

THE DELHI ELECTRICITY REFORM ACT, 2000

(DELHI ACT NO. 2 of 2001)

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE ASSEMBLY AFFAIRS)
5, SHAM NATH MARG, DELHI- 110 054

Dated: 8/3/2001

NOTIFICATION

No. F –(27)/LA/2000 - The following Act of Legislative Assembly received the assent of the President of India on 6th March 2001 is hereby published for general information:-

THE DELHI ELECTRICITY REFORM ACT, 2000

(DELHI ACT NO. 2 of 2001)

(As passed by the
Legislative Assembly of the National Capital Territory of Delhi
on 23-11-2000)

An
Act

to provide for the constitution of an Electricity Regulatory Commission, restructuring of the electricity industry (rationalisation of generation, transmission, distribution and supply of electricity), increasing avenues for participation of private sector in the electricity industry and generally for taking measures conducive to the development and management of the electricity industry in an efficient, commercial, economic

and competitive manner in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory Of Delhi in the Fifty first year of the Republic Of India as follows:-

PART – I

PRELIMINARY

1. (1) This Act may be called the Delhi Electricity Reform Act, 2000.
- (2) It extends to the whole of the National Capital Territory of Delhi excluding the areas of the New Delhi Municipal Council and the Delhi Cantonment Board.
- (3) It shall be deemed to have come into force on 3rd day on November 2000.:

2. (1) In this Act unless the context otherwise requires
 - (a) "area of transmission" means the area within which the holder of a transmission licence is for the time being, authorised by licence to transmit energy;
 - (b) " Central Act" means the Electricity Regulatory Commissions Act, 1998;
 - (c) "Commission" means the Delhi Electricity Regulatory Commission, refer section 3;
 - (d) "Government" means the Lieutenant Governor referred to in article 239AA, of the Constitution;
 - (e) "licence" means a licence granted under Part II or Part II A of the Indian Electricity Act, 1910 or Part VI of this Act;
 - (f) "licensee" or "licence holder" means a person licensed under Part II or Part II A of the Indian Electricity Act, 1910 or under Part VI of this Act to transmit or supply energy;
 - (g) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 read with article 239AA of the Constitution;
 - (h) "High Court" means High Court of Delhi;
 - (i) "member or members" means the member or members of the Commission and shall include the Chairperson of the Commission;
 - (j) "prescribed" means prescribed by the rules or regulations made under this Act;
 - (k) "regulation" means a regulation made by the Commission under this Act;
 - (l) "rule" means a rule made by the Government under this Act;
 - (m) "selection committee" means the selection committee referred to in section 4;

(n) "section" means a section of this Act; and

- (o) "transmit" in relation to electricity means the transportation or transmission of electricity by means of a system operated or controlled by a licensee which consists, wholly or mainly, of extra high voltage and extra high tension lines and electrical plant and is used for transforming and for conveying and/or transferring electricity from a generating station to a sub-station, from one generating station to another or from one sub-station to another or otherwise from one place to another.
- (2) Words and expressions used but not defined in this Act and defined in the Electricity (Supply) Act, 1948, have the meanings respectively assigned to them in that Act;
- (3) Words and expressions used but not defined either in this Act or in the Electricity (Supply) Act, 1948 and defined in the Indian Electricity Act, 1910, have the meanings respectively assigned to them in that Act.

PART – II

DELHI ELECTRICITY REGULATORY COMMISSION

- 3.(1) There shall be an Electricity Regulatory Commission for the National Capital Territory of Delhi to be known as "the Delhi Electricity Regulatory Commission" (hereinafter referred to as "the Commission") to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
- (2) The Commission shall consist of one or more but not more than three members, including the Chairperson, to be appointed by the Government in the manner provided in Section 4, who shall be person or persons, as the case may be, of ability, integrity and standing with knowledge of, and having shown capacity in, dealing with problems relating to administration, engineering, finance, commerce economics, law or management.
- Provided that one member shall always be with adequate experience in generation, transmission or distribution of electricity and, if there are more than one member, the members shall be persons having expertise in different disciplines.
- (3) The Commission established and constituted with one member under section 17 of the Central Act shall be the first commission for the purposes of this Act and the member appointed shall be the chairperson of the Commission.
- (4) At all times the most senior member of the Commission shall act as Chairperson, such seniority being reckoned from the date of the appointment of the members. In case two or more persons are selected at the same time, the seniority amongst them shall be determined by the Government while making the appointment.
- (5) When the Chairperson of the Commission is unable to discharge the functions owing to absence, illness or any other cause, the next senior member of the Commission shall discharge the functions of the Chairperson, until the day on which the Chairperson assumes the charge of his functions.
- (6) No act or proceedings of the Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.
- (7) The Commission shall have an official seal for the authentication of documents required for the purposes of its functions.
- (8) The Commission may by a general or special order in writing and subject to such conditions as may be specified in the order delegate to any officer of the Commission such of the administrative powers as the Commission considers appropriate to aid and assist the work of the Commission.
4. (1) (a) The Government shall constitute a selection committee, as often as may be required to select persons for appointment as members. The selection committee shall consist of the following members: -
- (i) A Judge of High Court or a former Judge of High Court – Chairperson
- (ii) Chief Secretary of the Government – Member

- (iii) The Chairman of Central Electricity Regulatory Commission Member
 - (b) The Secretary in charge of the Department of Power of the Government shall act as the convenor of the selection committee.
 - (2) The selection committee shall finalise the selection within a period of one month from the date on which the reference is made to it.
 - (3) The selection committee shall recommend a panel of two names for every vacancy referred to it.
 - (4) All decisions of the selection committee shall be by majority.
 - (5) The Government shall appoint the member from the two names recommended by the selection committee.
 - (6) The method and manner of selection and appointment of members and designation of one of the members as Chairperson shall be as prescribed by the Government from time to time by the rules.
- 5(1)** The persons who are considered for appointment as members of the Commission shall notify to the convenor of the selection committee –
- (a) of any office, employment or consultancy agreement or arrangement which he has in his own name or in any firm, association or person or body corporate, or in the names of any relatives, carrying on any of the following businesses:-
 - (i) generation, transmission, distribution or supply of electricity;
 - (ii) manufacture, sale or supply of any fuel for generation of electricity;
 - (iii) manufacture, sale, lease, hire or otherwise supply of, or dealing in, machinery, plant, equipment, apparatus or fittings for generation, transmission, distribution supply or use of electricity; and
 - (iv) any entity providing professional services to any of the businesses referred to in sub-clauses (i), (ii) and (iii) above and any other business which is notified by the Government on a later date taking into consideration the scope of work of the Commission;
 - (b) such other details and information as may be prescribed in the rules.

Explanation:- For the purpose of this sub-section, the term "relative" shall have the same meaning as defined under section 6 of the Companies Act, 1956.

- (2) The details received from the persons shall be placed for consideration of the selection committee at the time of the selection and recommendation of the person for appointment as member.
- (3) Each member of the Commission shall, before taking charge of the office as member or within such time not exceeding three months after taking charge as may be allowed by the Government on the recommendation of the selection committee, divest himself from the interest in the businesses mentioned in sub-section (1) as a condition of his appointment.

- (4) If a person to be appointed as a member of the Commission holds any office under the Government of India or the Government of any State or the Government of any Union territory he shall submit his resignation or take voluntary retirement from that service and shall not seek reappointment in the service of the Government or any Government, corporation or private body, dealing with the power sector for a period of two years after he ceases to be member of the Commission.
- (5) So long as the person holds the office of the member and for a period of two years after he ceases to be a member for any reason whatsoever, he shall not acquire, hold or maintain, directly or indirectly, any office, employment or consultancy arrangement or interest in businesses mentioned in sub-section (1) and if he acquires any such interest involuntarily or by way of succession or testamentary disposition, he will divest himself of such interest within a period of three months of such interest being acquired.
- (6) Before recommending any person as a member of the Commission, the selection committee shall satisfy itself that the person does not have any financial or other interest as referred to in sub-section (1) or otherwise which is likely to affect prejudicially his functions as a member.
- (7) A person shall be disqualified from being appointed as member of the Commission if he is a member of Parliament or of the Legislative Assembly of any State or of the Legislative Assembly of any Union Territory or of any local authority or holds any post in a political party.
- 6.** (1) Every member shall hold office for a period of five years from the date of his appointment as member or until the age of sixty-five years, whichever is earlier, and he shall not be eligible for re-appointment at any time after the expiry of his term of appointment.
- Provided that no person shall be appointed as a member after he attains the age of sixty-two years.
- (2) The Chairperson of the Commission and other members shall receive such remunerations and other allowances and shall be governed by such conditions of service as may be prescribed from time to time under the rules.
- Provided that the terms shall not be varied to their disadvantage during the tenure of the appointment.
- (3) The Chairperson of the Commission and every other member shall, before entering upon his office, make and subscribe to an oath of the office and of secrecy in such form, in such manner and before such authority as may be prescribed.
- 7.** (1) Subject to the provisions of sub-section (3), any member of the Commission shall only be removed from his office by order of the Lieutenant Governor on the ground of proved misbehaviour after the High Court, on reference being made to it by the Lieutenant Governor, has, on inquiry held in accordance with the procedure prescribed in that behalf by the High Court, reported that the member ought on any such ground to be removed.
- (2) The Lieutenant Governor may suspend any member of the Commission in respect of whom a reference has been made to the High Court under sub-section (1) until the Lieutenant Governor has passed orders on the receipt of the report of the High Court on such reference.

