



**THE
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 123] Jammu, Thu., the 29th April, 2010/9th Vai., 1932. [No. 5-3

Separate paging is given to this part in order that it may be filed as a
separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—LAW DEPARTMENT**

Jammu, the 29th April, 2010.

The following Act as passed by the Jammu and Kashmir State
Legislature received the assent of the Governor on 28th April, 2010
and is hereby published for general information :—

**THE JAMMU AND KASHMIR ELECTRICITY
ACT, 2010.**

(Act No. XIII of 2010)

[28th April, 2010].

An Act to consolidate the laws relating to generation, transmission,
distribution, trading and use of electricity and generally for taking
measures conducive to development of electricity industry, promoting
competition therein, protecting interest of consumers and supply of

electricity to all areas, rationalization of electricity tariff, ensuring transparent policies regarding subsidies, promotion of efficient and environmentally benign policies, Constitution of State Electricity Regulatory Commission and for matters connected therewith or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixty-first Year of the Republic of India as follows :—

PART I

Preliminary

1. *Short title and commencement.*—(1) This Act may be called the Jammu and Kashmir Electricity Act, 2010.

(2) It shall come into force on the date of its publication in the Government Gazette.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (1) “Act” means the Jammu and Kashmir Electricity Act, 2010 ;
- (2) “area of supply” means the area within which a distribution licensee is authorized by his licence to supply electricity ;
- (3) “Authority” means an authority defined as such in clause (6) of section 2 of the Electricity Act, 2003 (Central Act No. 36 of 2003) ;
- (4) “Captive Generation Plant” means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association ;

- (5) “Central Transmission Utility” shall be assigned the same meaning as defined in clause (10) of section 2 of the Electricity Act, 2003 (Central Act No. 36 of 2003) ;
- (6) “Chairperson” means the Chairperson of the Commission ;
- (7) “co-generation” means a process which simultaneously produces two or more forms of useful energy (including electricity) ;
- (8) “Commission” means the Jammu and Kashmir State Electricity Regulatory Commission ;
- (9) “Company” means a company formed and registered under the Companies Act, 1956 and includes any body corporate under a Central or State Act ;
- (10) “conservation” means any reduction in consumption of electricity as a result of increase in the efficiency in supply and use of electricity ;
- (11) “Consumer” means any person who is supplied with electricity for his own use by a licensee or by the Government or by any other person engaged in the business of supplying electricity to the public under the Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee, the Government or such other person, as the case may be ;
- (12) “dedicated transmission lines” means any electric supply line for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission line or sub-stations or generating stations, or load centre, as the case may be ;

- (13) “Distribution Licensee” means a licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply ;
- (14) “Distribution Main” means the portion of any main with which a service line is, or is intended to be, immediately connected ;
- (15) “Distribution System” means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station and connection and the point of connection to the installation of the consumers ;
- (16) “Electric Line” means any line which is used for carrying electricity for any purpose and includes,—
- (a) 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
 - (b) any apparatus connected to any such line for the purpose of carrying electricity ;
- (17) “Electrical Inspector” means a person appointed as such by the Government under the provisions of the Act and also includes the Chief Electrical Inspector ;
- (18) “Electrical Plant” means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include,—
- (a) an electric line ;
 - (b) a meter used for ascertaining the quantity of electricity supplied to any premises ; and

- (c) an electrical equipment, apparatus or appliance under the control of a consumer ;
- (19) “Electricity” means electrical energy,—
- (a) generated, transmitted, supplied or traded for any purpose ; or
 - (b) used for any purpose except the transmission of a message ;
- (20) “Electricity Supply Code” means the Electricity Supply Code specified under section 44 ;
- (21) “Electricity System” means a system under the control of a generating company or licensee, as the case may be, having one or more,—
- (a) generating stations ;
 - (b) transmission lines ; or
 - (c) electric lines and sub-stations ;
- (22) “Electricity trader” means a person who is authorized to undertake trading in electricity under section 12 ;
- (23) “Franchisee” means a person authorized by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply ;
- (24) “Generating Company” means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station ;
- (25) “Generate” means to produce electricity from a generating station for the purpose to give supply to any premises or enabling a supply to be so given ;

-
- (26) “Generating Station or Station” means any station for generating electricity including any building and plant with step-up transformer, switch-gear, switchyard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof, a site intended to be used for a generating station and any building used for housing the operating staff of a generating station and where electricity is generated by water-power, includes penstocks head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station ;
- (27) “Government” means the Government of the State of Jammu and Kashmir ;
- (28) “Government Company” shall have the meaning as assigned to it in section 617 of the Companies Act, 1956 ;
- (29) “Grid” means the high voltage backbone system of interconnected transmission lines, sub-station and generating plants ;
- (30) “Grid Code” means the Grid Code specified by the Central Electricity Regulatory Commission under the provisions of the Electricity Act, 2003 (Central) ;
- (31) “Grid Standards” means the grid standards specified under clause (d) of section 73 of the Electricity Act, 2003 (Central) ;
- (32) “High Voltage Line” means an electric line or cable of a nominal voltage as may be specified by the authority from time to time ;
- (33) “Inter State Transmission System” includes—
- (a) any system for the conveyance of electricity by means of main transmission line from the territory of the State to another State ;

- (b) the conveyance of electricity across the territory of an intervening state as well as conveyance within the State which is incidental to such Inter-State Transmission of electricity ;
- (c) the transmission of electricity within the territory of the State on a system built, owned, operated, maintained or controlled by a State Transmission Utility ;
- (34) “Intra-State Transmission System” means any system for transmission of electricity other than an Inter-State Transmission System ;
- (35) “Licence” means a licence granted under section 14 ;
- (36) “Licensee” means a person who has been granted a licence under section 14 ;
- (37) “Line” means any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adopted for use in carrying electricity and includes 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 ;
- (38) “Local Authority” means any Municipal Council, Municipal Corporation, Municipal Committee, Panchayat constituted at the village, intermediate and district levels or other authority legally entitled to, or entrusted by the Government with, the control or management of any area or local fund ;
- (39) “Main” means any electric supply line through which electricity is or is, intended to be, supplied ;
- (40) “Member” means the member of the Commission and includes its Chairperson ;
- (41) “Notification” means notification published in the Government Gazette and the expression “notify” shall be construed accordingly ;

-
- (42) “Open Access” means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified by the Commission ;
- (43) “Overhead Line” means an electric line which is placed above the ground and in the open air but does not include live rails of a traction system ;
- (44) “Person” shall include any company or body corporate or association or body of individuals whether incorporated or not, or artificial juridical person ;
- (45) “Power System” means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following, namely :—
- (a) generating station ;
 - (b) transmission or main transmission lines ;
 - (c) sub-stations ;
 - (d) tie-lines ;
 - (e) load dispatch activities ;
 - (f) mains or distribution mains ;
 - (g) electric supply lines ;
 - (h) overhead lines ;
 - (i) service lines ;
 - (j) works ;
- (46) “premises” includes any land, building or structure ;

- (47) “prescribed” means prescribed by rules made by the Government under the Act ;
- (48) “Public Lamp” means an electric lamp used for the lighting of any street ;
- (49) “Real time operation” means action to be taken at a given time at which information about the electricity system is made available to the concerned load dispatch centre ;
- (50) “Regional Load Dispatch Centre” means the centre established under sub-section (1) of section 27 of the Electricity Act, 2003 (Central) ;
- (51) “Regulations” mean regulation made under the Act ;
- (52) “Repealed laws” means the Jammu and Kashmir Electricity Act, 1940 and the Jammu and Kashmir State Electricity Regulatory Commission Act, 2000 repealed by section 140 ;
- (53) “Rules” means rules made under the Act ;
- (54) “Service line” means any electric supply line through which electricity is, or is intended to be, supplied,—
 - (a) to a single consumer either from a distributing main or immediately from the distribution licensee’s premises ; or
 - (b) from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main ;
- (55) “Specified” means specified by regulations made by the Commission under this Act ;
- (56) “Stand alone System” means the electricity system set-up to generate power and distribute electricity in a specified area without connection to the grid ;
- (57) “State Grid Code” means the State Grid Code specified under clause (h) of sub-section (1) of section 71 ;

- (58) “State Load Dispatch Centre” means the centre established under section 26 ;
- (59) “State Transmission Utility” means any Government Company or Corporation specified as such by the Government under the sub-section (1) of section 33 ;
- (60) “Street” includes any way, road, lane, square, court, alley, passage 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 ;
- (61) “Sub-station” means station for transforming or converting electricity for the transmission or distribution thereof and includes transformers, converters, switch-gears, capacitors, synchronous, condensers, structures, cables and other appurtenant equipment and any buildings used for that purpose and the site thereof ;
- (62) “Supply” in relation to electricity, means the sale of electricity to a licensee or consumer ;
- (63) “Trading” means purchase of electricity for resale thereof and the expression “trade” shall be constructed accordingly ;
- (64) “Transmission lines” means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a sub-station together with any step-up and step-down transformers, switch-gears and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works ;
- (65) “Transmission Licensee” means a licensee authorized to establish or operate transmission lines ;
- (66) “Transmit” means conveyance of electricity by means of transmission lines and the expression “transmission” shall be constructed accordingly ;

- (67) “Utility” means the electric lines or electrical plant, and includes all lands, buildings, works and material attached thereto belonging to any person acting as a generating company or licensee under the provisions of the Act ;
- (68) “Wheeling” means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 56 ; and
- (69) “Works” includes electric line, and any building, plant, machinery apparatus and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a licence or sanction granted under the Act or any other law for the time being in force.

PART II

State Electricity Policy and Plan

3. *State Electricity Policy and Plan.*—(1) The Government shall, from time to time, prepare the State Electricity Policy and Tariff Policy, in light of National Electricity Policy and Tariff Policy, for development of the power system based on optimal utilization of resources such as coal, natural gas, nuclear substances or materials, hydro and renewable sources of energy.

(2) The Government may publish the State Electricity Policy and Tariff Policy from time to time.

(3) The Government may, from time to time, review or revise the State Electricity Policy and Tariff Policy referred to in subsection (1) in accordance with the National Electricity Policy and Tariff Policy.

(4) The Government shall, prepare the State Electricity Plan in accordance with the State Electricity Policy and notify such plan once

in five years. The Government, while doing so, may seek expert advice from the authority also :

Provided that the Government, while preparing the State Electricity Plan, shall publish the Draft State Electricity Plan and invite suggestions and objections thereon from licensees, generating companies and the public within such time as may be prescribed.

4. *State policy on stand alone system for rural areas and non-conventional energy systems.*— The Government shall, prepare and notify a State policy, permitting stand alone systems (including those based on renewable sources of energy and other non-conventional sources of energy) for rural areas.

5. *State policy on electrification and local distribution in rural areas.*—The Government shall also formulate a State policy, for rural electrification and bulk purchase of power and management of local distribution in rural areas through Panchayat Institutions, Users Association, Co-operative Societies, Non-Governmental Organizations or Franchises.

6. *Obligations to supply electricity to rural areas.*— The Government shall endeavor to supply electricity to all areas including villages and hamlets.

PART III

Generation of Electricity

7. *Generating company and requirement for setting up of generating stations.*—Any generating company may establish, operate and maintain a generating station without obtaining a licence under the Act if it complies with the technical standards relating to connectivity with the grid referred to in clause (b) of section 73 of the Electricity Act, 2003 (Central).

8. *Hydro Electric Generation*—(1) Notwithstanding any thing contained in section 7, any generating company intending to set up a hydrogenerating station shall prepare and submit to the authority for its concurrence, a scheme estimated to involve a capital

expenditure exceeding such sum, as may be fixed by the Central Government, from time to time, by notification.

(2) The Central Electricity Authority shall, before concurring in any scheme submitted to it under sub-section (1) have particular regard to, whether or not in its opinion,—

- (a) the proposed river works will prejudice the prospects for the best ultimate development of the river or its tributaries for power generation, consistent with the requirements of drinking water, irrigation, navigation, flood control or other public purposes and for this purpose the authority shall satisfy itself, after consultation with the Government, the Central Government or such other agencies as it may deem appropriate that an adequate study has been made of the optimum location of dams and other river works ;
- (b) the proposed scheme meets the norms regarding dam design and safety.

(3) Where a multipurpose scheme for the development of any river in any region is in operation, the Government and the generating company shall coordinate their activities with the activities of such person responsible for such scheme in so far as they are inter-related.

9. *Captive generation.*—(1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate captive generating plant and dedicated transmission line/s :

Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company :

Provided further that no licence shall be required under the Act for supply of electricity generated from a captive generating plant to any licensee in accordance with the provisions of the Act and the rules and regulations made thereunder and to any consumer subject to the regulations made under sub-section (2) of section 36.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use :

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the State Transmission Utility :

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Commission.

