THE KARNATAKA ELECTRICITY REFORM ACT, 1999

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STATEMENT OF OBJECTS AND REASONS

Act 25 of 1999.- It is considered necessary to enact a legislation to provide for:

(i) establishment of the Karnataka Electricity Regulatory Commission for the State Karnataka with powers to regulate purchase, distribution, supply and utilisation of electricity, tariff and charges payable, to promote efficiency, economy and safety in the use of electricity and to issue licenses and to do certain other matters.

(ii) constitution of Selection Committee to select members of the Karnataka Electricity Regulatory Commission.

(iii) incorporation of the Karnataka Power Transmission Corporation with the principle object of engaging in business of purchase, transmission sale and supply of electricity.

(iv) reorganisation of the Karnataka Electricity Board and transfer of Board functions and its properties and liabilities to the Karnataka Power Transmission Corporation;

(v) regulation of generation companies and generating station by the Karnataka Electricity Regulatory Commission;

(vi)Licensing transmission and supply of electricity by the Commission;

(vii) Laying down the methodology and terms and conditions for determination of revenue of the licensee and designing tariffs;

(viii) Securing compliance of the order of the Commission;

(ix) Constitution of Advisory Committee to advise on major questions of policy relating to the electricity supply industries in the State and on any other matter put before it;

(x) Penalties for contravention of the provisions of the act or the regulations made under the Act, or the Indian Electricity Act, 1910 or Electricity Supply Act, 1948 or the rules made under those Acts; and (xi) Certain other incidental and consequential matters.

As the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Electricity Reform Ordinance, 1999 (Karnataka Ordinance 3 of 1999) was promulgated to achieve the above object.

This Bill seeks to replace the said Ordinance.

(Obtained from L.C. Bill No. 9 of 1999).

II

Amending Act 26 of 2001.- It is considered necessary to amend the Karnataka Electricity Reforms Act, 1999:-

(i) to provide for determination of the amount payable by the State Government under section 12;

(ii) to remove minor ambiguities so that the enactment will be consistent with the stated object of electricity reform.

Certain other consequential changes are also made. Hence the Bill.

(L.A. Bill No. 15 of 2001 File No. DPAL 6 SHASANA 2001)

III

Amending Act 4 of 2005.- The Mangalore Electricity Supply Company, one of the four ESCOMS in the State has undertaken power supply in the districts of Mandya, Mysore, Chamarajnagar, Kodagu, Hassan, Udupi, Dakshina Kannada, Shimoga and

Chickmagalore. Since, it was felt difficult to give adequate service to the consumers scattered over a wide area, the State Government have vide Government Order No.EN 98 PSR 2004, dated 19.08.2004 established a new electricity distribution company called "The Chamundeshwari Electricity Supply Company" with headquarters at Mysore and with jurisdiction comprising the districts of Mysore, Chamrajnagar, Mandya and Hassan, In order to enable the new Company to function on equal footing with the other ESCOMS, it is essential to transfer all assets and liabilities in respect of the districts of Mysore, Chamarajnagar, Mandya and Hassan from MESCOM to Chamundeshwari Electricity Supply Company by suitably amending the Karnataka Electricity Reforms Act, 1999.

In order to enable immediate functioning of the Chamundeshwari Electricity Supply Company, the Karnataka Electricity Reforms (Amendment) Ordinance, 2004 was promulgated on 24.12.2004 to amend section 14 of the Karnataka Electricity Reforms Act, 1999. This bill seeks to replace the said Ordinance.

Hence the Bill.

(LC Bill No.1 of 2005)

KARNATAKA ACT NO. 25 OF 1999

THE KARNATAKA ELECTRICITY REFORM ACT, 1999

(Received the assent of the President on Twentieth day of August, 1999)

(As amended by Karnataka Act 26 of 2001 and 4 of 2005)

An Act to provide for the constitution of an Electricity Regulatory Commission ('The Commission') for the State of Karnataka; to provide for the restructuring of the electricity industry in the State, the corporatisation of the Karnataka Electricity Board and the rationalisation of the generation, transmission, distribution and supply of electricity in the State; to provide for avenues for participation of private sector entrepreneurs in the electricity industry in the State and generally for taking measures conducive to the development and management of the electricity industry in the State in an efficient, economic and competitive manner to provide reliable quality power and to protect the interest of the consumer including vesting in the Commission the powers to regulate the activities of the power sector in the State and for matters connected therewith or incidental thereto;

Be it enacted by the State Legislature of Karnataka in the Fiftieth Year of the Republic of India, as follows:-

PART I

PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the Karnataka Electricity Reform Act, 1999.

(2) It extends to the whole of the State of Karnataka.

(3) It shall be deemed to have come into force with effect from the First day of June, 1999.

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

(a) "area of transmission" means the area within which the holder of a transmission licensee is, for the time being, authorised by license to transmit energy;

(b) " Board" means the Karnataka Electricity Board;

(c) "Chairman" means the Chairman of the Commission;

(d) "Commission" means the Karnataka Electricity Regulatory Commission constituted under sub-section (1) of section 3;

(e) "license" means a license granted under Section 19;

(f) "licensee" or "license holder" means any person licensed under this Act;

(g) "Licensing Authority" means the Commission, which is empowered to issue a license under Part VII of this Act;

(h) "local authority" means the Municipal Corporations, Municipal Councils, Town Panchayaths, Zilla Panchayaths, Taluk Panchayaths and Grama Panchayaths;

(i) "member" means a member of the Commission and shall include the Chairman of the Commission;

(j) "Regulations" mean regulations made by the Commission;

(k) "selection committee" means the selection committee constituted under section 4;

(l) "supply license" means a license granted under sub-section (1) (b) of section 19;

(m) "KPTC" means the Karnataka Power Transmission Corporation incorporated as a transmission company under the Companies Act, 1956.

(n) "transmission license" means a license granted under sub-section (1) (a) of section 19;

(o) "transmit" in relation to electricity, means the transportation or transmission of electricity by means of a system operated or controlled by a licensee which consists, wholly or mainly, of extra high voltage and extra high tension lines and electrical plant and is used for transforming and for conveying and/or transferring electricity from a generating station to a sub-station, from one generating station to another or from one sub-station to another or otherwise from one place to another;

(p) Words and expressions used but not defined in this Act and defined in the Electricity (Supply) Act, 1948 (Central Act No. 54 of 1948), have the meanings respectively assigned to them in that Act;

(q) Words and expressions used but not defined either in this Act or in the Electricity (Supply) Act, 1948 (Act No. 54 of 1948) and defined in the Indian Electricity Act, 1910 (Act No.IX of 1910), have the meanings respectively assigned to them in that Act;

PART II

KARNATAKA ELECTRICITY REGULATORY COMMISSION

3. Establishment and constitution of the Commission .- (1) For the purposes of this Act within three months from the date of commencement of this Act, the State Government shall establish by notification, a Commission to be known as the Karnataka Electricity Regulatory Commission, which shall be a body corporate with perpetual succession and a common seal, with power to acquire, hold and dispose of property, movable and immovable and shall, by the said name, be entitled to sue and be sued.

(2) The Commission shall consist of three members to be appointed by the State Government from persons selected by the selection committee constituted for the purpose, in the manner provided in section 4 and one of them shall be nominated as Chairman by the State Government.

(3) When the Chairman is unable to discharge the functions owing to absence, illness or any other cause, the next senior member shall act as the Chairman till the day the Chairman re-assumes the charge.

(4) The seniority of members shall be reckoned from the date of their appointment as indicated in their order of appointment. In case, two members are appointed at the same time, the State Government while making the appointment shall determine the seniority between them.

(5) No act or proceedings of the Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

(6) The Chairman shall be the Chief Executive of the Commission.

4. Constitution of the selection committee to select members.-(1) The State Government shall expeditiously constitute a selection committee, as often as may be required, to select persons for appointment as members.

(2) The selection committee shall consist of three members, namely:-

(a) A retired Chief Justice of a High Court or a retired Judge of the Supreme Court as Chairman;

(b) The Chief Secretary of the Government of Karnataka as a Member;

(c) The Chairman of the Central Electricity Authority or a person who has worked as Chairman of an Electricity Board for not less than three years as a Member; and the Secretary, in-charge of the Energy Department, Government of Karnataka, shall act as the convenor of the selection committee.

(3) (a) The selection committee shall act expeditiously and shall generally finalise the selection to enable the State Government to make the appointment in time for the new members to take effective charge at the expiry of the term of the retiring member and without delay and generally within two months of vacancy arising for reasons other than the expiry of the term;

(b) The method and manner of the selection and appointment of members and designation of one of the members as Chairman shall be as may be prescribed;

(c) For the purposes of selection, the selection committee may call for application from individuals or nomination from such sources and in such other manner as the selection committee may consider appropriate.

(4) The selection committee shall select two suitable persons for each vacancy in the Commission who have such qualification and experience as provided in this Act and notify the State Government of the persons shortlisted by the selection committee. The State Government shall appoint one of the two persons shortlisted by the selection committee as a member within fifteen days of receipt of the recommendations of the selection committee.

(5) All decisions of the selection committee shall be by majority.

5. Conditions for appointment as member of the Commission .- (1) The members shall be persons of ability, integrity and standing who have adequate knowledge and experience of, and have demonstrated capacity in dealing with matters relating to, engineering, finance, economics, commerce, law or administration and further, that at all times,-

(a) one member shall be a graduate electrical engineer with at least twenty-five years of experience of either generation, transmission or distribution of electricity and having worked in a senior position in the said field;

(b) two members shall have qualification in the field of law, finance, economics, commerce, or administration with at least twenty-five years of

working experience and shall have worked in a senior position in the said field:

Provided that at any point of time the commission shall not consist of more than one member from the same discipline.

(2) A person shall be disqualified from being appointed as a member if he is a Member of Parliament or of any State Legislature or of any local authority or holds any post in a political party.

(3) The persons who are considered for appointment as members, shall notify the convenor of the selection committee,-

(a) of any office, employment or consultancy agreement or arrangement which he has in his own name or in any firm, association of persons or body corporate, or in the names of any relative, carrying on any of the following businesses or any financial interest therein:-

(i)generation, transmission, distribution or supply of electricity;

(ii)manufacture, sale or supply of any fuel for generation of electricity;

(iii)manufacture, sale, lease, hire, supply or otherwise dealing in machinery, plant, equipment, apparatus or fittings for the generation, transmission, distribution, supply or use of electricity; and

(iv)any entity providing professional services to any of the businesses referred to in clauses (i), (ii) and (iii) above; and

(b) of such other details and information as may be prescribed.

