

Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000

4 of 2001

[12 February 2001]

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title And Commencement
2. Definitions

CHAPTER 2 :-MADHYAPRADESH ELECTRICITY REGULATORY COMMISSION

3. Establishment And Constitution Of Commission
4. Constitution Of Selection Committee To Select Chairperson And Members
5. Conditions For Appointment As Member Of Commission
6. Term Of Office, Conditions Of Service Etc. Of Members
7. Removal Of Chairperson Or Members
8. Appointment Of Secretary, Staff And Consultants Of Commission

CHAPTER 3 :-FUNCTIONS,POWERS AND PROCEEDINGS OF COMMISSION

9. Functions Of Commission
10. Powers Of Commission
11. Proceedings Of Commission

CHAPTER 4 :- POWERS OF STATE GOVERNMENT

12. General Powers Of State Government
13. Arbitration Of Dispute Between State Government And Commission

CHAPTER 5 :- LICENCING OF TRANSMISSION AND SUPPLY

14. Licensing
15. Grant Of Licence By Commission
16. Exemptions From The Requirement To Have A Licence
17. Amendment Of Conditions Of Licences
18. Revocation Of Licences
19. Provisions Where Licence Is Revoked
20. General Duties And Powers Of Licensees And Generating Companies

- 21. Restrictions Of Licensees And Generating Companies
- 22. Annual Accounts Of Licensee

CHAPTER 6 :- REORGANISATION OF THE BOARD

- 23. Reorganisation Of The Madhya Pradesh State Electricity Boards Properties, Functions And Duties
- 24. Provisions Relating To Personnel
- 25. Variation Of Transfers

CHAPTER 7 :- TARIFFS

- 26. Tariffs
- 27. Subvention By The State Government

CHAPTER 8 :- ORDERS AND ENFORCEMENT

- 28. Orders For Securing Compliance
- 29. Final Orders For Securing Compliance
- 30. Emergency Provision
- 31. Effect And Enforcement Of Interim And Final Orders, Fines And Charges
- 32. General Control Of Commission

CHAPTER 9 :-STANDARD OF PERFORMANCE, DISCLOSURE OF INFORMATION ETC. BY LICENSEES

- 33. State Advisory Committee
- 34. Electricity Supply; Performance Standards
- 35. Information On Standards Of Performance
- 36. Savings For Consumer Protection Laws
- 37. Information With Respect To Levels Of Performance
- 38. Restriction On Disclosure Of Information

CHAPTER 10 :- ARBITRATION AND APPEALS

- 39. Arbitration By Commission
- 40. Appeals From Decisions Of Electrical Inspectors
- 41. Appeals Against The Orders Of Commission

CHAPTER 11 :- ACCOUNTS, AUDIT AND REPORTS

- 42. Budget Of Commission
- 43. Accounts And Audit Of Commission
- 44. Annual Report Of Commission

CHAPTER 12 :- OFFENCES AND PENALTIES

- 45. Penalty For Contravention Of Section 14
- 46. Penalties For Contravention Of Other Provisions
- 47. Offences By Companies
- 48. Cognizance Of Offences And Power To Compound
- 49. Penalties And Proceedings Not To Prejudice Other Actions

CHAPTER 13 :- MISCELLANEOUS

- 50. Recovery Of Fees, Fines And Charges
- 51. Application Of Fine And Charges
- 52. No Part Of The Fines Or Penalties Imposed To Be Passed On
- 53. Bar Of Jurisdiction
- 54. Power To Remove Difficulties
- 55. Power To Make Regulations
- 56. Power To Make Rules
- 57. Members And Staff Of Commission To Be Public Servants
- 58. Proceedings Before The Commission To Be Judicial Proceedings

CHAPTER 14 :- EFFECT OF EXISTING CENTRAL LEGISLATION AND SAVINGS

- 59. Effect Of The Act On The Indian Electricity Act, 1910 And The Electricity (Supply) Act, 1948
- 60. Effect Of The Act On The Electricity Regulatory Commissions Act, 1998 (Central Act 14 Of 1998)
- 61. Savings

Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000

4 of 2001

[12 February 2001]

