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Suman Bery
Director General

August 29, 2001

Dear Hon'ble Power Minister,

I have great pleasure in submitting our Report on the assignment for drafting the Electricity Bill for your Ministry. I would like to express our appreciation of the opportunity given to the Council to make a contribution on this very important subject.

The Report proposes a comprehensive restructuring of the electricity industry with a view to making it viable in the context of Governments' plan to accelerate economic growth. I hope the Government will find it useful in making the necessary legislative and policy changes.

With warm regards,

Yours Sincerely,

(Suman Bery)

Hon'ble Shri Suresh Prabhu
Union Minister for Power
Minister for Power
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Preface

Electricity was the lifeblood of the 20th century and will power the information revolution of the 21st century. It has transformed life at work and home. It is an economic necessity that is important to life, health and livelihood, and access to it at competitive prices is critical to the development process. Social and political change, particularly in the rural areas, is closely linked to the provision of electric power. While the demand in urban areas continues to skyrocket, large sections of the rural population in India await access to electricity. In our economic planning as well as in the political arena, electricity occupies a high priority. Indeed, in many ways, electricity and democracy are closely linked in a developing country like ours.

The economic and technological changes, particularly in information technologies, have provided tremendous operational capabilities and choices that require a new order which can deliver the diverse services that consumers will increasingly demand. The ongoing deregulation of the telecommunications industry will also have a growing influence on power sector reforms, and greater reliance on the self-correcting forces of the market place is inevitable. It is clear that organisation of the electricity industry is destined to undergo a profound change in the years to come. There cannot be a more opportune time to begin this task earnestly in the midst of economic, technological and regulatory challenges that now confront this industry in India.

The new order would have to withstand the impact of competition in supply of electricity, deregulation of the generation sector, industry restructuring, consumer choice, emergence of regional and national institutions and the developments in information technologies. Even as opportunities for greater competition and efficiency expand in the restructured industry, the task of protecting the public interest and the consumer will become more complex as the responsibility for ensuring a socially beneficial yet profitable industry would have to be shared by the governments, regulators, and the industry.

Provision of essential services can rarely be free of government influence, but appropriate policies can help them retain their fundamentally beneficial character. Government will have to focus on development of rural areas, and provide competition and choice in the market place for empowering the consumer. The rationale for open markets is exactly the same as the rationale for democracy. They have the same flaws and strengths, and they go together.

The structure comprising the vertically integrated State Electricity Boards (SEBs) served well for the first few decades after independence. In particular, the rural electrification undertaken by the SEBs with assistance from the Central Government the Central and State Governments accelerated the socio-economic development of rural India. The economic and technological developments of the past decade, however, have made the SEBs unsustainable. Inability to rationalise tariffs has only compounded the problem. In fact, these Boards are now widely perceived as structural impediments, adversely affecting the very flow of private investment that the States are wooing in view of the constraint of public resources.

Over the past decade, the Central and State Governments have taken several steps aimed at reform of the power sector and for attracting private capital in this resource-starved

industry. Though these measures initially led to an overwhelming expression of interest by potential investors, the investment flows have fallen far short of expectations. Moreover, the reforms undertaken so far have been inadequate, and have therefore not been effective. Reliance on 'cost plus' tariffs and government guarantees have vitiated the evolution of a robust industry. It is now evident that unless the electricity industry is reorganised on commercial principles, policy pronouncements and partial restructuring would not suffice. The experience of the past few years has led to the emergence of a near consensus that restructuring in its entirety is inevitable as the consumer cannot be expected any more to live with an inadequate and unreliable supply of electricity.

The Draft Bill being proposed here envisages a comprehensive framework entailing a systematic unbundling of these Boards into horizontally separated entities, whether public or private. The rationale for this restructuring is essentially to be found in the need for creating accountability through independent profit centres that would sharpen incentives and harness the ongoing technological advances for delivering reliable electricity at economic prices. The consequent impact on growth and development can hardly be overstated

The suggested framework has been designed to provide the requisite freedom and flexibility to the States to determine their own pace and priorities. Alongside, it would enable them to modernise their electricity industry in line with the international best practices. This would also imply retreat of the government from day to day functioning except through policy interventions, in line with the philosophical shift towards less government.

In developing this framework, we have drawn heavily on the recommendations of several Parliamentary committees and national conferences, the recent legislations enacted in some of the States, and the international experience. We have refrained from reinventing the wheel and have instead adapted from the lessons learnt in India and abroad with a view to presenting a consolidated framework.

This work owes its existence to the Late P. Rangarajan Kumaramangalam, then Minister of Power. It was he who motivated, inspired and guided this exercise all the way through. His modern and scientific temperament was fired by the vision of a strong and vibrant India, and he viewed 'electricity for all' as his own mission and that of his Government. Until his very last days, he took keen interest in the evolution of this historic legislation through an unprecedented national debate and extensive consultations. The breadth of his vision embraced industry as well as agriculture, urban as well as rural areas, and the rich as well as the poor alike. Enactment of this Bill will not only accelerate development and growth of the Indian economy but also constitute a legacy of his vision of a modern India.

The first draft of the Bill was placed before the conference of Chief Ministers chaired by the Hon'ble Prime Minister on February 26, 2000. After a brief discussion on the Bill, it was resolved that a national debate be undertaken on the Bill with a view to building a consensus. The manner in which the debate on this Bill was carried out is by itself a great tribute to the Late Minister's belief in transparency and desire to build a consensus around as important a legislation as this. His Ministry circulated widely some of the successive drafts of the Bill to the stakeholders and participated in a number of meetings, seminars and conferences some of which were presided over by Shri Kumaramangalam himself.

Some of the interactions included discussions with the Standing Committee of Parliament on Energy, Parliamentary Consultative Committee on Energy, representatives of the political parties, state energy secretaries and representatives of SEBs among others. Besides receiving inputs during these meetings, we have also received over 200 written comments from stakeholders and experts, national as well as international.

This is the 9th draft prepared after lengthy consultations with all stakeholders and experts in this area. This entire process has allayed many unfounded fears, addressed several concerns of the stakeholders and brought about a great degree of consensus relating to the restructuring of the power sector. The Draft Bill represents a delicate balance between the sometimes conflicting interests of different stakeholders; it promotes efficiency and competition along with regulation; and it carefully defines the road from the present to the future. It ensures that reforms are carefully packaged and sequenced without any flaws so that the process of change could be managed in the best interests of the nation. It envisages a structure that is complex and yet not cumbersome; multi-layered yet transparent. It has achieved a wide degree of support and consensus. It has also been a great educational exercise for us as a new methodology for drafting new legislation.

We have received support and advice from S\Shri V.K.Pandit, former Secretary, A.K.Basu, Secretary, and other officials in the Ministry of Power. The useful insights and inputs provided by the Chairman and Members of the Central Electricity Authority (CEA), Central Electricity Regulatory Commission (CERC), Power Finance Corporation (PFC), National Thermal Power Corporation (NTPC), Chairmen and Members of State Electricity Regulatory Commissions, State Governments, SEBs, industry organisations and others have been extremely useful. I would also like to express my gratitude to Shri Montek Singh Ahluwalia, then Member, Planning Commission, for his constant help and interest in the drafting of this legislation. I am also grateful to Shri Suresh Prabhu, Minister of Power for extending his leadership and support to the reform process.

Experts who reviewed and commented on various versions of the Draft Bill include Messrs. Montek Singh Ahluwalia, Sanjeev Ahluwalia, V.S.Ailawadi, E. C. Arunachalam, H.L.Bajaj, William Derbyshire, Amit Kapoor, Rakesh Mohan, Adrian Montague, Kari Nyman, D.V. Kapur, K. Ramanathan, S.L.Rao, David Renton, Harvey Salgo, Mohit Saraf, R.V.Shahi, K.N.Sinha, R.P.Singh, Rajinder Singh, V.V.Singh, R.N.Srivastava, Shailendra Swarup, Bernard Tenenbaum, Michael Webb, Roger Wood and Ms. Jane Wilson. I cannot thank them enough for the significant improvements made to this work.

I had the privilege of devoting nine months of honorary voluntary service, while on leave of absence from the government, only to accomplish this task. The wide support and advice that I got was indeed heartening, and that alone facilitated the evolution and completion of this enormous task. The errors and omissions, both in terms of concepts as well as in presentation are, however, mine and I seek the indulgence of the readers in this regard.

The success of restructuring will not depend upon mere reliance on unbundling and privatisation or a confidence in the regulators. Poor policy choices and inadequate attention to detail may adversely affect availability, reliability, efficiency, pricing and universalisation of service. It will, therefore, require a great deal of dialogue, due diligence, prudence, experimentation and courage for ensuring the success of restructuring. Abject opposition to

competition or restructuring is too late to be meaningful, and in any case does not offer any sustainable solutions. There would have to be trade-offs between important economic and policy considerations. The time has come for picking up the gauntlet and grappling with the full depth and breadth of issues that constitute restructuring of the electricity industry.

August 29, 2001


(Gajendra Haldea)

Executive Summary

Context

Until three years ago, two statutes governed the electricity industry in India viz., the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948. While both these Acts were amended several times, the basic concepts and structures embodied over the first half of the last century have remained unchanged.

1.2 The 1910 Act envisaged private licensees, but the 1948 Act provided a framework for the emergence of a nationalised electricity industry where private participation was relegated to insignificance. While the State Electricity Boards (SEBs) constituted under the 1948 Act initially performed a very useful role by energising rural and backward regions, the increase in subsidized distribution, rising operational inefficiencies and inadequate commercial motive resulted in mounting losses for most SEBs. The financial condition of several SEBs is no longer sustainable and has assumed crisis proportions.

1.3 The failing health of the SEBs and their inability to cope with the economic and technological changes has gradually led to a consensus regarding the need for restructuring of the electricity industry. The Common Minimum National Action Plan for Power (CMNPP) adopted in the Chief Ministers' conference held in December, 1996 recommended restructuring and corporatisation of SEBs and also envisaged the setting up of Central and State Electricity Regulatory Commissions (CERC/SERC). Thus, the Electricity Regulatory Commissions Act was enacted in 1998. The resolutions adopted in the Conference of Chief Ministers held in December 1998 reiterated the need for corporatisation of SEBs as also the importance of distribution reforms.

1.4 During the past five years, seven States viz. Orissa, Haryana, Andhra Pradesh, Uttar Pradesh, Karnataka, Rajasthan and Delhi have enacted legislations for restructuring and corporatisation of the SEBs and for setting up of independent Regulatory Commissions. As of now, fifteen States have set up such Commissions either under the provisions of the Central enactment or under their respective statutes.

1.5 The aforesaid legislative enactments came as and when the need to adopt specific measures was felt, but the approach was piecemeal and did not restructure and rationalise the electricity industry in a holistic manner. Other than in the seven States mentioned above, SEBs continue to be monolithic State-owned monopolies that are far too unwieldy to function efficiently, and are widely perceived as financially unviable and lacking in credit-worthiness. The result is inadequate investment in this sector while almost half the population remains without electricity.

1.6 Given the technological advancements and economic developments, a number of countries, developed as well as developing, have enacted comprehensive laws for restructuring their electricity industry. India also urgently needs a legal framework that would rationalise its electricity industry.

The road ahead

2.1 Across the world, economic and technological developments are driving the electricity industry to restructure its operations for enabling the market place to bring greater choice, efficiency and economy at the consumer's doorstep.

2.2 In the emerging market structure, competition in generation and supply; open access to transmission and distribution networks; multiple transmission companies; intermediaries such as traders, brokers, aggregators and service providers; convergence of other businesses such as telecom, gas, water and consumer services; and progressively deepening retail competition are providing tangible gains for economic growth as well as for consumer welfare.

2.3 The absence of competition in generation and supply of electricity must be viewed as a form of government interference that would restrict the evolution and operation of a free market. Introduction of competition in electricity markets has resulted in significant gains for consumers in several countries and must be viewed as a cornerstone of the reform strategy in India.

2.4 The Bill recognises the present industry structure based on State-owned monopolies, and creates an enabling framework for the States to pursue a cautious, yet definite path towards restructuring and liberalisation of the electricity industry that is critical for achieving an annual growth rate of 7-8%.

Evolution of the Draft Bill

3.1 In the above context, the Union Ministry of Power asked the National Council of Applied Economic Research (NCAER) to prepare a Draft legislation for power sector reforms. The Draft Bill prepared by NCAER was presented in the State Power Ministers' Conference presided over by the Prime Minister on February 26, 2000 when it was resolved that the Draft Bill be posed for a national debate. Wide-ranging consultations with stakeholders and experts led to eight successive revisions aimed at addressing their concerns and arriving at a broad consensus. Consultations held and the persons who sent written comments have been listed at Annex I and Annex II.

3.2 The broad features of the Draft Bill are as follows:

Supply of electricity

4.1 The Bill seeks to license the following:

- (a) Transmission Companies
- (b) Distribution Companies, and
- (c) Supply Companies.

4.2 The Commission has been empowered to exempt any or all classes of supply companies from licensing. For ensuring a smooth transition, existing entities would be deemed to be licensees under the new Bill.

Generation

5.1 The setting up and operation of new generating stations would be governed by market forces. New generating stations may be set up without a licence, but subject to such rules as the Central Government may make regarding the location, fuel or other matters of public importance. They will have the freedom to supply electricity in a competitive environment that would work to the advantage of the consumer.

5.2 To protect consumer interests, the existing generating stations will continue to generate and supply as per extant agreements unless the contracting parties agree otherwise. This will earmark existing sources of generation for the retail consumers whose supply will continue to be regulated by the Commissions with a view to ensuring stability.

Transmission

6.1 The provision of non-discriminatory access to the transmission system is a necessary condition for the efficient operation and development of the electricity industry. Competition in generation and supply will be thwarted in the absence of open access to the transmission 'highways'. Recognising the critical role of non-discriminatory transmission systems, the Bill mandates that the Transmission Companies will not have any financial interest or cross-ownership in generation, distribution or supply.

6.2 As the electricity industry develops, flows from one region to the other will assume greater significance, and a uniform approach to operational standards and wheeling tariffs would become increasingly important. The Bill envisions and provides for the evolution of efficient regional and national grids that would ensure a free and efficient flow of electricity among different regions. The Bill also provides for inter-state transmission without any undue barriers and under the overarching control of the Central Commission.

6.3 The predominant role of Central/State Transmission Companies has been retained so that they can spearhead planning and development of transmission systems, and also facilitate private investment.

Distribution

7.1 The provisions relating to distribution include the duty to supply electricity; recovery of charges; safety, quality and reliability of supply; and protection of consumer interests including payment of compensation.

7.2 The Bill provides for gradual introduction of 'open access' to the distribution systems that would lead to competition among multiple suppliers. There are enabling provisions that would permit separation of distribution from supply when the industry is prepared for retail competition.

7.3 The Bill enables the Commission to exempt from licensing, entities such as local authorities or co-operative societies that wish to undertake distribution in their respective areas.

Trading

8.1 Trading in electricity has been recognised as a distinct function. This would not only enable better allocation and utilisation of capacities but also encourage market-based operations that would facilitate 'merchant' power stations. Such trading can begin in the States that are already in the reform mode and may gradually extend to the other States.

8.2 Trading will not in any way affect the ordinary consumers whose supply will be regulated by the Commissions. In the initial years, freedom to trade will largely benefit the bulk consumers who possess sufficient bargaining power to protect their interests.

8.3 The Bill encourages efficiency and competition in all aspects and contains provisions against anti-competitive behaviour, market manipulation and other unfair trade practices detrimental to the operation of competitive markets. The ultimate objective is to afford an opportunity to the consumer to buy power from the source of his choice, as is already the case in several developed countries.

Disaggregation of functions

9.1 As mentioned above, a Transmission Company will not be permitted to undertake any other function such as generation, distribution or supply. There is, however, no restriction on combining of such functions by any other entity, though it would be necessary to functionally disaggregate the operations, accounts and tariffs in relation to each of these functions.

9.2 A Distribution Company will be required to maintain separate accounts and tariffs for wheeling so that its supply business can be exposed to competition. Such segregation would enable full regulation of non-competitive services by the Commissions while subjecting the other services to open competition in the market place. As the markets develop, the Bill would enable not only the separation of distribution and supply functions but also the entry of a host of service providers who would introduce technological and managerial innovations in the electricity markets.

Other business of transmission and distribution companies

10.1 Transmission and Distribution Companies would be entitled to utilise their assets for other businesses, provided that a proportion of the revenues derived from such businesses are utilised for reducing their transmission or distribution charges.

Compulsory metering

11.1 The Bill provides for compulsory metering of all supplies so that accountability and efficiency may be enhanced with a view to attaining commercial viability. Given the large number of unmetered connections in rural areas, the Bill stipulates a period of two years for installation of meters.

Safety standards

12.1 The Bill enjoins upon the Central Electricity Authority to make Safety Regulations for protecting the public from the hazards of electric lines and plants. These regulations will be enforced by the Commissions through their licence conditions.

Tariff

13.1 The Commissions would be required to issue Tariff Regulations based on specified principles that enhance efficiency and competition, and thereafter determine tariffs for transmission and distribution of electricity, after giving an opportunity of hearing to all interested stakeholders. The Bill requires the Tariff Regulations to provide for multi-year tariffs that are critical for a predictable regulatory framework.

13.2 The Bill deregulates the generation sector and allows prospective generating stations to supply electricity in a free market, except where such supplies are made to a Distribution Company under a long term agreement.

13.3 As competitive markets develop over time, Government may further deregulate the tariffs and allow prices to be determined by market forces.

Bulk electricity market

14.1 The Bill provides for establishment of a bulk electricity market to facilitate efficient, competitive and orderly trading and supply of electricity as the electricity industry develops and matures. The resulting competition and free flow of electricity would ultimately benefit the consumers.

Subsidies

15.1 Excessive cross-subsidisation has caused several unsustainable distortions that would need to be corrected over time. In particular, tariff-setting for industrial consumers is out of line with international practice and may affect competitiveness of Indian industry. The Bill, therefore, recognises the need for progressive reduction of cross-subsidization among different classes of consumers.

15.2 The Commissions would be required to promote an equitable supply of electricity to the rural areas and to the weaker sections. Government may, however, provide direct subsidies to reduce the tariff for selected target groups. The Bill also provides for timely reimbursement of such subsidies by the State Governments to Distribution Companies.

Existing agreements

16.1 In order to protect the existing agreements, the Bill provides that the tariffs stipulated therein shall continue to be governed by the repealed laws under which such agreements were entered into. This would also protect the States' entitlements to low-cost power from old and depreciated plants. On the other hand, some of the existing agreements may have to be phased out when competitive markets begin to operate, and the Bill makes enabling provisions to that effect.

Inter-connection and transmission

17.1 The Bill envisages the setting up of independent National, Regional and State Transmission Centres for performing non-discriminatory load despatch functions that are critical to private sector participation in the electricity industry. Central and State Transmission Companies have been empowered to perform these functions until independent entities are established as a part of the restructuring exercise.

Grid code and grid standards

18.1 Regulations framed by the Central Commission for wheeling, optimal scheduling and despatch of electricity shall be embodied in the Grid Code, which is critical to the safe, secure and integrated operation of the grid. Technical standards for construction, operation and maintenance of transmission lines (Grid Standards) shall be laid down by the Central Electricity Authority.

Central Electricity Authority

19.1 The role of Central Electricity Authority (CEA) has been reinforced by entrusting the Authority with the responsibility for laying down the regulations relating to technical standards, grid standards and safety standards. The Authority would also function as the repository of technical knowledge and expertise that would be made available to the government as well as the industry.

National Electricity Plan

20.1 The Central Government will evolve the national electricity policy and publish a National Electricity Plan once every five years, and annual plans once a year. The Plans will be prepared after a process of consultation with the State Governments and other stakeholders.

Rural Electrification Plan

21.1 In providing universal access, Governments would have to play a pro-active role through a combination of policy and fiscal measures that would make electrical development in rural areas viable.

Constitution and functions of the Regulatory Commission

22.1 The Bill incorporates the basic provisions of the Electricity Regulatory Commissions Act, 1998, and makes it mandatory for all States to set up Regulatory Commissions.

22.2 It is well recognised that the cornerstone of any level playing field is an independent regulatory mechanism as this alone can attract and sustain private investment in a competitive environment. An enabling environment is necessary for the market participants to evolve in sufficient strength and characteristics for ensuring effective functioning of the market mechanism. We believe that the regulatory framework put in place by the 1998 Act is adequate and have, therefore, retained its basic features.

22.3 The Commissions will discharge regulatory, licensing and tariff-setting functions that are critical to development of the electricity industry for subserving consumer interests. The Commissions will be responsible for promoting competition and efficiency with the objective of providing universal access to electricity at economic prices.

22.4 The interaction between regulation and competition is a complex phenomenon. The rationale for regulation is being subjected to increasing scrutiny in the context of a growing support for deregulation. Though independent of political interference in their functioning, the Commissions should not only be accountable but also appear to be so, as electricity is a vital sector that affects the entire population. The Bill, therefore, deregulates generation and provides for several checks and balances that would mitigate the regulatory uncertainty.

Participatory approach

23.1 Along with clear delineation of powers and functions, the Bill provides for a transparent and participatory functioning by the Commissions. Both in rule-making as well as in tariff-setting, the Commissions will be required to adopt a consultative approach that would enable all stake-holders to participate in the evolution of regulations and tariff orders. This would enhance acceptability and comfort levels of all stakeholders and minimise protracted legal battles.

Annual reports and audit

24.1 The Commissions will be required to make to the concerned Government a report on their activities during each year and their programme for the following year, to be placed by that Government before the Parliament or the State Legislature, as the case may be. The accounts of the Commissions will be audited by the Comptroller and Auditor General of India.

Offences and trial

25.1 The Bill contains stringent provisions for minimising theft and pilferage of electricity. It provides for summary trial of the first offence, and enhanced punishment for the second and subsequent offences. Compounding of offences by the Commissions has also been stipulated. The Commissions have also been empowered to impose financial penalties for contravention of the provisions of the Bill. In addition, the Bill provides for summary assessment and penalties to check unauthorised use of electricity.

Dispute resolution

26.1 Disputes between licensees would be resolved through conciliation and arbitration. Appeals from orders (other than arbitration awards) passed by the Commissions would only lie before a division bench of the High Court.

Electrical Inspectors

27.1 Electrical Inspectors have been empowered to inspect electric lines and plants to ensure their compliance with technical and safety standards. Based on their report, the Commissions may take such action under the licence conditions as may be necessary.

Transitional provisions

28.1 Transition from a State-owned monopoly to a market-based structure would require a careful sequencing as well as an effective management of change. The Bill enables the State Governments to determine their own pace and priorities within a broad framework that would encourage them to modernise their electricity industry in line with international best practices. The freedom and initiative provided to the States should allow them to unleash their potential and accelerate development. This would also imply retreat of the Government from the day to day functioning, except through policy interventions.

28.2 Reorganisation of SEBs has been stipulated in the transitional provisions of the Bill that provide for appropriate transfer schemes to be prepared and implemented. The State Governments would be expected to restructure their SEBs within one year, but wherever they so wish, the respective SEBs may continue for a longer period. Until restructuring takes place, SEBs would be deemed to be licensees under the Bill.

28.3 As witnessed in the past, any restructuring or modernisation brings about some discomfort and resistance. Care has, therefore, been taken to provide for transitional arrangements to facilitate a smooth passage into the millennium ahead. Concerns such as job security of Board employees have also been adequately addressed so that redundancy does not cause any undue hardship.

Provisions relating to State Reform Acts

29.1 The States of Orissa, Haryana, Andhra Pradesh, Uttar Pradesh, Karnataka, Rajasthan and Delhi have already enacted their respective Electricity Reform Acts. This Bill proposes to save these enactments with the proviso that in respect of supply and transmission as well as for regulatory commissions (Part-II, Part-III and Part-VII) the provisions of this Bill shall apply uniformly across the country.

Annex-I

DRAFT ELECTRICITY BILL, 2001

Consultations and Seminars held

1. Meeting with experts and stakeholders in the Planning Commission – February 2, 2000.
Chairperson: Shri K. C. Pant, Deputy Chairman (last session) and Shri M. S. Ahluwalia, Member, Planning Commission.
2. Conference of State Power Ministers – February 26, 2000.
Chairperson: Shri Atal Behari Vajpayee, Prime Minister (inaugural session) and Shri P.R. Kumaramangalam, Union Minister of Power.
3. Consultative Committee of the Parliament for Power Ministry – March 1, 2000.
Chairperson: Shri P. R. Kumaramangalam, Union Minister of Power.
4. Meeting with experts and stakeholders in the Planning Commission – March 2, 2000.
Chairperson: Shri Montek Singh Ahluwalia, Member, Planning Commission.
5. Meeting of the Working Group (Ministry of Power) – March 7, 2000
Chairperson: Shri A.H. Jung, Special Secretary, Ministry of Power.
6. Meeting with the Country Director of National Grid Corporation and others at the NCAER – March 9, 2000.
Chairperson: Dr. Rakesh Mohan, Director General, NCAER.
7. Meeting with the Union Minister of Power – March 23, 2000.
Chairperson: Shri P.R. Kumaramangalam, Union Minister of Power.
8. Meeting of Chairpersons of State Electricity Boards and State Power Secretaries – March 23, 2000.
Chairperson: Shri P.R. Kumaramangalam, Union Minister of Power.
9. Meeting with Power sector PSUs and CEA – March 25, 2000.
Chairperson: Shri A. H. Jung, Special Secretary, Ministry of Power.
10. Meeting with Chairpersons of Regulatory Commissions – March 29, 2000.
Chairperson: Shri A. H. Jung, Special Secretary, Ministry of Power.
11. Meeting with representatives of Industry Associations – March 31, 2000.
Chairperson: Shri A. H. Jung, Special Secretary, Ministry of Power.
12. Meeting with Private Sector representatives at NCAER – April 3, 2000.
Chairperson: Dr. Rakesh Mohan, Director General, NCAER.
13. Meeting with experts and industry representatives at the CII – April 7, 2000.
Chairperson: Shri R.V. Shahi, CMD, BSES.

14. Round Table with stakeholders and experts – organised by IPPAI and ASSOCHAM at New Delhi – April 12, 2000.
Chairperson: Shri Jagdish Sagar, CMD, DVB and Shri J.L. Bajaj, Chairman, UPERC.
15. Meeting with representatives of the Congress Party at SCOPE Complex – April 13, 2000.
Chairperson: Shri P.R.Kumaramangalam, Union Minister of Power.
16. Conference organised by Indiacore.com, the Council for Power Utilities and the Central Board for Irrigation & Power – April 19 & 20, 2000.
17. ETPAA India Seminar at Scope Complex, New Delhi – April 24, 2000
Chairperson: Shri T.L.Shankar, Principal, ASCI.
18. Round Table with stakeholders and experts – organised by ASSOCHAM and IPPAI at Mumbai – April 27, 2000.
Chairperson: Shri P. Subramaniam, Chairman, MERC.
19. Round Table with stakeholders and experts – organised by ASSOCHAM and IPPAI at Bangalore – May 1, 2000.
Chairperson: Shri P. Mathai, Chairman, KERC.
20. Round Table with stakeholders and experts – organised by CII – May 2, 2000.
Chairperson: Shri R.V. Shahi, CMD, BSES.
21. Meeting with the Standing Committee of the Parliament on Energy – May 5, 2000.
Chairperson: Shri Santosh Mohan Dev, M. P.
22. Round Table with stakeholders and experts – organised by ASSOCHAM and IPPAI at New Delhi – May 27, 2000.
Chairperson: Shri Gajendra Haldea.
23. Meeting with senior officials of Power Ministry, CEA and Power sector CPU – June 2, 2000.
Chairperson: Shri P.R.Kumaramangalam, Union Minister of Power.
24. Round Table with some apex consumer organisations at NCAER – June 5, 2000.
Chairperson: Prof. Manubhai Shah, Consumer Education & Research Centre.
25. Round Table with some technical experts at NCAER – June 6, 2000.
Chairperson: Er. V.K.Sood, Chairperson, DERC.
26. Round Table with stakeholders and experts – organised by Bengal Chamber of Commerce, ASSOCHAM and IPPAI at Calcutta – June 8, 2000.
Chairperson: Justice (Retd.) S.K.Phaujdar, Chairman, WBERC.

