

KARNATAKA ELECTRICITY REFORM (TRANSFER SCHEME) RULES, 1999

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Transfer of assets, etc., to the State
4. Classification of assets etc., into Undertakings
5. Transfer of assets, liabilities, etc., by the State
6. Transfer of Personnel
7. Classifications and Transfer of Assets and Liabilities provisional in the first instance
8. Power to remove difficulty etc.

SCHEDULE A :- Generation Undertakings

SCHEDULE B :- Transmission and Distribution Undertakings

SCHEDULE C :- SCHEDULE

SCHEDULE D :- List of Tripartite Agreements

KARNATAKA ELECTRICITY REFORM (TRANSFER SCHEME) RULES, 1999

Whereas, the draft of the Karnataka Electricity Reform (Transfer Scheme) Rules, 1999 was published as required by Sections 14 and 15 read with Section 57 of the Karnataka Electricity Reform Act, 1999 (Karnataka Act 25 of 1999) in Notification No. DE 5 PSR 99, dated 28th August, 1999, published in Part IV, Section 2-C(i) of the Karnataka Gazette, Extraordinary, dated 30th August, 1999 inviting objections and suggestions from all persons likely to be affected thereby within fifteen days from the date of publication of the draft in the Official Gazette. Whereas, the said Gazette was made available to the public on the 30th August, 1999. And whereas, objections and suggestions received within the period specified above have been considered. Now, therefore, in exercise of powers conferred by Sections 14 and 15 read with Section 57 of the Karnataka Electricity Reform Act, 1999 (Karnataka Act 25 of 1999), the Government of Karnataka hereby makes the following rules, namely:

1. Short title, extent and commencement :-

(1) These rules may be called the Karnataka Electricity Reform (Transfer Scheme) Rules, 1999.

(2) These rules extend to the whole of the territory of the State of Karnataka and also to Assets, Liabilities and Personnel of the Karnataka Electricity Board, which are existing outside the State.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions :-

(1) In these rules, unless there is anything repugnant in the subject or context.

(a) "Act" means the Karnataka Electricity Reform Act, 1999.

(b) "Asset" shall include dams, tunnels, intake and outlet structures of water conductor systems, generating stations with associated plant, machinery, equipment, transmission towers, land, building, offices, stores, installations, furniture, fixtures, vehicles, residential quarters and guest houses and amenities and installations pertaining thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts, corporeal or incorporeal, tangible and intangible assets, benefits, licenses, consents, authorities, registrations, liberties, patents, trade marks and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, contracts, deeds, schemes, bonds, agreements and other instruments and interest of whatever nature and wherever situate;

(c) "Effective date of the first transfer" means the date notified by an order made by the State Government for effecting transfer of Assets, Liabilities, Proceedings or Personnel, Undertakings to the Visvesvaraya Vidyuth Nigama Limited (VVNL) or the Karnataka Power Transmission Corporation Limited (KPTCL), as the case may be, and different effective dates of the first transfer may be notified for different transfers;

(d) "Liabilities" shall include all liabilities, debts, duties, obligations, arrangement, dealings and other outgoing including statutory liabilities and Government levies of whatever nature including the contingent liabilities which may arise in regard to dealings before

the effective date in respect of the specified undertakings however excluding personnel and personnel related matters;

(e) "Schedule" means a Schedule appended to these rules;

(f) "Transferee" shall mean KPTCL or Visvesvaraya Vidyuth Nigama Limited (VVNL), as the case may be, in whom the undertaking or undertakings are vested;

(g) "Tripartite Agreement" shall mean the applicable Agreements entered into by the State Government, the Board and the concerned Union or Association of the personnel as listed in Schedule 'D' and as may be modified by the parties to the said agreements from time to time;

(h) "Undertaking" shall mean a block or blocks of assets, liabilities, proceedings and personnel existing and engaged in the business of generation, purchase, transmission, system operation, sales and supply belonging to the Board before the effective date of transfer;

(i) "WNL" shall mean Visvesvaraya Vidyuth Nigama Limited, a company established by the Government of Karnataka with the principal object of taking over the existing generation under the control of the Karnataka Electricity Board and engaging in the business of Generation of Electricity in the State.

(2) Words and expressions used but not defined in these rules shall have the same meaning as in the Act.

3. Transfer of assets, etc., to the State :-

(1) On the effective date of first transfer all property, interest in property, right and liability and all the assets, liabilities, all matters, arrangements, dealings and things of the Board shall stand transferred to and vest in the State absolutely and in consideration thereof all loans, subventions and obligations of the Board towards the State shall stand extinguished and cancelled, which consideration shall be in full and final settlement of all claims whatsoever of the Board.

(2) Nothing in sub-rule (1) shall apply to rights, responsibilities, liabilities and obligations in respect of the personnel and personnel related matter including statutory dues such as salary, wages, gratuity, pension, provident fund, if any, compensation and retirement benefits and the same shall be dealt with in the manner provided under Rule 6.

4. Classification of assets etc., into Undertakings :-

(1) All the assets, liabilities, all matters, arrangements, dealings and things vested in the State in terms of Rule 3 and such other assets and liabilities as the State Government may consider to be appropriate but excluding those specified in sub-rule (3) shall stand classified into.

