

The

Punjab Electricity Bill

2003

Government of Punjab

THE PUNJAB ELECTRICITY BILL, 2003

STATEMENT OF OBJECTS AND REASONS

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

2. The Electricity (Supply) Act, 1948, virtually nationalised the industry by creation of the State Electricity Boards (SEBs) that were considered essential at that time for providing electricity to the vast rural and economically backward regions across the country. PSEB played a useful role in that context, but began to face serious difficulties over the years owing to its inability to recover costs and because of the inefficiencies arising out of its unwieldy structure. Its present losses are no longer sustainable, and the increasing power shortages are constraining the growth of the state's economy besides affecting the quality of life.

3. During the past decade, a number of legislative interventions were made for introducing reforms and enabling private investment in the power sector. Besides amendments in the Electricity (Supply) Act, 1948 and the Electricity Act, 1910, the Electricity Regulatory Commissions Act, 1998 was enacted to provide for regulatory commissions at the centre and in the states. The structure of the industry, however, remained largely unchanged and the SEBs continued to function as before. As a result, the states were required to enact their own laws for unbundling and corporatisation of the SEBs. So far, eight states, namely, Orissa, Haryana, Andhra Pradesh, Uttar Pradesh, Karnataka, Rajasthan, Delhi and Madhya Pradesh have enacted their respective laws for this purpose. Some of the remaining states are actively considering similar measures. The Electricity Bill pending before the Parliament also aims at facilitating restructuring of the electricity industry on similar lines.

4. There is a growing consensus at the national and international level in favour of restructuring of the electricity industry in a holistic manner so as to

ensure its orderly operation and development. Several countries, developing as well as developed, have enacted comprehensive electricity laws to benefit from the economic and technological advancements. It has, therefore, become imperative for Punjab to enact a comprehensive law that would accelerate development of this industry in the decades to come.

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

(a) restructuring of PSEB aimed at disaggregation of generation, transmission and distribution with a view to creating independent corporate entities;

(b) competition, economy and efficiency to be promoted in the best interests of the consumers and the state's economy;

(c) regulation of the electricity industry in a fair, transparent, predictable and participative manner;

(d) transmission to be separated as an independent function for creation of transmission highways with non-discriminatory open access that would enable viable public and private investments in the electricity industry;

(e) present entitlements of Punjab to cheaper power from existing generating stations to remain undisturbed;

(f) compulsory metering for enhancing accountability and viability;

(g) special provisions for promoting access to electricity in rural areas and for the economically weaker persons;

(h) stringent provisions to minimise theft and misuse; and

(i) provisions for transition from a state-owned monopoly to a liberalised and competitive industry.

6. The principal objective of the Bill is to provide universal access to electricity at competitive and affordable prices within a defined timeframe.

7. The Bill seeks to modify the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commission Act, 1998 as applicable to Punjab. Presidential assent would, therefore, be necessary before the proposed law can take effect.

Amarinder Singh
Chief Minister, Punjab

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THE PUNJAB ELECTRICITY BILL, 2003

(PUNJAB BILL NO. OF 2003)

**A
BILL**

to provide for the restructuring and rationalisation of the electricity industry and generally for taking measures conducive to the regulation, development and management of the electricity industry in an efficient, economic and competitive manner, and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the fifty-fourth year of the Republic of India as follows -

Short title, extent and commencement

1. (1) This Act may be called the Punjab Electricity Act, 2003.
- (2) It extends to the state of Punjab.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

PART - I

PRELIMINARY

Definitions

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

(1) “affiliate” in relation to any company means any holding company of such company, any subsidiary of such company or any subsidiary of a holding company of such company;

(2) “appointed date” means the date on which this Act comes into force;

(3) “authorised area” in relation to a distribution company or transmission company, means the area designated as such in its licence;

(4) “Authority” means the Central Electricity Authority constituted under the provisions of a central law;

(5) “Board” means the Punjab State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;

Central Act 54
of 1948

(6) “Central Commission” means the Central Electricity Regulatory Commission constituted under the provisions of a central law;

(7) “central law” means any law enacted by the Parliament which is relevant to the context and is for the time being in force in the State of

Punjab, and includes the rules and regulations made thereunder;

(8) “chairperson” means the chairperson of the State Commission;

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

(10) “company” means a body corporate registered or incorporated as a company, corporation, society, co-operative society or association of individuals under any law for the time being in force;

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

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

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

(14) “consumer association” means any voluntary consumer association registered under any law for the time being in force;

(15) “dedicated generation” means -

(a) the generation of electricity for consumption thereof in any premises without the use of any electric lines operated by a transmission company or distribution company; or

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

(16) “dedicated transmission facilities” means the transmission facilities referred to in section 19;

(17) “designated consumer” means any consumer whose premises are used wholly or mainly for residential purposes and includes a consumer whose premises are used for commercial, industrial, agricultural or business purposes having a consumption not exceeding 12,000 Kwh per year, or such lower ceiling as the State Commission may specify from time to time;

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

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

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

(21) “distribution system” means the electric lines and electrical plants

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

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

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

(a) any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and any line which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;

(b) any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; and

(c) any apparatus connected to any such line for the purpose of carrying electricity;

(24) “electrical inspector” means a person appointed by the State Government under sub-section (1) of section 114 and includes a chief electrical inspector;

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

(a) an electric line;

(b) a meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) an electrical appliance under the control of a consumer;

(26) “electricity” means electrical energy -

(a) generated, transmitted, distributed, supplied or traded for any purpose, or

(b) used for any purpose except the transmission of a message;

(27) “Electricity Supply Code” has the meaning ascribed to it in section 31;

(28) “electricity system” means a system under the control of a licensee

or generating company, as the case may be, and having one or more -

- (a) generating stations; or
- (b) electric lines and sub-stations,

and when used in the context of the State, the entire electricity system within the territory thereof;

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

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

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

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

(33) “Grid Code” means the grid code having effect under the provisions of any central law for regulating the transmission and wheeling of electricity throughout the State, and includes any regulations or orders that may be made by the State Commission under such central law, and where no such central law applies, the grid code specified by the State Commission;

(34) “Grid Standards” has the meaning ascribed thereto in section 58;

(35) “High Court” means the High Court having jurisdiction in the State of Punjab;

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

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

Central Act 1 of
1956

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

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

(40) “member” means a member of the State Commission and includes the chairperson;

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

distribution company, means the wheeling and distribution of electricity and such matters connected therewith or incidental thereto, as the State Commission may specify from time to time, and the expression “competitive services” shall include all services other than non-competitive services provided by such company;

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

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

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

(45) “person” means any person and includes any company, association or body of individuals, whether incorporated or not;

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

(47) “prescribe” means prescribe by rules made by the State Government under this Act, and the expression “prescribed” shall be construed accordingly;

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

(49) “regulations” means regulations made by the State Commission under this Act;

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

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

(52) “rules” means rules made by the State Government under this Act;

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

(a) to a single consumer either from a distribution line or immediately from the distribution company's premises, or

(b) from a distribution line to a group of consumers on the same premises or on contiguous premises supplied from the same point of the

distribution line;

(54) “specify” means specify by regulations made by the State Commission under this Act, and the expression “specified” shall be construed accordingly;

(55) “State” means the State of Punjab;

(56) “State Commission” means the Punjab Electricity Regulatory Commission constituted under sub-section (1) of section 64;

(57) “State Government” means the Government of the State of Punjab;

(58) “State Transmission Centre” means the centre established under section 55;

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

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

Central Act 1 of
1956

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

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

(63) “supply company” means a licensee authorised to supply electricity and/or trade therein;

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

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

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

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

(68) “transmission lines” means all high voltage lines used for transmitting electricity from a generating station or sub-station, to another generating station or sub-station, together with any sub-stations, step-up and step-down transformers, terminal stations, switch-gear and other works necessary to and used for the control of such lines, and may include such other electric lines and electrical plant as the State Commission may by

order designate from time to time, but does not include any dedicated transmission facilities;

(69) "utility system" means the electric lines and electrical plant, and includes all lands, buildings, works and materials attached thereto, belonging to any distribution company or transmission company;

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

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

(72) any term or nomenclature which is not defined herein, shall bear the meaning ascribed to it under the provisions of any central law, and in the event no such meaning has been ascribed, it shall bear the meaning in common usage relevant to the context.

PART – II

SUPPLY OF ELECTRICITY

Authorising supply etc.

Prohibition on unauthorised supply etc.

3. (1) No person shall -

- (a) transmit electricity;
- (b) distribute electricity; or
- (c) supply, or trade in electricity,

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

(2) No person shall generate electricity except in accordance with the provisions of this Act and the rules and regulations that may be made for discharging the duties imposed under this Act on the State Government or the State Commission, as the case may be:

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

(3) Subject to the provisions of any central law, no generating company shall establish a hydroelectric generating station unless it has obtained prior consent of the State Government.

Exemption from
licensing

4. (1) The State Commission may, by notification, grant exemption to any class of companies from obtaining a licence for distribution of electricity:

Provided that where the exemption results in the setting up of an electric line or electrical plant, which would compete with any existing distribution system, such exemption shall be granted after considering any representation or objection which is duly made by such distribution company.

(2) The State Commission may, by notification, grant exemption to any class of companies from obtaining a licence for supply of electricity, subject to compliance of the provisions of this Act and the rules and regulations made thereunder, and such conditions, if any, as may be imposed in the notification.

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

(4) An exemption granted under sub-section (1) or (2), unless previously revoked in accordance with any condition imposed in the notification shall continue in force for such period as may be stated in or determined by or under such notification.

(5) Notwithstanding anything to the contrary contained in this section, the State Commission shall grant exemption from the provisions of section 3 to any person, if such exemption is required to be granted under any central law for the purposes of national security or defence and the person so exempted shall not be governed by the provisions of this Act to the extent they are inconsistent with such central law.

Grant of licence

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

- (a) a transmission company;
- (b) a distribution company; or
- (c) a supply company:

Provided that any company which is on the appointed date engaged, or authorised to engage in the business of transmission, distribution or supply of electricity under the provisions of any law for the time being in force shall be deemed to be a licensee under this Act with respect to the transmission line or distribution system, as the case may be, stated in the licence, clearance or approval granted to it under such law and the State Commission shall grant a licence to such person under the provisions of this Act within one year from the appointed date:

Provided further that the State Transmission Company shall be deemed to be a transmission company under this Act:

Provided also that grant of a licence, if any, to a company engaged in inter-state generation or transmission of electricity shall be in accordance with the provisions of central law.

(2) Subject to the provisions of section 17, the State Commission may grant more than one licence to any person.

(3) A transmission company or a distribution company shall operate within the authorised area specified in its licence, and such area may be extended or restricted by the State Commission with the consent of such company.

(4) A supply company may be authorised to supply electricity –

(a) to any premises;

(b) only to premises stated in the licence, or to premises of a description so stated; or

(c) only to any premises situated in the stipulated area, or to premises of a stated description which are so situated.

(5) A supply company may be authorised to trade in electricity in the manner and form, and to the extent stated in the licence.

Procedure for grant
of licence

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

(2) Within 7 working days of making an application under sub-section (1), the applicant shall publish the specified particulars thereof in the manner specified, and stating that any person may make written representations or objections to the State Commission within 30 days of the date of publication.

(3) Within 7 working days of making an application under sub-section (1) for the grant of a licence to establish and operate a transmission line, the applicant shall send a copy thereof to the State Transmission Company and the State Transmission Company may furnish its comments thereon to the State Commission, within 30 days of receiving the application.