27. Round Table with IPPs – organised by IPPAI at Delhi – June 12, 2000.
Chairperson: Dr. D.V.Kapur, Chairman, IPPAI.
28. Round Table with Indian Financial Institutions at NCAER- June 29, 2000.
Chairperson: Dr. Rakesh Mohan, D.G., NCAER.
29. Round Table on Electricity Bill, 2000 – organised by OERC at Bhubaneswar –
June 30 – July 1, 2000.
Chairperson: Shri D.K.Roy, Chairman, OERC.
30. Round Table with some legal experts at NCAER – July 6, 2000.
Chairperson: Dr. Rakesh Mohan, D.G., NCAER.
31. Meeting with experts and industry representatives at the CII – July 7-8, 2000.
Chairperson: Shri R.V.Shahi, CMD, BSES.
32. Open House on Electricity Bill, 2000 at FICCI - August 11, 2000.
33. Presentation at the Ministry of Power - September 27, 2000.
Chairperson: Shri A.K.Basu, Secretary, Ministry of Power.
34. Conference on Power Sector Reforms - organised by CII at Mumbai -
October 17, 2000
Chairperson: Shri R. Gopalkrishnan, Tata Group.
35. Presentation at the Prime Minister's Office – October 21, 2000.
Chairperson: Shri N.K.Singh, Secretary to PM.
36. Power Reforms Summit - organised by NPTI and IPPAI at Chandigarh -
December 21, 2000
Chairman: Shri P. S. Bami, Former CMD, NTPC.
37. Presentation at the Ministry of Power – December 27, 2000.
Chairperson: Shri Suresh Prabhu, Minister of Power
38. Conference on Power sector Reforms - organised by PHD Chambers at New Delhi -
February 22, 2001
39. Presentation at CII, New Delhi – April 18, 2001.
Chairperson: Shri Arun Bharatram, Chairman, CII.
40. Power Sector Reforms: A New Paradigm - organised by IPPAI at New Delhi -
April 25, 2001.
41. National Seminar on Electricity Bill, 2000 at Engineering Staff College of India,
Hyderabad – July, 18-19, 2001.
Chairperson: Shri N.Tata Rao.

Annex-II

DRAFT ELECTRICITY BILL, 2001**List of Written Comments received**

S.No.	Comments received from:	Date
1.	Shri R.V. Shahi, CMD, BSES Ltd.Mumbai	5.2.2000
2.	Shri S.L. Rao, Chairman, Central Electricity Regulatory Commission (CERC)	8.2.2000
3.	Shri Rajendra Singh, CMD, National Thermal Power Corporation (NTPC)	9.2.2000
4.	Shri V.V. Desai, ICICI Ltd., Mumbai	15.2.2000
5.	Shri K.P. Rao, former Member (E&C), Central Electricity Authority (CEA)	16.2.2000
6.	Shri S.L. Rao, Chairman, Central Electricity Regulatory Commission (CERC)	22.2.2000
7.	Shri R. N. Shrivastava, Chairman, Central Electricity Authority (CEA)	23.2.2000
8.	Power Engineers Association, CEA	29.2.2000
9.	Shri S.K. Khanna, Member (Electrical) Railway Board	29.2.2000
10.	Shri T.L. Shankar, Principal, Administrative Staff College of India, Hyderabad	2.3.2000
11.	Shri J. Parthasarathy, AP Power Generation Corp. Ltd.	3.3.2000
12.	Shri R.N. Srivastava, Chairman, CEA	3.3.200
13.	Shri V.S. Ailawadi, Chairman, Haryana Electricity Regulatory Commission (HERC)	4.3.2000
14.	Shri B.M.M. Rao, CMD, Grid Corporation of Orissa Ltd.	6.3.2000
15.	Power Finance Corporation	6.3.2000
16.	Shri R.V. Shahi, CMD, BSES Ltd., Mumbai	8.3.2000
17.	Government of Madhya Pradesh	9.3.2000
18.	Union Territory of Chandigarh	10.3.2000

19.	Andhra Pradesh Electricity Regulatory Commission	10.3.2000
20.	Shri D.K. Roy, Member, Orissa Electricity Regulatory Commission (OERC)	10.3.2000
21.	Shri S. Venkitaramanan, former Governor, RBI	13.3.2000
22.	Government of Uttar Pradesh	13.3.2000
23.	Shri V.S. Ailawadi, Chairman, HERC	14.3.2000
24.	Orissa Hydro Power Corporation Ltd.	15.3.2000
25.	Government of Himachal Pradesh	16.3.2000
26.	Chairman, Punjab State Electricity Board	16.3.2000
27.	Smt Mamata Banerjee, Minister for Railways	16.3.2000
28.	Eastern Regional Electricity Board, Calcutta	18.3.2000
29.	West Bengal State Electricity Board Engineers' Association	18.3.2000
30.	Union Territory of Lakshadweep	20.3.2000
31.	West Bengal State Electricity Board Employees' Union	21.3.2000
32.	Shri Sanjay Bhatnagar, MD, Enron India Pvt. Ltd.	21.3.2000
33.	Shri J. Parthasarathy, CMD, AP Power Generation Corp. Ltd.	21.3.2000
34.	Shri Jitesh Khosla, Commissioner, Tezpur, Government of Assam	21.3.2000
35.	Shri Rajendra Singh, CMD, NTPC	22.3.2000
36.	Government of Gujarat	22.3.2000
37.	Dr. Raja J. Chelliah, Professor of Eminence National Institute of Public Finance & Policy	22.3.2000
38.	Central Secretariat Non-Gazetted Employees Union, Central Electricity Authority	23.3.2000
39.	Government of Nagaland	23.3.2000
40.	West Bengal State Electricity Board Technical Officers' Association	27.3.2000
41.	Shri S.K. Das Gupta, Chairman, Madhya Pradesh Electricity Board	28.3.2000

42.	CESC Ltd., Calcutta	29.3.2000
43.	Shri M.G. Ramachandran, Advocate	29.3.2000
44.	West Bengal Electricity Regulatory Commission	29.3.2000
45.	Tamil Nadu Electricity Regulatory Commission	29.3.2000
46.	West Bengal State Electricity Board	30.3.2000
47.	AP Power Gas Co. Ltd.	30.3.2000
48.	Karnataka Electricity Board Engineers' Association	31.3.2000
49.	All India Association of Industries	31.3.2000
50.	Shri R.V. Shahi, CMD, BSES Ltd., Mumbai	1.4.2000
51.	Shri Ashok Khurana, MD, UP Finance Corp.	1.4.2000
52.	Shri Sanjay Bhatnagar, MD, Enron India Pvt. Ltd.	3.4.2000
53.	Shri Jitesh Khosla, Commissioner, Government of Assam	3.4.2000
54.	Shri A.K. Sah, Executive Chairman, Premier Energy Technologies Pvt. Ltd.	3.4.2000
55.	Shri M.K. Sambamurti, former Chairman, CEA	4.4.2000
56.	Western Regional Electricity Board	4.4.2000
57.	Shri Jitesh Khosla, Commissioner, Government of Assam	4.4.2000
58.	Tamil Nadu Electricity Regulatory Commission	4.4.2000
59.	WBSEB Finance and Accounts Officers' Association	4.4.2000
60.	Rajasthan Electricity Regulatory Commission	5.4.2000
61.	Technical Supervising Staff Association, WBSEB	5.4.2000
62.	Power Finance Corporation	6.4.2000
63.	UP State Electricity Board	6.4.2000
64.	Tata Energy Research Institute (TERI), New Delhi	6.4.2000
65.	Shri Jitesh Khosla, Commissioner, Tezpur, Government of Assam	7.4.2000
66.	Reliance Power Ltd.	7.4.2000
67.	Shri V.S. Ailawadi, Chairman, HERC	7.4.2000
68.	Industrial Development Bank of India	7.4.2000

69.	National Thermal Power Corporation Ltd.	7.4.2000
70.	Ministry of Railways	10.4.2000
71.	Rajasthan Electricity Regulatory Commission	10.4.2000
72.	Electricite De France, India Liaison Office	13.4.2000
73.	Shri J.L. Bajaj, Chairman, UP Electricity Regulatory Commission	20.4.2000
74.	Infrastructure Development Finance Company	24.4.2000
75.	ETPAA India Seminar, Scope Complex, New Delhi	24.4.2000
76.	Power Grid Corporation of India Ltd.	25.4.2000
77.	DFID, Energy Group of India, British High Commission	25.4.2000
78.	Shri Sanjay Bhatnagar, MD, Enron India Pvt. Ltd.	28.4.2000
79.	BSES Ltd., Mumbai	28.4.2000
80.	National Thermal Power Corporation	1.5.2000
81.	CESC Ltd. Calcutta	2.5.2000
82.	Mr. David Renton, M/S Herbert Smith, Hong Kong	2.5.2000
83.	Tamil Nadu Electricity Regulatory Commission	4.5.2000
84.	Forum of Indian Regulators	4.5.2000
85.	J. Sagar Associates, Legal Consultants	8.5.2000
86.	Confederation of Indian Industry	8.5.2000
87.	Infrastructure Development Finance Company	8.5.2000
88.	Enron India Pvt. Ltd.	8.5.2000
89.	Frontier Economics, London	8.5.2000
90.	ASSOCHAM	8.5.2000
91.	Shri B.S.K. Naidu, Society of Power Engineers	9.5.2000
92.	Shri Santosh Mohan Dev, MP, Chairman, Standing Committee of Parliament on Energy	9.5.2000
93.	Tata Energy Research Institute (TERI), New Delhi	9.5.2000

94.	ETPAA - India	10.5.2000
95.	Delhi Vidyut Board	16.5.2000
96.	CESC Ltd., Calcutta	22.5.2000
97.	Shri Sanjay Bhatnagar, CEO, Enron India Pvt. Ltd.	22.5.2000
98.	Delhi Vidyut Board	23.5.2000
99.	Shri R.V. Shahi, CMD, BSES Ltd., Mumbai	24.5.2000
100.	Shri A.K. Sah, Executive Chairman, Premier Energy Technologies Pvt. Ltd.	24.5.2000
101.	Shri S.N. Roy, former Chairman, CEA	30.5.2000
102.	Tamil Nadu Electricity Regulatory Commission	30.5.2000
103.	Shri P.S. Bami, former CMD, NTPC	30.5.2000
104.	Institution of Engineers (India)	30.5.2000
105.	Srinivasan & Srinivasan, Advocates	31.5.2000
106.	Shri R.V. Shahi, CMD, BSES Ltd., Mumbai	1.6.2000
107.	Justice (Retd.) S.K. Phaujdar, West Bengal Electricity Regulatory Commission	2.6.2000
108.	Shri S.L. Rao, Chairman, CERC	2.6.2000
109.	Dr. Sriram Khanna, VOICE	3.6.2000
110.	Tamil Nadu Electricity Board	3.6.2000
111.	Consumer Unity & Trust Society, Jaipur	5.6.2000
112.	Shri S.N. Roy, former Chairman, CEA	5.6.2000
113.	Industrial Development Bank of India (IDBI)	7.6.2000
114.	Tata Electric, Mumbai	7.6.2000
115.	J. Sagar Associates, Legal Consultants	7.6.2000
116.	Dr. Sriram Khanna, VOICE	7.6.2000
117.	Confederation of Indian Industry	7.6.2000
118.	Shri V.S. Ailawadi, Chairman, HERC	7.6.2000
119.	Shri D.K. Roy, Chairman, OERC	8.6.2000

120.	National Thermal Power Corporation	10.6.2000
121.	Shri Dilip Cherian, Perfect Relations, New Delhi	14.6.2000
122.	Justice (Retd.) S.K. Phaujdar, WBERC	16.6.2000
123.	Luthra & Luthra, Law Offices, New Delhi	20.6.2000
124.	Rajasthan Electricity Regulatory Commission	21.6.2000
125.	Shri P.N. Bhandari, Chairman, Rajasthan State Electricity Board	24.6.2000
126.	Shri Sanjay Bhatnagar, CEO, Enron India Pvt. Ltd.	26.6.2000
127.	Grid Corporation of Orissa Ltd.	26.6.2000
128.	Shri K.A. Joseph, Chief Engineer (Retd.) Kerala	27.6.2000
129.	Madhya Pradesh Electricity Board	27.6.2000
130.	Shri Ashok Harane, Chief Executive (Power Business Group) IL&FS	30.6.2000
131.	Mr. David Renton, M/S Herbert Smith, Hong Kong	30.6.2000
132.	Consumer Protection Council, Rourkela	1.7.2000
133.	Grid Corporation of Orissa Ltd.	1.7.2000
134.	Shri Samareshwar Mahanty, Advocate, Cuttack	1.7.2000
135.	Shri J. Mishra, Ex. Advisor (Power), Bhubaneswar	1.7.2000
136.	The Utkal Chamber of Commerce & Industry Ltd., Cuttack	1.7.2000
137.	Orissa Grahak Mahasangha	1.7.2000
138.	Orissa Electricity Regulatory Commission	1.7.2000
139.	The World Bank	3.7.2000
140.	Enertech Project Engineers Pvt. Ltd.	3.7.2000
141.	Dr Sriram Khanna, VOICE	3.7.2000
142.	Shri R.V. Shahi, CMD, BSES Ltd., Mumbai	3.7.2000
143.	Shri S.K. Khanna, Member (Electrical)	5.7.2000

	Railway Board	
144.	Enron India Pvt. Ltd	5.7.2000
145.	Swarup & Co., Advocates, New Delhi	6.7.2000
146.	National Thermal Power Corporation (NTPC)	6.7.2000
147.	Industrial Development Bank of India (IDBI)	6.7.2000
148.	Mr. Harvey Salgo, Consultant, the World Bank	6.7.2000
149.	Frontier Economics, London	6.7.2000
150.	Mr. Harvey Salgo, Consultant, the World Bank	7.7.2000
151.	CESC Ltd., Calcutta	7.7.2000
152.	Noida Power Company Ltd.	7.7.2000
153.	Enron India Pvt. Ltd.	7.7.2000
154.	SBI Capital Markets	8.7.2000
155.	State Bank of India (R. J. Chand)	8.7.2000
156.	The World Bank	9.7.2000
157.	SBI Capital Markets	10.7.2000
158.	Ms Malavika Rajkotia, Advocate	10.7.2000
159.	Shri K.A. Joseph, Chief Engineer (Retd.) Kerala	10.7.2000
160.	All India Power Engineers' Federation	10.7.2000
161.	Luthra & Luthra, Law Offices, New Delhi	10.7.2000
162.	Reliance Power Ltd.	11.7.2000
163.	Shri K.A. Joseph, Chief Engineer (Retd.) Kerala	12.7.2000
164.	Shri S.N. Roy, former Chairman, Central Electricity Authority (CEA)	12.7.2000
165.	Mr. K. Nyman, the World Bank	13.7.2000
166.	Shri J.P. Gupta, IAS (Retd.) former Chairman, Punjab Finance Commission	14.7.2000
167.	Shri K.A. Joseph, Chief Engineer (Retd), Kerala	17.7.2000
168.	Confederation of Indian Industry	18.7.2000
169.	Haryana Vidyut Prasaran Nigam Ltd.	19.7.2000
170.	Enron India Pvt. Ltd.	19.7.2000

171.	Frontier Economics, London	21.7.2000
172.	Noida Power Company Ltd.	24.7.2000
173.	Confederation of Indian Industry (Eastern Region)	24.7.2000
174.	CESC Ltd., Calcutta	24.7.2000
175.	Graphite India Ltd., Bangalore	24.7.2000
176.	Noida Power Company Ltd.	25.7.2000
177.	NUCHEM Ltd., Faridabad	25.7.2000
178.	Larsen & Toubro Ltd.	26.7.2000
179.	Tamil Nadu Electricity Regulatory Commission	27.7.2000
180.	Confederation of Indian Industry (CII)	28.7.2000
181.	The World Bank	31.7.2000
182.	Shri Jagdish Sagar, Chairman, Delhi Vidyut Board	1.8.2000
183.	The World Bank	2.8.2000
184.	Luthra & Luthra, Law Offices, New Delhi	5.8.2000
185.	Shri Jitesh Khosla, Commissioner, Government of Assam	5.8.2000
186.	Nagarjuna Fertilizers & Chemicals Ltd., Bangalore	7.8.2000
187.	Infrastructure Development Finance Company	8.8.2000
188.	Luthra & Luthra, Law Offices, New Delhi	8.8.2000
189.	Tata Steel, Jamshedpur	9.8.2000
190.	Tamil Nadu Electricity Regulatory Commission	10.8.2000
191.	Mr. William Derbyshire, Frontier Economics, London	10.8.2000
192.	DCW Ltd., Mumbai	11.8.2000
193.	Shri P.L. Nene, former Chairman, Madhya Pradesh Electricity Board	14.8.2000
194.	Premier Energy Technologies Pvt. Ltd.,	14.8.2000
195.	Malana Power Co. Ltd., Noida (NCR-Delhi)	14.8.2000
196.	National Mineral Development Corporation	14.8.2000
197.	Shri R.N. Khanna, MD, Controls and	

	Switchgears Co. Ltd.	16.8.2000
198.	Tata Steel, Jamshedpur	16.8.2000
199.	Tamil Nadu Electricity Regulatory Commission	18.8.2000
200.	Consumer Education and Research Centre	18.8.2000
201.	Shri S.N. Roy, former Chairman, CEA	21.8.2000
202.	Orissa Grahak Mahasangha	24.8.2000
203.	Enron India Pvt. Ltd.	25.8.2000
204.	Tamil Nadu Electricity Board	29.8.2000
205.	Luthra & Luthra, Law Offices, New Delhi	4.9.2000
206.	Mr. Adrian Montague, Deputy Chairman, Partnerships U.K. H. M. Treasury, U.K.	5.9.2000
207.	Mr. K. Nyman, the World Bank	8.9.2000
208.	Mr. Bernard Tenenbaum, the World Bank	10.9.2000
209.	Reliance Power Ltd.	12.9.2000
210.	Shri Jitesh Khosla, Commissioner, Govt. of Assam	14.9.2000
211.	Shri Jitesh Khosla, Commissioner, Govt. of Assam	15.9.2000
212.	Mr. William Derbyshire, Frontiner Economics, London	15.9.2000
213.	Enron India Pvt. Ltd.	19.9.2000
214.	The World Bank	19.9.2000
215.	Luthra & Luthra, Law Offices, New Delhi	19.9.2000
216.	Swarup & Co., Advocates, New Delhi	19.9.2000
217.	Mr. P. L. Nene, Ex Chairman, MPEB	20.9.2000
218.	Tamilnadu Electricity Regulatory Commission	18.10.2000
219.	National Hydroelectric Power Corporation	27.10.2000
220.	Department of Atomic Energy, GOI	30.10.2000
221.	Mr. Jitesh Khosla, Commissioner, Assam	3.11.2000
222.	Indian Electrical & Electronics Manufacturers Association	6.11.2000

223.	Orissa Grahak Mahasangha	9.11.2000
224.	Tata Steel, Jamshedpur	13.11.2000
225.	Dr. Govind, M. Phadka	13.11.2000
226.	UP Power Corporation Ltd.	2.12.2000
227.	Mr. Adrian Montague, Deputy Chairman, Partnerships U.K. H. M. Treasury, U.K.	9.12.2000
228.	Tamilnadu Electricity Regulatory Commission	25.1.2001
229.	Government of Haryana	8.3.2001
230.	Shri K. V. Kamath, MD, ICICI	10.3.2001
231.	Jyotsna Engineers & Consultants Pvt. Ltd.	18.4.2001
232.	Tamilnadu Electricity Regulatory Commission	31.5.2001
233.	Tamilnadu Electricity Regulatory Commission	14.6.2001
234.	Shri S.K. Agarwal, Former Member, CEA	1.8.2001

THE ELECTRICITY BILL, 2001

INTRODUCTION

The increasing demands placed on the electricity industry in India by virtue of economic and technological developments require a comprehensive response. The restructuring and modernisation of this industry is now inevitable if the goal of providing universal access to reliable and affordable electricity is to be achieved in the foreseeable future. The issues that need to be addressed are complex. In particular, the State Electricity Boards in their present form are both monolithic as well as monopolistic, and need to be restructured, decentralised and made accountable in respect of each of their principal functions of generation, transmission and distribution. Being a capital-intensive industry, electrical development is sustainable only on commercial principles. Yet, State intervention both in terms of policy as well as affirmative action for the less privileged must continue to play its role in a transparent and focussed manner. The Bill seeks to provide an enabling framework necessary for addressing these issues.

STATEMENT OF OBJECTS AND REASONS

1. The Electricity Act, 1910 was enacted nearly a century ago and does not adequately address the changed circumstances of the present times. The Electricity (Supply) Act, 1948, which was enacted for meeting the challenges of this sector in an independent India, virtually nationalised the industry by creation of the State Electricity Boards that were considered essential at that time for extending electrical development to the vast rural and economically backward regions across the country. These Boards did perform a yeomen service in that context, but began to face serious difficulties over the years owing to their inability to recover costs and because of the inefficiencies arising out of their unwieldy structure. Their present losses are no longer sustainable, and the increasing power shortages are constraining the growth of the entire economy besides affecting consumer welfare.
2. Considering the importance of restructuring the electricity industry, Government of India convened two Conferences of Chief Ministers in 1996 to discuss the whole gamut of issues. The outcome of these Conferences was the adoption of the Common Minimum National Action Plan for Power (CMNPP). Recognising that the gap between demand and supply of power was widening, the CMNPP acknowledged the inability of the State Governments to restore the deteriorating financial viability of State Electricity Boards. It, therefore, stressed the need for setting up Regulatory Commissions, and for corporatising and restructuring the State Electricity Boards. These recommendations were reinforced by the Chief Ministers' Conference of 1998.
3. During the past decade, a number of legislative interventions were made for introducing reforms in the power sector. The Electricity (Supply) Act, 1948 was amended in 1991 to facilitate setting up of private generating stations. In 1998, the Electricity Act, 1910 and the Electricity (Supply) Act, 1948 were amended for enabling private investment in the transmission sector. In the same year, the Electricity Regulatory Commissions Act, 1998 was enacted to provide for Regulatory Commissions at the Centre and in the States for tariff

setting and regulation of the electricity industry.

4. The aforesaid legislative measures were largely motivated by the need to attract private investment in the power sector. The structure of the industry, however, remained largely unchanged and the State Electricity Boards continued to function as before. As a result, the States were required to enact their own laws to overcome the mandatory provisions of the Electricity (Supply) Act, 1948 in respect of the State Electricity Boards. So far, seven States, namely, Orissa, Haryana, Andhra Pradesh, Uttar Pradesh, Karnataka, Rajasthan and Delhi have enacted their respective laws to provide for separate corporate entities in generation, transmission and distribution, in substitution of the Boards. Some other States are actively considering similar measures.

5. The somewhat fragmented approach relating to legislative initiatives in the past decade did reflect the growing consensus in favour of reform and restructuring, but in the absence of a holistic response, serious difficulties continue to restrict the orderly operation and development of the electricity industry. A quick survey across the nations would reveal that during the past decade, several countries, developing as well as developed, have enacted new electricity laws to benefit from the changing environment. It has, therefore, become imperative that India gives to herself a comprehensive law that would accelerate electrical development in the decades to come.

6. In recognition of the above, the Power Ministers' Conference held on February 26, 2000 resolved that reforms must be undertaken with determination, vigour and a sense of urgency. It was further resolved that the draft Electricity Bill prepared by the National Council for Applied Economic Research (NCAER) would form the basis for a national debate for evolving a consensus on the contents of the proposed Bill. A wide range of consultations have since been undertaken with the State Governments, State Electricity Boards, Financial Institutions, consumer fora, investors, experts and other stakeholders, and the Bill has been suitably modified to address their concerns

7. The Bill contains the following salient features, namely:

- (a) functional disaggregation of generation, transmission and distribution with a view to creating independent profit centres and accountability;
- (b) reorganisation and restructuring of the State Electricity Boards in accordance with the model, phasing and sequencing to be determined by the respective State Governments (States would have the freedom to retain their Boards until they decide to restructure their electricity industry);
- (c) States to determine the extent, nature and pace of privatisation (public sector entities may continue if the States find them sustainable);
- (d) competition, economy and efficiency to be promoted in the best interests of the consumers and the national economy;
- (e) transmission to be separated as an independent function for creation of transmission highways with non-discriminatory open access that would enable

viable public and private investments in the electricity industry;

- (f) amendments made in 1998 to the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 for facilitating private investment in transmission to be broadly retained;
- (g) present entitlements of States to cheaper power from existing generating stations to remain undisturbed;
- (h) compulsory metering for enhancing accountability and viability;
- (i) Central and State Electricity Regulatory Commissions to continue broadly on the lines of the Electricity Regulatory Commissions Act, 1998;
- (j) special provisions for promoting access to electricity in rural areas and for the economically weaker persons;
- (k) stringent provisions to minimise theft and misuse; and
- (l) provisions for transition from a State-owned monopoly to a liberalised and competitive industry.

8. The Bill seeks to replace the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commission Act, 1998.

Union Minister of Power

THE ELECTRICITY BILL, 2001

(__ of 2001)

A Bill to provide for the restructuring and rationalisation of the electricity industry and generally for taking measures conducive to the regulation, development and management of the electricity industry in an efficient, economic and competitive manner.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows –

PART - I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Electricity Act, 2001.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, the expression -
 - (1) “affiliate” in relation to any person means any holding company of such person, any subsidiary of such person or any subsidiary of a holding company of such person;
 - (2) “appointed date” means the date on which this Act comes into force in pursuance of a notification issued under sub-section (3) of section 1;
 - (3) “authorised area” in relation to a Distribution Company or Transmission Company, means the area designated as such in its licence;
 - (4) “Authority” means the Central Electricity Authority constituted under sub-section (1) of section 73;
 - (5) “Board” means a State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (54 of 1948);
 - (6) “Central Commission” means the Central Electricity Regulatory Commission constituted under sub-section (1) of section 79;
 - (7) “Central Transmission Company” means a company designated as such by the Central

Government under sub-section (1) of section 13;

(8) “Chairperson” means the Chairperson of the Commission;

(9) “co-generation” means generation of electricity from a facility which simultaneously produces any other form of energy such as steam or mechanical power.

