

**ANDHRA PRADESH ELECTRICITY SUPPLY UNDERTAKINGS
(ACQUISITION) ACT, 1954**

15 of 1954

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The Andhra Pradesh (Andhra Area) Electricity Supply Undertakings (Acquisition) Act, 1954 which is in force in the Andhra Area is proposed to be extended to the Telangana Area also with a view to bring about uniformity of law throughout the State in regard to the acquisition of electrical undertakings. 2. Since 1st April, 1959, the date on which the State Electricity Board was formed the said Board has been in charge of the distribution of power to the licensees and the dues in respect of the energy supplied on or after that date will therefore have to be due to the Board and not to the Government. But as Section 10(1) (c) of the Act provides for the deduction from the compensation payable to the licensee for the amounts due to the Government for the energy supplied by them before the vesting date, difficulty is being experienced to recover the amounts due to the Board for the energy supplied to licensees whose undertakings have been acquired after the 1st April, 1959, from the compensation payable to such licensees. In order to obviate this difficulty, it is proposed to amplify Section 10(1) (c) of the Act for providing for the deduction of such amounts due to the State Electricity Board. 3. The Bill mainly gives effect to the above proposals.

1. Short title, extent and commencement :-

This Act may be called the Andhra Pradesh Electricity Supply Undertakings (Acquisition) Act, 1954.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force at once.

2. Definitions and interpretations :-

(1) In this Act unless there is anything repugnant in the subject or context--

(a) 'account year' means the licensee's financial year ;

(b) 'accredited representative' means the representative appointed or deemed to have been appointed under Section 7;

(c) 'annual account' means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act, or where no such account has to be rendered under that Act, the account of the undertaking normally made up for the account year of the undertaking and audited by a certified

auditor ;

(d) 'document' in relation to an undertaking includes its books, accounts, registers, maps, and plans ;

(e) 'Electricity Act' means the Indian Electricity Act, 1910 (Central Act IX of 1910) ;

(f) 'Electricity Supply Act' means the Electricity (Supply) Act, 1948 (Central Act LIV 1948);

(g) 'fixed assets' includes works, spare parts, stores, tools, motor and other vehicles, office equipment and furniture,

(h) 'Government' means the State Government.

(i) 'intangible assets' means any amount paid on account of goodwill, under-writers, commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking as has fairly arisen in promoting electricity supply.

(j). 'licensee' means a person licensed under Part II of the Electricity Act to supply electrical energy, or a person who has obtained sanction under Section 28 of that Act to engage in the business of supplying electricity and, in relation to an undertaking taken over or an undertaking which has vested in the Government under Section 4, the person who was the licensee at the time the undertaking was taken over or vested in the Government, as the case may be, and includes the successor interest of any such person;

(k) 'prescribed' means prescribed by the rules made under this Act;

(l) undertaking taken over means an undertaking deemed to have vested in the Government under the 1949 Act before the commencement of this Act and includes any undertaking taken over by the Government otherwise than under the 1949 Act before such commencement and cognate expressions with all grammatical variations shall be construed accordingly;

(m) 'vesting date' means in relation to an undertaking, the date fixed under section 4, sub-section (1), as the date on which the undertaking shall vest in the Government or in the case of an undertaking taken over, the date on which it is deemed to have vested or was taken over as the case may be;

(n) 'works' includes electric supply lines and any lands, buildings,

machinery or apparatus, required to supply energy and to carry into effect the objects of a licence or sanction for the supply of electricity granted under the Electricity Act;

(o) 'the 1948 Act' means the Madras Electricity Supply Undertakings (Acquisition) Act, 1949 (Madras Act XIII of 1949);

(p) other expressions shall have the meanings respectively assigned to them in the Electricity Act or the rules thereunder. Any reference in this Act to the vesting of an undertaking in the Government shall in the case referred to in Section 6(2) (a), be construed as a reference to the vesting in the Government of the property rights, liabilities and obligations specified in that section.

3. Application of the Act :-

This Act shall apply to all undertakings of licencees, including undertaking taken over.

4. Power of Government to take over an undertaking :-

The Government may in respect of any undertaking not taken over the them before the commencement of this Act, by order in writing declare that it shall vest in them on the date specified therein such date not being earlier than four months from the date of the declaration.

Provided that the Government may, from time to time, postpone such date, so however that the postponed date shall not be later than one year from the date originally fixed.

(2) Every order under sub-section (1) shall be served on the licensee in the prescribed manner and shall also be published in such manner as the Government think fit.

5. Compensation payable to a licensee :-

The compensation payable to a licensee on whom an order has been served under Section 4, or whose undertaking has been taken over by the Government before the commencement of this Act, shall be determined under any one of the Basis A, B and C specified below, as may be chosen under Sec.8.

(1) Basis A :-

(i) The compensation payable under this basis shall be an amount equal to twenty times the average net annual profit of the undertaking during a period of five consecutive account years

immediately preceding the vesting date.

Explanation :- For the purpose of this clause, the net annual profit shall be determined in the manner laid down in Part A or B, as the case may be, of Schedule I.

(ii) This basis shall not apply to an undertaking which has not been supplying electricity for five consecutive account years immediately proceeding the vesting date.

