of his license notwithstanding, .It any time he entitled without the consent of the Board to supply electricity of that purpose In that area.

(3) For the purposes of sub-section (1)"absolute right of veto" means in unqualified right veto in a Licensee by virtue of any law, Licensee or other instrument whereby a bulk licensee is prevented from supplying electricity In any Specified area without the consent of the licensee in the licensee in the right of veto vests.

(4) if ant question arises under sub-section (1) as to the responsible ness of the terms or condition or time therein mentioned, it shall be determined 1[by arbitration] as provided in section 76.

20. Power to Board to engage in certain undertakings.-(1) The Board may, in accordance with any regulations made in this behalf, manufacture, purchase, sell or let on hire on the execution on the of a hire-purchase agreement or other wise , any electric machinery, control-gear, fittings wires or .apparatus for lighting. heating, cooling, if motive power or for any other purpose for which electricity can if city he used, or .my industrial or agricultural machinery operated by electricity, any may install, Connect, repair. maintain if remove such fittings, wires apparatus. Machinery of control-gear and in respect thereof demand and take such remuneration or rents and charges and make such terms and conditions as it deems fit.

(2) The Board may maintain shops and show-rooms for the display, sale or hire of fitting, wires, apparatus and machinery as aforesaid, conduct displays, exhibitions ,and demonstration thereof ,and generally do all things , Including advertising, Incidental to the

sale and hire if such fittings, wires, apparatus and machinery and to the promotion and encouragement of the use of electricity.

(3) The Board shall show separately in its accounts moneys received and expended by it in connection with any undertakings in which it engages under this section.

2[20A. Leasing out generating stations.- The State Government may, In respect of any generating station owned by it (including transmission lines and other work, connected therewith) make arrangements with the Board or a Generating company for its operation and maintenance on such terms and conditions as may be agreed upon between the State Government and the Board or the Generating Company, as the case may be.]

21. Powers of Board in relation to water.power.-3[The Board or a Generating Company ,as the case may be ,]. with the previous approval of the State Government, take such measures as 4[in the opinion of the Board as the case may be,] are calculated to advance the development of water-power in the State. and may organize and carry out power and hydrometric[survey work and cause to be made such maps, plan, section, and estimates as are necessary for any of the said purposes 5[and in ,such manner as the Authority may, from time to time. Specify].

1. Ins. by Act 30 of 1966, sec. 5, (w.e.f. 16-9-1966).

2. Sections 20A ins. by Act 44 of 1962,sec 2 (w.e.f. 16-9-1962) and again subs. By Act 115 of 1976 .sec 12,(w.e.r.f. 8-10-1976).

3. Subs. by Act 115 of 1976,sec. 13 for "the Board may" (w.r.e.f. 8-10-1976).

4. Subs. by Act 115 of 1976,sec. 13 for "the in the opinion of the board " (w.r.e.f. 8-10-1976).

5. Subs. by Act 20 of 1966,sec. 13 (w.e.f. 16-9-1976).

Provided that where any such measures relate to a source of water-power al operated upon by a lenses under a licensee, the Board shall give the Licensee of such measure and an opportunity to be heard on any representations he may to desire to make in that behalf and may consider such representation.

22. Power to Board to conduct investigations.-Subject so far as the provisions of this section relate to eater -power to the previous approval of the State Govern the Board may at its own expense conduct such Investigations, experiments and .it think, fit for the improvement of the methods of transmission, distribution, supply of electricity or of the utilization of fuel. water-power or other means of eating electricity. and may establish and maintain laboratories for the testing standardization of electrical instruments and equipment.

23. Loans by Board to licensees.-(1) Subject to any regulations made in this behalf . the Hoard may grant advances to any licensee for the purposes Undertaking on such terms as the Board thinks proper.

(2) The Board in the discharge of Its functions may call upon a licensee to expand his undertaking and offer to advance to him a loan on such terms and conflate It may deem proper for such expansion. and if the licensee refuses. falls or neglect to accept the Board on the terms and conditions offered or to employ his own funds 1[***] for purposes of such exp and to carry out such expansion. the Board may. after giving the licensee six months is

writing. purchase his undertaking.

24. Power to Board to contribute to certain associations.- The Board subject to any regulations made in this behalf,-

(1) pay such subscriptions as it thinks fit to any association for the promotion of the common interest of persons engaged In the generation. Distribution and supply of electricity and the members of which consist mainly of persons.

(2) contributes such sums as it thinks fit to funds of any recognized society the object of which is to foster the development and use of electricity or promotion of knowledge and research in respect of electricity or electrical appliances.

25. Consulting engineers.- The Board may, subject to such conditions as m prescribed. from time to time appoint qualified persons to be consulting enigma the Board and pay them such remuneration as it thinks proper.

26. Board to have powers and obligations of licensee under Act 9 of 1910.- Subject to the provisions of this Act, the Board shall, in respect of the whole have all the powers and obligations of a licensee under the Indian Electricity Act, 1910, and this act shall be deemed to be the license of the Board for the purposes of that Act Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and 2[section 22, sub-section (2) of section 22A and 23 and 27] of the Act

1.The word "on terms similar on the terms offered by the board" omitted by Act 101 of 1956, sec. 9(w.e.f. 30-12-1956)

2.subs. By Act 32 of 1959 , sec 41 for "sections 22,23 and 27 "(w.e.f. 5-9-1959).

Or in 1 clause 1 to V ,clause VII and clause IX to XII]of the Schedule to the act relating to the duties and obligations of a licensee shall apply to the board:

2[Provided future that the provisions of clause VI of the Schedule to that Act shall apply to the board in respect of that area only where distribution mains have been laid by the board and supply of energy through any of them has commenced.]

3[26A. Applicability of the provisions of act 9 of 1910 to Generatting company.-

(1)Notwithstanding anything contained in sub-section (2),nothing in the Indian Electricity Act 1910,shall be deemed to require a generating company to take out a licensee under that Act, or to obtain sanction of the State Government for the purpose of carrying on any of its activities.

(2)Subject to the provision of this Act ,1910(9 of 1910)and clause XIV to XVII(both inclusive)of the Schedule thereto, shall, as far as may be apply in relation to a generating company may,in connection with the performance of its duties ,exercise-

(a) all or any of the powers conferred on a licensee by sub-section (1) of section 12 of the Indian Electricity Act,1910,as if-

(i) the reference therein to licensee where the references to the Generating Company;

(ii) the reference to the term and conditions of licensee where a reference a provisions of this act and to the articles of association of the Generating Company; and

(iii) the reference to the area of supply where a reference to the area specified under sub-section

(3) of section 15A in relation to the Generating Company;

(b) all or any of the powers conferred on a licensee by sub-section (1) of section 14 of the Indian electricity Act 1910 (9 of 1910), as if-

(i) the references therein to licensee where references to the Generating Company, and

(ii) The Generating company had the power of licensee under the said Act .

(3) The provision of section 30 of the Indian Electricity Act ,1910 (9 of 1910) shall not apply to transmission or use of energy by a Generating Company.

(4) For the removal of doubts, it is hereby declare that section 31 to 34 (both inclusive) of the Indian Electricity Act 1910 (9 of 1910), shall apply to a Generating Company.]

1. Subs. by Act 101 of 1956 ,sec. 10, for "clauses I to XII" (w..e.f. 30-12-1956)

2. Ins. by Act 115 of 1976, sec. 14 (w.r.e.f. 8-10-1976)

3. Ins. by Act 115 of 1976 ,sec. 14 (w.r.e.f. 8-10-1976)

27. Other functions of the Board.-1 [The Board or a Generating Company] shall have such further powers and duties as are provided in this Act,

CHAPTER V - 1 [THE WORKS AND TRADING PROCEDURE OF THE BOARD AND THE GENERATING COMPANY]

1[28. Preparation and sanctioning of scheme.-(1) For the efficient performance of Its duties under this Act, the Board or a Generating Company, as the case may be, may prepare one or more schemes, relating to the establishment or acquisition of generating stations, tie-lines, sub-stations or transmission lines, as are referred to in clause (e) of section 18 or clause (c) of sub-section (1) of section 18A, as the case may be.

(2) The Board or, as the case may be, the Generating Company which has prepared a scheme may, sanction such scheme either generally or in respect of any part of the area specified in the scheme and where a scheme has been sanctioned in respect of any part of the area, such scheme may subsequently be sanctioned in respect of any other part of that area:

Provided that where the scheme is of the nature referred to in sub-section (1) of section 29, the scheme shall not be sanctioned (generally or for part of an area) by the Board or the Generating Company except with the previous concurrence of the Authority

4[(2A) The Board or, as the case may be, the Generating Company shall, as soon as may be after it has sanctioned any scheme which is not of the nature referred to in section 29. forward the scheme to the Authority and, if required by the Authority so to do. supply to the Authority any information incidental or supplementary to the scheme within such period as may be specified by the Authority.]

(3) Every scheme sanctioned under this section shall be published in the Official Gazette and in such local newspapers as the Board or, as the case may be, the Generating Company may consider necessary,]

5[29. Submission of schemes for concurrence of Authority, etc.-6[(1) Every scheme estimated to involve a capital expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification in the Official Gazette, shall. as soon as may be after it is prepared, be submitted to the Authority for its concurrence,]

(2) Before finalization of any scheme of the nature referred to in sub-section (1) and the submission thereof to the Authority for concurrence, the Board or, as the case may be, the Generating Company shall cause such scheme, which among other things shall contain the estimates of the capital expenditure involved, salient features thereof and the benefits that may accrue there from, to be published in the Official Gazette of the State concerned and in such local newspapers as the Board or the Generating Company may consider necessary along with a notice of the date, not being less than two months after the date of such publication, before which licensees and other persons interested may make representations on such scheme.

1.Subs by Act 115 of 1976, sec 15, for "The Board" (w.r.e.f 8-IO-lq76)

2. Subs. by Act 115 of 1976. sec 16. for the former. Heading (wref 8-10-1976) .

3.Subs by Act 115 of 1976. sec 17. for section 21 (,w.t.e f 8-10-1976)

4. Ins by Act 48 of 1984. 5ec 2 (w.e.f 1.10-984),

5.Section 29 subs by Act: 30 of 1966 sec. 6 (w.e.f 16-9-1966) and again subs.

(3) The Board or, as the case may be, the Generating Company may, after considering the representations, if any, that may have been received by it and after making such inquiries as it thinks fit, modify the scheme and the scheme so finally prepared (with or without modifications) shall be submitted by it to the Authority along with the representations.

(4) A copy of the scheme finally prepared by the Board or, as the case may be, the Generating Company under sub-section (3) shall be forwarded to the State Government or State Governments concerned:

Provided that where the scheme has been prepared by a Generating Company in relation to which the Central Government is the 1[competent government or one of the competent governments], a copy of the scheme finally prepared shall be forwarded also to the Central Government.

(5) The Authority may give such directions as to the form and contents of a scheme and the procedure to be followed in, and any other matter relating to, the preparation, submission and approval of such scheme, as it may think fit.

(6) In respect of any scheme submitted to the Authority for its concurrence under sub-section (1), the Board or, as the case may be, the Generating Company shall, if required by the Authority so to do, supply any information incidental or supplementary to the scheme within such period, being not less than one month, as may be specified by the Authority.]

30. Mat ten to be considered by the Authority,- 2[The Authority shall, before concurring

in any scheme submitted to it under sub-section (1) of section 29, have particular regard to, whether or not in its opinion-].

(a) any river-works proposed 3[***] will prejudice the prospects for the best ultimate development of the river or its tributaries for power-generation, consistent with the requirements of irrigation, navigation and flood-control, and for this purpose the Authority 4[shall satisfy itself, after consultation with the State Government, the Central Government, or such other agencies as it may deem appropriate,] that an adequate study has been made of the optimum location of dams and other river-works;

(b) the proposed scheme will prejudice the proper combination of hydro-electric and thermo-electric power necessary to secure the greatest possible economic output of electric power;

1. Subs by Act 50 of 1991, sec. 6, for "promoting government or one of the promoting governments" (w.e.f. 15-10-1991).

2. Subs by Act 115 of 1976, sec. 18, for the original paragraph (w.r.e.f .8-10-1976)

3. The words .'by the board" omitted by Act 115 of 1976, sec 18 (w.r.e.[8-10-1976)

4. Subs. by Act 115 of 1976, sec 18, for "shall satisfy Itself" (w.r.e.f. 8-10-1976)

(c) the proposed main transmission lines will be reasonably suitable for regional requirements;

(d) the scheme provides reasonable allowances for expenditure on capital and revenue account;

(e) the estimates of prospective supplies of electricity and revenue there from contained in the scheme are reasonable;

1[(f)in the case of a scheme in respect of thermal power generation, the location of the generating station is best suited to the region, taking into account the optimum utilization of fuel resources, the distance of load center, transportation facilities, water availability and environmental considerations;

(g) the scheme conforms to any other technical, economic or other criteria laid down by the Authority in accordance with the national power policy evolved by it in pursuance of the provisions contained in clause

(i) of sub-section (1) of section 3 1[and such other directions as may be given by the Central Government].]

1[31. Concurrence of Authority to scheme submitted to it by Board or Generating Company.-(1) Where a scheme is submitted to the Authority under sub-section (1) of section 29, the Authority may, having regard to the matters referred to in section 30, either concur in the scheme without modification or require the Board or, as the case may be, the Generating Company to modify the scheme in such manner as the Authority specifies in the requisition so as to ensure that the scheme conforms to the national power policy evolved by the Authority in pursuance of the provisions contained in clause (i) of sub-section (1) of section 3 and in either case the Authority shall also communicate its decision to the State Government or State Governments concerned:

Provided that where the scheme was submitted for concurrence by a Generating Company in relation to which the Central Government is the 4[competent government or one of the competent governments], the decision shall be communicated also to that Government

(2) Where under sub-section (1) the Authority requires that a scheme may be modified, the Board or, as the case may be, the Generating Company may prepare a revised scheme in accordance with such requisition and submit it to the Authority for concurrence and thereupon the Authority shall, if satisfied that the revised scheme complies with the requisition, concur in the same.

32. Power to alter or extend schemes.- The Board or, as the case may be, the Generating Company may, from time to time, alter or extend a scheme by a supplementary scheme prepared in the manner specified in section 31.

Provided that any alterations or extensions of a scheme which are, in the opinion of the Board or, as the case may be, the Generating Company, minor in character may be made without preparing a supplementary scheme.

1. Ins by Act 115 of 1976. sec. 18 (w.r.e.f. 8-10-1976).

2. Added by Act 50 of 1991, sec 7 (wef. 15-10-1991).

3. Subs by Act 115 of 1976, sec. 19, for sections 31, 32 and 33 (w.r.e.f. 8-10.1976).

4. Subs by Act 50 of 1991 , sec. 8, for ."the promoting government or one of the promoting governments" (w.e.f. 15.10.1991).

Provided further that where any alteration or extension of the nature referred to In the first proviso is make in respect of a scheme concurred in by the Authority, details of such alteration or extension shall he Intimated to the Authority as soon a" may he after such alteration or extension is made.

33. Provisions applicable to scheme prepared by State Government.- The provisions of section 28 to 32 (both inclusive) shall. so far as may he. apply also In relation to a scheme prepared by a State Government for the generation. Transmutation or distribution of electricity.

34. Controlled Stations-1[(1)] Where a generating station situate within an area to which a scheme I.' In force has been designated In the scheme as a controlled station.the relation between the Board and the licensee owning the station shall. subject to ,any arrangements agreed under section 47, he regulated by the provisions of the first Schedule.

1[(2) Notwithstanding anything contained In thIs Act or any scheme made there unJer, no generatIng station owned by a Generating Company shall he designated a" a controlled station.

35. Supply by the Board to licensees owning generating stations.- The Board may at any time declare to a licensee owning a generating station. other than it controlled station, situate within an area for which a scheme is in force that It is ready to make ,I supply of electricity available to the licensee for the purposes of the undertaking and thereupon. but without provision to the provision on of section 47, the provisions of the Second Schedule shall apply in respect of the relations between the Board and the said Licensee.