Explanation.- For the purpose of this section, the term "relative" shall have the same meaning as defined under section 6 of the Companies Act, 1956 and a member and his relatives shall not be taken as holding financial interest in any business of a public company if they are shareholders holding in aggregate less than two percent of the issued share capital in that public company.

(4) The details received from the persons shall be placed for consideration of the selection committee at the time of selection and recommendation of the persons for appointment as member.

(5) Before recommending any person as a member, the selection committee shall satisfy itself that the person does not have any financial or other interest as referred to in sub-section (3) or otherwise which is likely to affect prejudicially his functions as a member.

(6) Each member shall before taking charge of the office as member or within such time not exceeding three months after taking charge as may be allowed by the State Government on the recommendation of the selection committee, divest himself from the interest in the businesses mentioned in sub-section (3) as a condition of his appointment.

(7) If a person to be appointed as a member holds any office under the State or Central Government or any public sector corporation or any Government body or is otherwise gainfully employed or engaged in the service of any person he shall submit his resignation or take voluntary retirement from that service.

(8) A member, at any time within a period of two years after he ceases to be a member for any reason whatsoever, shall not be appointed in the service of the State Government or in any body corporate or institution or undertaking owned or controlled by the State Government or body dealing with power sector, in Karnataka.

(9) So long as a person holds the office of the member, and for a period of two years after he ceases to be a member for any reason whatsoever, he shall not acquire, hold or maintain, directly or indirectly, any office, employment or consultancy arrangement or businesses mentioned in sub-section (3) of this section within or outside the State, and if he acquires any such interest involuntarily or by way of succession or testamentary

disposition, he will divest himself from such interest within a period of three months of such interest being acquired.

(10) A member, after he ceases to be a member for any reason whatsoever, shall not, for a period of three years,, appear or otherwise represent any person including the Commission, before the Commission.

6. Term of office, conditions of service etc. of members.- (1) Every member shall hold office for a period of five years from the date of his appointment as member or until the age of sixty-five years whichever is earlier and he shall not be eligible for reappointment in the Commission at any time after the expiry of his term of appointment:

Provided that a member shall be eligible for appointment as Chairman subject to his combined tenure in the Commission as Member and Chairman shall not exceed five years :

Provided further that the first three members shall be appointed for varying periods of three years, four years and five years respectively so as to avoid the retirement of all the first appointed members at the same time:

Provided also that no person shall be appointed as member after he has completed the age of sixty-two years.

(2) The Chairman and other members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed :

Provided that the conditions of service once prescribed shall not be varied to the disadvantage of the members during the tenure of their appointment.

(3) The Chairman and every other member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form, in such manner and before such authority as may be prescribed.

7. Removal of Members .- (1) Subject to the provisions of sub-sections (2) and (3), the Governor may remove from office any member, who,-

(a) has been adjudged an undischarged insolvent; or

(b) has been convicted of an offence involving moral turpitude; or

(c) has become physically or mentally incapable of acting as such member; or

(d) has without reasonable cause, refused or failed to discharge his functions for a period of atleast three months; or

(e) ceases to fulfill any of the conditions of his appointment as member; or

(f) has acquired such financial or other interest that can affect prejudicially his functions as a member; or

(g) has conducted himself in a manner or has so abused his position as to render his continuance in office prejudicial to the public interest or to the objects and purpose of the Act .

(2) (a) Except where a member admits the charge in writing, no member shall be removed from his office on the grounds specified in clauses (c), (d), (e), (f) and (g) of sub-section (1) until a sitting judge of the High Court of Karnataka, as recommended by the Chief Justice of the High Court at the relevant time, has carried out an investigation and has forwarded a report to the Governor;

(b) Pending the investigation against a member under clause (a), the Governor may suspend the member from acting as Chairman or member, if the Judge appointed under clause (a) to carry out the investigation recommends the suspension.

(3) The Governor shall act in accordance with the recommendation under sub-section (2) and communicate the decision to the member concerned within a period of thirty days of the receipt of the report under sub-section (2).

(4) A member who has been removed shall not be eligible for re-appointment as a member or in any other capacity in the Commission or in the State Government or in any State Government undertakings, at any time.

(5) If the member removed under this section is the Chairman, he shall cease to be the Chairman.

(6) The vacancy caused by the removal of the member shall be filled in the same manner as provided for the appointment of a member or designation of the Chairman.

8. Appointment of the Secretary, staff, consultants etc.- (1) The Commission shall appoint a person as Secretary for a period of not exceeding five years at a time to exercise and perform under control of the Chairman, such duties and powers as may be specified by regulations made by the Commission.

(2) The Commission shall have a senior officer to represent the common interest of the consumers in all matters, hearings and proceedings before the Commission :

Provided that such appointment of the senior officer to represent the interests of the consumers shall be in addition to, and not in derogation in any manner of, the other rights of the individual consumers and also of the representations by consumer fora and organisations before the Commission, as may be recognised by the Commission in the regulations or otherwise.

(3) The Commission shall, with the approval of the State Government, determine the number, nature and categories of other officers and employees required to assist the Commission in the discharge of its functions.

(4) The salaries and allowances payable to the members and the administrative expenses, including salaries, allowances and pensions payable to, or in respect of, the Secretary, officers and other employees of the Commission shall be charged to the Consolidated Fund of the State.

(5) The method and manner of selection of the Secretary, officers and other employees and the terms and conditions of their service may be specified by regulation by the Commissionwith prior approval of the State Government.

(6) The Commission shall be entitled to appoint, from time to time, consultants required to assist the Commission in the discharge of its functions on terms and conditions as may be specified.

(7) The Commission shall formulate annual budgets as provided in the schedule.

PART III

PROCEEDINGS, POWERS AND FUNCTIONS OF THE COMMISSION

9. Proceedings of the Commission .- (1) The headquarters of the Commission shall be at Bangalore, but the Commission shall be entitled to conduct its proceedings, consultations and hearings in other places in the State.

(2) (a) The Commission shall have the exclusive power to make regulations for the conduct of its proceedings and discharge of its functions and all such regulations made shall be notified;

(b) Unless otherwise specified by the Commission, all hearings and proceedings before the Commission shall be held in public.

(3) In case of a difference of opinion among the members of the Commission, the opinion of the majority shall prevail and the opinion of the Commission shall be

expressed in terms of the views of the majority. Each member of the Commission shall have one vote only.

(4) The Chairman shall have no casting or second vote except that in the event of there being two members only by reason of vacancy in the office of the Chairman or of a member or disability of the nature that the Commission cannot hold the proceedings with all the three members present, the Chairman or the senior most member acting as Chairman, as the case may be, shall have a second and casting vote only during the period of such vacancy or disability.

(5) The quorum for the meeting of the Commission shall be two :

Provided that for a meeting of the Commission to review any previous decision taken by the Commission or for consideration of any issue which could not be decided on account of equality of votes in favour of, or against, the resolution proposed, the quorum for the meeting shall be all members of the Commission being personally present.

(6) The Chairman may instruct the Secretary to call a meeting of the Commission to be held at such time and at such place as the Chairman may direct. In addition, any member may request the Chairman to convene a meeting at any time by sending a notice in writing to the Chairman. The notice of all meetings shall be given to the members in writing.

(7) The Commission shall be entitled to decide urgent matters by circulation of the papers to members.

(8) All decisions, directions and orders of the Commission shall be in writing and shall be supported by reasons. The decisions, directions and orders of the Commission shall be available for inspection by any person and copies of the same shall also be made available in a manner the Commission may by regulations specify.

10. Powers of the Commission .- (1) The Commission shall, for the purposes of any inquiry or proceedings under this Act, have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), while trying a suit in respect of the following matters, namely:-

(a) the summoning and enforcing of attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisition of any public record from any court or office;

(e) the issue of commission for examination of witnesses;

(f) the appearance of parties and consequences of non-appearance;

(g) the grant of adjournments at the hearing; and

(h) review of its decisions, directions and orders.

(2) The Commission shall have the power to require any person,-

(a) to produce before and allowed to be examined and kept by, an officer of the Commission specified in this behalf, such books, accounts, or other documents in the custody or under the control of, the person so required as may be specified or described in the requisition, being documents relating to any matter concerning the generation, transmission, distribution and supply or use of electricity, the functioning of any undertaking involved in the above areas and other matters, the examination of which the Commission considers necessary or relevant for the purposes of this Act or the discharge of the functions by the Commission under this Act ; and

(b) to furnish to an officer so specified such information as may be required for the purposes of this Act or such other information as may be in his possession in relation to any activity carried on by any other person.

(3) For the purpose of enforcing the attendance of witnesses the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.

(4) Where, during any inquiry or proceedings under this Act, the Commission has any grounds to believe that any books or papers or documents thereof, or relating to any unit or person in relation to which such inquiry is being made or which the owner of such unit may be required to produce in such inquiry, are being or may be, destroyed, mutilated, altered, falsified or secreted, it may, by a written order authorise any officer of the Commission to exercise the powers of entry, search and seizure as may be exercised by an Inspector appointed for inspection under sections 240 and 240-A of the Companies Act, 1956 (Central Act 1 of 1956).

(5) Notwithstanding anything contained in any other law for the time being in force, the Commission may, by a general or special order, call upon any person including the generating companies or the licensees to furnish to the Commission periodically or as and when required, any information concerning the activities carried on by such person relating to generation, transmission, distribution and supply or use of electricity, the connection between such person and any other person or undertaking including such other information relating to the organisation and the, business, cost of production and other requirements as may be prescribed, to enable the Commission to carry out its functions under this Act.

(6) The Commission shall be entitled to exercise the above mentioned powers to call for information, details, books, accounts and other

documents from any person and make inquiry for the purposes of providing the same to the Central Electricity Authority, the Central Electricity Regulatory Commission, the Central Government and the State Government or other Government authorities.

(7) In the discharge of its function, the Commission shall be entitled to and shall consult, to the extent the Commission considers appropriate from time to time, such persons or group of persons who may be affected or are likely to be affected by the decisions of the Commission.