(10) “company” means a company registered under the Companies Act, 1956 (1 of 1956) and includes a local authority, or a corporation, society or co-operative society incorporated or registered under any law for the time being in force;

(11) “Competent Commission” or “Commission”, when used in respect of any matter falling within the jurisdiction of the Central Government under this Act, or in relation to any inter-state matter, means the Central Commission and in all other matters, the State Commission having jurisdiction under this Act;

(12) “Competent Government” or “Government”, when used in relation to any inter-state generation, transmission, trading or supply of electricity, means the Central Government, and in all other matters, the State Government having jurisdiction;

(13) “conservation” means any reduction in consumption of electricity as a result of increase in the efficiency of the electricity supply and use;

(14) “consumer” means any person who receives for end use, the electricity supplied by a licensee, and includes a person whose supply has been disconnected for the time being;

(15) “consumer account service” means billing and collection, provision of a meter, meter maintenance and testing, meter reading, and other administrative activities associated with maintaining a consumer account;

(16) “consumer association” means any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;

(17) “dedicated generation” means:

(a) the generation of electricity for consumption thereof in any premises without the use of any electric lines operated by a Transmission Company or Distribution Company; or

(b) cogeneration and generation of electricity from renewable sources of energy for consumption thereof in any premises, with the use of electric lines operated by a Distribution Company, but only if such premises are not greater than 10 kilometres radial distant from the point of generation;

(18) “dedicated transmission facilities” means the transmission facilities referred to in section 18;

(19) “designated consumer” means any consumer whose premises are used wholly or mainly for residential purposes and includes a consumer whose premises are used for

commercial, industrial, agricultural or business purposes having a consumption not exceeding 12,000 Kwh per year;

(20) “distribution” means conveyance of electricity by means of a distribution system and the expression “distribute” shall be construed accordingly;

(21) “Distribution Company” means a licensee authorised to establish, augment and operate a distribution system in its authorised area;

(22) “distribution line” means the portion of any distribution system with which a service line is, or is intended to be, immediately connected;

(23) “distribution system” means the electric lines and electrical plants used for conveying or distributing electricity between the delivery points on any transmission lines or generating station connections, as the case may be, and the point of connection to any premises, and may include such other electric lines and electrical plants as the State Commission may by order designate from time to time, but does not include any point-to-point electric lines and electrical plants that are owned and operated by any person for his own use;

(24) “distribution wheeling charge” means the tariff determined by the State Commission for wheeling of electricity by use of the distribution system of a Distribution Company where the supply of electricity is by a licensee other than such Distribution Company and may include a fixed charge in addition to the charge for actual electricity wheeled;

(25) “electric line” means any line which is used for conveying, transmitting or distributing electricity (whether by overhead line or underground cable) for any purpose and includes -

- (a) any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and any line which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;
- (b) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; and
- (c) any apparatus connected to any such line for the purpose of carrying electricity;

(26) “Electrical Inspector” means a person appointed by the Competent Government under sub-section (1) of section 140 and includes a Chief Electrical Inspector;

(27) “electrical plant” means any plant, equipment, apparatus or appliance or any part thereof used for, or for purposes connected with the generation, transmission, distribution or supply of electricity, other than –

- (a) an electric line;
 - (b) a meter used for ascertaining the quantity of electricity supplied to any premises; or
 - (c) an electrical appliance under the control of a consumer;
- (28) “electricity” means electrical energy -
- (a) generated, transmitted, distributed, supplied or traded for any purpose, or
 - (b) used for any purpose except the transmission of a message;
- (29) “Electricity Supply Code” has the meaning ascribed to it in section 29;
- (30) “electricity system” means a system under the control of a licensee and having one or more -
- (a) generating stations; or
 - (b) electric lines and sub-stations,

and when used in the context of a State or the Union, the entire electricity system within the territories thereof;

(31) “Generating Company” means a company authorised under this Act to establish and/or operate a generating station;

(32) “generating station” means an electrical plant for generation of electricity and includes all land, works and structures associated with and incidental to such generation, and in relation to a generating station wholly or mainly driven by water, includes all land, works and structures for holding or channelling water for a purpose directly related to the generation of electricity by that station, but does not include a generating station having a capacity to generate up to five megawatts or such higher capacity as may be notified by the Central Government;

(33) “generation” means generation of electricity from a generating station, and the expression “generate” shall be construed accordingly;

(34) “grid” means the high voltage system of interconnected transmission lines, substations and generating plants;

(35) “Grid Code” means the Grid Code specified by the Central Commission for regulating the transmission and wheeling of electricity throughout the territory of India;

(36) “Grid Standards” has the meaning ascribed thereto in section 63;

(37) “High Court” means –

- (a) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and
- (b) where the Central Government *is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents ordinarily resides or carries on business or personally works for gain:

Provided that where the appeal is against the order of a Competent Commission, the High Court within the jurisdiction of which such Commission is situated shall be the High Court having jurisdiction;

(38) “high voltage line” means an electric line or cable of a nominal voltage exceeding 100 kilovolts;

(39) “holding company” means a holding company within the meaning of the Companies Act, 1956 (1 of 1956);

(40) “inter-state”, when used in the context of generation, transmission, wheeling or trading of electricity, means any of the aforesaid activities when carried out in, or in relation to the territory of more than one State, and when used in the context of transmission or wheeling, includes the conveyance of electricity within a State if it is incidental to inter-state transmission or wheeling of electricity, and when used in the context of generation, includes a generating station which has been established or otherwise has a composite scheme for sale of electricity in more than one State;

(41) “intra-state”, when used in the context of generation, transmission, wheeling or trading, means any of the aforesaid activities not being inter-state;

(42) “licence” means a licence granted under section 5 and includes an exemption from obtaining such licence under section 4 and the expression “licensee” shall be construed accordingly;

(43) “local authority” means any municipal corporation, municipal committee, district board, village panchayat, body of port commissioners or other authority legally entitled to, or entrusted by the Union or any State Government with, the control or management of any municipal or local fund;

(44) “Member” means a Member of the Commission and includes the Chairperson;

(45) “National Electricity Plan” means the National Electricity Plan published under sub-section 1 (a) of section 71;

(46) “National Transmission Centre” means the centre established under sub-section (1) of section 54;

(47) “non-competitive services”, when used in the context of a Distribution Company,

means the wheeling and distribution of electricity and such other services as the State Commission may notify from time to time, and the expression “competitive services” shall include all services other than non-competitive services provided by the Company;

(48) “notify” means to notify in the Official Gazette and the expression “notification” shall be construed accordingly;

(49) “open access” means the provision of the use of transmission lines or distribution system by a Transmission Company or Distribution Company, as the case may be, including ancillary and incidental equipment and services thereof, to any licensee or consumer in accordance with the Regulations specified by the Competent Commission and without any undue or unreasonable preference, access, advantage, discount, rebate, waiver, disadvantage or discrimination in any form or manner, as compared to any other person or licensee including such Transmission or Distribution Company, as the case may be;

(50) “overhead line” means an electric line which is placed above ground and in the open air but does not include live rails or electric lines of a traction system;

(51) “person” includes any company, society, association or body of individuals, whether incorporated or not;

(52) “premises” includes any land, building or structure;

(53) “prescribe” means prescribe by Rules made by the Competent Government under this Act, and the expression “prescribed” shall be construed accordingly;

(54) “public lamp” means an electric lamp used for the lighting of any street;

(55) “Regional Transmission Centre” means the centre established under sub-section (1) of section 56;

(56) “Regulations” means regulations made under this Act;

(57) “reliability” means the security of inter connected transmission network and the avoidance of uncontrolled trip outs which may result in widespread electricity outages, and the expression “reliable” shall be construed accordingly;

(58) “renewable sources” means sources of energy other than fossil fuel or nuclear fuel, but includes waste of which not more than a proportion notified by the Central Government is waste, which is or is derived from, fossil fuel.

(59) “repealed laws” means the Indian Electricity Act, 1910 (9 of 1910), the Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998);

(60) “Rules” means rules made under this Act;

(61) “service-line” means any electric line through which electricity is, or is intended to be

distributed -

- (a) to a single consumer either from a distribution line or immediately from the Distribution Company's premises, or
- (b) from a distribution line to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distribution line;

(62) “specify” means specify by Regulations made by the Competent Commission, or by the Authority wherever so provided in this Act, and the expression “specified” shall be construed accordingly;

(63) “State” means a State of the Republic of India and includes a Union Territory;

(64) “State Commission” means the State Electricity Regulatory Commission constituted under sub-section (1) of section 81 and includes a Joint Commission established under sub-section (1) of section 82;

(65) “State Transmission Centre” means the centre established under section 60 and includes a Joint Transmission Centre established under sub-section (4) of section 60;

(66) “State Transmission Company” means a company designated as such by the State Government under sub-section (1) of section 13;

(67) “street” includes any way, road, lane, square, court, alley, passage, park or open space, whether a thoroughfare or not, over which the public have a right of way, and also the roadway and footway over any public bridge or causeway;

(68) “subsidiary” means a subsidiary within the meaning of the Companies Act, 1956 (1 of 1956);

(69) “sub-station” means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switchgears, capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings and land used for that purpose and the site thereof;

(70) “supply”, when used in relation to electricity, means the sale of electricity conveyed by transmission lines or distribution system, or both;

(71) “Supply Company” means a licensee authorised to supply electricity and/or trade therein;

(72) “tariff” means the price, rate or charge that may be demanded by a licensee with respect to supply, transmission, distribution or wheeling of electricity;

(73) “Telegraph Authority” means any authority or officer empowered under the Indian Telegraph Act, 1885 (13 of 1885), or any modification or substitute thereof, to perform all or any of the functions under that Act;

(74) “telegraph line” means a cable, wire or wires used for the purpose of a telegraph, with any casing, coating, tube or pipe enclosing the same, and any appliances and apparatus connected therewith for the purpose of fixing or insulating the same;

(75) “trading” means purchase of electricity for resale thereof and includes any form of marketing, brokerage or intermediation in the sale of electricity or aggregation of the loads of multiple consumers, with or without taking any title to the electricity sold, and the expression “trade” shall be construed accordingly;

(76) “transmission” means conveyance of electricity by means of transmission lines and the expression “transmit” shall be construed accordingly;

(77) “Transmission Company” means a licensee authorised to establish and operate transmission lines within his authorised area and includes a Central Transmission Company and a State Transmission Company;

(78) “transmission lines” means all high voltage lines used for transmitting electricity from a generating station or sub-station, to another generating station or sub-station, together with any sub-stations, step-up and step-down transformers, terminal stations, switch-gear and other works necessary to and used for the control of such lines, and may include such other electric lines and electrical plant as the Competent Commission may by order designate from time to time, but does not include any dedicated transmission facilities;

(79) “Union Public Service Commission” means the Union Public Service Commission established under article 315 of the Constitution of India;

(80) “utility system” means the electric lines and electrical plant, and includes all lands, buildings, works and materials attached thereto, belonging to any Distribution Company or Transmission Company;

(81) “wheeling” means the operation whereby the transmission lines or distribution system and associated facilities of a Transmission Company or Distribution Company, as the case may be, are used by another person for the conveyance of electricity on payment of tariff or charges to be determined in accordance with this Act;

(82) “works” includes electric lines, electrical plant and any building, plant, machinery, apparatus and any other thing of whatever description required to transmit, distribute or supply electricity and to carry into effect the objects of a licence or sanction granted under this Act or any other law for the time being in force; and

and any term or nomenclature pertaining to the electricity industry, which is not defined herein, shall bear the meaning normally ascribed to it in the electricity industry or engineering terminology.

PART - II

SUPPLY OF ELECTRICITY

Authorising supply etc.

Prohibition on unauthorised supply etc.

3. (1) No person shall -
- (a) transmit electricity;
 - (b) distribute electricity; or
 - (c) supply, or trade in electricity,

unless he is authorised to do so by a licence issued under section 5, or is exempted from obtaining a licence under section 4.

(2) No person shall generate electricity except in accordance with the provisions of this Act and the Rules and Regulations made thereunder, and any person who operates and maintains a generating station shall be deemed to be a licensee under this Act.

Provided that a person who proposes to establish a generating station shall conform to the technical specifications, location, fuel and any other matter of public interest as the Central Government may prescribe and shall furnish to the Authority and to the Competent Commission such particulars thereto and in such manner as may be prescribed.

(3) No Generating Company shall establish a hydroelectric generating station unless it has obtained prior consent of the State Government having territorial jurisdiction, and where the riparian rights of another State are affected, prior consent of the Central Government shall also be obtained.

(4) Before giving its consent under sub-section (3), the Central Government shall have due regard to the riparian rights of the respective States and the prospective plans for the best ultimate development of the river and its tributaries.

Exemption from licensing

4. (1) The State Commission may by order grant exemption to a local authority, or to a society or cooperative society registered under any law for the time being in force, from obtaining a licence for distribution of electricity, but where the exemption results in the setting up of an electric line or electrical plant that would compete with any existing distribution system, such exemption shall be granted with due regard to its effect on the Distribution Company owning such distribution system, and after considering any representation or objection which is duly made by such Distribution Company.

(2) The Competent Commission may by order grant exemption to any person or class of persons from obtaining a licence for supply of electricity, but subject to compliance with the provisions of this Act and the Rules and Regulations made thereunder, and such conditions (if any) as may be stated in the order.

(3) An exemption under sub-sections (1) and (2) shall be published in such manner as the Competent Commission considers appropriate for bringing it to the attention of affected persons.

(4) An exemption under sub-sections (1) and (2), unless previously revoked in accordance with any term contained in the order of exemption, shall continue in force for such period as may be stated in or determined by or under such order.

(5) The Central Government may by order grant exemption from section 3 to any person if, in its opinion, such exemption is necessary for the purposes of national security or defence, and such exemption may specify the provisions of this Act which shall not apply to such person.

Grant of Licence

5. (1) The Competent Commission may, upon application made to it in accordance with the procedure laid down in section 6, by licence authorise any company to be:

- (a) a Transmission Company;
- (b) a Distribution Company; or
- (c) a Supply Company:

Provided that any person who is engaged, or authorised to engage in the business of transmission, distribution or supply of electricity under the provisions of the repealed laws or any Act listed in the Second Schedule, as the case may be, shall be deemed to be a licensee under this Act with respect to the transmission line or distribution system, as the case may be, stipulated in the licence, clearance or approval granted to it under the repealed laws or any Act listed in the Schedule:

Provided further that the Central Transmission Company and the State Transmission Companies shall be deemed to be Transmission Companies under this Act.

Explanation: For the purposes of a licence for transmission, the State Commission shall be the Competent Commission if the transmission lines are established for intra-state transmission, but where such lines are designated by the Central Commission to be of importance to inter-state transmission, the Central Commission, in such cases, shall be the Competent Commission.

(2) Subject to the provisions of section 16, the Competent Commission may grant more than one licence to any person.

(3) A Transmission Company or a Distribution Company shall operate within the

authorised area specified in its licence, and such area may be extended or restricted by the Competent Commission with the consent of the Company.

(4) A Supply Company may be authorised to –

- (a) supply electricity to any premises;
- (b) only to premises stated in the licence, or to premises of a description so stated; or
- (c) only to any premises situated in the stipulated area, or to premises of a stated description which are so situated.

(5) A Supply Company may be authorised to trade in electricity in the manner and form, and to the extent stated.

Procedure for grant of licence

6. (1) An application under section 5 for the grant of a licence to establish and operate a transmission line or distribution system, or to undertake supply of electricity shall be made in the specified form and manner, and shall be accompanied by such fee as may be specified.

(2) Within 7 working days of making an application under sub-section (1), the applicant shall publish the specified particulars thereof in the specified manner for the purpose of bringing the application to the attention of persons likely to be affected by the proposed licence, and stating that any person may make representations or objections to the Competent Commission within 30 days of the date of publication.

(3) An applicant who proposes to establish and operate a transmission line shall, within 7 working days of making an application, send a copy thereof to the Authority in such cases and along with such particulars as the Central Government may prescribe, and the Authority shall examine such application and tender its advice thereon to the Competent Commission, within 30 days of receiving the application, in such manner and as to such technical matters as may be prescribed by that Government.

(4) Within 7 working days of making an application under sub-section (1) for the grant of a licence to establish and operate a transmission line, the applicant shall send a copy thereof to the Central Transmission Company in case of an inter-state transmission line and the State Transmission Company in all other cases, and the Central Transmission Company or the State Transmission Company, as the case may be, shall examine such application and tender its advice thereon to the Competent Commission, within 30 days of receiving the application.

(5) Before issuing an order authorising any company to be a Transmission Company or Distribution Company, the Competent Commission shall give notice –

- (a) stating that it proposes to issue the order and setting out the provisions of such order and their effect;
- (b) stating the reasons why it proposes to issue the order; and

- (c) stating the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed order may be made,

and publish the notice in such manner as the Commission considers appropriate for bringing it to the attention of persons likely to be affected by the proposed order.

(6) The Competent Commission shall consider any representation or objection which is duly made and not withdrawn, and the technical advice, if any, tendered by the Authority under sub-section (3), and the advice, if any, tendered by the Central Transmission Company or the State Transmission Company, as the case may be, under sub-section (4).

(7) The Competent Commission shall, as far as practicable, either issue a licence within 120 days of the date of application under this section or reject the same if it does not conform to the provisions of this Act or the Rules and Regulations made thereunder:

Provided that for reasons to be recorded in writing, the Commission may by notice to the applicant extend the said period of 120 days by 30 days at a time.

(8) As soon as practicable after issuing a licence, the Commission shall send a copy of the licence to the Competent Government, and the licensees who may be affected by such licence.

(9) A licence shall, unless previously revoked in accordance with any term contained in the licence, shall continue in force for such period as may be stated in or determined by or under the licence.

Conditions of licence: general

7. (1) Every licensee shall, no later than April 2003, maintain separate businesses and accounts with respect to each of its licences as a Generating Company, Distribution Company and Supply Company, as the case may be, and for this purpose, it shall functionally disaggregate its assets, revenues, expenses, operations, services, tariffs and all matters connected therewith or incidental thereto as if each of its aforesaid businesses were separate from, and independent of one another:

Provided that a Distribution Company shall further disaggregate its business and accounts so that its supply business is separate from, and independent of the business relating to its distribution system:

Provided further that a licensee owning or operating any dedicated transmission facilities shall maintain separate accounts thereof.

(2) A licence may include such other conditions (whether or not relating to the activities authorised by the licence) as appear to the Competent Commission to be requisite or expedient having regard to the duties imposed on the Commission by this Act, and may be issued subject to payment of such annual fee as may be specified.

(3) Conditions included in a licence by virtue of sub-section (2) may require the licensee –

- (a) to comply with any direction given by the Competent Commission as to such matters as are stated in the licence or are of a description so stated;
- (b) except in so far as the Competent Commission consents to his doing or not doing them, not to do or to do such things as are stated in the licence or are of a description so stated;
- (c) to refer for determination by the Competent Commission such questions arising under the licence as are stated in the licence or are of a description so stated; and
- (d) to refer for approval by the Competent Commission such things as are required to be so referred under the licence; and such contracts or agreements made before the issue of the licence, as are stated in the licence or are of a description so stated.

(4) Conditions included in a licence in pursuance of sub-section (2) may-

- (a) instead of stating or describing any contracts or agreements to which they apply, refer to contracts or agreements designated (whether before or after the imposition of the conditions) by the Competent Commission; and
- (b) instead of containing any provisions, refer to provisions set out in documents so designated and direct that those provisions shall have such effect as may be stated in the conditions,

and may provide for references in the conditions to any document to operate as references to that document as revised or re-issued from time to time.

(5) Conditions included in a licence may contain provisions for the conditions to –

- (a) have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or
- (b) be modified in such manner as may be stipulated in the conditions at such times and in such circumstances as may be so determined.

(6) Any provision included by virtue of sub-section (5) in a licence shall have effect in addition to the provision made by this Act with respect to the modification of the conditions of a licence.

(7) The Competent Commission may, subject to section 9, specify any general or specific conditions of licence to apply either to a licensee or class of licensees and such conditions shall be deemed to be the standard conditions of licence and shall have effect in addition to the other conditions imposed in accordance with this section.

(8) Upon unbundling or separation of any activity of a licensee, the Commission may, by licence or exemption, authorise any person to carry out such activity subject to such terms and conditions as may be specified.

(9) A licensee may transfer his licence, but subject to any term as to transfer contained in the licence, and such transfer may relate to the whole or any part of the licence.

Conditions of licence: transmission and distribution

8. (1) Conditions included in a licence in pursuance of sub-section (2) of section 7 may–

- (a) require a Transmission Company or Distribution Company to enter into agreements with other persons for the use of its electric lines and electrical plant (wherever situated and whether or not used for the purpose of carrying on the activities authorised by a licence) for such purposes as may be stipulated in the conditions; and
- (b) include provision for determining the terms on which such agreements are to be entered into.

(2) The grant of a licence for transmission or distribution, as the case may be, shall not in any way hinder or restrict the grant of licence to another person within the same authorised area for a like purpose:

Provided that where such licence results in the setting up of a transmission line or distribution system that would compete with an existing transmission line or any electric line or electrical plant of an existing distribution system, as the case may be, the licence shall be granted with due regard to the financial viability of such existing line or system, and after considering any representation or objection which is duly made by a person owning the existing line or system.

(3) A Transmission Company or Distribution Company may, subject to the approval of the Commission, enter into an agreement with any person for discharging any of its obligations as a licensee:

Provided that such person shall at all times act for and on behalf of the Transmission Company or Distribution Company, as the case may be, and all the rights and obligations of such Transmission Company or Distribution Company under this Act, and the Rules and Regulations made thereunder, and the conditions of licence shall remain in full force and effect as if such agreement had not been entered into.

Modification of licence

9. (1) Subject to provisions of sub-section (2), the Competent Commission may modify the conditions of a particular licence.

(2) The Competent Commission may not make any modifications under this section unless the licensee has consented to the modifications, and in the case of standard conditions of the licence, the Commission is of the opinion that the modifications –

- (a) are necessary for meeting the circumstances of the particular case; and
- (b) are such that –
 - (i) the licensee would not be unduly disadvantaged in competing with other licensees of that type; and
 - (ii) no other licensee of the same type would be unduly disadvantaged in competing with other licensees holding similar licences (including the licensee whose licence is being modified).

(3) Subject to the provisions of sub-sections (4) to (10), the Commission may modify the standard conditions of licences of any type referred to in section 5.

(4) Where at any time the Commission modifies the standard conditions of licences of any type under this section, the Commission may make such incidental or consequential modifications as it considers necessary or expedient of any conditions of any licence of that type.

(5) Before making any modifications under this section, the Commission shall give notice –

- (a) stating that it proposes to make the modifications and setting out such modifications and their effect;
- (b) stating the reason why it proposes to make the modifications; and
- (c) specifying the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed modifications may be made,

and shall consider any representations or objections which are duly made and not withdrawn.

(6) A notice under sub-section (5) shall be given by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the notice to the attention of persons likely to be affected by the proposed modifications.

(7) The Commission may not under this section make any modifications of the standard conditions of licences of any type unless –

- (a) no notice of objection to those modifications is given to the Commission within the time specified in the notice under sub-section (5) by any relevant licensee;
- (b) if one or more relevant licensees give notice of objection to the Commission within that time –
 - (i) the proportion (expressed as a percentage) of the relevant licensees who have given notice of objection is less than 33 per cent or such lower percentage as may be prescribed; and

(ii) the percentage given by sub-section (8) is less than 33 per cent or such lower percentage as may be prescribed; or

(c) sub-section (9) applies to the case.

(8) The percentage given by this sub-section is the proportion (expressed as a percentage) of the relevant licensees who have given notice of objection, weighted according to their market share in such manner as may be prescribed.

(9) This sub-section applies where the Commission is satisfied that –

(a) the effect of the standard conditions is such as to impose a burden affecting relevant licensees in the carrying on of activities to which the modifications relate;

(b) the modifications would remove or reduce the burden without removing any necessary protection; and

(c) the modifications are such that no licensee of the type in question would be unduly disadvantaged in competing with other such licensees.

(10) Where the Commission modifies the standard conditions of licences of any type-

(a) the Commission shall also make (as nearly as may be) the same modifications of those conditions for the purposes of their incorporation in licences of that type granted after that date; and

(b) the Commission shall publish the modifications in such manner as it considers appropriate.

Explanation: For the purposes of this section, the expression “relevant licensee”, in relation to standard conditions of licences of any type, means a licensee whose licence incorporates the standard conditions being modified.

(11) Notwithstanding anything to the contrary in this section, where the Competent Commission deems it necessary to modify the conditions of a particular licence for complying with the provisions of any law for the time being in force or for giving effect to the provisions of section 38, it may make the required modifications in the licence.

Provided that no such modification shall be made except with the consent of the licensee unless such consent has, in the opinion of the Competent Commission, been unreasonably withheld.

Provisions with respect to Generating Companies

General Duties of Generating Companies

10. (1) The duties of a Generating Company shall include construction, operation and maintenance of generating stations, sub-stations and dedicated transmission facilities for the purposes of generation and supply of electricity in accordance with this Act and the Rules and Regulations made thereunder.

(2) A Generating Company may supply electricity to any Distribution Company or Supply Company in accordance with this Act and the Rules and Regulations made thereunder, and may, subject to the Regulations made under section (2) of section 19, supply electricity to any consumer under licence as a Supply Company.

Directions to Generating Companies

11. (1) The Competent Commission may specify that a Generating Company shall, in extraordinary circumstances warranting the intervention of the Commission, operate any generating station in accordance with the directions of the Commission requiring such Generating Company to -

- (a) maintain fuel stocks at the specified level;
- (b) make such use as may be stipulated of any stocks held at or near that generating station; and
- (c) operate, or not operate, the generating station for stipulated periods and at stipulated levels of capacity.

Explanation: For the purposes of this section, the expression “extraordinary circumstances” means circumstances that threaten the operational integrity of the grid or the supply of electricity, or circumstances that threaten national security or public order.

(2) In discharge of its functions under sub-section (1), the Commission shall endeavour to minimise the adverse financial impact of its directions on any Generating Company, and no such direction shall cause any undue discrimination against any Generating Company or class of Companies.

Certain restrictions on Generating Companies

12. (1) No Generating Company that is required to supply electricity to any person under the provisions of any law, rule, regulation, direction or agreement, for the time being in force, shall sell such electricity to any other person unless the person entitled thereto consents in writing that the electricity may be so supplied by the Generating Company to any other person subject to such conditions and in such circumstances as may be stipulated in the consent; and a copy of such consent shall be furnished to the Competent Commission forthwith.

(2) The State Commission may by Regulations specify that with effect from a specified date, not being earlier than two years from the date of notification of such Regulations, any person being a Generating Company shall discontinue its business as a Distribution Company or Supply Company, as the case may be, or phase it out in such manner as the Commission may determine.

Provided that at any time after the notification of Regulations under this sub-section, the Generating Company may spin off its supply business to an affiliate, to be licensed by the Commission for this purpose in accordance with this Act and the Rules and Regulations made thereunder.

Provisions with respect to Transmission Companies

General Duties of Central and State Transmission Companies

13. (1) The Competent Government may by notification designate any company engaged or intending to engage in the business of transmission as the Central Transmission Company or (name of the State) Transmission Company, as the case may be.

(2) The Central Transmission Company or the State Transmission Company, as the case may be, shall be responsible for the planning, design, construction, maintenance and operation of the transmission lines owned or controlled by such Company, for ensuring a secure and reliable grid in the area designated by the Competent Government.

(3) The Central Transmission Company or the State Transmission Company, as the case may be, shall have the obligation to expand and improve its transmission lines in accordance with such directions as the Competent Commission may reasonably give for this purpose.

(4) The Central Transmission Company or the State Transmission Company may, subject to the approval of the Competent Commission, enter into an agreement with any person for the exclusive use and operation of the transmission lines constructed and maintained by such person.