- 3) Notwithstanding anything contained in sub-section (1), the Lieutenant Governor may, by order, remove from office the member if he –

has been adjudged an insolvent; or

has been convicted of an offence which, in the opinion of the Government, involves moral turpitude; or

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

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

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

has without reasonable cause refused or failed to act for a period of atleast six months; or

ceases to fulfill any of the conditions of his appointment as member.

- (4) Notwithstanding anything contained in sub-section (3), no member shall be removed from his office on the ground specified in clause (d) or in clause (e) of that sub-section unless the High Court on a reference being made to it in this behalf by the Lieutenant Governor, has, on an inquiry held by it in accordance with such procedure as prescribed in this behalf by the High Court, reported that the member ought on such ground or grounds to be removed.

- (5) The Government shall act in accordance with the recommendation in the final report under sub-section (4) and the Government shall communicate its decision to the member concerned within a period of two months of the receipt of such report.

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

- (7) If the member removed under this section is the Chairperson of the Commission, he shall cease to be the Chairperson of the Commission.

- (8) Nothing contained in this section shall be construed to exclude the jurisdiction of the Lokayukta and Uplokayukta.

- 8.** (1) The Commission, in consultation with the Government, shall appoint a person as Secretary of the Commission to assist the Commission to discharge its functions.

- (2) The Commission may, in consultation with the Government, determine the number, nature and categories of other officers and employees required to assist the Commission in the discharge of its functions.

- (3) The method and manner of selection of the Secretary, officers and other employees and the terms and conditions of their service may be prescribed by the Commission by regulations in consultation with the Government.

- (4) The salaries and allowances payable to the members and the administrative expenses, including salaries, allowances and pensions payable to or in respect of the Secretary, officers and other employees of the Commission, shall be charged to the Consolidated Fund of the National Capital Territory of Delhi.
- (5) The Commission may appoint consultants from time to time to assist the Commission in the discharge of its functions.

PART – III

PROCEEDINGS, POWERS AND FUNCTIONS OF THE COMMISSION

9. (1) The headquarters of the Commission shall be at Delhi.
- (2) The Commission may, by notification in the official Gazette, make regulations not inconsistent with this Act and the rules made thereunder for discharging its functions.
- (3) All decisions of the Commission shall be on the basis of majority of the members present and voting. In case of a difference of opinion among the members of the Commission, the opinion of the majority shall prevail and the opinion of the Commission shall be expressed in terms of the views of the majority. Each member of the Commission shall have one vote only. The Chairperson shall have no casting or second vote.
- (4) If there are more than one member in the Commission, the quorum for any meeting of the Commission shall be two members.
- Provided that for a meeting of the Commission to review any previous decision taken by the Commission or for consideration of any issue which could not be decided on account of equality of votes in favour of and against the resolution proposed, the quorum for the meeting shall be all members present.
- (5) (a) The Chairperson may instruct the Secretary to call a meeting of the Commission to be held at such time as the Chairperson may direct.
- (b) Any member of the Commission may, subject to the consent of the Chairperson, requisition a meeting of the Commission at any time by sending a notice in writing to the other members with a copy to the Secretary.
- (6) The Commission shall be entitled to decide urgent matters by circulation of the papers to members.
- (7) All decisions, directions and orders of the Commission shall be in writing and shall be supported by reasons. The decisions directions and orders of the Commission shall be available for inspection by any person and copies of the same shall also be made available in such a manner as the Commission may prescribe.
10. (1) The Commission shall, for the purposes of any inquiry or proceedings under this Act have the powers as are vested in a Civil Court under the Code of Civil Procedures, 1908, while trying a suit in respect of the following matters, namely: -
- (a) the summoning and enforcing of attendance of any witness and examining on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavit;
- (d) the requisition of any public record from any court or office;
- (e) the issue of commission for examination of witnesses;
- (f) the appearance of parties and consequences of non-appearance;
- (g) the grant of adjournments at the hearing; and
- (h) any other matter which may be prescribed.

- (2) The Commission shall have the power to require any person –
- (a) to produce before it and allowed to be examined and kept by an officer of the Commission specified in this behalf, such books, accounts, or other documents in the custody or under the control of the person so required as may be specified or described in the requisition, being documents relating to any matter concerning the generation, transmission, distribution and supply or use of electricity, the functioning of any undertaking involved in the above areas and other matters, the examination of which the Commission considers is necessary or relevant for the purposes of this Act or for the discharge of the functions of the Commission under this Act; and
 - (b) to furnish to an officer so specified, such information as may be required for the purposes of this Act or such other information as may be in his possession in relation to any activity carried on by any other person.
- (3) For the purpose of enforcing the attendance of witnesses, the local limits of the jurisdiction of the Commission shall be the limits of the territory of India.
- (4) The Commission shall have the powers to make such interim orders in any proceedings, or hearing before the Commission, as the Commission considers appropriate.
- (5) Where, during any inquiry or proceedings under this Act, the Commission has any grounds to believe that any books or papers or documents of, or relating to, any unit or person in relation to which such inquiry is being made or proceeding relates, which the owner of such unit or person may be required to produce in such inquiry or proceeding, are being or may be destroyed, mutilated, altered, falsified or secreted, it may, by a written order, authorize any officer of the Commission to exercise the powers of entry, search and seizure as may be exercised by an inspector appointed for inspection under sections 240 and 240-A of the Companies Act, 1956.
- (6) Notwithstanding anything contained in any other law for the time being in force, the Commission may, by a general or special order, call upon any person including the generating companies or the licensees to furnish to the Commission, periodically or as and when required, any information concerned with the activities carried on by such person related to generation, transmission, distribution and supply or use of electricity, the connection between such person and any other person or undertaking including such other information related to the organisation, business, cost of production, conducts, etc. as may be prescribed to enable the Commission to carry out its functions under this Act.
- (7) In the discharge of its functions, the Commission shall be entitled to and shall consult to the extent the Commission considers appropriate from time to time such person or group of persons as may be affected or are likely to be affected by the decisions of the Commission.
- (8) The Commission may, at any time, call for and examine, information, details, books, accounts and other documents from any person including a generating company or a licensee for the purposes of providing the same to the Central Electricity Authority, the Central Electricity Regulatory Commission, the Central Government or the Government if so required by them under any law for the time being in force.

(9) Every person to whom notices may be issued under this Act shall be obliged to duly, faithfully and expeditiously furnish such information, details, books, accounts and other documents, as may be specified in the notice by the Commission.

(10) Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19 of the Indian Electricity Act, 1910, for the placing of the electric supply lines appliance and apparatus for transmission, distribution and supply of energy, the Commission may, by order in writing, confer upon licensees or any other person engaged in the business of transmission, distribution or supply of energy to the public under this Act, subject to such conditions and restrictions as the Commission may prescribe, any of the powers which the telegraph authority possesses under the Indian Telegraph Act 1985 with respect to placing of telegraph lines and post.