10. *Duties of generating companies.*—(1) Subject to the provisions of this Act, the duties of a generating company shall be to establish, operate and maintain generating stations, tie-lines, substations and dedicated transmission lines connected therewith in accordance with the provisions of the Act or the rules or regulations made thereunder.

(2) A generating company may supply electricity to any licensee in accordance with the Act and the rules and regulations made thereunder.

(3) Every generating company shall,—

- (a) submit technical details regarding its generating stations to the Commission and the Authority ;
- (b) co-ordinate with the Central Transmission Utility or the State Transmission Utility, as the case may be, for transmission of the electricity generated by it.

11. *Directions to the generating companies.*—(1) The Government may specify that a generating company shall, in extraordinary circumstances, operate and maintain any generating station in accordance with the directions as may be issued by the Government.

Explanation:—For purposes of this section, the expression “extraordinary circumstances” means circumstances

arising out of the threat to security of the State, public order or a natural calamity or such other circumstances arising in the public interest.

(2) The Commission may offset the adverse financial impact of the directions referred to in sub-section (1) on any generating company in such manner as it considers appropriate.

PART IV

Licensing

12. *Authorized person to transmit, supply etc. electricity.*—No person shall,—

- (a) transmit electricity ; or
- (b) distribute electricity ; or
- (c) undertake trading in electricity,

unless he is authorized to do so by a licence issued under section 14, or is exempt under section 13.

13. *Power to exempt.*—The Commission may, on the recommendations of the Government, in accordance with the State Policy formulated under section 5 and in the public interest, direct, by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the provisions of section 12, shall not apply to any local authority, Panchayat Institutions, Users Association, Co-operative Societies, Non-Governmental Organization, or franchisees.

14. *Grant of licence.*—The Commission may, on an application made to it under section 15, grant a licence to any person to—

- (a) transmit electricity as a transmission licensee ; or
- (b) distribute electricity as a distribution licensee ; or

- (c) undertake trading in electricity as an electricity trader, in any area as may be specified in the licence :

Provided that any person engaged in the business of transmission or supply of electricity under the provisions of the repealed laws shall on the commencement of the Act be deemed to be a licensee under the Act for such period as may be stipulated in the licence, clearance or approval granted to him under the repealed laws and the provisions of the repealed laws shall apply for a period of one year from the date of commencement of the Act or such earlier period as may be specified, at the request of the licensee, by the Commission and thereafter the provisions of this Act shall apply to such business :

Provided further that the Central Transmission Utility and State Transmission Utility shall be deemed to be a transmission licensee under the Act :

Provided also that in case the Government transmits electricity or distributes electricity or undertakes trading in electricity, whether before or after the commencement of the Act, the Government shall be deemed to be a licensee under the Act, and shall not be required to obtain a licence under the Act :

Provided also that the Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the applicant for grant of licence within the same area shall, without prejudice to the other conditions or requirements under the Act, comply with the additional requirements (relating to the capital adequacy, creditworthiness, or Code of Conduct) as may be prescribed, and no such applicant, who complies with all the requirements for grant of licence shall be refused grant of licence on the ground that there already exists a licensee in the same area for the same purpose :

Provided also that in a case where a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person that person shall not be required to obtain any separate licence from the Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply :

Provided also that where a person intends to generate and distribute electricity in a rural area to be notified by the Government, such person shall not require any licence for such generation and distribution of electricity, but he shall comply with the measures which may be specified by the authority under section 47 :

Provided also that a distribution licensee shall not require a licence to undertake trading in electricity.

15. *Procedure for grant of licence.*—(1) Every application under this section shall be made in such form and in such manner as may be specified by the Commission and shall be accompanied by such fee as may be prescribed.

(2) Any person who has made an application for grant of licence shall, within seven days after making such application, publish a notice of his application with such particulars and in such manner as may be specified and a licence shall not be granted—

- (a) until the objections, if any, received by the Commission in response to publication of the application have been considered by it :

Provided that no objection shall be considered unless it is received before the expiration of thirty days from the date of publication of the notice as aforesaid ; and

- (b) until, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of Government for defense purposes, the Commission has ascertained that there is no objection to the grant of licence on the part of the Central Government.

(3) A person intending to act as a transmission licensee shall, immediately on making the application, forward a such copy of application to the State Transmission Utility.

(4) The State Transmission Utility, shall within thirty days after the receipt of the copy of the application referred to in sub-section (3), send its recommendations, if any, to the Commission :

Provided that such recommendations shall not be binding on the Commission.

(5) Before granting a licence under section 14, the Commission shall—

- (a) publish a notice in at least two such daily newspapers, as the Commission may consider necessary, stating the name and address of the person to whom it proposes, to issue the licence ; and
- (b) consider all suggestions or objections and the recommendations, if any, of the State Transmission, if any, of the State Transmission Utility.

(6) Where a person makes an application under sub-section (1), the Commission shall, as far as practicable, within ninety days after receipt of such application,—

- (a) issue a licence subject to the provisions of the Act and the rules and regulations made thereunder ; or
- (b) reject the application for reasons to be recorded in writing, if such application does not conform to the provisions of the Act or the rules and regulations made thereunder or the provisions of any other law for the time being in force :

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

(7) The Commission shall, immediately after issue of a licence forward a copy of the licence to the Government, Authority, Local Authority and to such other person as it may consider necessary.

(8) A licence shall continue to be in force for a maximum period of twenty-five years unless such licence is revoked, or unless otherwise specified to be in force for a period of less than twenty-five years.

16. *Conditions of licence.*—The Commission may specify any general or specific conditions which shall apply either to a licensee or class of licensees and such conditions shall be deemed to be conditions of such licence :

Provided that the Commission shall, within one year from the date of commencement of the Act, specify any general or specific conditions of licence applicable to the licencees referred to in the first, second, third, fourth and fifth provisos to section 14.

17. *Licensee not to do certain things.*—(1) No licensee shall, without prior approval of the Commission,—

- (a) undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee ; or
- (b) merge his utility with the utility of any other licensee.

(2) Every licensee shall, before obtaining the approval under sub-section (1), give not less than one month's notice to every other licensee whom transmits or distributes electricity in the area of such licensee who applies for such approval.

(3) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission.

(4) Any agreement relating to any transaction specified in sub-section (1) or sub-section (3), unless made with the prior approval of the Commission, shall be void.

18. *Amendment of licence.*—(1) Where in its opinion the public interest so permits, the Commission, may, on the application of the

licensee otherwise, make such alternations and amendments in the terms and conditions of his licence as it thinks fit :

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

(2) Before any alternations or amendments in the licence are made under this section, the following provisions shall have effect, namely :—

- (a) where the licensee has made an application under sub-section (1) proposing any alternation or modifications in his licence, the licensee shall publish a notice of such application with such particulars and in such manner as may be specified ;
- (b) in the case of an application proposing alternations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome fortress, arsenal, dockyard or camp or any building or place in the occupations of the Government for defense purposes, the Commission shall not make any alternations or modifications except with the consent of the Central Government ;
- (c) where any alternations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Commission shall publish the proposed alternations or modifications with such particulars and in such manner as may be specified ;
- (d) the Commission shall not make any alternations or modifications unless all suggestions or objections received within thirty days from the date of first publication of the notice have been considered.

19. *Revocation of licence.*—(1) If the Commission, after making an enquiry, is satisfied that public interests so requires, it may revoke a licence in any of the following cases, namely :—

- (a) where the licensee, in the opinion of the Commission, makes willful and prolonged default in doing anything required of it by or under the Act or the rules or regulations made there under ;
- (b) where the licensee violates any of the terms and conditions of its licence the violation 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 its licence, or any longer period which the Commission may have granted thereof, to,—
 - (i) show to the satisfaction of the Commission that the licensee is in a position fully and efficiently to discharge the duties and obligations imposed on it by his licence ; or
 - (ii) make the deposit or furnish the security or pay the fees or other charges required by his licence ;
- (d) where in the opinion of the Commission the final position of the licensee is such that he is unable fully and efficiently 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, on application, or with the consent of the licensee, revoke his licence as to the whole or part of his area of distribution or transmission or trading up on such terms and conditions as it thinks fit.

(3) No licence shall be revoked under sub-section (1) 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) The Commission may, instead of revoking a licence under sub-section (1), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms and conditions so imposed shall be binding up on and be observed by the licensee and shall be of like force and effect as if they were specified in the licence.

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

(6) Where the Commission has given notice for revocation of licence under sub-section (5), without prejudice to any penalty which may be imposed or prosecution proceeding which may be intended under the Act, the licensee may, after prior approval of the Commission sell his utility to any person who is found eligible by the Commission for grant of licence.

20. *Sale of utilities of licensees.*—(1) Where the Commission revokes under section 19, the licence of any licensee, the following provisions shall apply, namely :—

- (a) the Commission shall invite application for acquiring the utility of the licensee whose licence has been revoked and determine which of such applications should be accepted, primarily on the basis of the highest and best price offered for the utility ;
- (b) the Commission may, by notice in writing, require the licensee to sell his utility and thereupon the licensee shall sell his utility to the person (hereafter in this section referred to as the “purchaser”) whose application has been accepted by the Commission ;
- (c) all the rights, duties, obligations and liabilities of the licensee, on and from the date of revocation of licence

or on and from the date, if earlier, on which the utility of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date ;

- (d) the Commission may make such interim arrangements in regard to the operation of the utility as may be considered appropriate including the appointment of Administrators ;
- (e) the Administrator appointed under clause (d) shall exercise such powers and discharge such functions as the Commission may direct.

(2) Where a utility is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the utility in such manner as may be agreed upon.

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

(4) Where the licensee has delivered the utility referred to in sub-section (3) to the purchaser but its sale has not been completed by the date fixed in the notice issued under that sub-section, the Commission may, if it deems fit, permit the intending purchaser to operate and maintain the utility system pending the completion of the sale.

21. *Vesting of utility in purchaser.*—Where a utility is sold under section 20, or section 24, then, upon completion of the sale or on the date on which the utility is delivered to the intending purchaser, as the case may be, whichever is earlier,—

- (a) the utility shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt,

mortgage or similar obligations of the licensee or attaching to the utility :

Provided that any such debt, mortgage or similar obligations shall attach to the purchase money in substitution for the utility ; and

- (b) the rights, powers, authorities, duties and obligations of the licensee under his licence shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee.

22. *Provisions where no purchase takes place.*—(1) If the utility is not sold in the manner provided under section 20 or section 24, the Commission may, to protect the interest of consumers or in the public interest, issue such directions or formulate such scheme as it may deem necessary for operation of the utility.

(2) Where no directions are issued or scheme is formulated by the Commission under sub-section (1), the licensee referred to in section 20 or section 24 may dispose of the utility in such manner as it may deem fit :

Provided that, if the licensee does not dispose of the utility, within a period of six months from the date of revocation under section 20 or section 24, the Commission may cause the works of the licensee in, under, over, along, or across any street or public land 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.

23. *Directions to the licensee.*—If the Commission is of the opinion that it is necessary or expedient so to do for maintaining the efficient supply, securing the equitable distribution of electricity and promoting competition, it may, by order, provide for regulating supply, distribution, consumption or use thereof.

24. *Suspension of distribution licence and sale of utility.*—

(1) If at any time the Commission is of the opinion that a distribution licensee,—

- (a) has persistently failed to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers ; or
- (b) is unable to discharge the functions or perform the duties imposed on it by or under the provisions of the Act ; or
- (c) has persistently defaulted in complying with any direction given by the Commission under the Act ; or
- (d) has violated the terms and conditions of licence,

and circumstances exist which render it necessary for it in public interest so to do, the Commission may, for reasons to be recorded in writing, suspend, for a period not exceeding one year, the licence of the distribution licensee and appoint an Administrator to discharge the function of the distribution licensee in accordance with the terms and conditions of the licence :

Provided that before suspending a licence under this section, the Commission shall give a reasonable opportunity to the distribution licensee to make representation against the proposed suspension of licence and shall consider the representation, if any, of the distribution licensee.

(2) Upon suspension of licence under sub-section (1), the utilities of the distribution licensee shall vest in the Administrator for a period not exceeding one year or up to the date on which such utility is sold in accordance with the provisions contained in section 20, whichever is later.

(3) The Commission shall, within one year of appointment of the Administrator under sub-section (1), either revoke the licence in accordance with the provisions contained in section 19 or revoke suspension of the licence and restore the utility to the distribution licensee whose licence had been suspended, as the case may be.

(4) In a case where the Commission revokes the licence under sub-section (3), the utility of the distribution licensee shall be sold within a period of one year from the date of revocation of the licence in accordance with the provisions of section 20 and the price after deducting the administrative and other expenses on sale of utilities shall be remitted to the distribution licensee.