36. Power to Board to close down generating stations.- The Board may at any time declare to a licensee owning a generating station stilted within an area for which a scheme in force that the station shall be permanently closed down, and thereupon but without prejudice to the provisions of section 47. where the station is a controlled station the provisions of Part III of the First Schedule. or In other case" the provisions of title Third Schedule. shall apply In respect but the relations between the Board and the said licensee with reference to the station to be closed down.

37. Purchase of generating stations or undertakings or main transmission lines by the Board.-(1) Where under the First or Third Schedule and generating station or undertaking is to be purchased by the Board ,or where a sanctioned scheme provides for the purchase by the Board of a main transmission line belonging to any licensee-

(1) the generating station or undertaking from such date of purchase its may be fixed under title appropriate Schedule, or the main transmission line from such date of purchase as the Board shall, by notice In writing given not less than one month before the said date, Intimate to the licensee. shall vest In the Board free, save as provided In sub-section (2), from any debt, mortgage, lien or other similar obligation of the licensee of attaching to the station or undertaking or line, as the case may be, and any such debt, mortgage.

Lien or obligation shall, save as aforesaid. Attach to the purchase-money In substitution of the station or undertaking or line;

1. Section 34 re-numbered as sub-section (1) thereof by Act 115 of 1976. sec 20 (w. r.e. f . 8-10-1976)

2. Ins. by Act. 115 of 1976 (w.r.e.f .8-10-1976)

Provided that notwithstanding, any agreement to the contrary the licensee shall pay and the mortgage. charge. line-holder or the purchase money as the case may be In full or .part satisfaction of the debt according as the amount of the purchase-money more or less than the amount of his debts.

(b)without prejudice to the provisions of section 47. the Board shall pay lender payment of. the price to be determined in accordance with the Schedule as Soon as the amount thereof has been determined. together Interest on such amount from the date of purchase to the date of payment or tender of payment as aforesaid at the rate of one *per centum*. Over the average of reserve bank rates between the said date.

(c)the receipt of the Licensee shall notwithstanding anything In any other law ,be a full and sufficient discharge to the board of the payment due in respect of the purchase.

(2) Where a generating station or undertaking or main transmission line by the Board under this Act is in course of construction. extension or repair date of purchase. the rights and liabilities of the former owner thereof under any constraints for such construction, extension or repair shall be deemed to have been transferred to the Board, except such rights or liabilities acquired or incurred after the date of the notice of purchase without the prior sanction of the Board.

(3) Notwithstanding anything contained elsewhere in this Act,-

(i) where any generating station purchased by the Board under the Act contemplates any plant or apparatus which, while the station was in operation were used Jointly for the purposes of

generation and transmits distribution or wholly for the purposes of transmission or distribution unless otherwise agreed between the Board and the licensee, such plant or apparatuses shall not be purchased by the Board but shall remain the property of the licensee.

(ii) where under the provisions of section 28 a scheme provides for the purchase of any main transmission line belonging to any licensee the Board shall not exercise the powers of acquisition thereby afforded without the prior consent of the Licensee, which consent shall not be unreasonably withheld.

38. Provision of new generating stations.-[*Rep by the Electricity(supply)Amendment Act ,1976(115 of 1976),sec 21(w.r.e.f. 8-10-1976).*]

39. Operation of Board's generating stations.-1[(1) Where the Board itself establishes a new generating station or acquires a generating station otherwise for the purpose of Closing it down ,it shall operate the station itself. but the board may with the action of the State Government make arrangements with any Licensee other person for Its operation, if in the opinion of the Board It is describe so to do.

2[(2) Where a Generating Company has been established having Its activities or partly In a State, the State Government may direct the Board to make over any generating station established or acquired by the Board to the Generating Company subject to such terms and conditions as may be specified in the direction and the Board shall comply with such direction:

1.Section 39 re-numbered as sub-section (1)thereof by Act 115 of 1976,sec. 22(w.r.e.f. 8-10-1976)

2.Ins by Act 115 of 1976. sec. 22 (w.r.e.f. 8-10-1976).

Provided that where the Central Government is the 1[competent government or one of the competent governments] In relation to the Generating Company, no direction shall be made by any State Government under this sub-section without the concurrence of the Central Government.]

2[(3) For the purposes of this section, no direction shall be issued to a Generating Company wholly or partly owned by the Central Government unless and until the prior concurrence of that Government is obtained.]

40. Provision regarding connections with main transmission lines purchased by the Board.-Where the Board has purchased a main transmission line and by reason of the user thereof by the Board any alteration or replacement of switch-gear or other apparatus of any licensee connected with the line becomes necessary, the Board may In its discretion itself carry out such alteration or replacement at its own cost or defray the reasonable expenses Incurred by the licensee in effecting such alteration or replacement; and any question whether such alteration or replacement is necessary or whether the expenses incurred in connection therewith are reasonable shall in default of agreement be determined 3[by arbitration] as provided under section 76.

4[41. Use of transmission lines.-(1) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of interstate transmission system and until the State Commission is established, the State Government

and thereafter the State Commission in the case of intra-State transmission system may determine the charges payable to the Central Transmission utility or State Transmission Utility as the case may be, for the use of transmission system by a Board, Its successor entity, generating company, licensee or any other person.

(2) The Central Transmission Utility or State Transmission Utility, as the case may be, may enter into an agreement with any transmission licensee for the exclusive use of the transmission system constructed, maintained and operated by the transmission licensee.

(3) Where the Central Transmission Utility or the State Transmission Utility, as the case may be, considers it necessary to use for any purpose any transmission system or transmission line or main transmission line of a generating company or a licensee, it shall have the power to use such lines to the extent to which the capacity thereof is surplus to the requirements of the generating company or the licensee on payment of charges calculated in accordance with the provisions of the Fifth Schedule.]

1. Subs by Act 50 of 1991, sec. 9, "promoting government or one of the promoting government " (w.e.f. 15-10-1991)

2. In. by Act 50 of 1991, Sec. 9 (w. e.f. 15-10-1991)

3. Ins by Act 30 of 1966, sec. 10 (w.e.f. 16-9-1966).

4 Subs. by Act 22 of 1998, sec. 10, for section 41 (w.e.f 31-12-1998).

42, Powers to Board for placing wires, poles ,etc.-1[(1)](I) Notwithstanding anything contained in section 12 16 and 18 to 19 of the Indian electricity Act. 1910(9 of 1910)but without prejudice to the requirements of section 17 of that Act where provision in such behalf is made in a sanctioned scheme. the Board shall have,for he placing of wires if any wires. Places wall brackets. stays appellate and appliances for the transmission and distribution of electricity. or for the transmission of telegraphic or telephonic communications necessary for the proper co- ordinations of the works of the Board, all the power, which the telegraph authority possesses under Part III of the Indian Telegraph Act.,1885(13 of 1885)with regard to a telegraph established or maintained by the Government .

Provided that where a sanctioned scheme does not make such provision as aforesaid all the provisions of section 12 to 19 of the first -mentioned Act shall apply to the Work of he Board.

2[(2) A Generating Company may, for the placing of wires, rules, will brackets, stays

apparatus and appliance for the transmission of electricity. or for the transmission of telegraphic or communications necessary for the proper co-ordination of the work Generating Company ,exercise all or any of the powers with the Board may exercise under sub-section (1)and subject to the conditions referred to therein.]

COMMENTS

By virtue of the government notification, the sanctioned scheme empowered NTPC with all the powers wasted in the Generating Company and for laying lines and towers thereby leaving line option only 'compensation' as remedy for person owing fields where such lines are laid in transmission of electricity; *Rajak v. NTPC Ltd ,Indore ,AIR 1988 MP 172.*

43, Power to Board to enter into arrangements for purchases or sales of electricity

under certain conditions.-(1)The Board may enter Into arrangements with any person producing electricity within the State for the purchase by the Board on such terms as may be agreed, ,of any surplus electricity which that person may be able to dispose of.

(2) Where a sanctioned scheme so provides, the board may, on such term as may be agreed upon, enter into arrangements with any such person without the consent of the state government of the state within which the electricity is to be generated or used.

3[***]

4[43A. Terms, conditions and tariff for sales of electricity by Generating Company.-

(1) A Generating Company may enter into a contract for the sale of electricity generated by it.

1 Section 42 re-numbered as sub-section (1) thereof by Act 115 of 1976 ,sec. 24(w.r.e.f. 8-10-1976)

2. Ins. by Act 115 of 1976,sec. 25(w.r.e.f. 8-10-1976)

3.Sub-section (3) ins. by act 115 of 1976,sec. 25(w.r.e.f. 8-10-1976)and omitted by Act 50of 1991,sec. 10(w.e.f. 15-10-1991)

4.inc.by Act. 50 of 1991,sec. 11(w.e.f. 15-10-1991)

(a) with the Board constituted for the State or any of the States In which a generating station owned or operated by the company is located;

(b) with the Board constituted for any other State in which it is carrying on Its activities in pursuance of sub-section (3) of section 15A; and

(c) with any other person with consent of the competent government or governments,

1[(2) The tariff for the sale of electricity by a Generating Company to the Board shall be determined In accordance with the norms regarding operation and the Pant load factor as may be laid down by the Authority and In accordance with the rates of depreciation and reasonable return and such other factors as may he determined, from time to time, by the Central Government, by notification In the Official Gazettes.

Provided that the terms, conditions and tariff for such sale shall, in respect of a Generating Company, wholly or partly owned by the Central Government, be such as may be determined by the Central Government and in respect of a Generating Company wholly or partly owned by one or more State Governments be such as may be determined, from time to time, by the government or governments concerned,]

44. Restriction on establishment of new generating stations or major additions or replacement of plant in generating stations.-(1) Notwithstanding anything contained In

any other law for the time being in force or in any licence. but subject to the provision of this Act, it shall not be lawful for a licensee, or any other person. not being the Central Government or any Conjurations created by 2[a Central Act] or any Generating Company), except with the previous consent in writing of the Board, to establish or acquire a new generating station or to extend or replace any major unit of plant or works pertaining to the generation of electricity in a generating station:

Provided that such consent shall not, except in relation to a controlled station, be withheld unless within three months from the date of receipt of an application-

(a) for consent to the establishment or acquisition of a new generating station, the Board-

(i) gives to the applicant being a licensee an undertaking that it is competent to, and will, within twenty-four months from the said date, afford to him a supply of electricity sufficient for his requirements pursuant to his applications or

(ii) shows to the applicant that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source,

(b) for consent to the extension of any major unit of plant or works as aforesaid, the Board-

(i) gives to the applicant being a licensee an undertaking that within twenty-four months from the said date either the station to which the application pertains will become a controlled station in terms of section 34, or the

1 Sub-section (2) omitted by Act 14 of 1998, sec 51

2 Subs by the AO 1950. for "legislation enacted by the Central Legislature"

3 Ins by All 115 of 1976. sec 26 (w.r.e. f. 8-10-1976)

Board will make a declaration to the applicant in terms of section 35 offering him a supply of electricity sufficient for his requirements pursuant to his application, or the Board will make a declaration to in terms of section 36, or

(ii) shows to the applicant that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source or by other appropriate means

(c) for consent to the replacement of any major unit of plant or works, Board-

(i) gives to the applicant being a licensee an undertaking that within twelve months from the said date either the station to which the application pertains will become a controlled station in terms of section 34 or the Board will make a declaration in terms of section 36; or

(ii) shows to the applicant that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source or by other appropriate means

(2) There shall be stated in every application under this section such particulars as the Board may reasonably require of the station plant or works, as the case may be in respect of which it is made, and where consent is given therein, in acting in purchasing of such constant, the applicant shall not, without the further consent of the Board, make any material variation in the particulars so stated.

1[(2A) The Board shall, before giving consent under sub-section (1), to the establishment or acquisition of a new generating station or to the extension or replacement of any major unit of plant or works, consult the Authority, in cases where the capacity of the new generating section or as the case may be, the additional capacity proposed to be created

by the extinction or replacement exceeded twenty - five thousand kilowatts.

(3) any difference or dispute arising out of the dispute arising out of the provision of this section shall be referred to the arbitration of the authority.

45. Power to Board to enter upon and shut down generating stations in certain circumstances,-(1) If any licensee falls to close down his generating station pursuant to a declaration of the Board under section 36, or if any person establishes or extends or replaces a plant or works in any generating section in contravention of section 44, the board may authorize any of its officers to enter upon the premises of such station and shut down the station or plant or the works, as the case may be, in respect of which the failure or contravention has occurred.

(2) Any expenses incurred by the Board under this section shall be recoverable by it from the licensee or person concerned as an arrear of land revenue, and for the purpose the Board shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (1 of 1890)

(3) Any difference or dispute arising out of the provisions of this section shall be referred to the arbitration of the Authority.

1. Ins. by Act 115 of 1976. sec 26 (w.r.e.f .8-10-1976)

46. The Grid Tariff.-(1) A tariff to be known as the Grid Tariff shall, in accordance with any regulations made in this behalf, be fixed from time to time by the Board in respect of each area for which a scheme is in force, and tariffs fixed under this section may, if the Board thinks fit, differ for different areas.

(2) Without prejudice to the provisions of section 41, the Grid Tariff shall apply to sales of electricity by the Board to licensees where 10 required under any of the First, Second and Third Schedules, and shall, subject to 5 hereinafter provided, also be applicable to sale of electricity by the Board to licensees in other cases:

Provided that if in any such other case it appears to the Board that, having regard to the extent of the supply required, the transmission expenses involved in affording the supply are higher than those allowed in fixing the Grid Tariff, the Board may make such additional charges as it considers appropriate.

(3) The Grid Tariff shall be so framed as to include as part of the charge, and show separately a fixed kilowatt charges component and a running charges component:

Provided that if in respect of any area the electricity to be sold by the Board is wholly or substantially derived from hydro-electric sources, the running charges component may be omitted,

(4) The fixed kilowatt charges component in the Grid Tariff may be framed so as to vary with the magnitude of maximum demand.

(5) Where only a portion of a licensee's maximum demand for the purposes of his undertaking is chargeable at the Grid Tariff the price payable for that portion shall not be greater than the average price which would have been payable had the whole of the said maximum demand of the licensee been chargeable at the Grid Tariff

(6) The Grid Tariff may contain provisions for-

(a) adjustment of price having regard to the power factor of supply taken or the cost of fuel or both;

(b) a minimum charge related to a past or prospective demand of a licensee on the Board.

(7) The Grid Tariff may contain such other terms and conditions, not inconsistent with this Act and the regulations, as the Board thinks fit

47. Power to Board to make alternative arrangements with licensees.-

Notwithstanding anything contained in sections 34 to 31 and sub-section (2) of section 46 but subject to any regulations made in this behalf. the Board may make such arrangements as may be mutually agreed with any licensee whose area of supply is situate within an area for which a scheme is in force, in regard to the purchase or sale of electricity and the price thereof, or the purchase, operation or control of any generating station or main transmission lines.

Provided that in making any such arrangement the Board shall not show undue preference to any licensee.

48. Power to licensee to carry out arrangements under this Act.-

Where under any provision of this Act the Board is authorized or required to enter into arrangements with any licensee for any purpose, then notwithstanding anything contained in any law or in licensee memorandum of association or other instrument regulating the constitution or powers of the licensee. it shall be lawful for the licensee to enter into and carry out any such arrangements.

1[49. Provision for the sale of electricity by the Board to persons other licensee~.-

(1) Subject to the provisions of this Act and of regulations. if any made in this behalf. the Board may supply electricity to any person not being a licensee such terms and conditions as the Board thinks fit and may for the purposes of supply frame uniform tariffs.

(2) In fixing the Uniform tariffs, the board shall have regard to all or any of the following factor ,namely :-

(a) the nature of the supply and the purposes for which it is required ;

(b)the co-ordinate development of supply and distribution of electricity within the state in the most efficient and economical manner, with particular reference to such development in areas not for title time being serve adequately served by the Licensee.

(c) the simplification and standardization of methods and rates of charges such supplies.

(d) the extension l and condition of supplies of electricity to sparsely developed area.

(3) Nothing in the foregoing provisions of this section shall derogate from power of the Board. if it considers it necessary or expedient to fix different tariffs the supply of electricity to any person not being a licensee, having regard to geographical position of any area. the nature of the supply and purpose for which supply is required and any other factors.