11. (1) The Commission shall discharge the following functions, namely :-

- (a) to determine the tariff for electricity, wholesale, bulk, grid or retail, as the case may be;
- (b) to determine the tariff payable for the use of the transmission facilities;
- (c) to regulate power purchase and procurement process of the licensees and transmission utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution and supply in the National Capital Territory of Delhi;
- (d) to promote competition, efficiency and economy in the activities of the electricity industry to achieve the objects and purposes of this Act;
- (e) to aid and advise the Government in matters concerning electricity generation, transmission, distribution and supply in the National Capital Territory of Delhi;
- (f) to regulate the operation of the power system within the National Capital Territory of Delhi;
- (g) to set standards for the electricity industry in the National Capital Territory of Delhi including standards related to quality, continuity and reliability of service;
- (h) to promote competitiveness and make avenues for participation of private sector in the electricity industry in the National Capital Territory of Delhi and also to ensure a fair deal to the customers;
- (i) to aid and advise the Government in the formulation of its power policy;
- (j) to collect and publish data and forecasts on the demand for, and use of, electricity in the National Capital Territory of Delhi and to require the licensees to collect and publish such data;
- (k) to regulate the assets, properties and interest in properties concerned or related to the electricity industry in the National Capital Territory of Delhi including the conditions governing entry into, and exit from the electricity industry in such manner as to safeguard the public interest;
- (l) to issue licences for transmission, bulk supply, distribution or supply of electricity and determine the conditions to be included in the licences;

- (m) to regulate the working of the licensees and other persons authorised or permitted to engage in the electricity industry in the National Capital Territory of Delhi and to promote their working in an efficient, economical and equitable manner;
 - (n) to require licensees to formulate prospective plans and schemes in co-ordination with others for the promotion of generation, transmission, distribution, supply and utilisation of electricity, quality of service and to devise proper power purchase and procurement process;
 - (o) to adjudicate upon the disputes and differences between the licensees and/or transmission utilities and to refer the matter for arbitration;
 - (p) to aid and advise the Government on any other matter referred to the Commission by the Government.
- (2) The Commission shall always act consistent with the objectives and purposes for which the Commission has been established as an independent statutory body corporate and all acts, decisions and orders of the Commission shall be pursuant to and shall seek to achieve such objectives and purposes.

PART-IV

POWERS OF THE GOVERNMENT

- 12.** (1) In the discharge of its functions, the Commission shall be guided by such directions in matters of policy involving public interest as the Government may issue from time to time.
- (2) If any question arises as to whether any such direction relates to a matter of policy involving public interest, the decision of the Government thereon shall be final.
- (3) The Government shall be entitled to issue policy directions concerning any subsidy to be allowed for supply of electricity or any other infrastructure services to any class or classes of persons.

Provided that the Government shall contribute an amount to compensate the Board or any company affected to the extent of the subsidy granted.

The Commission shall determine such amounts, the terms and conditions on which and the time within which such amounts are to be paid by the Government.

- (4) The Government shall consult the Commission in relation to any proposed legislation or rules concerning any policy direction and may take into account the recommendations made by the Commission.
- 13.** The Government may, if so required to do by the Central Government, authorise the Commission to discharge the functions of Electricity Regulatory Commission in respect of any other Union territory.

PART – V

REORGANISATION OF ELECTRICITY INDUSTRY

- 14.** (1) The government may, as soon as may be after the commencement of this Act, cause one or more companies to be incorporated and set up under the provisions of the Companies Act, 1956 for the purpose of generation, transmission or distribution of electricity, including companies engaged in more than one of the said activities, in the National Capital Territory of Delhi and may transfer the existing generating stations or the transmission system or distribution system, or any part of the transmission system or distribution system, to such company or companies.
- (2) The Government may designate any company set up under sub-section (1) to be the principal company to undertake all planning and coordination in regard to generation or transmission or both; and such company shall undertake works connected with generation or transmission and determine the requirements of the territory in consultation with the other companies engaged in generation or transmission for the National Capital Territory of Delhi, the Commission, the Regional Electricity Board and the Central Electricity Authority and any other authority under any law in force for the time being, or any other Government concerned.
- (3) The companies incorporated and set up under sub-section (1) shall undertake the functions specified in this section and such other functions as may be assigned to them by the Government.
- (4) Subject to the provisions of this Act and of the duties and functions assigned to the companies incorporated and set up under sub-section (1), other companies engaged in generation, transmission or distribution of electricity, or more than one of the said activities, may be incorporated and set up in the National Capital Territory of Delhi.
- (5) The Government may, in consultation with the Commission, determine the lines that shall be treated as transmission or distribution lines for the purpose of division of responsibilities between the companies incorporated and set up under this section, having regard to the voltage levels of such lines and any other factor, which it may consider relevant.
- (6) The Government may convert the companies set up under this Act to joint venture companies through a process of disinvestment, in accordance with the transfer scheme prepared under the provisions of this Act.
- (7) Upon the transfer of all functions of the Board to corporate entities in terms of this Part, the Government may appoint an administrator for the purpose of finalisation of the accounts of the Board for all the pending years till the date of such transfer and thereafter for winding up the Board in such manner as the Government may direct.
- 15.** (1) With effect from the date on which a transfer scheme prepared by the Government to give effect to the objects and purposes of this Act, is published or such further date as may be specified by the Government (hereinafter 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 Government.

- (2) The Government may transfer such property, interest in property, rights and liabilities to any company or companies established under section 14 for the purpose in accordance with the transfer scheme prepared therefore.
- (3) Such of the rights and power to be exercised by the Board under the Electricity (Supply) Act, 1948, as the Government may, by notification in the official Gazette, specify, shall be exercisable by a company or companies established as the case may be, under section 14, for the purpose of discharge of the functions and duties with which it is entrusted.
- (4) Notwithstanding anything contained in this section or any other Act, where: -
- (a) the transfer scheme involves the transfer of any property or rights to any person or undertaking not wholly owned by the Government, the scheme shall give effect to the transfer only after asset valuation; and
- (b) where any transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties, even if such persons have not consented to it.
- (5) The Government may require any transmitting or distributing company established under the provisions of sub-section (1) of section 14 (hereinafter referred to as "the transferor licensee") or any generating company to draw up a transfer scheme to vest in a further licensee or licensees (the "transferee licensee or licensees"), or any generating company, any property, interest in property, rights and liabilities which have been vested in the transferor licensee or generating company, as the case may be, under this section and publish the same in the official Gazette. The transfer scheme to be notified under this sub-section shall have the same effect as a transfer scheme under sub-section (2).

(6) A transfer scheme may-

- (a) provide for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements;
- (b) define the property, interest in property, rights and liabilities to be allocated-
- (i) by specifying or describing the property, rights and liabilities in question,
- (ii) by referring to all the property, interest in property, rights and liabilities comprised in a specified part of the transferor's under-taking, or
- (iii) partly in one way and partly in the other :
- Provided that the property, interest in property, rights and liabilities shall be subject to such further transfer as the Government may specify;
- (c) provide that any rights or liabilities specified or described in the scheme shall be enforceable by or against the transferor or the transferee;
- (d) impose on any licensee an obligation to enter into such written agreements with, or execute such other instruments in favour of any other subsequent licensee as may be specified in the scheme;

- (e) make such supplemental, incidental and consequential provisions as the transferor licensee considers appropriate including provision specifying the order in which any transfer or transaction is to be regarded as taking effect;
 - (f) provide that the transfer shall be provisional subject to the provisions of section 18.
 - (7) All debts and obligations incurred, all contracts entered into and all matters and things done by, with or for the Board, or a company or companies established as the case may be, under section 14 or generating company or distribution company or companies before a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by, with or for the Government or the transferee and all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, continued or instituted by or against the Government or concerned transferee, as the case may be.
 - (8) In the event a licensee is required to vest any part of its undertakings in another licensee pursuant to sub-section (5), the Government shall amend the transferee licence in accordance with section 24 or revoke its licence in accordance with section 23.
 - (9) The Board shall cease to exist with the transfer of functions and duties specified and with the transfer of assets as on the effective date.
 - (10) The exercise by a licensee of any of Board's rights and powers may be made on such conditions as shall be specified in the transfer scheme including a condition that such rights and powers shall be exercised by the licensee only with the approval of the Commission/Government.
- 16.** (1) The Government may by a transfer scheme provide for the transfer of the personnel from the Board to a company or companies established as the case may be, under section 14 and distribution companies ("transferee company or companies") on the vesting of properties, rights and liabilities in a company or companies established, as the case may be, under section 14 or the distribution companies.
- (2) Upon such transfers the personnel shall hold office in the transferee company on terms and conditions that may be specified in the transfer scheme subject, however, to the following, namely:-
- (a) that the terms and conditions of the service applicable to them in the transferee company shall not in any way, be less favourable than or inferior to those applicable to them immediately before the transfer;
 - (b) that the personnel shall have continuity of service in all respects; and
 - (c) that the benefits of service accrued before the transfer shall be fully recognised and taken in account for all purposes including the payment of any and all terminal benefits.
- 17.** Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law as is applicable and except for the provisions made in this Act, the transfer of the employment of the personnel referred to in section 16 shall not entitle such employees to any compensation or damages under this Act, or any other law or under the general law, save as provided in the transfer scheme.