PART V

Transmission of Electricity

25. *Transmission within the State.*—The Commission shall facilitate and promote transmission, wheeling and inter connection arrangements within the State for the transmission and supply of electricity by economical and efficient utilization of the electricity.

26. *Constitution of State Load Despatch Centre.*—(1) The Government shall establish a centre to be known as the State Load Despatch Centre for the purposes of exercising the power and discharging the functions under this Part for optimum load scheduling and despatches.

(2) The State Load Despatch Centre shall be operated by a Government company or any authority or corporation established or constituted by or under an Act of the State Legislature, as may be notified by the Government :

Provided that until a Government company or any authority or corporation is notified by the Government, the State Transmission Utility shall operate the State Load Despatch Centre :

Provided further that State Load Despatch Centre shall not engage in the business of trading in electricity.

27. *Functions of State Load Despatch Centre.*—(1) The State Load Despatch Centre shall be the Apex Body to ensure integrated operation of the power system in the State.

(2) The State Load Despatch Centre shall,—

- (a) be responsible for optimum scheduling and despatch of electricity within the State, in accordance with the contracts entered into with the licensees or the generating companies operating in the State ;
- (b) monitor grid operations ;
- (c) keep accounts of the quantity of electricity transmitted through the State Grid ;
- (d) exercise supervision and control over the intra-State transmission system ; and
- (e) be responsible for carrying out real time operations of Grid control and despatch of electricity within the State through secure and economic operation of the State Grid in accordance with the Grid Standards and the State Grid Code.

(3) The State Load Despatch Centre may levy and collect such fee and charges from the generating companies and licensees engaged in intra-State transmission of electricity as may be specified by the Commission.

(4) The State Load Despatch Centre shall have to comply with such principles, guidelines and methodologies in respect of wheeling and optimum scheduling and despatch of electricity as the Commission may specify in the Grid Code.

28. *Compliance of directions.*—(1) The State Load Despatch Centre may give such directions and exercise such supervision and control as may be required for ensuring the integrated grid operations and for achieving the maximum economy and efficiency in the operation of power system in the State.

(2) Every licensee, generating company, generating station, sub-station and any other person connected with the operation of the power system shall comply with the directions issued by the State Load Diepatch Centre under sub-section (1).

(3) The State Load Despatch Centre shall comply with the directions of the Regional Load Despatch Centre.

(4) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the State grid or in relation to any direction given under sub-section (1), it shall be referred to the Commission for decision :

Provided that pending the decision of the Commission, the directions of the State Load Despatch Centre shall be complied with by the licensee or generating company.

(5) If any licensee, generating company or any other person fails to comply with the directions issued under sub-section (1), he shall be liable to a penalty not exceeding rupees five lacs.

29. *Grid standards.*—Every Transmission licensee shall comply with such technical standards of operation and maintenance of transmission lines, in accordance with the grid standards, as may be specified by the Authority.

30. *Intervening transmission facilities.*—The Commission may, on an 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 :

Provided that any dispute, regarding the extent of surplus capacity available with the licensee, shall be adjudicated upon by the Commission.

31. *Charges for intervening transmission facilities.*—(1) Every licensee shall, on an order made under section 30, provide his intervening transmission facilities at rates, charges and terms and conditions as may be mutually agreed upon :

Provided that the Commission may specify rates, charges and terms and conditions if these can not be mutually agreed upon 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 allocated in proportion to the use of such facilities.

Explanation :—For purposes of sections 30 and 31, the expression “intervening transmission facilities” means the electric lines owned or operated by a licensee where such electric lines can be utilized for transmitting electricity for and on behalf of another licensee at his request and on payment of a tariff or charge.

32. *Directions by Government.*—The Government may issue directions to the State Load Dispatch Centre to take such measures as may be necessary for maintaining smooth and stable transmission and supply of electricity to any area of the State.

33. *State Transmission Utility and functions.*—(1) The Government may notify a Government Company or a Corporation as the State Transmission Utility :

Provided that the State Transmission Utility shall not engage in the business of trading in electricity :

Provided further that the Government may transfer, and vest any property, interest in property, rights and liabilities connected with, and personnel involved in transmission of electricity, of such Transmission Utility, to a company or companies to be incorporated under the Companies Act, 1956 to function as transmission licensee through a transfer scheme to be effected in the manner specified under Part XIII and such company or companies shall be deemed to be transmission licensees under the Act.

(2) The functions of the State Transmission Utility shall be—

(a) to undertake transmission of electricity through Intra-State Transmission System ;

- (b) to discharge all functions of planning and coordination relating to Intra-State Transmission System with,—
- (i) Central Transmission Utility ;
 - (ii) other State Governments ;
 - (iii) generating Companies ;
 - (iv) Regional Power Committees ;
 - (v) Authority ;
 - (vi) licensees ;
 - (viii) any other person notified by the Government in this behalf ;
- (c) to ensure development of an efficient, co-coordinated and economical system of Intra-State transmission lines for smooth flow of electricity from generating stations/HV Sub-Stations to the load centers ;
- (d) to provide non-discriminatory open access to its transmission system for use by,—
- (i) any licensee or generating company on payment of the transmission charges ; or
 - (ii) any consumer as and when such open access is provided by the Commission under sub-section (2) of section 36, on payment of the transmission charges and a surcharge thereon, as may be specified by the Commission :

Provided that such surcharges shall be utilized for the purpose of meeting the requirement of current level cross-subsidy :

Provided further that such surcharges and cross-subsidies shall be progressively reduced in the manner as may be specified by the Commission :

Provided also that the manner of payment and utilization of the surcharge shall be specified by the Commission :

Provided also that such surcharge shall not be liviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

34. *Duties of transmission licenses.*—It shall be the duty of a transmission licensee,—

- (a) to build, maintain and operate an efficient, coordinated and economical Intra-State Transmission System or Inter-State Transmission System, as the case may be ;
- (b) to comply with the directions of the Regional Load Dispatch Centre and the State Load Despatch Centre, as the case may be ;
- (c) to provide non-discriminatory open access to its transmission system for use by,—
 - (i) any licensee or generating company on payment of the transmission charges ; or
 - (ii) any consumer as and when such open access is provided by the Commission under sub-section (2) of the section 36, on payment of the transmission charges and a surcharge thereon, as may be specified by the Commission :

Provided that such surcharge shall be utilized for the purpose of meeting the requirement of current level cross-subsidy :

Provided further that such surcharge and cross-subsidies shall be progressively reduced in the manner as may be specified by the Commission :

Provided also that the manner of payment and utilization of the surcharge shall be specified by the Commission :

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use.

35. *Other business of transmission licensee.*—A transmission licensee may, with prior intimation to the Commission, engage in any business for optimum utilization of its assets :

Provided that a proportion of the revenues delivered from such business shall, as may be specified by the Commission, be utilized for reducing its charges for transmission and wheeling :

Provided further that the transmission licensee shall maintain separate accounts for each such business undertaking to ensure that transmission business neither subsidises in any way such business undertaking nor encumbers its transmission assets in any way to support such business :

Provided also that no transmission licensee shall enter into any contract or otherwise engage in the business of trading in electricity.

PART VI

DISTRIBUTION OF ELECTRICITY

Provisions with respect to distribution licensees

36. *Duties of distribution licensee and open access.*—(1) It shall be the duty of a distribution licensee to develop and maintain an efficient, co-coordinated and economical distribution system in his area of supply and to supply electricity in accordance with the provisions contained in the Act.

(2) The Commission shall introduce open access in such phases and subject to such conditions (including the cross-subsidies, and other operational constraints) as may be specified within one year of the

date of commencement of the Act and in specifying the extent of open access in successive phases and in determining the charges of wheeling, it shall have due regard to all relevant factors including such cross subsidies, and other operational constraints :

Provided that such open access shall be allowed on payment of a surcharge in addition to the charges for wheeling as may be determined by the Commission :

Provided further that such surcharge shall be utilized to meet the requirements of current level of cross-subsidy within the area of supply of the distribution licensee :

Provided also that such surcharge and cross-subsidies shall be progressively reduced in the manner as may be specified by the Commission :

Provided also that such surcharge shall not be leviable in case open access is provided to a person who has established a captive generating plant for carrying the electricity to the destination of his own use :

Provided also that the Commission shall, not later than five years from the date of commencement of the Act, by regulations, provide such open access to all consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

(3) Where any person, whose premises are situated within the area of a distribution licensee (not being a local authority engaged in the business of distribution of electricity before the commencement of the Act) requires a supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, by notice, require the distribution licensee for wheeling such electricity in accordance with regulations made by the Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.

(4) Where the Commission permits a consumer or class of consumers to receive supply of electricity from a person other than

the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the charges of wheeling, as may be specified by the Commission, to meet the fixed cost of such distribution licensee arising out of his obligation to supply.

(5) Every distribution licensee shall, within six months from the commencement of the Act or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for redressal of his grievances to an authority to be known as Ombudsman to be appointed or designated by the Commission.

(7) The Ombudsman shall settle the grievances of the consumer within such time and in such manner as may be specified by the Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the right conferred upon him by those sub-sections.

37. Duty to supply on request.—(1) Save as otherwise provided in the Act, every distribution licensee, shall, on an application by the owner or occupier of any premises, give supply of electricity to such premises, within one month after receipt of the application requiring such supply :

Provided that where such supply requires extension of distribution mains, or commissioning of new sub-station, the distribution licensee shall supply the electricity to such premises immediately after such extension or commissioning or within such period as may be specified by the Commission :

Provided further that in case of a village or hamlet or area wherein no provision for supply of electricity exists, the Commission may extend the said period as it may consider necessary for electrification of such village or hamlet or area.

Explanation :—For purposes of this sub-section, ‘application’ means the application complete in all respects in the appropriate form, as required by the distribution licensee, along with documents showing payment of necessary charges and other compliances.

(2) It shall be the duty of every distribution licensee to provide, if required, electric plant or electric line for giving electric supply to the premises specified in sub-section (1) :

Provided that no person shall be entitled to demand, or to continue to receive, from a licensee a supply of electricity for any premises having a separate supply unless he has agreed with the licensee to pay to him such price as may be determined by the Commission from time to time.

(3) If a distribution licensee fails to supply the electricity within the period specified in sub-section (1), he shall be liable to a penalty which may extend to one thousand rupees for each day of default.

38. *Exceptions from duty to supply electricity.*—Nothing contained in section 37 shall be taken as requiring a distribution licensee to give supply of electricity to any premises if he is prevented from so doing by cyclone, floods, storms or other occurrences beyond his control.

39. *Power to recover charges.*—(1) Subject to the provisions of this section, the prices to be charged by a distribution licensee for the supply of electricity by him in pursuance of section 37 shall be in accordance with such tariffs fixed from time to time and conditions of his licence.

(2) The charges for electricity supplied by a distribution licensee shall be,—

- (a) fixed in accordance with the methods and the principles as may be specified by the Commission ;
- (b) published in such manner as shall give adequate publicity for such charges and prices.

(3) The charges for electricity supplied by a distribution licensee may include,—

- (a) a fixed charge in addition to the charge for the actual electricity supplied ;
- (b) a rent or other charges in respect of any electric meter or electric plant provided by the distribution licensee.

(4) Subject to the provisions of section 56, in fixing charges under this section a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.

(5) The charges fixed by the distribution licensee shall be in accordance with the provisions of the Act and the regulations made in this behalf by the Commission.

40. *Power to recover expenditure.*— The Commission may, by regulations, authorize a distribution licensee to charge from a person requiring a supply of electricity in pursuance of section 37, any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply.

41. *Power to require security.*—(1) Subject to the provisions of this section, a distribution licensee may require any person, who requires a supply of electricity in pursuance of section 37, to give him reasonable security, as may be determined by regulations, for the payment to him of all charges which may become due to him,—

- (a) in respect of the electricity supplied to such person ; or
- (b) where any electric line or electric plant or electric meter is to be provided for supplying electricity to such person, in respect of the provisions of such line or plant or meter, and if that person fails to give such security, the distribution licensee may, if he thinks fit, refuse to give a supply of electricity or to provide a line or plant or meter for the period during which 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, the distribution licensee may, by notice, require that person, within thirty days after the service of the notice, to give him reasonable security for the payment of all charges which may become due to him in respect of the supply of electricity or provisions of such line or plant or meter.

(3) If the person referred to in sub-section (2) fails to give such security, the distribution licensee may, if he thinks fit, discontinue the supply of electricity for the period during which the failure continues.

(4) The distribution licensee shall pay interest equivalent to the bank rate or more, as may be specified by the Commission, on the security referred to in sub-section (1) and refund such security on the request of the person who gave such security.