(2) Basis B :- The compensation payable under this basis shall be the aggregate value of all the shares constituting the share capital of the undertaking, reckoned as shown below :

(a) In the case of shares issued on or before the 31st March, 1946, the value of each share shall be reckoned at its average value as arrived at from the quotations for the shares as given in the official list of the Madras Share Market on the 15th day of each month and where such market was closed on that day, the quotations on the next working day, during the period of three years commencing on the 1st April, 1946 and ending on the 31st March, 1949 ;

Provided that this clause shall not apply if any one or more of the different classes of shares constituting the capital of the undertaking were not being regularly quoted in such market during the period of three years aforesaid, or if such quotations during the whole of any one of those three years were not based on actual transactions in such year.

(b) In the case of shares issued on or before the 31st March, 1946, if clause (a) does not apply but there have been bonafide transfers in each of the different classes of shares in every one of the three years aforesaid and such transfers have been duly registered in the appropriate books of the licensee, the value of each share of each such class shall be reckoned at one third of the aggregate of its three annual average values for three years, the average value for each year being determined from the transactions in that year.

(c) Where the amounts called for in respect of any share referred to in clause (a) or clause (b) are in arrears, the value of such share shall be taken to be a sum which bears to its value as reckoned under clause (a) or clause (b), as the case may be, the same proportion as the amount paid up bears to the full amount payable in respect of the share.

(d) In the case of shares issued after the 31st March, 1956, their aggregate value shall be taken to be the amount actually paid in respect thereof including the premium, if any, together with an additional sum by way of solatium, calculated at the rate of two percent for every completed year preceding the vesting date on the amounts so paid which was in existence during whole of such year as shown in the licensee's books.

Provided that no part of such amount shall be entitled to a solatium exceeding ten percent thereof.

Explanation :- This basis shall not apply unless clause (a) or clause (b) is applicable.

(3) Basis C :- The compensation payable under this basis shall be the aggregate value of amounts specified below :-

(i) the book value of all completed works in beneficial use pertaining to the undertaking and handed over to the Government excluding works paid for by consumers less depreciation calculated in accordance with schedule II;

(ii) the book value of all works in progress handed over to the Government, excluding work paid for by consumers or prospective consumers ;

(iii) the book value of all stores including spare parts pertaining to and usable in the undertaking handed over to the Government and in the case of used stores and spare parts, such sum as may be decided upon by mutual agreement between the Government and licensee;

(iv) the book value of all other fixed assets in use on the vesting date and handed over to the Government less depreciation calculated in accordance with Schedule II ;

(v) the book value of all plant and equipment existing on the vesting date but no longer in use owing to wear and tear or to obsolescence to the extent such value has not been written off in the books of the licensee less depreciation calculated in accordance with Schedule II;

(vi) the book value of all intangible assets to the extent such value has not been written off in the books of the licensee ;

(vii) the amount due from consumers in respect of every hire

purchase agreement referred to in Section 6 (2) (a) (ii) less a sum which bears to the difference between the total amount of the instalments and the original cost of the material or equipment, the same proportion as the amount due bears to the total amount of the instalments;

(viii) any amount paid actually by the licensee in respect of every contract referred to in Section 6(2) (a) (iii) ; and

(ix) an additional sum by way of solatium-

(a) in case the licensee is a person licensed under part II of the Electricity Act, at the rate specified in the licence in respect of compulsory purchase, or where no rate is specified in the licence, at fifteen percent on the value referred to in sub-clauses (i) and (iv) at the rate at ten percent on the value referred to in sub-clause (ii) and at the rate of five percent on the value referred to in sub-clause (iii);

(b) in case the licensee is a person who has obtained sanction under Section 28 of that Act to engage in the business of supplying electrical energy at the rate of ten percent on the values referred to in sub-clauses (i) and (iv) and at the rate of five percent on the values referred to in sub clauses (ii) and (iii).

Explanation :-

(1) For the purposes of Basis C, the book value of any fixed asset means its original cost and shall comprise --

(i) the purchase price paid by the licensee for the asset including the cost of delivery and all charges properly incurred in erecting and bringing the assets into beneficial use as shown in the books of the undertaking.

(ii) interest charges on capital expenditure incurred from borrowed money and shown in the books of the undertaking as properly attributable to the asset up to the date of bringing it into beneficial use at a rate not exceeding six percent per annum ; and

(iii) cost of supervision actually incurred but not exceeding fifteen percent of the amount referred to in paragraph (i).

(2) Where any asset was acquired after the expiry of the period to which the latest annual accounts relates where no annual account has to be rendered under the Electricity Act, the book value of the

asset shall be such sum as may be decided upon by mutual agreement between the Government and the licensee.

6. Vesting of the undertaking or assets :-

(1) If compensation is payable in respect of an undertaking under Basis A or Basis B, or property belonging to the undertaking including fixed assets, cash, securities, investments, documents and the like and all its rights liabilities and obligations as on the vesting date shall vest, or shall be deemed to have vested in the Government.

Provided further that liabilities and obligations not incurred in a bonafide manner shall not vest or be deemed to have vested in the Government.