- 18.** (1) The Government may provide that the transfers in terms of sections 15 and 16 shall be provisional for a period of twelve months from the effective date unless confirmed earlier and reserve the right to alter, vary, modify, add or otherwise change the terms in such manner as the Government may consider appropriate.
- (2) At any time before the end of the period of twelve months commencing on the effective date, a company or companies established as the case may be, under section 14 or generating company or distribution company or companies, as the case may be, to whom property, interest in property, rights, liabilities and personnel have been transferred, may, with the consent of the Government draw up a transfer scheme to vest some or all the property, rights, liabilities and personnel in another licensee, or generating company subject to the consent of such other licensee or generating company to such vesting and any such transfer scheme shall take effect as if it were a transfer scheme under section 15.

PART – VI

LICENSING OF TRANSMISSION AND SUPPLY

- 19.** (1) No person, other than those authorised to do so by licence or by virtue of exemption under this Act or authorised to or exempted by any other authority under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, shall engage in the National Capital Territory of Delhi in the business of :-
- (a) transmitting electricity; or
- (b) supplying electricity including bulk supply.
- (2) Where any difference or dispute arises as to whether any person is or is not engaged or about to engage in the business of transmitting or supplying electricity as described in sub-section (1), the matter shall be referred to the Commission and the decision of the Commission shall be final.
- (3) The Commission shall have the power to order any unlicensed person to cease operation and disconnect its apparatus.
- 20.** (1) The Commission may, on an application made in such form and on payment of such fee, if any, as it may prescribe, grant a licence authorising any person to –
- (a) transmit electricity in a specified area of transmission; or
- (b) supply electricity in a specified area of supply including bulk supply to licensees or any person.
- (2) In respect of the grant of any such licence, the following provisions shall apply –
- (a) any person applying for a licence shall publish a notice of his application in such manner, and with such particulars as may be prescribed by the Commission within fourteen days after making such application;
- (b) the Commission shall not grant a licence until-
- (i) all objections received relating to the application for the licence have been considered by the Commission.
- Provided that no objection shall be considered by the Commission unless it is received within three months of the date of the first publication of the notice under clause (a) above or if the Commission may, at any time prescribe a new time limit for filing objection; and
- (ii) in the case of an application for a licence to supply or transmit in an area which includes the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission has ascertained that there is no objection to the grant of the licence on the part of the Central Government.

- (c) where an objection is received from any local authority concerned, the Commission shall, if in its opinion the objection is insufficient, record in writing and communicate to such local authority its reasons for such opinion; and
- (d) no application for a licence shall be made by any local authority except pursuant to a resolution passed at a meeting of such authority held after one month's previous notice of the same specifying the purpose thereof, has been given in the manner in which notices of meetings of such local authority are usually given.
- (3) A licence may prescribe the duration, extent to which, and the terms and conditions under which the transmission or supply of energy is to be made and contain such other conditions as the Commission may consider appropriate for achieving the purposes of this Act.
- (4) Without prejudice to the generality of sub-section (3), conditions included in a licence by virtue of that sub-section may require the licensee to –
- (a) enter into agreements on specified terms with other persons for the use of any electric lines, electrical plant(s) and associated equipment operated by the licensee;
- (b) comply with any direction given by the Commission;
- (c) act in accordance with the terms of the licence;
- (d) refer all disputes arising under the licence for determination by the Commission;
- (e) furnish information, documents and details which the Commission may require for its own purpose or for the purposes of the Central Government or the Government or Central Electricity Authority or Central Electricity Regulatory Commission.
- (f) comply with the requirements of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or the rules framed thereunder in so far as they are applicable;
- (g) undertake such functions and obligations of the Delhi Vidyut Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 as the Commission may prescribe;
- (h) obtain the approval of the Commission of such things that are required under the licence conditions or for deviation from the same;
- (i) notify the Commission of any scheme that he proposes to undertake including the schemes in terms of the provisions of the Electricity (Supply) Act, 1948.
- (j) purchase of the power in an economical manner and under a transparent power purchase procurement process; and
- (k) supply in bulk to other licensees or to customers.
- (5) Without prejudice to the generality of sub-section (3), conditions included in a licence granted by the Commission may require the holder of such a licence to establish a tariff or to calculate its charges from time to time in accordance with the requirements prescribed by the Commission.
- (6) The provisions contained in the Schedule to the Indian Electricity Act, 1910 shall be deemed to be incorporated with, and to form part of, every supply licence granted

under this Part save in so far as they are expressly varied or excepted by the supply licence and shall, subject to any such additions, variations or exceptions which the Commission is empowered to make having regard to the purposes of this Act, apply to the undertaking authorised by the licence in relation to its activities in the National Capital Territory of Delhi:

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

- (7) The conditions included in a licence may contain provision for the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified in or determined by or under the conditions.
- (8) Any provision included by virtue of sub-section (7) above in a licence shall have effect in addition to the provision made by sub-section (5) of section 23 and section 24 of this Act with respect to the amendment of the conditions of a licence.
- (9) Unless indicated in the terms of a licence, the grant of a licence under this section to a person shall not in any way hinder or restrict the grant of a licence to another person within the same area of supply for a like purpose, the licensee shall not claim any exclusivity.
- (10) The licence granted by the Commission in terms of this Act may provide that the licensee shall have the powers and authorities to take appropriate actions for revenue realisation, prosecution for theft, meter tampering, diversion of electricity, and all such and similar matters to affecting the distribution and supply of electricity to the consumer.
- (11) The Commission shall be entitled to authorise the licensees and persons to exercise such power and authority as the licensees and persons could be given under the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

- 21.** (1) The Commission may by order grant exemption from the requirement to have a supply licence, but subject to compliance with such conditions, if any, as may be specified in the order.

Provided that the Commission shall not under any such order, grant any exemption except with the consent

- (i) of the local authority, if any, constituted in the area where energy is to be supplied;
- (ii) in any case where energy is to be supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or any building or place in the occupation of the Central Government for defence purposes, of the Central Government;
- (iii) in any area falling within the area of supply of a licensee, of that licensee.

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

- (2) An exemption may be granted –

- (a) to persons of a particular category; or

(b) to a particular person; or

c) for a particular period; and an exemption to persons of a particular category or to a particular person shall be published in such manner, as the Commission considers appropriate for bringing it to the attention of that person or persons of that category and of the public in general.

- (3) The exemption granted may be revoked by the Commission at any time for reasons to be recorded in writing.
- (4) An exemption, unless previously revoked, shall continue in force for such period as may be specified in or determined by or under the exemption.
- (5) Every order or exemption made by the Commission under this Act shall be published in the official Gazette.

22. (1) It shall be the duty of the holder of a supply licence or a transmission licence in respect of a particular area to develop and maintain an efficient, coordinated and economical system of electricity supply or transmission in the area of transmission or area of supply as the case may be.

- (2) Each licensee and generating company in discharge of its duties shall comply with the provisions of the regulations framed from time to time governing the terms and conditions for the operation and maintenance of power system and electric supply lines.
- (3) Subject to sub-section (4) of this section, sections 12 to 19 of the Indian Electricity Act, 1910 (which relate to the carrying out of works) shall have effect in relation to a person authorised by a licence under this Act to transmit or supply electricity, as if he is a licensee in that Act.
- (4) Where any of the sections mentioned in sub-section (3) above is applied to a licence holder by his licence, it shall have effect subject to such restrictions, exceptions and conditions as may be included in the licence.

23. (1) The Commission may inquire into the conduct or functioning of any licensee in carrying out the obligations under this Act or rules or regulations framed thereunder or the terms and conditions of its licence –

- (a) upon receiving a complaint from any consumer or consumer association or any trade association; or
- (b) upon a reference made to it by the Government or by the Central Government, the Central Electricity Authority; or Central Electricity Regulatory Commission;
- (c) upon receiving a complaint from any company or person involved in the generation, transmission, distribution or supply of electricity; or
- (d) upon its own knowledge or information derived from any source.