(4) In fixing the tariff and terms and conditions for the supply of electricity ,the board shall not show undue preference to any person .]

COMMENTS

The terms and conditions notified under this section must relate to the object and purpose for which they are issued., for such power can not be exercised for collateral purpose; *Ferro Alloy Corporation Ltd. v. A.P. State Electricity Board* ,AIR 1993 SC 2005.

50. Board not to supply electricity in certain circumstances.-Nothing contain In sections 34. 35 and 36 shall apply In any case where under section 19. It is not permissible for the Board to supply electricity directly to licensee owing a generating station and nothing in section 46, 47 and 49 shall empower the Board to supp electricity directly to any licensee or person to whom it is not otherwise entitled so to supply electricity.

51. Provisional payments.-Where the price to be raid for electricity by or to the board under this Act cannot be finally ascertained until after to end of the year of account the amount to be paid shall be ascertained as soon as practicable thereafter, but the party form whom by payment is due shall make to other monthly payments, on account of the net amount due in accordance with estimates for the purpose, subject to adjustment as soon after the year of account as the actual liability can be ascertained.

1.Subs. by Act 30 of 1966,sec 11,for section 49 (w.e.f. 16-9-1966)

COMMENTS

Provisional payment is not to be worked out and paid by the consumer as the relevant figures necessary for making estimates are with the Board and only the Board is competent to charge the same from the consumer pending final bill and determination thereof; *Shree Raj syntex, Ltd v. Rajasthan State Electricity Board* ,. AIR 1992 Raj. 146

52. Lower limit of power factor in supply by Board.-Unless otherwise agreed between the Board and the licensee. no supply of electricity taken by a licensee from the Board under this Act shall be taken at an average power factor below 085 during the period of maximum demand of the licensee ill any month, and in the event of the average power factor as aforesaid being lower than 085. the licensee shall within a reasonable time take such measures. the cost of which shall not be borne by the Board,as may be necessary to raise it to a value not lower than 085.

53. Provision of accommodation and right of way.-(1) Where the Board for the purposes of any arrangements which It has made with any licensee under this Act requires accommodation on, in, under or over the premises of the licensee for any works or apparatus to be provided by the Board, the licensee shall, if suitable and sufficient accommodation exists, grant such accommodation free of cost to the Board. or if such accommodation does not exist, It shall be provided upon such terms and conditions as may be agreed between the Board and the licensee.

(2) The Board and any licensee shall each have a right of access at all times to his own property on, in, over and under the property of the other

54. Power to Board to connect meters, etc., to apparatus of licensees.- The Board shall have power to connect with the apparatus of any licensee any such correct meters, switch-gear and other equipment as may be necessary to enable it to carry out the provisions of this Act, and such meters, switch-gear and other equipment shall, be provided and maintained by the Board at its own cost

1[55. Compliance of directions of the Regional Electricity Board, etc., by licensees or generating companies,-(1) Until otherwise specified by the Central Government, the Central Transmission Utility shall operate the Regional Load Dispatch Centers and the State Transmission Utility shall operate the State Load Dispatch Centers.

(2) The Regional Load Dispatch Center shall be the apex body to ends lire integrated operation of the power system In the concerned region

(3) The Regional Load Dispatch Center may give such directions and exercise such supervision and control as may be required for ensuring ill terraced grid operations and for achieving the maximum economy and efficiency in the operation of the power system ill the region under its control

(4) Subject to the provisions of sub-section (3), the State Load Dispatch Center ill a State may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and for achieving the maximum economy and efficiency ill the operation of the power system in that State

(5) Every licensee, transmission licensee. Board, generating company, generating stations, sub-stations and any other person connected with the operation of the power

1. Subs by Act 50 of 1991 sec 12(w.e.f . 15.10-1941)and again subs. By avt 22 of 1998,sec. 11 (w.e.r.f. 31-12-1998)

system shall comply with the directions Isliued by the load Dispatch Centers under sub-section (3)and (4)

(6) All directions Issued by the Regional Load DeIipatch Centers to any trans salon licensee of State transmission lines or by other licensee of the State or generating company (other then those connected to Inter-State transmission system) or sub-station in the State shall be issued through the State Load Dispatch Center and the State Dispatch Center, shall ensure that such directions are duly complied by transmission licensee or generating company or sub-station.

(7) Subject to the above provision, of this section, the Regional Electricity Board in the region from time to time may mutually agree on matters concerning the smooth operation of the integrated grid and economy and efficiency in the operation of the power ,In that region and every licensee, transmission licensee and others valve in the operation of the prowler system shall comply with the decision of Regional Electricity Board .

(8) The Regional Load Dispatch Center or the State Load Dispatch Center, as the case may be shall enforce the decision of the Regional Electricity Boards.

(9) Subject to regulations made under the Electricity Regulatory Commissions Act ,1998 (14 of 1998)by the central commission in the case of Regional Load Dispatch Centers or the State Commission in the case of State Load Dispatch Center any dispute with reference to the operation of the power system including grid operation and as to whether any directions Issued under sub-section (3) or sub-section (4)is responsible or not , shall he referred to the Authority for decision.

Provided that rending the decision of the Authority. the directions of the Regional Load Dispatch Central or the State Load dispatch center as the case may be ,shall be compiled with.

(10) Until the Central Commission is established, the Central Government and thereafter the Central Commission in the case of Regional Load Dispatch Center at until the State Commission is established. the State Government and thereafter the Station Commission In the case of the State Load Dispatch Center of that State may, by notification ,specify the fees and charge to be paid to the Regional Load Dispatch Center ,as the case may be, for undertaking the Load dispatch function entrusted by the Central Government or by the State Government ,as the case may be.

(11)The provision of sub-section (3) of section 4B shall apply in relation to any notification issued by the Central Government or the Central Commission as the Case may be under sub-section (10), as they apply in rules made by that Government under chapter II.]

56. Leases of generating stations.-No licensee shall except with the previous approve in writing of the board may think fit to impose, enter into any arrangement whereby ant generating station is to be let or held on lease by him ,and any such arrangement entered into the contraventions of this sub-section shall be void and of no effect.

1[57. Licensee's charges to consumers.-The provisions of the Sixth Schedule 2[***] shall be deemed to be incorporated in the license of every licensee. Not be1ng a local authority-

(a) in the case of a license granted before the commencement of this Act, from the date of the commencement of the licensee's next succeeding year of account; and

(b) In the case of a license granted after the commencement of this Act, from the date of the commencement of supply, and as from the said date, the licensee shall comply with the provisions of J[the said Schedule] accordingly, and any provisions of the Indian Electricity Act, 1910 (9 of 1910), and the license granted to him there under and of any other law, agreement or instrument applicable to the licensee shall, in relation to the licensee, he void and of no effect in so far as they are inconsistent with the provisions of section 57 A and 1[the said Schedule],

4[57 A. Rating committees.-(1) Where the provisions of the Sixth Schedule 5[***] are under section 57 deemed to be incorporated in the license of any licensee, the following provisions shall have effect in relation to the said licensee, namely:-

(a) the Board or where no Board is constituted under this Act, the State Government-

(i) may, if satisfied, that the licensee has failed to comply with any of the provisions of the Sixth Schedule; and

(ii) shall, when so requested by the licensee in writing, constitute a rating committee to examine the licensee's charges for the supply of electricity and to make recommendations in that behalf to the State Government:

Provided that where it is proposed to constitute a rating committee under this section on account of the failure of the licensee to comply with any provisions of the Sixth Schedule, such committee shall not be constituted unless the licensee has been given a notice In writing of thirty clear days (which period, if the circumstances so warrant may be extended from time to time) to show cause against the action proposed to he taken:

Provided further that no such rating committee shall be constituted if the alleged failure of the licensee to comply With any provisions of the Sixth Schedule raises any dispute or

difference as to the Interpretation of the said provisions or any matter arising there from and such difference or dispute has been referred by the licensee to the arbitration of the Authority under paragraph XVI of that Schedule before the notice referred to In the preceding provision was given or is so referred within the period of the said notice:

- 1.Subs by Act 101 of 1956, sec. 14, for section 57 (w.e.f.. 30-12-1956)
- 2.The words "and the Seventh Schedule" omitted by Act 23 of 1978,sec. 6(w.e.f. 3-6-1978)
3. Subs by Act 22 of 1978, soc 6, for "the Raid Schedules. (w.e.f. r.30-6-1978)
- 4.Ins by Act 101 of 1956, sec, 14 (w.e.f 30-12-1956).
- 5.The words "and the Seventh Schedule". Omitted by Act 23 of 1978 ,sec. 7.

Provided future that no ratting committee shall be constituted in respect of a licensee within three years from the date on which such a committee has reported in respect of that licensee ,unless the state government declares that as an optional circumstance have arisen rendering the order passed on the recommendation of the previous ratting committee unfair to the licensee or any of his consumers.

(b) a ratting committee under clause(a)shall ,-

(i)where such committee is to be (i)of that clause ,be constituted not latte then three months after the expiry of the notice referred to in the first provision to that clause.

(ii)Where such committee is to be constituted within three months of the date of such request; of the licensee be constituted within three months of the date of such request.

(c) a ratting committee shall, after giving the licensee a responsible opportunity of being heard and after taking into consideration the efficiency of operation and management and the potentialities of his undertaking ,report to the state government within three months from the date of the constitution ,making recommendations are not likely to prevent the licensee from earning clear profit sufficient when taken with sums available in the Tariff and Dividends Control Reserve to afford him a responsible return as define in the sixth schedule during his next succeeding years of account.

Provided that the state Government may, if it so deems necessary, extend the said period of three months by a further period not exceeding three months within which the report of the rating committee may be submitted to it:

(d) within one month after the receipt of the report under clause (c) the State Government cause to be published in the Official Gazette, and may at the same time make an order in accordance therewith fixing the licensee's charges of the supply of electricity with effect from such date, not ealier that two months or later than three months, after the date of publication of the report as may be specified in the order and the licensee shall forthwith given effect to such order;

(e) the charges for the supply of electricity fixed under clause (d) shall be in operation for such period not exceeding three years as the State Government may specify in the order;

Provided that the Static Government may, if so deems necessary, extend the period of three months by a further period not exceeding three years as the licensee from deducting at any

time any charge so fixed.

(2) Where a Board is constituted under this act, the rating committee shall consist of three members as follows:-

(i) one member shall be a person who is or has been a judicial officer not below the rank of district judge;

(ii) one member shall be a member of the board having experience of the accounting and financial matters; and

(iii) one member shall be representative co-opted jointly by the two members referred to in clause (i) and (ii) from an association of licensee of which such association, from such chamber of commerce or similar body as the state government may direct.

(3) Where no board is constituted under this Act the rating committee shall consist of five members of whom three members shall be nominated by the state government, one member shall be nominated by licensee and one member shall be nominated by the association referred to in sub-section (2) or if there is no such association, by such chamber of commerce or similar body as state government may direct.

(4) Of the three members to be nominated by the state government under sub-section (3), one shall be a person who is or has been judicial officer not below the rank of district judge, one shall be registered accountant within the meaning of the chartered account Act, 1949 (38 of 1949), having at least 10 years experience and one shall be a person with administrative experience

(5) The judicial member of a rating committee as certified by it shall be payable-

(6) A rating committee may act notwithstanding that one of its members is absent.

(7) The expenditure incurred in connection with a rating committee as certified by it shall be payable -

(a) where the rating committee was constituted as the result of a licensee, or where a rating committee has held that the licensee has failed to comply with any of the provisions of the sixth schedule, by the licensee from that part of the clear profit to which the licensee is entitled this schedule.

(b) in any other case, by the board or the State Government, as the case may be.

(8) Where a licensee makes default in paying any amount which he is liable to pay sub-section (7), such amount may, on application to civil court having jurisdiction, be recovered from the licensee by the distress and sale of any available property of the licensee.

1[578. Power of rating committee to call for information etc,-A rating committee constituted under section 57 A may, for the purpose of discharging its functions, by notice in writing, require the licensee to give such information, or to furnish such accounts and other documents in his possession or power, as may be specified in the notice]

58. Power to direct amortization and tariffs policies of licensees being local authorities.-The Board or where no Board is constituted under this Act, the State Government shall have power to direct the amortization and tariffs policies of any licensee

,begin a local authority a responsible opportunity of being heard ,considers expedient for the purpose of the Act;and the licensee ,begin a local authority ,the provisions of other law or of any rules made or directions given there under notwithstanding, shall give effect to any such directions of the Board or the State Government, as the case may be:

1.Ins. by Act 101 of 1956 ,sec. 14(w.e.f. 30-12-1956)

1[Provided that the Board shall not issue any directions under this section exec after obtaining the prior approval of the State Government]

CHAPTER VI - THE BOARD'S FINANCE, ACCOUNTS AND AUDIT

2[59, General principles for Boards finance.--(1) The Board shall, after taking credit for any subvention from the State Government under section 63. carry on is operations under this Act and adjust its tariffs so as to ensure that the total revenue in any year of account shall after meeting all expenses properly chargeable to revenues including operating, maintenance and management expenses, taxes (if any) or incon¹ and profits, depreciation and interest payable on all debentures, bonds and loans such surplus as is not less than three per cent, or such higher percentage, as the State Government may, by notification in the Official Gazette, specify in this behalf, of the value of the fixed assets of the Board in service at the beginning of such year.

Explanation -For the purposes of this sub-section, "value of the fixed assets the Board in service at the beginning of the year" means the original cost of such fix assets as reduced by the aggregate of the cumulative depreciation in respect of sub assets calculated in accordance with the provisions of this Act and consumers' co attributions for service lines.]

(2) In specifying 4[any higher percentage] under sub-section (1), the State Government shall have due regard to the availability of amounts accrued by way depreciation and the liability for loan amortization and leave-

(a) a reasonable sum to contribute towards the cost of capital works; and

(b) Where In respect of the Board, a notification has been issued under sub-section (1) of section 12A, a reasonable sum by way of return of capital provided by the State Government under sub-section (3) of that sect and the amount of the loans (if any) converted by the State Government j capital under sub-section (1) of section 66A .]

60. Board to assume obligations or State Government in respect or matter, which this Act applied.--(1) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the State Government for any of the purposes of this Act before the first constitution of the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for Board; and all suits or other legal proceedings instituted or which might but for issue of the notification under sub-section (4) of section I have been instituted by or against the State Government may be continued or Instituted by or against the Board.

5[(IA) All schemes sanctioned by that State Government and transferred to the B shall, for the purposes of this Act, be deemed to have been sanctioned by the Board.]

1 Ins by Act 101 of 1956, sec 15 (w.e.f. 30-12-1956)

2 Subs by Act 23 of 1978, sec 8. for section 59 (w. e. f. 3-6-1978)

3 Subs by Act 16 of 1983, sec 2, for "leave such surplus, as the State Government may, from 10 lime, specify" (w. e. f .1-4-1985)

4 Subs by Act 16 of 1983, sec 2. for "the surplus" (w.e.f. 1-4-1985)

5 Ins by Act 101 of 1956, sec 16 (w.e. f. m.-1-2-1956)

(2) All expenditure which the State Government may, not later than 1[one year] after the first constitution of the Board, declare to have been incurred 2[***] on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board under section 64 on the date of the said declaration, and all the assets acquired by such expenditure shall thereupon vest in the Board.

3[60A, Period or limitation extended in tertian cases,-When the right to recover any amount due to the State Government for or in connection with the consumption of electricity is vested in the Board and the period of limitation to enforce such right has expired before the constitution of the Board, or within three years of its constitution, then, notwithstanding anything contained in the Indian Limitation Act, 1908 (9 of 1908) or any other law for the time being in force relating to limitation of action.the Board may institute a suit for the recovery of such amount,-

(i) where it has been constituted before the commencement of the Electricity (Supply) Amendment Act, 1966 (30 of 1966) within three years of such commencement; and

(ii) where it has been constituted after such commencement, within three years of its constitution.]

61, Annual financial statement,-(1) In February of each year the Board shall submit to the State Government a statement in the prescribed form of the estimated capital and revenue receipts and expenditure for the ensuing year.