(i) insofar as they are in excess of the value on the vesting date of the corresponding assets, if any, vesting or deemed to have vested in the Government,

(ii) where there are no corresponding assets which vest or are deemed to have vested in the Government.

Provided further that liabilities and obligations in respect of any amount (other than a loan) payable to the Government shall not vest or are deemed to have vested in the Government but shall attach or shall be deemed to have attached to the compensation payable under this Act in respect of the undertaking.

Explanation :- For the purposes of this sub-section "undertaking" includes every business carried on by the licensee, the funds of which form part of the funds of the licensee.

(2)

(a) If compensation is payable in respect of an undertaking under Basis C only the property, rights, liabilities and obligations specified therein shall vest or be deemed to have vested in the Government on the vesting date;

(i) all the fixed assets of the licensee and all the documents relating to the undertaking;

(ii) all the rights, liabilities and obligations of the licensee under hire-purchase agreements if any, for the supply of materials or equipment made bonafide before the vesting date.

(iii) all the rights, liabilities and obligations of the licensee under any other contract entered into a bonafide before the vesting date not being a contract relating to the borrowing or lending of money.

(b) All the assets specified in clause (a) (i) shall vest or shall be deemed to have vested in the Government free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking.

Provided that such debts mortgages or obligations shall attach or shall be deemed to have attached to the compensation payable under this Act for the assets.

(3) In the case of all undertakings which vest or are deemed to have vested in the Government, the licence granted or the sanction given for the supply of electricity shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the licence under any agreement to supply electricity entered into before that date shall devolve or shall be deemed to have devolved on the Government :

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the Government and in force on the vesting date the agreement shall be voidable or shall be deemed to have been voidable at the option of the Government ;

Provided further that the Government may, if they deem necessary, revise the rates and conditions of supply at any time after a period of one year from the vesting date.

(4) In respect of any undertaking to which Section 4 applies or any undertaking taken over it shall be and shall be deemed always to have been lawful for the Government after removing any obstruction that may be or might have been offered to take possession of the entire undertaking or, as the case may be, of the fixed assets and of all documents relating to the undertaking which the Government may require, or required, for carrying it on.

7. Appointment of a sole representative :-

(1) Every licensee may, within three months of the receipt of an order under Section 4, sub-section (1) intimating the vesting date or, in the case of an undertaking taken over within three months of the commencement of this Act, appoint an individual who may be

the managing agent or a director or an officer of the licence or any other person to act as his sole and accredited representative in connection with the handing over of the undertaking or the fixed assets, as the case may be, to the Government and performing on behalf of the licensee the functions hereinafter specified.

(2) Where the licensee is a company registered under the Companies Act, 1956 (Central Act, I of 1956) the appointment of the accredited representative shall be made by the share-holders of the company at a meeting specially convened for the purposes.

(3) Nothing in the foregoing sub-sections shall be deemed to require a licensee of an undertaking taken over, who has appointed an individual as his sole and accredited representative before the commencement of this Act, to make a fresh appointment after the commencement of this Act, and the said accredited representative shall be deemed for all purposes to be accredited representative appointed under the foregoing sub-sections.

(4) Where the accredited representative resigns or dies or becomes incapable of acting or is, in the opinion of the Government, incompetent or dishonest, or where the appointment of such representative is set aside, or declared void by competent authority, the Government shall call upon the licensee to appoint, within six weeks, another person as his sole and accredited representative.

(5) The remuneration of, and the expenditure incurred by the accredited representative, shall be and be deemed always to have been payable from the compensation deposited under this Act and shall have and shall be deemed always to have had priority over all other debts and liabilities.

(6) All assurances conveyed and all statements made, by any accredited representative, (inclusive of an accredited representative whose appointment is subsequently set aside or declared void by competent authority), shall be binding on the licensee.

(7) Where the licensee does not appoint an individual to act as his sole and accredited representative under sub-section (1) or sub-section (4), the functions hereinafter assigned to the accredited representative shall be performed by the licensee and all references in the rest of this Act to the accredited representative shall be construed as references to the licensee and any reference to a period of time to be reckoned from the date of appointment of the

accredited representative shall, in such a case, be reckoned from the last date on which such accredited representative might have been appointed.

8. Choice of basis of compensation :-

(1) Within one month of this appointment, or such further time as may be granted by the Government, the accredited representative shall intimate to the Government in writing which basis of compensation, A, B, or C, shall be adopted in respect of the undertaking.

(2) The choice of the basis of compensation once intimated to the Government shall not be open to revision except with their concurrence.

(3) Where no choice has been intimated on behalf of the undertaking within the time allowed by sub-section (1), the Government shall declare the basis under which compensation will be paid for the undertaking and that basis shall be binding on the licensee as if the choice had been duly made in accordance with the foregoing provisions.

(4) Where in respect of an undertaking taken over, the accredited representative has intimated to the Government in writing which basis of compensation, A, B, or C, should be adopted in respect of the undertaking, such intimation shall be deemed to have been made under this section and shall not be open to revision except with concurrence of the Government.