(8) All persons to whom notices may be issued pursuant to this Act, shall duly, faithfully and effectively furnish the information, details, books, accounts and other documents, which the Commission directs to be provided and the persons shall be proceeded with and punishable for any failure or delay to comply with such requirements, directions and orders issued by the Commission.

(9) Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19 of the Indian Electricity Act, 1910, for the placing of the electric supply lines, appliances and apparatus for transmission, distribution and supply of energy, the Commission may, by order in writing, confer upon licensees or any other person engaged in the business of transmission, distribution or supply of energy to the public under the Act, subject to such conditions and restrictions as the Commission may provide, any of the powers which the telegraph authority possesses under the Indian Telegraph Act, 1885 with respect to placing of telegraph lines and post.

11. Functions of the Commission .- (1) Subject to the provisions of this Act, the Commission shall be responsible to discharge, amongst others, the following functions, namely:-

(a) to regulate the purchase, distribution, supply and utilization of electricity, the quality of service, the tariff and charges payable keeping in view the interest of the

consumer as well as the consideration that the supply and distribution cannot be maintained unless the charges for the electricity supplied are adequately levied and duly collected;

(b) to promote efficiency, economy and safety in the use of the electricity in the State including and in particular, in regard to quality, continuity and reliability of service, the standard of performance by the units engaged in the electricity supply industry in the State, the efficient utilisation

and conservation of energy, appropriate demand side management and reduction of wastes and losses in the use of electricity and to enable all reasonable demands for electricity to be met;

(c) to issue licenses in accordance with the provisions of this Act and determine the conditions to be included in the licenses;

(d) to regulate the working of the licensees and to promote their working in an efficient, economical and equitable manner;

(e) to regulate the assets, properties and interest in properties concerning or related to the electricity industry in the State;

(f) to aid and advise, in matters concerning electricity generation, transmission, distribution and supply in the State;

(g) to promote competitiveness and progressively involve the participation of private sector, while ensuring fair deal to the customers;

(h) to collect data and forecast on the demand for, and use of, electricity and to require the licensees to collect such data and forecast;

(i) to require licensees to formulate prospective plans and schemes in co-ordination with others for the promotion of generation, transmission, distribution and supply of electricity;

(j) to set appropriate codes of conduct and standards for the electricity industry in the State and standards of service to the consumers by licensees;

(k) to arbitrate or to nominate arbitrator (s) in matters of disputes and difference between licensees in accordance with the provisions of this Act ;

(l) to coordinate with environmental regulatory agencies and to evolve policies and procedures for appropriate environmental regulations of electricity sector and utilities in the State; and

(m) to undertake all incidental or ancillary functions connected with the electricity sector.

(2) The Commission shall always act in a manner consistent with the objectives and purposes for which the Commission has been established as an independent statutory body corporate and all acts, decisions and orders of the Commission shall be pursuant to achieving and shall seek to achieve such objectives and purposes.

(3) Notwithstanding the provisions of section 52 of the Indian Electricity Act, 1910 (Central Act 9 of 1910) or the provisions of section 3 (1) (ii) and section 76 of the Electricity (Supply) Act, 1948, the Commission shall have the power to act as arbitrator or nominate arbitrator or arbitrators to adjudicate and settle disputes arising between licensees in accordance with the regulations and this shall be a condition in all licences granted under this Act .

PART IV

POWERS OF THE STATE GOVERNMENT

12. General powers of the State Government.- (1) The State Government shall have the power to issue policy directives on matters concerning electricity in the State including the overall planning and co-ordination :

Provided that such policy directives shall be consistent with the objectives sought to be achieved by this Act and accordingly shall not adversely affect or interfere with the functions and powers of the Commission including but not limited to the determination of the structure of tariffs for supply of electricity to various classes of consumers :

Provided further that if the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission under Part VIII, the State Government shall pay 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 State.

[1][Provided also that the commission shall determine the amount payable by the State Government under the second proviso and the terms and conditions and time within which such amount has to be paid to implement the State Government's stated policy for specified consumers or class of consumers.][1]

1. Inserted by Act 26 of 2001 w.e.f 10.11.2001 wide notification No. DE 61 PSR 2001 dated: 9.11.2001.

(2) The State Government shall consult the Commission in relation to any legislative proposals enacted affecting the electricity sector and shall duly take into account the recommendation, if any, given by the Commission within such reasonable time.

PART V

REORGANISATION OF THE KARNATAKA ELECTRICITY BOARD AND THE TRANSFER OF BOARD'S FUNCTIONS, TRANSFER OF PROPERTIES, LIABILITIES ETC.

13. Karnataka Power Transmission Corporation.- (1) Not later than sixty days from the date of commencement of this Act, the State Government shall cause a company to be incorporated under the provisions of the Companies Act, 1956 to be known as the Karnataka Power Transmission Corporation, (KPTC) with the principal objects of engaging in the business of purchase, transmission, sale and supply of electrical energy.

(2) Subject to the provisions of section 12, KPTC shall be the principal company to undertake all planning and co-ordination concerning the electricity. KPTC shall also be the principal company to undertake transmission and work connected with transmission, determining the electricity requirements in the State in co-ordination with the generating companies, State Government, the Commission, the Regional Electricity Board and the Central Electricity Authority.

(3) The KPTC shall [1][xxx][1] be responsible for the extra high voltage transmission system operation and shall operate the power system in an efficient manner.

1. Omitted by Act 26 of 2001 w.e.f 10.11.2001.

(4) The KPTC shall undertake the functions specified in this section and such other functions as may be assigned to it under the license to be granted to it by the Commission under this Act.

(5) Upon the grant of license to the KPTC under chapter VII, the KPTC shall discharge such powers, duties and functions of the Board including those under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or the rules framed thereunder, as may be specified in the license and it shall be the obligation of the KPTC to undertake and duly discharge the powers, duties and functions so assigned.

(6) Subject to sub-sections (1), (2) and (3) and subject to the overall supervision and control of the KPTC, a number of subsidiary or associated transmission [1][xxx][1] companies may be established in the State and the Commission may grant licenses under the terms of this Act to such transmission [1][xxx][1] companies, in consultation with KPTC.

1. Omitted by Act 26 of 2001 w.e.f 10.11.2001.

14. Reorganisation of the Karnataka Electricity Board.- (1) On and with effect from the date on which a transfer scheme prepared by the State Government to give effect to the object and purposes of this Act is published or such further date as may be prescribed (hereinafter referred to as the effective date of the first transfer), any property, interest in property, rights and liabilities which immediately before the effective date of first transfer belong to the Board shall vest in the State Government on such terms as may be agreed between the State Government and the Board.

(2) Any property, interest in property, rights and liabilities vested in the State Government under sub-section (1) or part thereof may be revested by the State Government in the KPTC or any generating company or companies in accordance with the transfer scheme published under sub-section (1) along with such other property, rights and liabilities of the State Government as may be specified in such scheme, on such terms and conditions as may be agreed between the State Government and the KPTC or any generating company or companies, as the case may be.

(3) From the effective date of first transfer of properties etc., to the KPTC, the Board shall stand dissolved. The Chairman and Members of the Board shall be deemed to have vacated their office. Such of the functions, duties, rights and powers exercisable by the Board under the Indian Electricity Act, 1910 or Electricity (Supply) Act, 1948 or any rule framed thereunder as the State Government may by notification specify shall be exercisable by the KPTC or any generating company or companies, as the case may be, from the effective date of first transfer.

(4) Notwithstanding anything in this section, where,-

(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government; and

(b) a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties.

(5) The State Government may, after consulting the KPTC [1][or a licensee as the case may be][1], KPTC require the [1][or a licensee as the case may be][1] to draw up a transfer scheme to vest in a further licensee (the "transferee licensee"), any of the function including a distribution function, any property, interest in property, rights and liabilities which have been

vested in the KPTC [1][or a licensee as the case may be][1] under this section and publish the same as the scheme of transfer under this Act. The transfer scheme to be notified under this sub section shall have the same effect as the transfer scheme under sub section (2) and shall be effective from the date specified (effective date of second transfer).

1. Inserted by Act 4 of 2005 w.e.f. 24.12.2004

(6) A transfer scheme under this section may, amongst others,.-

(a) define the property, interest in property, rights and liabilities to be allocated,-

(i) by specifying or describing the property, rights and liabilities in question;

(ii) by referring to all the property, interest in property, rights and liabilities comprised in a specified part of the transferor's undertaking; or

(iii) partly in the one way and partly in the other;

(b) provide that any rights or liabilities specified or described in the scheme shall be enforceable by or against the transferor, or the transferee, as the case may be;

(c) impose on KPTC or any licensee, an obligation to enter into such written agreements with, or execute such other instruments in favour of, any person as may be specified in the scheme;

(d) impose on any transferee licensee the obligations to comply with the power procurement and purchase arrangements with KPTC; and

(e) make such supplemental, incidental and consequential provisions as transferor licensee considers appropriate including provision specifying the order in which any transfer or transaction is to be regarded as taking effect.

(7) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board, or the KPTC or generating company or companiesbefore 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 Board, with the Board or for the State Government or the KPTC or the transferee, and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may be continued or instituted

by or against the State Government or the concerned transferee, as the case may be.

(8) If pursuant to a transfer scheme framed by the State Government, the KPTC [1][or a licensee as the case may be][1] is required to vest any part of its undertaking in another company or body corporate or person, the Commission shall amend the licence granted to enable the transferee to carry out the functions and activities assigned to the transferee.

1. Inserted by Act 4 of 2005 w.e.f. 24.12.2004

15. Provisions relating to personnel .- (1) The State Government may provide in a transfer scheme framed under section 14 for the transfer of the personnel from the Board to the KPTC or to the generating company or companies or from the KPTC to further transferee, as the case may be, on the vesting of properties, rights and liabilities in the KPTC or further transferee as provided under Section 14 and such transfers shall be effective in the same manner as in the case of transfers under section 14.

Explanation.- For the purposes of this section and section 16, the term "personnel" shall mean all persons who, on the effective date of the transfer, are the employees of the Board or the KPTC, as the case may be.