(5) A distribution licensee shall not be entitled to require security in pursuance of clause (a) of sub-section (1), if the person requiring the supply is prepared to take the supply through a pre-payment meter.

42. *Additional terms of supply.*— A distribution licensee may require any person who requires a supply of electricity in pursuance of section 37 to accept,—

- (a) any restrictions which may be imposed for the purpose of enabling the distribution licensee to comply with the regulations made under section 47 ;
- (b) any terms restricting any liability of the distribution licensee for economic loss resulting from negligence of the person to whom the electricity is supplied.

43. *Agreements with respect to supply or purchase of electricity.*—Where the Commission has allowed open access to certain consumers under section 36, such consumers, notwithstanding the provisions contained in clause (d) of sub-section (1) of section 56, may enter into an agreement with any person for supply or

purchase of electricity on such terms and conditions (including tariff) as may be agreed upon by them.

44. *The Electricity Supply Code.*—The Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, measures for preventing tampering, distress or damage to electrical plant, electric lines or meters, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plants meter and such other matters.

45. *Other business of distribution licensees.*—A distribution licensee may, with prior intimation to the Commission, engage in any other business for optimum utilization of its assets :

Provided that a proportion of the revenues delivered from such business shall, as may be specified by the Commission, be utilized for reducing its charges for wheeling :

Provided further that the distribution licensee shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidises in any way such business undertaking nor encumbers its distribution assets in any way to support such business :

Provided also that nothing contained in this section shall apply to a local authority engaged, before the commencement of the Act, in the business of distribution of electricity.

46. *Provisions with respect to electricity trader.*—(1) Without prejudice to the provisions contained in clause (c) of section 12, the Commission may, specify the technical requirement, capital adequacy requirement and credit worthiness for being an electricity trader.

(2) Every electricity trader shall discharge such duties, in relation to supply and trading in electricity, as may be specified by the Commission.

47. *Provisions relating to safety and electricity supply.*—The Authority may, in consultation with the Government, specify suitable measures for,—

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant ;
- (b) eliminating or reducing the risk of personal injury to any person or damage to property of any person or interference with use of such property ;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specifications as may be specified ;
- (d) giving notice in the specified form to the Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity ;
- (e) keeping by a generating company or licensee, the maps, plans and sections relating to supply or transmission of electricity ;
- (f) inspection of maps, plans and sections by any person authorized by it or by Electrical Inspector or by any person on payment of specified fee ;
- (g) 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 eliminating or reducing the risk of personal injury or damage to property or interference with its use.

48. *Control of transmission and use of electricity.*— (1) Save as otherwise exempted under the Act, no person other than the State Transmission Utility or a licensee shall transmit or use electricity at

a rate exceeding two hundred and fifty watts and one hundred volts,—

- (a) in any street, or
- (b) in any place,—
 - (i) in which one hundred or more persons are ordinarily likely to be assembled ; or
 - (ii) which is a factory within the meaning of the Factories Act, 1948 or a mine within the meaning of the Mines Act, 1952 ; or
 - (iii) to which the Government, by general or special order, declares the provisions of this sub-section to apply, without giving, before the commencement of transmission or use of electricity, not less than seven days' notice in writing of his intention to the Electrical Inspector and to the District Magistrate, as the case may be, containing particulars of the electrical installations and plant, if any, the nature and the purpose of supply and complying with such of the provisions of Part XVII of the Act, as may be applicable :

Provided that nothing in this section shall apply to electricity used for the public carriage of passengers, animals or goods, on, or for the lighting or ventilation of the rolling stock of any railway or tramway subject to the provisions of the Railways Act, 1989.

(2) Where any difference or dispute arises as to whether a place is or is not one in which one hundred or more persons are ordinarily likely to be assembled, the matter shall be referred to Government, and the decision of the Government thereon shall be final.

49. *Use, etc., of meters.*—(1) No licensee shall supply electricity, after the expiry of two years from the commencement of the Act, except through installation of a correct meter in accordance with the regulations to be made in this behalf by the Commission :

Provided that the licensee may require the consumer to give him security for the price of a meter and enter into an agreement for the hire thereof, unless the consumer elects to purchase a meter :

Provided further that the Commission may, by notification, extend the said period of two years for a class or classes of persons or for such area as may be specified in that notification.

(2) For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Commission may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.

(3) If a person makes default in complying with the provisions contained in this section or the regulations made under sub-section (1), the Commission may make such order as it thinks fit for requiring the default to be made good by the generating company or licensee or by any officers of a company or other association or any other person who is responsible for its default.

50. *Disconnection of supply in the default of payment.*—

(1) Where any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving not less than fifteen clear days' notice in writing, to such person and without prejudice to his right to recover such charges or other sum by suit, cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charges or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply, are paid, but no longer :

Provided that the supply of electricity shall not be cut off if such person deposits, under protest,—

- (a) an amount equal to the sum claimed from him ; or
- (b) the electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months,

whichever is more, pending disposal of any dispute between him and the licensee.

(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrears of charges for electricity supplied and the licensee shall not cut off supply of electricity.

51. Standards of performance of licensee.—(1) The Commission may, after consultation with the licensees and the persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Commission :

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.

52. Different standards of performance by licensee.—The Commission may specify different standards under sub-section (1) of section 51, for a class or classes of licensees.

53. *Information with respect to levels of performance.*—

(1) Every licensee shall, within the period specified by the Commission, furnish to the Commission the following information, namely :—

- (a) the level of performance achieved under sub-section (1) of section 51 ;
- (b) the number of cases in which compensation was made under sub-section (2) of section 51, and the aggregate amount of the compensation.

(2) The Commission shall at least once in every year arrange for the publication, in such form and manner as it considers appropriate, of such of the information furnished to it under sub-section (1).

54. *Market domination.*—The Commission may issue such directions as it considers appropriate to a licensee or a generating company if such licensee or generating company enters into any agreement or abuses its dominant position or enters into a combination which is likely to cause or causes an adverse effect on competition in electricity industry.

PART VII

Tariff

55. *Tariff regulations.*—The Commission shall, subject to the provisions of the Act, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the following namely :—

- (a) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees ;
- (b) the generation, transmission, distribution and supply of electricity are conducted on commercial principles ;
- (c) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments ;

- (d) safeguarding of consumers' interest and at the same time, recovery of the cost of electricity in a reasonable manner ;
- (e) the principles rewarding efficiency in performance ;
- (f) multi-year tariff principles ;
- (g) that the tariff progressively, reflects the cost of supply of electricity and also reduces cross subsidies within the period to be specified by the Commission ;
- (h) the promotion of co-generation and generation of electricity from renewable sources of energy ;
- (i) the State Electricity Policy and the State Tariff Policy :

Provided that the terms and conditions for determination of tariff laid down by the Commission or by any other authority, immediately before the commencement of the Act, shall continue to apply for a period of one year or until the terms and conditions for tariff are specified under this section, whichever is earlier.

56. *Determination of tariff.*—(1) The Commission shall determine the tariff in accordance with the provisions of the Act for,—

- (a) supply of electricity by a generating company to a distribution licensee :

Provided that the Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one year to ensure reasonable prices of electricity ;

- (b) transmission of electricity ;
- (c) wheeling of electricity ;

(d) retail sale of electricity :

Provided that in case of distribution of electricity in the same area by two or more distribution licensees, the Commission may, for promoting competition among distribution licensees, fix only maximum ceiling of tariff for retail sale of electricity.

(2) The Commission may require a licensee or a generating company to furnish separate details, as may be specified in respect of generation, transmission and distribution for determination of tariff.

(3) The Commission shall not, while determining the tariff under the Act, show undue preference to any consumer of electricity but may differentiate according to the consumer's load factor, power factor, voltage, 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.

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

(5) The Commission may require a licensee or a generating company to comply with such procedure as may be specified for calculating the expected revenues from the tariff and charges which he or it is permitted to recover.

(6) If any licensee or a generating company recovers a price or charge exceeding the tariff determined under this section, the excess amount shall be recoverable by the person who has paid such price or charge along with interest equivalent to the bank rate without prejudice to any other liability incurred by the licensee.

57. *Determination of tariff by bidding process.*—Notwithstanding anything contained *in* section 56, the Commission shall adopt the tariff if such tariff has been determined through transparent process of bidding *in* accordance with the guidelines issued by the Government.

58. *Procedure for tariff order.*— (1) An application for determination of tariff under section 56 shall be made by a generating company or licensee in such manner and accompanied by such fee, as may be determined by regulations.

(2) Every applicant shall publish the application, in such abridged form and manner, as may be specified by the Commission.

(3) The Commission shall, within one hundred and twenty days from receipt of an application under sub-section (1) and after considering all suggestions and objections received from the public,—

- (a) issue tariff order accepting the application with such modifications or conditions as may be specified in that order ; or
- (b) reject the application for reasons to be recorded in writing if such application is not in accordance with the provisions of the Act and the rules or regulations made thereunder or the provisions of any other law for the time being in force :

Provided that an applicant shall be given a reasonable opportunity of being heard before rejecting his application.

(4) The Commission shall, within seven days of making the order, send a copy of the order to the Government, the Authority, and the concerned licensee and to the person concerned.

(5) A tariff order shall, unless amended or revoked, continue to be in force for such period as may be specified in the tariff order.

59. *Provisions of subsidy by Government.*— If the Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission under section 56, the Government shall, notwithstanding any direction which may be given under section 84, pay, in advance and in such manner as may be specified, the amount to compensate the person affected by

the grant of subsidy in the manner the Commission may direct, as a condition for the licensee or any other person concerned to implement the subsidy provided for by the Government :

Provided that no such direction of the Government shall be operative if the payment is not made in accordance with the provisions contained in this section and the tariff fixed by the Commission shall be applicable from the date of issue of orders by the Commission in this regard.

60. *Development of market.*— The Commission shall, endeavor to promote the development of a market (including trading) in power in such manner as may be specified and shall be guided by the State Electricity Policy.

PART VIII

WORKS

Works of licensees

61. *Provisions as to opening of streets, railways, etc.*— (1) A licensee may, from time to time but subject always to the terms and conditions of his licence, within his area of supply or transmission or when permitted by the terms of his licence to lay down or place electric supply lines beyond the area of supply, beyond that area carry out works such as,—

- (a) to open and break up the soil and pavement of any street, railway or tramway ;
- (b) to open and break up any sewer, drain or tunnel in or under any street, railway or tramway ;
- (c) to alter the position of any line or works or pipes, other than a main sewer pipe ;
- (d) to lay down and place electric lines, electrical plant and other works ;

(e) to repair, alter or remove the same ;

(f) to do all other acts necessary for transmission or supply of electricity.

(2) The Government may, by rules made by it in this behalf, specify,—

(a) the cases and circumstances in which the consent in writing of the 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 suggestions received in accordance with the notice referred to in clause (c) ;

(e) the determination and payment of compensation or rent to the persons affected by works under this section ;

(f) the repairs and works to be carried out when emergency exists ;

(g) the right of the owner or occupier to carry out certain works under this section and the payment of expenses therefor ;

(h) the procedure for carrying out other works near sewers, pipes or other electric lines or works ;

(i) the procedure for alteration of the position of pipes, electric lines, electrical plant, telegraph lines, sewer lines, tunnels, drains etc. ;

(j) the procedure for fencing, guarding, lighting and other safety measures relating to works on streets, railways, tramways,

sewers, drains or tunnels and immediate reinstatement thereof ;

- (k) the avoidance of public nuisance, environmental damage and unnecessary damage to the public and private property by such works;
- (l) the procedure for undertaking works which are not repairable by the licensee or local authority;
- (m) the manner of deposit of amount required for restoration of any railways, tramways, waterways etc.;
- (n) the manner of restoration of property affected by such works and maintenance thereof;
- (o) the 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.

(3) A licensee shall, in exercise of any of the powers conferred by or under this section 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 anyone employed by him.

(4) Where any difference or dispute (including amount of compensation under sub-section (3) arises under this section, the matter shall be determined by the Commission.

(5) The Commission, while determining any difference or dispute arising under this section in addition to any compensation under sub-section (3), may impose a penalty not exceeding the amount of compensation payable under that sub-section.

62. *Overhead lines.*—(1) An overhead line shall, with prior approval of the Government, be installed or kept installed above ground in accordance with the provisions of sub-section (2).

(2) The provisions contained in sub-section (1) shall not apply,—

- (a) in relation to an electric line which has a normal voltage not exceeding 11 Kilovolts and is used or intended to be used for supplying to 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) The Government shall, while granting approval under sub-section (1), impose such conditions (including conditions as to the ownership and operation of the line) as appear to it to be necessary.