9. Effect of transactions not bonfide :-

Where the Government are of opinion that any licensee has on or after the 1st October, 1947, disposed of any fixed asset whether by way of sale, exchange, gift, lease or otherwise or incurred capital expenditure, otherwise than in the normal course of events with a view to benefit unduly the licensee or some other person and thereby caused to loss the Govt. as succeeding owners of the undertaking, the Government shall be and shall be deemed always to have been entitled to deduct from the compensation payable to the licensee under this Act, an amount which they consider or consider to be the loss sustained by them.

Provided that notice of the intention to make such deduction shall be or shall have been given to the licensee within one year from the vesting date.

10. Deduction from the compensation :-

(1) The Government shall be and shall be deemed always to have been entitled to deduct the following sums from the compensation payable under this Act to a licensee :-

(a) the amount, if any, already paid in advance by way of compensation.

(b) the amount, if any specified in section 9;

(c) the amount, if any, due from the licensee to the Government or the Andhra Pradesh State Electricity Board for energy supplied by them before the vesting date.

(d) all other amounts and arrears of interest, if any thereon due from the licensee to the Government except loans and arrears of interest, if any thereon;

(e) the amount, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the amount of such loss being deemed to be

(i) in cases where compensation is payable under Basis A or Basis B, the market value on the vesting date of such property or rights together with any income which might have been realised by the Government if the property or rights had been handed over on the vesting date; and

(ii) in cases where compensation is payable under Basis C, the amount by which the market value of such property or rights exceeds the compensation payable therefor under this Act, together with any income which might have been realised by the Government if the property or rights had been handed over on the vesting date.

(2) In addition to the deduction specified above, the Government shall also be and be deemed always to have been entitled to make the following deductions;

(a) in cases where the compensation is payable under Basis A or Basis B, any sum which during a period not exceeding three consecutive account years immediately before the vesting date, has been distributed as profits, but is not correctly so distributable;

(b) in cases where the compensation is payable under Basis C;

(i) the amount of all loans due from the licensee to the Government and arrears of interest, if any thereon;

(ii) a portion of the amount of solatium bearing the same proportion to the total amount of solatium, as the amount of loans due to the Government from the licensee on the vesting date bears.

(a) in the case of a licensee not being a local authority, to the aggregate of

(i) the paid up share capital of the licensee,

(ii) his debenture capital and

(iii) the amount of all loans due to the Government as aforesaid ; and

(b) in the case of a licensee being a local authority, to the value of the capital assets as shown in the capital account of the undertaking;

(iii) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date, in so far as they have not been paid over by the licensee to the Government less the amounts which according to the books of the licensee are due from the consumer to the licensee for energy supplied by him before that date;

(iv) all advances from consumers and prospective consumers insofar as such advances have not been paid over by the licensee to the Government.

(v) all sums which have been or ought to be set aside to the credit of the consumer's fund constituted under the bulk supply agreement or under the provisions in the licence relating to distribution of profits or under paragraph II (1) of the Sixth Schedule to the Electricity Supply Act insofar as such sums have not been paid over by the licensee to the Government and in cases where there is no bulk supply agreement or the licence does not contain provisions relating to distribution of profits or paragraph II (1) of the Sixth Schedule to the Electricity supply Act, does not apply, the amounts, if any, which have been contributed to the consumers fund account in the annual accounts, insofar as such sums have not been paid over by the licensee to the Government;

(vi) all deposits made by, and all sums due to the staff transferred to the Government, on account of Provident Fund or other beneficial schemes, in so far as such deposits or sums have not been paid over by the licensee to the Government, less the amounts which the Government are satisfied are due to the licensee from the members of the staff so transferred.

Provided that no deduction shall be made in pursuance of paragraph (vi), insofar as the deposits or sums aforesaid may be in the custody of trustees under a valid deed of trust.

(3) In the case referred to in the foregoing proviso, the Government shall have and shall be deemed always to have had power to require the trustees to transfer the funds with them, and the securities and other properties, if any, in which the same may have been invested insofar as they may relate to the staff transferred to the Government; and the trustees shall be completely discharged in respect to all claims to, or enforceable against, the funds, securities and other properties so transferred.

11. Manner of payment or deposit of compensation :-

(1) The compensation due to a licensee under this Act shall be paid or deposited in cash, as hereinafter provided in this section.

(2) Within four months from the vesting date in the case undertaking which vests in the Government in pursuance of an order under Section 4, sub-section (1) and as soon as may be after the commencement of this Act in the case of an undertaking taken over, the Government shall estimate roughly the compensation payable to the licensee under this Act.

(3) Three-fourths of the amount estimated under sub-section (2) shall be paid by the Government to the licensee, where it is local authority, after deducting therefrom the amounts referred to in Section 10 and the amounts, if any, paid before the commencement of this Act, as or towards the compensation payable.

Explanation :- Where the amount to be paid under this sub-section is equal to or less than the amount to be deducted therefrom as aforesaid no deposit need be made under this sub-section.

(4) In the case of any other licensee the Government shall deposit in the Reserve Bank of India or any other Bank chosen by the

Government for the purpose (which Reserve Bank or other Bank is hereinafter referred to as the Bank) three fourths of the amount as estimated under sub-section (2) after deducting therefrom the amounts referred to in Section 10.

Explanation :- Where the amount to be deposited under this sub-section is equal to or less than the amount to be deducted therefrom as aforesaid, no deposit need be made under this sub-section.