(2) Upon such transfer scheme, the personnel shall hold office or service under the KPTC or generating company or companies or the transferee company on terms and conditions that may be determined, in accordance with the 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 before the relevant transfer scheme and the continuity of service of the personnel shall be maintained:

Provided further that any such scheme under sub-sections (1) and (2) shall be consistent with the tripartite agreements entered into between the State Government, Board or KPTC as the case may be and the employees.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law as is applicable and except for the provisions made in this Act, the transfer

of the employment of the personnel referred to in sub-section (1) shall not entitle such employees to any compensation or damages under this Act, or any other Central or State law or under the general law, save as provided in the transfer scheme.

16. Variation of transfers .- Subject to the proviso of sub-section 2 of Section 15, the State Government may provide that the transfers in terms of sections 14 and 15 shall be provisional for a period of twelve months from the effective date and reserve the right to alter, vary, modify, add or otherwise change the terms in such manner as the State Government may consider appropriate.

PART VI

GENERATING COMPANIES AND GENERATING STATIONS

17. Regulation of generating companies and stations.- (1) A licensee or a bulk purchaser or any other person may enter into a contract with a generating company for purchase of electricity in the manner approved by the Commission and such approval granted by the Commission shall have the effect of the consent given by the State Government in terms of section 43A of the Electricity (Supply) Act, 1948 :

Provided that, the approval granted by the Commission under this sub-section shall not in any manner affect the requirements to obtain approvals and sanctions of the State Government or any other authority under any other law, rule or regulations.

(2) The provisions of section 44 of the Electricity (Supply) Act, 1948 shall apply in regard to applications for consent to the establishment or acquisition of a new generating station, or to extend or replace any major unit or plant or works pertaining to generation of electricity in a generating station, to meet the applicant's need for the electricity, subject to the following modifications:-

(a) the applicant shall apply for and obtain the prior consent in writing of the Commission in place of the Board;

(b) the Commission shall record the reasons for the grant or refusal of the consent.

(3) No generating company or generating station, except to the extent of the business of sale of electricity to the bulk purchaser or licensee or to such other person specifically authorised by the Commission, shall engage in the business of sale or supply of electricity or transmission of electricity in the State.

(4) No generating company or generating station shall, at any time, without the previous consent in writing of the Commission, acquire by purchase or otherwise the licence or the undertaking of, or associate himself

with, so far as the business of generating, transmitting, distribution or supply of energy is concerned, any other licensee or person transmitting, supplying or intending to transmit or supply electricity :

Provided that before granting consent the Commission may publish such notices inviting objection as the Commission may specify by regulations.

PART VII

LICENSING OF TRANSMISSION AND SUPPLY

18. Requirement of licence.- (1) No person, other than those authorised to do so by license or by virtue of exemption under this Act or authorised to or exempted by any other Authority under the Electricity (Supply) Act, 1948, shall engage in the State in the business of,-

(a) transmitting electricity; or

(b) supplying electricity, including bulk supply.

(2) Where any difference or dispute arises as to whether any person is or is not engaged or about to engage in the business of transmitting or supplying electricity as described in sub-section (1), the matter shall be referred to the Commission and the decision of the Commission shall be final.

(3) The Commission shall have the power to order any unlicensed person to cease to operate and disconnect its apparatus.

(4) Notwithstanding anything contained in the other provisions of this Act and until the establishment of the Commission in terms of section 3, the State Government shall have the power to grant provisional licenses under this section having a duration not exceeding twelve months to any person or persons to engage in the State in the business of transmission or supply of electricity on such terms and conditions as the State Government may determine consistent with the provisions of this Act, subject however, to the following conditions:-

(a) upon the establishment of the Commission, each of the provisional licenses granted by the State Government shall be placed before the Commission and shall be deemed to constitute an application for grant of a license by the Commission under the provisions of this Act ; and

(b) each provisional license granted under this section shall cease to be valid and effective on the date on which the decision of the Commission is communicated to the provisional licensees.

(5) The State Government shall be entitled to confer on the provisional licensees under sub-section (4) such powers, rights and authorisation as the Commission is entitled to grant to the licensees under this Act.

(6) All licenses issued under the provisions of Indian Electricity Act, 1910, by the State Government or any competent authority shall be deemed to be a provisional licence and shall be subject to the conditions provided under sub-sections (4) and (5). All power purchase agreements, transmission services agreements and other contracts entered into shall continue in full force and effect and will be transferred to the successor entities.

19. Grant of licenses by the Commission.- (1) The Commission may on an application made in such form and on payment of such fee as may be specified by regulations, grant a license authorising any person to,-

(a) transmit electricity in a specified area of transmission; and/or

(b) supply electricity in a specified area of supply or supply in bulk to the licensees or any person.

(2) In respect of the grant of any such license, the following provisions shall apply:-

(a) Any person applying for a license shall publish a notice of his application in such manner and with such particulars as may be specified by regulations within fourteen days after making the application;

(b) The Commission shall not grant a license until,-

(i) all objections received relating to the application for the license have been considered by the Commission, provided that no objection shall be considered by the Commission unless it is received within such time from the date of the first publication of the notice under clause (a), above as may be specified by regulations, which shall not be less than forty-five days; and

(ii) in the case of an application for a license to supply or transmit in an area which includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central

Government for defence purposes, the Commission has ascertained that there is no objection to the grant of the license on the part of the Central Government; [1][and][1]

[1][(iii) the KPTC is consulted in the matter.][1]

1. Inserted by Act 26 of 2001 w.e.f 10.11.2001.

(c) Where an objection is received from any local authority concerned, the Commission shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reasons for such opinion; and

(d) No application for a license shall be made by any local authority except pursuant to a resolution passed at a meeting of such authority held after one month's previous notice of the same specifying the purpose thereof has been given in the manner in which notices of meetings of such local authority are usually given.

(3) There shall be specified in the license the duration, extent to which and the terms and conditions under which the transmission or supply of energy is to be made and it shall also contain such other conditions as the Commission may consider appropriate for achieving the purposes of the Act.

(4) Without prejudice to the generality of sub-section (3), the conditions included in a license by virtue of that sub-section may require the licensee to,-

(a) enter into agreements on specified terms with other persons for the use of any electric lines, electrical plant and associated equipment operated by the licensee;

(b) comply with any direction given by the Commission;

(c) act in accordance with the terms of the license;

(d) refer all disputes arising under the license for determination by the Commission;

(e) furnish information, documents and details which the Commission may require for its own purpose or for the purposes of the Central or State Government or Central Electricity Authority or Central Electricity Regulatory Commission;

(f) comply with the requirements of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or rules framed thereunder in so far they are applicable;

(g) undertake such functions and obligations of the Board under the Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948 as the Commission may specify by regulation;

(h) obtain the approval of the Commission of such things that are required under the license conditions or for deviation from the same;

(i) notify the Commission of any scheme that he is proposing to undertake including the schemes in terms of the provisions of the Electricity (Supply) Act, 1948;

(j) purchase power in an economical manner and under a transparent power purchase procurement process;

Explanation.- The contracts concluded by the State Government or the Board with generating companies and transmission companies prior to the date of commencement of the Act shall stand assigned to the KPTC in terms of section 14 and the KPTC may continue the purchase or transmission of power under such contracts for effecting bulk sales, distribution and supply to other licensees;

(k) the purchase of power from the KPTC to the extent necessary to enable the KPTC to perform its obligations under the contracts concluded by the State Government or the Board referred to in clause (j);

(l) supply of electricity in bulk to other licensees or to customers.

(5) Without prejudice to the generality of sub-section (3), conditions included in a license granted by the Commission may require the holder of such a license to establish a tariff or to calculate its charges from time to time in accordance with the requirements specified by regulations by the Commission.

(6) The provisions contained in the Schedule to the Indian Electricity Act, 1910 shall be deemed to be incorporated with and form part of, every supply license granted under this Part save in so far as they are expressly varied or excepted by the supply license and shall, subject to any such additions, variations or exceptions which the Commission is empowered to make having regard to the purposes of the Act , apply to the undertaking authorised by the license in relation to its activities in the State:

Provided that where a supply license is granted by the Commission for the supply of energy to other licensees for distribution by them, then in so far as such license relates to such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the said Schedule shall not be deemed to be incorporated within the supply license.

(7) The conditions included in a license may contain provision for the conditions to cease to have effect or be modified at such times, in such

manner and in such circumstances as may be specified in, or determined by or under, the conditions.

(8) Any provisions included by virtue of sub-section (7) in a license shall have effect in addition to the provisions made under sections 22(5) and 23 with respect to the amendment of the conditions of a license.

(9) Unless if so indicated in the terms of a license, the grant of a license under this section to a person shall not in any way hinder or restrict the grant of a license to another person within the same area of supply for a like purpose and the licensee shall not claim any exclusivity.

(10) The license granted by the Commission in terms of this Act may provide that the licensee shall have the powers and authority to take appropriate actions for revenue realisation, prosecution for theft, meter tampering, diversion of electricity and all such and similar matters affecting the distribution and supply of electricity to the consumer.

(11) The Commission shall be entitled to authorise the licensees and persons to exercise such power and authority as the licensees and persons could be given under the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

20. Exemptions from the requirement of licence.- (1) The Commission may make regulations to grant exemption from the requirement to have a supply license, but subject to compliance with such conditions (if any) as may be specified in the order: provided that the Commission shall not, under any such regulation, grant any exemption except with the consent,-

(i) of the local authority, if any, constituted in the area where energy is to be supplied;

(ii) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Central Government for defence purposes, of the Central Government;

(iii) in any area falling within the area of supply of a licensee, of that licensee:

Provided that except in a case falling under sub-clause (ii), no such consent shall be necessary if the Commission is satisfied that such consent has been unreasonably withheld.

(2) An exemption may be granted,-

(a) to a person; or

(b) to a class of persons, or

(c) for a certain period.

(3) An exemption granted shall be published in such manner as the Commission considers appropriate.

(4) The exemption granted may be revoked by the Commission at any time for reasons to be recorded in writing.

(5) An exemption, unless previously revoked, shall continue in force for such period as may be specified in, or determined by or under, the exemption.

21. General duties and powers of the licensees.- (1) It shall be the duty of the holder of a supply license or a transmission license in respect of a particular area to develop, provide and maintain an efficient, co-ordinated and economical system of electricity supply or transmission in the area of supply, as the case may be.

(2) Each licensee in discharge of its duties shall comply with the provisions of the regulations framed from time to time governing the terms and conditions for the operation and maintenance of power system and electric supply lines.