(a) Generation undertakings as set out in Schedule 'A'; and

(b) Transmission and Distribution undertakings, as set out in Schedule 'B'.

(2) The State Government may within three months from the effective date of first transfer by order notify the provisional balance sheets as at the effective date of first transfer of the Generation undertakings listed in Schedule 'A' and Transmission and Distribution undertakings listed in Schedule 'B'.

(3) The liabilities as may be specified by the State Government in the order made under sub-rule (2) shall not form a part of the liabilities classified in Generation and Transmission and Distribution undertakings, in Schedule 'A' or 'B', and they shall be retained by the State Government as residuary liabilities.

(4) If the assets under sub-rule (1) are subject to security documents or arrangements in favour of third parties for any financial assistance or obligation taken by the Board and the liabilities in respect thereof are to be classified in different undertakings, the State Government, may by order to be issued for the purpose, provide for the apportionment of the liabilities secured by such properties, assets and rights between the different undertakings and upon such apportionment the security shall be applicable to the apportioned liability only.

5. Transfer of assets, liabilities, etc., by the State :-

(1) The assets, liabilities, all matters, arrangements, dealings and things forming part of generation undertaking as set out in Schedule 'A' shall stand transferred to and vest in VVNL on the effective date of first transfer without any further Act or thing to be done by the State Government or the Board or VVNL or any other person, subject, however, to the terms and conditions specified in these rules.

(2) The assets, liabilities, all matters, arrangements, dealings and

things forming part of Transmission and Distribution undertakings, as set out in Schedule B, shall stand transferred to and vest in KPTCL on the effective date of first transfer notified for the purpose without any further Act or thing to be done by the State Government or the Board or KPTCL or any other person subject, however, to the terms and conditions specified in these rules.

(3) On such transfer and vesting of the assets, liabilities, all matters, arrangements, dealings and things in terms of sub-rule (1) to VVNL or sub-rule (2) to KPTCL, as the case may be, the KPTCL or the WNL, (Transferee) shall be responsible for all contracts, rights, deeds, schemes, bonds, agreements, arrangements or dealings and other instruments of whatever nature to which the Board was initially a party, subsisting or having effect on the effective date of first transfer, in the same manner as the Board was liable immediately before the effective date, and the same shall be in force and effect against or in favour of the transferee and may be enforced effectively as if the transferee had been a party thereto instead of the Board.

(4) The provisional Balance Sheets notified by the State Government under sub-rule (2) of Rule 4 shall be adopted by KPTCL or VVNL as the case may be as the Balance Sheets of KPTCL or WNL as on the effective date of first transfer.

(5) As consideration for the transfer and vesting of the assets, liabilities and things to KPTCL or WNL as mentioned in sub-rules (1), (2) and (3) and Schedule 'A' or 'B' as the case may be, shares and/or instruments as to be specified in the order notifying the provisional Balance Sheets under sub-rule (2) of Rule 4 will be issued to the State Government.

(6) Notwithstanding anything contained in these rules, with effect from First day of August, 1999 and till the effective date of first transfer, business of generation, purchase, transmission, sale and supply of electrical energy and all other acts in the State undertaken by, and all matters, arrangements, dealings and things done by KPTCL or WNL, as the case may be, in connection with the said businesses either in their names or otherwise shall be deemed to have been done for and on behalf of the Board and shall be accounted for in the Books of Accounts of the Board accordingly.

(7) The accounts of the Board shall be finalised as up to the date of effective date of first transfer and audited as per Section 69 of the

Electricity (Supply) Act, 1948. Subject to the finalisation and audit of accounts of the Board, the Board shall stand dissolved with effect from the effective date of first transfer as provided in sub-section (3) of Section 14 of the Act.

6. Transfer of Personnel :-

(1) The transfer of personnel in terms of these rules shall be subject to the terms and conditions contained in the Act and the applicable Tripartite Agreements, as listed in Schedule 'C'.

(2) Subject to sub-rule (1), the personnel on the effective date of first transfer shall stand classified, transferred and allocated to the services of KPTCL or WNL in the manner specified in Part 'A' and Part 'B' of Schedule 'C'.

(3) On such transfer and subject to the provisions of the Act and other provisions in these rules the personnel shall form part of the services of KPTCL or WNL, as the case may be, with the status and in the post, scale of pay and seniority being maintained in the same manner as in the Board on the effective date of first transfer:

Provided that review of seniority of personnel in respect of a period prior to the effective date of first transfer, done after such date in accordance with the direction of Court, Tribunal or other authority or any law, rule or regulation shall be taken into account while determining their seniority after such date.

(4) The transfer of personnel shall be further subject to the following conditions, namely.