(5) Nothing in sub-section (2) and sub-section (4) shall require the Government to estimate roughly the compensation payable to a licensee under this Act and deposit in the Bank three-fourths of the amount as so estimated after deducting therefrom the amounts referred to in Section 10, in a case where in respect of an undertaking taken over by the Government have, before the commencement of this Act, estimated roughly the compensation payable to the licensee and have deposited in the Bank three-fourths of the amount as so estimated after deducting therefrom the amount referred to in Section 10; and the estimate and deposit made by the Government in any such case shall be deemed for all purposes to be an estimate and a deposit made under sub-section (2) and sub-section (4) respectively.

(6)

(a) Within one year from the date on which the compensation was estimated under sub-section (2) the Government shall determine amount of compensation payable in respect of the undertaking and pay to the licensee or deposit in the Bank the balance left from the amount aforesaid after deducting therefrom (a) the amounts referred to in Section 10(b) the amount, if any, paid before the commencement of this Act, as or towards the compensation payable, and (c) the payment or deposit previously made under sub-section (3) or sub-section (4), as the case may be;

(b) Nothing in clause (a) shall require the Government to determine the amount of compensation payable in respect of an undertaking and to deposit in a Bank in a case where, in respect of the undertaking taken over, the Government have, before the commencement of this Act, determined the amount of compensation payable in respect of the undertaking and have deposited in the Bank the balance left from the amount aforesaid after deducting therefrom the amount referred to in Section 10 and

the deposit previously made under sub-section (4); and the determination and the deposit shall in such a case be deemed to have been made under clause (a),

(c) Where the accredited representative claims or, in the case of an undertaking taken over has claimed, that compensation is or was due to the licensee over and above that as determined or deemed to have been determined by the Government under clause (a), the amount, if any, to which it is finally decided in pursuance of this Act that the licensee is entitled, shall be paid to the licensee or deposited in the Bank, as the case may be, within one month from the date on which such final decision is arrived at.

(d) All amounts liable to be paid or deposited in pursuance of clause (a) or clause (c) shall bear interest at three percent per annum from the date of expiry of four months from the vesting date.

(7) In the case referred to in Explanation to sub-section (3) and sub-section (4), that is to say, where no payment or deposit has been previously made, the Government shall pay to the licensee or deposit in the Bank, the amount of compensation determined under clause (a) of sub-section (6), after deducting therefrom (a) the amounts referred to in Section, 10(b) and the amount if any, paid before the commencement of this Act, as or towards the compensation payable, together with interest on the amount to be paid or deposited, at three percent per annum from the date of expiry of four months from the vesting date.

(8)

(a) The amount of compensation as estimated under sub-section (2) and the amount of compensation as finally determined under sub-section (6) shall be intimated forthwith to the accredited representative and he shall within two weeks of such intimation or such further time as may be allowed by the Government, state in writing whether the amount as determined by the Government is agreed to by him acting on behalf of the licensee.

(b) Nothing in clause (a) shall require the Government to intimate to the accredited representative the amount of compensation as estimated and finally determined in a case where, in respect of an undertaking taken over, the Government have intimated to the accredited representative the amount of compensation as estimated and the amount of compensation finally determined.

(9) Every person claiming any amount deposited in the Bank under the foregoing sub-sections or any portion thereof, shall apply to the Special Officer appointed by the Government in this behalf, within three months from the date of the deposit or within such further time as the Special Officer may allow.

(10)

(a) The Special Officer shall, as expeditiously as possible, inquire into all claims made under sub-section (9) and determine the persons who, in his opinion, are entitled to the amount deposited and the sum to which each of them is entitled and disburse the same to him.

(b) The Special Officer shall have the same powers as are vested in a civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit in respect of the following matters :-

(i) enforcing the attendance of any person and examining him on oath;

(ii) compelling the production of documents; and

(iii) issuing commissions for the examination of witnesses. The Special Officer shall also have such further powers as may be prescribed.

(c) Any person deeming himself aggrieved by any decision of the Special Officer under clause (a) may appeal to the High Court, within three months from the date of such decision or within such further time as the High Court may grant.

(11) Where in respect of an undertaking taken over, the Government have appointed a Special Officer for the purpose stated in sub-section (9), such appointment shall be deemed to have been validly made and confirmed. Every Special Officer so appointed hereby declared to have and to have always had the jurisdiction, powers and duties conferred and laid on the Special Officer by sub-sections (9) and (10). Applications presented to such Special Officer, and judgments and orders pronounced by him, and action taken by him or by others under his direction or in the course or for the purpose of or in relation to applications presented to him, if they would have been validly presented, pronounced, or taken had sub-sections (9) and (10) been in force when they were presented or pronounced or taken shall be deemed to have been

validly presented pronounced or taken.

(12) All acts done and judgments and orders pronounced by the High Court in any appeal or other proceeding arising out of any decision of a Special Officer appointed by the Government in relation to an undertaking taken over, are hereby declared to have been validly done or pronounced and any appeal or other proceeding arising out of a decision of such Special Officer may be disposed of by the High Court as an appeal or other proceeding arising out of a decision of such Special officer appointed by the Government under sub-section (9).