General Duties of Transmission Companies

- 14.** (1) It shall be the duty of a Transmission Company to –
- (a) develop and operate an efficient, co-ordinated and economical system of transmission lines within its authorised area;
 - (b) provide open access to its transmission lines for use by any licensee in accordance with this Act and the Grid Code; and
 - (c) provide interconnection to licensees and consumers in such manner and subject to payment of such charges as the Commission may specify.

(2) Where any consumer requires a supply of electricity from a licensee other than the Distribution Company in whose authorised area his premises are situated, he or any licensee acting on his behalf, may by notice require a Transmission Company to wheel such electricity in accordance with the Regulations to be specified by the State Commission, and the duties of a Transmission Company with respect to such wheeling shall be those of a common carrier providing open access to its transmission lines.

(3) Open access referred to in sub-section (2) shall be introduced in such phases and subject to such conditions as the cross subsidies, system losses and other operational constraints require, and in specifying the extent of open access in successive phases and in determining the wheeling charge thereof, the State Commission shall have due regard to, and make appropriate provision for, all relevant factors including the cross subsidies, system losses and other operational constraints.

Provided that the State Commission shall, no later than the third anniversary of the Appointed Date, by Regulations provide such open access to all licensees and consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

Directions to Transmission Companies

15. (1) The Competent Commission may give a direction requiring any Transmission Company to give to the Commission, after consultation with persons stated in the direction, any information or advice which the Commission may reasonably require for purposes connected with the exercise of its functions under section 11.

(2) The Competent Commission may give a direction requiring any Transmission Company to operate its transmission lines, at any time when a direction under section 11 is in force, either in the manner described or with a view to achieving the described objectives.

(3) In sub-section (2), “described” means described by or under the Commission’s direction, and a Transmission Company shall give effect to any direction given to it under sub-section (2) notwithstanding any other duty imposed on it by or under this Act.

Certain restrictions on Transmission Companies

16. (1) No Transmission Company or a shareholder thereof (other than the Government, or any shareholder owning less than 5 per cent of the paid-up capital of such Transmission Company) shall:

- (a) have any financial interest in a Generating Company, Distribution Company or Supply Company which is generating, distributing or supplying electricity, as the case may be, in the authorised area of such Transmission Company; or
- (b) enter into any contract or otherwise engage in the supply or trading of electricity except as otherwise provided in this Act:

Provided that nothing in this sub-section shall restrict a Transmission Company from

acquiring such ancillary services as may be necessary for maintaining a reliable and efficient operation of the grid.

(2) No director, employee or agent of a Transmission Company shall have any financial interest in a Generating Company, Distribution Company or Supply Company referred to in sub-section (1).

(3) Notwithstanding anything contained in this section, where a Transmission Company does not exercise any control over the operation of transmission lines owned or established by it, the Competent Commission may by written order exempt the Transmission Company and its Directors, employees or agents from the restrictions imposed by this section for the period during which it does not exercise such control:

Explanation: For the purposes of this section, the expression “financial interest” includes any indirect financial interest such as shareholding through an affiliate.

Other businesses of Transmission Companies

17. (1) A Transmission Company may, subject to section 16, engage in any business that enhances the utilisation of its transmission lines:

(2) A proportion of the revenues derived from any business referred to in sub-section (1) shall, as specified by the Competent Commission, be utilised for reducing its transmission and wheeling charges.

(3) A Transmission Company shall maintain separate accounts for each business undertaking referred to in sub-section (1) and shall ensure that the transmission business neither subsidises in any way such business undertaking nor encumbers its transmission assets in any way to support such business.

(4) Where the failure of any business undertaking referred to in sub-section (1) may, in the opinion of the Commission, have a material adverse effect on the financial viability of the Transmission Company, it may direct such Company to undertake such business through an affiliate, and require payment of a specified rental or user charge to the Transmission Company in respect of the use of its transmission lines for such business.

Explanation: For the purposes of this section, the expression “encumbers” does not include any encumbrance that shall cease to have effect upon termination or revocation of a licence, or such other encumbrance relating to right of way or use of transmission assets as the Competent Commission may, by order in writing, permit subject to such terms and conditions as may be stipulated in the order.

Dedicated Transmission Facilities

18. Notwithstanding anything contained in this Part, any licensee may construct, maintain and operate for his own use, any dedicated transmission facilities comprising point-to-point transmission lines that are required by him for the purpose of connecting his electric lines or electrical plant to any transmission line or generating station, as the case may be.

*Provisions with respect to Distribution Companies***General Duties of Distribution Companies**

- 19.** (1) It shall be the duty of a Distribution Company to
- (a) plan, develop and maintain an efficient, co-ordinated and economical system in its authorised area and to supply electricity in accordance with this Act and the Rules and Regulations made thereunder; and
 - (b) to facilitate competition in the generation and supply of electricity.

(2) Where any person, whose premises are situated within the authorised area of a Distribution Company, requires a supply of electricity from a licensee other than such Distribution Company, he or any licensee acting on his behalf, may by notice require the Distribution Company to wheel such electricity in accordance with the Regulations to be specified by the State Commission, and the duties of the Distribution Company with respect to such supply shall be those of a common carrier providing open access to its distribution system.

(3) Open access referred to in sub-section (2) shall be introduced in such phases and subject to such conditions as the cross subsidies, system losses and other operational constraints require, and in specifying the extent of open access in successive phases and in determining the distribution wheeling charge, the State Commission shall have due regard to, and make appropriate provision for, all relevant factors including the cross subsidies, system losses and other operational constraints:

Provided that the State Commission shall, no later than the third anniversary of the Appointed Date, by Regulations provide such open access to all licensees and consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

Duty to supply on request

20. (1) Subject to the provisions of this Act and the Rules and Regulations made thereunder, a Distribution Company shall, upon being required to do so by the owner or occupier of any premises in its authorised area –

- (a) give a supply of electricity to such premises; and
- (b) so far as may be necessary for that purpose, provide electric lines or electrical plant or both.

(2) Where any person requires a supply of electricity in pursuance of sub-section (1), he shall give to the Distribution Company a notice stating –

- (a) the premises in respect of which the supply is required;

- (b) the day on which the supply is required to commence;
- (c) the maximum power which may be required at any time; and
- (d) the minimum period for which the supply is required to be given.

(3) Where a Distribution Company receives from any person a notice under sub-section (2) requiring it to give a supply of electricity to any premises and –

- (a) it has not previously given a supply of electricity to those premises;
- (b) the giving of the supply requires the provision of electric lines or electrical plant or both; or
- (c) other circumstances exist which make it necessary or expedient for it to do so,

it shall, as soon as practicable after receiving the notice, give to that person a notice in accordance with the provisions of sub-section (4).

(4) A notice under this sub-section shall –

- (a) state the extent to which the proposals contained in the other person's notice under sub-section (2) are acceptable to the Distribution Company and stipulate any counter proposals made by the Distribution Company;
- (b) state whether the prices to be charged by the Distribution Company will be determined by a tariff under sub-section (1) of section 22, or a special agreement under sub-section (1) of section 26, and stipulate the tariff or the proposed terms of the agreement;
- (c) state any payment which that person will be required to make under sub-section (1) of section 23, or under Regulations made under sub-section (2) of that section;
- (d) state any security which that person will be required to give under section 24; and
- (e) state any other terms which that person will be required to accept under section 25.

(5) In this section and sections 21 to 26 –

- (a) any reference to giving a supply of electricity includes a reference to continuing to give such a supply;
- (b) any reference to requiring a supply of electricity includes a reference to requiring such a supply to continue to be given; and

- (c) any reference to the provision of an

(6) A Distribution Company shall not discriminate between consumers similarly situated or show undue preference to any consumer or class of consumers with respect to the terms of supply or tariff thereof but may differentiate according to the consumer's load factor, power factor, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

Exceptions from duty to supply

21. (1) Nothing in sub-section (1) of section 20 shall be taken as requiring a Distribution Company to give a supply of electricity to any premises if –

- (a) such a supply is being given to the premises by any other licensee; and
- (b) the supply is given (wholly or partly) through the Distribution Company's electric lines and electrical plant.

(2) Nothing in sub-section (1) of section 20 shall be taken as requiring a Distribution Company to give a supply of electricity to any premises if and to the extent that –

- (a) it is prevented from doing so by circumstances not within its control;
- (b) circumstances exist by reason of which its doing so would or might involve its being in breach of the Regulations made under section 31, and it has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or
- (c) it is not reasonable in all the circumstances for it to be required to do so.

(3) Clause (c) of sub-section (2) shall not apply in relation to a supply of electricity which is being given to any premises unless the Distribution Company gives to the occupier, or to the owner if the premises are not occupied, not less than seven days notice of its intention to discontinue the supply in pursuance of that clause.

(4) Notwithstanding anything in sub-section (1), the Commission may specify the cases and circumstances in which a Distribution Company shall have duty to supply to any premises owned or occupied by a designated consumer who ceases to receive supply from any other licensee.

(5) Where the supply of electricity is not sufficient for meeting the demand from all consumers in the authorised area of a Distribution Company, the supply, distribution and consumption of electricity shall be subject to such Regulations as the State Commission may specify.

Power to recover charges

22. (1) The prices to be charged by a Distribution Company for the supply of electricity by it in pursuance of sub-section (1) of section 20 shall be in accordance with such tariffs (which, subject to any condition included in its licence, may relate to the supply of electricity in different areas, cases and circumstances or to a person or class of persons) as may be determined by the Commission from time to time.

(2) A tariff fixed by a Distribution Company under sub-section (1) –

(a) shall be so framed as to show the methods by which and the principles on which the charges are to be made as well as the prices which are to be charged; and

(b) shall be published in such manner as in the opinion of the Distribution Company will secure adequate publicity for it.

(3) A tariff fixed by a Distribution Company under sub-section (1) may include -

(a) charge for consumer account services;

(b) distribution wheeling charge;

(c) a fixed charge in addition to the charge for the actual electricity supplied;

(d) a charge in respect of the availability of a supply of electricity; and

(e) any surcharge, duties or taxes as may be applicable,

and such a charge as is mentioned in clause (d) may vary according to the extent to which the supply is taken up.

(4) Commencing from the fifth anniversary of the appointed date or such earlier date as the Competent Commission may notify, all non-competitive services provided by a Distribution Company under this Act shall be charged separately from all its competitive services.

Power to recover expenditure

23. (1) Where any electric line or electrical plant is provided by a Distribution Company in pursuance of sub-section (1) of section 20, the Distribution Company may require any expenses incurred by it in this behalf to be defrayed by the person requiring the supply of electricity to such extent as is reasonable in all the circumstances, to be determined in accordance with the principles specified by the State Commission.

(2) The State Commission may by Regulations authorise a Distribution Company to require a person requiring a supply of electricity in pursuance of sub-section (1) of section 20 to pay to the Distribution Company, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply, such

amount as may be reasonable in all the circumstances if –

- (a) the supply is required within the specified period after the provision of the line or plant; and
- (b) a person for the purpose of supplying whom the line or plant was provided (“the initial contributor”) has made a payment to the Distribution Company in respect of those expenses.

(3) Regulations made under sub-section (2) may require a Distribution Company who, in pursuance of this section has recovered any amount in respect of expenses reasonably incurred in providing any electric line or electrical plant–

- (a) to exercise its rights under the Regulations in respect of those expenses; and
- (b) to apply any payments received by it in the exercise of those rights in making such payments as may be appropriate towards reimbursing the initial contributor and any persons previously required to make payments under the Regulations.

(4) Any reference in this section to any expenses reasonably incurred in providing an electric line or electrical plant includes a reference to the capitalised value of any expenses likely to be incurred in maintaining it, in so far as they will not be recoverable by the Distribution Company as part of the charges made by it for the supply.

Power to require security

24. (1) Subject to the provisions of this section, a Distribution Company may require any person who requires a supply of electricity in pursuance of sub-section (1) of section 20 to give it reasonable security, as may be specified, for the payment to it of all money which may become due to it –

- (a) in respect of the supply; or
- (b) where any electric line or electrical plant is to be provided in pursuance of that sub-section, in respect of the provision of such line or plant;

and if that person fails to give such security, the Distribution Company may if it thinks fit refuse to give the supply, or to provide the line or plant, for so long as the failure continues.

(2) Where any person has not given such security as is mentioned in sub-section (1), or the security given by any person has become invalid or insufficient-

- (a) the Distribution Company may by notice require that person, within fifteen days after the service of the notice, to give it reasonable security for the payment of all money which may become due to it in respect of the supply; and

- (b) if that person fails to give such security, the Distribution Company may if it thinks fit discontinue the supply for so long as the failure continues.

(3) Where any money is deposited with a Distribution Company by way of security in pursuance of this section, the Distribution Company shall pay interest, at such rate as may from time to time be fixed by the Distribution Company with the approval of the Competent Commission, on every sum of Rupees one thousand so deposited for every three months during which it remains in the hands of the Distribution Company:

Provided that such rate of interest shall not be lower than the Bank Rate fixed by the Reserve Bank of India from time to time:

Provided further that the security shall be refunded within 30 days of a demand duly made for its refund.

(4) A Distribution Company shall not be entitled to require security in pursuance of clause (a) of sub-section (1) if –

- (a) the person requiring the supply is prepared to take the supply through a pre-payment meter; and
- (b) it is reasonably practicable in all the circumstances (including in particular the risk of loss or damage) for the Distribution Company to provide such a meter.

Additional terms of supply

25. A Distribution Company may require any person who requires a supply of electricity in pursuance of sub-section (1) of section 20 to accept in respect of the supply –

- (a) any restrictions which must be imposed for the purpose of enabling the Distribution Company to comply with Regulations made under section 31; and
- (b) any terms restricting any liability of the Distribution Company for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

Special agreements with respect to supply

26. (1) At any time after the fourth anniversary of the appointed date, a person who requires a supply of electricity in pursuance of sub-section (1) of section 20 –

- (a) may enter into a special agreement with the Distribution Company for the supply on such terms as may be stated in the agreement; and
- (b) shall enter into such an agreement in any case where –
 - (i) the maximum power to be made available at any time exceeds one megawatt or such higher wattage as the State Commission may notify; or

- (ii) it is otherwise reasonable in all the circumstances for such an agreement to be entered into.

(2) So long as any such agreement as is mentioned in sub-section (1) is effective, the rights and liabilities of the parties to the agreement shall be those arising under the agreement and not those provided for by sections 21 to 26.

Certain restrictions on Distribution Companies

27. (1) Commencing from the third anniversary of the appointed date or such later date as the Commission may determine, a Distribution Company shall manage and operate its consumer account services as a distinct business activity within its business of distribution, and such services may be fully or partly unbundled and assigned to any other person in accordance with the Regulations to be specified by the State Commission.

(2) At any time after the fifth anniversary of the appointed date, the State Commission may, with a notice of one year, require a Distribution Company to discontinue its supply business or phase it out in such manner as the Commission may specify:

Provided that the Commission shall, while issuing any order under this sub-section, have due regard to the obligations of the Distribution Company under any agreement for purchase of electricity:

Provided further that at any time after a notice is issued under this sub-section, the Distribution Company may spin off its supply business to an affiliate to be licensed by the Commission for this purpose in accordance with this Act and the Rules and Regulations made thereunder.

(3) Upon discontinuation or phasing out of the supply business of a Distribution Company, the State Commission may by Regulations relieve (wholly or partly) the Distribution Company of its duty to supply electricity to the consumers within its authorised area, but notwithstanding such Regulations, the Distribution Company shall have the duty to distribute electricity and for this purpose provide, operate and maintain connections to the premises and to the electric lines or electrical plants of licensees for the purposes of providing efficient, reliable and economical distribution of electricity, and the provisions of this Part shall, in so far as they relate to distribution and supply, be construed accordingly.

Other businesses of Distribution Companies

28. (1) A Distribution Company may engage in any business that enhances the utilisation of its distribution system:

(2) A proportion of the revenues derived from any business referred to in sub-section (1) shall, as specified by the State Commission, be utilised for reducing its distribution and wheeling charges.

(3) A Distribution Company shall maintain separate accounts for each business undertaking referred to in sub-section (1) and shall ensure that the distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets

in any way to support such business.

(4) Where the failure of any business undertaking referred to in sub-section (1) may, in the opinion of the Commission, have a material adverse effect on the financial viability of the Distribution Company, it may direct the Distribution Company to undertake such business through an affiliate, and require payment of a specified rental or user charge to the Distribution Company in respect of the use of its distribution system for such business.

Explanation: For the purposes of this section, the expression “encumbers” does not include any encumbrance that shall cease to have effect upon termination or revocation of a licence, or such other encumbrance relating to right of way or use of distribution assets as the Competent Commission may, by order in writing, permit subject to such terms and conditions as may be stipulated in the order.

The Electricity Supply Code

29. (1) Distribution and/or supply of electricity by a Distribution Company to a consumer shall be subject to and in accordance with the provisions of the Electricity Supply Code.

(2) The State Commission shall specify an Electricity Supply Code to provide, *inter alia*, for the terms and conditions for supply of electricity; disconnection of supply for breach thereof; restoration of supply; tampering, distress or damage to electrical plant, electric lines or meter; entry of Distribution Company or any person acting on its behalf for inspection, testing, repairing or altering any electric line, apparatus or meter installed in any premises or for disconnecting supply and removing such electric line, apparatus or meter; laying of service lines and distribution mains; supply of electricity for public lamps and traffic signals; determination of disputes; and matters associated with, consequential or incidental thereto.

Provisions with respect to Supply Companies

General Duties of Supply Companies

30. (1) The duties of a Supply Company may include supply and/or trading of electricity in accordance with this Act, and the Rules and Regulations made thereunder.

(2) A Supply Company may, subject to the Regulations made under sub-section (2) of section 19, enter into an agreement with any person for supply of electricity at such tariff and on such terms as may be stated in the Agreement.

(3) The provisions of sections 35 to 37 shall apply *mutatis mutandis* to the duties and functions of a Supply Company in so far they relate to the supply of electricity to consumers.

*Provisions with respect to supply generally***Regulations relating to safety**

31. (1) The Authority may make such Regulations as it thinks fit for the purpose of –
- (a) protecting the public from dangers arising from the generation, transmission, distribution or supply of electricity, from the use of electricity supplied or from the installation, maintenance or use of any electric line or electrical plant; and
 - (b) without prejudice to the generality of clause (a), eliminating or reducing the risks of personal injury, or damage to property or interference with its use, arising as mentioned in that clause.
- (2) Without prejudice to the generality of sub-section (1), the Regulations made under this section may –
- (a) prohibit the transmission or distribution of electricity except by means of a system that conforms to such Regulations;
 - (b) make provision requiring notice in the specified form to be given to the Commission or the Electrical Inspector, or both, in such cases as may be specified in the Regulations, of accidents and of failures of supplies or transmissions of electricity;
 - (c) make provision as to the keeping, by a licensee, of maps, plans and sections and as to their production (on payment, if so required, of a reasonable fee) for inspection or copying;
 - (d) make provision for relieving a licensee from any obligation to generate, transmit or distribute in such cases as may be specified;
 - (e) make provision requiring compliance with notices given by an Electrical Inspector specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer, for the purpose of –
 - (i) preventing or ending a breach of Regulations under this section; or
 - (iii) eliminating or reducing a risk of personal injury or damage to property or interference with its use;
 - (f) provide for particular requirements of the Regulations to be deemed to be complied with in the case of any electric line or electrical plant complying with specified standards of requirements; and

- (g) provide for the granting of exemptions from any requirement of the Regulations for such periods as may be determined by or under the Regulations.

Use etc. of meters

32. (1) No person shall, at any time after the first anniversary of the appointed date, supply, purchase or consume electricity except through a meter to be installed and operated in accordance with the Regulations to be specified in this behalf by the Competent Commission:

Provided that where any electricity consumption points such as street lights or traffic signals are widely dispersed, a licensee may, with prior approval of the Competent Commission, instead of metering each such consumption point, determine an alternative method of measuring and billing the electricity consumed, and such consumption shall be deemed to be metered for the purposes of this Act:

Provided further that the Competent Commission may grant exemption from this sub-section to any person or class of persons for a period not extending beyond the second anniversary of the appointed date.

Provided also that upon application made to it by a Distribution Company, the Competent Commission may, grant further exemption from this section to any person or class of persons for a period not exceeding six months at a time.

(2) Without prejudice to the generality of sub-section (1), the Commission may specify the installation of meters at such stages of transmission, distribution and supply as it may deem necessary.

(3) If a person makes default in complying with the provisions contained in the Regulations made under this section, the Commission may, without prejudice to the provisions of section 130, make such order as it thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

Licensees not to do certain things

33. (1) No licensee shall, without the prior consent in writing of the Competent Commission, acquire by purchase or otherwise, the licence or the utility system of any Transmission Company or Distribution Company, or associate himself, so far as the businesses of transmission or distribution are concerned, with any other licensee; and before applying for such consent, the licensee shall give not less than one month's notice to every other licensee who transmits or distributes, or intends to transmit or distribute, electricity in such area.

Explanation: For the purposes of this section, the expression "acquire, by purchase or otherwise" includes acquisition of more than 5 per cent of the paid-up capital of such Transmission Company or Distribution Company, as the case may be.

(2) No licensee, being a Transmission Company or Distribution Company, shall at any time assign its licence or transfer its utility system, or any part thereof, by sale, mortgage, lease, exchange, assignment or otherwise without the previous consent in writing of the Commission.

(3) Any agreement relating to any transaction of the nature referred to in sub-section (1) or sub-section (2), unless made with, or subject to, such consent as aforesaid, shall be void.

Freedom of Transmission and Supply

34. (1) Subject to the provisions of this Act, the transmission and supply of electricity throughout the territory of India shall be free from any inter-state barriers or restrictions.

(2) Nothing in sub-section (1) shall prevent the Central Government from making any Rules giving, or authorising the giving of, any reasonable preference or making, or authorising the making of, any reasonable discrimination for the purpose of dealing with extraordinary circumstances causing a shortfall in the supply of electricity or an undue increase in the price thereof.

Provided that any preference or discrimination shall be of no greater scope and of no longer duration than is reasonably required by the extraordinary circumstances.

Explanation: For the purposes of this section, the expression “extraordinary circumstances” means circumstances that threaten the orderly supply of electricity in a fair and competitive manner and includes natural calamities, threat to national security or public order, and abuse of market power, anti-competitive behaviour, market manipulation or other unfair practices detrimental to such orderly supply.

(3) Notwithstanding anything in this section, the legislature of a State may by law –

- (a) impose on electricity imported from other States any duty to which electricity produced in that State is subject, so, however, as not to discriminate between the electricity so imported and electricity so produced; and
- (b) impose such reasonable restrictions on the freedom of supply and transmission of electricity as may be required in the public interest.

Provided that no Bill for the purposes of clause (b) shall be introduced or moved in the Legislature of the State without the previous sanction of the President.

(4) In giving any preference or making any discrimination under sub-section (2) or in imposing any restrictions under clause (b) of sub-section (3), the Central Government or the legislature of a State, as the case may be, shall endeavour to minimise the adverse financial effect thereof on any licensee, and shall not cause any undue discrimination against any licensee or class of licensees.

(5) Nothing in this section shall affect the provisions of any existing law except in so

far as the President may by order otherwise direct.

(6) The Central Commission may make such Regulations or issue such directions from time to time as it considers appropriate for carrying out the purposes of this section, and such Regulations or directions, as the case may be, shall be complied with by all State Commissions, State Transmission Centres and licensees, and shall prevail over any Regulations or directions of the State Commissions.

Consumer protection: Standards of performance

Electricity supply: performance in individual cases

35. (1) The State Commission may after consultation with Distribution Companies and with persons or bodies appearing to the State Commission to be representative of persons likely to be affected, make Regulations specifying such standards of performance in connection with the provision by such Distribution Companies of electricity supply services to consumers as, in its opinion, ought to be achieved in individual cases.

(2) Regulations under this section may specify –

- (a) circumstances in which Distribution Companies are to inform consumers of their rights under this section;
- (b) such standards of performance in relation to any duty arising under clause (a) as, in the Commission's opinion, ought to be achieved in all cases; and
- (c) circumstances in which Distribution Companies are to be exempted from any requirements of the Regulations or of this section,

and may make different provision for different Distribution Companies.

(3) If a Distribution Company fails to meet a specified standard, it shall make to any person who is affected by the failure and is of a specified description such compensation as may be determined by or under the Regulations.

(4) The making of compensation under this section in respect of any failure by a Distribution Company to meet a specified standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.

Electricity supply: overall performance

36. (1) The State Commission may, after consultation with Distribution Companies and with persons or bodies appearing to it to be representative of persons likely to be affected from time to time –

- (a) determine such standards of overall performance in connection with the

provision of electricity supply services as, in its opinion, ought to be achieved by such Distribution Companies;

- (b) determine such standards of performance in connection with the promotion of the efficient use of electricity by consumers, as in its opinion, ought to be achieved by such Distribution Companies; and
- (c) arrange for the publication in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined under this section for different Distribution Companies and for different areas.

Information with respect to levels of performance

37. (1) The State Commission shall from time to time collect information with respect to—

- (a) the compensation made by Distribution Companies under section 35;
- (b) the levels of overall performance achieved by such Distribution Companies in connection with the provision of electricity supply services; and
- (c) the levels of performance achieved by such Distribution Companies in connection with the promotion of the efficient use of electricity by consumers.

(2) On or before such date in each year as may be stipulated in a direction given by the Commission, each Distribution Company shall furnish to the Commission the following information, namely –

- (a) in respect of each standard specified under section 35, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and
- (b) in respect of each standard determined under section 36, such information with respect to the level of performance achieved by the Distribution Company as may be so stipulated.

(3) The Commission shall at least once in every year arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or furnished to it under this section as it may appear to it expedient to give to consumers or potential consumers of Distribution Companies.

(4) In arranging for the publication of any such information, the Commission shall have regard to the need for excluding, so far as that is practicable –

- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interest of that individual; and

- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of that body.

(5) The State Commission may by Regulations specify that the information referred to in this section shall be given by Distribution Companies to licensees, consumers or potential consumers in such form and manner and at such frequency as may be specified.

Market domination and anti-competitive behaviour

38. (1) No licensee shall engage in any act, omission, practice or procedure that has as its objective or effect an appreciable prevention, restriction or distortion of competition in connection with the generation, transmission, distribution and supply of electricity.

(2) The Competent Commission shall prohibit, prevent or restrict any agreement, action, omission, practice or procedure that -

- (a) has as its objective or effect an appreciable prevention, restriction or distortion of competition in connection with the generation, transmission, distribution and supply of electricity;
- (b) directly or indirectly fixes prices or market shares, imposes minimum resale prices or is one of a series of similar agreements, actions, omissions, practices or procedures that have as a cumulative effect the prevention or restriction of competition; or
- (c) has the effect of market power or monopoly situations being abused for affecting the interests of consumers adversely.

(3) If a licensee contravenes any Rule, Regulation, condition of licence or direction of the Commission in furtherance of sub-section (2), the Commission may, by injunction enforce the provisions thereof, and impose fines of up to 10 per cent of the turnover of the licensee for each year or part thereof in which the contravention occurred.

(4) The provisions of this section shall be enforced by the Competent Commission not earlier than the second anniversary of the appointed date.

(5) The Central Commission may, at any time after the second anniversary of the appointed date, specify Regulations to give effect to the provisions of this section, and may enforce the Regulations through such directions as may be necessary for the purposes hereof.