(3) Subject to sub-section (4), sections 12 to 19 of the Indian Electricity Act, 1910 (which relate to the carrying out of Works) shall have effect in relation to a person authorised by a license under this Act to transmit or supply electricity, as if he is a licensee in that Act.

(4) Where any of the sections mentioned in sub-section (3) above is applied to a license holder by his license, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the license.

22. Revocation of Licenses.- (1) The Commission may inquire into the conduct or functioning of any licensee in carrying out the obligations under the Act or rules or regulations framed thereunder or the terms and conditions of its license,-

(a) on receiving a complaint from any consumer or consumer association or any trade association; or

(b) on a reference made to it by the State Government or by the Central Government or the Central Electricity Authority or the Central Electricity Regulatory Commission; or

(c) on receiving a complaint from any company or person involved in the generation, transmission, distribution or supply of electricity; or

(d) on its own knowledge or information derived from any source.

(2) Upon making such inquiry, the Commission may, if in its opinion in the public interest so requires, revoke a license in any of the following cases, namely:-

(a) where the licensee, in the opinion of the Commission, has committed a willful or unreasonable default in doing anything required of him by or under this Act , the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or rules made thereunder to the extent applicable in the State, read with the provisions of this Act ;

(b) where the licensee commits a breach of any of the terms and conditions of his license the breach of which is expressly declared by such license to render it liable to revocation;

(c) where the licensee fails within the period specified in his license or any longer period which the Commission may allow by order,-

(i) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his license; and

(ii) to make the deposit or furnish the security required by his license; and

(d) where in the opinion of the Commission the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by his license.

(3) Notwithstanding the provisions of sub-sections (1) and (2), where in its opinion the public interest so requires, the Commission may, on the application or with the consent of the licensee and if the licensee is not a local authority, after consulting the concerned local authority, if any, revoke a license as to the whole or any part of the area of transmission or supply upon such terms and conditions as it thinks fit.

(4) No license shall be revoked under sub-section (2) or (3) 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 license and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation and has given reasons for such revocation.

(5) The Commission may, instead of revoking the license, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon and be observed by, the licensee and be of like force and effect as if they were contained in the license.

23. Amendment of licenses.- (1) The Commission may, where in its opinion the public interest so permits or requires, on the application of the licensee or otherwise and if the licensee is not a local authority, after consulting the concerned local authority, if any, make such alterations and amendments to the terms and conditions of a license as it thinks fit taking into account the object and purposes of the Act :

Provided that no such alterations or amendments, other than an alteration or amendment pursuant to a license condition referred to in sub-section (7) of section 19 or sub-section (5) of section 22 shall be made except with the consent of the licensee.

(2) Where the licensee has made an application under sub-section (1) proposing any alterations or amendments in his license, the following provisions shall apply:-

(a) The licensee shall publish a notice of the application in the manner and with the particulars as may be specified by regulations;

(b) The Commission shall not make any alterations or amendments until all objections received by it with reference to the application within such time from the date of the first publication of the notice have been considered as the Commission may specify by regulations, which shall not be less than 45 days; and

(c) In the case of an application proposing alterations or amendments in an area of supply comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission shall not make any alterations or amendments except with the consent of the Central Government.

(3) Before making any alterations or amendments in a license otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or amendments and consider all objections received by it with reference to the proposed alterations or amendments within such time from the date of the first publication of the notice which the

commission may specify by regulations, which shall not be less than 45 days.

24. Provisions where the licence is revoked.- (1) Notwithstanding the provisions of sections 6 and 7 of the Indian Electricity Act, 1910, where the Commission revokes a license, under sub-section (2) of section 22 the following provisions shall apply:-

(a) The Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect.

(b) The Commission shall invite applications for acquiring the undertaking of the licensee whose license has been revoked and determine the terms and conditions of the sale of the undertaking;

(c) The Commission may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Commission. Such person is referred to in this section as the "purchaser"; and

(d) The Commission may make such interim arrangement in regard to the undertaking of the licensee for maintaining the electricity transmission and supply as may be considered appropriate including the appointment of administrators and additional directors for the undertaking;

(e) On and with effect from the date of revocation or where the undertaking of the licensee is sold to a purchaser earlier to the date of revocation in pursuance of any of the provisions of the Act , on and with effect from such date of purchase, all the rights, duties, obligation and liabilities of the licensee under this Act shall cease and stand determined except for any liabilities that have accrued prior to that date.

(2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the application submitted by the purchaser, subject however to the Commission's directions to deposit any part of the purchase price towards payment of any fines, charges, or compensation levied on the licensee or any other amount due or outstanding from the licensee under any orders passed by the Commission.

(3) Where the Commission issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver and thereupon the licensee shall deliver on a date

specified in the notice, the undertaking to the designated purchaser pending the payment of the purchase price of the undertaking :

Provided that in any such case, the purchaser shall pay interest at such percent not less than the Reserve Bank lending rate ruling at the time of delivery of the undertaking as the Commission may decide, on the purchase price for the period from the date of delivery of the undertaking to the date of payment.

(4) Where before the date fixed in the notice issued under sub-section (1)(a) as the date on which the revocation of the license shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub-section, the State Government shall acquire the undertaking on the date of revocation of the license and shall pay to the licensee the book value of the undertaking as on the date of acquisition and shall perform all the obligations of the licensee until such time as the State Government is able to sell the undertaking to a new licensee, which it shall endeavour to do when reasonably practicable. The State Government shall make payment of the book value of the undertaking on the date of acquisition after State Government is able to sell the undertaking to a new licensee:

Provided that such payment in any case be made within a period of one year from the date of such acquisition by the State Government.

(5) The licensee shall duly implement the orders of the Commission, notwithstanding that the licensee may be aggrieved by the orders of the Commission and intends to take legal action challenging the orders of the Commission.

25. General restriction on the licensees.- (1) No licensee or generating company shall, at any time, without the previous consent in writing of the Commission, acquire by purchase or otherwise the licence or the undertaking of, or associate himself with, so far as the business of generating, transmitting, distribution or supply of energy is concerned, any other licensee or person generating, transmitting, supplying or intending to generate, transmit or supply electricity :

Provided that before granting consent the Commission may publish such notices inviting objection and hear such persons or authority as the Commission may consider appropriate and specify by regulations.

(2) The licensee shall not, at any time, assign his licence or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Commission.

(3) A holder of a supply or transmission licence may, unless expressly prohibited by the terms of its licence, enter into arrangements for the purchase of electricity from,-

(a) the holder of a supply licence which permits the holder of such licence to supply energy to other licensees for distribution by them; and

(b) any person or generating company with the consent of the Commission.

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

26. Annual accounts of the licensee.- Every licensee shall, unless expressly exempted by the licence, prepare and render to the Commission on or before the date in each year specified in the licence an annual statement or statements of accounts of its undertaking and of each separate business unit as specified in the licence made up to such date, in such form and containing such particulars, as may be set out in the licence and it shall be a term of the licence that such statements shall be published in the manner specified by regulations.

PART VIII

TARIFFS AND FINANCING THE LICENSEES

27. Tariffs.- (1) The holder of each licence granted under this Act shall observe the methodologies and procedures specified by the Commission from time to time, in calculating the expected revenue from charges which it is permitted to recover pursuant to the terms of its licence and in designing tariffs to collect such revenues.

(2) The Commission shall, subject to sub-section (3), have the power to lay down methodology and the terms and conditions for determination of revenue of the licensee under sub section (1) of this section and the determination of tariff, in such other manner as the Commission considers appropriate and for doing so, the Commission shall be guided by the following factors, namely:-

(a) the financial principles and their applications provided in sections 46, 57 and 57-A of the Electricity (Supply) Act, 1948 (54 of 1948) and in the sixth schedule thereto;

(b) in the case of the Board or its successor entities, the principles under section 59 of the Electricity (Supply) Act, 1948;

(c) that the tariff progressively reflects the cost of supply of electricity at an adequate and improving level of efficiency;

(d) the factors which would encourage efficiency, economical use of the resources, good performance and optimum investments and other matters which the Commission considers appropriate for the purpose of this Act ; and

(e) the interest of the consumers are safeguarded and at the same time, the consumers pay for the use of electricity in a reasonable manner based on the average cost of supply of energy;

(f) the electricity generation, transmission, distribution and supply are conducted on commercial principles

(g) national and state power plans formulated by the Central or State Government, as the case may be :

Provided that the contracts concluded by the Government of Karnataka and/or the Board with generation and transmission companies prior to commencement of the Act shall be deemed to have been approved by the Commission under the provisions of this Act and shall be given effect by the Commission.

(3) Where the Commission departs from factors specified in the sixth schedule to the Electricity (Supply) Act, 1948 (Central Act 54 of 1948) while determining revenue of the licensee and tariffs, it shall record the reasons therefor in writing.

(4) Any methodology or procedure specified by the Commission under sub-sections (1), (2) (3) above shall be to ensure that the objectives and purposes of the Act are duly achieved.

(5) Any tariff implemented under this Act,-

(a) shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, power factor, and total consumption of energy during any specified period or the time at which supply is required, or the geographical position of any area , the nature of the supply and the purpose for which the supply is required; or

paying capacity of category of consumers and need for cross subsidisation; and

(b) shall be just and reasonable and be such as to promote economic efficiency in the supply and consumption of electricity; and

(c) shall satisfy all other relevant provisions of the Act, regulations and conditions of the license.

(6) The Commission also shall endeavour to fix tariff in such a manner that, as far as possible, similarly placed consumers in different areas pay similar tariff.

(7) Every licensee shall provide to the Commission, at such time and in such manner, as may be specified in the regulations, full details of its calculations for the ensuing financial year of the expected aggregate revenue from charges, which it believes to have been permitted to recover pursuant to the terms of its licence and such further information, as the Commission may reasonably require to assess such calculations. Within ninety days of the date on which the licensee has furnished all the information, the Commission shall notify either,-

(a) that it accepts the licensee's revenue calculations and tariff proposals; or

(b) that it does not consider the licensee's revenue calculations and tariff proposals to be in accordance with the methodology or procedure prescribed, and such notice shall,-

(i) specify fully the reasons why the Commission considers that the revenue calculations or tariff proposals furnished do not comply with the methodology, specified procedure or are incorrect;

(ii) propose a modification or an alternative calculation of the expected revenue from charges, which the licensee shall accept.