12. Repayment of debentures loans, etc. :-

Notwithstanding anything to the contrary in contract or agreement or in any law for the time being in force, all loans, debentures, mortgages and the like outstanding against the licensee on the vesting date may be repaid and shall be deemed always to have been repayable by the Government, or the licensee, or the Special Officer, although the time for the repayment may or might not have arrived.

13. Arbitration :-

(1) Where any dispute arises or is pending between the accredited representative and the Government in respect of any of the matters specified below or such other matter as may be prescribed it shall be determined by an arbitrator appointed by the Government who shall be a District Judge or a person who is a retired High Court Judge or a retired District Judge :-

(a) the amount of the compensation payable in respect of the undertaking as a whole or any component part thereof;

(b) whether any property belonging or any right, liability or obligation attaching to the undertaking vests in the Government;

(c) whether any fixed assets forms part of the undertaking;

(d) whether any contract or hire-purchase agreement or other contract referred to in Section 6 (2) (a) (ii) or (iii) has been entered into bonafide or not ;

(e) whether any agreement to supply electricity entered into by the licensee to prior the vesting date is of the nature referred to in Section 6, sub-section (3) first proviso ;

(f) whether the Government are entitled to deduct any sum under Section 9 or Section 10.

(2) Subject to the provisions of this section the provisions of the Arbitration, Act, 1940 (Central Act X of 1940) shall apply and shall to be deemed always to have applied to all arbitrations under this Act.

(3) the arbitrator may if he thinks it expedient to do so, call in the aid of one or more qualified assesses and hear the whole or any part of the reference with the aid of such assessor or assessors.

(4) Where in respect of an undertaking taken over an award in a dispute of the nature referred to in sub-section (1) has been made by an arbitrator appointed by the Government, such award is hereby declared to have been validly made.

14. Termination of managing agency :-

(1) Any agreement between the licensee and his managing agent or managing director (by whatever name known) shall, notwithstanding anything to the contrary in such agreement, be deemed to have been terminated on the vesting date in so far as it relates to the undertaking and the managing agent or managing director shall not be entitled to any remuneration or commission for such of the period of the agreement as may remain unexpired on the vesting date but shall be entitled only to compensation as determined under the sub-section (2).

(2) Where the agreement was in force on the 1st November, 1949, and continued to be in force until the vesting date, without having been renewed or replaced by a fresh agreement for a further period the managing agent or managing director shall, for such period of the agreements as may remain unexpired on the vesting date or for a period of two years, whichever is less, be entitled to compensation calculated at the following rate per annum, namely:- The average annual ordinary remuneration (including purchasing commission and office allowance) to which a managing agent of the licensee would have been entitled under paragraph XII of the Sixth Schedule to the Electricity Supply Act, during a period of two complete account years immediately preceding the vesting date.

(3) Any amount payable to a managing agent or managing director under sub-section (1) shall be payable from the compensation deposited or deemed to have been deposited under this Act.

15. Provisions for existing staff of licensees :-

Notwithstanding anything to the contrary in any contract or agreement or in any law for the time being in force, the following provisions shall apply and shall be deemed always to have applied in regard to the persons on the staff of the licensee immediately before the vesting date.

(1) The Government shall have and shall be deemed always to have had power to terminate the services of any such person after giving him three calendar month's notice in writing or paying him three months, pay in lieu of such notice.

(2) Persons whose services are or have been retained shall be governed or shall be deemed to have been governed by such rules, as the Government may, from time to time, make in regard to them.

16. Inventory of assets and information in regard to documents maintained by the licensee :-

(1) Every licensee shall within three months from the date on which an order under Section 4, sub-section (1), is served on him, or such further time as may be allowed by the Government, prepare and handover to them a complete inventory of all the assets belonging to his undertaking and of its documents.

(2) The licensee shall also write up the accounts of his undertaking upto the vesting date, get them audited and submit them to the Government not later than three months from that date or such further time as may be granted by the Government.

(3) The licensee shall also, within such time as may be specified by the Government, furnish to them such information and particulars as may be required by the Government, in regard to the documents relating to the undertaking.

(4) The licensee shall not destroy any document relating to the undertaking and shall handover to the Government on the vesting date all such documents in cases falling under Section 6, sub-section (1) and in cases falling under Section 6, sub-section (2), all such documents as are necessary for ascertaining the assets of the undertaking, the rights, liabilities and obligations attaching thereto or the terms of employment of the staff and for determining the compensation payable for the undertaking under this Act.

(5) Where the documents aforesaid have been taken possession of by the Government, the licensee or any person authorised in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

(6) Where any documents aforesaid have not been handed over by the licensee, the Government may cause such documents to be prepared after collecting the necessary particulars and the expenses incurred therefor shall be chargeable to the licensee.

17. Power of entry :-

Any officer or servant of the Government authorised by the Government in this behalf by general or special order may, at any time after giving the licensee reasonable notice, enter upon any land or premises in his possession and make any survey, examination or investigation preliminary or incidental to the purposes of this Act.