(4) The Government may vary or revoke the approval at any time after the end of such period as may be stipulated in the approval granted by it.

(5) 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 subsequent 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, any officer or authority specified by the Government may, on the application of the licensee, cause the tree, structure or object to be removed or otherwise dealt with as he or it thinks fit.

(6) When disposing of an application under sub-section (5), the officer or authority specified under that sub-section 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 this section, the expression “tree” shall be deemed to include any shrub, hedge, jungle growth or other plant.

63. *Notice to telegraph authority.*— A licensee shall, before laying down or placing, within ten meters of any telegraph line, 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,—

- (a) submit a proposal in case of a new installation to an authority to be designated by the Government and such authority shall take a decision on the proposal within thirty days ;
- (b) give not less than ten days' notice in writing to the telegraph authority in case of repair, renewal or amendment of existing works, specifying—
 - (i) the course of works or alterations proposed ;
 - (ii) the manner in which works are to be utilized ;
 - (iii) amount and nature of electricity to be transmitted ;
 - (iv) the extent to, and the manner in which (if at all), earth returns are to be used, and the licensee shall conform to 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 the 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 of the laying or placing of any service line is to be executed, 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 IX

STATE ELECTRICITY REGULATORY COMMISSION

Constitution, Powers and Functions of the Commission.

64. *Constitution of Commission.*—(1) There shall be a Commission to be known as the State Electricity Regulatory Commission to exercise the powers conferred on, and discharge the functions assigned to it under this Act.

(2) The State Electricity Regulatory Commission established under sub-section (1) of section 3 of the Jammu and Kashmir State Electricity Regulatory Commission Act, 2000 and functioning as such immediately before the commencement of the Act, shall be the State Commission for the purposes of this Act and the Chairperson, Members, Secretary and officers and other employees thereof shall continue to hold office, on the same terms and conditions on which they were appointed under that Act :

Provided that the Chairperson and other Members of the Commission appointed, before the commencement of the Act, under the Jammu and Kashmir State Electricity Regulatory Commission Act, 2000 may on the recommendations of the Selection Committee constituted under sub-section (1) of section 66, be allowed to opt for the terms and conditions under the Act by the Government.

(3) The 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.

(4) The Head Office of the Commission shall be at such place as the Government may, by notification, specify.

(5) The Commission shall consist of not more than three Members including the Chairperson.

(6) The Chairperson and Members of the Commission shall be appointed by the Government on the recommendation of a Selection Committee referred to in sub-section (1) of section 66.

65. *Qualification for appointment of Members of the Commission.*—(1) The Chairperson and the Members of the Commission shall be persons of ability, integrity and standing who have adequate knowledge of, or experience in, or have shown capacity in, dealing with, problems relating to engineering, finance, commerce, economics, law or management and shall be appointed in the following manner, namely :

- (a) at least one person having qualifications and experience in the field of engineering with specifications in generation, transmission or distribution of electricity.
- (b) one person having qualification and experience in the field of finance, economics, commerce, law or management.

(2) The Chairperson or any other Member of the Commission shall not hold any other office.

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

66. *Constitution of Selection Committee to recommend Members.*—(1) The Government shall, for the purposes of selecting the Chairperson and Members of the Commission constitute a Selection Committee consisting of :—

- (a) Chief Secretary ... Chairperson
- (b) Member, Central Electricity Regulatory Commission as nominated by the Chairman, Central Electricity Regulatory Commission ... Member
- (c) Administrative Secretary incharge Power Development Department ... Member
- (d) Administrative Secretary incharge Law Department ... Member

(2) No appointment of Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

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

(4) The Selection Committee shall finalize the selection of the Chairperson or the Members referred to in sub-section (3) within two months from the date on which the reference is made to it.

(5) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(6) Before recommending any person for appointment as Chairperson or Member, the Selection Committee shall satisfy itself that such person does not have any financial or other interest which is likely to affect prejudicially his functions as such Chairperson or Member.

67. Term of office and conditions of service of Members.—

(1) The Chairperson and Members shall hold office for a term of five years from the date they enter upon their office :

Provided that the Chairperson and Members shall not be eligible for re-appointment in the Commission :

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

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

Provided that the salary, allowances and other terms and conditions of service of the Chairperson or the Members shall not be varied to their disadvantage after appointment.

(3) The Chairperson and Members shall, before entering upon their office, make and subscribe to an oath of office and secrecy in such form and in such manner and before such authority as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or a Member may,

- (a) relinquish his office by giving in writing to the Government a notice of not less than three months ; or
- (b) be removed from his office in accordance with the provisions of section 69.

(5) The Chairperson or any Member ceasing to hold office as such shall—

- (a) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and
- (b) not represent any person before the Central Commission or any State Commission in any manner.

Explanation :- For purposes of this sub-section, “commercial employment” means employment in any capacity in any organization which has been a party to the proceedings before the Commission or employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in 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 advisor or a consultant.

68. *State Advisory Committee*.—(1) The Commission may, by notification, establish with effect from such date as it may specify in such notification, a Committee to be known as the State Advisory Committee.

(2) The State Advisory Committee shall consist of not more than eleven members excluding the *ex officio* members to represent the

interests of commerce, industry, transport, agriculture, labour, consumers, non-governmental organizations and academic and research bodies in the electricity sector.

(3) The Chairperson of the Commission shall be the *ex-officio* Chairperson of the State Advisory Committee and the Members of the Commission and the Administrative Secretary to Government incharge of the Department dealing with Consumer Affairs and Public Distribution System shall be the *ex-officio* Members of the Committee.

69. *Removal of Chairperson or Member.*—(1) The Chairperson and Members shall not be removed from office except in accordance with the provisions of this section.

(2) The Government, may, by order, remove from office the Chairperson or any Member, if he—

- (a) has been adjudged an insolvent ;
- (b) has been convicted of an offence which, in the opinion of the Government, involves moral turpitude ;
- (c) has become physically or mentally incapable of acting as such ;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions in the Commission ;
- (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 the Chairperson or a Member shall not be removed from his office on any ground specified in clauses (d), (e) and (f) unless the High Court, on a reference being made to it in this behalf by the Government, has, on an enquiry held in accordance with such procedure as may be prescribed by the High Court, reported that the Chairperson or such Member ought on such ground or grounds to be removed.

(2) The Government may suspend the Chairperson or any Member of the Commission in respect of whom a reference has been made to High Court under sub-section (1) until the Government has passed orders on receipt of the report of the High Court on such reference.

70. *Officers and other employees of the Commission.*—

(1) The Commission shall have a Secretary to exercise such powers and perform such duties under the control of the Chairperson, as may be prescribed.

(2) The Secretary shall be appointed by the Government.

(3) The number, nature and categories of other officers and employees required to assist the Commission in the discharge of its functions shall be such as may be determined by the Government.

(4) The salaries and allowances payable to, and other terms and conditions of service of the Secretary, officers and other employees shall be such as may be determined by the Government.

(5) The Commission may appoint consultants required to assist the Commission in the discharge of its functions on the terms and conditions as may be specified.

71. *Functions of State Commission.*—(1) The Commission shall discharge the following functions, namely :—

- (a) determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk or retail, as the case may be, within the State :

Provided that where open access has been permitted to a category of consumers under section 36, the Commission shall determine only the wheeling charges and surcharges thereon, if any, for the said category of consumers ;

- (b) regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees

or from other sources through agreements for purchase of power for distribution and supply within the State;

- (c) facilitate Intra-State transmission and wheeling of electricity ;
- (d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State ;
- (e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of total consumption of electricity in the area of a distribution licensee;
- (f) adjudicate upon the disputes between the licensees and generating companies and to refer any dispute for arbitration;
- (g) levy fee for the purposes of the Act;
- (h) specify State Grid Code consistent with the Grid Code specified under the Electricity Act, 2003 (Central) ;
- (i) specify or enforce standards with respect to quality, continuity and reliability of service by licensees;
- (j) fix the trading margin in the Intra-State trading of electricity, if considered, necessary;
- (k) discharge such other functions as may be assigned to it under the Act.

(2) The Commission shall advise the Government on all or any of the following matters, namely :—

- (i) promotion of competition, efficiency and economy in activities of the electricity industry;

- (ii) promotion of investment in electricity industry ;
- (iii) reorganization and restructuring of electricity industry in the State ;
- (iv) matters concerning generation, transmission, distribution and trading of electricity or any other matter referred to the Commission by the Government.

(3) The Commission shall ensure transparency while exercising the powers and discharging its functions.

(4) In discharge of its functions, the Commission shall be guided by the State Electricity Policy, State Electricity Plan and Tariff policy published under the provisions of the Act.

72. *Objects of State Advisory Committee* :—The objects of the State Advisory Committee shall be to advise the Commission on,—

- (i) major questions of policy;
- (ii) matters relating to quality, continuity and extent of service provided by the licensees;
- (iii) compliance by licensees with the conditions and requirement of their licence;
- (iv) protection of consumer interest; and
- (v) electricity supply and overall standards of performance by utilities.

73. *Proceedings of the Commission*.—(1) The Commission shall meet at the head office 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 meeting) as it may specify.

2. 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, the senior most Member shall preside at the meeting.

(3) All questions which come up before any meeting of the Commission shall be decided by a majority of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.

(4) Save as otherwise provided in sub-section (3), every Member shall have one vote.

(5) All orders and decisions of the Commission shall be authenticated by its Secretary and in his absence, by any other officer of the Commission duly authorized by the Chairperson in this behalf.

74. *Vacancies, etc. not to invalidate proceedings.*—No act or proceeding 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.

75. *Powers of Commission.*—(1) The Commission shall, for the purposes of any inquiry or proceedings under the Act, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, Samvat 1977 in respect of the following matters, namely :—

- (a) summoning and enforcing the attendance of any person and examining him on oath ;
- (b) discovery and production of any document or other material object producible as evidence ;
- (c) receiving evidence on affidavits ;
- (d) requisitioning of any public record ;
- (e) issuing commission for the examination of witnesses ;
- (f) reviewing 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 it, as it may consider appropriate.

(3) The Commission may authorize any person, as it deems fit, to represent the interest of the consumers in the proceedings before it.

76. *Proceedings before Commission.*—All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the State Ranbir Penal Code and the Commission shall be deemed to be a Civil Court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, Samvat 1989.

77. *Powers of entry and seizure.*—The Commission or any officer, not below the rank of Gazetted Officer specially authorized 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 of copies therefrom subject to the provisions of section 102 of the Code of Criminal Procedure, Samvat 1989, in so far as it may be applicable.

78. *Delegation.*—The Commission may, by general or special order in writing, delegate to any Member, Secretary, officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under the Act, (except the powers to adjudicate disputes under section 71 and the powers to make regulations under section 137) as it may deem necessary.

PART X

Grants, Fund, Accounts, Audit and Report

79. *Grants and loans by the Government.*—The Government may, after due appropriation made by State Legislature in this behalf, make to the Commission grants and loans of such sums of money as the Government may consider necessary.

80. *Establishment of fund by Government.*—(1) There shall be constituted a Fund to be called the State Electricity Regulatory Commission Fund and there shall be credited thereto,—

- (a) any grants and loans made to the Commission by the Government under section 79 ;
- (b) all fees received by the Commission under the Act ;
- (c) all sums received by the Commission from such other sources as may be decided upon by the Government.

(2) The fund shall be applied for meeting,—

- (a) the salary, allowances and other remuneration of Chairperson, Members, Officers and other Employees of the Commission ;
- (b) the expenses of the Commission in discharge of its functions under section 71 ;
- (c) the expenses on objects and for purposes authorized by the Act.

(3) The Government may, in consultation with the Comptroller and Auditor General of India, prescribe the manner of applying the Fund for meeting the expenses specified in clause (b) or clause (c) of sub-section (2).

81. *Accounts and Audit of Commission.*—(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government in consultation with the Comptroller and Auditor General of India.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor General of India.

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

(4) The accounts of the Commission, as certified by the Comptroller and Auditor General of India or any other person appointed by him in his behalf together with the audit report thereon, shall be forwarded annually to the Government and the Government shall cause the same to be laid, as soon as may be after it is received, before the State Legislature.

82. *Annual report of the Commission.*—(1) The Commission shall prepare once every year; in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

83. *Budget of the Commission.*—The 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 estimate receipts and expenditure of the Commission and forward the same to the Government.

84. *Directions by Government.*—(1) In the discharge of its functions, the Commission shall be guided by such directions in matters of policy involving public interest as the Government may give to it in writing.

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

PART XI

Appeal

85. *Appeal to High Court in certain cases.*—(1) Any person aggrieved by any decision or order of the Commission may file an appeal to the High Court.