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

- (a) where the licensee, in the opinion of the Commission, has committed a willful or unreasonable default in doing anything required of him by or under this Act, the Indian Electricity Act, 1910, or the Electricity (Supply) Act, 1948 or rules made thereunder to the extent applicable in the National Capital Territory of Delhi read with the provisions of this Act;
 - (b) where the licensee commits a breach of any of the terms and 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 specified in his licence or any longer period which the Commission may allow by order–
 - (i) to show, to the satisfaction of the Commission, that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by his licence; and
 - (ii) to make the deposit or furnish the security required by his licence; and
 - (d) where in the opinion of the Commission the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by his licence.
- (3) Notwithstanding the provisions of sub-sections (1) and (2), where in its opinion the public interest so requires, the Commission may, on the application or with the consent of the licensee, and if the licensee is not a local authority, after consulting the local authority concerned, if any, revoke a supply licence as to the whole or any part of the area of supply upon such terms and conditions as it thinks fit.
- (4) No licence shall be revoked under sub-section (2) or sub-section (3) unless the Commission has given to the licensee not less than three months' notice in writing, stating the grounds on which it is proposed to revoke the licence and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation and has given reasons for such revocation.
- (5) The Commission may instead of revoking the licence, permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by the licensee, and be of like force and effect as if they were contained in the licence.
- 24.** (1) The Commission may, where in its opinion the public interest so permits or requires, on the application of the licensee if the licensee is not a local authority, on the application of the local authority concerned or otherwise on its own may make such alternations and amendments to the terms and conditions of a licence as it thinks fit taking into account the objects and purposes of this Act.
- Provided that no such alternations or amendments, other than an alternation or amendment pursuant to a licence condition referred to in sub-section (7) of section 20 and sub-section (5) of section 23 of this Act shall be made except with the consent of the licensee.
- (2) Where the licensee has made an application under sub-section (1) proposing any alternations or amendments in his licence, the following provisions shall apply –
- (a) the licensee shall publish a notice of the application in the manner and with the particulars as may be prescribed by the Commission,

- (b) the Commission shall not make any alterations or amendments until all objections received by it with reference to the application within three months from the date of the publication of the notice have been considered; and
 - (c) in the case of an application proposing alterations or amendments in an area of supply comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission shall not make any alterations or amendments except with the consent of the Central Government.
- (3) Before making any alterations or amendments in a licence otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or amendments and consider all objections received by it with reference to the proposed alterations or amendments within three months from the date of the publication of the notice.
- 25.**(1) Notwithstanding the provisions of sections 6 and 7 of the Indian Electricity Act, 1910. where the Commission revokes a licence under sub-section (2) of section 23 of this Act, the following shall apply:-
- (a) the Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect. On and with effect from that date or on and with effect from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser in pursuance of any of the provisions of this Act all the rights, duties, obligations and liabilities of the licensee under this Act shall absolutely cease and determine except for any liabilities that have accrued to that date;
 - (b) the Commission shall invite applications for acquiring the undertaking of the licensee whose licence has been revoked and determine terms and conditions of the sale of the undertaking;
 - (c) the Commission may, by notice in writing, require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Government, or as the case may be, the Commission. Such person is referred to in this section as the "purchaser", and
 - (d) the Commission may make such interim arrangement in regard to the undertaking of the licensee for maintaining the electricity transmission and supply as may be considered appropriate including the appointment of administrators and special directors for the undertaking.
- (2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined in accordance with the application submitted by the purchaser.
- (3) Where the Commission issues any notice under sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser pending the payment of the purchase price of the undertaking.

Provided that in any such case, the purchaser shall pay to the licensee interest at such percent, exceeding the Reserve Bank lending rate ruling at the time of delivery of the undertaking, as the Commission may decide, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

(4) Where before the date fixed in the notice issued under clause (a) of sub-section (1) as the date on which the revocation of the licence shall take effect, no notice has been issued to the licensee requiring him to sell the undertaking or where for any reason no sale of the undertaking has been effected under that sub section, the Government shall acquire the undertaking on the date of revocation of the licence and shall pay to the licensee an amount determined in accordance with sub-sections (1) and (2) of section 7-A of the Indian Electricity Act, 1910 and shall perform all the obligations of the licensee until such time as the Government is able to sell the undertaking to a new licensee, which it shall endeavour to do when reasonably practicable.

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

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

Provided that before granting or refusing such consent, the Commission shall hear such person or authority as the Commission may consider appropriate.

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

(3) The provisions of section 44 of the Electricity (Supply) Act, 1948 shall apply except that the persons to whom the section applies shall be required to obtain the sanctions and consents from the Commission, instead of such sanctions and consents to be obtained from the Board as provided under that section.

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

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

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

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

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

PART-VII

TARIFFS

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

(2) The Commission shall, subject to the provisions of sub-section (3), be entitled to prescribe the terms and conditions for the determination of the licensee's revenues and tariffs by regulations duly published in the official Gazette and in such other manner as the Commission considers appropriate.

Provided that in doing so, the Commission shall be guided by the following parameters, namely:-

(a) the financial principles and their application provided in the Sixth Schedule to the Electricity (Supply) Act, 1948 read with sections 57 and 57-A of the said Act;

(b) the factors which would encourage efficiency, economic use of the resources, good performance, optimum investments and other matters which the Commission considers appropriate keeping in view the salient objects and purposes of the provisions of this Act;

(c) the interest of the consumers.

(3) Where the Commission departs from the factors specified in the Sixth Schedule of the Electricity (Supply) Act, 1948 while determining the licensee's revenues and tariffs, it shall record the reasons therefor in writing.

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

(5) Every licensee shall provide to the Commission at least three months before the ensuing financial year full details of its calculation for that financial year of the expected aggregate revenue from charges which it believes it is permitted to recover pursuant to the terms of its licence and thereafter it shall furnish such further information as the Commission may reasonably require to assess the licensee's calculation. Within ninety days of the date on which the licensee has furnished all the information that the Commission requires, the Commission shall notify the licensee either-

(a) that it accepts the licensee's calculation; or

(b) that it does not consider the licensee's calculation to be in accordance with the methodology or procedure in its licence, and such notice to the licensee shall-

(i) specify fully the reasons why the Commission considers that the licensee's calculation does not comply with the methodology or procedures specified in its licence or is in any way incorrect, and

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

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

(7) Any tariff implemented under this section -

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

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

(c) shall satisfy all other relevant provisions of this Act and the conditions of the relevant licence.

(8) No tariff or part of any tariff required by sub-section (6) may be amended more frequently than once in any financial year except in respect of any changes expressly permitted under the terms of any fuel surcharge formula prescribed. At least three months before the proposed date for implementation of any tariff or an amendment to a tariff the licensee shall provide details of the proposed tariff or amendment to a tariff to the Commission, together with such further information as the Commission may require to determine whether the tariff, or amended tariff, would satisfy the provisions of sub-section (7). If the Commission considers that the proposed tariff, or amended tariff, of a licensee does not satisfy any of the provisions of sub-section (7), it shall, within sixty days of receipt of all the information which it required, and after consultation with the Commission Advisory Committee and the licensee, notify the licensee that the proposed tariff, or amended tariff, is unacceptable to the Commission and it shall provide to the licensee an alternative tariff or amended tariff, which shall be implemented by the licensee. The licensee shall not amend any tariff unless the amendment has been approved by the Commission.

(9) Notwithstanding anything contained in section 57A- and 57-B of the Electricity (Supply) Act, 1948 no rating committee shall be constituted after the date of this enactment and the Commission shall secure that licensees comply with the provisions of their licences regarding their charges for the sale of electricity (both wholesale and retail) and for the connection to and use of their assets or systems in accordance with the provisions of this Act.

10) In this section-

(a) "the expected revenue from charges" means the total revenue which a licensee is expected to recover from charges for the level of forecast supply used in the determination under sub-section (5) above in any financial year in respect of goods or services supplied to customers pursuant to a licensed activity; and

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

29. (1) The Government may, with the approval of the Legislative Assembly of the National Capital Territory of Delhi, from time to time make subventions to any licensee for the purpose of this Act or the Electricity (Supply) Act, 1948 for such

amounts as may be recommended by the Commission and on such terms and conditions as the Government may determine.

- (2) The Government may, from time to time advance loans to any licensee or generating company which for the time being is wholly or partly owned by the Government on such terms and conditions, not inconsistent with the provisions of this Act or the Electricity (Supply) Act, 1948, as the Government may determine.
- (3) The Government shall be entitled to inspect and verify the accounts of every licensee or generating company claiming any benefits under sub-section (1) or sub-section (2).