18. Penalties :-

(1) Whoever, being required to furnish any information or make any statement under this Act furnishes any information or makes any statements which he knows to be false or whoever wilfully fails to hand over to the Government any fixed asset belonging to the undertaking or wilfully suppresses or destroys any document which is to be handed over to the Government under Section 16, sub-section (4) shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both and in the case of a continuing offence with an additional fine which may extend to five hundred rupees for every day after the first during which the offence continues.

(2) Whoever, fails, without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder, or any directions or order issued in pursuance thereof, shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to twenty thousand rupees and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees for every day after the first during which the offence continues.

(3) Notwithstanding anything contained in Section 32 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), it shall be

lawful for any Magistrate of the first Class specially empowered by the Government in this behalf, to impose a sentence of fine exceeding one thousand rupees when awarding punishment under sub-section (1) or (2)

(4) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorised by them in this behalf.

19. Offences by Corporation :-

Where a person committing any offence punishable under this Act is a company or an association or a body of persons whether incorporated or not, the manager, secretary, agent or other principal officer managing the affairs of such company, association or body shall be deemed to be guilty of such offence.

20. Protection of action taken under the Act :-

No suit, prosecution or other legal proceeding shall lie against the Government, or an officer or servant of the Government or any person acting under the direction of the Government or an officer or servant of the Government, assisting the Government or an officer or servant of the Government, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder or in respect of anything which was in good faith done or intended to be done in the exercise of the powers or jurisdiction purported to have been conferred by the 1949 Act or any rule or order made thereunder.

21. Power to make rules :-

(1) The Government may, after previous publication, make rules to carry out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for-

(a) all matters required or allowed by this Act to be prescribed;

(b) the manner of service of notices and orders under this Act;

(c) the obtaining of the particulars necessary for assessing the compensation under this Act;

(d) the appointment of auditors and their duties and remuneration;

(e) the inspection, checking and taking over of the assets and documents of an undertaking;

(f) the qualifications of, and the remuneration payable to the accredited representative;

(g) the procedure to be followed by the Special Officer under Section 11;

(h) the remuneration payable to an arbitrator appointed under Section 13;

(i) the manner of obtaining the information and particulars referred to in Section 16, sub-section (3).

(3) All rules made under this section shall be published in the Andhra Pradesh Gazette and upon such publication shall have effect as if enacted in this Act.

(4) All rules made under this section shall be laid for not less than fourteen days before the Andhra Pradesh Legislative Assembly, as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as that Assembly may make during the session in which they are laid.

22. Effect of other laws :-

(1) No provision of the Electricity Act or of the Electricity Supply Act or of the Andhra Pradesh Municipalities Act, 1965 (Act VI of 1965) or of any rule made under any of those Acts or of any instrument having effect by virtue of any of those Acts or any rule made thereunder shall have or shall be deemed to have any effect insofar as it is inconsistent with any of the provisions of this Act.

(2) Save as otherwise provided in this Act, the provisions of this Act, shall be and shall always be deemed to have been in addition to, and not in derogation of the Electricity Act and the Electricity Supply Act 1948, (Central Act 54 of 1948)

23. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the Government may as occasion may require, do anything which appears to them necessary for the purpose of removing the difficulty. A copy of every order passed under this section shall be laid before the Andhra Pradesh Legislative Assembly.

24. Saving and validation :-

Orders made, decisions or directions given, notifications issued, proceedings taken and acts or things done in relation to any

undertaking taken over by the Government before the commencement of this Act, if they would have been validly made, given, issued, taken or done, had the 1949 Act and the rules made thereunder been in force on the date on which the said orders, decisions or directions, notifications, proceedings, Acts or things, were made, given or issued, taken, or done shall be deemed to have been validly made given, issued, taken or done as the case may be, except to the extent to which the said orders, decisions, directions, notifications, proceedings, Acts or things are repugnant to the provisions of this Act.

25. . :-

Omitted by Section 8 of A.P. Act 6 of 1972]

SCHEDULE 1

SCHEDULE 1

SCHEDULE 1

(See Section 5(1))

PART-A

Applicable to a licensee not being a local Authority

1. For the purposes of Section 5(1), net annual profit shall, in respect of any account year of a licensee not being a local authority, subsequent to the date on which Section 57 of the Electricity Supply Act and the sixth Schedule thereto came into force, mean the excess of income over expenditure as defined below less the sums referred to in paragraph 4 or, as the case may be, plus the sums referred to in paragraph 5.

2. For the purposes of the foregoing paragraph, "income" means income derived from-

(i) gross receipts from sale of energy, less discounts applicable thereto;

(ii) rental of meters and other apparatus hired to consumers;

(iii) sale and repair of lamps and apparatus;

(iv) rents;

(v) transfer fees;

(vi) investments, fixed and call deposits, and bank balances;

(vii) other general receipts accountable in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply.