(2) The said statement shall include a statement of the salaries of 4[members and officers and other employees] of the Board and of such other particulars as may be prescribed.

(3) The State Government shall as soon as may be after the receipt of the said statement cause it to be laid on the table of the 5[House], or as the case may be, 6[Houses] of the State Legislature; and the said statement shall be open to discussion therein, but shall not be subject to vote.

(4) The Board shall take into consideration any comments made on the said statement in the State Legislature.

(5) The Board may at any time during the year in respect of which a statement under sub-section (1) has been submitted, submit to the State Government a supplementary statement, and all the provisions of this section shall apply to such statement as they apply to the statement under the said sub-section.

62. Restriction on unbudgeted expenditure.--(1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding 7[seventy-five thousand]

rupees on account of recurring expenditure or exceeding 8[three lakhs]

1. Sub, by Act 23 of 1978, of,sec. 9 for "two months" (w.e.f. 3-6-1978).

2. The words "before the issue of the notification under sub-section (4) of section 1" omitted by Act 23 of 1978, sec. 9(w.e.f. 3-6-1978).

3.Ins by Act 30 of 1966, sec. 12 (w.e.f. 16-9-1966)

4. Subs by Act 23 of 1978,sec. 10 for "members, officers and servants" (w.e.f. 3-6-1978}

5 .Subs by the A.O. 1950, for "Chamber"

6.Subs by the AO. 1950, for "Chambers"

7.Subs. by Act 30 of 1966, sec 13, for "twenty-five thouI8l1d" (w.e.f 16.9-1966)

8 Subs by Act 30 of 1966, sec. 13. for "one lakhs. (w.e.f. 16-9-1966)

of rupees on account of non-recurring expenditure shall be expended by the Board any year of account unless such sum has been included in a statement submitted un sub-section (1) or sub-section (5) of section 61.

(2) Where any such sum is expended under circumstances of extreme urgency 1[, it shall be expended in accordance with the regulations made by the Board with previous approval of the State Government and] a report thereon indicating the source from which it is proposed to meet the expenditure shall be made as soon as practicable to the State Government.

63. Subventions to the Board.- The State Government may, with the approval of the State Legislature from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the State Government may determine.

64. Loans to the Board.-The State Government may, from time to time, advance loans to the Board on such terms and conditions, not inconsistent with the provisions of this Ac, as the State Government may determine.

65. Power of Board to borrow.-(1) The Board may, from time to time, with the previous sanction of the State Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf, borrow any sum required for the purposes of this Act.

(2) Rules made by the State Government for the purposes of this section may empower the Board to borrow by the 2[issue of debentures or bonds] or otherwise and to make arrangements with bankers, and may apply to the Board with such modifications as may be necessary to be consistent with this Act the provisions of the Local Authorities Loans Act, 1914 (9 of 1914) and the rules made thereunder as if the Boar were a local authority.

(3) The maximum amount which the Board may at any time have on loan under sub-section (1) shall be ten crores of rupees, unless the State Government, with the approval of the State Legislative Assembly, fixes a higher maximum amount.

(4) 3[Debentures or bonds issued [by the Board under this section shall be issued

transferred, dealt with the redeemed in such manner as may be prescribed.

66. Guarantee of loans.-The State Government may guarantee in such manner as it thinks fit the payment of the principal and interest of any loan proposed to be raised by the Board or of either the principal or the interest;

Provided that the State Government shall, so long as any such guarantees are in force, lay before the 4[House] or, as the case may be, 5[Houses] of the State Legislature in every year during the budget session a statement of the guarantees, if any, give during the current financial year of the State and an up-to-date account of the total sums, if any, which have been paid out of State revenues by reason of any such guarantees or paid into State revenues towards repayment of any money so paid out.

1. Ins. by Act 23 of 1978, sec 11 (w.e.f. 3-6-1978).
2. Subs. by Act 23 of 1978, sec 12, for "issue of bonds or stock" (w.e.f. 3-6-1978).
3. Subs. by Act 23 of 1978, sec 12, for "stock issued" (w.e.f 3-6-1978)
4. Subs. by the A.O. 1950, for "Chamber".
5. Subs. by the A.O.1950, for "Chambers".

1[66A. Conversion of amount of loans into capital.- (1) Notwithstanding anything contained in section 12A, where any loan has been obtained from the State Government by a Board, in respect of which Board a notification has been made under sub-section (1) of that section, or any loan is deemed to be advanced to such Board by the State Government under sub-section (2) of section 60, the State Government may, if in its opinion it is necessary in the public interest so to do, by order, direct that the amount of such loan or any part thereof shall be converted into capital provided to the Board on such terms and conditions as appear to that Government to be reasonable in the circumstances of the case, even if the terms of such loan do not include a term providing for an option for such conversion.

(2) In determining the terms and conditions of such conversion, the State Government shall have due regard to the following circumstances, that is to say, the financial position of the Board. the terms of the loan. the rate of interest payable on the loan, the capital of the Board, its loan liabilities and Its reserves.

(3) Notwithstanding anything contained in this Act, where the State Government has, by an order made under sub-section (1), directed that any loan or any part thereof shall be converted into capital, and such order has the effect of increasing the capital of the Board, the capital of the Board shall stand increased by the amount by which the conversion increases the capital of the Board in excess of the capital specified under sub-section (1) of section 12A:

Provided that the amount of the loan so converted together with the capital provided under sub-section (3) of section 12A shall not exceed the amount representing the aggregate of the outstanding loans of the Board after such conversion.]

2[67. Priority of liabilities of the Board.-The Board shall distribute the surplus referred to in sub-section (1) of section 59 to the extent available in a particular year In the following order, namely-

(i) repayment of principal of any loan raised (including redemption of debentures of bonds Issued) under section 65 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(ii) repayment of principal of any loan advanced to the Board by the State Government under section 64 which becomes due for payment in the year or which became due for payment in any previous year and has remained unpaid;

(iii) payment for purposes specified in sub-section (2) of section 59 in such manner as the Board may decide.]

3[67A. Interest on loans advanced by State Government to be paid only after other expense5.-Any interest which is payable on loans advanced under section 64 or deemed to have been advanced under section 60 to the Board by the State Government and which is charged to revenues in any year may be paid only out of the balance of the revenues, if any, of that year which is left after meeting all the other expenses referred to in sub-section (1) of section 59 and so much of such interest as not is paid in any year by reason of the provisions of this section shall be deemed to be deferred liability and shall be discharged in accordance with the provisions of this section in the subsequent year or years, as the case may be.]

1. Ins. by Act 23 of 1978, sec. 13 (w.e.f. 3-6-1978).

2. Section 67 subs. by Act 23 of 1978, sec. 14 (w.e.f 3-6-1978) and again subs. by Act 16 of 1983,sec.3 (w.e.f. 1-4-1985).

3. Ins. by Act 16 of 1983, sec. 4 (w.e.f. 1-4-1985).

1[68. Charging or depreciation by Board,-(1) 2[*]** The Board shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority, by notification the Official Gazette, lay down from time to time.3[***]

(3) The provisions of this section shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act. 1978 (23 of 1978), comes into force.]

4[69. Accounts and audit.-(1) The Board shall cause proper accounts and records in relation thereto to be kept, including a proper system of internal check prepare an annual statement of accounts, including the profit and loss account an balance-sheet in such form 5[as the Central Government may, by notification in Official Gazette, prescribe by rules made in this behalf in consultation with the Comptroller and Auditor-General of India and State Governments].

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or by such person as he may authorize in thi5 behalf and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person authorize him in connection with the audit of the accounts of the Board shall have the rights, privileges and authority in connection with such audit as the Comptroller Auditor-General of India has in connection with the audit of Government accounts and in particular shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers, and to inspect any of the offices of the Board.

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person authorized by him in this behalf together with the report thereon shall be forwarded to the Authority and to the State Government within six months of the close of the year to which the accounts and audit report relate] and

1. Section 61 subs. by Act 101 of 1956, sec. 18 (w.e.f. 30-12-1956) again subs. by Act 30 of 1966. sec. (w.e.f. 16-9-1966) and again subs. by Act 23 of

1978, sec. (w.e.f. 3-6-1978).

2. The words "Subject to the provisions of section 67," omitted by Act 16 of 1913, sec. 5(w.e.f. 1-4-1985).

3. Sub-section (2) omitted by Act 16 of 1983, sec. 5 (w.e.f. 1-4-1985).

4. Subs. by Act 101 of 1956, sec. 18, for section 69 (w.e.f. 30-12-1956).

5. Subs. by Act 16 of 1913, sec. 6, for certain words (w.e.f. 1-4-1985).

6. Subs. by Act 23 of 1978,sec. 16, for "forwarded annually to the State Government" (w.e.f. 3-6-1978).

that Government may issue such instructions to the Board in respect thereof as it deems fit and the Board shall comply with such instructions.

(5) The State Government shall-

(a) cause the accounts of the Board together with the audit report thereon forwarded to it under sub-section(4) to be laid annually before the State Legislature; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof on sale at a reasonable price.] 1[(6) The provisions of sub-section (3) of section 4B shall apply in relation to any rules made by the Central Government under sub-section (1) as they apply in relation to rules made by that Government under Chapter II.]

CHAPTER VII - MISCELLANEOUS

70. Effect or other laws.-(1) No provision of the Indian Electricity Act, 1910 (9 of 1910), or of any rules made thereunder or of any instrument having effect by virtue of such law or rule shall, so far as it is inconsistent with any of the provisions of this Act, have any effect:

Provided that nothing in this Act shall be deemed to prevent the State Government from granting, after consultation with the Board, a licence not inconsistent with the provisions of the Indian Electricity Act, 1910 (9 of 1910), to any person in respect of such area and on such terms and conditions as the State Government may think fit.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Electricity Act, 1910 (9 of 1910).

71. Rights and options to purchase under Act 9 or 1910 to vest in Board.-[Rep. by the Indian Electricity {Amendment} Act, 1959 (31 of 1959), sec 41 (w.e.f. 5-9-1959).]

72. Water-power concessions to be granted only to 2[the Board or a Generating Company].- The State Government shall not grant any concession for the development or use of water-power for any electrical purpose to any person other than 2[the Board or a Generating Company], unless the State Government is of opinion that it is not expedient for the Board 3[or the Generating Company so to develop] or use the waterpower concerned.

73. Co-ordination between the Board's schemes and multi-purpose schemes.-Where a multi-purpose scheme for the development of any river in any region is in operation, 4[the Board and the Generating Company shall co-ordinate their activities] with the activities of the persons responsible for such scheme in so far as they are inter-related.

1. Ins. by Act No. 16 of 1983, sec. 6 (w.e.f. 1-4-1985).

2. Subs. by Act 115 of 1976, sec. 27, for "the Board" (w.r.e.f 8-10-1976).

3. Subs. by Act 115 of 1976, sec. 27, for "or that the Board is unable so to develop" (w.r.e.f. 8-10-1976).

4. Subs. by Act 115 of 1976, sec.28, for "the Board shall co-ordinate its activities" (w.r.e.f, 8-10-1976).

74. Powers or entry.-Any 1[officer or other employee] 2[of the Board or of a Generating Company] generally or specially 3[authorised by the Board or by the Generating Company, as the case may be,] in this behalf may at any reasonable time after giving the owner or occupier reasonable notice enter upon any land or premises and there do such things as may be reasonably necessary for the purposes of lawfully using any transmission lines or main transmission lines or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of 4[duties by the Board or by the Generating Company, as the case may be,] under this Act.

75. Annual reports, statistics and returns.-5[***]

6[7[(1)]8[***]] The Board shall, as soon as may be after the end of each financial year, prepare and submit to the State Government 9[before such date and] in such form as may be prescribed a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Board in the next financial year; and the State Government shall cause every such report to be laid before the State Legislature as soon as may be after it is received by the State Government.]

(2) The Board shall furnish to the State Government at such times and in such form and manner as may be prescribed or as the State Government may direct, such statistics and returns and such particulars in regard to any proposed or existing scheme as the State Government may from time to time require.

(3) The Board may at any time by notice in writing require any licensee 10[or person or agency] supplying electricity for public or private purposes or generating electricity for his own use to furnish it with such information and accounts relating to such supply or generation and in such form and manner as the notice may specify:

11[Provided that nothing in this sub-section shall be deemed to empower the Board to require a Generating Company to furnish it with any information or accounts.]

12[75A. Annual reports and accounts or Generating Company.-13[*]**

(2) A Generating Company shall, as soon as may be after the end of each year, prepare a report giving an account of its activities during the previous year and shall, within six months from the date of closure of the year, forward to the 14[competent]

1. Subs. by Act 23 of 1978, sec. 17, for "officer or servant" (w.e.f 3-6-1978).
2. Subs. by Act 115 of 1976, sec. 29, for "servant of the Board" (w.r.e.f 8-10-1976).
3. Subs. by Act 115 of 1976, sec. 29, for "authorised by the Board" (w.r.e.f 8-10-1976).
4. Subs. by Act 115 of 1976, sec. 29, for "duties by the Board" (w.r.e.f 8-10-1976).
5. Sub-section (1) omitted by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).
6. Sub-section (1A) ins. by Act 101 of 1956, sec. 19 (w.e.f 30-12-1956).
7. Sub-section (1A) re-numbered as sub-section (1) by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).
8. The words" Without prejudice to the provisions of sub-section (1)" omitted by Act 30 of 1966, sec. 16 (w.e.f 16-9-1966).
- 9 Ins. by Act 30 of 1966, sec. 16 (w.e.f. 16-9-1966).
10. Subs. by Act 115 of 1976, sec. 30, for "or person" (w.r.e.f 8-10-1976).
11. Ins by Act 115 of 1976, sec. 30 (w.r.e.f 8-10-1976).
12. Ins. by Act 115 of 1976, sec. 31 (w.r.e.f 1-10.1976).
13. Sub.section (1) omitted by Act 50 of 1991, sec 13 (w.e.f 15.10.1991).
14. Subs. by Act 50 of 1991, sec. 13, for "promoting" (w.e.f 15.10.1991).

government, or where there are more than one 1[competent] government, to all such 1[competent] Governments, the report together with a statement of accounts, in such form and containing such particulars as may be specified by the government or the governments, as the case may be, a copy of the balance-sheet and profit and loss account and the auditor's report, in relation to the accounts of the year aforesaid.

2[(3) For the purpose of preparing the statement of accounts referred to in sub-section (2), the depreciation to be provided every year shall be calculated at such rate as may be specified by the Central Government, by notification in the Official Gazette, in accordance with the provisions of section 43A.]

3[***]

(4) The provisions of 4[sub-section (2) shall be in addition to and not in derogation of the provisions contained in the Companies Act, 1956 (1 of 1956), in relation to reports, statement of accounts and other documents required to be prepared or kept or submitted by a company within the meaning of section 3 of that Act.]

76. Arbitration.-5[*]**

(2) Where any question or matter is, by this Act, required to be referred to arbitration, it shall be so referred-

(a) in cases where the Act so provides, to the Authority and on such reference the Authority shall be deemed to have been duly appointed as Arbitrators, and the award of the Authority shall be final and conclusive; or

(b) in other cases, to two arbitrators, one to be appointed by each party to the dispute.

(3) Subject to the provisions of this section, the provisions of the 6[Arbitration and Conciliation Act, 1996 (26 of 1996)] shall apply to arbitrations under this Act.

7[(3A) Where any question or matter is referred to the Authority for arbitration under this section, the Authority may, having regard to the circumstances of each case, charge such arbitration fee as it may deem reasonable.]

8[(3B) All fees and charges due to the Authority in respect of any arbitration and award and all costs and charges for filing the award Incurred by the Authority may, if they are not paid by the person from whom they are due within a period of one

1. Subs. by Act 50 of 1991, sec. 13, for "promoting" (w.e.f. 15-10-1991).

2. Subs. by Act 50 of 1991, sec. 13, for sub-section (3) (w.e.f. 15-10-1991).

3. Sub-section (3A) ins. by Act 23 of 1971, sec. 11 (w.e.f. 3-6-1971) and omitted by Act 50 of 1991, sec. 13 (w.e.f. 15-10-1991).