(2) Except as aforesaid, no appeal or revision shall lie to any Court from any decision or order of the Commission.

(3) An appeal under this section shall be preferred within sixty days from the date of communication of the decision or order of the Commission to the person aggrieved by the said decision or order :

Provided that the High Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period.

PART XII

Investigation and Enforcement

86. *Assessment.*—(1) If on an inspection of any place or premises or after inspection of the equipments, gadgets, machines, devices found connected or used, or after inspection of records maintained by any person, the assessing officer comes to the conclusion that such person is indulging in unauthorized use of electricity, he shall provisionally assess to the best of his judgment the electricity charges payable by such person or by any other person benefited by such use.

(2) The order of provisional assessment shall be served upon the person in occupation or possession or in charge of the place or premises in such manner as may be prescribed.

(3) The person, on whom an order has been served under subsection (2), shall be entitled to file objections, if any, against the provisional assessment before the assessing officer, who may, after

affording a reasonable opportunity of hearing to such person, pass a final order of assessment within 30 days from the date of service of such order of provisional assessment, of the electricity charges payable by such person.

(4) Any person served with the order of provisional assessment may, accept such assessment and deposit the assessed amount with the licensee within seven days of service of such provisional assessment order upon him.

(5) If the assessing officer reaches to the conclusion that unauthorized use of electricity has taken place, the assessment shall be made for the entire period during which such unauthorized use of electricity has taken place, and if, however, the period during which such unauthorized use of electricity has taken place can not be ascertained, such period shall be limited to a period of twelve months immediately preceding the date of inspection.

(6) The assessment under this section shall be made at a rate equal to twice the tariff applicable for the relevant category of services specified in sub-section (5).

Explanation.—For purposes of this section :

- (a) “Assessing Officer” means an officer of the Government or licensee, as the case may be, designated as such by the Government;
- (b) “Unauthorized use of electricity” means the usage of electricity :
 - (i) by an artificial means ; or
 - (ii) by a means not authorized by the concerned person or authority or licensee ; or
 - (iii) through a tampered meter ; or
 - (iv) for the purpose other than for which the usage of electricity was authorized ; or

(v) for the premises or areas other than those for which the supply of electricity was authorized.

87. *Appeal to Appellate Authority.*—(1) Any person aggrieved by the final order made under section 86 may, within thirty days of the said order, prefer an appeal in such form, verified in such manner and be accompanied by such fee as may be specified by the Commission, to an Appellate Authority as may be prescribed.

(2) No appeal against an order of assessment under sub-section (1) shall be entertained unless an amount equal to one-third of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(3) The Appellate Authority referred to in sub-section (1) shall dispose of the appeal after hearing the parties and pass appropriate order and send copy of the order to the assessing officer and the appellant.

(4) The order of the Appellate Authority referred to in sub-section (1) passed under sub-section (3) shall be final.

(5) No appeal shall lie to the Appellate Authority referred to in sub-section (1) against the final order made with the consent of the parties.

(6) When a person defaults in making payment of assessed amount, he, in addition to the assessed amount shall be liable to pay, on the expiry of thirty days from the date of order of assessment, an amount of interest at the rate of sixteen per cent per annum compounded every six months.

88. *Investigation of certain matters.*—(1) The Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of the Act or the rules or regulations made thereunder, at any time, by order in writing, direct any person (hereafter in this section referred to as “Investigating Authority”) specified in the order to investigate the affairs of any

generating company or licensee and to report to the Commission on any investigation made by such investigating authority :

Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this section.

(2) Notwithstanding anything to the contrary contained in section 235 of the Companies Act, 1956, the Investigating Authority may, at any time, and shall, on being directed so to do by the Commission, cause an inspection to be made, by one or more of its officers, of any licensee or generating company and his books of account and the Investigating Authority shall supply to the licensee or generating company, as the case may be, a copy of his report on such inspection.

(3) It shall be the duty of every Manager, Managing Director or other Officers of the licensee or generating company, as the case may be, to produce before the Investigating Authority directed to make the investigation under sub-section (1) or inspection under sub-section (2), all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the said Investigating Authority may require of him within such time as it may specify.

(4) Any Investigating Authority, directed to make an investigation under sub-section (1), or inspection under subsection (2), may examine on oath any manager, managing director or other officer of the licensee or generating company, as the case may be, in relation to his business and may administer oaths accordingly.

(5) The Investigating Authority, shall, if it has been directed by the Commission to cause an inspection to be made, and may, in any other case, report to the Commission on any inspection made under this section.

(6) On receipt of any report under sub-section (1) or sub-section (5), the Commission may, after giving such opportunity to the licensee or generating company, as the case may be, to make a

representation in connection with the report as in the opinion of the Commission seems reasonable, by order in writing,—

- (a) require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Commission may think fit ; or
- (b) cancel the licence ; or
- (c) direct the generating company to cease to carry on the business of generating of electricity

(7) The Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority under sub-section (5) or such portion thereof as may appear to it to be necessary .

(8) The Commission may specify the minimum information to be maintained by the licensee or the generating company in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by licensee or the generating company in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily its functions under this section.

Explanation :—For purposes of this section, the expression “licensee or the generating company” shall include in the case of a licensee incorporated in India,—

- (a) all its subsidiaries formed for the purpose of carrying on the business of generation or transmission or distribution or trading of electricity ; and
- (b) all its branches wherever situated.

(9) All expenses of, and incidental to, any investigation made under this section shall be defrayed by the licensee or the generating company, as the case may be, and shall have priority over the debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue.

89. *Orders for securing compliance.*—(1) Where the Commission, on the basis of material in its possession, is satisfied that a licensee is contravening, or is likely to contravene, any of the conditions mentioned in his licence or conditions for grant of exemption or the licensee or the generating company has contravened or is likely to contravene any of the provisions of the Act, it shall, by an order, give such directions as may be necessary for the purpose of securing compliance with that condition or provision.

(2) While giving direction under sub-section (1), the Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention.

90. *Procedure for issuing directions by the Commission.*—The Commission, before issuing any direction under section 89, shall,—

- (a) serve notice in the manner as may be specified to the concerned licensee or the generating company ;
- (b) publish the notice in the manner as may be specified for the purpose of bringing the matters to the attention of persons, likely to be affected, or affected ;
- (c) consider suggestions and objections from the concerned licensee or generating company and the persons, likely to be affected, or affected.

PART XIII

Reorganization of the Department/Utility

91. *Vesting of property in the Government.*—(1) With effect from the date on which a transfer scheme, prepared by the Government to give effect to the objects and purposes of the Act, is published or such further date as may be stipulated by the Government (hereafter 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 any institution or corporation or authority shall vest in the Government free from all encumbrances.

(2) Any property, interest in property, rights and liabilities vested in the Government earlier or under sub-section (1) above shall be re-vested by the Government in a government company or in a company or companies, in accordance with the transfer scheme so published along with such other property, interest in property, rights and liabilities of the Government as may be stipulated in such scheme, on such terms and conditions as may be agreed between the Government and such company or companies being State transmission utility or generating company or transmission licensee, 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 revenue potential of such assets at such terms and conditions as may be agreed between the Government and the State Transmission Utility or generating company or transmission licensee or distribution licensee, 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 Government, the scheme shall give effect to the transfer scheme only on fair value to be paid by the transferee to the Government ;
- (b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all parties including third parties and even if such persons or third parties have not consented to it.

(4) The Government may, after consulting the Government company or companies being state transmission utility or generating company or transmission licensee or distribution licensee referred to in sub-section (2) (hereinafter referred to as ‘the transferor’), require such transferor to draw a transfer scheme to vest in a transferee being any other generating company or transmission licensee or distribution licensee, the property, interest in property, rights and

liabilities which have been vested in the transferor under this section, and publish such scheme as statutory transfer scheme under the Act.

- (5) A transfer scheme under this section may,—
- (a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, encourage competition and protect consumer interests ;
 - (b) define the property, interest in property, rights and liabilities to be allocated—
 - (i) by specifying or describing the property, rights and liabilities in question ; or
 - (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 and liabilities stipulated or described in the scheme shall be enforceable by or against the transferor or the transferee ;
 - (d) impose on the transferor 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) mention the functions and duties of the transferee ;
 - (f) make such supplemental, incidental and consequential provisions as the transferor considers appropriate including provision stipulating the order as taking effect ; and

- (g) provide that the transfer shall be provisional for a stipulated period.

(6) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by the Government, with the Government or for the Government or transmission utility or generating company or transmission licensee or distribution licensee, before a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the Government, with the Government or for the Government or the transferee and all suits or legal proceedings instituted by or against the Government or transferor, as the case may be, may be continued or instituted by or against the Government or concerned transferee, as the case may be.

92. *Use of proceeds of sale and transfer, etc.*—In the event that any utility owned or controlled by the Government is sold or transferred in any manner to a person who is or to any company which is, not owned or controlled by the Government, the proceeds from such sale or transfer shall be utilized in priority to all other dues in the following order, namely,—

- (a) dues (including retirement dues) to the officers and employees of such utility, or who have been affected by the aforesaid sale or transfer ;
- (b) payment of debt or other liabilities of the transferor as may be required by the existing loan covenants.

93. *Provision relating to officers and employees.*—(1) The Government may, by a transfer scheme, provide for the transfer of officers and employees to the transferee on the vesting of properties, rights and liabilities in such transferee as provided under section 91.

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

Provided that such terms and conditions on the transfer shall not in any way be less favourable than those which would have been

applicable to them if there had been no such transfer under the transfer scheme :

Provided further that the transfer can be provisional for a stipulated period.

Explanation:—For purpose of this section and the transfer scheme, the expression “officers and employees” shall mean all officers and employees who on the date specified in the scheme are the officers and employees of the transferor.

94. *Payment of compensation or damages on transfer.*— Notwithstanding anything contained in the any other law for the time being in force and except for the provisions made in the Act, the transfer of employment of the officers and employees referred to in sub-section (1) of section 93 shall not entitle such officers and employees to any compensation or damages under the Act, or any other law, save as provided in the transfer scheme.

PART XIV

Offences and Penalties

95. *Theft of electricity.*—(1) Whoever, dishonestly,—

- (a) tapes, makes or causes to be made any connection with overhead, underground or underwater lines or cables, or service wires, or service facilities of a licensee or supplied, as the case may be ; or
- (b) tampers a meter, installs or uses a tampered meter, current reversing transformer, 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 ; or
- (c) damages or destroys an electric meter, apparatus equipment, or wire or causes or allows any of them to be so damaged

or destroyed as to interfere with the proper or accurate metering of electricity ; or

- (d) uses electricity through a tampered meter ; or
- (e) uses electricity for the purposes other than for which the usage of electricity was authorized,

so as to abstract or consume or use electricity shall be punishable with imprisonment for a term which may extend to three years or with fine or with both :

Provided that in case where the load abstracted, consumed, or used or attempted abstraction or attempted consumption or attempted use,—

- (i) does not exceed ten kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times of financial gain on account of such theft of electricity ;
- (ii) exceeds ten kilowatt, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the sentence shall be imprisonment for a term not less than six months but which may extend to five years and with fine not less than six months the financial gain on account of such theft of electricity :

Provided further that in the event of second and subsequent conviction of a person where the load abstracted, consumed or used or attempted abstraction, consumption or use exceeds ten kilowatt, such person shall be debarred from getting any supply of electricity for a period which shall not be less than three months but may extend to two years and shall also be debarred from getting supply of

electricity for that period from any other source or generating station :

Provided also that if it is provided that any artificial means, or means not authorized by the Government or licensee or supplier, as the case may be, exist for the abstraction, consumption or use of electricity by the consumer, it shall be presumed, until the contrary is proved, that any abstraction, consumption or use of electricity has been dishonestly caused by such consumer.

(2) Without prejudice to the provisions of the Act, the licensee or supplier, as the case may be, may, upon detection of such theft of electricity immediately disconnect the supply of electricity :

Provided that only such officer or the licensee or the supplier, as authorized for the purpose by the Commission or any other officer of the licensee or supplier of the rank higher than the rank so authorized shall disconnect the supply line of electricity :

Provided further that such officer of the licensee or supplier, as the case may be, shall lodge a complaint in writing to the commission of such offence in Police Station having jurisdiction within 24 hours from the time of such disconnect :

Provided also that the licensee or supplier, as the case may be, on deposit or payment of the assessed amount or electricity charges in accordance with the provisions of the Act, shall, without prejudice to the obligation to lodge the complaint as referred to in the second proviso to this sub-section, restore the supply of electricity within 48 hours of such deposit or payment.