(4) After considering any representation or objection which is duly made under sub-section (2) and any comments furnished under sub-section (3), but before issuing an order authorising any company to be a transmission company or distribution company, the State Commission shall give notice –

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

(b) stating the reasons why it proposes to issue the order; and

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

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

(5) The State Commission shall consider any representation or

objection which is duly made under sub-section (4) and not withdrawn.

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

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

Provided further that the grant of a licence for an area that includes the whole or part of any cantonment, aerodrome or dockyard or of any building or place in the occupation of the Central Government for defence purposes shall be subject to the provisions of central law insofar as it relates to such area.

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

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

Conditions of
licence: General

7. (1) Every licensee shall, not later than six months from the appointed date, maintain separate operations and accounts with respect to each of its businesses as a generating company, distribution company and supply company, as the case may be, and for this purpose, it shall functionally disaggregate its assets, revenues, expenses, operations, services, tariffs and all matters connected therewith or incidental thereto as if each of its aforesaid businesses were separate from, and independent of one another:

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

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

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

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

(a) to comply with any direction given by the State Commission as to such matters as are stated in the licence or are of a description so stated;

(b) except insofar as the State Commission consents to its doing or not doing them, not to do or to do such things as are stated in the licence or are of a description so stated;

(c) to refer for determination by the State Commission such

questions arising under the licence as are stated in the licence or are of a description so stated; and

(d) to refer for approval by the State Commission such things as are required to be so referred under the licence; and subject to the provisions of section 43, such contracts or agreements made before the issue of the licence, as are stated in the licence or are of a description so stated.

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

(a) instead of stating or describing any contracts or agreements to which they apply, refer to contracts or agreements designated, whether before or after the imposition of the conditions, by the State Commission; and

(b) instead of containing any provisions, refer to provisions set out in documents so designated and direct that those provisions shall have such effect as may be stated in the conditions,

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

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

(a) have effect or cease to have effect at such times and in such circumstances as may be determined by or under the conditions; or

(b) be modified in such manner as may be stipulated in the conditions at such times and in such circumstances as may be so determined.

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

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

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

(9) A licensee may, subject to any condition as to transfer contained in the licence, and with prior consent of the State Commission, transfer the whole or any part of the licence.

Conditions of
licence: Transmission
and distribution

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

(a) require a transmission company or distribution company to enter into agreements with other persons for the use of its electric lines

and electrical plant, wherever situated and whether or not used for the purpose of carrying on the activities authorised by a licence, for such purposes as may be stipulated in the conditions; and

(b) include provision for determining the terms on which such agreements are to be entered into.

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

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

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

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

Modification of
licence

9. (1) Subject to provisions of this section, the State Commission may modify the conditions of a particular licence or the standard conditions of licences of any type referred to in section 5.

(2) The State Commission may not make any modifications to a particular licence under this section unless the licensee has consented to the modifications

(3) The State Commission may make modifications to the standard conditions of licences of any type if it is of the opinion that the modifications –

(a) are necessary, in furtherance of the objects of this Act, for meeting the circumstances of the particular case; and

(b) are such that -

(i) the licensee would not be unduly disadvantaged in competing with other licensees of that type; and

(ii) no other licensee of the same type would be unduly disadvantaged in competing with other licensees holding similar licences, including the licensee whose licence is being modified.

(4) Before making any modifications under this section to the conditions of a particular licence or the standard conditions of licences of any type, the State Commission shall give notice –

(a) stating that it proposes to make the modifications and setting out such modifications and their effect;

(b) stating the reason why it proposes to make the modifications; and

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

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

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

(6) The State Commission may not under this section make any modifications of the standard conditions of licences of any type in the event that notice of objection to those modifications is duly given to it by one or more relevant licensees if -

(i) the proportion, expressed as a percentage, of the relevant licensees who have given notice of objection is more than 50 per cent of the total number of such relevant licensees; and .

(ii) the percentage given by sub-section (7) is more than 50 per cent .

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

(8) Where the State Commission modifies the standard conditions of licences of any type, it shall -

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

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

(9) Notwithstanding anything to the contrary in this section, where the State Commission deems it necessary to modify the conditions of any licence for complying with the provisions of any law for the time being in force or for giving effect to the provisions of section 39 or section 46, it may make the required modifications in the licence in accordance with the procedure stipulated in sub-section (4):

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

(10) Where at any time the State Commission modifies under this

section, the conditions of a particular licence or the standard conditions of licences of any type, it may make such incidental or consequential modifications as it considers necessary or expedient.

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

Provisions with respect to generating companies

General duties of
generating companies

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

(2) A generating company may -

(a) supply electricity to any distribution company or supply company in accordance with this Act and the rules and regulations made thereunder; and

(b) subject to the regulations made under section 21, supply electricity to any consumer under licence as a supply company.

Directions to
generating companies

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

(a) maintain fuel stocks at the specified level;

(b) make such use as may be stipulated of any stocks held at or near that generating station; and

(c) operate, or not operate, the generating station for stipulated periods and at stipulated levels of capacity.

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

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

Certain restrictions
on generating
companies

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

(2) The State Commission may, by regulations, specify that with effect from a specified date, not earlier than one year from the date of notification of such regulations, the specified class of generating companies shall discontinue their respective businesses as a distribution company or supply company, as the case may be, or phase them out in such manner as the State Commission may determine:

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

Provisions with respect to transmission companies

General duties of
State Transmission
Company

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

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

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

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

General duties of
transmission
companies

14. It shall be the duty of a transmission company to –

(a) develop and operate an efficient, co-ordinated and economical system of transmission lines within its authorised area in conformity with the Grid Code and the Grid Standards;

(b) provide open access to its transmission lines for use by any person in accordance with this Act and the rules and regulations made thereunder;

(c) facilitate competition in the generation and supply of electricity;
and

(d) provide interconnection to licensees and consumers in such manner and subject to payment of such charges as the State Commission may specify.

Provision of open
access to consumers

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

(2) Open access referred to in sub-section (1), shall be introduced in such phases and subject to such conditions as the State Commission may specify having due regard to all relevant factors including system losses and operational constraints:

Provided that the State Commission shall, no later than three months from the appointed date, by regulations provide such open access to all licensees and consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

(3) In specifying the introduction of open access in phases, the State Commission may determine the total ceiling on the usage of transmission lines for wheeling by consumers and the manner in which such ceiling shall be allocated among consumers who apply for this purpose:

Provided that the total ceiling to be specified for the first year after the appointed date shall not be lower than five per cent of the electricity transmitted by the Board during the year preceding the appointed date and such ceiling shall be increased by a further five per cent for each successive year.

(4) The State Commission may specify a wheeling surcharge to be levied on the usage of open access for wheeling by a consumer who would otherwise have paid a tariff that included an element of cross-subsidy and shall direct the State Transmission Company to transfer such surcharge to the distribution company in whose authorised area the premises of such consumer are situated:

Provided that such consumer shall, during the period of three years from the appointed date, have the option of paying the wheeling surcharge in the form of a specified proportion of the electricity wheeled and thereafter, the form of payment shall be specified by the State Commission:

Provided further that such wheeling surcharge shall not exceed 15 per cent of the electricity wheeled and shall be reduced progressively as cross subsidies are phased out in accordance with this Act:

Provided also that no wheeling surcharge shall be levied if a distribution wheeling surcharge has been levied on such consumer under the provisions of section 21.

Directions to
transmission
companies

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

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

(3) In sub-section (2), "described" means described by or under the State Commission's direction, and a transmission company shall give effect to any direction given to it under sub-section (2) notwithstanding any other duty imposed on it by or under this Act.

Certain restrictions

17. (1) No transmission company or a shareholder thereof, other than the

on transmission
companies

Government, or any shareholder owning less than 5 per cent of the paid-up capital of such transmission company, shall -

(a) have any financial interest in a generating company, distribution company or supply company which is generating, distributing or supplying electricity, as the case may be, in the authorised area of such transmission company; or

(b) enter into any contract or otherwise engage in the supply or trading of electricity except as otherwise provided in this Act:

Provided that nothing in this sub-section shall restrict a transmission company from acquiring such ancillary services as may be necessary for maintaining a reliable and efficient operation of the grid.

(2) No director, employee or agent of a transmission company shall have any financial interest in a generating company, distribution company or supply company referred to in sub-section (1).

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

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

Other businesses of
transmission
companies

18. (1) A transmission company may, subject to section 17, engage in any business that enhances the utilisation of its transmission lines.

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

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

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

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

Dedicated

19. Notwithstanding anything contained in this Part, any licensee,

transmission facilities generating company or specified classes of consumers may construct, maintain and operate for his own use, any dedicated transmission facilities comprising point-to-point transmission lines that are required by him for the purpose of connecting his electric lines or electrical plant to any transmission line or generating station, as the case may be.

Provisions with respect to distribution companies

General Duties of distribution companies 20. It shall be the duty of a distribution company to -

(a) plan, develop and maintain an efficient, co-ordinated and economical system in its authorised area and to supply electricity in accordance with this Act and the rules and regulations made thereunder; and

(b) facilitate competition in the generation and supply of electricity.

Provision of open access to distribution system

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

(2) Open access referred to in sub-section (1) shall be introduced in such phases and subject to such conditions as the State Commission may specify having due regard to all relevant factors including system losses and operational constraints:

Provided that the State Commission shall, not later than three months from the appointed date, by regulations provide such open access to all licensees and consumers who require a supply of electricity where the maximum power to be made available at any time exceeds one megawatt.

(3) Subject to the provisions of sub-section (3) of section 15, the State Commission may specify the total ceiling on the usage of distribution system for wheeling by consumers and the manner in which such ceiling shall be allocated among consumers who apply for this purpose:

Provided that the total ceiling to be specified for the first year after the appointed date shall not be lower than ten per cent of the electricity received within the distribution system corresponding to the authorised area of the distribution company during the year preceding the appointed date and such ceiling shall be increased by a further five per cent for each successive year.

(4) The State Commission may specify a wheeling surcharge to be levied on the usage of open access for wheeling by a consumer who would otherwise have paid a tariff that included an element of cross-subsidy:

Provided that such consumer shall, during the period of three years from appointed date, have the option of paying the wheeling surcharge in the form of a specified proportion of the electricity wheeled and thereafter, the form of payment shall be specified by the State Commission:

Provided further that such wheeling surcharge shall not exceed 15 per

cent of the electricity wheeled and shall be reduced progressively as cross subsidies are phased out in accordance with this Act.

Duty to supply on request

22. (1) Subject to the provisions of this Act and the rules and regulations made thereunder, a distribution company shall, upon being required to do so by the owner or occupier of any premises in its authorised area –

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

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

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

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

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

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

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

- (a) state the extent to which the proposals contained in the other person's notice under sub-section (2) are acceptable to the distribution company and stipulate any counter proposals made by the distribution company;
- (b) state whether the prices to be charged by the distribution company will be determined by a tariff under sub-section (1) of section 24, or a special agreement under sub-section (1) of section 28, and stipulate the tariff or the proposed terms of the agreement;
- (c) state any payment which that person will be required to make under sub-section (1) of section 25, or under regulations made under sub-section (2) of that section;
- (d) state any security which that person will be required to give under section 26; and

(e) state any other terms which that person will be required to accept under section 27.

(5) In this section and sections 23 to 28 –

(a) any reference to giving a supply of electricity includes a reference to continuing to give such a supply;

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

(c) any reference to the provision of an electric line or an item of electrical plant is a reference to the provision of such a line or item either by the installation of a new one or by the modification of an existing one.