*Tariff***Tariff Regulations**

39. (1) The Competent Commission shall, subject to the provisions of this Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following, namely -

- (a) commercial principles that would promote investment, competition and efficiency in generation, transmission, distribution and supply of electricity;
- (b) protection of consumers' interest;
- (c) determination of the recoverable rate of system losses which takes into account all relevant considerations, including the efficiency or inefficiency of licensees, pilferage, load density, sales mix, cost of service, delivery voltage and other technical factors;
- (d) cross-subsidisation among different classes of consumers is reduced progressively;
- (e) the principles and methodologies specified by the Central Commission for determination of tariff for Transmission Companies;
- (f) the principles and parameters for tariff setting that would enable a licensee to undertake annual tariff revisions without approval of the Competent Commission, except in respect of specified matters and circumstances;
- (g) co-generation and generation of electricity from renewable sources of energy are promoted so that purchases therefrom constitute up to 10 per cent of the total electricity consumed in the authorised area of a Distribution Company, or such higher proportion as the State Government may from time to time notify, and the Commission may determine a higher tariff for purchase of electricity from renewable sources provided that such tariff shall not exceed by more than 20 per cent as compared to the tariff of a conventional thermal generating station in comparable circumstances;
- (h) rural areas have access to electricity at an equitable tariff; and
- (i) economically weaker persons have access to electricity at an equitable tariff.

(2) The Regulations made under this section may provide for review of tariff by the Commission in the specified manner and time.

Determination of tariff

40. (1) The tariff for supply, transmission and distribution of electricity, as the case may

be, shall be determined by the Competent Commission in accordance with this Act and the Regulations made thereunder:

- (2) The Commission shall not determine the tariff for the supply of electricity –
- (a) by a Generating Company to any person, except where the supply is to be given to a Distribution Company under a long term agreement for purchase of electricity;
 - (b) by a Supply Company to any person;
 - (c) by a Distribution Company in accordance with a special agreement under section 26; or
 - (d) by any of the aforesaid Companies in the bulk electricity spot market under and in accordance with the provisions of section 45.

Explanation: For the purposes of this section, the expression “long term agreement” means an agreement for purchase of power for a period exceeding 5 years.

(3) Notwithstanding anything in clause (b) of sub-section (2), the Commission may, if it deems appropriate, determine the tariff at which the electricity purchased by a Supply Company may be resold to designated consumers at any time before the fifth anniversary of the Appointed Date, and shall publish the tariff so determined in such manner as in its opinion will secure adequate publicity for such tariff.

(4) Notwithstanding anything in this Act, the Commission may in the event of extraordinary circumstances causing a shortfall in the supply of electricity or an undue increase in the price thereof, determine a tariff cap for supply of electricity by Generating Companies and Supply Companies in so far as such supply is required for meeting the demand of designated consumers, and the tariff cap –

- (a) shall not be lower than the average tariff recovered by the respective Company during the immediately preceding year;
- (b) shall be applied to all such Companies without undue discrimination; and
- (c) shall have effect until such extraordinary circumstances continue to exist:

Provided that the determination of a tariff cap hereunder shall be of no greater scope and of no longer duration than is reasonably required by the extraordinary circumstances.

Explanation: For the purposes of this section, the expression “extraordinary circumstances” means circumstances that threaten the orderly supply of electricity in a fair and competitive manner and includes natural calamities, threat to national security or public order, and abuse of market power, anti-competitive behaviour, market manipulation or other unfair practices detrimental to such orderly supply.

(5) The Commission shall not, while determining the tariff under this section, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, total consumption of electricity during any specified period or the time at which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

(6) The Commission shall endeavour to determine the tariff of a Distribution Company in such a manner that, as far as possible, similarly placed consumers in different areas of a State pay similar tariff.

(7) No tariff or part of any tariff may ordinarily be amended more frequently than once in any year, except in respect of any changes expressly permitted under the terms of any fuel surcharge formula as may be specified.

(8) The Commission may require a licensee to observe the methodologies and procedures as may be specified for calculating the expected revenues from the tariff and charges which he is permitted to recover.

(9) Without prejudice to the generality of sub-section (8), the Commission may, in respect of supply of electricity under section 26, require a Distribution Company to calculate its expected revenues as if the tariff fixed under section 22 is applicable to such supplies, and in determining the tariff of such Company under this section, the Commission may reckon the expected revenues as calculated under this sub-section.

(10) The State Commission shall not determine any tariff in cases where the same has been determined by the Central Commission in accordance with this Act.

(11) Notwithstanding anything in Part-VIII, upon application made by a licensee intending to undertake inter-state supply of electricity to any licensee, the tariff for such supply may, instead of being determined by the Central Commission, be determined by the State Commission having jurisdiction in respect of the licensee who intends to purchase the electricity.

(12) Notwithstanding anything in Part-VIII, the Central Commission may by notification amend, modify or reduce any tariff determined by a State Commission with respect to transmission or wheeling of electricity if such tariff has, in the opinion of the Central Commission, any adverse effect on inter-state transmission or wheeling, and the decision of the Central Commission shall be final and binding on the State Commission and the respective Transmission Company:

Provided that no tariff determined by the Central Commission under this sub-section shall be lower than the tariff determined by that Commission for inter-state transmission in comparable circumstances.

(13) No direction of a State Government in relation to determination of tariff shall have effect unless it has been issued under and in accordance with the provisions of section 43.

(14) If any licensee recovers a price or charge exceeding the tariff determined under this

section, the amount of the excess shall be recoverable by the person who has paid such price or charge, along with interest at the rate of 3 per cent plus the Bank Rate fixed by the Reserve Bank of India from time to time, without prejudice to any other liability incurred by the licensee.

Procedure for tariff order

41. (1) An application for determination of tariff by a tariff order under section 40 shall be made by a licensee in the specified form and manner and shall be accompanied by such fee as may be specified.

(2) Within 7 days of making an application under sub-section (1), the applicant shall publish the specified particulars thereof in the specified manner.

(3) An application under sub-section (1) shall include a report stating the efforts made and measures taken by the applicant to improve efficiency and economy in its operations, and the effect thereof on the proposed tariff.

(4) Before issuing a tariff order under this section, the Commission shall give notice –

- (a) stating that it proposes to issue the order and setting out the particulars of such order and their effect;
- (b) stating the reasons why it proposes to issue the order; and
- (c) stating the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed order may be made,

and shall consider any representation or objection which is duly made and not withdrawn.

(5) A notice under sub-section (4) shall be given by publishing the notice in such manner as the Commission considers appropriate for bringing it to the attention of persons likely to be affected by the proposed order.

(6) A tariff order shall, unless previously revoked in accordance with any term contained in the tariff order, shall continue to be in force for such period as may be stated in or determined by or under the tariff order.

(7) The Commission shall, as far as practicable, issue a tariff order within 120 days of the date of receiving an application for determination of tariff:

Provided that for reasons to be recorded in writing, the Commission may by notice to the applicant extend the said period of 120 days by 15 days at a time.

(8) The Commission may, upon application made to it by any consumer or consumer association, direct a licensee seeking revision of tariff to reimburse such reasonable costs as the consumer or consumer association may have incurred in making their representations in the course of proceedings under this section:

Provided that such reimbursement shall be restricted to such items and such amounts as the Commission may by order determine, and the sum thereof shall in no case exceed 0.1 per cent of the additional revenue likely to accrue to the licensee in one year on account of the tariff revision hereunder:

Provided further that the licensee shall be entitled to recover such reimbursement as a component of his tariff.

(9) As soon as practicable after issuing a tariff order, the Commission shall send a copy of the tariff order to the Competent Government, the Authority, and the licensees who may be affected by such tariff order.

Tariff for certain licensees etc.

42. (1) Notwithstanding anything in this Act, the Commission shall, in relation to any generating station, transmission line or distribution system, which has been licensed, authorised, installed or contracted under the provisions of the repealed laws, determine the tariff and other payment obligations, or permit the tariff and other payment obligations to be so determined, as if the provisions of the repealed laws with respect thereto were in force:

Provided that at any time after the fifth anniversary of the appointed date, the Competent Commission may, with prior approval of the Competent Government, specify the conditions subject to which the repealed laws shall cease to have effect in respect of any or all of such generating stations, transmission lines or distribution systems, and may determine the extent and manner of compensation, if any, payable to a licensee who may be adversely affected as a result thereof:

Provided further that the compensation payable under this section may be recovered through a surcharge on tariff as may be specified:

Provided also that the Competent Government may, in respect of any generating station, transmission line or distribution system, owned by a Board or company which, in turn, is owned or controlled by such Government, at any time notify that the provisions of this section shall not apply to such generating station, transmission line or distribution system, as may be designated in the notification.

(2) Notwithstanding anything in this Act, where a local authority is empowered to determine tariff under any law for the time being in force, the tariff determined by such authority from time to time shall have effect up to the fifth anniversary of the appointed date or such earlier date as the State Government may notify.

Provision of subsidy by State Government

43. Where the State Government directs the State Commission to provide for any subsidy in the tariff payable by any consumer or class of consumers, the State Government shall bear the subsidy in such manner as the State Commission may determine, and the payment thereof shall be deemed to be, and payable as a debt of the State Government carrying interest at a rate of 3 per cent plus Bank Rate:

Provided that no such direction of the State Government shall be operative and binding if it is made without a financial appropriation by the legislature of the State or if any payment arising thereof is in arrears of more than sixty days:

Provided further that the State Commission may, in consultation with the State Government, determine a procedure whereunder the subsidy shall be disbursed through an agency other than the Distribution Company.

Determination of tariff by market forces

44. Notwithstanding anything in this Act but subject to section 42, where the Competent Government is satisfied that the prevailing market conditions and competition are sufficient to determine the tariff for supply of electricity by any or all classes of licensees, it may by notification direct that the Competent Commission shall not determine such tariff in the circumstances and subject to such conditions and in such cases as may be stipulated in the notification from time to time.

Bulk electricity market

Bulk electricity market

45. (1) The Central Commission shall, at any time after the second anniversary of the appointed date but no later than the fifth anniversary, by Regulations establish the bulk electricity market to facilitate efficient, competitive and orderly supply of electricity in furtherance of the objects of this Act. Such Regulations may, *inter alia*, provide for the principles and procedures for:

- (a) regulation, structure, management and administration of the market, including criteria for membership;
- (b) market settlements;
- (c) fee payable by members of such market;
- (d) provisions relating to emergencies; and
- (e) such other matters as may be relevant or incidental to the efficient functioning of such market:

(2) The State Commission may at any time by Regulations establish a bulk electricity market within its territorial jurisdiction, provided that the Regulations made by the Central Commission under this section shall have overriding effect over the Regulations made by the State Commission, and shall prevail over them.

Enforcement of the provisions of this Act

Investigation of enforcement matters

46. (1) Subject to sub-section (2), it shall be the duty of the Competent Commission to investigate any matter which appears to it to be an enforcement matter and which –

- (a) is the subject of a representation made to the Commission by or on behalf of a person appearing to the Commission to have an interest in that matter; or
- (b) is referred to it by an Electrical Inspector under sub-section (3).

(2) The Commission may, if it thinks fit, require an Electrical Inspector or an officer of the Commission to investigate and report to it on any matter falling within sub-section (1) which relates to any licensee.

(3) It shall be the duty of every Electrical Inspector to refer to the Commission any matter which –

- (a) appears to him to be an enforcement matter; and
- (b) is the subject of a representation made to him by or on behalf of a person appearing to him to have an interest in that matter.

Explanation: In this section, the expression “enforcement matter” means any matter in respect of which any functions of the Competent Commission are or may be exercisable.

Orders for securing compliance

47. (1) Subject to sub-sections (2) and (5) and section 48, where the Competent Commission is satisfied that a licensee is contravening, or is likely to contravene, any condition stated in a licence or exemption (the “relevant condition”) or any provision of this Act, it shall by a final order give such directions as is requisite for the purpose of securing compliance with that condition or provision.

(2) Subject to sub-section (5), where it appears to the Competent Commission –

- (a) that a licensee is contravening, or is likely to contravene, any relevant condition or any provision of this Act; and
- (b) that it is requisite that a provisional order be made,

it shall (instead of taking steps towards the making of a final order) by a provisional order give such directions as appear to it requisite for the purpose of securing compliance with such condition or provisions.

(3) In determining for the purposes of clause (b) of sub-section (2) whether it is requisite that a provisional order be made, the Competent Commission shall have regard, in

particular—

- (a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition or requirement, is likely to be done, or omitted to be done, before a final order may be made; and
- (b) to the fact that the effect of the provisions of this section and section 136 is to exclude the availability of any remedy (apart from under those provisions or for negligence) in respect of any contravention of a relevant condition or any provision of this Act.

(4) Subject to sub-section (5) and section 48, the Commission shall confirm a provisional order, with or without modifications, if –

- (a) it is satisfied that the licensee to whom the order relates is contravening, or is likely to contravene, any relevant condition or any provision of this Act; and
- (b) the directions given by the order (with any modifications) are requisite for the purpose of securing compliance with such condition or provision.

(5) The Commission shall not make a final order or make or confirm a provisional order in relation to an order if it is satisfied –

- (a) that the duties imposed on it by this Act preclude the making or, as the case may be, the confirmation of the order;
- (b) that the licensee has agreed to take and is taking all such steps as it appears to the Competent Commission, for the time being, to be appropriate for the licensee to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or
- (c) that the contraventions were, or the apprehended contraventions are, of a trivial nature.

(6) Where the Commission is satisfied with regard to the matters referred to in sub-section (5), it shall –

- (a) serve notice on the licensee that it is so satisfied; and
- (b) publish the notice in such manner as it considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(7) A final or provisional order –

- (a) shall require the licensee to whom it relates (according to the circumstances of the case) to do, or not to do, such things as are stipulated in the order or are of

a description so stipulated;

- (b) shall take effect at such time, being the earliest practicable time, as is determined by or under the order; and
- (c) may be revoked at any time by the Competent Commission.

Procedural requirements

48. (1) Before it makes a final order or confirms a provisional order under section 47, the Competent Commission shall give notice –

- (a) stating that it proposes to make or confirm the order and setting out its effect;
- (b) setting out –
 - (i) the relevant condition or provision of this Act for the purpose of securing compliance with which the order is to be made or confirmed;
 - (ii) the acts or omissions which, in its opinion, constitute or would constitute contraventions of such condition or provision; and
 - (iii) the other facts which, in its opinion, justify the making or confirmation of the order; and
- (c) specifying the period (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed order or proposed confirmation may be made,

and shall consider any representation or objection which is duly made and not withdrawn.

(2) A notice under sub-section (1) shall be given –

- (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
- (b) by serving a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, on the licensee to whom the order relates.

(3) The Commission shall not make a final order with modifications, or confirm a provisional order with modifications, except –

- (a) with the consent to the modifications of the licensee to whom the order relates; or
- (b) after complying with the requirements of sub-section (4).

(4) The requirements mentioned in sub-section (3) are that the Competent Commission shall –

- (a) serve on the licensee to whom the order relates such notice as appears to it requisite of its proposal to make or confirm the order with modifications;
- (b) in that notice specify the period (not being less than 30 days from the date of the service of the notice within which representations or objections with respect to the proposed modifications may be made; and
- (c) consider any representation or objection which is duly made and not withdrawn.

(5) As soon as practicable after making a final order or making or confirming a provisional order, the Competent Commission shall –

- (a) serve a copy of the order on the licensee to whom the order relates; and
- (b) publish the order in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it.

(6) Before revoking a final order or a provisional order which has been confirmed, the Competent Commission shall give notice –

- (a) stating that it proposes to revoke the order and setting out its effect; and
- (b) specifying the period (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed revocation may be made,

and shall consider any representation or objection which is duly made and not withdrawn.

(7) If, after giving a notice under sub-section (6), the Commission decides not to revoke the order to which the notice relates, it shall give notice of its decision.

(8) A notice under sub-sections (6) or (7) shall be given –

- (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
- (b) by serving a copy of the notice on the licensee to whom the order relates.

Revocation of licence

Power and procedure for revocation of licence

49. (1) If the Competent Commission after making an enquiry is satisfied that public

interest so requires, revoke a licence in any of the following cases, namely -

- (a) where the licensee, in the opinion of the Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or the Rules or Regulations made thereunder, or contravenes any of the conditions of his licence;
- (b) where the licensee contravenes any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;
- (c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted therefor -
 - (i) to show, to the satisfaction of the Commission that he is in a position to discharge the duties and obligations imposed on him by his licence; or
 - (ii) to make the deposit or furnish the security, fees or other charges required by his licence; and
- (d) where in the opinion of the Commission the financial position of the licensee is such that he is unable to discharge the duties and obligations imposed on him by his licence.

(2) Where in its opinion the public interest so requires, the Commission may, with the consent of the licensee, revoke his licence as to the whole or any part of his authorised area upon such terms and conditions as it thinks fit.

(3) No licence shall be revoked under this section unless the Commission has given to the licensee not less than three months' notice, in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.

(4) Where the Commission might under sub-section (1) revoke a licence, it may instead of revoking a licence permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and such terms or conditions shall, notwithstanding anything to the contrary in section 9, be of like force and effect as if they were contained in the licence.

(5) In making any order under this section, the Commission shall, as far as may be, follow the procedure laid down in section 48.

(6) Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and shall name a date on which the revocation shall take effect.

(7) Where the Commission serves a notice of revocation under sub-section (6), it

shall, upon application made by the licensee, grant a period of six months from the date of such notice for effecting the sale of the utility system to any person who is eligible for grant of a licence, and in the event of such sale, the Commission shall, upon application, grant a licence to the purchaser and rescind the notice of revocation.

Sale of transmission and distribution utilities

50. (1) Where the Commission revokes the licence of any Transmission Company or Distribution Company under section 49, the following provisions shall apply –

- (a) the Commission shall invite applications from persons who are eligible for grant of a licence for transmission or distribution, as the case may be, for acquiring the utility system of the licensee whose licence has been revoked and determine which of such applications is to be accepted, primarily on the basis of the highest and best price offered for the utility system, after taking into consideration any representation or objection which is duly made and not withdrawn;
- (b) the Commission may by notice in writing require the licensee to sell, and thereupon the licensee whose licence has been revoked shall sell the utility system to the person whose application has been accepted by the Commission (hereinafter referred to in this section as the "purchaser");
- (c) on or from the date of revocation, or on and from the date, if earlier, on which the utility system of the licensee is sold to a purchaser, all the rights, duties, obligations and liabilities of the licensee shall absolutely cease and determine except for any liabilities that have accrued prior to that date; and
- (d) the Commission may make such interim arrangements in regard to the operation of the utility system as may be considered appropriate, including the appointment of administrators.

(2) Where a utility system is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the utility system in such manner as may be agreed between the licensee whose licence has been revoked and the purchaser.

(3) Where the Commission issues any notice under sub-section (1) requiring the licensee whose licence has been revoked to sell the utility system, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the utility system to the designated purchaser on payment of the purchase price thereof.

(4) Where for any reason the sale of the utility system has not been effected under this section, the Competent Government may assume control over the utility system upon revocation of the licence and shall perform all the obligations of the licensee until such time as the utility system is sold.

(5) If the licensee whose licence has been revoked has been required to sell the utility

system, and its sale has not been completed by the date fixed in the notice issued under clause (a) of sub-section (1), the Commission may, if it deems fit, permit the intending purchaser to work the utility system pending the completion of the sale.

Vesting of utility system in the purchaser

51. Where a utility system is sold under section 50, then upon completion of the sale-
- (a) the utility system shall vest in the purchaser, free from any debt, mortgage or similar obligation of the licensee or attaching to the utility system:

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the utility system; and
 - (b) the rights, powers, authorities, duties and obligations of the licensee under the licence which has been revoked shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee by virtue of restoration of the licence.

Provisions where no purchase takes place

52. If the utility system is not sold in the manner provided under sections 49 and 50, the licensee whose licence has been revoked may dispose of the utility system in such manner as he may think fit:

Provided that, if the licensee does not dispose the utility system within a period of six months from the date of revocation stated in the notice given by the Competent Commission in this behalf, the Commission may cause the works of the licensee in, under, over, along, or across any street or public land to be confiscated by the Competent Government, or cause such works to be removed and every such street or public land to be reinstated, and recover the cost of such removal and reinstatement from the licensee.

PART - III

INTERCONNECTION AND TRANSMISSION*Inter-State transmission***Inter-State, Regional and Inter-Regional transmission**

53. For the purposes of this Part, the Central Government may make region-wise demarcation of the country and, from time to time, make such modifications therein as may be necessary for the efficient, economical and integrated transmission and supply of electricity, and in particular to facilitate voluntary inter-connections and co-ordination of facilities for the inter-state, regional and inter-regional generation and transmission of electricity.

Constitution of the National Transmission Centre

54. (1) The Central Government may by notification establish an independent centre at the national level, to be known as the National Transmission Centre, for the optimum scheduling and despatch of electricity among the Regional Transmission Centres in accordance with this Act and the Rules and Regulations made thereunder.

(2) The National Transmission Centre shall be a body corporate and shall consist of such independent experts, members or shareholders as may be specified:

Provided that until a body corporate is constituted by the Central Commission, no earlier than a date to be notified in this behalf by the Central Government, the Central Transmission Company shall discharge the functions of the National Transmission Centre.

(3) The appointment of the chairperson, chief executive officer, other officers and staff of the National Transmission Centre shall be subject to such terms and conditions as the Central Commission may specify.

Functions of the National Transmission Centre

55. (1) The National Transmission Centre shall be responsible for the optimum scheduling and despatch of electricity within the territory of India, to be known as national grid operations, in accordance with this Act and the Rules and Regulations made thereunder, and the contracts that it may enter into with the licensees operating in India.

(2) The National Transmission Centre shall, in carrying out the national grid operations, comply with such principles, guidelines and methodologies as the Central Commission may specify in the Grid Code, and shall comply with such directions as the Central Commission may, from time to time, give for the purpose of economical, secure and integrated grid operations.

(3) The National Transmission Centre shall:

- (a) undertake optimum scheduling and despatch of electricity among the Regional Transmission Centres;
- (b) monitor national grid operations;
- (c) co-ordinate national grid planning and expansion;
- (d) conciliate in dispute resolution relating to national grid operations; and
- (e) perform such other functions as the Central Commission may specify in furtherance of the provisions of this Part.

(4) In discharging its functions, the National Transmission Centre shall treat all owners and users of the grid in a non-discriminatory manner.

(5) The Regional Transmission Centres shall comply with the directions of the National Transmission Centre in respect of inter-regional grid operations.

(6) The National Transmission Centre may levy and collect such fee and charges from the Regional Transmission Centres as may be specified by the Central Commission.

Constitution of the Regional Transmission Centre

56. (1) The Central Government shall by notification establish an independent centre for each region, to be known as the Regional Transmission Centre, having territorial jurisdiction as determined by the Central Government in accordance with section 53 for the purposes of exercising the powers and discharging the functions under this Part.

(2) The Regional Transmission Centre shall be a body corporate and shall consist of such independent experts, members or shareholders as may be specified:

Provided that until such body corporate is constituted by the Central Commission, no earlier than a date to be notified in this behalf by the Central Government, the Central Transmission Company shall discharge the functions of the Regional Transmission Centre:

Provided further that where the functions of the Regional Transmission Centre are discharged by the Central Transmission Company, the Regional Electricity Boards constituted under the repealed laws shall continue to discharge their functions as if the repealed laws were in force.

(3) The appointment of the chairperson, chief executive officer, other officers and staff of the Regional Transmission Centre shall be subject to such terms and conditions as the Central Commission may specify.

Functions of the Regional Transmission Centre

57. (1) The Regional Transmission Centre shall be responsible for the optimum scheduling and despatch of electricity within the region, to be known as regional grid operations, in accordance with this Act and the Rules and Regulations made thereunder, and the contracts that it shall enter into with the licensees operating in the region.

(2) The Regional Transmission Centre shall, in carrying out the regional grid operations, comply with such principles, guidelines and methodologies as the Central Commission may specify in the Grid Code.

(3) The Regional Transmission Centre shall:

- (a) undertake optimum scheduling and despatch of electricity within the region;
- (b) monitor regional grid operations;
- (c) co-ordinate regional grid planning and expansion;
- (d) conciliate in dispute resolution relating to regional grid operations; and
- (e) perform such other functions as the Central Commission may specify in furtherance of the provisions of this Part.

(4) In discharging its functions, the Regional Transmission Centre shall treat all owners and users of the grid in a non-discriminatory manner.

(5) The Regional Transmission Centre may levy and collect such fee and charges from the State Transmission Centres or the licensees engaged in inter-state transmission of electricity as may be specified by the Central Commission.

Compliance of directions

58. (1) The Regional Transmission Centre shall comply with such directions as the Central Commission may, from time to time, give for enabling efficient and economical utilisation of electricity resources within the region and to promote safe, secure and integrated operation of the regional grid.

(2) The State Transmission Centres shall comply with the directions of the Regional Transmission Centre in respect of regional grid operations, or in cases of regional grid disturbances, so long as they continue and are restored to normalcy.

(3) Every licensee connected to a Regional Transmission Centre shall conduct his operations in accordance with the directions of the Regional Transmission Centre for the purpose of ensuring safe, secure and integrated grid operations.

(4) If any dispute arises with reference to the quality of electricity and safe, secure and integrated operation of the regional grid or in relation to any direction given under this

section, it shall be referred to the Central Commission so, however, that pending the decision of the Central Commission, the directions of the Regional Transmission Centre shall be complied with by the State Transmission Centre or by the licensee, as the case may be.

Intra-State transmission

Transmission within a State

59. (1) The State Commission shall facilitate and promote transmission, wheeling and inter-connection arrangements within its jurisdiction (by making area wise demarcations within the State if necessary) for the transmission and supply of electricity by economical and efficient utilisation of the electricity system.

(2) The State Commission shall, subject to the provisions of this Act and the Rules and Regulations made thereunder, facilitate and promote inter-state transmission, and shall not undertake, or permit the State Transmission Centre or any licensee to undertake, any action that may place an unreasonable restriction or burden on such transmission.

Constitution of the State Transmission Centre

60. (1) The State Government shall by notification establish an independent centre to be known as the State Transmission Centre for the purposes of exercising the powers and discharging the functions under this Part.

(2) The State Transmission Centre shall be a body corporate and shall consist of such independent experts, members or shareholders as may be specified:

Provided that until such body corporate is constituted by the State Commission, no earlier than a date to be notified in this behalf by the State Government, the State Transmission Company shall discharge the functions of the State Transmission Centre.

(3) The appointment of the chairperson, chief executive officer, other officers and staff of the State Transmission Centre shall be subject to such terms and conditions as the State Commission may specify.

(4) For the purposes of this Part, an agreement under sub-section (2) of section 82 may provide for setting up of a Joint Transmission Centre for more than one State or Union Territory, as the case may be, and the provisions of this Part as applicable to the State Transmission Centre shall apply, *mutatis mutandis*, to such Joint Transmission Centre.

Functions of the State Transmission Centres

61. (1) The State Transmission Centre shall be responsible for the optimum scheduling and despatch of electricity within the State, to be known as State grid operations, in accordance with this Act and the Rules and Regulations made thereunder, and the contracts that it shall enter into with the licensees operating in the State.

(2) The State Transmission Centre shall, in carrying out the State grid operations, comply with such principles, guidelines and methodologies as may be specified in the Grid Code.

(3) The State Transmission Centre shall:

- (a) undertake optimum scheduling and despatch of electricity within the State;
- (b) monitor State grid operations;
- (c) co-ordinate State grid planning and expansion;
- (d) conciliate in dispute resolution relating to State grid operation; and
- (e) perform such other functions as the State Commission may specify in furtherance of the provisions of this Part.

(4) In discharging its functions, the State Transmission Centre shall treat all owners and users of the grid in a non-discriminatory manner.