(8) The Commission may, at the time of notifying the decision under sub-section (7) or within fifteen days of such decision, determine whether the tariff charged by the licensee is required to be modified and if so, require the licensee to modify the tariff or any part thereof.

(9) Each holder of the supply licensee shall publish in a daily newspaper having circulation in the area of supply and make available to the public on request, the tariff for supply of electricity within the area of supply and such tariff shall take effect only after seven days from the date of such publication.

(10) No tariff or part of any tariff implemented under sub-section (5) may be amended more 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 approved by the Commission. At least three months before the proposed date for implementation of any tariff or amendment to a tariff, the licensee shall provide details of the proposed tariff or amendment to a tariff to the Commission, together with such further information as the Commission may require to determine whether the tariff or amended tariff would satisfy the provisions of subsection (5). If the commission considers that the proposed tariff or amended tariff of a licensee does not satisfy any of the provisions of subsection (5), it shall within sixty days of receipt of all the information which it required, and after consultation with the Commission Advisory Committee and the licensee, notify the licensee that the proposed tariff or amended tariff is unacceptable to the Commission and it shall provide to the licensee an alternative tariff or amended tariff which shall be implemented by the licensee. The Commission shall notify its decision on the proposed amended tariff within ninety days of receipt of all information.

(11) The licensee shall not amend any tariff unless the amendment has been approved by the Commission and the amended tariff is published in the manner provided under sub-section (9).

(12) Notwithstanding anything contained in sections 57-A and 57-B of the Electricity (Supply) Act, 1948 (54 of 1948), no Rating Committee shall be constituted after the date of commencement of this Act and the Commission shall secure that the licensee comply with the provisions regarding the charges for the sale of electricity, both wholesale and retail, and for connection to, and use of, their assets or system in accordance with the provisions of this Act .

Explanation.- (a) In this section "the expected revenue from charges" means the total revenue which the KPTC or the licensees are expected to recover from charges for the level of forecast supply used in the determination under sub-section (7), in any financial year, in respect of goods or services supplied to customers.

(b) "tariff" means a schedule of standard prices or charges for specified services which are applicable to all such specified services provided to the type of customers specified in the tariff published.

28. Finances of the Licensees .- (1)The State Government may, with the approval of the State Legislature, from time to time, make

subventions to any licensee for the purpose of this Act or the Electricity (Supply) Act, 1948 for such amounts as may be recommended by the Commission and on such terms and conditions as the State Government may determine.

(2) The State Government may from time to time advance loans to any licensee or Generating Company which for the time being is wholly or partly owned by the State Government on such terms and conditions, not inconsistent with the provisions of this Act or the Electricity (Supply) Act, 1948, as the State Government may determine.

(3) The State Government may guarantee in such manner as it thinks fit, the repayment of the principal or the payment of interest (or both) on any loan proposed to be raised by any licensee or generating company, which is for the time being wholly or partly owned by the State Government or the discharge of any other financial obligation of any licensee, provided that the State Government shall, so long as such guarantees are in force, lay before the State Legislature during the budget session in every year a statement of the guarantees, if any, given during the current financial year of the State and an up-to-date account of the total sums, if any, which have been paid out of State revenues in each case by reason of any such guarantees or paid into State revenues towards repayment of any money so paid out.

(4) The State Government shall be entitled to inspect and verify the accounts of every licensee obtaining the benefits under sub-sections (1), (2) and (3) of this section.

PART IX

COMMISSION'S POWER TO PASS ORDERS AND ENFORCE DECISIONS

29. Orders for securing compliance .- (1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any relevant condition or requirement of its license, it shall by final order under section 30 and, if it thinks fit appropriate in accordance with sub-section (2), by interim order under this section, issue such directions as it deems proper for securing compliance.

(2) In determining whether it is appropriate that interim order be made, the Commission shall have regard, in particular to,-

(a) the extent to which the contravention or likely contravention by the licensee will affect the achievement of the objects and purposes of this Act;

(b) the extent to which any person is likely to sustain loss or damage in consequence of anything which is likely to be done, or omitted to be done, in contravention of the relevant condition or requirement, before a final order can be made; and

(c) the extent to which (having regard to the following provisions of this section) there is any other available remedy in respect of the alleged contravention of a relevant condition or requirement.

(3) If the Commission proposes to make an interim order, it shall give notice to the licensee,-

(a) stating that it proposes to make the order, setting out,-

(i) the relevant conditions or requirement, which the proposed order, is intended to secure compliance;

(ii) the acts or omissions which, in its opinion constitute contravention of that condition or requirement;

(iii) the other facts which in its opinion, justify the making of the proposed order; and

(iv) the effects of the proposed order; and .

(b) specifying the period (being not less than 5 days from the date of notice) within which the licensee may make representations or objections to the proposed order.

(4) Subject to sub-section (5), and after considering any representations or objections from the licensee pursuant to sub-section (3) (b), the Commission may make

an interim order (which may be modified from the proposed order following the licensee's representations or objections) at any time after the expiry of the period referred to in sub-section (3), if,-

(a) the Commission has good reason to believe that the licensee to whom the order relates has contravened or is contravening or is likely to contravene any relevant condition or requirement; and

(b) the provisions made by the order are requisite for the purpose of securing compliance with that condition or requirement.

(5) The Commission may not make an interim order if it is satisfied that the licensee has agreed to take and is taking all such steps as the Commission considers that the licensee should take to secure or facilitate compliance with the condition or requirement in question.

(6) An interim order,-

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

(b) shall take effect from such time, being the earliest practicable time, as is determined by the order; and

(c) may be revoked, modified or rescinded at any time by the Commission, but in any event shall cease to have effect at the end of such period as is stated in the order unless the Commission is at that time following the procedure set out in Section 30 to declare the interim order to be a final order.

(7) As soon as practicable after making an interim order, the Commission shall,-

(a) serve a copy of the order on the licensee to whom the order relates;

(b) publish the order in such manner as it considers appropriate for the purpose of bringing it to the attention of persons likely to be affected by it; and

(c) commence proceedings to declare the interim order to be a final order in accordance with section 30.

30. Final orders for securing compliance .- (1) If the commission proposes to make a final order or to declare an interim order to be a final order, it shall give notice,-

(a) stating that it proposes to make the final order or to declare the interim order to be a final order;

(b) setting out the information referred to in sub-section (3) (a) of section 29 in respect of the proposed final order; and

(c) specifying the period (being not less than 60 days from the date of publication of the notice) within which representations or objections to the proposed order may be made;

and shall consider any representations or objections that are duly made and not withdrawn and publish notice of such representations or objections and specify a period (being not less than thirty days from the date of publication of the notice) within which further representations or objections may be made.

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

(a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and

(b) by serving a copy of the notice and a copy of the proposed final order on the licensee to whom the order relates.

(3) The Commission shall not modify the proposed final order as a result of any representations or objections received after publications of the notice referred to in sub-section (1), unless,-

(a) the licensee to whom the proposed final order relates has consented to the modifications; and

(b) the requirements of sub-section (4) are complied with.

(4) The requirements referred to in clause (b) of sub-section (3) are that the Commission shall,-

(a) serve on the licensee to whom the proposed final order relates such notice as appears to the Commission requisite of its proposal to modify the proposed final order, together with details of such modifications;

(b) in that notice specify the period (being not less than 30 days from the date of the service of the notice) within which representations or objections to the proposed modifications can be made; and

(c) consider any representations or objections, which are duly made and not withdrawn within 10 days of the receipt thereof.

(5) The provisions of clauses (a) and (b) of sub-section (6) of section 29 shall apply to final orders.

(6) As soon as practicable after making a final order, the Commission shall with respect to the final order, follow the procedure set out in clauses (a) and (b) of sub-section (7) of section 29.

(7) The Commission may revoke a final order at any time, but before revoking a final order the Commission shall give notice,-

(a) stating that it proposes to revoke the order and setting out its effect; and

(b) specifying the period (being not less than thirty days from the date of delivery of the notice) within which representations or objections to the proposed publication may be made and shall consider any representations or objections which are duly made and not withdrawn within ten days of the receipt thereof.

(8) If after giving notice under sub-section (7), the Commission decides not to revoke the final order to which the notice relates, it shall give notice of its decision to the concerned persons in the same manner as set out in clauses (a) and (b) of sub-section (7) of section 29.

31. Effect and enforcement of interim and final orders and emergency provisions.- (1) Without prejudice to section 47 of this Act, all orders and directions, interim or final, passed by the Commission shall be enforceable in law as if it were a decree passed by a Civil Court.

(2) The Commission shall be entitled to take such assistance of the police and other authorities in the State required to effectively enforce the orders and directions given by the Commission.

(3) The Commission shall be entitled to give directions for vesting of the management and control of any of the undertaking of the licensee with the assets, interests and rights of the undertaking pending any inquiry and passing of interim or final orders in the matter, if the Commission considers, taking into account the object and purposes of this Act and the need to maintain continued supply of electricity in an efficient and safe manner to the consumer, it is imminent to pass such order or directions. Such directions or orders shall not be questioned on the ground that no prior notice of or

hearing on the intention to pass the order or direction was given to the licensee. The Commission shall however give opportunity to the licensee and hear the licensee before passing further orders in terms of sections 29 and 30.

32. Fines and charges.- (1) The Commission shall be entitled to impose such fines and charges as may be specified by the Commission in the regulations for non-compliance or violation on the part of the generating companies, licensees or other persons, of the provisions or requirements of this Act or rules and regulations framed thereunder and directions or orders of the Commission made from time to time. The fines, which the

Commission shall be entitled to impose, may extend upto rupees five lakhs for an act of non compliance or violation and a further amount not exceeding rupees twenty thousand for every day during which the non-compliance or violation continues.

(2) The Commission shall, while making an interim or final order under this Part, be entitled to direct compensation to be paid by the person guilty of violation or non-compliance as provided in sub-section (1) to the person or persons affected by such violation or non compliance.

(3) The fines, charges and compensation which may be imposed by the Commission under this section shall be in addition to, and not in derogation of, any other liability, which the person guilty of violation or non compliance, may have incurred.

33. General control of the Commission.- (1) The licensees, the generating companies and other persons shall comply with the regulations framed by the Commission and the directions issued by the Commission from time to time governing the terms and conditions for the operation and maintenance of the integrated power system and its safety.