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

Exceptions from duty to supply

23. (1) Nothing in sub-section (1) of section 22 shall be taken as requiring a distribution company to give a supply of electricity to any premises if –

(a) such a supply is being given to the premises by any other licensee; and

(b) the supply is given, wholly or partly, through the distribution company's electric lines and electrical plant:

Provided that the provisions of this sub-section shall come into effect only after a bulk electricity market has been established under section 46 of this Act.

(2) Nothing in sub-section (1) of section 22 shall be taken as requiring a distribution company to give a supply of electricity to any premises if and to the extent that –

(a) it is prevented from doing so by circumstances not within its control;

(b) circumstances exist by reason of which its doing so would or might involve its being in breach of the regulations made under section 33, and it has taken all such steps as it was reasonable to take both to prevent the circumstances from occurring and to prevent them from having that effect; or

(c) it is not reasonable in all the circumstances for it to be required to do so.

(3) Clause (c) of sub-section (2) shall not apply in relation to a supply of electricity which is being given to any premises unless the distribution company gives to the occupier, or to the owner if the premises are not

occupied, not less than seven days notice of its intention to discontinue the supply in pursuance of that clause.

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

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

Power to recover charges

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

(2) A tariff fixed by a distribution company under sub-section (1) –

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

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

(3) A tariff fixed by a distribution company under sub-section (1) may include -

(a) charge for consumer account services;

(b) distribution wheeling charge;

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

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

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

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

(4) At any time after three years from the appointed date, the State Commission may notify that all non-competitive services provided by a distribution company under this Act shall be charged separately from all its competitive services.

Power to recover expenditure

25. (1) Where any electric line or electrical plant is provided by a distribution company in pursuance of sub-section (1) of section 22, the distribution company may require any expenses incurred by it in this behalf to be defrayed by the person requiring the supply of electricity to such extent as is reasonable in all the circumstances, to be determined in accordance with the principles specified by the State Commission.

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

(a) to exercise its rights under the regulations in respect of those expenses; and

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

(3) The State Commission may by regulations authorise a distribution company to require a person requiring a supply of electricity in pursuance of sub-section (1) of section 22 to pay to the distribution company, in respect of any expenses reasonably incurred in providing any electric line or electrical plant used for the purpose of giving that supply, such amount as may be reasonable in all the circumstances if –

(a) the supply is required within the specified period after the provision of the line or plant; and

(b) a person for the purpose of supplying whom the line or plant was provided (“the initial contributor”) has made a payment to the distribution company in respect of those expenses.

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

Power to require security

26. (1) Subject to the provisions of this section, a distribution company may require any person who requires a supply of electricity in pursuance of sub-section (1) of section 22 to give it reasonable security, as may be specified, for the payment to it of all money which may become due to it –

(a) in respect of the supply; or

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

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

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

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

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

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

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

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

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

(a) the person requiring the supply is prepared to take the supply through a pre-payment meter; and

(b) it is reasonably practicable in all the circumstances (including in particular the risk of loss or damage) for the distribution company to provide such a meter.

Additional terms of supply

27. A distribution company may require any person who requires a supply of electricity in pursuance of sub-section (1) of section 22 to accept in respect of the supply –

(a) any restrictions which must be imposed for the purpose of enabling the distribution company to comply with regulations made under section 33; and

(b) any terms restricting any liability of the distribution company for economic loss resulting from negligence which it is reasonable in all the circumstances for that person to be required to accept.

Special agreements with respect to supply

28. (1) At any time after five years from the appointed date, a person who requires a supply of electricity in pursuance of sub-section (1) of section 22 –

(a) may enter into a special agreement with the distribution company for the supply on such terms as may be stated in the agreement; and

(b) shall enter into such an agreement in any case where –

(i) the maximum power to be made available at any time exceeds one megawatt or such higher wattage as the State Commission may notify; or

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

(2) So long as any such agreement as is mentioned in sub-section (1) is effective, the rights and liabilities of the parties to the agreement shall be

those arising under the agreement and not those provided for by sections 23 to 28.

Certain restrictions
on distribution
companies

29. (1) Commencing from any date, not being earlier than five years from the appointed date, the State Commission may by notification require that a distribution company shall manage and operate its consumer account services as a distinct business activity within its business of distribution, and such services may be fully or partly unbundled and assigned to any other person in accordance with the regulations to be specified by the State Commission.

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

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

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

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

Other businesses of
distribution
companies

30. (1) A distribution company may engage in any business that enhances the utilisation of its distribution system.

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

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

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

(4) Where the failure of any business undertaking referred to in sub-

section (1) may, in the opinion of the State Commission, have a material adverse effect on the financial viability of the distribution company, it may direct the distribution company to undertake such business through an affiliate, and require payment of a specified rental or user charge to the distribution company in respect of the use of its distribution system for such business.

The Electricity
Supply Code

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

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

Provisions with respect to supply companies

General duties of
supply companies

32. (1) The duties of a supply company may include supply and/or trading of electricity in accordance with this Act, and the rules and regulations made thereunder.

(2) A supply company may, subject to the regulations made under sub-section (1) of section 21, enter into an agreement with any person for supply of electricity at such tariff and on such terms as may be stated in the Agreement.

(3) The provisions of sections 36 to 38 shall apply *mutatis mutandis* to the duties and functions of a supply company in so far they relate to the supply of electricity to consumers.

Provisions with respect to supply generally

Regulations relating
to safety

33. (1) Subject to the provisions of any central law, the State Commission may make such regulations as it thinks fit for the purpose of –

(a) protecting the public from dangers arising from the generation, transmission, distribution or supply of electricity, from the use of electricity supplied or from the installation, maintenance or use of any electric line or electrical plant; and

(b) without prejudice to the generality of clause (a), eliminating or reducing the risks of personal injury, or damage to property or interference with its use, arising as mentioned in that clause.

(2) Without prejudice to the generality of sub-section (1), the regulations made under this section may –

(a) prohibit the transmission or distribution of electricity except by means of a system that conforms to such regulations;

(b) make provision requiring notice in the specified form to be given to the State Commission or the electrical inspector, or both, in such cases as may be specified in the regulations, of accidents and of failures of supplies or transmissions of electricity;

(c) make provision as to the keeping, by a licensee or generating company, as the case may be, of maps, plans and sections and as to their production (on payment, if so required, of a reasonable fee) for inspection or copying;

(d) make provision for relieving a licensee or generating company, as the case may be, from any obligation to generate, transmit or distribute in such cases as may be specified;

(e) make provision requiring compliance with notices given by an electrical inspector specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer, for the purpose of –

(i) preventing or ending a breach of regulations under this section; or

(ii) eliminating or reducing a risk of personal injury or damage to property or interference with its use;

(f) provide for particular requirements of the regulations to be deemed to be complied with in the case of any electric line or electrical plant complying with specified standards of requirements; and

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

Use etc. of meters

34. (1) No person shall, at any time after one year from the appointed date, supply, purchase or consume electricity except through a meter to be installed and operated in accordance with the regulations to be made in this behalf:

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

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

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

(3) If a person commits default in complying with the provisions contained in the regulations made under this section, the State Commission may, without prejudice to the provisions of section 107, make such order as

it thinks fit for requiring the default to be made good; and any such order may provide that all the costs or expenses of and incidental to the application shall be borne by the person in default or by any officers of a company or other association who are responsible for its default.

Licensees not to do certain things

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

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

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

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

Consumer protection: Standards of performance

Electricity supply: performance in individual cases

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

(2) Regulations under this section may specify –

(a) circumstances in which distribution companies are to inform consumers of their rights under this section;

(b) such standards of performance in relation to any duty arising under clause (a) as, in the State Commission's opinion, ought to be achieved in all cases; and

(c) circumstances in which distribution companies are to be exempted from any requirements of the regulations or of this section,

and may make different provision for different distribution companies.

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

(4) The payment of compensation under this section in respect of any

failure by a distribution company to meet a specified standard shall not prejudice any other remedy which may be available in respect of the act or omission which constituted that failure.

Electricity supply:
overall performance

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

(a) determine such standards of overall performance in connection with the provision of electricity supply services as, in its opinion, ought to be achieved by such distribution companies;

(b) determine such standards of performance in connection with the promotion of the efficient use of electricity by consumers, as in its opinion, ought to be achieved by such distribution companies; and

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

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

Information with
respect to levels of
performance

38. (1) The State Commission shall from time to time collect information with respect to–

(a) the compensation made by distribution companies under section 36;

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

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

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

(a) in respect of each standard specified under section 36, the number of cases in which compensation was made and the aggregate amount or value of that compensation; and

(b) in respect of each standard determined under section 37, such information with respect to the level of performance achieved by the distribution company as may be so stipulated.

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

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

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

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

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

Market domination
and anti-competitive
behaviour

39. (1) No licensee or generating company, as the case may be, shall engage in any act, omission, practice or procedure that has as its objective or effect a material prevention, restriction or distortion of competition in connection with the generation, transmission, distribution and supply of electricity.

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

(a) has as its objective or effect a material prevention, restriction or distortion of competition in connection with the generation, transmission, distribution and supply of electricity;

(b) directly or indirectly manipulates prices, market shares or conditions of supply; imposes minimum resale prices; or is one of a series of similar agreements, actions, omissions, practices or procedures that have as a cumulative effect the imposition of unjustified costs or restriction on consumers; or

(c) has the effect of market power or monopoly situations being abused for affecting the interests of consumers adversely.

(3) If a licensee or generating company, as the case may be, contravenes any rule, regulation, condition of licence or direction of the State Commission in furtherance of sub-section (2), the State Commission may, by order enforce the provisions thereof, and impose fines of up to 10 per cent of the turnover of the licensee or generating company, as the case may be, for each year or part thereof in which the contravention occurred.

(4) The provisions of this section shall not, during a period of five years from the appointed date, apply to any company owned or controlled by the Central Government or the State Government.

(5) The State Commission may by regulations give effect to the provisions of this section, and may enforce such regulations through such directions as may be necessary for the purposes hereof.

Tariff

Tariff regulations

40. (1) The State Commission shall, subject to the provisions of this Act and within two years of the appointed date, specify the terms and conditions for the determination of tariff, and in doing so, shall be guided by the

following, namely:-

- (a) commercial principles that would promote investment, competition and efficiency in generation, transmission, distribution and supply of electricity;
- (b) protection of consumers' interest;
- (c) determination of the recoverable rate of system losses which takes into account all relevant considerations, including the efficiency or inefficiency of licensees, pilferage, load density, sales mix, cost of service, delivery voltage and other technical factors;
- (d) cross-subsidisation among different classes of consumers is reduced progressively;
- (e) the principles and parameters for tariff setting that would enable a licensee to undertake tariff revisions without approval of the State Commission, except in respect of specified matters and circumstances;
- (f) the principles and parameters that would enable a distribution company to recover charges for electricity supplied, under the provisions of section 24, in accordance with the formula, as may be specified;
- (g) co-generation and generation of electricity from renewable sources of energy are promoted so that purchases therefrom constitute up to 20 per cent of the total electricity consumed in the authorised area of a distribution company, or such higher proportion as the State Government may from time to time notify, and the State Commission may determine a higher tariff for purchase of electricity from renewable sources provided that such tariff shall not exceed by more than 10 per cent as compared to the tariff of a conventional thermal generating station in comparable circumstances;
- (h) rural areas have access to electricity at an equitable tariff; and
- (i) economically weaker persons have access to electricity at an equitable tariff.