PART-VIII

POWERS OF COMMISSION TO PASS ORDERS AND ENFORCE DECISIONS

- 30.** (1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any relevant condition or requirement, it shall by final order under section 31 and, if it thinks it appropriate in accordance with sub-section (2) by Interim order under this section, issue such directions as it deems proper for securing compliance.
- (2) In determining whether it is appropriate that an interim order be made, the Commission shall have regard, in particular to-
- (a) the extent to which the contravention or likely contravention by the licensee will affect the achievement of the objects and purposes of this Act;
 - (b) the extent to which any person is likely to sustain loss or damage in consequence of anything which, is likely to be done, or omitted to be done, in contravention of the relevant condition or requirement, before a final order can be made; and
 - (c) the extent to which (having regard to the following provisions of this section) there is any other available remedy in respect of the alleged contravention of a relevant condition or requirement.
- (3) If the Commission proposes to make an interim order, it shall give notice to the licensee-
- (a) stating that it proposes to make the order;
 - (b) setting out –
 - (i) the relevant condition or requirement which the proposed order is intended to secure compliance;
 - (ii) the acts or omissions which, in its opinion constitute contravention of that condition or requirement;
 - (iii) the other facts which in its opinion, justify the making of the proposed order; and
 - (iv) the effects of the proposed order;
 - (c) specifying the period (being not less than five days from the date of notice) within which the licensee may make representations or objections to the proposed order.

(4) Subject to sub-section (5), having considered any representations or objections from the licensee pursuant to clause (c) of sub-section (3), the Commission may make an interim order (which may be modified from the proposed order following the licensee's representations or objections) at any time after the expiry of the period referred to in clause (c) of sub-section (3), if

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

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

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

(6) An interim order-

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

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

(c) may be revoked, modified or rescinded at any time by the Commission, but in any event shall cease to have effect at the end of such period as is stated in the order unless the Commission is at that time following the procedure set out in section 31 of this Act to declare the interim order to be a final order.

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

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

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

(c) commence proceedings to declare the interim order to be a final order in accordance with section 31 of this Act.

31. (1) If the Commission proposes to make a final order or to declare an interim order to be a final order, the Commission shall give notice –

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

(b) setting out the information referred to in clause (b) of sub-section (3) of section 30 of this Act in respect of the proposed final order; and

(c) specifying the period (being not less than sixty days from the date of publication of the notice) within which representations or objections to the proposed order may be made; and shall consider any representations or objections that are duly made and not withdrawn. The Commission shall publish notice of such representations or objection and specify a period (being not less than thirty days from the date of

publication of the notice) within which further representations or objections may be made.

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

- (a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates to the attention of persons likely to be affected by them; and
 - (b) by serving a copy of the notice, and a copy of the proposed final order on the licensee to whom the order relates.
- (3) The Commission shall not modify the proposed final order as a result of any representations or objections received following publication of the notice referred to in sub-section(1) except –
- (a) with the consent to the modification of the licensee to whom the proposed final order relates, and
 - (b) after complying with the requirements of sub-section (4) below.
- (4) The requirements mentioned in sub-section (3) above are that the Commission shall-
- (a) serve on the licensee to whom the proposed final order relates such notice as appears to the Commission requisite of its proposal to modify the proposed final order, together with details of such modifications;
 - (b) in that notice specify the period (being not less than thirty days from the date of the service of the notice) within which representations or objections to the proposed modifications can be made; and
 - (c) consider any representations or objections which are duly made and not withdrawn within ten days.
- (5) The provisions of clauses (a) and (b) of sub-section (6) of section 30 shall apply to final orders.
- (6) As soon as practicable after making a final order, the Commission shall with respect to the final order, follow the procedure set out in clauses (a) and (b) of sub-section (7) of section 30.
- (7) The Commission may revoke a final order at any time, but before revoking a final order the Commission shall give notice –
- (a) stating that it proposes to revoke the order and setting out its effect; and
 - (b) specifying the period (being not less than thirty days from the date of delivery of the notice) within which representations or objections to the proposed publication may be made, and shall consider any representations or objection which are duly made and not withdrawn within ten days.
- (8) If, after giving a notice under sub-section (7) above, the Commission decides not to revoke the final order to which the notice relates, it shall give notice of its decision to the concerned persons.

- (9) A notice under sub-section (7) or sub-section (8) above shall be given by the procedure set out in clauses (a) and (b) of sub-section (7) of section 30.
- 32.** (1) Without prejudice to section 52 of this Act, all orders and directions, interim or final, passed by the Commission shall be enforceable in law as if it were a decreepassed by a Civil Court.
- (2) The Commission shall be entitled to take such assistance of the police and other authorities in the National Capital Territory of Delhi as required to effectively enforce the order and direction given by the Commission.
- (3) The Commission shall be entitled to give directions for vesting of the management and control of any of the undertakings of the licensee with the assets, interests and rights of the undertaking pending any inquiry and passing of interim or final orders in the matter, if the Commission considers, taking into account the objects and purposes of this Act and the need to maintain continued supply of electricity in an efficient and safe manner to the consumer, it is imminent to pass such orders or directions. Such directions or orders shall not be questioned on the ground that no prior notice of or hearing on the intention to pass the order or direction was given to the licensee. The Commission shall however give opportunity to the licensee and hear the licensee before passing further orders in terms of sections 30 and 31 of this Act.
- 33.** (1) The Commission shall be entitled to impose such fines and charges as may be prescribed by the Commission in the regulations of non-compliance or violation on the part of the generating companies, licensees or other persons, of the provisions or requirements of this Act or rules and regulations framed there under and directions or orders of the Commission shall be made from time to time. The fines, which the Commission shall be entitled to impose, may extend up to one lakh rupees for an act of non-compliance or violation and a further amount not exceeding six thousand rupees for every day during which the non-compliance or violation continues.
- (2) The Commission shall, while making an interim or final order under this part, shall be entitled to direct compensation to be paid by the person guilty of violation or non-compliance as provided in sub-section (1) to the person or persons affected by such violation or non-compliance.
- (3) The fines, charges and compensation, which may be imposed by the Commission under this section, shall be in addition to and not in derogation of any other liability, which the person guilty of violation or non-compliance, may have incurred.
- 34.** The generating companies shall comply with the directions of the Commission given to them from time to time in relation to the terms and conditions for the operation and maintenance of the power system and electric supply lines.

PART – IX

ADVISORY COMMITTEE, CONSUMER CONSULTATION, ETC.

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

- (2) The Chairman and member of the Commission shall be ex-officio Chairman and member of the Commission Advisory Committee.
- (3) The Commission Advisory Committee shall meet at least once in every three months.
- (4) The functions of the Commission Advisory Committee shall be :-
- (a) to advise the Commission on major question of policy related to the electricity industry in the National Capital Territory of Delhi ; and
- (b) to advise the Commission on any matters which the Commission may put before it, including matters relating to the quality, continuity and extent of service provided by licensees and compliance by licensees with the conditions and requirements of their licences.
- 36.** (1) The Commission may, after consultation with (a) holder of supply licences (b) other persons or bodies appearing to the Commission to be representatives of persons and categories of persons likely to be affected ; and (c) the Commission Advisory Committee, frame regulations prescribing –
- (a) the circumstances in which such licensees are to inform customers of their rights;
- (b) the standards of performance in relation to any duty arising under clause(a) above or otherwise in connection with the electricity supply to the consumer ; and
- (c) the circumstances in which licensees are to be exempted from any requirements of the regulations of this section and may make different provision for different licensees.
- (2) **Nothing in this or other provisions of this Act shall in any way prejudice or affect the rights and privileges of the consumers under other laws including but not limited to the Consumer Protection Act, 1986.**
- 37.** (1) The Commission may after consultation with the licensees, the Commission Advisory Committee, and with persons or bodies appearing to it to be representative of persons likely to be affected, from time to time -
- (a) determine such standards of overall performance in connection with the provision of electricity supply services and in connection with the promotion of the efficient use of electricity by consumers as, in its opinion, is economic and ought to be achieved by such licensees; and
- (b) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards so determined.
- (2) Different standards may be determined under this section for different licensees.
- 38.** (1) The Commission shall, from time to time, collect information with respect to -
- (a) the fines or penalties levied on licensees under this Act.
- (b) the levels of overall performance achieved by such licensees in connection with the transmission and provision of electricity supply services; and

- (c) the levels of performance achieved by such licensees in connection with the promotion of the efficient use of electricity by consumers.
 - (2) On or before such date in each year as may be specified in a direction given by the Commission, each licensee shall furnish to the Commission the following information:-
 - (a) with respect to each standard prescribed the number of cases in which a penalty was levied and the aggregate amount or value of those penalties; and
 - (b) with respect to each standard determined such information with respect to the level of performance achieved by the licensee as may be so specified.
 - (3) The Commission shall, at least once in every year, arrange for the publication, in such form and in such manner as it considers appropriate, of such of the information collected by or furnished to it under this section as may appear to the Commission to be so required.
- 39.** (1) Subject to the provisions of this Act, no confidential information with respect to any particular business which-
- (a) has been obtained by the Commission under or by virtue of any of the provisions of this Act; and
 - (b) relates to the affairs of any individual or to any particular business:

shall during the lifetime of that individual or for so long as that particular business continues to be carried on, be disclosed by the Commission without the consent of that individual or the person for the time being carrying on that business.
- (2) The restriction contained in sub-section(1) above shall not apply to any disclosure of information which is made –
- (a) for the purpose of facilitating the carrying out by the Government of any of its functions under a statute;
 - (b) for the purpose of facilitating the carrying out by the Central Government of any of its duties or functions under this Act or any Central legislation;
 - (c) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of India of his duties and functions under this Act;
 - (d) for the purpose of enabling or assisting any competent person to carry out his functions under the enactment relating to insolvency;
 - (e) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings; or
 - (f) for the purposes of any civil proceedings brought under or by virtue of this Act or any other law for the time being in force in the National Capital Territory of Delhi to which the information is directly relevant.
- (3) The restrictions contained in sub-section (1) above do not apply to the disclosure of any information, which is otherwise in the public domain.