(2) The licensees shall be subject to such regulations made by the Commission in regard to assets, properties, interests in property and other facilities

forming an integral part of, or used in connection with, the licensed activity in the State and the licensees shall not dispose off or disconnect such assets in violation of such

regulations .

PART X

ADVISORY COMMITTEE, CONSUMER CONSULTATION, DISCLOSURE OF INFORMATION, STANDARD OF PERFORMANCE ETC

34. Advisory Committee.- (1) The Commission shall constitute a committee to be known as the Commission Advisory Committee, in consultation with the State Government which shall consist of such number of persons being not less than nine and not more than fifteen as the Commission may appoint after consultation with such representatives or bodies representative of the following interests as the Commission thinks fit, that is to say, holders of supply licensees in the State, holders of transmission licenses in the State, generating companies operating in the State, commerce, industry, transport, agriculture, labour employed in the electricity supply industry and consumers of electricity.

(2) The Chairman and members of the Commission shall be ex-officio Chairman and members of the Commission Advisory Committee.

(3) The Commission Advisory Committee shall meet at least once in every 3 months.

(4) The term of the Advisory Committee shall be three years and one third of the members shall retire annually.

(5) The functions of the Commission Advisory Committee shall be as follows:-

(a) to advise the Commission on major questions of policy, relating to the electricity supply industry in the State; and

(b) to advise the Commission on any matters, which the Commission may put before it, including matters relating to the quality, continuity and extent of service provided by licensees and compliance by licensees with the conditions and requirements of their licences.

35. Disclosure of Information.- The Commission may, after consultation with Commission Advisory Committee, holders of supply licences and other persons or bodies appearing to the Commission to be representative of persons and categories of persons likely to be affected make regulations specifying,-

(a) the circumstances in which such licensees are to inform customers of their rights;

(b) the standards of performance in relation to any duty arising under sub-section(1), or otherwise in connection with the electricity supply to the consumers; and

(c) the circumstances in which licensees are to be exempted from any requirements of the regulations, and may make different provisions for different licensees.

36. Electricity supply and standard of performance.- (1) The Commission may, after consultation with the licensees, the Commission Advisory Committee and with persons or bodies appearing to it to be representative of persons likely to be affected, from time to time,-

(a) determine such standards of overall performance in connection with the provision of electricity supply services and in connection with the promotion of the efficient use of electricity by consumers as, in its opinion, are economic and ought to be achieved by such licensees; and

(b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.

(2) Different standards may be determined under this section for different licensees.

37. Information with respect to level of performance.- (1) The Commission shall from time to time collect information with respect to,-

(a) the fines or penalties levied on licensees under this Act;

(b) the levels of overall performance achieved by such licensees in connection with the transmission and provision of electricity supply services; and

(c) the levels of performance achieved by such licensees in connection with the promotion of the efficient use of electricity by consumers.

(2) On or before such date in each year as may be specified in a direction given by the Commission, each licensee shall furnish to the Commission the following information:-

(a) with respect to each standard determined, the number of cases in which a penalty was levied and the aggregate amount of value of those penalties; and

(b) with respect to each standard determined, such information with respect to the level of performance achieved by the licensee as may be so specified.

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

38. Restriction on disclosure of information.- (1) Subject to the provisions of this Act, no confidential information with respect to any particular business which,-

(a) has been obtained by the Commission under or by virtue of any of the provisions of this Act ; and

(b) relates to the affairs of any individual or to any particular business;

shall during the lifetime of that individual or for so long as that particular business continues to be carried on, be disclosed by the Commission

without the consent of that individual or the person for the time being carrying on that business.

(2) The restriction contained in sub-section (1) above shall not apply to any disclosure of information which is made,-

(a) for the purpose of facilitating the carrying out by the Commission of any of its functions under this Act or by the State Government of any of its functions under a statute;

(b) for the purpose of facilitating the carrying out by the Central Government of any of its duties or functions under this Act or any Central legislation;

(c) for the purpose of facilitating the carrying out by the Accountant General, Karnataka of his duties and functions under this Act ;

(d) for the purpose of enabling or assisting any competent person to carry out his functions under the law relating to insolvency;

(e) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or

(f) for the purposes of any civil proceedings brought under or by virtue of this Act or any other State or Central legislation to which the information is directly relevant.

(3) The restrictions contained in sub-section (1) above shall not apply to the disclosure of any information, which is otherwise in the public domain.

PART XI

ARBITRATION AND APPEALS

39. Arbitration by the Commission.- (1) Notwithstanding anything contained in any other law including the Arbitration and Conciliation Act, 1996 (Central Act. 26 of 1996) or substitution thereof, any dispute arising between licensees shall be referred to the Commission. The Commission may proceed to act as arbitrator or nominate arbitrator(s) to adjudicate and settle such dispute. The practice or procedure to be followed in connection with any such adjudication and settlement shall be such as may be specified by regulations.

(2) Where the award is made by the arbitrator appointed by the Commission it shall be filed before the Commission and the Commission shall be entitled to pass appropriate orders on the award including, orders as to,-

(a) confirming and enforcing the award;

(b) setting aside or modifying the award; or

(c) remitting the award for reconsideration by the arbitrator.

(3) The award given by the Commission under sub-section (1) or the order passed by the Commission under sub-section (2) shall be a decision or order of the Commission and shall be appeallable as provided in this Act and shall not be subject to any proceedings under any law relating to Arbitration.

(4) An award made or an order passed by the Commission under sub-section (2) shall be enforceable as if it were a decree of the Civil Court.

40. Appeals from the decision of the Electrical Inspectors.- Notwithstanding anything to the contrary in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948, or any rule made thereunder, an appeal shall lie from the decision of an Electrical Inspector (other than an Inspector of the Central Government or the Central Electricity Authority or Central Electricity Regulatory Commission) to the Commission or to an arbitrator to be appointed by the Commission in terms of section 39.

41. Appeals against the order of the Commission .- Any person aggrieved by any decision or order of the Commission passed under this Act may file an appeal to the High Court of Karnataka within sixty days from the date of communication of the decision or order of the Commission to him, on questions of law arising out of such order :

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding thirty days.

PART XII

OFFENCES AND PENALTIES

42. Penalty for contravention of section 18.- Whoever in contravention of the provisions of this Act or the regulations made under this Act or of the provisions of the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or the rules framed under the said Acts, engages in the business of transmission or supply or use of energy, shall be punishable with imprisonment which may extend to one year or with fine which

may extend to rupees five lakhs or with both and a further fine which may extend to rupees twenty thousand for each day after the first during which the offence continues.

43. Penalty for contravention of other provisions.- If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to, any direction, order or requirement made under any of the provisions of this Act he shall be punishable with imprisonment which may extend to six months or with fine which may extend to rupees five lakhs or with both and a further fine which may extend to rupees twenty thousand for each day after the first during which the offence continues.

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

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

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance 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 that offence and shall be liable to be proceeded against and punished accordingly.

For the 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.

45. Power to compound offences.- The Commission may for reasons to be recorded in writing either before or after the institution of proceedings compound any offence relating to contravention of any order made by it.

46. Cognizance of offences .- (1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Commission, generally or specially authorised in this behalf by the Commission, and no Court other than that of a

Metropolitan Magistrate or a Judicial Magistrate of the First Class or a Court superior thereto shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) the Court may, if it sees reason so to do, dispense with the personal attendance of the officer of the Commission filing the complaint.

47. Penalties and proceedings not to prejudice other actions.-The proceedings and actions under this Act against a person contravening the provisions of the Act or orders passed by the Commission shall be in addition to and without prejudice to actions that may be initiated under other Acts including and in particular under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

PART XIII

MISCELLANEOUS

48. Recovery of fees, fines and charges.- The Commission shall be entitled to recover all sums due to it under this Act, whether by way of licence, fees or fines and

charges, in accordance with the provisions of 1[the Karnataka Power Transmission Corporation (Recovery of Dues) Act, 1976]1, as if any such sum were a public demand as defined in that Act and hand over the amount due to the person or authority concerned.

1. Substituted by Act 26 of 2001 w.e.f 10.11.2001.

49. Application of fine and charges .- The Commission or Court imposing the fine and charges under this Act may direct that the whole or any part thereof shall be applied in, or towards payment of, the costs of the proceedings.

50. No part of the fines or penalties to be passed on.- The licensee, generating companies and others on whom the fines or charges are imposed under this Act shall not, directly or indirectly, pass the same to the consumers in the form of tariff or charges payable.

51. Protection for acts done in good faith .- No suit or legal proceedings shall lie against the Commission or the Chairman or other members of the Commission or the staff or representatives of the Commission in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulation or order made thereunder.

52. Bar of jurisdiction and saving of consumer actions.- (1) No order or proceeding made under this Act or rules or regulations framed

under the Act shall be appeallable except as provided in the Act and no Civil Court including under the Arbitration and Conciliation Act, 1996 shall have jurisdiction in respect of any matter which the Commission or the Appellate Authority has jurisdiction under this Act .

(2) Nothing in this Act shall in any way prejudice or affect the rights and privileges of the consumers under other laws including the Consumer Protection Act, 1986.

53. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulties:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

54. Proceedings before the Commission to be judicial proceedings.- All proceedings before the Commission shall be deemed to be judicial proceeding within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860) and the Commission shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (Act 2 of 1974).

55. Members and staff of commission to be public servants.-The Chairman, other Members and officers and other employees of the Commission appointed for carrying out the objects and purposes of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

56. Power to make regulations.- (1) The Commission may, make regulations by notification in the Official Gazette, for the proper performance of its functions under this Act .