(5) The State Transmission Centre may levy and collect such fee and charges from the licensees engaged in intra-state transmission of electricity as may be specified by the State Commission.

Compliance of directions

62. (1) The State Transmission Centre shall comply with such directions as the State Commission may, from time to time, give for enabling efficient and economical utilisation of electricity resources within the State and to promote safe, secure and integrated operation of the State grid.

(2) Every licensee connected to the State Transmission Centre shall conduct his operations in accordance with the directions of the State Transmission Centre for the purpose of ensuring safe, secure and integrated grid operations.

(3) If any dispute arises with reference to the quality of electricity and safe and secure operation of the State grid or in relation to any direction given under this section, it shall be referred to the State Commission so, however, that pending the decision of the Commission, the directions of the State Transmission Centre shall be complied with by the licensees.

Other provisions relating to Transmission

The Grid Standards

63. Every Transmission Company shall comply with such technical standards of construction and maintenance of transmission lines as may be specified by the Authority in the Grid Standards.

Intervening transmission facilities

64. The Competent Commission may, on application by any licensee, by order require any other licensee owning or operating intervening transmission facilities, to provide the use of such facilities to the extent of surplus capacity available with such licensee, in order to facilitate economical and efficient transmission and supply of electricity within the electricity system.

Explanation: For the purposes of this Part, the expression “intervening transmission facilities” means any electric lines and electrical plants owned or operated by a licensee where such electric lines and electrical plants can be utilised for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.

Charges for intervening transmission facilities

65. (1) In compliance of an order made under section 64, the licensee shall provide his transmission facilities at rates, charges and terms and conditions as mutually agreed, or which permit the recovery by such licensee of all the costs incurred in connection with the transmission and associated services, including an appropriate share, if any, of verifiable and economic costs and the costs of any enlargement, if made, of such facilities by the licensee.

(2) The rates, charges and terms and conditions referred to in sub-section (1) shall be fair and reasonable, and may be proportionately allocated to the provision of such facilities.

Directions by the Government

66. The Competent Government may, in a situation of emergency or if public interest so requires, issue directions to the National, Regional or State Transmission Centres, as the case may be, to take such measures as may be stipulated in such direction for maintaining the transmission and supply of electricity to any region, State or area, and such Centres shall comply with the directions forthwith.

PART - IV

WORKS

Works of licensees

Provision as to the opening up of streets, railways etc.

67. (1) A licensee may from time to time and subject to the Rules made by the Central Government -

- (a) open and break up the soil and pavement of any street, highway, railway or tramway;
- (b) open and break up any sewer, drain or tunnel in or under any street, highway, railway or tramway;
- (c) alter the position of any pipes, not being a main sewer pipe, or of any line;
- (d) lay down and place electric lines, electrical plant and other works or repair, alter or remove the same; and
- (e) do all other acts necessary for the due supply of electricity.

(2) A licensee may from time to time, and subject to the Rules made by the Central Government, carry out works in connection with or incidental to the acquisition or utilisation of water rights for hydro-electric stations.

(3) The Rules referred to in sub-sections (1) and (2) may, *inter alia*, provide for –

- (a) the cases and circumstances in which the consent of the Competent Government, local authority, owner or occupier, as the case may be, shall be required for carrying out works;
- (b) the authority which may grant permission in the circumstances where the owner or occupier objects to the carrying out of works;
- (c) the nature and period of notice to be given by the licensee before carrying out works;
- (d) the procedure and manner of consideration of objections and representations received in accordance with the notice referred to in clause (c);
- (e) determination and payment of compensation or rent to the persons affected by works under this section;

- (f) repairs and works to be carried out when emergency exists;
- (g) right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor;
- (h) procedure for carrying out other works near sewers, pipes or other electric lines or works;
- (i) procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains, etc.;
- (j) procedure for fencing, guarding, lighting and other safety measures relating to works on streets, highways, railways, tramways, sewers, drains or tunnels and immediate reinstatement thereof;
- (k) avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works;
- (l) procedure for undertaking works which are not reparable by the Competent Government, licensee or local authority;
- (m) manner of deposit of amount required for restoration of any street, highway, railways, tramways, waterways, etc.;
- (n) manner of restoration of property affected by such works and maintenance thereof;
- (o) procedure for deposit of compensation payable by the licensee and furnishing of security; and
- (p) such other matters as are incidental or consequential to the construction and maintenance of works under this section.

(4) A licensee shall, in exercise of any of the powers conferred by or under this Act and the Rules made thereunder, cause as little damage, detriment and inconvenience as may be, and shall make full compensation for any damage, detriment or inconvenience caused by him or by any one employed by him.

(5) Where any difference or dispute arises under this section. the matter shall be determined by arbitration by the Competent Commission.

Exercise of the powers of Telegraph Authority in certain cases

68. The Competent Government may, by order in writing, for placing of electric lines or electrical plant for the transmission or distribution of electricity or for the purpose of telephonic or telegraphic communication necessary for the proper co-ordination of works, confer upon any public servant, licensee or any other person engaged in the business of transmission or distribution of electricity under this Act, subject to such conditions and restrictions, if any, as the Competent Government may think fit to impose, and to the

provisions of the Indian Telegraph Act, 1885 (13 of 1885), or any modification or substitute thereof, any of the powers which the Telegraph Authority possesses under that Act with respect to the placing of telegraph lines and posts (in this section, “post” means a post, pole, standard, strut or other above-ground contrivance for carrying, suspending or supporting a telegraph line) for the purposes of a telegraph established or maintained, or to be so established or maintained.

Provisions relating to overhead lines

Overhead lines

69. (1) Subject to sub-section (2), an overhead line shall not be installed or kept installed above ground except in accordance with a consent granted by the Competent Government.

(2) Sub-section (1) shall not apply –

- (a) in relation to an electric line which has a nominal voltage not exceeding 33 kilovolts and is used or intended to be used for supplying a single consumer;
- (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (c) in such other cases as may be prescribed.

(3) A consent under this section –

- (a) may include such conditions (including conditions as to the ownership and operation of the line) as appear to the Competent Government to be appropriate;
- (b) may be varied or revoked by the Competent Government at any time after the end of such period as may be stipulated in the consent; and
- (c) subject to clause (b), shall continue in force for such period as may be stipulated in or determined by or under the consent.

(4) Where any tree standing or lying near an overhead line or where any structure or other object which has been placed or has fallen near an overhead line subsequently to the placing of such line, interrupts or interferes with, or is likely to interrupt or interfere with, the conveyance or transmission of electricity or the accessibility of any works an Executive Magistrate may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he thinks fit.

(5) When disposing of an application under sub-section (4), the Executive Magistrate shall, in the case of any tree in existence before the placing of the overhead line, award to the person interested in the tree such compensation as he thinks reasonable, and such person may

recover the same from the licensee:

Explanation: For purposes of sub-sections (4) and (5) -

- (a) the expression “overhead lines” includes any overhead line placed by any railway administration as defined in clause (32) of section 2 of the Indian Railways Act, 1890 (9 of 1890) and references therein to the licensee shall be construed as references to such railway administration; and
- (b) the expression “tree” includes any shrubs, hedges, jungle growth or plant.

Notice to Telegraph Authority

70. (1) A licensee shall, before laying down or placing, within ten meters of any telegraph line, any electric line, electrical plant or other works, not being either service lines, or electric lines or electrical plant for the repair, renewal or amendment of existing works of which the character or position is not to be altered), give not less than ten days’ notice in writing to the Telegraph Authority, specifying-

- (a) the course of the works or alterations proposed,
- (b) the manner in which the works are to be utilised,
- (c) the amount and nature of the electricity to be transmitted, and
- (d) the extent to, and manner in, which (if at all) earth returns are to be used,

and the licensee shall conform with such reasonable requirements, either general or special, as may be laid down by the Telegraph Authority within that period for preventing any telegraph line from being injuriously affected by such works or alterations:

Provided that, in case of emergency (which shall be stated by the licensee in writing to the Telegraph Authority) arising from defects in any of the electric lines or electrical plant or other works of the licensee, the licensee shall be required to give only such notice as may be possible after the necessity for the proposed new works or alterations has arisen.

(2) Where the works to be executed of the laying or placing of any service-line the licensee shall, not less than forty-eight hours before commencing the work, serve upon the Telegraph Authority a notice in writing of his intention to execute such works.

PART – V

NATIONAL ELECTRICITY PLAN

Publication of a National Electricity Plan

71. (1) The Central Government shall, subject to the provisions of sub-section (2), prepare and publish -

- (a) a National Electricity Plan once in five years; and
- (b) an Annual Electricity Plan for each year,

containing, *inter alia*, the national electricity policy and the short term and perspective plans for development of the electricity system based on optimal utilisation of resources and conservation thereof , use of renewable sources of energy, and electrical development in rural areas.

(2) The Central Government shall, before publishing a National Electricity Plan or Annual Electricity Plan referred to in sub-section (1), publish a draft thereof and provide 60 days' notice for inviting representations and objections from State Governments, licensees and the public, and upon receipt of such representations and objections, it shall consider the same.

PART – VI

RURAL ELECTRIFICATION

The Rural Electrification Plan

Publication of a Rural Electrification Plan

72. (1) The State Government shall, in consultation with the State Commission and subject to the provisions of Part-II and Part-III, prepare and publish -

- (a) a Rural Electrification Plan once in five years; and
- (b) an Annual Rural Electrification Plan for each year,

containing, *inter alia*, the State policy for electrical development in rural areas; a phased programme for extension of the distribution system to provide access to all villages, hamlets and households; schemes for distribution of electricity by co-operative societies, user associations or local authorities; programme for establishing and operating facilities for dedicated generation; provision for financial assistance to subsidise the cost of electrical lines or the tariffs for electricity payable by any person or class of persons; and any other matter consequential or incidental thereto.

(2) The State Government shall, before publishing the Rural Electrification Plan or the Annual Rural Electrification Plan referred to in sub-section (1), publish a draft thereof and provide 60 days' notice for inviting representations and objections from local bodies, licensees and the public, and upon receipt of such representations and objections, it shall consider the same.

PART – VII

CENTRAL ELECTRICITY AUTHORITY

Constitution and functions of the Authority

Constitution etc. of the Central Electricity Authority

73. (1) The Central Government shall by notification constitute the Central Electricity Authority to exercise the powers and discharge the functions in accordance with this Act.

Provided that the Central Electricity Authority constituted under section 3 of the Electricity (Supply) Act, 1948 (54 of 1948) and functioning as such immediately before the appointed date shall be deemed to be the Central Electricity Authority for the purposes of this Act and the Chairperson and members thereof shall continue to hold office on the same terms and conditions on which they were appointed under that Act.

(2) The Authority shall consist of not more than seven full-time and six part-time members to be appointed by the Central Government and one of the full-time members shall be designated by the Government as the Chairperson of the Authority.

(3) The members of the Authority shall be persons having adequate knowledge, experience and capacity in dealing with problems relating to engineering, finance, commerce, economics or industrial matters, and at least one Member shall be appointed from each of the following categories, namely -

- (a) engineering with specialisation in design, construction, operation and maintenance of thermal generating stations;
- (b) engineering with specialisation in design, construction, operation and maintenance of hydro generating stations;
- (c) engineering with specialisation in electricity systems;
- (d) applied research in the field of electricity;
- (e) economics, finance, commerce or accountancy; and
- (f) law or public administration.

(4) The terms and conditions of service of the Chairperson and members, and the fees and allowances payable to part-time members shall be determined by the Central Government.

(5) The Chairperson shall be the Chief Executive of the Authority.

(6) The head quarters of the Authority shall be at Delhi.

(7) The Authority shall meet at the head quarters or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(8) The Chairperson, or if he is unable to attend a meeting of the Authority, any other member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any member chosen by the members present from among themselves, shall preside at the meeting.

(9) All questions which come up before any meeting of the Authority shall be decided by a majority of votes of the members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(10) All orders and decisions of the Authority shall be authenticated by the Secretary or any other officer of the Authority duly authorised by the Chairperson in this behalf.

(11) No act or proceedings of the Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Authority.

Members not to have certain interest

74. No member of the Authority shall have any share or interest whether in his own name or otherwise, in any company or an association of persons, or a firm engaged in the business of generating, transmitting, distributing or supplying electricity or fuel for the generation thereof, or in the manufacture of electrical equipment.

Officers and staff of the Authority

75. The Authority may, on such terms as to numbers, nature, categories and terms and conditions of service as may be determined by the Central Government, appoint a Secretary and such other officers and staff as it may consider necessary for performance of its functions and duties under this Act:

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

Functions of the Authority

76. (1) The Authority shall perform such functions and duties as the Central Government may prescribe or direct in furtherance of the objectives of this Act, and in particular –

- (a) advise the Central Government in matters relating to national electricity policy, formulate perspective plans for development of the electricity system and co-ordinate the activities of the planning agencies for the optimal

utilisation of resources to subserve the interests of the national economy and to provide reliable and affordable electricity for all consumers.

- (b) specify the minimum range of acceptable technical specifications and standards for construction of electrical plants and electric lines;
- (c) specify the safety requirements for construction, operation and maintenance of electrical plants and electric lines;
- (d) specify the Grid Standards for operation and maintenance of transmission lines;
- (e) specify the conditions for installation and operation of meters for transmission and supply of electricity;
- (f) promote measures for advancing the skill of persons engaged in the electricity industry;
- (g) scrutinise the applications received under sub-section (3) of section 6 and tender advice thereon to the Competent Commission;
- (h) advise the Central Government on any matter on which its advice is sought or make recommendation to that Government on any matter if, in the opinion of the Authority, the recommendation would help in improving the generation, transmission, trading, distribution and utilisation of electricity;
- (i) collect and record the data concerning the generation, transmission, trading, distribution and utilisation of electricity and carry out studies relating to cost, efficiency, competitiveness and such like matters;
- (j) make public from time to time information secured under this Act, and provide for the publication of reports and investigations;
- (k) promote research in matters affecting the generation, transmission, distribution and supply of electricity;
- (l) carry out, or cause to be carried out , any investigation for the purposes of this Act;
- (m) advise any State Government and licensees on such matters as will enable them to operate and maintain the electricity system under their ownership or control in an improved manner and, where necessary, in co-ordination with any other Government or licensee owning or having the control of another electricity system; and
- (n) discharge such other functions as provided under this Act.

(2) The Authority shall, not later than first anniversary of the appointed date, notify all

the Regulations that it is required to make in discharge of its functions under this Act.

Certain powers and directions

Power to require statistics and returns

77. It shall be the duty of every State Government and every licensee to furnish to the Authority such statistics, returns or other information relating to generation, transmission, trading, distribution, supply and use of electricity as it may require and at such times and in such form and manner as may be specified by the Authority.

Directions by Central Government to the Authority

78. (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 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.

PART - VIII

REGULATORY COMMISSIONS

Constitution and functions of the Central Commission

Constitution of the Central Commission

79. (1) The Central Government shall by notification constitute a Commission to be known as the Central Electricity Regulatory Commission:

Provided that the Central Electricity Regulatory Commission constituted under section 3 of the Electricity Regulatory Commission Act, 1998 (14 of 1998) and functioning as such on the appointed date shall be deemed to be the Central Commission for the purposes of this Act and the Chairperson and members thereof shall continue to hold office on the same terms and conditions on which they were appointed under that Act.

(2) The Central Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The Central Commission shall consist of five Members including the Chairperson.

(4) The Chairperson and Members of the Central Commission shall be appointed by the Central Government on the recommendation of the Selection Committee constituted under section 84.

(5) The Chairperson shall be the Chief Executive of the Commission.

Functions of the Central Commission

80. (1) The Central Commission shall function as a regulator and facilitator for development of the electricity industry in a competitive and efficient environment to subserve the interests of the national economy, in general, and the consumers, in particular.

(2) In discharging its functions, the Commission shall have due regard to –

- (a) the need for meeting all reasonable demands for electricity; and
- (b) the need for securing that licensees are able to finance their activities for meeting such demand.

(3) Without prejudice to the generality of sub-sections (1) and (2), the Central Commission shall, subject to the provisions of this Act, discharge the following functions, namely -

- (a) promote competition, efficiency and economy, and prevent market

domination, cartelisation and anti-competitive behaviour;

- (b) encourage market development and participation of private sector in the electricity industry for ensuring a fair deal to the consumers;
- (c) specify the principles and methodologies relating to determination of tariff for Transmission Companies, and facilitate inter-state transmission;
- (d) issue licences for inter-state transmission and supply of electricity, as the case may be, and determine the tariff for inter-state transmission;
- (e) specify and enforce standards with respect to the quality, continuity and reliability of service provided by its licensees;
- (f) enforce upon its licensees, the Grid Standards, safety requirements and other Regulations specified by the Authority;
- (g) aid and advise the Central Government, in matters concerning the electricity industry;
- (h) associate with environmental regulatory agencies in evolving policies and procedures for appropriate environmental regulation of the electricity industry;
- (i) require the Transmission Companies engaged in inter-state transmission to formulate perspective plans and schemes for the promotion of transmission and utilisation of electricity in an efficient, economical and equitable manner;
- (j) enquire into contraventions of this Act and the Rules and Regulations made thereunder, and adjudicate in accordance with section 130;
- (k) adjudicate upon the disputes and differences between licensees where any inter-state transactions are involved and to refer any dispute for arbitration under section 134; and
- (l) discharge all other functions as assigned to it under this Act.

(4) In discharge of its functions, the Central Commission shall have due regard to the National Electricity Plan published under section 71.

(5) The Central Commission shall, no later than the first anniversary of the appointed date unless the context otherwise requires, notify all the Regulations necessary for discharging its duties and functions under this Act.

Constitution and functions of the State Commissions

Constitution of the State Commissions

81. (1) Every State Government shall, no later than six months from the appointed date, constitute by notification a Commission to be known as the (name of the State) Electricity Regulatory Commission:

Provided that the State Electricity Regulatory Commission constituted by a State Government under section 17 of the Electricity Regulatory Commissions Act, 1998 (14 of 1998) and functioning as such on the appointed date shall be the State Commission for the purposes of this Act and the Chairperson and members thereof shall continue to hold office on the same terms and conditions on which they were appointed under that Act:

Provided further that the State Electricity Regulatory Commission (by whatever name called) constituted under the provisions of an Act listed in the Second Schedule shall be the State Electricity Regulatory Commission for the purposes of this Act.

(2) The State Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The State Commission constituted under sub-section (1) shall consist of three Members including the Chairperson.

(4) The Chairperson and Members of the Commission constituted under sub-section (1) shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 84.

(5) The Chairperson shall be the Chief Executive of the Commission.

Joint Regulatory Commission

82. (1) Notwithstanding anything in section 81, a Joint State Electricity Regulatory Commission (the "Joint Commission") may be established by an agreement to be entered into—

- (a) by two or more Governments of States; or
- (b) by the Central Government, in respect of one or more Union territories, and one or more Governments of States.

(2) An agreement under sub-section (1) shall contain provisions as to the name of the Joint Commission, the manner in which the participating States may be associated in the selection of its Chairperson and Members, the period for which the agreement will remain in force, the places at which the Commission shall sit, constitution and functioning of the Joint

Transmission Centre, apportionment of the expenditure in connection herewith and such other supplemental, incidental and consequential provisions, not inconsistent with the provisions of this Act, as may be deemed necessary or expedient for giving effect to the agreement.

(3) Where two or more Governments of a State are unable to arrive at an agreement referred to in sub-sections (1) and (2), they may request the Central Government to constitute a Joint Commission for their respective States, and the Central Government may by notification constitute such Commission and provide for the matters stipulated in sub-section (2).

Functions of the State Commission

83. (1) The State Commission shall function as a regulator and facilitator for development of the electricity industry in a competitive and efficient environment to subserve the interests of the national economy and the State economy, in general, and the consumers, in particular.

(2) In discharging its functions, the Commission shall have due regard to –

- (a) the need for meeting all reasonable demands for electricity; and
- (b) the need for securing that licensees are able to finance their activities for meeting such demand.

(3) Without prejudice to the generality of sub-sections (1) and (2), the State Commission shall, subject to the provisions of this Act, discharge the following functions, namely -

- (a) promote competition, efficiency and economy, and prevent market domination, cartelisation and anti-competitive behaviour;
- (b) encourage market development and participation of private sector in the electricity industry for ensuring a fair deal to the consumers;
- (c) issue licences for intra-state transmission or distribution of electricity, as the case may be, and determine the tariff thereof;
- (d) regulate electricity purchase and procurement process of the Distribution Companies such that the purchases made are prudent;
- (e) specify and enforce standards with respect to the quality, continuity and reliability of service provided by its licensees;
- (f) enforce upon its licensees, the Grid Standards, safety requirements and other Regulations specified by the Authority;
- (g) promote access to electricity in rural areas;

- (h) promote access to electricity for economically weaker persons;
- (i) promote co-generation and generation of electricity from renewable sources of energy;
- (j) aid and advise the State Government in matters concerning the electricity industry;
- (k) associate with environmental regulatory agencies in evolving policies and procedures for appropriate environmental regulation of the electricity industry in the State;
- (l) require its licensee Transmission Companies and Distribution Companies to formulate perspective plans and schemes for the promotion of transmission, distribution and utilisation of electricity in an efficient, economical and equitable manner;
- (m) collect and publish data and forecasts on the demand for, and use of electricity in the State and to require the licensees to collect and publish such data;
- (n) enquire into contraventions of this Act and the Rules and Regulations made thereunder, and adjudicate in accordance with section 130;
- (o) adjudicate upon the disputes and differences between its licensees and to refer any dispute for arbitration under section 134; and
- (p) discharge all other functions as assigned to it under this Act.

(4) In discharge of its functions, the State Commission shall have due regard to the National Electricity Plan published under section 71 and the Rural Electrification Plan published under section 72.

(5) The State Commission shall, no later than the first anniversary of the appointed date unless the context otherwise requires, notify all the Regulations necessary for discharging its functions under this Act.

Selection etc. of Members and officers

Constitution of Selection Committee to select Members

84. (1) The Competent Government shall, for the purposes of selecting the Chairperson and Members of the Competent Commission constitute a Selection Committee consisting of—

- (a) a person who is or has been a Judge of the Supreme Court, as recommended by the Chief Justice of the Supreme Court, in the case of selection of a Chairperson or Member of the Central Commission, and a person who is or has been a judge of the High Court, as recommended by the Chief Justice of the High Court, in the case of selection of a Chairperson or Member of the

State Commission - Chairperson;

- (b) a Deputy Governor of the Reserve Bank of India, as recommended by the Governor of the Reserve Bank of India – Member;
- (c) Chairman of the Union Public Service Commission, in the case of selection of the Chairperson or Member of the Central Commission, and Chairperson or a Member of the Central Commission as recommended by the Chairperson, in the case of selection of a Chairperson or Member of the State Commission - Member;
- (c) Secretary in-charge of the Ministry of the Central Government dealing with electricity, in the case of selection of a Chairperson or Member of the Central Commission, and the Chief Secretary to the State Government, in the case of selection of a Chairperson or Member of the State Commission – Member; and
- (e) an independent expert in the field of energy or management, to be nominated by the Competent Government Secretary in-charge of the Ministry of the Central Government dealing with electricity, in the case of selection of a Chairperson or Member of the Central Commission, and the Chief Secretary to the State Government, in the case of selection of a Chairperson or Member of the State Commission – Member.

(2) No appointment of a Chairperson or Member shall be invalid merely by reason of any vacancy in the Selection Committee if such vacancy does not exceed one.

(3) The Competent Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of the Chairperson or any Member, make a reference to the Selection Committee for filling up of the vacancy.

(4) The Selection Committee shall finalise the selection of the Chairperson or Member within two months from the date on which a reference is made to it.

(5) The Selection Committee shall recommend a panel of two suitable persons in alphabetical order for each vacancy referred to it.

(6) Notwithstanding anything in this section, the Central Government may, if it deems appropriate, nominate the incumbent official serving as Chairman of the Authority to be one of the Members of the Commission till such time as he is the Chairman of the Authority.

Qualification for appointment of Members

85. (1) The Members of the Competent Commission shall be persons having adequate knowledge, experience and capacity in dealing with problems relating to engineering, finance, accountancy, commerce, economics, law or administration, and at least one Member shall be appointed from each of the following categories, namely -

- (a) engineering with specialisation in generation, transmission or distribution of electricity;
- (b) economics, finance, commerce or accountancy; and
- (c) law, public administration or management:

Provided that in the case of Central Commission, not more than two persons shall be appointed from any of the said categories.

(2) A person shall be disqualified from assuming office as a Member or continuing as such if he has any financial or other interest, directly or indirectly, in any company or undertaking dealing with any of the businesses related to generation, transmission, distribution or supply of electricity or manufacture, sale or supply of any fuel, machinery, plant, equipment etc. related to these activities.

(3) A Member shall not hold any other office of profit.

Term of office and conditions of service of Members

86. (1) A Member shall hold office for a term of five years from the date he enters office, and shall not be eligible for re-appointment:

Provided that no Member shall hold office as such after he has attained the age of sixty-five years.

(2) The salary and allowances payable to and the other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed:

Provided that such salary, allowances and conditions of service shall not be varied to his disadvantage after appointment:

Provided further that any pension or other benefit from a previous employment of a Member shall not be reckoned for determining such salary and allowances.

(3) A Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed by the Competent Government.

(4) A Member shall, in the discharge of his duties, be governed by the conduct rules applicable to the members of the Union Public Service Commission, to the extent such rules are not inconsistent with the provisions of this Act and the Rules made thereunder.

(5) Notwithstanding anything contained in sub-section (1), a Member may-

- (a) relinquish his office by giving to the Competent Government a notice of not less than three months; or
- (b) be removed from his office in accordance with the provisions of section 87.

- (6) Any Member ceasing to hold office as such shall -
- (a) be ineligible for further employment under the Central Government or any State Government for a period of one year from the date he ceases to hold such office;
 - (b) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and
 - (c) not represent any person before the Central Commission or any State Commission in any manner.

Explanation: For the purposes of this sub-section -

- (j) "employment under the Central Government or under any State Government" includes employment under any local or other authority within the territory of India under the control of the Central Government or a State Government, or under any corporation or society owned or controlled by the Government.
- (ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Removal of Member

87. (1) No Member shall be removed from office except in accordance with this section.

(2) The President, in the case of a Member of the Central Commission, and the Governor of the State, in the case of a Member of the State Commission, may by order remove from office any Member, if he -

- (a) has been adjudged an insolvent;
- (b) has been convicted of an offence which, in the opinion of the Competent Government, involves moral turpitude;
- (c) has become physically or mentally incapable of acting as a Member;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member;
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest; or
- (f) has been guilty of proved misbehaviour:

Provided that no Member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the Supreme Court, in the case of a Member of the Central

Commission, and the High Court, in the case of a Member of the State Commission, on a reference being made to it in this behalf by the President or the Governor, as the case may be, has, on an inquiry, held by it in accordance with such procedure as laid down in this behalf by the Supreme Court or the High Court, as the case may be, reported that the Member ought on such ground or grounds to be removed.

(3) The President or the Governor, as the case may be, may, in consultation with the Chief Justice of the Supreme Court or the High Court, as the case may be, suspend any Member of the Competent Commission in respect of whom a reference has been made to the Supreme Court or the High Court, as the case may be, under sub-section (2) until the President or the Governor, as the case may be, has passed orders on receipt of the report of the Supreme Court or the High Court, as the case may be, on such reference.

Officers and staff of the Commission

88. (1) The Competent Commission may appoint a Secretary to exercise such powers and perform such duties as may be specified.