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

Determination of tariff

41. (1) The tariff for supply, transmission and distribution of electricity, as the case may be, shall be determined by the State Commission in accordance with this Act and the regulations made thereunder:

(2) The State Commission shall not determine the tariff for the supply of electricity –

- (a) by a generating company to any person, except where the supply is to be given to a distribution company under a long term agreement for purchase of electricity;
- (b) by a supply company to any person;

(c) by a distribution company in accordance with a special agreement under section 28; or

(d) by any of the aforesaid companies in the bulk electricity spot market under and in accordance with the provisions of section 46.

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

(3) Notwithstanding anything contained in clause (b) of sub-section (2), the State Commission may, if it deems appropriate, determine the tariff at which electricity may be sold by a supply company to designated consumers at any time during a period of seven years from the appointed date, and shall publish the tariff so determined in such manner as in its opinion will secure adequate publicity for such tariff.

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

(a) be set at a level that is no lower than the amount which, in the reasonable judgement of the State Commission is necessary to cause sufficient supplies to be made available while protecting consumer interests, and shall be no lower than the average tariff recovered by the respective company during the immediately preceding year;

(b) be applied to all such companies without undue discrimination; and

(c) have effect until such extraordinary circumstances continue to exist:

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

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

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

(6) The State Commission shall, during the period of five years from the appointed date, endeavour to determine the tariff of a distribution

company in such a manner that, as far as possible, similarly placed consumers in different areas of a State pay similar tariff.

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

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

(9) Without prejudice to the generality of sub-section (8), the State Commission may, in respect of supply of electricity under section 28, require a distribution company to calculate its expected revenues as if the tariff fixed under section 24 is applicable to such supplies, and in determining the tariff of such company under this section, the State Commission may reckon the expected revenues as calculated under this sub-section.

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

(11) Notwithstanding anything in this Act, upon application made by a person intending to undertake inter-state supply of electricity to any licensee within the State, the tariff for such supply may, instead of being determined by the Central Commission, be determined by the State Commission.

(12) No direction of the State Government in relation to determination of tariff shall have effect unless it has been issued under and in accordance with the provisions of section 44.

(13) If any licensee recovers a price or charge exceeding the tariff determined under this section, the amount of the excess shall be recoverable by the person who has paid such price or charge, along with interest at the rate of 3 per cent plus the bank rate fixed by the Reserve Bank of India from time to time, without prejudice to any other liability incurred by the licensee.

Procedure for tariff order

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

(2) Within 7 working days of making an application under sub-section (1), the applicant shall publish the specified particulars thereof in the manner specified, and stating that any person may make written representations or objections to the State Commission within 30 days of the date of publication.

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

(4) After considering any representation or objection which is duly made under sub-section (2), but before issuing a tariff order under this

section, the State Commission shall give notice –

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

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

(5) The State Commission shall consider any representation or objection which is duly made under sub-section (4) and not withdrawn.

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

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

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

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

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

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

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

Tariff for certain licensees etc.

43. Notwithstanding anything in this Act, the State Commission shall, in relation to any generating station, transmission line or distribution system, which has been licensed, authorised, installed or contracted under the provisions of any law that was in force prior to the appointed date, determine the tariff and other payment obligations, or permit the tariff and other payment obligations to be so determined, as if the provisions of such laws with respect thereto were in force:

Provided that at any time after five years from the appointed date, the

State Commission may, with prior approval of the State Government, specify the conditions subject to which the provisions of any law that was in force prior to the appointed date shall cease to have effect in respect of any or all of such generating stations, transmission lines or distribution systems, and may determine the extent and manner of compensation, if any, payable to a licensee who may be adversely affected as a result thereof:

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

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

Provision of subsidy
by State Government

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

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

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

Determination of
tariff by market
forces

45. Notwithstanding anything in this Act, but subject to section 43, where the State Government is satisfied that the prevailing market conditions and competition are sufficient to determine the tariff for supply of electricity by any or all classes of licensees, it may by notification direct that the State Commission shall not determine such tariff in the circumstances and subject to such conditions and in such cases as may be stipulated in the notification from time to time.

Bulk electricity market

Bulk electricity
market

46. Subject to the provisions of any central law, the State Commission shall, at any time after one year from the appointed date, but not later than three years after the appointed date, by regulations establish the bulk electricity market to facilitate efficient, competitive and orderly supply of electricity in furtherance of the objects of this Act. Such regulations may, *inter alia*, provide for the principles and procedures for -

- (a) regulation, structure, management and administration of the market, including criteria for membership;
- (b) market settlements;
- (c) fee payable by members of such market;
- (d) provisions relating to emergencies; and

(e) such other matters as may be relevant or incidental to the efficient functioning of such market:

Enforcement of the provisions of this Act

Investigation of
enforcement matters

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

(a) is the subject of a representation made to the State Commission by or on behalf of a person appearing to the Commission to have an interest in that matter; or

(b) is referred to it by an electrical inspector under sub-section (3).

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

(3) It shall be the duty of every electrical inspector to refer to the State Commission any matter which –

(a) appears to him to be an enforcement matter; and

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

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

Orders for securing
compliance

48. (1) Subject to sub-sections (2) and (5) and section 49, where the State Commission is satisfied that a licensee is contravening, or is likely to contravene, any condition stated in a licence or exemption (the “relevant condition”) or any provision of this Act, it shall by a final order give such directions as is requisite for the purpose of securing compliance with that condition or provision.

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

(a) that a licensee is contravening, or is likely to contravene, any relevant condition or any provision of this Act; and

(b) that it is requisite that a provisional order be made,

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

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

(a) to the extent to which any person is likely to sustain loss or damage in consequence of anything which, in contravention of the relevant condition or requirement, is likely to be done, or omitted to

be done, before a final order may be made; and

(b) to the fact that the effect of the provisions of this section and section 117 is to exclude the availability of any remedy, apart from under those provisions or for negligence, in respect of any contravention of a relevant condition or any provision of this Act.

(4) Subject to sub-section (5) and section 49, the State Commission shall confirm a provisional order, with or without modifications, if –

(a) it is satisfied that the licensee to whom the order relates is contravening, or is likely to contravene, any relevant condition or any provision of this Act; and

(b) the directions given by the order, with any modifications, are requisite for the purpose of securing compliance with such condition or provision.

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

(a) that the duties imposed on it by this Act preclude the making or, as the case may be, the confirmation of the order;

(b) that the licensee has agreed to take and is taking all such steps as it appears to the State Commission, for the time being, to be appropriate for the licensee to take for the purpose of securing or facilitating compliance with the condition or requirement in question; or

(c) that the contraventions were, or the apprehended contraventions are, of a trivial nature.

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

(a) serve notice on the licensee that it is so satisfied; and

(b) publish the notice in such manner as it considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them.

(7) A final or provisional order –

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

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

(c) may be revoked at any time by the State Commission.

Procedural
requirements

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

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

(b) setting out –

(i) the relevant condition or provision of this Act for the purpose of securing compliance with which the order is to be made or confirmed;

(ii) the acts or omissions which, in its opinion, constitute or would constitute contraventions of such condition or provision; and

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

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

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

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

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

(b) by serving a copy of the notice, and a copy of the proposed order or of the order proposed to be confirmed, on the licensee to whom the order relates.

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

(a) with the consent to the modifications of the licensee to whom the order relates; or

(b) after complying with the requirements of sub-section (4).

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

(a) serve on the licensee to whom the order relates such notice as appears to it requisite of its proposal to make or confirm the order with modifications;

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

(c) consider any representation or objection which is duly made and not withdrawn.

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

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

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

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

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

(b) specifying the period, not being less than 30 days from the date of publication of the notice, within which representations or objections with respect to the proposed revocation may be made,

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

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

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

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

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

Revocation of licence

Power and procedure
for revocation of
licence

50. (1) If the State Commission after making an enquiry is satisfied that public interest so requires, revoke a licence in any of the following cases, namely:-

(a) where the licensee, in the opinion of the State Commission, makes wilful and prolonged default in doing anything required of him by or under this Act or the rules or regulations made thereunder, or contravenes any of the conditions of his licence;

(b) where the licensee contravenes any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;

(c) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the State Commission may have granted therefor -

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

(ii) to make the deposit or furnish the security, fees or other charges required by his licence; and

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

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

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

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

(5) In making any order under this section, the State Commission shall, as far as may be, follow the procedure laid down in section 49.

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

(7) Where the State Commission serves a notice of revocation under sub-section (6), it shall, upon application made by the licensee, grant a period of six months from the date of such notice for effecting the sale of the utility system to any person who is eligible for grant of a licence, and in the event of such sale, the State Commission shall, upon application, grant a licence to the purchaser and rescind the notice of revocation.

Sale of transmission
and distribution
utilities

51. (1) Where the Commission revokes the licence of any transmission company or distribution company under section 50, the following provisions shall, subject to the provisions of sub-section (7) of section 50, apply –

(a) the State Commission shall invite applications from persons who are eligible for grant of a licence for transmission or distribution, as the case may be, for acquiring the utility system of the licensee whose licence has been revoked and determine which of such applications is to be accepted, primarily on the basis of the highest and best price offered for the utility system, after taking into consideration any representation or objection which is duly made and not withdrawn;

(b) the State Commission may by notice in writing require the licensee to sell, and thereupon the licensee whose licence has been revoked shall sell the utility system to the person whose application has been accepted by the State Commission (hereinafter referred to in this section as the "purchaser");

(c) on or from the date of revocation, or on and from the date, if earlier, on which the utility system of the licensee is sold to a purchaser, all the rights, duties, obligations and liabilities of the licensee shall absolutely cease and determine except for any liabilities that have accrued prior to that date; and

(d) the State Commission may make such interim arrangements in regard to the operation of the utility system as may be considered appropriate, including the appointment of administrators.

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

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

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

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

Vesting of utility system in the purchaser

52. Where a utility system is sold under section 51, then upon completion of the sale-

(a) the utility system shall vest in the purchaser, free from any debt, mortgage or similar obligation of the licensee or attaching to the utility system:

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

(b) the rights, powers, authorities, duties and obligations of the licensee under the licence which has been revoked shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee by virtue of restoration of the licence.

Provisions where no purchase takes place

53. If the utility system is not sold in the manner provided under sections 50 and 51, the licensee whose licence has been revoked may dispose of the utility system in such manner as he may think fit:

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

PART - III

INTERCONNECTION AND TRANSMISSION*Intra-State transmission*

Transmission within
the state

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

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

Constitution of the
State Transmission
Centre

55. (1) The State Commission may, not earlier than three years after the appointed date, and if it deems necessary to do so in furtherance of the objectives of this Act, by notification establish an independent centre to be known as the State Transmission Centre for the purposes of exercising the powers and discharging the functions under this Part.

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

Provided that until such body corporate is constituted by the State Commission, the State Transmission Company shall discharge the functions of the State Transmission Centre.

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

Functions of the State
Transmission Centre

56. (1) Subject to the provisions of any central law, the State Transmission Centre shall be responsible for the optimum scheduling and despatch of electricity within the State, to be known as State grid operations, in accordance with this Act and the rules and regulations made thereunder, and the contracts that it shall enter into with the licensees operating in the State.

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

(3) The State Transmission Centre shall:

(a) undertake optimum scheduling and despatch of electricity within the State;

(b) monitor State grid operations;

(c) co-ordinate State grid planning and expansion;

(d) conciliate in dispute resolution relating to State grid operation;

and

(e) perform such other functions as the State Commission may specify in furtherance of the provisions of this Part.

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

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

Compliance of directions

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

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

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

Other provisions relating to Transmission

The Grid Standards

58. Subject to the provisions of any central law, every transmission company shall comply with such technical standards of construction and maintenance of transmission lines (hereinafter referred to as "Grid Standards") as may be specified by the State Commission.