(a) That the terms and conditions of the services applicable to them on the effective date of the first transfer shall not in any way be less favourable than or inferior to those applicable to them immediately before the said effective date;

(b) All such personnel shall have continuity of service in all respects;

(c) All benefits of service accrued before the said effective date shall be fully recognised and taken into account for all purposes including the payment of terminal benefits;

(d) Transfer shall be subject to orders that may be passed by the Courts in the proceedings pending on the said effective date of the first transfer in regard to seniority or other matters concerning the

service conditions of the personnel;

(e) The personnel shall cease to be in the service of the Board and shall not assert or claim any benefit of service under the State Government or the Board except as provided in the Karnataka Electricity Reform Act, 1999, these rules and in the Tripartite Agreements;

(f) All other terms and conditions as specified in the Tripartite Agreements, shall apply.

(5) Subject to sub-rules (1) and (4) the transferee shall make regulations governing the conditions of services of personnel transferred to the transferee under these rules, and until such time the existing service conditions of the Board shall mutatis mutandis apply

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(6) In respect of all statutory and other schemes and employment related matters including the provident fund, gratuity fund, pension and any other superannuation fund or any other special fund created or existing for the benefit of the personnel, the relevant transferee shall stand substituted for the Board for all purposes and all the rights, powers and obligations of the Board in relation to any and all such matters shall become those of the transferee concerned and the services of the personnel shall be treated as having been continuous for the purpose of the application of this sub-rule.

(7) The State Government shall make appropriate arrangements in regard to the funding of the pension funds and other personnel related funds to the extent they are unfunded on the effective date of first transfer of the personnel from the Board and till such arrangements are made all such payments for personnel who retire after the effective date shall be entirely arranged by the KPTCL.

(8) The State Government shall make appropriate arrangements in regard to the funding and due payment of all terminal benefits to the existing pensioners of the Board as on the effective date of transfer and till such arrangements are made the payment falling due shall be made by the KPTCL, subject to such adjustments as may be decided between the State Government and KPTCL.

Explanation. For the purposes of this sub-rule, the term

(i) "Existing Pensioner" means all the persons eligible for the pension as on the effective date of transfer from the Board and shall include family members of the personnel as per the applicable scheme; and

(ii) "Terminal Benefits" means the gratuity, pension, clearness and other applicable relief and other applicable benefits including the right to have the appropriate revisions in the above benefits consistent with the practice that were prevalent in the Board.

7. Classifications and Transfer of Assets and Liabilities provisional in the first instance :-

(1) The classification of undertakings and the value of the assets and liabilities assigned in the provisional Balance Sheets notified under sub-rule (2) of Rule 4 shall be provisional and shall be final upon the expiry of one year from the effective date of transfer when the undertakings are transferred to KPTCL or VVNL in terms of these rules.

(2) So long as the classification is provisional the State Government by order to be notified shall be entitled to amend, vary, modify, add, delete or otherwise change the items classified and identified in an undertaking in such manner as the State Government may consider appropriate.

(3) All transfers and vesting specified in Rule 5 in the first instance shall be provisional and shall be final upon the expiry of one year from the effective date of first transfer when the undertakings are transferred to KPTCL or WNL in terms of these rules.

(4) At any time within a period of one year from the effective date of first transfer mentioned in sub-rules (1) and (3) above, the State Government may by order to be notified amend, vary, modify, add, delete or otherwise change the terms and conditions of the transfer including the value assigned to the assets and liabilities in the provisional Balance Sheets to be notified under sub-rule (2) of Rule 4, the items included in the transfer, and transfer of such assets, properties, liabilities and proceedings forming part of an undertaking of one transferee to that of any other transferee or to the State Government in such manner and on such terms and conditions as the State Government may consider appropriate.

(5) On the expiry of the period of one year from such effective date and subject to any directions given by the State Government, the

transfer of undertakings, assets, liabilities, proceedings made in accordance with the rules shall become final.

(6) The provisions of this rule shall not apply to the transfer of personnel and personnel related matters.

8. Power to remove difficulty etc. :-

(1) The State Government shall have the power to remove difficulties arising in implementing the transfers mentioned above.

(2) The State Government may exercise any of the powers vested in it under these rules by issue of an order to be notified in Official Gazette.

SCHEDULE A

Generation Undertakings

SCHEDULE 'A'

[See Rule 4(l)(a)]

Generation Undertakings

I. Hydel Power Stations

II. Diesel Power Station

Yelahanka Diesel Power Plant, Yelahanka, Bangalore

III. General Assets and Liabilities

IV. Other Assets

V. Miscellaneous



SCHEDULE B

Transmission and Distribution Undertakings

<div><div>SCHEDULE 'B'</div><div>[See Rule 4(l)(b)]</div><div>Transmission and Distribution Undertakings</div><div>I. Transmission Assets</div><div>II. Distribution Assets</div></div>

III. General Assets and Liabilities

IV. Other Assets

V. Miscellaneous

SCHEDULE C

SCHEDULE

SCHEDULE D

List of Tripartite Agreements

SCHEDULE 'D'

[See Rule 2(g)]

List of Tripartite Agreements

1. The Government of Karnataka, KEB and KEB Employees' Union (Regn. No. 65 Recognised).
2. The Government of Karnataka, KEB and KEB Engineers' Association (Regn. No. 76 Recognised).
3. The Government of Karnataka, KEB and KEB Accounts Officers' Association (Regn. No. 326 Recognised).