(2) The Competent Commission may, with the approval of the Competent Government as to numbers, nature, categories and conditions of service, appoint such officers and staff as may be specified.

(3) The Competent Commission may appoint consultants, to assist the Commission in the discharge of its functions, on such terms and conditions as may be specified.

Proceedings and powers of the Commissions

Head quarters and proceedings of the Commission

89. (1) The head quarters of the Commission shall be at the capital of its territorial jurisdiction.

(2) The Commission shall meet at the head quarters or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as it may specify.

(3) The Chairperson, or if he is unable to attend a meeting of the Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from among themselves, shall preside at the meeting:

Provided that where the Members present are unable to choose the Chairperson, the Member whose date of appointment precedes the date of appointment of other Member or Members, as the case may be, shall preside.

(4) All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding shall have the right to exercise a second or casting vote.

(5) Save as otherwise provided in sub-section (4), every member shall have one vote.

(6) The Commission may constitute benches consisting of one or more of its Members to discharge its judicial, quasi-judicial or arbitral functions, and the orders passed or awards made by such benches shall be deemed to be orders and awards of the Commission.

(7) Where benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Commission among the benches and also provide for the matters which may be dealt with by each bench.

(8) The Commission may authorise any person or appoint an advocate, as it deems fit, to represent the interests of the consumers in the proceedings before it.

(9) The Commission shall send a copy of its notice under sub-section (5) of section 6, sub-section (4) of section 41, sub-section (2) of section 150 and sub-section (2) of section 153, as the case may be, to all consumer associations that may have registered themselves with the Commission for this purpose, and shall consider their representations, if any, in the course of its proceedings.

(10) All proceedings of the Commission shall be conducted in a transparent manner.

(11) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Chairperson in this behalf.

Vacancies etc. not to invalidate proceedings

90. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

Certain powers of the Commission

91. (1) The Commission shall, for the purposes of any inquiry or proceedings under this Act have the powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely -

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;

- (c) the reception of evidence on affidavits;
- (d) the requisition of any public record;
- (e) the issue of commission for examination of witnesses;
- (f) review its decisions, directions and orders;
- (g) any other matter which may be prescribed.

(2) The Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Commission, as the Commission may consider appropriate.

Proceedings before the Commission

92. All proceedings before the Commission shall, in respect of its quasi-judicial functions, be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

Powers of entry and seizure

93. The Commission or any officer specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), in so far as it may be applicable.

Delegation

94. The Commission may, by Regulations delegate to any Member, officer of the Commission or any other person, subject to such conditions, if any, as may be stipulated in the Regulations, such of its power and functions under this Act (except the power to make Regulations, issue tariff orders and licences, and settle disputes) as it may deem necessary.

Expenses, budget and reports

Expenses of the Commission

95. (1) The expense of the Competent Commission shall be paid out of the Consolidated Fund of India or the Consolidated Fund of the State, as the case may be.

(2) The expense of the Commission shall include –

- (a) the remuneration of, and any travelling or other allowances payable under this

Act to the Members, officers and staff of the Commission;

- (b) any sums payable under this Act to or in respect of the Commission; and
- (c) any expenses duly incurred by the Commission or by any of its officers and staff in consequence of the provisions of this Act.

(3) The Competent Commission may, with the approval of the Competent Government, specify the fees payable to it by the applicants and licensees, and such fee may be made available by the Competent Government to the Competent Commission for meeting its expenses in accordance with this Act.

Budget, revenues, audit etc. of the Commission

96. (1) The Competent Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Commission and forward the same to the Competent Government.

(2) The revenues of the Commission shall be paid into the Consolidated Fund of India or the Consolidated Fund of the State, as the case may be.

(3) The revenues of, and the expenses incurred by the Commission shall be audited by the Comptroller and Auditor General of India.

(4) The Central Commission shall, unless otherwise prescribed, be governed by the rules of administrative and financial procedures applicable to the Central Government and the Chairperson of the Commission shall, for this purpose, exercise the powers and perform the functions of the Secretary in-charge of a ministry of that Government.

(5) The State Commission shall, unless otherwise prescribed, be governed by the rules of administrative and financial procedures applicable to the State Government and the Chairperson of the Commission shall, for this purpose, exercise the powers and perform the functions of the Secretary in-charge of a department of that Government.

(6) The accounts of the Central Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Central Commission and the Central Government shall cause the audit report to be laid, as soon as may be, before each House of Parliament.

(7) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be, before the legislature of the State.

Annual and other reports

97. (1) The Competent Commission shall, as soon as practicable after the end of each year make to the Competent Government a report on its activities during that year.

(2) Every such report shall –

- (a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the Commission's functions;
- (b) set out any final or provisional orders made by the Commission during that year;
- (c) set out any general directions given to the Commission during that year by the Competent Government;
- (d) include a general survey of the activities during the year of the National Advisory Committee or the State Advisory Committee, as the case may be; and
- (e) a report on such other matters as the Competent Government may, in consultation with the Commission, from time to time require.

(3) The Commission shall, before the commencement of each year, make to the Competent Government a report on the Annual Programme for the year containing a general description of work, other than that comprising routine activities in the exercise of its functions, which it plans to undertake during the year in furtherance of the objectives of this Act.

(4) The Commission shall, before finalising the Annual Programme referred to in sub-section (3), publish a draft thereof and provide 60 days' notice for inviting representations and objections from the Competent Government, licensees and the public, and upon receipt of such representations and objections, it shall consider the same.

(5) The Competent Government shall lay a copy of every report made by the Commission under sub-sections (1) and (3) before each House of Parliament or the legislature of the State, as the case may be, and shall arrange for copies of every such report to be published in such manner as it considers appropriate.

(6) The Commission shall also make to the Competent Government –

- (a) such reports with respect to the matters mentioned in clause (a) of sub-section (2) as the Competent Government may from time to time require; and
- (b) such other reports with respect to those matters as may appear to it to be expedient,

and the Commission shall, if the Competent Government so directs, arrange for copies of any report made under this sub-section to be published in such manner as is stipulated in the

direction.

(7) Upon presentation of the Annual Report in the Parliament or the State Legislature, as the case may be, or at any other time, the Parliament or the State Legislature, as the case may be, may require the presence of the Chairperson and the Members of the Competent Commission in connection with any investigation, debate or discussion with respect to the powers exercised or the functions performed by the Commission under the provisions of this Act and the Commission shall provide such information and render such assistance to the Parliament, or the State Legislature, as the case may be, as may be necessary.

(8) No order of the Commission which is appealable before the High Court under this Act shall be called to question in the Parliament or the legislature of the State, as the case may be.

Advisory Committees

Advisory Committee

98. (1) The Competent Commission shall by notification establish within ninety days from the appointed date, a Committee to be known as the National Advisory Committee or the State Advisory Committee, as the case may be.

(2) The National Advisory Committee shall consist of not more than thirty-one members and the State Advisory Committee shall consist of not more than twenty-one members to represent the interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organisations and academic and research bodies in the electricity sector.

(3) The Chairperson and Members of the Commission shall be the *ex-officio* Chairperson and *ex-officio* Members of the National Advisory Committee or the State Advisory Committee, as the case may be.

(4) The National Advisory Committee or the State Advisory Committee, as the case may be, shall meet at least four times in a year and its proceedings shall be conducted in accordance with the Regulations to be specified.

Objects of Advisory Committee

99. The objects of the National Advisory Committee or the State Advisory Committee, as the case may be, shall be to advise the Competent Commission on-

- (a) questions of policy;
- (b) matters relating to quality, continuity, reliability and extent of service provided by the licensees;
- (c) compliance by the licensees with the conditions and requirements of their

licences;

- (d) protection of consumer interest; and
- (e) electricity supply and overall standards of performance by licensees.

Other provisions relating to the Commissions

Keeping of register

100. (1) The Commission shall, at such premises and in such form as it may determine, maintain a register for the purposes of this Act.

(2) Subject to sub-section (3) and to any direction given under sub-section (4), the Commission shall cause to be entered in the register the provisions of –

- (a) every licence and every exemption granted under this Act;
- (b) every modification or revocation of a licence;
- (c) every direction or consent given or determination made under a licence; and
- (d) every final or provisional order, every revocation of such an order and every notice issued in respect of a licensee under this Act.

(3) In entering any provision in the register, the Commission shall have regard to the need for excluding, so far as that is practicable –

- (a) any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interest of that individual; and
- (b) any matter which relates specifically to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the Commission, seriously and prejudicially affect the interests of that body.

(4) If it appears to the Competent Government that the entry of any provision in the register would be against public interest, it may direct the Commission not to enter that provision in the register.

(5) The contents of the register shall be available for inspection by the public during such hours and subject to the payment of such fee as may be notified in an order made by the Commission.

(6) Any person may, on the payment of such fee as may be notified in an order made by the Commission, require the Commission to supply him with a copy of, or extract from,

any part of the register, being a copy or extract which is certified to be a true copy or extract.

Powers of the Central Government to give directions

101. (1) In the discharge of its function, the Central Commission shall be guided by directions in the matter of policy involving public interest as the Central Government may, by notification, issue in furtherance of the objectives of this Act:

Provided that the Central Government shall lay a copy of such direction before each House of Parliament, as soon as may be.

(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.

Powers of the State Government to give directions

102. (1) In the discharge of its function, the State Commission shall be guided by directions in the matter of policy involving public interest as the State Government may, by notification, issue in furtherance of the objectives of this Act:

Provided that the State Government shall lay a copy of such direction before the legislature of the State, as soon as may be.

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

Power to give directions to Joint Commission

103. Notwithstanding anything in this Act, where any Joint Commission is constituted under section 82 –

- (a) the Government of any participating State may, with respect to a matter within the exclusive territorial jurisdiction of the State, give a direction to the Joint Commission as if it is a direction under section 102; and
- (b) the Central Government may, with respect to a matter on which the participating Governments fail to reach an agreement, or a majority of them request the Central Government to issue such direction or where such matter relates to a Union Territory, give direction to the Joint Commission as if it is a direction under section 101.

PART - IX

REORGANISATION OF THE BOARD*Certain Transitional Provisions***Powers of State Government to continue the State Electricity Board**

104. Notwithstanding anything in this Act, a State Electricity Board constituted and functioning under the repealed laws shall be deemed to be a licensee under this Act for a period extending up to the first anniversary of the appointed date or such earlier date as the State Government may notify, and shall perform the duties and functions of a licensee in accordance with this Act and the Rules and Regulations made thereunder as if it were a Generating Company, Transmission Company or Distribution Company, as the case may be.

Provided that the State Government may by notification from time to time authorise the State Electricity Board to continue to function as a licensee for such further period, not exceeding one year at a time, after the aforesaid first anniversary as may be stipulated in the notification.

Other transitional provisions for States

105. Notwithstanding anything in this Act, the State Government may by notification declare that any or all the provisions contained in this Act, other than the provisions of Part VII and Part VIII, shall remain in abeyance within its territory for such period, not exceeding six months from the appointed date, as may be stipulated in the notification. Upon publication of such notification, the provisions stipulated therein shall remain in abeyance in the territorial jurisdiction of the State Government and the matters contained therein shall be governed as if the repealed laws were in force.

Certain transitional functions of the State Transmission Company

106. (1) Notwithstanding anything in this Act, the State Government may designate the State Transmission Company or any other licensee as the successor entity in respect of any or all the agreements entered into by the State Electricity Board for purchase and supply of electricity.

Provided that the State Transmission Company may, with the consent of a Distribution Company or Companies, as the case may be, at any time transfer to such Distribution Company or Companies, its rights and obligations in respect of any such agreement.

(2) Notwithstanding anything in this Act, the State Government may by notification authorise the State Transmission Company to undertake the distribution of electricity in any or all parts of the State up to the second anniversary of the appointed date or such earlier date as the State Government may notify.

(3) The State Transmission Company shall, until the fifth anniversary of the appointed date, or such later date as the State Government may notify from time to time, be the principal company for undertaking all planning and co-ordination in regard to the operations of the electricity system; undertaking the works connected with transmission; determining the electricity requirements in the State in co-ordination with the State Government, all Generating Companies, the State Commission and the Regional Transmission Centre.

Reorganisation of the Boards

Reorganisation of the State Electricity Boards

107. (1) With effect from the date on which a transfer scheme prepared by the State Government to give effect to the objects and purposes of this Act is published or such further date as may be stipulated by the State Government (hereinafter in this part referred to as the effective date), any property, interest in property, rights and liabilities which immediately before the effective date belonged to the State Electricity Board (hereinafter referred to as the Board) shall vest in the State Government on such terms as may be agreed between the State Government and the Board.

(2) Any property, interest in property, rights and liabilities vesting in the State Government under sub-section (1) shall be re-vested by the State Government in the State Transmission Company and Generating Company or Companies, or Distribution Company or Companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of State government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the State Government and the State Transmission Company or Generating Company or Companies, or Distribution Company or Companies, as the case may be:

Provided that the transfer value of any assets transferred hereunder shall be determined, as far as may be, based on their depreciated book value or on the revenue potential of such assets or in such other manner as the State Government may determine, and at such terms and conditions as may be agreed between the State Government and the State Transmission Company or Generating Company or Companies or Distribution Company or Companies, as the case may be.

(3) Notwithstanding anything contained in this section, where,-

- (a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government.
- (b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties and even if such persons or third parties have not consented to it.

(4) The State Government may, after consulting the State Transmission Company (the "transferor company") or Generating Company or Companies, or Distribution Company or Companies, as the case may be, require them to draw up a transfer scheme to vest in a further transferee (the "transferee company") or any Generating Company or Companies, or Distribution Company or Companies, any of the functions including distribution and supply function, property, interest in property, rights and liabilities which have been vested in the transferor company or Generating Company or Companies, or Distribution Company or Companies, as the case may be, under this section, and publish the same as Statutory Transfer Scheme under this Act. The Transfer Scheme to be notified under this section shall have the same effect as the Transfer Scheme under sub-section (2).

Provided that the transfer value of any assets transferred hereunder shall be determined, as far as may be, based on their depreciated book value or on the revenue potential of such assets or in such other manner as the State Government may determine, and at such terms and conditions as may be agreed between the transferor company and the transferee company.

(5) A transfer scheme may;-

- (a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements that will promote the profitability and viability of the resulting units, ensure economic efficiency, encourage competition and protect consumer interests;
- (b) define the property, interest in property, rights and liabilities to be allocated-
 - (i) by naming or describing the property, rights and liabilities in question;
 - (ii) by referring to all the property, interest in property, rights and liabilities comprised in a described part of the transferor's undertaking;
or
 - (iii) partly in one way and partly in the other;
- (c) provide that any rights or liabilities stipulated or described in the scheme shall be enforceable by or against the transferor company or the transferee company;
- (d) impose on the transferor company an obligation to enter into such written agreements with or execute such other instruments in favour of, any other subsequent transferee as may be stipulated in the scheme;
- (e) make such supplemental, incidental and consequential provisions as the transferor company considers appropriate including provision stipulating the order as taking effect; and
- (f) provide that the transfer shall be provisional for a stipulated period not exceeding two years.

(6) All debts and obligations incurred, all contracts entered into, all matters and things engaged to be done by the Board, with the Board or for the Board, or the State Transmission Company or Generating Company or Companies or Distribution Company or Companies, before a transfer scheme becomes effective shall, to the extent stipulated in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the Board, with the Board or for the State Government or the transferee and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may be continued or instituted by or against the State Government or concerned transferee, as the case may be.

(7) The Board shall cease to be charged with and shall not perform, the functions and duties with regard to transfers made on and after the effective date:

Explanation: For the purposes of this section as well as the transfer scheme made thereunder, the expression “transfer” shall include transfer by sale, lease or any other manner.

Use of the proceeds of privatisation

108. In the event that a Board or any undertaking owned or controlled by the Competent Government is sold or transferred in any manner to a person who is not owned or controlled by the Competent Government, the proceeds thereof shall be utilised in the following order:

- (a) dues (including retirement benefits due) to the officers and employees who have been affected by the aforesaid sale or transfer; and
- (b) repayment of debt or other liabilities of the transferor company as required by the existing loan covenants.

Provisions relating to personnel

109. (1) The State Government may by a transfer scheme provide for the transfer of the personnel to the State Transmission Company, Generating Company or Companies, Distribution Company or Companies, as the case may be, on the vesting of projects, rights and liabilities in such transferee companies as provided under section 107.

(2) Upon such transfer under a transfer scheme, the personnel shall hold office or service under the transferee companies on such terms and conditions as may be determined in accordance with the transfer scheme:

Provided that such terms and conditions on the transfer shall not be less favourable than those which would have been applicable to them if there had been no such vesting:

Provided further that the transfer may be provisional for a stipulated period not exceeding two years.

Explanation: For the purposes of this section as well as the transfer scheme the expression "personnel" shall mean all persons who on the effective date are the employees of

the Board.

Payment of compensation or damages on transfer

110. Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947) or any other law for the time being in force and except for the provisions made in this Act, the transfer of the employment of the personnel referred to in sub-section (1) of section 109 shall not entitle such personnel to any compensation or damages under this Act, or any other Central or State law, save as provided in the transfer scheme.

Special provisions for certain States

111. Notwithstanding anything in this Act, the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland and Tripura, and all the Union Territories may either continue with their State Electricity Boards in accordance with the provisions of section 104, or form a single company to discharge the functions of a Generating Company, Transmission Company and Distribution Company for such period as the respective Government may by notification determine.

PART - X

OFFENCES AND PENALTIES*Offences and penalties***Theft of electricity**

112. (1) Whoever dishonestly -

- (a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, service drops or other service wires, or service facilities of a licensee;
- (b) tampers, installs or uses a tampered meter, jumper, current reversing transformer, shorting or shunting device, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted;
- (c) damages, changes or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so changed; damaged or destroyed as to interfere with the proper or accurate metering of electricity; or
- (d) knowingly uses or receives benefit of electric supply obtained through any of the acts mentioned in clauses (a), (b) or (c),

is said to have committed theft of electricity, and shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both, and if it is proved that any artificial means or means not authorised by a licensee exist for abstraction, consumption or use of electricity by such person, it shall be presumed, until the contrary is proved, that theft of electricity has been caused by such person.

(2) A person, having been convicted of an offence punishable under sub-section (1) and is again convicted of an offence punishable under that sub-section, shall be punished for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than twenty five thousand rupees.

Theft of electric lines and materials

113. (1) Whoever dishonestly -

- (a) cuts, saws, slices, separates, splits, severs, smelts or removes any electric line, material or meter from a tower, pole, any other installation or place of

installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;

- (b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is done for profit or gain; or
- (c) loads, carries, ships or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

is said to have committed theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(2) A person, having been convicted of an offence punishable under sub-section (1) and is again convicted of an offence punished under that sub-section, shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than twenty five thousand rupees.

Receiving stolen property

114. Whoever dishonestly receives any stolen electric line, electrical plant or any material belonging to a licensee any material knowing or having reason to believe the same to be stolen property, shall be punishable with imprisonment of either description for a term which may extend to three years or with fine or with both.

Interference with meters or works of licensee

115. (1) Whoever -

- (a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from such electric line;
- (b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or works being the property of a licensee when the said electric line or other works has or have been cut or disconnected;
- (c) lays or causes to be laid, connects up any works for the purpose of communicating with any other works belonging to a licensee;
- (d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or wilfully or fraudulently allows the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering, or

- (e) improperly uses the electricity of a licensee,

is said to have interfered with meters or works, and shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both; and if it is proved that any artificial means exist for making such connection as is referred to in clause (a) or such reconnection as is referred to in clause (b) or such communication as is referred to in clause (c) or for causing such alteration or prevention as is referred to in clause (d) or for facilitating such improper use as is referred to in clause (e), and that the meter, indicator or apparatus is under the custody or control of such person, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, reconnection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such person.

(2) A person, having been convicted of an offence punishable under sub-section (1) and being again guilty of an offence punishable under that sub-section, shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than twenty five thousand rupees.

Maliciously wasting electricity or injuring works

116. Whoever maliciously causes electricity to be wasted or diverted, or maliciously breaks, injures or damages any works or material connected with the supply of electricity, shall be punished with imprisonment for a term which may extend upto three years, or with fine which may extend to twenty-five thousand rupees, or with both.

Negligently wasting electricity or injuring works

117. Whoever negligently causes electricity to be wasted or diverted, or negligently breaks, injures or damages any works or material connected with the supply of electricity, shall be punished with fine which may extend upto twenty-five thousand rupees.

Extinguishing public lamps

118. Whosoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Punishment for non-compliance of orders etc. under the Act

119. (1) Whoever fails to comply with any order or direction given under this Act, within such time as may be stipulated in the said order or direction shall be punishable with imprisonment for a term which may extend to three months, or with fine, which may extend to rupees one lakh, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees for every day during which the failure continues after conviction of the first such offence.

- (2) No proceedings shall be instituted in respect of an offence under this section

except with the prior written approval of the Competent Commission.

(3) Without prejudice to the generality of sub-section (1), the Competent Commission may, instead of initiating or approving the institution of criminal proceedings under this section, conduct an inquiry and impose penalties as if it were a contravention under section 130.

Penalties not to affect other liabilities

120. The penalties imposed under this Part shall be in addition to, and not in derogation of, any liability which may have been incurred in respect of payment of compensation, charge or surcharge, or revocation of a licence, or disconnection of supply, as the case may be.

Compensation to licensee

121. Notwithstanding the provisions of section 357 of the Code of Criminal Procedure, 1973 (2 of 1974) to the contrary, any court trying an offence under this Part may order that such portion of the fine recovered from the offender, as it deems proper, may be paid to the affected licensee, if any.

Penalty for making of false statement etc.

122. Whoever while giving any information or making any application under or for the purpose of any provision of this Act or of any Rule or Regulation made thereunder, gives any information which he knows to be false or intentionally omits any material particular, shall be punishable with fine which may extend to ten thousand rupees.

Penalty for impersonation as Electrical Inspector or employee

123. Whoever enters or attempts to enter any premises by falsely pretending to be -

- (a) an Electrical Inspector; or
- (b) an agent or employee of a licensee

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Penalty where work belongs to Government or local authority

124. The provisions of this Part shall, in so far as they are applicable, be deemed to apply when the act made punishable thereunder is committed in the case of electricity supplied by, or works or material belonging to the Central Government, any State Government or local authority.

Offences by companies

125. (1) Where an offence under this Act has been committed by 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 having committed 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 had 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 by a company and it is proved that the offence has been committed with the consent or connivance or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section

- (a) “company” means a body corporate and includes a firm or other association of individuals, and
- (b) “director” in relation to a firm means a partner in the firm.

Attempt and abetment

126. Whosoever attempts to commit or abets an offence punishable under this Part shall, notwithstanding anything contained in section 116 of the Indian Penal Code, 1860 (45 of 1860), be punished with the penalty provided for the offence.

Power to try summarily

127. Notwithstanding anything contained in section 260 of the Code of Criminal Procedure, 1973 (2 of 1974)

- (a) any Chief Judicial Magistrate;
- (b) any Metropolitan Magistrate; or
- (c) any Magistrate specially empowered in this behalf by the High Court under section 260 of the Code of Criminal Procedure, 1973 (2 of 1974).

shall try in a summary way all or any of the offences made punishable under this Act, the abetment of any such offences or an attempt to commit any of such offences.

Provided that any offence committed subsequent to earlier conviction for similar offence where the second or subsequent commission of such offence entails enhanced punishment, shall not be tried in a summary manner.

- (2) When, in the course of a summary trial it appears to the Magistrate, that the nature

of the case is such that it is undesirable to try it summarily, the Magistrate shall recall any witness who may have been examined and proceed to re-hear in the manner other than provided for summary trials.

Cognisance of Offences

128. No court shall take cognisance of an offence punishable under this Act except upon a complaint in writing made by an Electrical Inspector or an officer authorised in this behalf by the Competent Government, or the Competent Commission, or a licensee, as the case may be.

Compounding of offences

129. (1) Notwithstanding anything in section 320 of the Code of Criminal Procedure, 1973 (2 of 1974), any offence under this Part may, on an application made to the Competent Commission by the person accused of having committed such offence, be compounded within one hundred and eighty days from the date on which such person has been charged of the offence by a court competent to conduct the trial.

Provided that where the offence relates to any property, electricity or entitlement of any licensee, the application for compounding shall be entertained only if it bears an endorsement signed by such licensee or a person authorised by him for this purpose, to the effect that he has no objection to such offence being compounded.

(2) The Commission shall consider and pass orders on an application made under this section, in accordance with the procedure to be specified in this behalf, and may impose a compounding fee not exceeding a sum equal to five times the fair market value of the electricity or materials affected by or involved in the offence, and where the quantum or value of such electricity or materials, as the case may be, can not be reasonably determined, then a compounding fee not exceeding five hundred thousand rupees.

Provided that no offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of different kind for such offence.

Explanation: For the purposes of this section, the expression “fair market value of the electricity” means the amount that would be due from the person accused if he had procured such electricity by legitimate means.

(3) Where an offence has been compounded under this section and the compounding fee has been paid, the accused shall be deemed to have been acquitted and no further proceedings shall be continued in respect of the offence so compounded.

(4) The Commission may, while passing an order under this section, direct that a sum not exceeding one half of the compounding fee, as it deems proper, be paid to the affected licensee, if any.

Civil penalties

Penalties

130. (1) If any person contravenes or attempts to contravene or abets the contravention of any provision of this Act, or any Rule or Regulation made thereunder, or any condition subject to which a licence is issued by the Competent Commission, he shall, except as otherwise provided in this Act and upon summary inquiry and adjudication by the Competent Commission, be liable to a penalty up to three times the fair market value of the electricity involved in such contravention and where the quantum of such electricity can not be reasonably determined, then up to five lakh rupees, and where such contravention is a continuing one, further penalty which may extend to twenty-five thousand rupees for each day that the contravention continues after it was first committed:

Provided that where the person liable to a penalty under this section is a licensee, the amount of penalty may, instead of five lakh rupees and twenty-five thousand rupees, as the case may be, extend up to fifty lakh rupees and ten lakh rupees respectively.

Explanation: For the purposes of this section, the expression “fair market value of the electricity” means the amount that would be due from the person accused if he had procured such electricity by legitimate means.

(2) In deciding whether to impose a penalty, and in determining the amount of any penalty under sub-section (1), the Commission shall have regard to the statement of policy published under sub-sections (3) and (4).

(3) The Commission shall prepare a statement of policy with respect to the imposition of penalties and the determination of their amount, and shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy, and shall publish the statement in such manner as it considers appropriate for bringing the matters contained therein to the attention of persons likely to be affected by them.

(4) The Commission may revise its statement of policy from time to time and publish the revised statement in such manner as it considers appropriate for bringing the matters contained therein to the attention of persons likely to be affected by them.

(5) No proceedings shall be instituted under this section except upon a written complaint by the Competent Government, an Electrical Inspector or a licensee, or where the Competent Commission, for reasons to be recorded in writing, takes suo moto cognisance of such contravention.

Summary assessment in certain cases

131. (1) Without prejudice to the provisions of section 130, the Competent Commission may, upon application made to it by a licensee, designate suitably qualified officers of such licensee to act as assessing officers for the purposes of this section.

(2) Upon inspection of any premises or any equipment, machine, appliance or device

therein, or upon inspection of records maintained by any person, if the assessing officer has reason to believe that any person is indulging in unauthorised use of electricity, he may provisionally assess the electricity charges and penalty payable by such person and state the reasons for arriving at such charges.

(3) A notice stating the provisional assessment made under sub-section (2) shall be served on the person in occupation or control of the premises in such manner as may be specified.