Intervening transmission facilities

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

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

Charges for intervening transmission facilities

60. (1) In compliance of an order made under section 59, the person owning or operating the intervening transmission facilities shall provide his facilities at rates, charges and terms and conditions as mutually agreed, or which permit the recovery by such person of all the costs incurred in connection with the transmission and associated services, including an appropriate share, if any, of verifiable and economic costs and the costs of any enlargement, if made, of such facilities by that person.

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

Directions by the Government

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

PART – IV

State Electricity Plan

The State Electricity Plan

Publication of a State Electricity Plan

62. (1) The State Government shall, in consultation with the State Commission, and subject to the provisions of sub-section (2) and the provisions of any central law, prepare and publish -

(a) a State Electricity Plan once in five years; and

(b) an Annual Electricity Plan for each year,

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

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

PART – V

RURAL ELECTRIFICATION

The Rural Electrification Plan

Publication of a Rural Electrification Plan

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

(a) a Rural Electrification Plan once in five years; and

(b) an Annual Rural Electrification Plan for each year,

containing, *inter alia*, the State policy for electrical development in rural areas; a phased programme for extension of the distribution system to provide access to all villages, hamlets and households; schemes for distribution of electricity by co-operative societies, user associations or local authorities; programme for establishing and operating facilities for

dedicated generation; provision for financial assistance to subsidise the cost of electrical lines or the tariffs for electricity payable by any person or class of persons; and any other matter consequential or incidental thereto.

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

PART – VI

STATE REGULATORY COMMISSION

Constitution and functions of the State Commission

Constitution of the State Commission

64. (1) The State Government shall, not later than six months from the appointed date, constitute by notification a commission to be known as the Punjab Electricity Regulatory Commission:

Provided that till such time as a Commission is constituted hereunder, the Punjab Electricity Regulatory Commission constituted under section 17 of the Electricity Regulatory Commissions Act, 1998 and functioning as such on the appointed date, shall be the State Commission for the purposes of this Act.

Central Act 14
of 1998

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

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

(4) The chairperson and members of the State Commission constituted under sub-section (1) shall be appointed by the State Government on the recommendation of a Selection Committee referred to in section 66.

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

Functions of the State Commission

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

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

(a) the need for meeting all reasonable demands for electricity; and

(b) the need for securing that licensees are able to finance their activities for meeting such demand.

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

- (a) promote competition, efficiency and economy, and prevent market domination, cartelisation and anti-competitive behaviour;
- (b) encourage market development and participation of private sector in the electricity industry for ensuring a fair deal to the consumers;
- (c) issue licences for intra-state transmission or distribution of electricity, as the case may be, and determine the tariff thereof;
- (d) regulate electricity purchase and procurement process of the distribution companies such that the purchases made are prudent;
- (e) specify and enforce standards with respect to the quality, continuity and reliability of service provided by its licensees;
- (f) enforce upon its licensees, the Grid Standards, safety requirements and other regulations as may be in force under this Act or under the provisions of any central law;
- (g) promote access to electricity in rural areas;
- (h) promote access to electricity for economically weaker persons;
- (i) promote co-generation and generation of electricity from renewable sources of energy;
- (j) aid and advise the State Government in matters concerning the electricity industry;
- (k) associate with environmental regulatory agencies in evolving policies and procedures for appropriate environmental regulation of the electricity industry in the State;
- (l) require its licensee transmission companies and distribution companies to formulate perspective plans and schemes for the promotion of transmission, distribution and utilisation of electricity in an efficient, economical and equitable manner;
- (m) collect and publish data and forecasts on the demand for, and use of electricity in the State and to require the licensees to collect and publish such data;
- (n) enquire into contraventions of this Act and the rules and regulations made thereunder, and adjudicate in accordance with section 107;
- (o) adjudicate upon the disputes and differences between its licensees and to refer any dispute for arbitration under section 111; and
- (p) discharge all other functions as assigned to it under this Act.

(4) In discharge of its functions, the State Commission shall have due regard to the State Electricity Plan published under section 62 and the Rural Electrification Plan published under section 63.

(5) The State Commission shall, not later than one year after the appointed date unless the context otherwise requires, notify all the regulations necessary for discharging its functions under this Act.

Selection etc. of members and officers

Constitution of
selection committee
to select members

66. (1) The State Government shall, for the purposes of selecting the chairperson and members of the State Commission constitute a selection committee consisting of—

- (a) a person who is or has been a judge of the High Court, as recommended by the Chief Justice of the High Court - chairperson;
- (b) Chief Secretary to the State Government - member; and
- (c) Chairperson of the Central Commission or a member thereof to be nominated by the chairperson – member, and

the Secretary to the Government of Punjab in the Department dealing with electricity shall be the convenor of the selection committee.

(2) No appointment of a chairperson or member shall be invalid merely by reason of any vacancy in the selection committee if such vacancy does not exceed one.

(3) The State Government shall, within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of the chairperson or any member, make a reference to the selection committee for filling up of the vacancy.

(4) The selection committee shall finalise the selection of the chairperson or member within two months from the date on which a reference is made to it.

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

(6) The State Government shall fill up each vacancy within one month from the date on which it receives a panel of names under sub-section (5) of this section.

Qualification for
appointment of
members

67. (1) The members of the State Commission shall be persons having adequate knowledge, experience and capacity in dealing with problems relating to engineering, finance, accountancy, commerce, economics, law or administration, and one member shall be appointed from each of the following categories, namely:-

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

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

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

Term of office and
conditions of service
of members

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

Provided that a person holding office as chairperson or member of the Punjab Electricity Regulatory Commission constituted under section 17 of the Electricity Regulatory Commissions Act, 1998 shall be eligible for selection as a member of the State Commission, and if so selected, he shall hold office as such for a period equal to the residual term for which he would have held office under the said Act;

Central Act 14
of 1998

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

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

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

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

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

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

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

(a) relinquish his office by giving to the State Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 69.

(6) Any member ceasing to hold office shall -

(a) be ineligible for further employment under the State Government for a period of one year from the date he ceases to hold such office;

(b) not accept any commercial employment for a period of two years from the date he ceases to hold such office; and

(c) not represent any person before the State Commission in any manner.

Explanation: For the purposes of this sub-section –

(i) "employment under the State Government" includes employment under any local or other authority under the control of the State Government, or under any corporation or society owned or controlled by the State Government.

(ii) "commercial employment" means employment in any capacity under, or agency of, a person engaged in trading, commercial, industrial or financial business in the electricity industry and includes a director of a company or partner of a firm or setting up practice either independently or as partner of a firm or as an adviser or a consultant.

Removal of member 69. (1) No member shall be removed from office except in accordance with this section.

(2) The Governor of the State may by order remove from office any member, if he -

(a) has been adjudged an insolvent;

(b) has been convicted of an offence which, in the opinion of the State Government, involves moral turpitude;

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

(d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member;

(e) has so abused his position as to render his continuance in office prejudicial to the public interest; or

(f) has been guilty of proved misbehaviour:

Provided that no member shall be removed from his office on any ground specified in clauses (d), (e) and (f) unless the High Court on a reference having been made to it in this behalf by the Governor has, on an inquiry, held by it in accordance with such procedure as laid down in this behalf by the High Court reported that the member ought, on such ground or grounds to be removed.

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

Officers and staff of 70. (1) The State Commission may appoint a Secretary to exercise such

the Commission

powers and perform such duties as may be specified.

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

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

Proceedings and powers of the State Commission

Head quarters and proceedings of the Commission

71. (1) The head quarters of the State Commission shall be at such place as the State Government may notify.

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

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

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

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

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

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

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

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

(9) The State Commission shall send a copy of its notice under sub-section (4) of section 6, sub-section (5) of section 9, sub-section (4) of section 42, sub-section (2) of section 49 and sub-section (2) of section 123, as the case may be, to all consumer associations that may have registered themselves with the State Commission for this purpose, and shall consider

their representations, if any, in the course of its proceedings.

(10) All proceedings of the State Commission shall be conducted in a transparent manner and its orders shall be reasoned and in writing.

(11) Nothing contained in this Act shall confer upon any person a right to be heard by the State Commission in respect of any representation or objection made by such person, and the State Commission shall have the power to regulate its own procedure in this behalf.

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

Vacancies etc. not to invalidate proceedings

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

Certain powers of the Commission

73. (1) The State 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, in respect of the following matters, namely:-

Central Act 5 of 1908

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisition of any public record;
- (e) the issue of commission for examination of witnesses;
- (f) review its decisions, directions and orders;
- (g) any other matter which may be prescribed.

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

(3) The State Commission may, in public interest, by order extend the period stipulated in this Act for making any application, objection or representation, as the case may be:

Provided that the extension of period shall in no case be greater than the period stipulated in the Act for making such application, objection or representation, as the case may be.

Proceedings before the Commission

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

Central Act 45 of 1860

Central Act 2 of 1974

Powers of entry and seizure	75. The State Commission or any officer specially authorised by it in this behalf may enter any building or place where the State Commission or such officer, as the case may be, has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973 (2 of 1974), in so far as it may be applicable.	Central Act 2 of 1974
Delegation	76. The State Commission may, by regulations delegate to any member, officer of the State Commission or any other person, subject to such conditions, if any, as may be stipulated in the regulations, such of its power and functions under this Act, except the power to make regulations, issue tariff orders and licences, and settle disputes, as it may deem necessary.	
<i>Expenses, budget and reports</i>		
Expenses of the Commission	77. (1) The expenses of the State Commission shall be paid out of the Consolidated Fund of the State, as the case may be. (2) The expenses of the State Commission shall include – (a) the remuneration of, and any travelling or other allowances payable under this Act to the members, officers and staff of the State Commission; (b) any sums payable under this Act to or in respect of the State Commission; and (c) any expenses duly incurred by the State Commission or by any of its officers and staff pursuant to the provisions of this Act. (3) The State Commission may, with the approval of the State Government, specify the fees payable by the applicants and licensees. (4) The fees collected under sub-section (3) may be appropriated by the State Government for meeting the expenses of the State Commission.	
Budget, revenues, audit etc. of the Commission	78. (1) The State Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the State Commission and forward the same to the State Government. (2) The revenues of the State Commission shall be paid into the Consolidated Fund of the State. (3) The revenues of, and the expenses incurred by the State Commission shall be audited by the Comptroller and Auditor General of India. (4) The State Commission shall, unless otherwise prescribed, be governed by the rules of administrative and financial procedures applicable to the State Government and the chairperson of the State Commission shall, for this purpose, exercise the powers and perform the functions of the State Government. (5) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in	

this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be, before the State Legislative Assembly.

Annual and other reports

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

(2) Every such report shall –

(a) include a general survey of developments, during the year to which it relates, in respect of matters falling within the scope of the State Commission's functions;

(b) set out any final or provisional orders made by the State Commission during that year;

(c) set out any general directions given to the State Commission during that year by the State Government;

(d) include a general survey of the activities during the year of the State Advisory Committee; and

(e) include a report on such other matters as the State Government may, in consultation with the State Commission, from time to time require.

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

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

(5) The State Government shall lay a copy of every report made by the State Commission under sub-sections (1) and (3) before the State Legislative Assembly and shall arrange for copies of every such report to be published in such manner as it considers appropriate.

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

(a) such reports with respect to the matters mentioned in clause (a) of sub-section (2) as the State Government may from time to time require; and

(b) such other reports with respect to those matters as may appear to it to be expedient,

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

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

(8) No order of the State Commission, which is appealable before the High Court under this Act, shall be called to question in the State Legislative Assembly.