PART – X

ARBITRATION AND APPEALS

- 40.** (1) Any dispute arising between licensees or in respect of matters provided under section 36 shall be referred to the Commission. The Commission may proceed to act as arbitrator or nominate arbitrator (s) to adjudicate and settle such dispute. The practice or procedure to be followed in connection with any such adjudication and settlement shall be the same as laid down in the Arbitration and Conciliation Act, 1996.
- (2) Where the award is made by the arbitrator appointed by the Commission it shall be filed before the Commission and the Commission shall be entitled to pass appropriate orders on the award including orders to-
- (a) Confirm and enforce the award; or
- (b) Set aside the award;
- (3) The award given by the Commission under the sub-section (1) or the order passed by the Commission under sub-section (2) shall be a decision or order of the Commission and shall be open to an appeal as provided in this Act.
- (4) An award made or an order passed by the Commission under sub-section (2) shall be enforceable as if it were a decree of the Civil Court.
- 41.** Notwithstanding the provisions of sub-section (2) of section 36 of the Indian Electricity Act, 1910 in the absence of any express provision to the contrary in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or any rule made there under, an appeal shall lie from the decision of the Electrical Inspector (other than an Inspector of the Central Government, Central Electricity Authority or the Central Electricity Regulatory Commission) to the Commission or to an arbitrator to be appointed by the Commission in terms of section 40.
- 42.** A person aggrieved by any decision or order of the Commission passed under this Act may file an appeal to the High Court of Delhi within ninety days from the date of communication of the decision or order of the Commission to him, on questions of law arising out of such order.
- Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

PART -XI

OFFENCES AND PENALTIES

- 43.** Whoever in contravention of the provision of this Act or the regulations framed under this Act or of the provisions of the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or the rules framed under the said Acts, engages in the business of transmission or supply or use of energy, shall be punishable with imprisonment which may extend to three years or with penalty by way of fine which may extend to five lakh rupees, or with both and a further penalty which may extend to twenty thousand rupees for each day after the first, during which the offence continues.
- 44.** If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to, any direction, order or requirement made under any of the provisions of this Act, he shall be punishable with imprisonment which may extend to two years, or with penalty by way of fine which may extend to five lakh rupees, or with both and a further penalty which may extend to twenty thousand rupees for each day after the first, during which the offence continues.
- 45** (1) where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.
- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

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.
- 46.** The Commission may, for reasons to be recorded in writing; either before or after the institution of proceedings compound any offence relating to contravention of any order made by it.
- 47.** (1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by the Commission or by any other officer of the Commission generally or specially authorised by the Commission for the purpose and no court other than that of a Metropolitan Magistrate or a Court superior thereto shall try any such offence.

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

48. The proceedings and actions under this Act against a person contravening the provisions of this Act or orders passed by the Commission shall be in addition to and without prejudice to actions that may be initiated under other Acts including and in particular, under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

PART - XII

ACCOUNTS, AUDIT AND REPORT OF THE COMMISSION

49. The Government shall after due appropriation made by the Legislative Assembly of the National Capital Territory of Delhi by law in this behalf, pay to the Commission by way of grant such sums of money as the Government may think fit for being utilized for the purposes of this Act.

Provided that the expenditure in respect of salaries and allowances of the Chairperson and other members shall be charged on the Consolidated Fund of the National Capital Territory of Delhi.

50. (1) the Commission shall maintain accounts and other records and shall cause to be prepared an annual statement of accounts in such form as may be prescribed.

(2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General of India, or by any officer authorised by him in this behalf.

(3) The copies of annual statement of accounts of the Commission together with the audit report thereon shall be forwarded to the Government.

(4) A copy of the annual statement of accounts of the Commission together with the audit report thereon received by the Government under sub-section (3) shall be laid before the House of the Legislative Assembly of the National Capital Territory of Delhi.

51. The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and copies thereof shall be forwarded to the Government.

PART – XIII

MISCELLANEOUS

52. The Commission shall be entitled to recover all sums due to it under this Act, whether by way of licence, fees or fines and charges in accordance with the provisions of the Dues Recovery Act, as if any such sum were a public demand as defined in that Act and hand over the amount due to the person or authority concerned.
53. The Commission or Court imposing the fine and charges under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings.
54. The licensee, generating companies and others on whom the fines, charges, penalties, etc. are imposed under this Act shall not, directly or indirectly, pass the same to the consumers in the form of tariff or charges payable.
55. No suit or legal proceedings shall lie against the Commission or the Chairperson or members of the Commission or the staff or representatives of the Commission in respect of anything which is in good faith done or intended to be done under this Act or any rule or regulations or order made thereunder.
56. No order or proposal made under this Act or rules or regulations framed under this Act shall be open to an appeal except as provided in this Act and no Civil Court including under the Arbitration and Conciliation Act, 1996 shall have jurisdiction in respect of any matter which the Commission or the Appellate Authority under this Act is empowered by, or under, this Act.
57. (1) If any difficulty arises in giving effect to the provisions of this Act or rules, regulations, schemes or orders made thereunder, the Government may, by order published in the official Gazette, make such provisions, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removing the difficulty.
- Provided that no order shall be made under this section after the expiry of two years from the date of the commencement of this Act.
- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of the National Capital Territory of Delhi.
58. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code and the Commission shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.
59. The Chairperson, members, officers and other employees of the Commission appointed for carrying out the objects and purposes of this Act shall be deemed, when acting or purporting to act in pursuance of any provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.
60. (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
- (a) the procedure to be adopted by the selection committee for discharge of functions under this Act;
 - (b) prescribing other details and information required to be notified to the convenor of the selection committee by persons who are considered for appointment as members of the Commission;
 - (c) prescription of remuneration and other allowances in respect of the Chairperson and other members of the Commission and the conditions of the service under which they would be governed from time to time;
 - (d) prescription of the form, the manner in which and the authority before whom oath of office and secrecy would be subscribed by the Chairperson and other members of the Commission;
 - (e) prescribing the form in which annual statements of accounts is to be prepared by the Commission;
 - (f) prescribing the form and the time within which the annual report of the Commission shall be furnished to the Government;
 - (g) the preparation and implementation of the transfer scheme, the transfer of assets, liabilities and personnel of generating companies, licensees and others in the National Capital Territory of Delhi;
 - (h) the financing, funding, giving of guarantee, etc. to the persons involved in the generation, transmission, distribution and supply of electricity in the National Capital Territory of Delhi; and
 - (i) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by rules.
61. (1) The Commission may by notification in the official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this **Act**.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:-
- (a) the administration of the affairs of the Commission including the discharging of its functions, the exercise of its administrative, quasi-judicial and judicial powers including arbitration and procedure, summoning and holding of the meetings of the Commission, the times at which such meetings shall be held, the conduct of business thereof and the manner in which copies of decision , directions and orders of the Commission shall be made available;
 - (b) the duties of the Secretary, officers and employees of the Commission, method and manner of their selection for appointment, their salaries, allowances and conditions of service;
 - (c) determination of the functions to be assigned to licensees and others involved in the generation, purchase, transmission, distribution and supply, the manner in which such functions shall be discharged, furnishing of periodical information by them to the

Commission related to generation, transmission, distribution and supply or use of electricity or information related to organisation, business, cost of productions, etc as may be prescribed, conferring upon licensees and other persons any of the powers which the telegraph authority possesses under the Indian Telegraph Act,1885 with respect to placing of telegraph lines and post and the procedure and code to be adopted with regard to power system and electric supply lines;

- (d) the procedure for licensing of transmission and supply, the conditions for the grant of licences and particulars, details and documents to be made available by the persons applying for licence, the standard and general conditions subject to which, the licence shall be granted prescribing the form of application for grant of licence and fee payable for such licence, the exemption from grant of licence, revocation and alteration and amendment and effect thereof, of the licence, and all matters related to the above;
- (e) the duties, powers, rights and obligations of the licensee;
- (f) the particulars to be furnished, the collection of information, details, particulars, documents, accounts, books etc., from or of the persons involved in the generation, transmission, distribution, supply and use of electricity, the form and manner in which the same are to be furnished and enforcing and compelling the production of the same;
- (g) method and manner of determination of licensee's revenues, tariff fixation, the matters to be considered in such determination and fixation;
- (h) the constitution of the Commission Advisory Committee;
- (i) to govern the terms and conditions for the operation and maintenance of power system and electric supply lines;
- (j) the determination of the standard of performance of the persons involved in the generation, transmission, distribution and supply of electricity in the National Capital Territory of Delhi;
- (k) the amount of fines and penalties to be imposed for violation of provisions of this Act including the method and manner of imposition of fines and penalties and collection of the same;
- (l) to prescribe the form and manner in which the accounts of the Commission shall be maintained;
- (m) to regulate the properties, assets and interest in the properties used for or in connection with the electricity industry in the National Capital Territory of Delhi; and
- (n) any other matter which is to be, or may be, prescribed or in respect of which provision is to be made by regulations.