4. Subs. by Act 50 of 1991, sec. 13, for "sub-section (1) and" (w.e.f. 15-10-1991).

5. Sub-section (1) omitted by Act 30 of 1966, sec. 17 (w.e.f. 16-9-1966).

6. Subs. by Act 22 of 1991, sec. 12, for "Arbitration Act, 1940 (10 of 1940)" (w.e.f. 31-12-1998).

7. Ins. by Act 101 of 1956, sec. 20 (w.e.f. 30-12-1956) and subs. by Act 22 of 1998, sec. 12 (w.e.f. 31-12-1998)

8. Sub-section (3B) ins. by Act 101 of 1956, sec. 20 (w.e.f. 30-12-1956).

month from the date of a notice given to him by the Authority in this behalf, be recovered from him in the same manner as an arrear of land revenue.]

(4) The arbitrators shall in making their award have regard to the provisions of this Act and any rules and regulations made thereunder relevant to the reference.

(5) The arbitrators may, if they think it expedient so to do, call in the aid of one or more qualified assessors and hear the reference wholly or partially with the aid of such assessors.

(6) The provisions of sub-sections (4) and (5) shall apply to the umpire, if he enters on the reference, as they apply to the arbitrators.

1[77. Penalties.- If any licensee or other person, not being the Board, fails without reasonable excuse to comply with, or give effect to, any direction, order or requirement made under any of the following provisions, namely:-

(a) section 4; or

(b) section 55; or

(c) clause (d) of sub-section (1) of section 57A;

(d) section 57B; or

(e) section 58; or

(f) sub-section (3) of section 75;

he shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to fifty rupees for each day after the first during which the offence continues.

77A. Source from which fines may be paid.-All fines payable by a licensee under this Act or under any other law for the time being in force in respect of any offence committed by the licensee, shall be payable by him from that part of the clear profit to which he is entitled under the Sixth Schedule.

77B. Offences by companies.- (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to

1. Subs. by Act 101 of 1956, sec. 21, for section 77 (w.e.f. 30.12-1956).

Be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "direction" in relation to a firm means a partner in the firm.

77C. Cognizance of offences.- No Court shall take cognizance of an offence under section 77, except on the complaint of:-

(a) in the case of an offence relating to section 4, by an officer of the Authority authorized in that behalf by the Authority.

(b) in the case of any other offence,-

(i) where a Board is constituted, by an officer of the Board authorized by the Board in that behalf;

(ii) where no Board is constituted, by an officer of the State Government authorized by the State Government in that behalf.]

78. Power to make rules.- (1) The State Government may after previous publication, by notification in the Official Gazette make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

1[(a) 2[the power of the Chairman and the term of office] of the Chairman and other members of the Board, the conditions under which they shall be eligible for re-appointment and their remuneration, allowances and other conditions of services;]

(b) the terms and conditions of appointment of members of 3[State Electricity Consultative Councils] and Local Advisory Committees, the convening of meetings of such Councils and committees, and the conduct of business thereat;

(c) the form in which annual financial statement and supplementary statements under section 61 shall be prepared by the Board, and the particulars to be included therein;

(d) the conditions subject to which the Board may borrow under section 65;

(e) the manner in which stock issued by the Board shall be issued, transferred, dealt with redeemed;

(f) the manner in which the accounts of the Board shall be published under section 69.

1. Subs. by Act 57 of 1949, sec. 6, for clause (a).

2. Subs. By Act 101 of 1956, sec. 22, for "the term of office" (w.e.f. 30-12-1956).

3. Subs. By Act 101 of 1956, sec. 22, for "State Electricity Councils" (w.e.f. 30-12-1956).

(g) the form In which and the date by which the annual report of the Board shall be submitted under section 75, and the form and manner of furnishing statistics and returns by the Board under that section;

(h) the business of the Board upon which the local Advisory Committees concerned shall be consulted.

COMMENTS

The State Government is empowered to frame rules regarding the powers of the Chairman and his term of office as well as that of the other members of the Board, conditions of their re-appointment, remuneration, allowances and service; *State of H.P. v. Kailash Chand Mahajan*, AIR 1992 SC 1277.

1[78A, Directions by the State Government.- (1) In the discharge of its functions, the Board shall be guided by such directions on questions of policy as may be given to it by the State Government.

(2) If any dispute arise between the Board and the State Government as to whether a question is or is not a question of policy, it shall be referred to the Authority whose decision thereon shall be final.]

79. Power to make regulations.- 2[The Board may by notification in the official Gazette, make regulation] not inconsistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely:-

(a) the administration of the funds and other property of the Board, and the maintenance of its accounts;

(b) the summoning and holding of meetings of the Board, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(c) the duties of 3[officers and other employees]of the Board, and then salaries, allowances and other conditions of service;

(d) all matters necessary or expedient for regulating the operations of the Board under section 20;

(e) the marking of advances to licensees by the Board under section 23 and the manner of repayment of such advances;

(f) the making of contributions by the Board under section 24;

(g) the procedure to be followed by the Board in inviting, considering and accepting tenders;

(h) principles governing the fixing of Grid Tariffs;

(i) principles governing the making of arrangements with licensees under section 47;

1. Ins. by Act 101 of 1956, sec. 23 (w.e.f. 30-12-1956).

2. Subs. By Act 20 of 1983, sec. 2 and Sch., for "The Board may make regulations" (w.e.f. 15-3-1984).

3. Subs. By Act 23 of 1978, sec. 19, for "officers and servants" (w.e.f. 3-6-1978)

(j) principles governing the supply of electricity by the Board to persons other than licensees under section 49;

1[(jj) expending sum not included in statement submitted under sub-section (1) or sub-section (5) of section 61, under sub-section (2) of section 62;]

(k) any other matter arising out of the Board's functions under this Act for which it is necessary or expedient to make regulations;

Provided that regulations under clauses (a) 2[, (d) and (jj)] shall be made only with the previous approval of the State Government and regulations under clauses (h) and (i) shall be made with the concurrence of the Authority.

3[79A. Laying of notification before the State Legislature.-Every notification issued under section 55 by the State Government, or the State Commission, as the case may be, every rule made by that Government under section 78 and every regulation made by the Board under section 79, shall be laid, as soon as may be, before the State Legislature.]

80. Provision relating to income-tax and super-tax.-(1) For the purposes of the Indian Income-tax Act, 1922 (11 of 1922), the Board shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains.

(2) The State Government shall not be entitled to any refund of any such taxes paid by the Board.

81. Members, officers and servants of the Board to be public servants.-All 4[members and officers and other employees] of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

82. Protection to persons acting under this Act.-No suit, prosecution or other legal proceeding shall lie against 5[any 6[member or officer or other employee] of the Board] for anything which is in good faith done or intended to be done under this Act.

COMMENTS

The section does not imply exclusive and total bar of jurisdiction but is subject to or hedged with condition as to whether the actions taken are in good faith and within the parameters of the Act. So, it is difficult for a court at the threshold without going into or considering the merits to say that the suit is not maintainable; *Secretary, K.S.E.B., Trivandrum v. M. Sainaba*, AIR 1990 Kef 50.

83. Saving of application of Act.-Nothing in this Act shall be deemed to apply to a licensee on which a notice under section 5 or section 7 of the Indian Electricity Act, 1910 (9 of 1910) has been served prior to the coming into force of the sections, Schedule and Table mentioned in sub-section (3) of section 1.

1.Ins. by Act 23 of 1978, sec. 19 (w.e.f. 3-6-1978).

2 Subs. by Act 2J of 1978, sec. 19, for "and (d)" (w.e.f 3-6-1978).

3. Section 79A ins. by Act 20 of 1983, sec. 2 and Sch. (w.e.f. 15-53-1984) and subs. by Act 22 of 1998, sec. 13 (w.e.f. 31-12-1998)

4. Subs. by Act 23 of 1978, sec. 20, for "member, officers or servants" (w.e.f. 3-6-1978).

5. Subs. by Act 30 of 1966, sec. 18, for "any person" (w.e.f. 16-9-1966).

6 Subs. by Act 23 of 1978, sec. 20, for "member, officer or servant" (w.e.f. 3-6-1978).

THE FIRST SCHEDULE

(See sections 34 and 36)

ARRANGEMENTS IN RESPECT OF CONTROLLED STATIONS

PART I

Assumption of control

I. (1) The Board shall by notice in writing to the licensee fix a date (hereafter in this Schedule referred to as the date of control), being the first day of a year of account of the licensee, and from such date the licensee shall, except where prevented by causes beyond his control, be under obligation--

(a) subject to such direction as the Board may from time to time give him, to keep the station at all times in good and substantial repair and condition and ready for use, together with adequate staff for operating, maintaining and controlling the station, and not to make any substantial alterations or renewal in, or remove any essential or substantial part of, the station without the consent in writing of the Board;

(b) to operate the station so as to generate such quantity of electricity with such units of plant at such rates of output and at such times, or to cease to generate electricity during such periods, as the Board may direct;

(c) to carry out as soon as may be practicable such reasonable extensions, alterations or renewals of the station or any part thereof as the Board may from time to time direct;

(d) to supply to the Board all the electricity generated at the station.

(2) To enable a licensee to comply with any direction under sub-paragraph (1) requiring extension of the station or any part thereof for purposes of the Board, the Board may, if it considers it expedient and practicable so to do, offer to advance to him a loan upon such terms and conditions as it may deem proper and the licensee may accept the loan from the Board on the terms and conditions offered or may raise a loan from other sources or employ his own funds for the purpose of such extension]:

Provided that notwithstanding anything contained in any law or in any mortgage, charge or instrument executed by the licensee, the loan so advanced by the Board and the interest

thereon shall be a first charge on the extension and subject to any prior encumbrance shall also be charged on the undertaking and all the revenues of the licensee and no such loan shall be amortized in any way by the licensee:

Provided further that if at the date of purchase of the station under this Act or of the licensee's undertaking under the Indian Electricity Act, 1910 (9 of 1910), the said principal or any part thereof remains unpaid though due to for redemption or is not on that date due for redemption, then any sum payable by the purchaser as a percentage on account of compulsory purchase under this Act or the said Act shall be reduced by an amount which bears the same proportion to that sum as the amount of the said principal or part thereof remaining unpaid or not being due for redemption as aforesaid bears to the total of the ordinary, preference and debenture capital of the licensee and the loans advanced by the Board under this sub-paragraph.

Explanation.-In the sub-paragraph, the expressions "ordinary capital", "preference capital" and "debenture capital" have the meanings respectively assigned to them in the Sixth Schedule.

II. From the date of control the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking except such quantity of electricity as the licensee may from the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

1. Subs. By Act 101 of 1956, sec. 24, for certain words (w.e.f. 30-12-1956).

III. Unless otherwise agreed between the Board and the licensee, the licensee, shall not, where he has received a notice under paragraph 1, purchase after the date of control any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of control or for such further period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

IV. The Board shall pay to the licensee, whether or not any electricity is generated at the station, the costs accordance with the provisions of the Eighth Schedule.

V. The price to be paid by the licensee for electricity supplied by the Board shall be determined in the manner provided in the appropriate Part of this Schedule.

VI. The point at which electricity to be supplied under this Schedule shall be delivered by the Board and the licensee respectively shall, unless otherwise agreed between the Board and the licensee, be at the generating station, and the pressure of the supplies shall be such as the Board and the licensee may agree.

VII. Where any licensee owns more than one controlled station--

(a) such of the several controlled stations as are inter-connected shall, for the purposes of this Schedule, be deemed to comprise a single controlled station, and, unless the subject or context otherwise requires, the provisions of this Schedule shall be construed as if the word

"combined" had been inserted before the word "station" or the words "generating station" wherever they occur.

(b) the electricity supplied at the several controlled stations by the licensee to the Board, or by the Board to the licensee, shall each respectively be treated as single supplies;

(c) in the application of clause (a) of paragraph XII, the costs of production at each of the several controlled stations shall be separately ascertained, and in the application of clause (c) of the said paragraph

(i) the sums ascertained in accordance with clause (a) of paragraph 1 of the Eighth Schedule in respect of each of the several controlled stations shall be separately allocated between fixed costs and running costs, and

(ii) the sums of the several fixed costs and the sum of the several running costs shall be the fixed costs and the running costs respectively of the combined station;

(d) in directing the operation of the combined station under clause (b) of sub-paragraph (1) of paragraph 1 the Board shall have regard to the nature and capacity of the licensee's transmission system inter-connecting the several controlled stations and to the requirements of the licensee at each of those stations.

VII. In the event of the licensee failing, except where prevented by causes beyond his control, to perform or continue to perform any obligation imposed upon him under this Part, the Board may give notice to him in writing that on the first day of the licensee's next succeeding year of account the generating station will be purchased by the Board, and on such day the Board shall purchase the station at a price determined in accordance with the Fourth Schedule, and thereafter-

(a) all the provisions of this Schedule except paragraph II and this paragraph shall, in relation to the licensee, cease to have effect;

(b) the Board shall supply the licensee with the electricity required by him under paragraph II at such price and on such conditions as the Board may determine.

PART II

Price to be paid for electricity supplied by the Board under Part I

IX. There shall be agreed between the Board and the licensee in respect of each month of the licensee's year of account-

(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the station as were available for reliable and regular commercial operation on the first day of the month, including the capacity of such plant and works as were temporarily out of commission.

(b) the number and size of units of plant and works, forming part of the aforesaid plant and works, which ought properly to be deemed to be standby if the station were not a controlled station;

(d) the standby capacity of the station, that is to say, the number of kilowatts (expressed in

kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account;

(c) the actual effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

X. (1) The licensee shall be entitled to purchase from the station in each month at a price, determined under paragraph XIII a number of kilowatts not exceeding the scheduled effective capacity of the on the first day of that month as determined in sub-paragraph (2).

(2) The scheduled effective capacity of the station shall be agreed between the Board and the licensee in respect of each month of the year of account, and shall be computed in the same manner as the actual effective capacity under paragraph IX, except that there shall be left out of account such unit of plant and works, if any, forming part of the plant and works referred to in clause (a) of the said paragraph, as the licensee declares to be surplus to his requirements for the time being:

Provided that the licensee shall not declare to be surplus to his requirements any such Units, of plant and works as were installed or were on order at the date of control or which were included in any previous computation of the scheduled effective capacity:

Provided further that if as a result of the licensee declaring as surplus to his requirements any unit, of plants or works, the scheduled effective capacity is in respect of any month computed to be less than the maximum demand of the licensee on the station for the purposes of his own undertaking, then such Units of plant or works and all further additional units of plant or work shall thereafter always be deemed to be surplus to the requirements of the licensee as aforesaid unless the Board decides otherwise.

XI. Of the kilowatt-hours purchased by the licensee from the Board in each month, a number kilowatt-hours not exceeding the number which bears the same proportion to the total number purchased as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month shall be purchased at a price determined under paragraph XIV:

Provided that if the station is a hydro-electric station or if any unit of a combined station is a hydro-electric unit, the number of kilowatt-hours which the licensee shall be entitled to purchase as aforesaid shall be reduced by such amount, if any, as may be agreed between the Board and the licensee, having regard to the number of kilowatt-hours actually supplied in the month from such hydro-electric station or unit.

XII. As soon as practicable after the end of a year of account-

(a) there shall be ascertained in respect of that year the cost of production at the station in accordance with the provisions of the Eighth Schedule;

(b) there shall be deducted from the total sum ascertained in respect of that year under clauses (b), (c), (d), (e) and (f) of paragraph I of the Eighth Schedule, such proportion of the charges referred to in the said clauses as are wholly attributable to so much of the plant and works, if any, as has been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements, and the balance remaining after such deduction shall for the purposes of this Schedule be referred to as the scheduled overhead charges:

Provided that in assessing the said proportion regard shall be had to the period during which any such plant or works were declared to be surplus as aforesaid;

(c) there shall be allocated between fixed costs and running costs in accordance with the provisions of the Ninth Schedule the sum ascertained in respect of that year under clause (a) of paragraph I of the Eighth Schedule, and the amount of running costs divided by the number of kilowatt-hours supplied from the station in that year shall for the purposes of this Schedule be referred to as the running charges component;

(d) there shall be ascertained in respect of that year an amount (in this Schedule referred to as the scheduled fixed works costs) calculated from the expression " $A + \frac{A \times B}{C}$ "

A=the amount of fixed costs ascertained in respect of that year under clause (c);

B=the sum of the scheduled effective capacities for each month of that year;

C=the sum of the actual effective capacities for each month of that year.