Advisory Committee

Advisory Committee 80. (1) The State Commission shall by notification establish within ninety days from the appointed date, a Committee to be known as the State Advisory Committee.

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

(3) The chairperson and members of the State Commission shall be the ex-officio chairperson and ex-officio members of the State Advisory Committee.

(4) The State Advisory Committee shall meet at least four times in a year and its proceedings shall be conducted in accordance with the regulations to be specified.

Objects of Advisory Committee 81. The objects of the State Advisory Committee shall be to advise the State Commission on-

- (a) questions of policy;
- (b) matters relating to quality, continuity, reliability and extent of service provided by the licensees;
- (c) compliance by the licensees with the conditions and requirements of their licences;
- (d) protection of consumer interest; and
- (e) electricity supply and overall standards of performance by licensees.

Other provisions relating to the State Commission

Keeping of register 82. (1) The State Commission shall, at such premises and in such form as it may determine, maintain a register for the purposes of this Act.

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

- (a) every licence and every exemption granted under this Act;

(b) every modification or revocation of a licence;

(c) every direction or consent given or determination made under a licence; and

(d) every final or provisional order, every revocation of such an order and every notice issued in respect of a licensee under this Act.

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

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

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

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

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

(6) Any person may, on the payment of such fee as may be notified by the State Commission, require it to supply him with a copy of, or extract from, any part of the register, being a copy or extract which is certified to be a true copy or extract.

Powers of the State Government to give directions

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

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

(2) If any question arises as to whether any such direction is consistent with the provisions of sub-section (1), it shall be referred to the Central Commission whose decision thereon shall be final.

PART - VII

REORGANISATION OF THE BOARD

Reorganisation of the Board

Reorganisation of the 84. (1) With effect from the date on which a transfer scheme prepared by

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

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

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

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

(a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the State Government; 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 and even if such persons or third parties have not consented to it.

(4) The State Government may, after consulting the holding company, the State Transmission Company or generating company or companies, or distribution company or companies, as the case may be, (hereinafter referred to as the "transferor company") require the transferor company to draw up a transfer scheme to vest in the State Transmission Company or any generating company or companies, or distribution company or companies (hereinafter referred to as the "transferee company"), any of the functions including distribution and supply function, property, interest in property, rights and liabilities which have been vested in the transferor company under this section, on such terms and conditions as may be agreed between the State Government and the transferor company, and publish the same as a transfer scheme under this Act. The Transfer Scheme to be notified under this section shall have the same effect as the Transfer Scheme under sub-section (2):

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

agreed between the transferor company and the transferee company.

(5) A transfer scheme may –

(a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements that will promote the profitability and viability of the resulting units, ensure economic efficiency, encourage competition and protect consumer interests;

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

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

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

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

(c) provide that any rights or liabilities stipulated or described in the scheme shall be enforceable by or against the transferor company or the transferee company;

(d) impose on the transferor company an obligation to enter into such written agreements with or execute such other instruments in favour of, any other subsequent transferee as may be stipulated in the scheme;

(e) make such supplemental, incidental and consequential provisions as the transferor company considers appropriate including provision stipulating the order as taking effect; and

(f) provide that the transfer shall be provisional for a stipulated period not exceeding two years.

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

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

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

Use of the proceeds 85. In the event that any undertaking owned or controlled by the State

of privatisation

Government is sold or transferred in any manner to a person who is not owned or controlled by the State Government, the proceeds thereof shall be utilised in the following order, namely:-

(a) dues (including retirement benefits due) to the employees who have been affected by the aforesaid sale or transfer; and

(b) repayment of debt or other liabilities of the transferor company as required by the existing loan covenants.

Provisions relating to personnel

86. (1) The State Government may by a transfer scheme provide for the transfer of the personnel to the State Transmission Company, generating company or companies, distribution company or companies, as the case may be, on the vesting of projects, rights and liabilities in such transferee companies as provided under section 84.

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

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

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

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

Payment of compensation or damages on transfer

87. Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force and except for the provisions made in this Act, the transfer of the employment of the personnel referred to in sub-section (1) of section 86 shall not entitle such personnel to any compensation or damages under this Act, or any other Central or State law, save as provided in the transfer scheme.

Central Act 14 of 1947

Certain Transitional Provisions

Certain transitional functions of licensee or company

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

Provided that such licensee may, with the consent of a distribution company, at any time transfer to such distribution company, its rights and obligations in respect of any such agreement.

(2) The State Government may from time to time notify any company owned or controlled by it to be the principal company for undertaking all planning and co-ordination in regard to the operations and development of the electricity system for the State.

PART – VIII

OFFENCES AND PENALTIES*Offences and penalties*

Theft of electricity

89. (1) Whoever dishonestly -

(a) taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, service drops or other service wires, or service facilities of a licensee;

(b) tampers, installs or uses a tampered meter, jumper, current reversing transformer, shorting or shunting device, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted;

(c) damages, changes or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so changed; damaged or destroyed as to interfere with the proper or accurate metering of electricity; or

(d) knowingly uses or receives benefit of electric supply obtained through any of the acts mentioned in clauses (a), (b) or (c),

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

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

Theft of electric lines and materials

90. (1) Whoever dishonestly –

(a) cuts, saws, slices, separates, splits, severs, smelts or removes any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, inventoried, situated or located, without the consent of the owner, whether or not the act is done for profit or gain;

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is done for profit or gain; or

(c) loads, carries, ships or moves from one place to another any

electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

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

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

Receiving stolen property

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

Interference with meters or works of licensee

92. (1) Whoever -

(a) unauthorisedly connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee or disconnects the same from such electric line;

(b) unauthorisedly reconnects any meter, indicator or apparatus with any electric line or works being the property of a licensee when the said electric line or other works has or have been cut or disconnected;

(c) lays or causes to be laid, connects up any works for the purpose of communicating with any other works belonging to a licensee;

(d) maliciously injures any meter, indicator, or apparatus belonging to a licensee or wilfully or fraudulently allows the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering, or

(e) improperly uses the electricity of a licensee,

shall be deemed to have interfered with meters or works, and shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both; and if it is proved that any artificial means exist for making such connection as is referred to in clause (a) or such reconnection as is referred to in clause (b) or such communication as is referred to in clause (c) or for causing such alteration or prevention as is referred to in clause (d) or for facilitating such improper use as is referred to in clause (e), and that the meter, indicator or apparatus is under the custody or control of such person, whether it is his property or not, it shall be presumed, until the contrary is proved, that such connection, reconnection, communication, alteration, prevention or improper use, as the case may be, has been knowingly and wilfully caused by such person.

(2) A person, having been convicted of an offence punishable under sub-section (1) and being again guilty of an offence punishable under that sub-section, shall be punished for the second or subsequent offence for a term of imprisonment which shall not be less than six months, but which

may extend to five years and shall also be liable to fine which shall not be less than twenty five thousand rupees.

Maliciously wasting electricity or injuring works

93. Whoever maliciously causes electricity to be wasted or diverted, or maliciously breaks, injures or damages any works or material connected with the supply of electricity, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to twenty-five thousand rupees, or with both.

Negligently wasting electricity or injuring works

94. Whoever negligently causes electricity to be wasted or diverted, or negligently breaks, injures or damages any works or material connected with the supply of electricity, shall be punishable with fine which may extend to twenty-five thousand rupees.

Extinguishing public lamps

95. Whosoever maliciously extinguishes any public lamp shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

Punishment for non-compliance of orders etc. under the Act

96. (1) Whoever fails to comply with any order or direction given under this Act, within such time as may be stipulated in the said order or direction, shall be punishable with imprisonment for a term which may extend to three months, or with fine, which may extend to one lakh rupees, or with both in respect of each offence and in the case of a continuing failure, with an additional fine which may extend to ten thousand rupees for every day during which the failure continues after conviction of the first such offence.

(2) No proceedings shall be instituted in respect of an offence under this section except with the prior written approval of the State Commission.

(3) Without prejudice to the generality of sub-section (1), the State Commission may, instead of initiating or approving the institution of criminal proceedings under this section, conduct an inquiry and impose penalties as if it were a contravention under section 107.

Penalties not to affect other liabilities

97. The penalties imposed under this Part shall be in addition to, and not in derogation of, any liability which may have been incurred in respect of payment of compensation, charge or surcharge, or revocation of a licence, or disconnection of supply, as the case may be.

Compensation to licensee

98. Notwithstanding anything contained in section 357 of the Code of Criminal Procedure, 1973 to the contrary, any court trying an offence under this Part, may order that such portion of the fine recovered from the offender, as it deems proper, may be paid to the affected licensee, if any.

Central Act 2 of 1974

Penalty for making of false statement etc.

99. Whoever while giving any information or making any application under or for the purpose of any provision of this Act or of any rule or regulation made thereunder, gives any information which he knows to be false or intentionally omits any material particular, shall be punishable with fine which may extend to ten thousand rupees.

Penalty for impersonation as electrical inspector or employee

100. Whoever enters or attempts to enter any premises by falsely pretending to be -

- (a) an electrical inspector; or
- (b) an agent or employee of a licensee,

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

Penalty where work belongs to Government or local authority

101. The provisions of this Part shall, in so far as they are applicable, be deemed to apply when the act made punishable thereunder is committed in the case of electricity supplied by, or works or material belonging to the Central Government, any State Government or local authority.

Offences by companies

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

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

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

Explanation: For the purpose of this section

(a) “company” means a body corporate and includes a firm or other association of individuals, and

(b) “director” in relation to a firm means a partner in the firm.

Attempt and abetment

103. Whosoever attempts to commit or abets an offence punishable under this Part shall, notwithstanding anything contained in sections 116 and 511 of the Indian Penal Code, 1860, be punishable with the penalty provided for that offence under this Act.

Central Act 45 of 1860

Provided that if such offence is committed by an employee of a licensee, he shall be punished for a term of not less than three months.

Power to try summarily

104. Notwithstanding anything contained in section 260 of the Code of Criminal Procedure, 1973 -

Central Act 2 of 1974

(a) any Chief Judicial Magistrate;

(b) any Metropolitan Magistrate; or

(c) any Magistrate specially empowered in this behalf by the High Court under section 260 of the Code of Criminal Procedure, 1973,

Central Act 2 of 1974

shall try in a summary way all or any of the offences made punishable under this Act, the abetment of any such offences or an attempt to commit any of such offences:

Provided that any offence committed subsequent to earlier conviction for similar offence where the second or subsequent commission of such offence entails enhanced punishment, shall not be tried in a summary manner.

(2) When, in the course of a summary trial it appears to the Magistrate, that the nature of the case is such that it is undesirable to try it summarily, the Magistrate shall recall any witness who may have been examined and proceed to re-hear in the manner other than provided for summary trials.

Cognisance of Offences

105. No court shall take cognisance of an offence punishable under this Act except upon a complaint in writing made by an electrical inspector or an officer authorised in this behalf by the State Government, or the State Commission, or a licensee, as the case may be.

Compounding of offences

106. (1) Notwithstanding anything in section 320 of the Code of Criminal Procedure, 1973, any offence under this Part may, on an application made to the State Commission by the person accused of having committed such offence, be compounded within one hundred and eighty days from the date on which such person has been charged of the offence by a court competent to conduct the trial:

Central Act 2 of 1974

Provided that where the offence relates to any property, electricity or entitlement of any licensee, the application for compounding shall be entertained only if it bears an endorsement signed by such licensee or a person authorised by him for this purpose, to the effect that he has no objection to such offence being compounded.