(2) In particular and without prejudice to the generality of the foregoing provisions and matters specifically provided for in this Act , such regulations may provide for all or any of the following matters, namely:-

(a) the administration of the affairs of the Commission including the exercise of its administrative, quasi-judicial and judicial powers including arbitration and procedure, summoning and holding of the meeting of the Commission, the times and places at which such meetings shall be held, the conduct of the business thereof;

(b) the duties of the Secretary, officers and employees of the Commission, their salaries, allowances and conditions of service;

(c) determining of the functions to be assigned to licensees and others involved in the generation, purchase, transmission, distribution and supply of electricity, the manner in which such functions shall be discharged and the procedure and code to be adopted in regard to power system and electric supply lines;

(d) the procedure for licensing of transmission and supply, the conditions for the grant of licenses and particulars, details and documents to be made available by the persons applying for the licence, the standard and general conditions subject to which the licence shall be granted, the exemption from grant, revocation and amendment and effect thereof, of the license and all matters related to the above;

(e) the duties, powers, rights and obligations of the licensee;

(f) the particulars to be furnished, the collection of information, details, particulars, documents, accounts, books, etc. from or of the persons involved in the generation, transmission, distribution, supply and use of electricity, the form and manner in which the same are to be furnished and enforcing and compelling the production of the same;

(g) the method and manner of determination of licensee's revenues, tariff fixation, the matters to be considered in such determination and fixation;

(h) the constitution of the Commission Advisory Committee;

(i) the determination of the standard of performance of the persons involved in the generation, transmission, distribution and supply of electricity in the State;

(j) the amount of fines and penalties to be imposed for violation of the provisions of this Act including the method and manner of imposition of fines and penalties and collection of the same;

(k) to regulate the properties, assets and interest in the properties, used for, or in connection with the electricity supply industry in the State to the extent provided in the Act .

(l) any other matter which is required to be or may be specified by regulations.

57. Power to make rules.- (1) The State Government may, by notification after previous publication make rules to carry out the purposes of this Act .

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

(a) the procedure to be adopted by the selection committee for the discharge of the functions under the Act ;

(b) the preparation and implementation of the transfer scheme, the transfer of assets, liabilities and personnel to the KPTC , licensees and others in the State; and

(c) the financing, funding, giving of guarantee etc., to the persons involved in the generation, transmission, distribution and supply of electricity in the State.

(d) Any other matter required to be or which may be prescribed by rules

(2) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the sessions immediately following, both Houses agree in making any modification in the rule, or both Houses agree that the rules should not be made, and notify such decision in the Official Gazette, the rules shall from the date of publication of such notification have effect only in such

modified form or be of no effect , as the case may be; so , however, that any such modification or annulment shall without prejudice to the validity of anything previously done or omitted to be done under that rule.

PART XIV

EFFECT ON EXISTING CENTRAL LEGISLATION

58. Effect of the Act on the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.- (1) Except as provided in section 59 of this Act, the provisions of this Act, notwithstanding that the same are inconsistent with or contrary to the provisions of the Indian Electricity Act, 1910, or the Electricity (Supply) Act, 1948 shall prevail in the manner and to the extent provided in sub-section (3).

(2) Subject to sub-section (1) in respect of all matters in the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, with which the Board has been concerned or dealing with, upon the constitution of the

Commission the functions of the Board shall be discharged by the Commission and the KPTC:

Provided that,-

(a) the State Government shall be entitled to issue all policy directives and shall undertake overall planning and co-ordination as specified in section 12 of this Act and to this extent the powers and functions of the Karnataka Electricity Board as per the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or rules thereunder shall vest in the State Government and the State Government shall co-ordinate and deal with the Central Government and the Central Electricity Authority;

(b) in respect of such matters which the Commission directs in terms of a general or special order, or in the regulations or in the licence as the case may be, the generating company or companies, the licensees or other body corporate as may be designated by the Commission shall discharge the functions of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 to the extent directed by the Commission or specified in the licences.

(3) Subject to sub-sections (1) and (2), upon the establishment of the Commission, the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 shall, in so far as the State is concerned, be read subject to the following modifications and reservations:-

(a) All references to State Electricity Board in the Indian Electricity Act, 1910 in so far as the State is concerned shall be read as reference to the Karnataka Electricity Regulatory Commission or the KPTC or other licensees or wherever it relates to general policy matters the State Government in accordance with the provisions of this Act;

(b) In respect of matters provided in sections 3 to 11, 28, 36(2), 49-A 50 and 51 of the Indian Electricity Act, 1910, to the extent this Act has made specific provisions, the provisions of the Indian Electricity Act, 1910 shall not apply in the State;

(c) The provisions of all other sections of the Indian Electricity Act, 1910 shall apply except that,-

(i) the terms “licence”, “licensee” and “license holder” shall have the meaning as defined under this Act and the licenses shall be construed as having been issued under this Act ;

(ii) the reference to the sections of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 in the provisions of the Indian Electricity Act, 1910 shall be taken as reference to the corresponding provisions of this Act to the extent modified by the said Act.

(iii) the reference to arbitration in these provisions except where it is by the Central Electricity Authority shall be taken as reference to the proceedings under section 39 of this Act and the arbitration procedure specified under the Indian Electricity Act, 1910 shall not apply;

(d) The Schedules to the Indian Electricity Act, 1910 shall be applicable only with reference to the provisions in this Act wherein the applications of the Schedules are specified and not otherwise;

(e) All references to State Electricity Board in the Electricity (Supply) Act, 1948 in so far as the State of Karnataka is concerned shall be read as reference to the Karnataka Electricity Regulatory Commission or the KPTC or other licensees or where it relates to general policy matters, the State Government in accordance with the provisions of this Act;

(f) In respect of matters provided in sections 5 to 18, 19, 20, 23 to 26, 27, 37, 40 to 43, 44, 45, 46 to 54, 56 to 69, 72 and 75 to 83 of the Electricity (Supply) Act, 1948, to the extent this Act has made specific provisions, the provisions of the Electricity (Supply) Act, 1948 shall not apply in the State;

(g) The provisions of all other sections of the Electricity (Supply) Act, 1948 shall apply except that,-

(i) the terms "licence", "licensee" and "license holder" shall have the meaning as defined under this Act and the licenses shall be construed as having been issued under this Act ;

(ii) the reference to the sections of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 in the provisions of the Electricity (Supply) Act, 1948 shall be taken as reference to the corresponding provisions of this Act to the extent modified by this Act;

(iii) the reference to arbitration in these provisions except where it is by the Central Electricity Authority shall be taken as reference to the proceedings under section 39 of this Act and the arbitration

procedure prescribed under the Electricity (Supply) Act, 1948 shall not apply.

(h) The provisions of sections 72, and 73 of the Electricity (Supply) Act, 1948 shall be restricted to generating companies and reference to the State Electricity Board in these sections shall stand deleted.

(i) The Schedules to the Electricity (Supply) Act, 1948 shall be applicable only with reference to the provisions in this Act wherein the applications of the Schedules are specified and not otherwise.

59. Savings .- (1) Notwithstanding anything contained in this Act, the powers, rights and functions of the Regional Electricity Board, the Central Electricity Authority, the Central Government and Authorities other than the State Electricity Board and the State Government under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or rules framed thereunder shall remain unaffected and shall continue to be in force.

(2) Nothing contained in this Act will apply to the Power Grid Corporation of India Ltd., or other bodies or licensees in relation to the inter-State transmission of the electricity or generating companies owned or controlled by the Central Government or undertaking owned by the Central Government.

60. Repeal and Savings .- (1) The Karnataka Electricity Reform Ordinance , 1999 (Karnataka Ordinance 3 of 1999) is hereby repealed.

(2) Notwithstanding such repeal anything done or action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

SCHEDULE

[Subsection (7) of section 8]

THE KARNATAKA REGULATORY COMMISSION

PART I

I. Annual Financial Statement

(1) In December of each year the Commission shall submit to the State Government a statement of its estimated expenditure for the ensuing financial year.

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

II. Accounts and Audit

(1) The Commission shall cause proper accounts and other records in relation thereto to be kept, including a proper system of internal check and shall prepare an annual statement of accounts, in such form as may be prescribed in consultation with the Accountant General, Karnataka.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor General of India (hereinafter referred to as auditor) in accordance with the provisions of the Comptroller and Auditor General's (Duties, Powers and Conditions of Service) Act, 1971 and any expenditure incurred by him in connection with such audit shall be payable by the State Government.

(3) The Auditor in connection with the audit of the accounts of the Commission shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers of the Commission.

(4) The accounts of the Commission as certified by the Auditor together with the audit report thereon shall be forwarded to the State Government within six months of the close of the financial year to which the accounts audit report relates and the Commission shall cause the said accounts of the Commission to be published and make available copies thereof on sale at a reasonable price. The audit report shall contain full details of any discrepancies or irregularities in the accounts of the Commission. At the same time, the Commission shall publish an annual

statement of its activities in relation to the functions carried out by it under this Act during the year to which the said accounts relate and make available copies thereof on sale at a reasonable price.

(5) The State Government shall cause the accounts of the Commission together with the audit report and the annual statement of activities thereof forwarded to it under sub-paragraph (4) to be laid annually before the State Legislature.

SCHEDULE

PART II

General

III. Remuneration,

(1) As an expense of the Commission, there shall be paid to the Chairman and the members of the Commission such remuneration, such travelling and other expenses and allowances, as the State Government may determine:

Provided that the remuneration determined by the State Government for the Chairman and members of the Commission shall not be less than the remuneration paid to the Judge of the Karnataka High Court.

(2) The State Government may cause to be paid as an expense of the Commission, to or in respect of any person holding the office of Chairman or a member of the Commission, such pension, allowance or gratuity or such contributions or payments towards provision of such a pension, allowance or gratuity.

IV. Official Seal

The Commission shall have an official seal for the authentication of documents required for the purposes of its functions.

V. Performance of Functions

Anything authorised or required by or under this Act or any other enactment to be done by the Commission may be done by any member of the Staff of the Commission who is authorised generally or specially in that behalf by the Commission.

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(The above translation of the dâ }ÖËrdâ Æ {â ° Xkâ æÑ K É â ° |Öpâ ÇÖ %º¾Ìâ ° Àâ °, 1999 (1999pâ dâ}Ö Ërdâ %º¾Ìâ° À â° É âªfêX : 25) was published in the official Gazette (Extraordinary) Part IV-2B dated 28-9-1999 as No. 1196 under clause (3) of Article 348 of the Constitution of India.)

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NOTIFICATION

No. DE 61 PSR 2001, Bangalore, Dated: 9th November 2001

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Electricity Reform (Amendment) Act, 2001 (Karnataka Act 26 of 2001), the Government of Karnataka hereby appoints the Tenth day of November 2001 to be the date on which the said Act shall come into force.

By Order and in the name of the
Governor of Karnataka,

B.K. SRINIVASA RAO
Under Secretary to Government.
Energy Department.

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