(3) Any officer of the licensee or the supplier, as the case may be, authorized in this behalf by the Government may,—

- (a) enter, inspect, break open and search any place or premises in which he has reason to believe that electricity has been, or is being, used unauthorizedly ;

- (b) search, seize and remove all such devices, instruments, wires and any other facilitator or article which has been, or is being, used for unauthorized use of electricity ;
- (c) examine or seize any books of account or documents which in his opinion shall be useful for, or relevant to, any proceedings in respect of the offence under sub-section (1) and allow the person from whose custody such books of account or documents are seized to make copies thereof or take extracts therefrom in his presence.

(4) The occupant of the place of search or any person on his behalf shall remain present during the search and a list of all things seized in the course of such search shall be prepared and delivered to such occupant or person who shall sign the list :

Provided that no inspection, search and seizure of any domestic place or domestic premises shall be carried out between sunset and sunrise except in the presence of an adult male member occupying such premises.

(5) The provisions of the Code of Criminal Procedure, Samvat 1989, relating to search and seizure shall apply, as far as may be, to searches and seizure under the Act.

(6) For purpose of the aforesaid provision, the authorized officer may be conferred with the powers of an Executive Magistrate by the Government by notification in the Government Gazettee.

96. *Theft of electric lines and material.*— (1) Whoever, dishonestly—

- (a) cuts or removes or takes away or transfers 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, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain ; or

- (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 committed for profit or gain ; or
- (c) loads, carries 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 an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine which shall not be less than five thousand rupees or with both.

(2) If a person, having been convicted of an offence punishable under sub-section (1), is again guilty of an offence punishable under that sub-section, he 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 ten thousand rupees.

97. *Punishment for receiving stolen property.*—Whoever, dishonestly, receives any stolen electric line or material knowing or having reasons 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.

98. *Interference with meters or works of licensee.*—(1) Whoever—

- (a) unauthorizedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from any such electric line ; or
- (b) unauthorizedly reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee when the said electric line or other works has or have been cut or disconnected ; or

- (c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee ; or
- (d) maliciously injures any meter, indicator or apparatus belonging to a licensee or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering,

shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a daily fine which may extend to five hundred rupees ; and if it is proved that any 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) for causing such alteration or prevention as is referred to in clause (d), and the meter, indicator or apparatus is under the custody or control of the consumer, and, 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 consumer.

99. *Negligently breaking or damaging works.*—Whoever, negligently breaks, injures, throws down or damages any material connected with the supply of electricity, shall be punishable with fine which may extend to ten thousand rupees.

100. *Penalty for intentionally injuring works.*—Whoever maliciously causes electricity to be wasted or diverted or with intent to cut off the supply of electricity, cuts or injures, or attempts to cut or injure any electric supply line or works shall be punishable with fine which may extend to ten thousand rupees.

101. *Extinguishing public lamp.*—Whoever, maliciously extinguishes any public lamp shall be punishable with fine which may extend to two thousand rupees.

102. *Punishment for non-compliance of directions by Commission.*—In case any complaint is filed before the Commission

by any person, or if the Commission is satisfied that any person has contravened any of the provisions of the Act or the rules or regulations made thereunder, or any direction issued by the Commission, the Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under the Act, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.

103. *Power to adjudicate.*—(1) For the purpose of adjudging under the Act, the Commission shall appoint any of its Members to be an adjudicating officer for holding an inquiry in such manner as may be prescribed, after giving any person concerned a reasonable opportunity of being heard for the purpose of imposing any penalty.

(2) While holding any inquiry, the adjudicating officer shall have power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document which in the opinion of the adjudicating officer, may be useful for or relevant to the subject matter of the inquiry, and if, on such inquiry, he is satisfied that the person has failed to comply with the provisions of section 28 or section 37, he may impose such penalty as he thinks fit in accordance with the provisions of any of those sections.

(3) Any person aggrieved by an order under sub-section (2) may within thirty days of the order prefer an appeal before the Commission for modifying or rescinding such order :

Provided that the Commission shall not pass any order without affording reasonable opportunity to the other party or parties, as the case may be.

104. *Factors to be taken into account by adjudicating officer.*— While adjudicating the quantum of penalty under section

28 or section 37, the adjudicating officer shall have due regard to the following factors, namely :—

- (a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default ;
- (b) the repetitive nature of the default.

105. *Civil Court not to have jurisdiction.*—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an assessing officer referred to in section 86 or an Appellate Authority referred to in section 87 or the adjudicating officer appointed under the Act is empowered by or under the 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 the Act.

106. *Punishment for non-compliance of orders or directions.*—Whoever, fails to comply with any order or direction given under the Act, within such time as may be specified in the said order or direction or contravenes or attempts or abets the contravention of any of the provisions of the Act or any rules or regulations made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to five thousand rupees for every day during which the failure continues after conviction of the first such offence.

107. *Penalties not to effect other liabilities.*—The penalties imposed under the Act shall be in addition to, and not in derogation of, any liability in respect of payment of compensation or, in the case of a licensee, the revocation of his licence which the offender may have incurred.

108. *Penalty where works belong to Government.*—The provisions of the Act shall so far as they are applicable, be deemed to apply also when the acts made punishable thereunder are committed in the case of electricity supplied by or of works belonging to the Government.

109. *Offences by companies.*—(1) Where an offence under the Act, has been committed by a company, every person who at the time of the Commission of offence was incharge 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 the Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of 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 purposes 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.

110. *Abetment.*—(1) Whoever abets an offence punishable under the Act shall notwithstanding anything contained in the State Ranbir Penal Code, be punished with the punishment provided for the offence.

(2) Without prejudice to any penalty or fine which may be imposed or prosecution proceeding which may be initiated under the Act or any other law for the time being in force, if any officer or other employee of the Government or the licensee enters into or acquiesces in any agreement to do, abstains from doing, permits, conceals or connives at any act or thing whereby any theft of electricity is committed, he shall

be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

(3) Notwithstanding anything contained in sub-section (1) of section 95, sub-section (1) of section 96, section 97 and section 98, the licence or certificate of competency or permit or such other authorization issued under the rules made under the Act to any person who acting as an electrical contractor, supervisor or worker abets the commission of an offence punishable under sub-section (1) of section 95, sub-section (1) of section 96, section 97, or section 98, on his conviction for such abetment, may also be cancelled by the licensing authority :

Provided that no order of such cancellation shall be made without giving such person an opportunity of being heard.

Explanation :— For purposes of this sub-section, ‘licensing authority’ means the officer who for the time being in force is issuing or renewing such licence or certificate of competency or permit or such other authorization.

111. *Cognizance of offences.*—No court shall take cognizance of an offence punishable under the Act except upon a complaint in writing made by Government or the Commission or any of their officer authorized by them or a Chief Electrical Inspector or an Electrical Inspector or licensee or the generating company, as the case may be, for this purpose :

Provided that the Court may also take cognizance of an offence punishable under the Act upon a report of Police Officer filed under section 173 of the Code of Criminal Procedure, Samvat 1989 :

Provided further that a Special Court constituted under section 115 shall be competent to take cognizance of an offence without the accused being commuted to it for trial.

112. *Power of Police to investigation.*—For the purposes of investigation of an offence punishable under the Act, the Police Officer shall have all the powers as provided in Chapter XIV of the Code of Criminal Procedure, Samvat 1989.

113. *Certain offences cognizable and non-bailable.*— Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, an offence punishable under sections 95 to 100 or section 110 shall be cognizable and non-bailable.

114. *Compounding of offences.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, the Government or any officer authorized by it in this behalf may accept from any consumer or person who committed, or who is reasonably suspected of having committed, an offence of theft of electricity punishable under the Act, sum of money by way of compounding of the offence as specified in the Table below :—

TABLE

Nature of service	Rate at which the sum of money for compounding to be collected per Kilowatt (KW)/ Horse Power (HP) or part thereof for low tension (LT) supply and per Kilo Volt Ampere (KVA) of contracted demand for high tension.
1	2
1. Industrial service	Twenty thousand rupees.
2. Commercial service	Ten thousand rupees.
3. Agricultural service	Two thousand rupees.
4. Other service	Four thousand rupees.

Provided that the Government may, by notification, amend the rates specified in the Table above.

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the Government or an officer empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 403 of the Code of Criminal Procedure, Samvat 1989.

(4) The compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

PART XV

Special Courts

115. *Constitution of Special Courts.*—(1) The Government in consultation with the High Court may, for the purposes of providing speedy trial of offences referred to in sections 95 to 100 and section 110, by notification constitute as many Special Courts as may be necessary for such area or areas, as may be specified in the notification.

(2) Where the office of the Judge of a Special Court is vacant, or such Judge is absent from the ordinary place of sitting of such Special Court, or where no Special Court has been constituted under the Act, the functions of the Special Court shall be disposed off by the Chief Judicial Magistrate having jurisdiction in the area or such other Judicial Magistrate as the Government may in consultation with the High Court, designate.

116. *Procedure and power of Special Court.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, Samvat 1989, every offence punishable under sections 95 to 100 and section 110 shall be triable by the Special Court within whose jurisdiction such offence has been committed.

(2) Where it appears to any court in the course of any inquiry or trial that an offence punishable under sections 95 to 100 and section 110 in respect of any offence that the case is one which is triable by a Special Court constituted under the Act for the area in which such case has arisen, if shall transfer such case to such Special Court, wherever constituted for the area and thereupon such case shall be tried and disposed off by such Special Court in accordance with the provisions of the Act :

Provided that it shall be lawful for such Special Court to act on the evidence, if any, recorded by any court in the case of presence of the accused before the transfer of the case to any Special Court :

Provided further that if such Special Court is of opinion that further examination, cross-examination and re-examination of any of the witness whose evidence has already been recorded, is required in the interest of justice, it may re-summon any such witness and after such further examination, cross-examination or re-examination, if any, as it may permit, the witness shall be discharged.

(3) The Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code of Criminal Procedure, Samvat 1989 try the offence referred to in sections 95 to 100 and section 110 in summary way in accordance with the procedure prescribed in the said Code and provisions of sections 263 to 265 of the said Code shall, so far as may be, apply to such trial :

Provided that where in the course of a summary trial under this sub-section it appears to the court that the nature of the case is such that it is undesirable to try such case in summary way, the Special Court shall recall any witness who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the said Code for the trial of such offence :

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a court to pass a sentence of imprisonment for a term not exceeding five years.

(4) A Special Court may with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to, any offence tender pardon to such person on condition of his making a full and true disclosure of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or abettor in the commission thereof, and any pardon so tendered shall, for the purposes of section 338 of the Code of Criminal Procedure, Samvat 1989, be deemed to have been tendered under section 337 thereof.

(5) The Special Court may determine the civil liability against a consumer or a person in terms of money for theft of energy which shall not be less than an amount equivalent to two times of the tariff rate applicable for a period of twelve months preceding the date of detection of theft of energy or the exact period of theft if determined whichever is less and the amount of civil liability so determined shall be recovered as if it were a decree of civil court.

(6) In case the civil liability so determined finally by the Special Court is less than the amount deposited by the consumer or the person, the excess amount so deposited by consumer or the person, to the licensee or the concerned person, as the case may be, shall be refunded by the licensee or the concerned person, as the case may be, within a fortnight from the date of communication of the order of the Special Court together with interest at the prevailing Reserve Bank of India prime lending rate for the period from the date of such deposit till the date of payment.

Explanation :—For purpose of this section, “Civil liability” means loss or damage incurred by the licensee or the concerned person, as the case may be, due to the commission of an offence referred to in sections 95 to 100 and section 110.

117. *Special Court to have powers of Court of Session.*— Save as otherwise provided in the Act, the provisions of the Code of Criminal Procedure, Samvat 1989, in so far as they are not inconsistent

with the provisions of the Act, shall apply to the proceedings before the Special Court and for the purpose of the provisions of the said enactment, the Special Court shall be deemed to be a court of session and shall have all powers of a court of session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

118. *Appeal and revision.*—The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXXI and XXXII of the Code of Criminal Procedure, Samvat 1989, as if the Special Court is a District Court, or as the case may be, the Court of Session.

119. *Review.*—The Special Court may, on the petition or otherwise and in order to prevent miscarriage of justice, review its judgment or order passed under section 116, but no such review petition shall be entertained except on the ground that it had passed such order under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record :

Provided that the Special Court shall not allow any review petition and set aside its previous order or judgment without hearing the parties affected.

Explanation :—For purpose of this part, “Special Courts” means the Special Courts constituted under sub-section (1) of section 115 and includes the Court having such jurisdiction under sub-section (2) thereof.

PART XVI

DISPUTE RESOLUTION

Arbitration

120. *Arbitration.*—Where any matter is, by or under the Act, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the licence of a licensee, be determined

by such person or persons as the Commission may nominate in that behalf on the application of either party, but in all other respects the arbitration shall be subject to the provisions of the Jammu and Kashmir Arbitration and Conciliation Act, 1997.