(4) A person on whom a notice has been served under sub-section (3) may, within fifteen days of receiving such notice, file objections, if any, before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass an order stating the amount, if any, payable by such person, and where no such objections are filed within the aforesaid period, the provisional assessment stated in the notice under sub-section (3) shall be deemed to be an order under this sub-section.

(5) A person served with an order made under sub-section (4) shall deposit the amount stated therein with the affected licensee within fifteen days of service of such order and thereupon, he shall not be liable to any other penalty under this Act.

(6) In determining the extent of unauthorised use of electricity under this section, it shall be presumed that such unauthorised use was continuing for a period of three months immediately preceding the date of inspection, unless the onus is rebutted by the occupier of such premises.

(7) A provisional assessment or final order made under this section shall include a penalty equal to the electricity charges assessed under this section.

Appeal against order of assessment

132. Any person aggrieved by an order under sub-section (4) of section 131 may, within thirty days of the said order, prefer an appeal to the Competent Commission.

(2) No appeal under sub-section (1) shall be entertained unless an amount equal to one third of the disputed amount is deposited with the affected licensee prior to such appeal.

(3) The Commission shall, after hearing the appellant and the affected licensee, pass such order as it deems fit.

(4) An order passed by the Commission under sub-section (3) shall be final.

PART - XI

DISPUTE RESOLUTION

Conciliation and arbitration

Conciliation

133. No licensee shall move any court, tribunal, Competent Commission or other forum for resolution of any dispute, difference or disagreement with any other licensee in respect of any matter arising out of the provisions of this Act (the “dispute”), until he has made an attempt for conciliation in accordance with such Rules as the Central Government may prescribe.

Arbitration

134. (1) Where any dispute between licensees remains unresolved after an attempt for conciliation has been made under section 133, the affected person shall refer such dispute to the Competent Commission for arbitration:

Provided that nothing contained in this section shall restrict the right of any licensees by agreement to refer the dispute to any other person or persons in accordance with the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Where a dispute is referred to the Competent Commission for arbitration, it shall, if the dispute relates to a matter of policy involving public interest, or an interpretation of the provisions of this Act, or Rules or Regulations made thereunder or a matter widely affecting the rights or liabilities of consumers or licensees, nominate from amongst its own members such persons as it deems proper, to act as arbitrators.

(3) Where three or more Members have been nominated as arbitrators, the Chairperson of the Commission shall be a member of the tribunal and shall act as the presiding arbitrator.

(4) Where the Competent Commission does not nominate its Members under subsection (2), it shall constitute an arbitral tribunal, in accordance with the Regulations made by it, to resolve the dispute.

(5) Arbitration under this section shall be governed by the Arbitration and Conciliation Act, 1996 (26 of 1996) and rules framed thereunder.

Provided that the Competent Commission may specify the number of arbitrators, the place of sitting of the arbitral tribunal, the reasonable period during which the award may be made, the fee payable for arbitration and such other matters which are not provided in that Act or which have been left thereunder to the mutual agreement of the parties to the dispute.

(6) The arbitrators appointed under this section shall be entitled to such fees as may be specified. Provided that the fee received by Members of the Commission shall be paid into the Consolidated Fund of India or the State, as the case may be.

(7) Notwithstanding anything in the Arbitration and Conciliation Act, 1996 (26 of 1996), an award made under this section may be challenged only before the High Court having jurisdiction.

(8) The provisions of this section shall apply, *mutatis mutandis*, to any dispute which is required to be resolved by arbitration under any other provision of this Act.

Dispute Resolution by Licensees

135. (1) The Commission shall specify a dispute resolution procedure requiring a licensee to address any complaint of a consumer alleging violations of the provisions of this Act or any Rules and Regulations made thereunder.

(2) The procedure specified under sub-section (1) shall require a licensee to designate a person within its Company to conduct an investigation of the complaint and convey the result thereof to the complainant within 30 days from the date on which the complaint was received.

(3) The communication sent to a complainant under sub-section (2) shall include a description of any action taken and a statement describing the complainant's right to seek further remedies if he is not satisfied with the results of the investigation and the action taken thereon.

(4) A licensee shall maintain a log of all complaints received and action taken thereon, and such record shall be subject to review by the Commission from time to time.

(5) Within 60 days of receiving a reply from the licensee under sub-section (2), and if no such reply is received then within 90 days from the date of making the complaint, the complainant may make a representation before the competent forum under the provisions of the Consumer Protection Act, 1986 (68 of 1986).

(6) Without prejudice to the generality of sub-section (5), a complainant may make a representation to the Commission for such investigation thereof under section 46 as the Commission may deem fit.

Appeals

Appeals against the orders of the Commission

136. (1) Any person aggrieved by an order passed or direction issued by the Commission under this Act may, within 60 days of the communication of such order or direction to him, file an appeal before the High Court:

Provided that where a review petition is admitted by the Competent Commission, the period of 60 days shall be reckoned from the date of communication of the final order on such review petition.

Provided further that the High court, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, may allow it to be filed within a further period of 60 days:

Provided also that no such appeal shall lie from a person who had the opportunity of making a representation before the Competent Commission in accordance with this Act but did not make such representation before the Commission.

(2) An appeal filed before the High Court under sub-section (1) shall be heard and decided by a division bench of such High Court.

PART - XII

OTHER PROVISIONS*Protective clauses***Protection of railways, highways, aerodromes, canals, docks, wharfs and piers**

137. No person shall, in the generation, transmission, distribution, supply or use of electricity, in any way injure any railway, highway, aerodrome, tramway, canal or water-way or any dock, wharf or pier, or obstruct or interfere with the traffic on any railway, highway, airway, tramway, canal or water-way.

Protection of telegraphic, telephonic and electric signalling lines

138. (1) Every person generating, transmitting, distributing or using electricity (hereinafter in this section referred to as the "operator") shall take all reasonable precautions in constructing, laying down and placing his electric lines, electrical plant and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire, line or equipment used for the purpose of telegraphic, telephone or electric signalling communication, or the currents in such wire, line or equipment.

(2) Where any difference or dispute arises between the operator, and the Telegraph Authority as to whether the operator has constructed, laid down or placed his electric lines, electrical plant or other works, or worked his system, in contravention of sub-section (1), or as to whether the working of any wire, line, equipment or current is or is not injuriously affected thereby, the matter shall be referred to the Telegraph Authority; and the Telegraph Authority, unless it is of opinion that the wire or line has been placed in unreasonable proximity to the electric lines, electrical plant or works of the operator after the construction of such lines, plant or works, may direct the operator to make such alterations in, or additions to, his system as may be necessary in order to comply with the provisions of this section, and the operator shall make such alterations or additions accordingly:

Provided that nothing in this sub-section shall apply to the repair, renewal or amendment of any electric line or electrical plant so long as the course of the electric line or electrical plant and the amount and nature of the electricity transmitted thereby are not altered.

(3) Where the operator makes default in complying with the requirements of this section, he shall make full compensation for any loss or damage incurred by reason thereof, and, where any difference or dispute arises as to the amount of such compensation, the matter shall be determined by arbitration by the Central Commission.

Explanation: For the purposes of this section, a line, wire or equipment shall be deemed to be injuriously affected if telegraphic, telephonic or electric signalling communication by means of such line, wire or equipment is, whether through induction or

otherwise, prejudicially interfered with by an electric line, electrical plant or other work or by any use made thereof.

Notice of accidents and inquiries

139. (1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector and to such other authorities as the Competent Government may by general or special order, direct.

(2) The Competent Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-

- (a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or
- (b) as to the manner in, and extent to, which the provisions of this Act or Rules and Regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.

(3) Every Electrical Inspector or other person holding an inquiry under sub-section (2) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code (45 of 1860).

Electrical Inspectors

Electrical Inspectors

140. (1) The Competent Government may appoint duly qualified persons to be Electrical Inspectors under this Act.

(2) An Electrical Inspector appointed under this section shall -

- (a) inspect and test, periodically and in special cases, electric lines and electrical plant belonging to a licensee;
- (b) examine, periodically and in special cases, the generation, transmission, distribution or supply of electricity by such licensees;

- (c) inspect and test, if and when required by any consumer, any such lines, plant or meter on the consumer's premises, for the purpose of determining whether any requirement imposed by or under this Act or Rules and Regulations made thereunder, in respect of the electric lines or electrical plant or meter or the supply of electricity through or by them has been complied with; and
- (d) perform such other duties as may be prescribed by Rules or assigned by general or specific directions of the Competent Government or Competent Commission.

(3) The Competent Government may by Rules –

- (a) prescribe the qualifications, terms and conditions of service and area of jurisdiction of Electrical Inspectors and matters connected therewith;
- (b) lay down the manner in which and the times at which any duties are to be performed by Electrical Inspectors;
- (c) require licensees to -
 - (i) furnish Electrical Inspectors with records or other information; and
 - (ii) allow such inspectors access to premises and the use of electrical plant and other facilities; and
- (d) provide for cases in which licensees may be relieved by Electrical Inspectors from any obligation to distribute and/or supply electricity.

(4) Not later than 7 days after an inspection, test or examination under this section, the Electrical Inspector shall make a report containing his findings on the compliance of technical and safety standards and the directions, if any, for remedial action by the licensee, and send a copy thereof to the Competent Commission and the licensee.

(5) Upon receiving a report under sub-section (4), the licensee shall comply with the directions therein or take such other action as may be necessary to comply with the provisions of this Act, and the Rules and Regulations made thereunder with respect to any electrical plant or electric lines, as the case may be, and inform the Competent Commission and the Electrical Inspector as early as may be.

(6) An appeal from the decision of an Electrical Inspector shall lie to the Competent Commission provided that till such decision is set aside, modified, waived or stayed by the Competent Commission, the party affected by such decision shall comply with the same.

(7) For exercising the powers and discharging the functions under this section, an Electrical Inspector may enter any building or place and may seize any document or take extracts therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), in so far as it may be applicable.

*Certain powers, protection etc.***Powers of entry etc.**

141. (1) Any officer or other employee of the Competent Commission or of a licensee generally or specially authorised by the Commission or by the licensee, as the case may be, in this behalf or any Electrical Inspector may at any reasonable time after giving the owner or occupier reasonable notice enter upon any land or premises and do such things as may be reasonably necessary for the purposes of lawfully using any electric lines or electrical plant, or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of duties by the Commission, licensee or Electrical Inspector, as the case may be, under this Act.

(2) Without prejudice to the generality of sub-section (1), a licensee or any person duly authorised by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is or has been supplied by him, or any premises or land, under, over, along, across, in or upon which the electric lines, electrical plant or other works have been lawfully placed by him for the purpose of-

- (a) inspecting, testing, repairing or altering the electric lines, electrical plant meters, fittings, works and apparatus for the supply of electricity belonging to the licensee; or
- (b) ascertaining the quantity of electricity supplied; or
- (c) removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric lines, electrical plant, meters, fittings, works or apparatus belonging to the licensee.

(3) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate –

- (a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;
- (b) enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of electricity, belonging to the consumer.

(4) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (2) or, sub-section (3), when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

(5) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall, as far as may be, apply to searches and seizures under this Act.

Amendment of the Land Acquisition Act, 1894

142. (1) In clause (b) of sub-section (1) of section 40 and sub-section (5) of section 41 of the Land Acquisition Act, 1894 (1 of 1894) the term “work” shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed.

(2) The Competent Government may, on recommendation of the Competent Commission in this behalf, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 (1 of 1894) in the same manner and on the same conditions as it might be acquired if the person were a company.

Civil courts not to have jurisdiction

143. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the Competent Commission or any authority or officer is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Exemption of electric lines or electrical plants from attachment in certain cases

144. Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Protection for acts done in good faith

145. (1) No suit, prosecution or other proceeding shall lie against any Competent Government or Competent Commission or any Member of the Competent Commission, or any public servant, or any servant of a Competent Government, Competent Commission or local authority for anything done or in good faith purporting to be done or needs to be done under this Act or the Rules or Regulations made thereunder.

(2) No court shall take cognisance of an offence under this Act, by a public servant except with the sanction –

- (a) in the case of a person employed in connection with the affairs of the Union, of the Central Government;
- (b) in the case of a person employed in connection with the affairs of the State, of the State Government; and

- (c) in the case of a person employed in connection with the affairs of the Competent Commission, of the Competent Commission.

Members, officers etc. of the Commission to be public servants

146. All Members and officers and other employees of the Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or Rules and Regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

Recovery of sums payable under this Act

147. Any amount due from a person under this Act may be recovered from him as if it were an arrear of land revenue recoverable under the Revenue Recovery Act, 1890 (1 of 1890) or any other Act for the time being in force in the respective State.

Power to make Rules and Regulations

Powers of the Central Government to make Rules

148. (1) The Central Government may, by notification, make Rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such Rules may provide for all or any of the following matters, namely –

- (a) cases where the Authority shall tender advice under sub-section (3) of section 6;
- (b) matters relating to exemption for establishing generating stations under sub-section (7) of section 6;
- (c) works of licensees affecting the property of other persons referred to in section 67;
- (d) cases in which consent of the Government shall not be required under section 69;
- (e) salary, allowances and other conditions of service of a Chairperson or Member of the Central Commission under sub-section (2) of section 86;
- (f) form and manner of subscribing oath of office to Members of Central Commission under sub-section (3) of section 86;
- (g) additional matters regarding which the Central Commission shall have powers as are vested in civil court under clause (g) of sub-section (1) of section 91;

- (h) form and time for preparation of the annual budget of the Central Commission under sub-section (1) of section 96;
- (i) the rules of administrative and financial procedure under sub-section (4) of section 96;
- (j) conciliation of disputes between licensees under section 133;
- (k) qualifications, terms and conditions of service and duties of Electrical Inspectors under sub-section (3) of section 140;
- (l) mode of service of notices to any person or to the Central Government under sub-section (1) of section 155; and
- (m) any other matter which is required to be, or may be, prescribed.

Powers of the Authority to make Regulations

149. (1) The Authority may by notification make Regulations, not inconsistent with this Act and the Rules made thereunder, to carry out the provisions of this Act.

(2) Before notifying any Regulations under this Act, the Authority shall give notice—

- (a) stating that it proposes to notify the Regulations and setting out the provisions of such Regulations and their effect;
- (b) stating the reasons why it proposes to notify the Regulations; and
- (c) stating the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed Regulations may be made,

and shall consider any representation or objection which is duly made and not withdrawn.

(3) Without prejudice to the generality of sub-section (1), such Regulations may provide for all or any of the following matters, namely –

- (a) matters relating to the safe installation, maintenance and use of electric lines and electrical plants under section 31;
- (b) Grid Standards under section 63;
- (c) rules of procedure for transaction of business under sub-section (7) of section 73;
- (d) minimum range of technical standards for construction of electrical plants and electric lines under clause (b) of sub-section (1) of section 76;

- (e) safety standards for construction, operation and maintenance of electrical plants and electric lines under clause (c) of sub-section (1) of section 76; and
- (f) time, form and manner in which the State Government and licensees shall furnish statistics, returns or other information under section 77.

Powers of the Central Commission to make Regulations

150. (1) The Central Commission may by notification make Regulations not inconsistent with this Act and the Rules made thereunder to carry out the provisions of this Act.

(2) Before notifying any Regulations under this Act, the Central Commission shall give notice –

- (a) stating that it proposes to notify the Regulations and setting out the provisions of such Regulations and their effect;
- (b) stating the reasons why it proposes to notify the Regulations; and
- (c) stating the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed Regulations may be made,

and shall consider any representation or objection which is duly made and not withdrawn.

(3) Without prejudice to the generality of sub-section (1), such Regulations may provide for all or any of the following matters, namely -

- (a) manner of making an application to Central Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 6;
- (b) annual fee payable under sub-section (2) of section 7 and conditions of licence under sub-section (7) of section 7;
- (c) certain directions to Generating Companies under section 11;
- (d) proportion of revenues from other businesses to be utilised for reducing the transmission and wheeling charges under section 17;
- (e) terms and conditions for the determination of tariff payable to licensees under sub-section (1) of section 39;
- (f) terms of fuel surcharge formula under sub-section (7) of section 40;
- (g) methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (8) of section 40;

- (h) the manner of making an application before the Central Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 41;
- (i) establishment, operation and management of the bulk electricity spot market under section 45;
- (j) constitution and functions of the National Transmission Centre, and appointment of its officers and staff under section 54;
- (k) constitution of the Regional Transmission Centre and appointment of its officers and staff under section 56;
- (l) Grid Code under sub-section (2) of section 57;
- (m) fee and charges payable to the Regional Transmission Centre under sub-section (5) of section 57;
- (n) the principles and methodologies relating to determination of tariff for Transmission Companies under clause (c) of sub-section (3) of section 80;
- (o) standards for its licensees with respect to quality, continuity and reliability of service under clause (e) of sub-section (3) of section 80;
- (p) powers and duties of the Secretary of the Central Commission under sub-section (1) of section 88;
- (q) numbers, nature, categories and terms and condition of service of the officers and staff of Commission under sub-section (2) of section 88;
- (r) terms and conditions of appointment of consultants under sub-section (3) of section 88;
- (s) rules of procedure for transaction of business under sub-section (2) of section 89;
- (t) delegation of powers under section 94;
- (u) conduct of the proceedings of the National Advisory Committee under sub-section (4) of section 98;
- (v) constitution of arbitral tribunal, the number of arbitrators, place of sitting etc. of arbitrators appointed by it under sub-section (4) of section 134;
- (w) dispute resolution procedure for licensees under section 135; and
- (x) any other matter which is required to be, or may be, specified.

Rules and Regulations to be laid before Parliament

151. Every Rule made by the Central Government, every Regulation made by the Authority, and every Regulation made by the Central Commission shall be laid, as soon as may be after it is made, before each House of the 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 Regulation or agree that the Rule or Regulation should not be made, the Rule or Regulation 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 or Regulation.

Powers of the State Governments to make Rules

152. (1) The State Government may, by notification make Rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of foregoing power, such Rules may provide for all or any of the following matters, namely -

- (a) works of licensees affecting the property of other persons under section 70;
- (b) salary, allowances and other conditions of service of a Chairperson or Member of the State Commission under sub-section (2) of section 86;
- (c) form and manner of subscribing oath of office to Members of State Commission under sub-section (3) of section 86;
- (d) additional matters regarding which the State Commission shall have powers as are vested in civil court under clause (g) of sub-section (1) of section 91;
- (e) form and time for preparation of the annual budget of the State Commission under sub-section (1) of section 96;
- (f) the rules of administrative and financial procedures under sub-section (5) of section 96;
- (g) qualifications, terms and conditions of service and duties of Electrical Inspectors under sub-section (3) of section 140;
- (h) additional mode of service of notices etc. and nomination of officers for the purpose of service of notice etc. on the State Government under sub-section (1) of section 155; and
- (i) any other matter which is required to be, or may be, prescribed.

Powers of the State Commissions to make Regulations

153. (1) The State Commissions may, by notification, make Regulations not inconsistent with this Act and the Rules made thereunder to carry out the provisions of this Act.

(2) Before notifying any Regulations under this Act, the State Commission shall give notice –

- (a) stating that it proposes to notify the Regulations and setting out the provisions of such Regulations and their effect;
- (b) stating the reasons why it proposes to notify the Regulations; and
- (c) stating the time (not being less than 30 days from the date of publication of the notice) within which representations or objections with respect to the proposed Regulations may be made, and shall consider any representation or objection which is duly made and not withdrawn.

(3) Without prejudice to the generality of sub-section (1), such Regulations may provide for all or any of the following matters, namely -

- (a) manner of making an application before State Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 6;
- (b) annual fee payable under sub-section (2) of section 7 and conditions of licence under sub-section (7) of section 7;
- (c) certain directions to Generating Companies under section 11;
- (d) certain restrictions on Generating Companies under sub-section (2) of section 12;
- (e) wheeling of electricity by Transmission Companies under sub-section (2) of section 14;
- (f) proportion of revenues from other businesses to be utilised for reducing the transmission and wheeling charges under section 17;
- (g) wheeling of electricity by Distribution Companies under sub-section (2) of section 19;
- (h) supply, distribution and consumption of electricity under sub-section (5) of section 21;
- (i) recovery of certain expenditures by the Distribution Company under sub-sections (1) and (2) of section 23;

- (j) security payable to the Distribution Company under section 24;
- (k) certain rights and obligations of Distribution Companies under section 27
- (l) proportion of revenues from other business to be utilised for reducing the distribution and wheeling charges under section 28;
- (m) The Electricity Supply Code referred to in section 29;
- (n) installation and operation of meters under section 32;
- (o) standards of performance and compensation by the Distribution Companies under section 35;
- (p) terms and conditions for the determination of tariff payable to licensees under sub-section (1) of section 39;
- (q) terms of fuel surcharge formula under sub-section (7) of section 40;
- (r) methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (8) of section 40;
- (s) the manner of making an application before the State Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 41;
- (t) establishment, operation and management of the bulk electricity spot market under section 45;
- (u) constitution of the State Transmission Centre and appointment of its officers and staff under section 60;
- (v) fee and charges payable to the State Transmission Centre under sub-section (5) of section 61;
- (w) standards for its licensees with respect to quality, continuity and reliability of service under clause (e) of sub-section (3) of section 83;
- (x) uniform system of accounts for Distribution Companies under clause (n) of sub-section (3) of section 83;
- (y) powers and duties of the Secretary of the State Commission under sub-section (1) of section 88;
- (z) numbers, nature, categories and terms and conditions of service of the officers and staff of the State Commission under sub-section (2) of section 88;
- (aa) terms and conditions of appointment of consultants under sub-section (3) of

section 88;

- (bb) rules of procedure for transaction of business under sub-section (2) of section 89;
- (cc) delegation of powers under section 94;
- (dd) conduct of the proceedings of the State Advisory Committee under sub-section (4) of section 98;
- (ee) procedure for compounding of offences by the State Commission under sub-section (2) of section 129;
- (ff) constitution of arbitral tribunal, the number of arbitrators, place of sitting etc. of arbitrators appointed by it under section 134;
- (gg) dispute resolution procedure for licensees under section 135; and
- (hh) any other matter which is required to be, or may be, specified.

Rules and Regulations to be laid before Legislature of the State

154. Every Rule made by the State Government and every Regulation made by the State Commission shall be laid, as soon as may be after it is made, before each House of the legislature of the State where it consists of two Houses, or where such Legislature consists of one House, before that House.

Miscellaneous Provisions

Service of notices, orders or documents

155. (1) Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining written acknowledgement therefor or by registered post or such means of communication as may be prescribed or left –

- (a) where the Competent Government is the addressee, at the office of such officer as the Competent Government may prescribe in this behalf;
- (b) where the Competent Commission is the addressee, at the office of the Competent Commission;
- (c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India; and

- (d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Power to remove difficulties etc.

156. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the second anniversary of the appointed date.

(2) For the removal of difficulties and for giving effect to the provisions of this Act, the Central Government may constitute an Oversight Committee consisting of the following:

- (a) Minister in-charge of the Ministry of Central Government dealing with electricity – Chairman;
- (b) Chairperson of the Central Commission – Member;
- (c) Chairperson of the Authority – Member;
- (d) Chief Executive of the Central Transmission Company – Member;
- (e) Chief Executive of an inter-state Generating Company, to be nominated by the Central Government – Member;
- (f) Chief Secretaries of two State Governments, to be nominated by the Central Government – Members;
- (g) Chairperson of two State Electricity Regulatory Commissions, to be nominated by the Central Government - Members;
- (h) Chief Executives of two State Transmission Companies, to be nominated by the Central Government – Members;
- (i) Representative of an apex consumer organisation, to be nominated by the Central Government – Member; and
- (j) Secretary in-charge of the Ministry of Central Government dealing with

electricity – Convenor.

(3) The Oversight Committee shall meet at such intervals and deliberate on such issues as the Chairperson may determine.

(4) Based upon the recommendations of the Oversight Committee, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary or expedient for removing any difficulty.

(5) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

(6) The Oversight Committee shall, at least once in two years, undertake a comprehensive review of the working of this Act and the extent to which its objectives have been achieved, and place its Report thereon before both houses of the Parliament, as soon as may be.

Overriding effect

157. Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Provided that nothing contained in this Act, or any Rule or Regulation made thereunder or any instrument having effect by virtue of this Act, Rule or Regulation shall have effect in so far as it is inconsistent with any provision of the Atomic Energy Act, 1962 (33 of 1962) relating to the construction, operation and maintenance of a generating station established under that Act.

Provided further that nothing contained in this Act, or any Rule or Regulation made thereunder shall have effect in so far as it is inconsistent with any provision of the Consumer Protection Act, 1986 (68 of 1986).

Repeals and savings

158. (1) Save as otherwise provided in this Act, the Indian Electricity Act, 1910 (9 of 1910), the Electricity (Supply) Act, 1948 (54 of 1948) and the Electricity Regulatory Commissions Act, 1998 (14 of 1998) are hereby repealed.

(2) Notwithstanding such repeal, and unless otherwise provided-

- (a) all notifications published, powers conferred, forms prescribed, local jurisdiction defined, awards, orders and appointments made under the repealed laws shall, to the extent they are not inconsistent with the provisions of this Act, be deemed to have been published, conferred, prescribed, defined or made under this Act and shall have effect until substituted by Rules or Regulations, as the case may be, made under this Act in that behalf;
- (b) all rules and regulations notified under the repealed laws shall, to the extent they are not inconsistent with the provisions of this Act, have effect up to the

first anniversary of the appointed date or such earlier date as the Competent Government or Competent Commission, as the case may be, may notify in respect of any such rule or regulation;

- (c) the provisions of section 43A of the Electricity (Supply) Act, 1948 (54 of 1948) read with the notifications issued thereunder and of section 58 of that Act read with the Sixth Schedule thereof shall have effect until the notification of Tariff Regulations under section 39 of this Act;
- (d) the provisions contained in sections 12 to 17 of the Indian Electricity Act, 1910 (9 of 1910) shall have effect until the notification of Rules under section 67 of this Act;
- (e) all proceedings including arbitration proceedings, inquiries, trials and appeals pending immediately before the appointed date shall be heard and disposed of in accordance with the provisions of the repealed laws as if this Act had not come into force; and
- (f) all the contracts entered into under the repealed laws shall continue to be in force and binding upon the successors in interest.

(3) Notwithstanding anything in this Act, the provisions of the Acts listed in the Schedule shall continue to be in force and shall have overriding effect to the extent of any inconsistency between the provisions of such Acts and the provisions of this Act.

Provided that references to the provisions of the repealed laws in such Acts shall be construed as references to this Act:

Provided further that the provisions contained in Part II, Part III and Part VIII of this Act shall have overriding effect over the provisions contained in the Acts listed in the Schedule.

SCHEDULE
(Section 158)

LIST OF SAVED ENACTMENTS

1. The Orissa Electricity Reform Act, 1995 (Orissa Act no. 2 of 1996)
2. The Haryana Electricity Reform Act, 1997 (Haryana Act no. 10 of 1998)
3. The Andhra Pradesh Electricity Reform Act, 1998 (Andhra Pradesh Act no. 30 of 1998)
4. The Uttar Pradesh Electricity Reform Act, 1999 (Uttar Pradesh Act no. 24 of 1999)
5. The Karnataka Electricity Reform Act, 1999 (Karnataka Act no. 25 of 1999)
6. The Rajasthan Electricity Reform Act, 1999 (Rajasthan Act no. 23 of 1999)
7. The Delhi Electricity Reforms Act, 2000 (Delhi Act no. 2 of 2001)