62. Every rule made by the Government and every regulation made by the Commission under this Act shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of the National Capital Territory of Delhi, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or regulation or the House agrees that the rule or regulation should not be made, the rule or regulation shall thereafter

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

PART – XIV

EFFECT ON EXISTING CENTRAL LEGISLATION

63. (1) Except as provided in section 63 of this Act, the provisions of this Act, notwithstanding that the same are inconsistent with or contrary to the provisions of the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 shall prevail in the manner and to the extent provided in sub-section (3)
- (2) Subject to sub-section (1) in respect of all matters in the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, with which the Delhi Vidyut Board has been concerned or dealing with, upon the constitution of the Commission the functions of the Board shall be discharged by the Commission and the companies established under section 14.
- Provided that -
- (a) the Government shall be entitled to issue all policy directives and undertake overall planning and coordination as specified in section 12 of this Act and to this extent the powers and functions of the Delhi Vidyut Board as per the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or rules thereunder shall vest in the Government and the Government shall coordinate and deal with the Central Government and the Central Electricity Authority.
- (b) in respect of such matters as the Commission directs in term of a general or special order, or in the regulations or in the licence, as the case may be, the generating company or companies, the licensees or other body corporate as may be designated by the Commission shall discharge the functions of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 to the extent directed by the Commission or specified in licences.
- (3) Subject to sub-section (1) and sub-section (2) of this section, upon the establishment of the Commission the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 shall, in so far as the National Capital Territory of Delhi is concerned, shall be read subject to the following modifications and reservations, namely:-

The Indian Electricity Act, 1910

- (i) All references to State Electricity Board in the Indian Electricity Act, 1910 in so far as the National Capital Territory of Delhi is concerned shall be read as references to the Delhi Electricity Regulatory Commission or the companies established under section 14 or other licensees or wherever it relates to general policy matters, to the Government.
- (ii) In respect of matters provided in sections 3 to 11, 28, 36(2), 49-A, and 50 and 51 of the Indian Electricity Act, 1910, to the extent this Act has made specific provisions, the provisions of the Indian Electricity Act 1910 shall not apply in the National Capital Territory of Delhi.
- (iii) The provisions of all other sections of the Indian Electricity Act, 1910 shall apply except that:-

- (a) the term "licence", "licensee" , "licence holder" shall have the meanings as defined under this Act and the licences shall be construed as having been issued under this Act;
- (b) the reference to the sections of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 in the provisions of the Indian Electricity Act, 1910 shall be taken as reference to the corresponding provisions of this Act to the extent modified by this Act;
- (c) the reference to arbitration in these provisions except where it is by the Central Electricity Authority or the Central Electricity Regulatory Commission shall be taken as reference to the proceedings under section 40 of this Act and the arbitration procedure prescribed under the Indian Electricity Act, 1910 shall not apply.
- (iv) The Schedules to the Indian Electricity Act, 1910 shall be applicable only with reference to the provisions in this Act wherein the applications of the Schedules are specified and not otherwise.

The Electricity (Supply) Act,1948

- (v) All references to State Electricity Board in the Electricity (Supply) Act, 1948 in so far as the National Capital Territory of Delhi is concerned shall be read as references to the Delhi Electricity Regulatory Commission or the companies established under section 14 or other licensees or where it relates to general policy matters, to the Government.
 - (vi) In respect of matters provided in sections 5 to 18, 19, 20, 23 to 27, 37, 40 to 45, 46 to 54, 56 to 69, 72 and 75 to 83 of the Electricity (Supply) Act, 1948, to the extent this Act has made specific provisions, the provisions of the Electricity (Supply) Act,1948 shall not apply in the National Capital Territory of Delhi.
 - (vii) The provisions of all other sections of the Electricity (Supply) Act, 1948 shall apply except that –
 - (a) the term "licence" , "licensee" , "licence holder" shall have the meanings as defined under this Act and the licences shall be construed as having been issued under this Act;
 - (b) the references to the sections of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 in the provisions of the Electricity (Supply) Act, 1948 shall be taken as reference to the corresponding provisions of the Act to the extent modified by this Act;
 - (c) the reference to arbitration in these provisions except where it is by the Central Electricity Authority shall be taken as reference to the proceedings under section 40 of this Act and the arbitration procedure prescribed under the Electricity (Supply) Act, 1948 shall not apply.
 - (viii) The provisions of sections 72 and 73 of the Electricity (Supply) Act, 1948 shall be restricted to generating companies and references to the State Electricity Board in these sections shall stand omitted.
- 64.** (1) Notwithstanding anything contained in this Act, the powers, rights and functions of Regional Electricity Authority, the Central Electricity Authority, the

Central Electricity Regulatory Commission, the Central Government and authorities, other than the Delhi Vidyut Board and the State Government under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or rules framed thereunder shall remain unaffected and shall continue to be in force.

- (2) Nothing contained in this Act shall apply to the power Grid Corporation, National Thermal Power Corporation or other bodies or licensees in relation to the inter-state transmission of the Electricity or generating companies owned or controlled by Central Government or undertaking owned by the Central Government.

STATEMENT OF OBJECTS AND REASONS

At present, the Delhi Vidyut Board (DVB) constituted under section 5 of the Electricity (Supply) Act, 1948 is charged with the functions of generation, transmission, and distribution of electrical energy in Delhi. With rapid growth and expansion of the transmission and distribution system, it is felt necessary to reorganise generation, transmission and distribution into separate units to achieve improvement in management. In order to meet these objectives, it is proposed to constitute separate corporations for generation, transmission and distribution and to make them commercially viable units, and at the same time ensure a fair deal to the customers with regard to price, quality, etc. The existing generation, transmission and distribution functions under the DVB are proposed to be split into separate units and corporatised.

The essence of restructuring is to achieve the balance required to be maintained with regard to competitiveness and efficiency on the one hand and the social objective of ensuring that the consumers get a fair deal on the other hand. The Commission may act as the body which determine, tariff which issue and enforce licenses; which balances the interests of the State, the consumers, the units involved in generation, transmission, distribution and supply of electricity and investors in the electricity industry; which monitors, controls and regulates the working of the units; which gathers information; which monitors price and quality of service; which prevents monopoly abuse; promotes competition and fosters private participation in power sector; which regulates and adjudicates on the tariffs and other related issues and also acts as a body to resolve or set up machinery to resolve speedily disputes among the licensees.

The present power system is in urgent need of modernisation and upgradation. This needs huge capital investment. To meet the growing need of funds, participation of private capital for generation, transmission and distribution has

become imperative. The Government of India has already amended the Electricity (Supply) Act, 1948 to allow private participation in generation of electricity.

The functional matters such as generation, transmission, distribution and supply will vest in corporate bodies. In so far as transmission of electricity, the functions shall vest in a transmission company to be established, initially, as a government corporation and to be licensed under the Act. While the overall policy be defined by the Government of NCT of Delhi, the technical co-ordination with the Central Electricity Authority, the Government authorities in the National Capital Territory of Delhi and regional authorities at the Centre will be undertaken by the transmission company. Generation functions would vest in a government corporation to be incorporated under the Companies Act, 1956. The distribution functions would be performed either by government Corporation(s) or Joint Venture company(ies) licensed under this Act.

The Act seeks to achieve the aforesaid objectives.

(VIJAI KAPOOR)
Lt.Governer Delhi