PART XVII

OTHER PROVISIONS

Protective clauses

121. *Protection of railways, highways, airports and canals, and piers.*—No person shall, in the generation, transmission, distribution, supply or use of electricity, in any way injure any railway, highway, airports, tramway, canal or water-way or pier vested in or controlled by a local authority, or obstruct or interfere with the traffic on any railway, airway, tramway, canal or water-way.

122. *Protection of telegraphic, telephonic and electric signaling lines.*—(1) Every person generating, transmitting, distributing, supplying or using electricity (hereafter in this section referred to as “operator”) shall take all reasonable precautions in constructing, laying down and placing his electric lines, electrical plants and other works and in working his system, so as not injuriously to affect, whether by induction or otherwise, the working of any wire or line used for the purpose of telegraphic, telephone or electric signaling communication, or the currents in such wire or line.

(2) Where any difference or dispute arises between the operator, and the telegraphic 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), as to whether working of any wire, line or current is or is not injuriously affected thereby, the matter shall be referred to the Government and the Government, unless it is of the opinion that 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 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.

Explanation :—For purposes of this section, a telegraph line shall be deemed to be injuriously affected if telegraphic, telephonic or electric signaling communication by means of such line is, whether through induction or otherwise, prejudicially interfered with by an electric line, electrical plant or other works or by any use made thereof.

123. *Notice of accidents and inquiries.*—(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 or such other person as aforesaid and to such other authorities as the Government may by general or special order, direct.

(2) The 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 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 the 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, Samvat 1977 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 State Ranbir Penal Code.

124. *Appointment of Chief Electrical Inspector and Electrical Inspector.*—(1) The Government may, by notification, appoint persons possessing prescribed qualification to be Chief Electrical Inspector or Electrical Inspectors and every such Inspector so appointed shall exercise the powers and perform the functions of a Chief Electrical Inspector or an Electrical Inspector under the Act, as the case may be, and exercise such other powers and perform such other functions as may be prescribed within such areas or in respect of such class of works and electric installations and subject to such restrictions as the Government may direct.

(2) In the absence of express provision to the contrary in the Act, or any rule made thereunder, an appeal shall lie from the decision of a Chief Electrical Inspector or Electrical Inspector to the Commission.

125. *Power for licensee to enter premises and to remove fittings or other apparatus of licensee.*—(1) A licensee or any person duly authorized by a licence 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, of any premises or land, under, over, along, across, in or upon which the electric supply lines or other works have been lawfully placed by him for the purpose of—

- (a) inspecting, testing, repairing or altering the electric supply lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee ; or
- (b) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply ; or
- (c) removing where a supply of electricity is no longer required, or where the licensee is authorized to take away and cut off such supply, any electric supply lines, meters, fittings, works or apparatus belonging to the licensee.

(2) A licensee or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate and after giving not less than twenty four hours notice in writing to the occupier,—

- (a) enter any premises or land referred to in sub-section (1) for any of the purpose 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.

(3) Where a consumer refuses to allow a licensee or any person authorized as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (1) or sub-section (2), or when such licensee or person has so entered, refuses to allow him to perform any act which he is authorized 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.

126. *Exercise of powers of Telegraph Authority in certain cases.*—The Government may, by order in writing, for the placing of electric lines or electrical plant for the transmission of electricity or for the purpose of telephonic or telegraphic communications necessary for the proper coordination of works, confer upon any public officer, licensee or any other person engaged in the business of supplying electricity under the Act, subject to such conditions and restrictions, if any, as the Government may think fit to impose and to the provisions of the Indian Telegraph Act, 1885 (13 of 1885), any of the powers which the telegraph authority possesses under that Act with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained, by the Government or to be so established or maintained.

PART XVIII

Amendment of the Land Acquisition Act, Samvat 1990

127. *Amendment of sections 40 and 41 Act X of Samvat 1990.*—For purposes of the Act, the term “work” appearing in clause (a) of sub-section (1) of section 40 and clause (iv) of section 41 of the Land Acquisition Act, Samvat 1990, shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed.

PART XIX

Miscellaneous

128. *Co-ordination forum.*—(1) The Government shall constitute a Co-ordination Forum consisting of the Chairperson of the Commission and Members thereof, representatives of the generating companies and transmission licensees and distribution licensees engaged in generation,

transmission and distribution of electricity in the State for smooth and coordinated development of the power system in the State.

(2) There shall be a Committee in each district to be constituted by the Government,—

- (a) to coordinate and review the extension of electrification in the district ;
- (b) to review the quality of power supply and consumer satisfaction ;
- (c) to promote energy efficiency and its conservation.

(3) The Co-ordination Forum and Committee shall be constituted in the prescribed manner.

129. *Exemption of electric lines or electrical plants from attachment in certain cases.*—Where any electric lines or electrical plant, belonging to a licensee are placed in or upon a premises or land not being in the possession of the 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.

130. *Protection of action taken in good faith.*—No suit, prosecution or other proceeding shall lie against the Government or the Commission or any officer of the Government, or any Member, Officer or other employee of the Commission or the assessing officer or any public servant for anything done or in good faith purporting to be done under the Act or the rules or regulations made thereunder.

131. *Members, officers, etc of the Commission to be public servants.*—The Chairperson, Members, officers and other employees of the Commission and the assessing officer referred to in section 86 shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the Act, to be public servants within the meaning of section 21 of the State Ranbir Penal Code.

132. *Recovery of penalty payable under the Act.*—Any penalty payable by a person under the Act, if not paid, may be recovered as if it were an arrear of land revenue.

133. *Services of notices, orders or documents.*—(1) Every notice, order or document by or under the Act, required, or authorized to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgment receipt therefor or by registered post or such means of delivery as may be prescribed—

- (a) where the Government is the addressee, at the office of such officer as the Government may prescribe in this behalf ;
- (b) where the Commission is the addressee, at the office of the 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 ;
- (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 the Act required or authorized 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.

134. *Inconsistency in laws.*—Nothing contained in the Act or any rule or regulation made thereunder or any instrument having effect by virtue of the Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Jammu and Kashmir Consumer Protection Act, 1987.

135. *Act to have overriding effect.*—Save as otherwise providing in section 134, the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.

136. *Provisions of the Act to be in addition to and not in derogation of other laws.*—The provisions of the Act are in addition to and not in derogation of any other law for the time being in force.

137. *Powers of Government to make rules.*—(1) The Government may by notification in the Government Gazette make rules for carrying out the provisions of the Act.

(2) In particulars and without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely,—

- (a) the payment of fees for application for grant of licence under sub-section (1) of section 15 ;
- (b) the works of licensees affecting the property of other persons under sub-section (2) of section 61 ;
- (c) such other matters which may be prescribed under clause (c) of sub-section (2) of section 62 ;
- (d) the salary, allowances and other terms and conditions of service of the Chairperson and Members of the Commission under sub-section (2) of section 67 and sub-section (4) of section 70 ;
- (e) the form and manner in which and the authority before whom oath of the office and secrecy should be subscribed under sub-section (3) of section 67 ;
- (f) the powers and duties of the Secretary of the Commission under sub-section (1) of section 70 ;

- (g) the terms and conditions of services of the employees of the Commission under sub-section (4) of section 70 ;
- (h) any other matter required to be prescribed by the Government under clause (g) of sub-section (1) of section 75 ;
- (i) the manner of applying the fund under sub-section (3) of section 80 ;
- (j) the form in which and time at which the Commission shall prepare its annual accounts under sub-section (1) of section 81 ;
- (k) the form in which and time at which the Commission shall prepare its annual report under sub-section (1) of section 82 ;
- (l) the form in which and time at which the Commission shall prepare its budget under section 83 ;
- (m) manner of service of provisional order of assessment under sub-section (2) of section 86 ;
- (n) manner of holding enquiry by an adjudicating officer under sub-section (1) of section 103 ;
- (o) the form in which and the time at which notice is to be given to the Chief Electrical Inspector under sub-section (1) of section 123 ;
- (p) the manner of delivery of every notice, order or document under sub-section (1) of section 132 ; and
- (q) any other matter which is required to be, or may be, prescribed.

138. *Power of the Commission to make regulations.*— (1) The Commission may, by notification, make regulations consistent with the Act and the rules generally to carry out the provisions of the Act.

(2) In particular and without prejudice to the generality of the powers contained in sub-section (1), such regulations may provide for all or any of the following matters, namely :—

- (a) period to be specified under the first proviso to section 14 ;
- (b) the form and the manner of the application for grant of licence under sub-section (1) of section 15 ;
- (c) the manner and particulars for licence to be published under sub-section (2) of section 15 ;
- (d) the conditions of licence under section 16 ;
- (e) the manner and particulars of notice under clause (a) of sub-section (2) of section 18 ;
- (f) publication of the alterations or amendments to be made in the licence under clause (c) of sub-section (2) of section 18 ;
- (g) levy and collection of fees and charges from generating companies or licensee under sub-section (3) of section 27 ;
- (h) rates, charges and the terms and conditions in respect of intervening transmission facilities under proviso to sub-section (1) of section 31 ;
- (i) payment of transmission charges and a surcharge under sub-clause (ii) of clause (d) of sub-section (2) of section 33 ;
- (j) reduction of surcharge and cross subsidies under second proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 33 ;
- (k) manner and utilization of payment and a surcharge under third proviso to sub-clause (ii) of clause (d) of sub-section (2) of section 33 ;
- (l) payment of transmission charges and a surcharge under sub-clause (ii) of clause (c) of section 34 ;
- (m) reduction of surcharge and subsidies under second proviso to sub-clause (ii) of clause (c) of section 34 ;
- (n) the manner of payment of surcharge under the fourth proviso to sub-clause (ii) of clause (c) of section 34 ;

- (o) proportion of revenues from other business to be utilized for reducing the transmission and wheeling charges under proviso to section 35 ;
- (p) payment of additional charges on charges of wheeling under sub-section (4) of section 36 ;
- (q) guidelines under sub-section (5) of section 36 ;
- (r) the period to be specified by the Commission for the purposes specified under sub-section (1) of section 37 ;
- (s) methods and principles by which charges for electricity shall be fixed under clause (a) of sub-section (2) of section 39 ;
- (t) reasonable security payable to the distribution licensee under sub-section (1) of section 41 ;
- (u) payment of interest on security under sub-section (4) of section 41 ;
- (v) electricity supply code under section 44 ;
- (w) duties of electricity trader under sub-section (2) of section 46 ;
- (x) standards of performance of a licensee or a class of licensees under sub-section (1) of section 51 ;
- (y) the period within which information be furnished by licensee under sub-section (1) of section 53 ;
- (z) the terms and conditions for determination of tariff under section 55 ;
- (za) the period within which the cross subsidies shall be reduced under clause (g) of section 55 ;
- (zb) details to be furnished by licensee or generating company under sub-section (2) of section 56 ;
- (zc) the procedure for calculating the expected revenue from tariff and charges under sub-section (5) of section 56 ;

- (zd) the manner of making an application before the Commission and fee payable therefor under section (1) of section 58 ;
- (ze) issue of tariff order with modifications or conditions under sub-section (3) of section 58 ;
- (zf) the manner by which development of market in power including trading specified under section 60 ;
- (zg) rules of procedure for transaction of business under sub-section (1) of section 73 ;
- (zh) minimum information to be maintained by a licensee or the generating company and the manner of such information to be maintained under sub-section (8) of section 88 ;
- (zi) the manner of service and publication of notice under section 90 ;
- (zj) the form of preferring the appeal and the manner in which such form shall be verified and the fee for preferring appeal under sub-section (3) of section 103 ;
- (zk) any other matter which is to be, or may be, specified.

(3) All regulations made by the Commission under the Act shall be subject to the condition of previous publication.

139. *Rules and regulations to be laid before the State Legislature.*—Every rule made by the Government and every regulation made by the Commission shall be laid, as soon as may be after it is made, before each House of the State Legislature.

140. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of the Act, the Government may, by order published in the Government Gazette make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty :

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of the Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature.

141. *Repeal and savings.*—(1) Save as otherwise provided in the Act, the Jammu and Kashmir Electricity Act, 1940 and the Jammu and Kashmir State Electricity Regulatory Commission Act, 2000 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any licence, permission, authorization or exemption granted or any document or instrument executed or any direction given under the repealed laws shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of the Act :

Provided that the rules or regulations made under the repeals laws shall, in so far as the same are not inconsistent with the provisions of this Act, be deemed to have been made under this Act, and shall remain in force until repealed or modified expressly or by implications by the Government or the Commission, as the case may be.

(Sd.) MOHAMMAD ASHRAF,

Additional Secretary to Government,
Law Department.