3. For the purposes of paragraph 1, expenditure means the expenditure incurred

on-

- (i) generation and purchase of energy;
- (ii) distribution and sale of energy;
- (iii) rents, rates and taxes, other than all taxes on income and profits;
- (iv) interest on loans;
- (v) interest on security deposits;
- (vi) legal charges;
- (vii) bad debts;
- (viii) auditors fees;
- (ix) managements, including managing agents remuneration as provided for in paragraph XXII of the Sixth Schedule aforesaid;
- (x) depreciation, calculated on flat rate basis as specified in Schedule II;
- (xi) other expenses admissible under the law for the time being in force in the assessment of Indian Income-tax and arising from and ancillary or incidental to the business of electricity supply;
- (xiii) contribution to Provident Fund, staff pensions, gratuity, and apprentice and other training schemes;

4. The sums referred to in paragraph 1 as those to be deducted from the excess of income over, expenditure are-

- (a) the appropriations to the consumers fund for purposes of distribution to consumers, where such appropriations are necessary by virtue of paragraph II (1) of the Sixth Schedule aforesaid;
- (b) the contributions to the Tariffs and Dividend Control Reserve where such contributions are necessary by virtue of paragraph II(1) aforesaid; and
- (c) the taxes paid or payable, in respect of appropriations and contributions referred to in sub-clauses (a) and (b) as taxes on income and profits.

5. The sums referred to in paragraph 1 as, those to be added to the excess of income over expenditure, are-

- (a) the appropriations from the Tariffs and Dividend Control Reserve to the extent necessary by virtue of paragraph II (2) of the Sixth Schedule aforesaid; and
- (b) the taxes paid or payable, in respect of the appropriations referred to in sub-clause (a) as taxes on income and profits.

6. For the purposes of Section 5(1), net annual profit, in respect of any account year earlier than that referred to in paragraph (1), shall mean and shall be deemed to mean the excess of income over expenditure, calculated in the manner laid down in the bulk supply agreement entered into by the licensee with the Government, or if there is no such agreement, in the prescribed manner, less

the following sums :

(i) the appropriations to the consumers, fund in accordance with the terms of that agreement or such other sum as was accepted by the Government in lieu of such appropriations; and

(ii) the taxes paid or payable, in respect of such appropriations or sum, as taxes on income and profits.

PART-B

Applicable to a licensee being a local authority.

For the purpose of Section 5(1), net annual profit in respect of any account year of a licensee being a local authority shall be-

(i) if the licensee has entered into a bulk supply agreement with the Government, or the licence granted to the local authority contains any provision for the distribution of profits, the amount that should be appropriated to the general funds of the local authority out of the profits on account of the undertaking in the manner laid down in such agreement or licence, and

(ii) if there is no such agreement or provision in the licence for the distribution of profits, the amount actually appropriated to the general funds of the local authority as profits on account of the undertaking in accordance with the annual accounts.

SCHEDULE 2

SCHEDULE 2

SCHEDULE-2

[See Section 5(3)]

For the purposes of payment of compensation under Section 5(3), the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book value of each asset by the number of years of life of the asset as specified in the table below. For the account year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the last account year to the date of taking over, the depreciation shall be calculated prorata.

TABLE

Description of asset	Number of years or period
(1)	(2)
A. Land owned under full title	Infinite
B. Land held under lease-	
(a) for investment in the land	The period of the lease or the period remaining unexpired on the

(a) for investment in the lease	assignment of the lease.
(b) for cost of clearing the site	The period of the lease or the remaining unexpired at the date of clearing the site.
C. Assets purchased new-	
(a) Plant and machinery in generating stations, including plant foundations.	
(i) Hydro-electric	Thirty five
(ii) Steam-electric	Twenty five
(iii) Diesel-electric	Fifteen
(b) coolings towers and circulating water systems.	Thirty
(c) hydrolic works forming part of a hydro-electric system including-	
(i) dams, spillways, weirs canals reinforced concrete flumes and syphons.	One hundred
(ii) reinforced concrete pipe lines and surge tanks, steel pipe lines, sluice gates, steel surge tanks, hydrolic control valves and other hydrolic works	Forty
(d) Building and Civil Engineering works of a permanent character not mentioned above-	
(i) offices and show rooms	Fifty
(ii) containing thermo-electric generating plant	Thirty
(iii) containing hydro-electric generating plant	Thirty five
(iv) temporary erections such as wooden structures.	Five
(v) others	Fifty
(e) Transformers, Transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations)	
(i) Transformers (including foundations) having a rating of 100 kilovolt amperes and over.	Thirty five
(ii) Others	Twenty five
(f) switchgear, including cable connections	Twenty
(g) Batteries	Ten
(h)(i) Underground cables including joint boxes and disconnecting boxes	Forty

(ii) cable duct system	Sixty
(i) Overhead lines including supports-	
(i) lines on steel or reinforced concrete supports operating at nominal voltages higher than 13.2 kilovolts.	Thirty
(ii) other lines or steel or reinforced concrete supports.	Twenty five
(iii) other lines on wood supports	Twenty
(j) Meters	Fifteen
(k) Self-propelled vehicles	Seven
(l) Static machine tools	Twenty
(m) Air conditioning plant-	
(i) Static	Fifteen
(ii) Portable	Seven
(n)(i) Office furniture and fittings	Twenty
(ii) Office equipment	Ten
(o) Apparatus let on hire-	
(i) other than motors	Seven
(ii) motors	Twenty
D. Assets purchased second hand and assets not otherwise provided for in this table.	Such reasonable period as the Government determine in each case having regard to the nature, age and condition of the assets on the vesting date.