(2) The State Commission shall consider and pass orders on an application made under this section, in accordance with the procedure to be specified in this behalf, and may impose a compounding fee not exceeding a sum equal to three times the fair market value of the electricity or materials affected by or involved in the offence, and where the quantum or value of such electricity or materials, as the case may be, can not be reasonably determined, then a compounding fee not exceeding five lakh rupees:

Provided that no offence shall be compounded if the accused is, by reason of a previous conviction, liable either to enhanced punishment or to a punishment of different kind for such offence.

Explanation: For the purposes of this section, the expression "fair market value of the electricity" means the amount that would be due from the person accused if he had procured such electricity by legitimate means.

(3) Where an offence has been compounded under this section and the compounding fee has been paid, the accused shall be deemed to have been acquitted and no further proceedings shall be continued in respect of the offence so compounded.

(4) The State Commission may, while passing an order under this section, direct that a sum not exceeding one half of the compounding fee, as it deems proper, be paid to the affected licensee, if any.

Civil penalties

Penalties

107. (1) Except as otherwise provided in this Act, if any person contravenes or attempts to contravene or abets the contravention of any provision of this

Act, or any rule or regulation made thereunder, or any condition subject to which a licence is issued by the State Commission, he shall, upon summary inquiry and adjudication by the State Commission, be liable to a penalty up to three times the fair market value of the electricity involved in such contravention and where the quantum of such electricity can not be reasonably determined, then up to five lakh rupees, and where such contravention is a continuing one, further penalty which may extend to twenty-five thousand rupees for each day the contravention continues after it was first committed:

Provided that where the person liable to a penalty under this section is a licensee or a generating company, as the case may be, the amount of penalty may, instead of five lakh rupees and twenty-five thousand rupees, as the case may be, extend to fifty lakh rupees and ten lakh rupees respectively.

Explanation: For the purposes of this section, the expression “fair market value of the electricity” means the amount that would be due from the person accused if he had procured such electricity by legitimate means.

(2) In deciding whether to impose a penalty, and in determining the amount of any penalty under sub-section (1), the State Commission shall have regard to the statement of policy published under sub-sections (3) and (4).

(3) The State Commission shall prepare a statement of policy with respect to the imposition of penalties and the determination of their amount, and shall undertake such consultation as it considers appropriate when preparing or revising its statement of policy, and shall publish the statement in such manner as it considers appropriate for bringing the matters contained therein to the attention of persons likely to be affected by them.

(4) The State Commission may revise its statement of policy from time to time and publish the revised statement in such manner as it considers appropriate for bringing the matters contained therein to the attention of persons likely to be affected by them.

(5) No proceedings shall be instituted under this section except upon a written complaint by the State Government, an electrical inspector or a licensee, or where the State Commission, for reasons to be recorded in writing, takes suo moto cognisance of such contravention.

Summary assessment
in certain cases

108. (1) Without prejudice to the provisions of section 107, the State Commission may, upon application made to it by a licensee, designate suitably qualified officers of such licensee to act as assessing officers for the purposes of this section.

(2) Upon inspection of any premises or any equipment, machine, appliance or device therein, or upon inspection of records maintained by any person, if the assessing officer has reason to believe that any person is indulging in unauthorised use of electricity, he may provisionally assess the charges payable by such person and state the reasons for arriving at such charges:

(3) A notice stating the provisional assessment made under sub-section (2) shall be served on the person in occupation or control of the premises in such manner as may be specified.

(4) A person on whom a notice has been served under sub-section (3) may, within fifteen days of receiving such notice, file objections, if any, before the assessing officer, who may, after affording a reasonable opportunity of hearing to such person, pass an order stating the amount, if any, payable by such person, and where no such objections are filed within the aforesaid period, the provisional assessment stated in the notice under sub-section (3), shall be deemed to be an order under this sub-section:

Provided that the State Commission may require that the final order be made by an officer superior in rank compared to the officer who made the provisional assessment.

(5) No objection under the sub-section (4) shall be entertained unless an amount equal to one third of the provisional assessment is deposited with the affected licensee prior to filing of such objections.

(6) A person served with an order made under sub-section (4) shall deposit the amount stated therein with the affected licensee within thirty days of service of such order.

(7) The assessment of charges payable under this section shall be based on the nature of unauthorised use of electricity and the applicable tariff for such use, and in determining the extent of unauthorised use, the assessing officer shall be guided by such principles and methodologies as the State Commission may specify.

(8) The officer making an order under sub-section (4) may, in his discretion, impose a penalty not exceeding one fourth of the charges stated in such order, and upon payment of such penalty within 30 days of service of the order, the assessee shall not be liable to any other penalty under this Act.

Appeal against order
of assessment

109. (1) Any person aggrieved by an order under sub-section (4) of section 108 may, within thirty days of the date of receipt of the said order, prefer an appeal to the State Commission.

(2) No appeal under sub-section (1) shall be entertained unless an amount equal to one half of the disputed amount is deposited with the affected licensee prior to such appeal.

(3) The State Commission shall, after hearing the appellant and the affected licensee, pass such order as it deems fit.

(4) An order passed by the State Commission under sub-section (3) shall be final.

PART - IX

DISPUTE RESOLUTION

Conciliation and arbitration

Conciliation

110. No licensee shall move any court, tribunal, State Commission or other forum for resolution of any dispute, difference or disagreement with any other licensee in respect of any matter arising out of the provisions of

this Act (hereinafter referred to as “dispute”), until he has made an attempt for conciliation in accordance with the regulations to be made by the State Commission.

Arbitration

111. (1) Where any dispute between licensees remains unresolved after an attempt for conciliation has been made under section 110, the affected person shall refer such dispute to the State Commission for arbitration:

Provided that nothing contained in this section shall restrict the right of any licensees by agreement to refer the dispute to any other person or persons in accordance with the provisions of the Arbitration and Conciliation Act, 1996.

Central Act 26
of 1996

(2) Where a dispute is referred to the State Commission for arbitration, it shall, if the dispute relates to a matter of policy involving public interest, or an interpretation of the provisions of this Act, or rules or regulations made thereunder or a matter widely affecting the rights or liabilities of consumers or licensees, nominate from amongst its own members such persons as it deems proper, to act as arbitrators.

(3) Where two or more members have been nominated as arbitrators, the chairperson of the State Commission shall act as the presiding arbitrator.

(4) Where the State Commission does not nominate its members under sub-section (2), it shall constitute an arbitral tribunal, in accordance with the regulations made by it, to resolve the dispute.

(5) Arbitration under this section shall be governed by the Arbitration and Conciliation Act, 1996 and rules framed thereunder:

Central Act 26
of 1996

Provided that the State Commission may specify the number of arbitrators, the place of sitting of the arbitral tribunal, the reasonable period during which the award may be made, the fee payable for arbitration and such other matters which are not provided in that Act or which have been left thereunder to the mutual agreement of the parties to the dispute.

(6) The arbitrators appointed under this section shall be entitled to such fees as may be specified:

Provided that the fee received for arbitration by members of the State Commission shall be paid into the Consolidated Fund of the State, as the case may be.

(7) Notwithstanding anything in the Arbitration and Conciliation Act, 1996, an award made under this section may be challenged only before the High Court having jurisdiction.

Central Act 26
of 1996

(8) The provisions of this section shall apply, mutatis mutandis, to any dispute which is required to be resolved by arbitration under any other provision of this Act.

Dispute resolution by
licensees

112. (1) The State Commission shall specify a dispute resolution procedure requiring a licensee to address any complaint of a consumer alleging violations of the provisions of this Act or any rules and regulations made thereunder.

(2) The procedure specified under sub-section (1) shall require a

licensee to designate a person within its company to conduct an investigation of the complaint and convey the result thereof to the complainant within 30 days from the date on which the complaint was received.

(3) The communication sent to a complainant under sub-section (2) shall include a description of any action taken and a statement describing the complainant's right to seek further remedies if he is not satisfied with the results of the investigation and the action taken thereon.

(4) A licensee shall maintain a log of all complaints received and action taken thereon, and such record shall be subject to review by the State Commission from time to time.

(5) Within 60 days of receiving a reply from the licensee under sub-section (2), and if no such reply is received then within 90 days from the date of making the complaint, the complainant may make a representation before the appropriate forum under the provisions of the Consumer Protection Act, 1986.

Central Act 68
of 1986

(6) Without prejudice to the generality of sub-section (5), a complainant may make a representation to the State Commission for such investigation thereof under section 47 as the State Commission may deem fit.

Appeals

Appeals against the
orders of the
Commission

113. (1) Any person aggrieved by an order passed or direction issued by the State Commission under this Act may, within 60 days of the communication of such order or direction to him, file an appeal before the High Court:

Provided that where a review petition is admitted by the State Commission, the period of 60 days shall be reckoned from the date of communication of the final order on such review petition:

Provided further that if the High court is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, it may allow the appeal to be filed within a further period of 60 days:

Provided also that no such appeal shall lie from a person who had the opportunity of making a representation before the State Commission in accordance with this Act, but did not make such representation before the State Commission.

(2) An appeal filed before the High Court under sub-section (1) shall be heard and decided by a division bench of such High Court.

PART - X

MISCELLANEOUS PROVISIONS

Electrical Inspectors

Electrical inspectors 114. (1) The State Government may appoint duly qualified persons to be

electrical inspectors under this Act.

(2) An electrical inspector appointed under this section shall -

(a) inspect and test, periodically and at any time in special cases, electric lines and electrical plant belonging to a licensee or a generating company, as the case may be;

(b) examine, periodically and at any time in special cases, the generation, transmission, distribution or supply of electricity by such licensees or generating companies, as the case may be;

(c) inspect and test, if and when required by any consumer, any such lines, plant or meter on the consumer's premises, for the purpose of determining whether any requirement imposed by or under this Act or rules and regulations made thereunder, in respect of the electric lines or electrical plant or meter or the supply of electricity through or by them has been complied with; and

(d) perform such other duties as may be prescribed by rules or assigned by general or specific directions of the State Government or State Commission.

(3) The State Government may by rules -

(a) prescribe the qualifications, terms and conditions of service and area of jurisdiction of electrical inspectors and matters connected therewith;

(b) lay down the manner in which and the times at which any duties are to be performed by electrical inspectors;

(c) require licensees or generating companies, as the case may be to

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(i) furnish electrical inspectors with records or other information; and

(ii) allow such inspectors access to premises and the use of electrical plant and other facilities; and

(d) provide for cases in which licensees may be relieved by electrical inspectors from any obligation to distribute and/or supply electricity.

(4) Not later than 7 days after an inspection, test or examination under this section, the electrical inspector shall make a report containing his findings on the compliance of technical and safety standards and the directions, if any, for remedial action by the licensee or generating companies, as the case may be and send a copy thereof to the State Commission and the licensee.

(5) Upon receiving a report under sub-section (4), the licensee or the generating company, as the case may be, shall comply with the directions therein or take such other action as may be necessary to comply with the provisions of this Act, and the rules and regulations made thereunder with respect to any electrical plant or electric lines, as the case may be, and inform the State Commission and the electrical inspector as early as may

be.

(6) An appeal from the decision of an electrical inspector shall lie to the State Commission; provided that till such decision is set aside, modified, waived or stayed by the State Commission, the party affected by such decision shall comply with the same.

(7) For exercising the powers and discharging the functions under this section, an electrical inspector may enter any building or place and may seize any document or take extracts therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

Central Act 2 of
1974

Certain powers, protection etc.

Powers of entry etc.

115. (1) Any officer or other employee of the State Commission or of a licensee generally or specially authorised by the State Commission or by the licensee, as the case may be, in this behalf or any electrical inspector may at any reasonable time after giving the owner or occupier reasonable notice, enter upon any land or premises and do such things as may be reasonably necessary for the purposes of lawfully using any electric lines or electrical plant, or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of duties by the State Commission, licensee or electrical inspector, as the case may be, under this Act.