XIII. The licensee shall pay to the Board in respect of each month of the year account for the electricity purchased under paragraphs X and XI-

(a) in respect of kilowatts, an amount equal to one-twelfth of the sum of the scheduled overhead charges and the scheduled fixed works costs;

(b) in respect of kilowatt-hours a sum found by multiplying the number of kilowatt-hours supplied by the running charges component;

Provided that if in any year of account the station for any reason ceases to generate electricity for one thousand hours or more, then for the purposes of ascertaining the running charges component and the scheduled fixed works costs under clauses (c) and (d) respectively of paragraph XII-

(i) the said clause (c) shall be construed as if there were substituted for the words "that year" in both places where they occur, the words "the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more" and as if to the said clause the following proviso were added, namely:-

"Provided that so much of the said sum as is represented by the cost of fuel shall be adjusted to take account of the cost which would have been incurred had that fuel been consumed at the average prices prevailing in the actual year of account.";

(ii) in evaluating the expression contained in the said clause (d), the letter C shall be deemed to equal to the sum of the actual effective capacities for each month of the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more:

Provided further that if in any year of account there exist in the station any units of plant or works which have been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements in that year, there shall be added to the running charges component in respect of that year the amount, if any by which that part of the said component attributable to the cost of fuel is less than ninety *per centum* of the corresponding part of the running charges component in respect of the year of account immediately preceding that in which the earliest installed of the said units of plant or works

first came into commercial operation in the station, and in ascertaining the corresponding part as aforesaid, the fuel consumed shall be deemed to be of the same average quality and to be consumed at the same average cost per ton as the fuel consumed in the year of account:

Provided further that if in respect of any month of the year of account any units of plant or works previously declared by the licensee as aforesaid to be surplus to his requirements are for the first time take into account in assessing the scheduled effective capacity for that month, then in addition to the payment referred to in clause (a) the licensee shall pay to the Board a sum equal to any sums previously paid by the Board to the licensee on revenue account (in respect of any period prior to the date on which the said units of plant or works came into commission) by way of interest, depreciation, testing and turning-up expenses attributable to the said units of plant or works; and the sum to be paid as aforesaid shall become due in one or more installments and at such time or times as the Board may direct.

XIV. The price payable by the licensee to the Board for all electricity supplied by the Board to him in excess of the quantities referred to in paragraphs X and XI shall be the Grid Tariff.

XV. The licensee shall have the right at any time, on giving to the Board prior notice in writing expiring at the end of any year of account, to purchase from the Board at the Grid Tariff the whole of the electricity supplied to him by the Board thereafter.

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the scheduled effective capacity of the station becomes nil, pay to the Board in respect of each month in addition to the Grid Tariff one-twelfth of such proportion as the Board may fix of the annual charges by way of interest and depreciation which would have been payable to the Board in respect of the year of account had the said notice not been given:

Provided further that in assessing the scheduled effective capacity for the purposes of the first proviso all units of plant or works which may have been under this Schedule declared or deemed to be surplus to the requirements of the licensee at the date of the expiration of the said notice and all additional units of plant or works shall after that date always be deemed to be surplus to the requirements of the licensee:

Provided further that after the expiration of the said notice the licensee shall not be entitled any time to purchase electricity from the Board at the price ascertained under paragraph XIII.

PART III

Permanent closing down of a controlled station

XVI. The Board may give the licensee not less than six months' notice in writing expiring at the end of any year of account that from the first day of next succeeding year of account it will not again direct the licensee to generate any electricity in the station, and upon that date (hereinafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

XVII. From the date of closing down paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and on receipt of the notice under paragraph XVI the licensee shall have the option (to be exercised by a date not later than three months prior to the date

of closing down) either-

(a) (i) to sell the station at any time after the date of closing down, and

(ii) to purchase the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station or at the option of the licensee the undertaking of the licensee at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XVIII:

Provided that where the station cannot be severed from the distributing system of the licensee or where the severance of the station from the distributing system of the licensee is likely to affect prejudicially the interests of the licensee, the licensee shall be entitled to demand that the Board shall purchase his entire undertaking and on such demand being made the Board shall purchase the entire undertaking of the licensee.

Any question arising under the proviso to this paragraph shall be referred to arbitration under section 76.

XVIII. Where licensee exercises his option under paragraph XVII in terms of clause (b) thereof, the Board shall comply with the requirement to purchase the station under sub-clause (i) of that clause, and in applying the provisions of Part II to the purchase by the licensee of electricity supplied to him by the Board,-

(a) the station shall, notwithstanding that it has been permanently closed down, be deemed to remain a controlled station in operation but to be such a station which has ceased to generate electricity for one thousand hours or more during each year of account;

(b) clause (a) of paragraph IX shall be construed as if the following were substituted therefore, namely:-

"(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of each month had the station not been closed down under Part III and had no replacement of any major item of such plant or works been carried out;"

(c) clause (a) of paragraph XII shall be construed as if the following were substituted therefore, namely:-

"(a) there shall be ascertained in respect of the year of account such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under Part III as would have resulted from the application of clauses (e) and (I) of paragraph I of the Eighth Schedule and had those assets remained in the ownership of the licensee;"

(d) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted;

(e) there shall be added to the sum payable by the licensee to the Board under clause (a) of

paragraph XIII in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression, "A x B Where-- C "

A=that part of the scheduled overhead charges payable by the licensee to the Board in respect of the most recent year of account during which the station did not cease to generate electricity for one thousand hours or more, which relates to the items referred to in clauses (b),(c) and (d) of paragraph I of the Eighth Schedule;

B=the sum of the scheduled effective capacities for each month of the year of account;

C=the sum of the scheduled effective capacities for each month of the most recent year of account as aforesaid.

PART IV

XIX. Where in respect of any month notified by the Board (and hereinafter In this Schedule referred to as the relevant month), the scheduled effective capacity of the station is computed under paragraph X to be less than one-half of the actual effective capacity of the station, the Board may give to the licensee six month's notice in writing that on the first day of the year of account next following the date of expiration of such notice the station will be purchased by the Board.

XX. Notwithstanding anything contained in paragraph X, in computing the scheduled effective capacity for purposes of paragraph XIX there shall be left out of account all such units of plant and works as would not reasonably have been required by the licensee for purposes other than supply to the Board had the station not been a controlled station.

XXI. Where a notice under paragraph XIX has been served by the Board on the licensee, the Board shall purchase the station of where a severance of the station from the distributing system of the licensee is not possible or is likely to affect prejudicially the interest of the licensee and the licensee so requires the entire undertaking of the licensee at the date specified in the notice and at a price determined under the Fourth Schedule.

XXII. From the date of purchase of the station or at the option of the licensee the undertaking of the licensee under paragraph XXI the provisions of paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and the licensee shall be required to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XXIII.

XXIII. In applying the provisions of Part II to the purchase by a licensee whose station has been purchased under this Part of electricity supplied to him by the Board,-

(a) the station shall, notwithstanding that it has been purchased by the Board, be deemed to remain a controlled station;

(b) clause (a) of paragraph XII shall be construed as if the reference therein to the provisions of the Eighth Schedule excluded a reference to clauses (b), (c) and (d) of paragraph I of that Schedule, and as if the following proviso were added to the said clause (a), namely:-

"Provided that the annual charges to be included in accordance with clauses (e) and (f) of paragraph I of the said Schedule shall be such as would have resulted had the assets

purchased by the Board under Part IV remained in the ownership of the licensee";

(c) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted:

(d) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph XIII in each month of the year of account a sum equal to one twelfth of the amount calculated from the expression,

"A x B Where--C "

A=that part of the scheduled overhead charges payable by the licensee to the Board in respect of the last year of account in which the station was in the ownership of the licensee, which relates to the Items referred to in the clauses (b),(c) and (d) of paragraph I of the Eighth Schedule;

B=the sum of the scheduled effective capacities for each month of the year of account;

C=the sum of the scheduled effective capacities for each month of the said last year {,f "IC{lunt

THE SECOND SCHEDULE

(See section 35)

SUPPLY BY BOARD TO LICENSEES OWNING STATIONS OTHER THAN CONTROLLED STATIONS

I. Before the end of each year the Board shall declare to the licensee in respect of each of the two next succeeding years the maximum number of kilowatts which it will make available for the purpose of the licensee's undertaking.

II. Where the Board and the licensee agree that the number of kilowatts declared under paragraph I will be inadequate to meet the requirements of the licensee having regard to the capacity of the licensee's generating plant, the Board shall not refuse its consent under section 44, the provision of that section notwithstanding, to the installation by the licensee of such generating plant as he may reasonably require for the purpose of his undertaking, unless the Board is able appropriately to amend its declaration within a reasonable time.

III. The licensee shall be entitled to demand from the Board, and the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, a maximum number of kilowatts in each year not exceeding, without the consent of the Board, the maximum number of kilowatts declared under this Schedule in respect of that year.

IV. The point at which the electricity to be supplied under this Schedule shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

V. The Board shall bear the whole of the cost of the service apparatus required for making the supply under this Schedule available to the licensee.

VI. The price to be paid by the licensee to the Board in respect of each year for electricity supplied under this Schedule shall be the Grid Tariff

THE THIRD SCHEDULE

(See section 36)

CLOSING DOWN OF GENERATING STATIONS OTHER THAN CONTROLLED STATIONS

I. Where the Board proposes under section 36 permanently to close down a generating station other than a controlled station, it shall give the licensee owning the station not less than six months, notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account (hereafter in this Schedule referred to as the date of closing down) the station be permanently closed down.

II. From the date of closing down the Board shall be under obligation to supply to the licensee, except where prevented by causes beyond its control, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

III. Unless otherwise agreed between the Board and the licensee, the licensee shall not, where he has received a notice under paragraph I, purchase after the date of closing down any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of closing down or for such further period, if any, as the Board may allow, continue to purchase electricity under the such other source.

IV. (1) The point at which electricity to be supplied by the Board shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

(2) The Board shall bear the whole of the cost of the service apparatus required for making the supply available to the licensee.

V. The licensee shall have the option, to be exercised by a date not later than three months prior to the date of closing down, either-

(a) (i) to sell the station at any time after the date of closing down, and

(ii) to purchase the whole of the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station [or the entire undertaking] at the date

of closing down at a price determined under the fourth sub schedule ,and

(ii) to purchase the whole of the electricity supplied to him by the Board on the terms hereafter set out this schedule.

VI. Where the licensee exercises his option under paragraph V under in terms of clause (b) thereof, the Board shall comply with the requirement to purchase under sub-clause (i) of that clause, and the following provision of this Schedule shall apply.

VII. As soon as practicable after the licensee has exercised his option as aforesaid, there shall be ascertained and agreed between him and the Board the following quantities in respect of each year of account subsequent to the date of closing down, namely:-

1. Ins. by Act 101 of 1956, sec. 25 (w.e.f. 30-12-1956)

(a) The maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of the year of account, had the station not been closed down under this Schedule and had no replacement of any major item of such plant or works been carried out subsequent to the date of closing down.

(b) The number and size of units of plant and works, forming part of the aforesaid plant and works, which would have represented reasonable standby in the station.

(c) The standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account.

(d) The agreed effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

VIII. As soon as practicable after the date of closing down there shall be ascertained in agreement between the Board and the licensee in respect of each of the three consecutive years of account immediately preceding the date of closing down (hereafter in this Schedule referred to as the basic years)-

(a) the sums expended by the licensee and wholly attributable to the generation of electricity under the following heads, namely:-

(i) fuel;

(ii) less oil, water and stores consumed;

(iii) salaries and wages and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servant;

(iv) repairs and maintenance, and renewals not chargeable to capital account;

(v) management, rents, rates and taxes (including super-tax payable by the licensee as a company, but excluding other taxes on profits), insurance of plant and general establishment charges;

(vi) any other expense on revenue account;

(b) the actual effective capacity of the station on the first day of each such year agreed in accordance with the principles set out in paragraph IX of the First Schedule.

IX. As soon as practicable after the beginning of each year of account there shall be ascertained in respect of that year such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under this Schedule as would have resulted from the application of clauses (e) and (f) of paragraph I of the Eighth Schedule, had those assets remained in the ownership of the licensee.

X. The licensee shall be entitled to purchase from the Board in each year of account at a price determined under paragraph XI-

(a) a number of kilowatts not exceeding the agreed effective capacity ascertained in respect of that year under paragraph VII, and

(b) a number of kilowatt-hour not exceeding the number of kilowatt-hours which bears the same proportion to the total number of kilowatt-hours required by the licensee in that year for the purposes of his undertaking as the agreed effective capacity ascertained in respect of that year bears to the total maximum demand of the licensee in that year for the said purposes.

XI. The price payable by the licensee in respect of each year of account for the quantity of electricity specified in paragraph X shall be-

(a) in respect of kilowatts, a fixed charge equal to the sum of-

(i) an amount calculated from the expression,

"A + A x B ;

B 2 C"

(ii) an amount calculated from the expression

"B x D ;

C"

(iii) the annual charges by way of interest and depreciation ascertained in respect of the year of account under paragraph IX, where-

A=one-third of the total costs during the basic years under head (ii),(iii), (iv) and (vi) set out in clause (a) of paragraph VIII;

B=the agreed effective capacity for the year of account;

C=one-third of the sum of the actual effective capacities [ascertained under clause (b) of paragraph VIII] for each of the basic years;

D=one-third of the total costs during the basic year under head (v) set out in clause (a) of

paragraph VIII;

(b) in respect of kilowatt-hours, a running charge per kilowatt-hour ascertained-

(i) by multiplying the total number of tons of fuel consumed in the station in the basic years by the estimate agreed between the Board and the licensee of the cost per ton which would have been incurred in delivering the handling the same quantity of fuel of equivalent calorific value to the furnaces in the station during the year of account, had the station remained in the ownership of the licensee, and

(ii) by dividing the total cost so found by the total number of units sent out from the station in the basic years.

XII. The price payable by the licensee for all electricity supplied to him by the Board in excess of the quantity specified in paragraph X shall be the Grid Tariff.

XIII. The licensee shall have the right at any time on giving the Board prior notice in writing expiring at the end of a year of account of purchase at the Grid Tariff the whole of the electricity supplied to him by the Board:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the agreed effective capacity of the station becomes nil, pay to the Board in each year of account in addition to the Grid Tariff a sum equal to such proportion, as the Board may fix of the annual charges by way of interest and depreciation ascertained in respect of the year under paragraph IX.

Provided further that after the expiration of the said notice, the licensee shall not be entitled at any time to purchase electricity from the Board at the price ascertained under paragraph XI.

THE FOURTH SCHEDULE

(See, sections 23 and 37 and First and Third Schedules)

PRICE FOR UNDERTAKINGS, GENERATING STATIONS AND MAIN TRANSMISSION LINES PURCHASED BY THE BOARD

I. For the purposes of this Schedule-

(a) "date of vesting" means the date on which the undertaking, generating station, main transmission line or asset forming part of such station or line, as the case may be, vests in the Board;

(b) "original cost" of an asset means the amount of expenses certified or determined under paragraph II to have been properly incurred on and incidental to the provision, of the asset for the purposes of the undertaking, generating station or main transmission line, as the case may be. 1[***]

II. The price to be paid for any undertaking, generating station or main transmission line, as the case may be purchased by the Board under this Act shall be such as may be certified by

an auditor appointed by the State Government in this behalf to have been the amount properly incurred on and incidental to the establishment of the undertaking, station or main transmission line, as the case may be, less depreciation thereon 2[calculated in accordance with the provisions of paragraph VI of the Sixth Schedule];

Provided that there shall be added to such sum as aforesaid on account of such purchase of the generating station or main transmission line such reasonable compensation as may be determined by the Board having due regard to the fact that a portion of the undertaking is to be acquired:

Provided further if the Board or the licensee is dissatisfied with the sum so certified, the matter shall, in default of agreement between them, be determined 3[by arbitration] as provided in section 76.