(2) Without prejudice to the generality of sub-section (1), a licensee or any person duly authorised by a licensee may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is or has been supplied by him, or any premises or land, under, over, along, across, in or upon which the electric lines, electrical plant or other works have been lawfully placed by him for the purpose of-

(a) inspecting, testing, repairing or altering the electric lines, electrical plant meters, fittings, works and apparatus for the supply of electricity belonging to the licensee;

(b) ascertaining the quantity of electricity supplied; or

(c) inspection of any books of account;

(d) seizure of any equipment or device used for abstraction, consumption or use of electricity in contravention of this Part; or

(e) removing where a supply of electricity is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric lines, electrical plant, meters, fittings, works or apparatus belonging to the licensee.

(3) A licensee or any person authorised as aforesaid may also, in pursuance of a special order in this behalf made by an Executive Magistrate –

(a) enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein; or

(b) enter any premises to which electricity is to be supplied by him, for

the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of electricity, belonging to the consumer.

(4) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises or land in pursuance of the provisions of sub-section (2) or, sub-section (3), or when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by those sub-sections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.

(5) The provisions of the Code of Criminal Procedure, 1973, relating to search and seizure shall, as far as may be, apply to searches and seizures under this Act. Central Act 2 of 1974

Amendment of the Land Acquisition Act, 1894

116. (1) In clause (b) of sub-section (1) of section 40 and sub-section (5) of section 41 of the Land Acquisition Act, 1894 the term “work” shall be deemed to include electricity supplied or to be supplied by means of the work to be constructed. Central Act 1 of 1894

(2) The State Government may, on recommendation of the State Commission in this behalf, if it thinks fit, on the application of any person, not being a company, desirous of obtaining any land for its purposes, direct that he may acquire such land under the provisions of the Land Acquisition Act, 1894 in the same manner and on the same conditions as it might be acquired if the person were a company. Central Act 1 of 1894

Civil courts not to have jurisdiction

117. No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any matter which the State Commission or any authority or officer is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Exemption of electric lines or electrical plants from attachment in certain cases

118. Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Protection for acts done in good faith

119. (1) No suit, prosecution or other proceeding shall lie against the State Government or State Commission or any member of the State Commission, or any public servant, or any servant of a State Government, State Commission or local authority for anything done or in good faith purporting to be done or needs to be done under this Act or the rules or regulations made thereunder.

(2) No court shall take cognisance of an offence under this Act, by a public servant except with the sanction –

(a) in the case of a person employed in connection with the affairs of the State, of the State Government;

(b) in the case of a person employed in connection with the affairs of the State Commission, of the State Commission; and

(c) in the case of any other public servant, of his appointing authority;

Members, officers etc. of the Commission to be public servants

120. All members and officers and other employees of the State Commission shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act or rules and regulations made thereunder, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Central Act 45 of 1860

Recovery of sums payable under this Act

121. (1) Any amount due from a person under this Act may be recovered from him as if it were an arrear of land revenue recoverable under the Revenue Recovery Act, 1890 or any other Act for the time being in force in the State.

Central Act 1 of 1890

(2) If the amount due is not paid within thirty days from the date on which it became payable, an additional amount shall be payable by way of interest calculated at the rate of fifteen percent per annum compounding at the end of every three months.

Power to make rules and regulations

Powers of the State Government to make rules

122. (1) The State Government may, by notification make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) salary, allowances and other conditions of service of a chairperson or member of the State Commission under sub-section (2) of section 68;

(b) form and manner of subscribing oath of office to members of State Commission under sub-section (3) of section 68;

(c) additional matters regarding which the State Commission shall have powers as are vested in civil court under clause (g) of sub-section (1) of section 73;

(d) form and time for preparation of the annual budget of the State Commission under sub-section (1) of section 78;

(e) the rules of administrative and financial procedures under sub-section (4) of section 78;

(f) qualifications, terms and conditions of service and duties of electrical inspectors under sub-section (3) of section 114;

(g) mode of service of notices etc. and nomination of officers for the purpose of service of notice etc. on the State Government under sub-section (1) of section 124; and

(h) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the State Legislative Assembly, while it is in session, for a total period of fourteen 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 successive sessions as aforesaid, the House agrees in making any modification in the rules, or the House agrees, that the rules should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

Powers of the State Commission to make regulations

123. (1) The State Commission may, by notification, make regulations not inconsistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) Before notifying any regulations under this Act, the State Commission shall give notice –

(a) stating that it proposes to notify the regulations and setting out the provisions of such regulations and their effect;

(b) stating the reasons why it proposes to notify the regulations; and

(c) stating the time, not being less than 30 days from the date of publication of the notice, within which representations or objections with respect to the proposed regulations may be made, and shall consider any representation or objection which is duly made and not withdrawn.

(3) Without prejudice to the generality of sub-section (1), such regulations may provide for all or any of the following matters, namely:-

(a) form and manner of making an application before State Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 6;

(b) annual fee payable under sub-section (2) of section 7 and conditions of licence under sub-section (7) of section 7;

(c) certain directions to generating companies under section 11;

(d) certain restrictions on generating companies under sub-section (2) of section 12;

(e) the manner and charges for interconnection under section 14,

(f) wheeling of electricity by transmission companies under section 15;

(g) proportion of revenues from other businesses to be utilised for reducing the transmission and wheeling charges under section 18;

(h) wheeling of electricity by distribution companies under section 21;

(i) supply, distribution and consumption of electricity under sub-section (5) of section 23;

(j) recovery of certain expenditures by the distribution company under sub-sections (1) and (2) of section 25;

(k) security payable to the distribution company under section 26;

- (l) certain rights and obligations of distribution companies under section 29
- (m) proportion of revenues from other business to be utilised for reducing the distribution and wheeling charges under section 30;
- (n) The Electricity Supply Code referred to in section 31;
- (o) Installation and operation of meters under section 34;
- (p) Standards of performance and compensation by the distribution companies under section 36;
- (q) terms and conditions for the determination of tariff payable to licensees under sub-section (1) of section 40;
- (r) terms of fuel surcharge formula under sub-section (7) of section 41;
- (s) methodologies and procedures for calculating the expected revenue from tariff and charges under sub-section (8) of section 41;
- (t) the manner of making an application before the State Commission, the fee payable therefor and the manner of publication of application under sub-sections (1) and (2) of section 42;
- (u) establishment, operation and management of the bulk electricity spot market under section 46;
- (v) constitution of the State Transmission Centre and appointment of its officers and staff under section 55;
- (w) fee and charges payable to the State Transmission Centre under sub-section (5) of section 56;
- (x) standards for its licensees with respect to quality, continuity and reliability of service under clause (e) of sub-section (3) of section 65;
- (y) powers and duties of the Secretary of the State Commission under sub-section (1) of section 70;
- (z) numbers, nature, categories and terms and conditions of service of the officers and staff of the State Commission under sub-section (2) of section 70;
- (aa) terms and conditions of appointment of consultants under sub-section (3) of section 70;
- (bb) rules of procedure for transaction of business under sub-section (2) of section 71;
- (cc) delegation of powers under section 76;
- (dd) conduct of the proceedings of the State Advisory Committee under sub-section (4) of section 80;

- (ee) procedure for compounding of offences by the State Commission under sub-section (2) of section 106;
- (ff) conciliation of disputes between licensees under section 110;
- (gg) constitution of arbitral tribunal, the number of arbitrators, place of sitting etc. of arbitrators appointed by it under section 111;
- (hh) dispute resolution procedure for licensees under section 112; and
- (ii) any other matter which is required to be, or may be, specified.

Miscellaneous Provisions

Service of notices,
orders or documents

124. (1) Every notice, order or document by or under this Act required, or authorised to be addressed to any person may be served on him by delivering the same after obtaining written acknowledgement therefor or by registered post or such means of communication as may be prescribed or left –

- (a) where the State Government is the addressee, at the office of such officer as the State Government may prescribe in this behalf;
- (b) where the State Commission is the addressee, at the office of the State Commission;
- (c) where a company is the addressee, at the registered office of the company or, in the event of the registered office of the company not being in India, at the head office of the company in India; and
- (d) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(2) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

Power to remove
difficulties etc.

125. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after two years from the appointed date.

(2) For the removal of difficulties and for giving effect to the provisions of this Act, the State Government may constitute an Oversight Committee consisting of the following, namely:-

- (a) Chief Minister of Punjab – chairperson;

- (b) Chief Secretary of State Government – member;
- (c) Chairperson of the State Commission - member;
- (d) Chief Executive of the State Transmission Company – member;
- (e) Chief Executives of three generating companies, to be nominated by the State Government – members;
- (f) Chief Executive of three distribution companies to be nominated by the State Government – members;
- (g) Chief Executives of three supply companies to be nominated by the State Government – members;
- (h) Three representatives of consumer organisations, to be nominated by the State Government – members; and
- (i) Secretary in-charge of the department of State Government dealing with electricity – Convenor.

(3) The Oversight Committee shall meet at such intervals, not being more than six months at a time, and deliberate on such issues as the chairperson may determine.

(4) Based upon the recommendations of the Oversight Committee, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to be necessary or expedient for removing any difficulty.

(5) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislative Assembly.

(6) The Oversight Committee shall, at least once in two years, undertake a comprehensive review of the working of this Act and the extent to which its objectives have been achieved, and place its Report thereon before the State Legislative Assembly.

Inconsistency in laws	126. Nothing contained in this Act or any rule or regulation made thereunder or any instrument having effect by virtue of this Act, rule or regulation shall have effect in so far as it is inconsistent with any other provisions of the Consumer Protection Act, 1986 or the Atomic Energy Act, 1962.	Central Act 68 of 1986 Central Act 33 of 1962
Act to have overriding effect	127. Save as otherwise provided in section 126, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.	
Repeals and savings	128. (1) Save as otherwise provided in this Act, the provisions of the Indian Electricity Act, 1910, the Electricity (Supply) Act, 1948 and the Electricity Regulatory Commissions Act, 1998 shall not apply within the State of Punjab to the extent they are inconsistent with the provisions of this Act.	Central Act 9 of 1910 Central Act 14 of 1998
	(2) Notwithstanding the inapplicability of the Acts as referred to in sub-section (1), and unless otherwise provided-	
	(a) all notifications and conditions of supply published, powers	

conferred, forms prescribed, local jurisdiction defined, licences, awards, orders and appointments made under the Acts referred to in sub-section (1) shall, to the extent they are not inconsistent with the provisions of this Act, be deemed to have been published, conferred, prescribed, defined or made under this Act and shall have effect until substituted by rules or regulations, as the case may be, made under this Act in that behalf;

(b) all rules and regulations notified under the Acts referred to in sub-section (1) shall, to the extent they are not inconsistent with the provisions of this Act, have effect for one year the appointed date or such earlier date as the State Government or State Commission, as the case may be, may notify in respect of any such rule or regulation;

(c) the provisions of section 43A of the Electricity (Supply) Act, 1948 (54 of 1948) read with the notifications issued thereunder and directions issued under section 58 of that Act read with the Sixth Schedule thereof shall have effect until the notification of Tariff regulations under section 40 of this Act;

(d) all proceedings including arbitration proceedings, inquiries, trials and appeals pending immediately before the appointed date shall be heard and disposed of as if this Act had not come into force; and

(e) all the contracts entered into under the laws referred to in sub-section (1) shall continue to be in force and binding upon the successors in interest.