4[***]

IV. The auditor appointed under paragraph II shall be a person qualified under the provisions of 5section 144 of the Indian Companies Act, 1913 (7 of 1913), to act as an auditor of companies.

V. The auditor's cost under this Schedule shall be shared equally by the Board and the licensee concerned.

THE FIFTH SCHEDULE

(See section 41)

CHARGES FOR USE 6[BY BOARD OR GENERATING COMPANY] OF TRANSMISSION LINES AND MAIN TRANSMISSION LINES

1. The following charges and allowances shall be made in respect of a year of account for the use by 7[the Board or the Generating Company] of main transmission lines or transmission

1.Clause (c) omitted by Act 23 of 1978, sec. 22 (w.e.f. 3-6-1978).

2 Subs. by Act 23 of 1978, sec. 22, for "on the scale set out in paragraph III" (w.e.f 3-6-1978).

3.Ins. by Act 30 of 1966, sec. 19 (w.e.f. 16-9-1966).

4.Paragraph III omitted by Act 23 of 1978, sec. 22 (w.e.f. 3-6-1978).

5.See section 224 and 226 of the Companies Act, 1956 (1 of 1956).

6 Subs. by Act 115 of 1976, sec. 32, for "BY BOARD" (w.e.f. 8-10-1976).

7. Subs. by Act 115 of 1976, sec. 32, for "the Board" (w.e.f. 8-10-1976).

lines (hereafter in this Schedule referred to as lines), namely:-

(a) the actual cost of maintenance of the lines, including renewal, thereof not chargeable to capital account;

(b) sum paid in respect of the lines for insurance and as rents, rates and taxes 1[(including all taxes payable on income and profits)];

(c) the proportion of management and general establishment charges properly attributable to the lines;

(d) any other expenses on revenue account properly attributable to the lines;

(e) 2[interest on the depreciated cost of the line shown in the books of the undertaking and properly attributable to the lines (whether defrayed out of capital or revenue) and interest on such working capital as is properly attributable to the lines]:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal interest on which is charged to capital;

(f) If the allowance for depreciation of an amount determined in respect of the lines in accordance with the provisions of paragraph VI of the Sixth Schedule.

II. If the lines are used partly by 3[the Board or the Generating Company] and partly by the licensee owning them, or if the arrangement for their use comes into force or determines otherwise than at the beginning or end of a year of account, the charges and allowances referred to in paragraph I shall be the proper proportion thereof having regard to the use made of the line by 3[the Board or the Generating Company] and the period of such use during the year and with the addition of the cost of such additional transmission losses as may have been incurred by the licensee as a result of the Board's user of the lines.

4[**III.** For the purposes of clause (e) of paragraph I,-

(i) "depreciated cost of the lines" means original cost thereof as determined in accordance with the provision of sub-paragraph (6) of paragraph XVII of the Sixth Schedule less the amount written off or set aside on account of depreciation of fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,-

(a) where the licensee owning the lines in a local authority, the average rate payable on the money raised by that authority for the purpose of constructing the lines;

(b) in any other case, the Reserve Bank: rate ruling at the beginning of the year referred to in

paragraph I *plus two per centum.*]

5[See section 57 and 57A]

FINANCIAL PRINCIPLES AND THEIR APPLICATION

I. 6[Notwithstanding anything contained in the Indian Electricity Act, 1910 (9 of 1910)

1. Subs. by Act 101 of 1956, sec. 26, for "(including super-tax payable by the licensee as a company, but excluding other taxes on profits)" (w.e.f 30-12-1956).

2. Subs. by Act 101 of 1956, sec. 26, for certain words (w.e.f 30-12-1956).

3. Subs. by Act 115 of 1976, sec. 32, for "the Board" (w.e.f 8-10-1976).

4. Subs. by Act 30 of 1966, sec. 20, for paragraph III (w.e.f 1-4-1966).

5. Subs. by Act 101 of 1956, sec. 27, for "(See section 57)" (w.e.f 30-12-1956).

6 Subs. by Act 101 of 1956, sec. 27, for certain (w.e.f. 30-12-1956).

1[[except sub-section (2) of section 22A]], and the provisions in the licence of a licensee, the licensee shall so adjust his 3[charges] for the sale of electricity whether by enhancing or reducing them that his clear profit in any year of account shall not, as far as possible, exceed the amount of reasonable return:]

3[Provided that such 2[charges] shall not be enhanced more than once in any year of account:

Provided further that the licensee shall not be deemed to have failed so to adjust his 2[charge] if the clear profit in any year of account has not exceeded the amount of reasonable return by 4[twenty] *per centum* of the amount of reasonable return:

Provided further that the licensee shall not enhance the 2[charges] for the supply of electricity until after the expiry of a notice in writing of not less than sixty clear days of his intention to so enhance the 2[charges], given by him to the State Government and to the Board:

Provided further that if the 2[charges] of supply fixed in pursuance of the recommendations of a rating committee constituted under section 57A are lower than those notified by the licensee under and in accordance with the preceding proviso, the licensee shall refund to the consumers the excess amount recovered by him for them:]

Provided also that nothing in this Schedule shall be deemed to prevent a licensee from levying with the previous approval of the State Government, minimum charges for supply of electricity for any purpose.]

5[IA. The notice referred to in the third proviso to paragraph I shall be accompanied by such financial and technical data in support of the proposed enhancement of charges as the State Government may, by general or special order, specify.]

II. (1) If the clear profit of a licensee in any year of account is in excess of the amount of reasonable return, one-third of such excess, not exceeding 6[five per cent.] of the amount of reasonable return, shall be at the disposal of the undertaking Of the balance of the excess,

one-half shall be appropriated to a reserve which shall be called the Tariffs and Dividends Control Reserve and the remaining half shall either be distributed in the form of a proportional rebate on the amounts collected from the sale of electricity and meter rentals or carried forward in the accounts of the licensee for distribution to the consumers in future, in such manner as the , State Government may direct.

(2) The Tariffs and Dividends Control Reserve shall be available for disposal by the licensee only to the extent by which the clear profit is less than the reasonable return in any year of account.

(3) On the purchase of the undertaking under the terms of Its licence any balance remaining in the Tariffs, and dividends, Control Reserve shall be handed over to the purchaser and maintained as such Tariffs and Dividends Control Reserve:

7[Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve may be deducted from the price payable to the licensee.]

1. Ins. by Act 32 of 1959, sec. 42 (w.e.f. 5-9-1959).

2. Subs. by Act 30 of 1966, sec. 21, for "rates" (w.e.f 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 27, for the proviso (w.e.f. 1-4-1957).

4. Subs. by Act 30 of 1966, sec. 21, for "fifteen" (w.e.f 1-4-1966).

5. Subs. by Act 101 of 1956, sec. 27, (w.e.f 1-4-1966).

6 Subs. by Act 30 of 1966, sec. 21, (w.e.f. 1-4-1966).

1[(4) On the purchase of the undertaking after the expiry, or on the revocation, of its licence or otherwise, all amounts of rebate lying undistributed to the consumers on the date of such purchase, shall be handed over to the purchaser who, in turn, shall enter the same in his books of account, under the heading Consumers' Rebate Reserve and any amount lying undistributed In that Reserve shall be carried forward for distribution to the consumer concerned:

Provided that the share of money in the Consumers' Rebate Reserve payable to the consumers who are not traceable or who have ceased to be consumers in relation to that undertaking, may be utilised in the development works of the purchaser.]

III. There shall be created from existing reserves or from the revenues of the undertaking a reserve to be called "Contingencies Reserve".

IV. (1) The licensee shall appropriate to Contingencies Reserve from the revenues of each year of account a sum not less than one-quarter of one *per centum* and not more than one-half of one *per centum* to the original cost of fixed assets, provided that if the said reserve exceeds, or would by such appropriation, be caused to exceed, five *per centum* of the original cost of fixed assets, no appropriation shall be made which would have the effect of increasing the reserve beyond the said maximum.

2[(2) The sums appropriated to the Contingencies Reserve shall be invested in securities authorised under the Indian Trusts Act, 1882 (2 of 1882) and such investment shall be made within a period of six months of the close of the year of account in which such appropriation

is made.]

V. 3[(1)] The Contingencies Reserve shall not be drawn upon during the currency of the licence except to meet such charges as the State Government may approve as being-

(a) expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented;

(b) expenses on replacement or removal of plant or works other than expenses requisite for normal maintenance or renewal;

(c) compensation payable under any law for the time being in force and for which no other provision is made.

4[(2) On the purchase of the undertaking, the Contingencies Reserve, after deduction of the amounts drawn under sub-paragraph (1), shall be handed over to the purchaser and maintained as such Contingencies Reserve:

Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve computed as above shall, after further deduction of the amount of compensation, if any, payable to the employees of the outgoing licensee under any law for the time being in force, be handed over to the Board or the State Government, as the case may be.]

5[VA. (1) There shall be created a reserve to be called the Development Reserve to which shall be appropriated in respect of each accounting year a sum equal to the amount of income-tax and super-tax calculated at rates applicable during the assessment year for which the accounting year of the licensee is the previous year, on the 6[amount of investment allowance] to which

1. Ins by Act 115 of 1976, sec. 33 (w.r.e.f. 8-10-1976).

2. Subs by Act 30 of 1966, sec. 21, for sub-paragraph (2) (w.e.f. 1-4-1966).

3. Paragraph V re-numbered as sub-paragraph (1) thereof by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

4. Sub-paragraph (2) ins by Act 101 of 1956, sec 27 (w.e.f. 1-4-1957) and subs by Act 30 of 1966, sec 21 (w.e.f. 1-4-1966).

5. Ins. by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957).

6. Subs by Act 23 of 1978, sec. 23, for "amount of development rebate" (w.e.f. 3-6-1978).

the licensee is entitled for the accounting year 1[under section 32A of the Income-tax Act, 1961 (43 of 1961)]:

Provided that if in any accounting year, the clear profit [excluding the special appropriation to be made under Item (va) of clause (c) of sub-paragraph (2) of paragraph XVII] together with the accumulations, if any, in the Tariffs and Dividends Control Reserve less the sum calculated as aforesaid falls short of the reasonable return, the sum to be appropriated to the Development Reserve in respect of such account year shall be reduced by the amount of the shortfall.

(2) Any sum to be appropriated towards the Development Reserve in respect of any accounting year under sub-paragraph (1), may be appropriated in annual installments spread over a period not exceeding five years from the commencement of that accounting year.

(3) The Development Reserve shall be available only for investment in the business of electricity supply of the undertaking.

(4) On the purchase of the undertaking, the Development Reserve shall be handed over to the purchaser and maintained as such Development Reserve:]

2[Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve 3[(whether such amount is in the form of cash or other assets)] may be deducted from the price payable to the licensee.]

4[VI. (a) The licensee shall provide each year for depreciation such sum calculated in accordance with such principles as the Central Government may, after consultation with the Authority. by notification in the Official Gazette, lay down from time to time.

(b) Where in any particular year depreciation cannot be adjusted against revenues, the same may be carried over to subsequent years.

(c) The provisions of this paragraph shall apply to the charging of depreciation for the year in which the Electricity (Supply) Amendment Act, 1978 (23 of 1978), comes into force.]

XII. Where contributions are made by consumers towards the cost of construction of service lines constructed after the date on which this Act comes into force only the net cost of such service lines after deducting such contributions shall be Included In the cost of filed assets for the purposes of arriving at the capital base:

Provided that for the purposes of depreciation under paragraph VI, the total original cost of construction of the service lines shall be taken into account.

XIII. (1) Subject to the provisions of sub-paragraph (2) the ordinary remuneration of a managing agent excluding the office allowance mentioned in sub-paragraph (3) but including purchasing commission, if any, shall be based on a percentage of net profits 5[as determined in accordance with the provisions of section 349 of the Companies Act, 1956 (1 of 1956)], and shall not exceed-

(a) in respect of the first Rs 5 lakhs of such net profits--10 per cent.; and

(b) in respect of all net profits In excess of Rs 5 lakhs-- 7 per cent.

(2) The amount paid to a managing agent shall be subject to a minimum payment on account of ordinary remuneration not exceeding two rupees per annum for each complete thousand rupees

1. Subs. by Act 23 of 1978, sec. 23, for "under clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922)." (w.e.f 3-6-1978).

2. Added by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

3. Ins. by Act 23 of 1978, sec. 23 (w.e.f. 3-6-1978).

4. Subs by Act 23 of 1978, sec. 23, for paragraphs VI, VII. VIII, IX, X and XI (w.e.f. 3-6-1978).

5. Subs. by Act 101 of 1956, sec. 27, for "as defined in section 87C (3) of the Indian Companies Act, 1913 (7 of 1913)" (w,e,f. 1-1957).

of paid up share and debenture capital, provide that for purposes of computing the minimum payment should the share and debenture capital be less than rupees five lakhs It shall be taken as rupee five lakhs and should the said capital be greater than rupees one crore it shall be taken as rupees one crore.

(3) An office allowance drawn by a managing agent which shall include the salaries and wage, of all persons employed in the office of the managing agent, but not the salaries of the engineering staff employed for purposes of the undertaking, shall be a percentage of the operating expenditure and the expenditure during the year of account on capital works. The office allowance so drawn shall not exceed-

(a) In respect of the first Rs. 1 lakh of operating expenditure-8 per cent.

In respect of the next Rs. 2 lakhs of operating expenditure-5 per cent.

In respect of the next Rs. 7 lakhs of operating expenditure-2.5 per cent.

In respect of all operating expenditure in excess of Rs. 10 lakhs-1.5 per cent.; and

(b) In respect of the first Rs.1 lakh of capital expenditure incurred during the year of account- 4 per cent.

In respect of the next Rs. 2 lakhs of capital expenditure incurred during the year of account-3 per cent.

In respect of the next Rs. 7 lakhs of capital expenditure incurred during the year of account-1.5 per cent.

In respect of all capital expenditure in excess of Rs. 10 lakhs incurred during the year of account-1.5 per cent.

Operating expenditure for the purposes of sub-paragraph (3) (a) above shall mean the sum of the items of expenditure as defined in sub-paragraph (2) (b) of paragraph XVII with the omission of those under clauses (i), (iv), (ix) and (x) thereof.

1[*Explanation.*- For the purposes of this paragraph, the expression "managing agent" shall include every person by whatever name called, who is in charge of the management of the whole, or substantially the whole, of the undertaking and where more persons than one are placed in charge of the management of the whole, or substantially the whole, of the undertaking, the total remuneration payable to all such persons shall not in the aggregate exceed the limits specified in this paragraph.]

XIV. The Board of Director of an undertaking shall not contain more than ten directors.

XV. (1) Where at any time within three years before the next option of purchase under the licence arises, the licensee proposes to make any capital expenditure which exceeds 2[in any year of account.] twenty five thousand rupees or two *per centum* the capital base, whichever is more, in respect of which any amount would in the event of purchase under the option be payable by the purchase to the license, the licensee, shall, before giving effect to such proposal, apply to the Board or Board is constituted, the State Government for its concurrence.

(2) If the Board or the State Government, as the case may be, does not within one month from the receipt of such application, consent to such expenditure, the licensee may refer the matter to the arbitration of the Authority.

XVI. Any dispute or difference as to the interpretation or any matter arising out of the provisions of this Schedule shall be referred to the arbitration of the Authority.

1[Provide that where a rating committee has been constituted under section 57 A, no such dispute or difference shall be referred to the arbitration of the Authority during the period

1. Added by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

between the date of the constitution of such committee and the date of the order of the State Government made on the recommendations of the committee.]

Definitions

XVII. For the purposes of this Schedule--

(1) "capital base" means the sum of-

1[(a) the original cost of fixed assets available for use and necessary for the purpose of the undertaking subject to the provisions of paragraph XII in respect of service lines, and the excess amount referred to in the proviso to sub-paragraph (2) of paragraph VII in respect of any fixed assets which has ceased to be available for use;]

(b) the cost of intangible assets including expenses on account of new capital issue];

(c) the original cost of works in progress;

1[(d) the amount of investments compulsorily made under paragraph IV of this Schedule together with the amount of such investments made after the commencement of this Act from contributions towards depreciation as in the option of the Authority could not be utilised for the purpose of the business of electricity supply of the undertaking;]

(e) an amount on account of working capital equal to the sum of-

(i) one-twelfth of the sum of the book cost of stores, material and supplies including fuel on hand at the end of each month of the year of account;

(ii) one-twelfth of the sum of 4[cash and bank balances (whether credit or debit)] and call and short- term deposits at the end of each month of the year of account, not exceeding in

the aggregate an amount equal to one-quarter of the expenditure under sub-paragraph (2) (b) of this paragraph excluding 5[sub-clause (i), (iv), (iva), (ivb) and (x)]; less--

(i) the amount written of or set aside on account of depreciation of fixed assets and amount, written off in respect of intangible assets in the books of the undertaking before or after the commencement of this Act; 6[***]

(ii) the amount of any loans advanced by the Board 7[***];

8[(iia) the amount of any loans borrowed from organisations or institutions approved by the State Government;

(iib) the amount of any debentures issued by the licensee;]

9[(iii) the amount deposited in cash with the licensee by consumers by way of security;]

1. Subs by Act 101 of 1956, sec. 27, for clause (w.e.f. 1-4-1957).

2. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

3. Subs by Act 101 of 1956, sec. 27, for clause (d) (w.e.f. 1-4-1957).

4. Ins. by Act 30 of 1966, sec. 21 for "cash and balances" (w.e.f 1-4-1966).

5. Subs by 30 of 1966, sec. 21, for "clause (i),(iv) and (x) " (w.e.f. 1-4-1966).

6. The word "and" omitted by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

7. The words "under the provisions of sub-paragraph (2) of paragraph (2) of paragraph I of the First Schedule" omitted by 101 of 1956, sec. 27, (w.e.f. 1-4-1966).

8. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

9. Subs-clause (iii) ins. by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1959) and subs. By Act 31 of 1966, sec. 21 (w.e.f. 1-4-1966).

1[(iv) the amount standing to the credit of the Tariffs and Dividends Control Reserve 2[at the beginning of the year of account];]

3[(v) the amount standing to the credit of the Development Reserve at the close of the year of account;] 1[(vi) the amount carried forward 2[at the beginning of the year of account] in the accounts of the licensee for distribution to the consumers under paragraph II.]

(2) "clear profit" means--

the difference between the amount of income and the sum of expenditure plus specific appropriations made up in each case as follows-

(a) Income derived from-

(i) gross receipts from sale of energy, less discounts applicable thereby;

- (ii) rental of meters and other apparatus hired to consumers;
- (iii) sale and repair of lamps and apparatus;
- (iv) rents, less outgoings not otherwise provided for;
- (v) transfer fees;
- (vi) investments, fixed and call deposits, and bank balances;
- (vii) other general receipts accountable in the assessment of Indian income-tax and arising from the ancillary or incidental to the business of electricity supply;

(b) 4[expenditure properly incurred on]-

- (i) generation and purchase of energy;
- (ii) distribution and sale of energy;
- (iii) rents, rates and taxes, other than all taxes on income and profits;
- (iv) interest on loans advanced by the Board 5[***];

2[(iva) interest on loans borrowed from organisations or institutions approved by the State Government;

(ivb) interest on debentures issued by the licensee;]

(v) interest on security deposits;

(vi) legal charges;

(vii) bad debts;

(viii) auditors' fees;

(ix) management including managing agents' remuneration as provided for in para XII;

(x) depreciation, computed as 6[hereinbefore] set out;

1. Ins.by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Ins by Act 30 of 1966, sec. 21 (w.e.f. 1-4-1966)

3. Sub-clause (v) InS by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957) and again subs. by 30 of 1966, sec. 21 (w.e.f 1-4-1966).

4. Subs by Act 101 of 1956, sec 27, for "expenditure incurred on" (w.e.f. 1-4-1957).

5. The words "under sub-paragraph (2) of paragraph 1 of the First Schedule" omitted by Act

101 of 1956, sec. 27 (w.e.f. 1-4-1957).

6. Subs by Act 101 of 1956, sec 27, for ".hereinafter" (w.e.f 1-4-1957).

(ix) other expenses 1[(excluding interest on debentures and loans)], admissible under the law for the time being in force in the assessment of Indian Income-tax and arising from ancillary or incidental to the business of electricity supply;

2[(xii) contributions to provident fund, staff pension and gratuity computed under any law for the time being in force or any such scheme as is approved by the State Government;

(xiia) expenses on apprentice and other training schemes;]

1[(xiii) bonus paid to the employees of the undertaking-

(a) where any dispute regarding such bonus has been referred to any tribunal or other authority under any law for the time being In force relating to Industrial or labor disputes, in accordance with the decision of such tribunal or authority;

(b) other case, with the approval of the State Government;]

(c) special appropriations sufficient to cover-

(i) previous losses (that is to say excess of expenditure over income) which have arisen

from the business of electricity supply to the extent in any year 3[permitted by the State Government];

(ii) all taxes on Income and profits;

(iii) Installments of written down amounts in respect of intangible assets and new capital issue expenses to the extent in any year actually appropriated for the purpose in the book of the undertaking:

Provided that the amounts so appropriated shall not exceed the amount found by dividing the written down cost of such assets by the number of complete years remaining before the next option of purchase under the licence arises.

(iv) contributions to the Contingency Reserve, computed as 4[hereinbefore] set out;

(v) contributions towards arrears of depreciation;

1[(va) contributions to the Development Reserve referred to In paragraph VA;]

5[(vb) debt redemption obligation of the private licensees which may he done on a year to year basis, taking into account the requirement of debt redemption and resource generation through depreciation, retained surplus,]

(vi) other special appropriations permitted by the State Government.

(3) "debenture capital" means- capital raised against debentures or other the instruments

creating a charge or lien on assets of the undertaking.

1. Ins. by Act 101 of 1956, sec. 27 (w.e.f. 1-4-1957).

2. Subs. by Act 30 of 1966, sec. 21, for sub-clause (xii) (w.e.f. 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 27, for "actually appropriated for the purpose in the books of the undertaking" (w.e.f. 1-4-1957).

4. Subs. by Act 101 of 1956, sec. 27, for "hereinafter" (w.e.f. 1-4-1957).

5. Ins. by Act 50 of 1991, sec. 14 (w.e.f. 15-10-1991).

(4) "intangible assets" means--

underwriter's commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting the business of electricity supply excluding any amount paid on account of goodwill.

(5) "ordinary capital" means--

in the case of a company, the amount of ordinary capital paid up and attributable to the undertaking of the licensee; in other cases the net amount standing to the credit of the proprietor or proprietor's account or accounts whether in capital, personal or any other account howsoever called and property attributable to the business of electricity supply.

(6) "original cost" means in respect of any asset the sum of-

(a) the cost of the asset to the licensee, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use, 1[(b) interest charges on capital expenditure incurred during the period between the date of grant of the licence and the date when the undertaking commences supply, from borrowed money and properly attributable to the assets as actually accrued up to the date of such supply, as well as interest incurred on outlays for subsequent expansions,]

(c) a proper addition on account of supervision not exceeding fifteen per centum of the cost referred to in sub-paragraph (a), so, however, that the original cost of any asset shall not in any case exceed the original cost attributed thereto in the books of the undertaking.

(7) "Preference Capital" means- amount of paid up capital attributable to the undertaking of the licensee, issued on such preferred terms as are sufficient to qualify it for such description.

(9) "Reasonable return" means- in respect of any year of account, the sum of the following:-

(a) the amount found by applying the standard rate to the capital base at the end of that year, 3[(b) the income derived from investments other than those included in the capital base under the provisions of clause (d) of sub-paragraph (1);]

(c) an amount equal to one-half of one *per centum* on any loans advanced by the Board 4[***]; 5[(c-1) an amount equal to one-half of one *per centum* on the amounts borrowed from organisations or institutions approved by the State Government; (c-2) an amount equal

to one-half of one per centum on the amounts realised by the issue of debentures;] 6[(d) an amount equal to one-half of one per centum on the accumulations in the Development Reserve created under paragraph VA of this Schedule;]

1. Subs by Act 50 of 1991, sec. 14, for clause (b) (w.e.f 15-10-1991).

2. Clause (8) omitted by Act 23 of 1978, sec. 23 (w.e.f 3-6-1978).

3. Subs by Act 101 of 1956, sec. 27 for clause (b) (w.e.f. 1-4-1957).

4. The words "under sub-paragraph (2) of paragraph I of the First Schedule" omitted by Act 101 of 1956, sec 27 (w.e.f. 1-4-1957).

5. Ins. by Act 30 of 1966, sec 21 (w.e.f. 1-4-1966).

6. Ins by Act 101 of 1956, sec. 27 (w.e.f 1-4-1957).

1[(e) such other amount as may be allowed by the Central Government, having regard to the prevailing tax structure in the country.] 2[(10) "standard rate" in respect of any year of account means--

(a) in relation to that part of the capital base for that year of account which is equivalent to the capital base as on the 31st day of March, 1955, seven *per centum* per annum;

(b) in relation to the remaining 3[capital base for that year, the Reserve Bank rate ruling at the beginning of that year plus--

(i) two *per centum* for investment made up to the date of the commencement of the Electricity Laws (Amendment) Act, 1991; and

(ii) five *per centum* for investments made thereafter:]

Provided that the Central Government may, by notification in the Official Gazette, and with effect from such date as may be specified therein, increase or decrease the standard rate specified in clause (b), if, after consultation with the Authority, that Government considers it necessary so to do to ensure that any rise or fall in the Reserve Bank rate does not affect the reasonable return in any subsequent year of account in relation to that part of the capital base which is equivalent to the capital base as computed on the last date of the previous year of account;]

(11) "Written down cost" mean- original cost less the amounts set aside or written off on account of depreciation in the books of the undertaking.

THE SEVENTH SCHEDULE

[omitted by the Electricity Supply (Amendment) Act, 1978, (23 of 1978),sec.24 (wse.f. 3-6-1978).]

THE EIGHT SCHEDULE

(Seethe First and Third Schedules)

DETERMINATION OF COST OF PRODUCTION OF ELECTRICITY AT GENERATING STATIONS

I. For the purposes of the First and Third Schedules, the cost of production of electricity at a generating station shall be ascertained by calculating and taking into account the following costs, charges and allowances In respect of the year of account, namely:-

(a) sums expended for fuel, oil, water and stores consumed, for salaries and wages, and any contribution by the licensee for pensions, provident fund, superannuating and insurance of 4[officers and other employees], for repairs and maintenance and for renewals not chargeable to capital account;

(b) sums paid in respect of the station for insurance and as rents, rates and taxes 5[(including all taxes payable on income and profit)];

1. Ins. by Act 30 of 1966, sec. 21 (w.e.f 1-4-1966).

2. Sub-paragraph (10).subs. by Act 101 of 1956, sec. 27 (1-4-1957) and again subs. by Act 30 of 1966, see. 21, (w.e.f. 1-4-1966).

3. Subs. by Act 50 of 1991,sec. 14, for certain words (w.e.f 15-10-1991).

4. Subs. by Act 23 of 1978,sec. 25, for "officer and servants" (w.e.f. 3-6-1978).

5. Subs. by Act 101 of 1956,sec. 29, for "(including super-tax payable by the licensee as company but excluding other taxes on profits)" (w.e.f. 30-12-1956).

(c) the proportion of management and general establishment charges properly attributable to the station:

(d) any other expense on revenue account properly attributable to the station;

(e) 1[interest till the depreciated cost of the station shown in the books of the undertaking, and properly attributable to the station (whether defrayed out of capital or revenue) and interest on working capital properly attributable to the station and the production of electricity therein]:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal on which interest is payable out of capital;

(f) an allowance for depreciation of an amount determined in respect of the station in accordance with the provisions of paragraph VI of the six Schedule.

II. 2[For the purposes of clause (e) of paragraph I-

(i) "depreciated cost of the station" means original cost thereof as determined in accordance with the provisions of sub-paragraph (6) of paragraph XVII of the Sixth Schedule less the

amount written off or set aside on account of depreciation on fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,-

(a) on such part of the principal on which interest is payable within the meaning of the said clause as has been advanced on loan by the Board under paragraph I of the First Schedule, the actual rate charged by the Board plus one-half of the *per centum* per annum on the loan in the year of account;

(b) on the balance of the said principal-

(i) where the licensee owning the station is a local authority, the average rate payable in the year of account on the money raised by that authority for the purposes of the station;

(ii) in any other case, 3[the Reserve Bank rate ruling at the beginning of that year *plus two per centum*].

THE NINTH SCHEDULE

(See the First Schedule)

ALLOCATION OF COSTS OF PRODUCTION AT GENERATING STATIONS

I. For the purpose of this Schedule-

(a) the average load factor of a station shall be expressed as a percentage, and shall be ascertained by multiplying the number of kilowatt-hours supplied from the station during the year of account by 100 and dividing the product so obtained by the product by the average monthly maximum demand multiplied by the number of hours during which the station was In commission In the year of account;

1. Subs. by Act 101 of 1956, sec. 29, for certain words (w.e.f. 30-12-1956).

2. Subs. by Act 30 of 1966, sec. 22, for certain words (w.e.f. 1-4-1966).

3. Subs. by Act 101 of 1956, sec. 29, for "5 *per annum*"(w.e.f. 30-12-1956).

(b) the average monthly maximum demand shall be the arithmetical average of the monthly maximum demands on the station in those calendar months during which the station was in commission in the year of account;

(c) a station shall be deemed to be in commission when the whole or any portion of the plant in the station is generating electricity or is in readiness to generate electricity upon demand

(d) "cost of fuel" means the sums expended for fuel consumed plus the cost of any transport, handling, preparation or treatment incurred in connection with the delivery of fuel to the boiler hoppers, furnaces or engines and in connection with the disposal of the products or residues of combustion, plus the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance

of officers and servants properly attributable to such delivery or disposal, less any sums received from the sale of any products or residues of combustion;

(e) "cost of oil, water and stores" means the sums expended for oil, water and stores consumed;

(f) "cost of repairs, maintenance and renewals" means the sums expended for repairs and maintenance and for renewals not chargeable to capital account, together with the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of 1[officers and other employees] properly attributable to repairs, maintenance and renewals;

(g) "salaries and wages" means the sums expended for salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants, less the proportion of sums properly attributable to the cost of fuel under clause (d) and to the cost of repairs, maintenance and renewals under clause (f).

II. Of the cost of production of electricity at a generating station ascertained in accordance with the Eighth Schedule, the following costs, charges and allowances in respect of the year of account shall be allocated as "fixed costs", namely:-

(a) of the costs, charges and allowances set out in clause (a) of paragraph I of the said Schedule, portions calculated from the appropriate formulae set out in paragraph III;

(b) the whole of the costs, charges and allowances set out in the remaining clauses of paragraph I of the said Schedule.

III. The portion of the following costs, charges and allowances as fixed to be allocated costs shall be ascertained from the formula hereinafter set out against each, namely:-

(a) cost of fuel 100

$100+12.8L$

(b) cost of oil, water and stores 100

$100+9.66L$

(c) salaries and wages 100

$100+0.38L$

(d) cost of repairs, maintenance and renewals 100

$100+0.0001NL$

1.Subs. by Act 23 of 1978, sec. 25, for "officers and servants" (w.e.f 3-6-1978)

Where-

1[L= the percentage average load of the station;]

N=the number of hours during which the station was in commission in the year of account.

IV. The amount of the difference between the costs of production at a generating station ascertained in accordance with the Eighth Schedule and the fixed costs in respect of the year of account determined in accordance with this Schedule shall be allocated as "running costs".

V. The foregoing provisions of this Schedule shall not apply in any case where it is agreed between the Board and the owner of the station that the circumstances or of operation in the station, whether temporary or continuing, are such that the said provisions ought not reasonably to be applied; and in such case the allocation between fixed costs and running costs shall be made in such manner as the Board and the said owner may agree.