An Act for the purpose of, - (i) establishing State Electricity Regulatory Commission; (ii) restructuring of the Electricity Industry; (iii) rationalisation of Generation, Transmission, Sub-Transmission, Distribution and Supply of Electricity in the State; (iv) regulating the licensing of transmission and supply of electricity; (v) regulating the purchase, Transmission, Sub-Transmission, Distribution, Supply and utilisation of electricity; (vi) providing quality of service and the tariff and other charges considering the interest of the consumers and utilities; (vii) taking measures conducive to the development and management of the electricity industry in the State in an efficient economic and competitive manner; and for matters connected therewith and or incidental thereto. Be it enacted by the Madhya Pradesh Legislature in the Fifty-first Year of the Republic of India as follows :- 1. Received the assent of the President on the 12th February, 2001; assent first published in the "Madhya Pradesh Gazette (Extraordinary)" dated 20th February, 2001.

CHAPTER 1 PRELIMINARY

1. Short Title And Commencement :-

(1) This Act may be called the Madhya Pradesh Vidyut Sudhar Adhiniyam, 2000.

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

(3) It shall come into force on such date¹ as the State Government may, by notification, appoint.

1 W.e.f. 3-7-2001, vide Notification No. 3973-3-14-XIII-2001, dated 4-7-2001, published in M.P. Rajpatra (Asadharan), dated 4-7-2001.

2. Definitions :-

In this Act, unless the context otherwise requires,-

(a) "Area of transmission" means the area within which the holder of a transmission licence or any other person is for the time being authorised to transmit electricity;

(b) "Commission" means the Madhya Pradesh Electricity Regulatory Commission constituted under Section 3;

(c) "Central Commission" means the Central Electricity Regulatory Commission constituted under sub-section (1) of Section 3 of the Electricity Regulatory Commissions Act, 1998 (Central Act 14 of 1998);

(d) "Central Act" means the Electricity Regulatory Commissions Act, 1998 (Central Act 14 of 1998);

(e) "Electricity Industry" means the persons or assets engaged in the business or activities of generation, transmission, sub-transmission, distribution or supply of electricity, the operation of the power system, the regulation of such businesses and activities and matters connected thereto;

(f) "High Court" means the High Court of the State of Madhya Pradesh;

(g) "Local authority" means the Municipal Corporation, Municipality, Nagar Panchayat, Janpad Panchayat or Zila Panchayat in the State and not any other authority;

(h) "Licence" means a licence granted under Section 15 of this Act and shall include a licence granted under Section 3 and a sanction given under Section 28 of the Indian Electricity Act, 1910 (Act 9 of 1910) prior to the coming into force of this Act;

(i) "Licensee" or "Licence Holder" means a person licensed under Part V of this Act to transmit or supply electricity and shall include a person licensed under Section 3 or who has been given the sanction under Section 28 of the Indian Electricity Act, 1910 (Act 9 of 1910)

prior to the coming into force of this Act;

(j) "Member" means a member of the Commission and shall include the Chairperson of the Commission;

(k) "Prescribed" means prescribed by the rules or regulations made under this Act;

(l) "Regulation" means regulations made by the Commission under this Act;

(m) "Rules" means rules made by the State Government under this Act;

(n) "Selection Committee" means the Selection Committee constituted under Section 4;

(o) "State" means the State of Madhya Pradesh;

(p) "State Government" means the Government of the State;

(q) "Transmit" means the transportation or transmission of electricity by means of a system 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;

(r) "Supply" shall include sub-transmission and distribution;

(s) "Undertaking" means a business unit which is engaged in the generation, transmission, supply of electricity in a specified area of transmission or supply or any other activity connected with the operation of power system in the State, as the case may be;

(t) words and expressions used but not defined in this Act and defined in the Indian Electricity Act, 1910 (Act 9 of 1910) or in the Electricity (Supply) Act, 1948 (Act No. 54 of 1948) shall have the meanings respectively assigned to them in those Acts.

CHAPTER 2

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

3. Establishment And Constitution Of Commission :-

(1) There shall be a Commission for the State known as the Madhya Pradesh State Electricity Regulatory Commission which shall be a body corporate with perpetual succession and a common seal and with power to acquire hold and dispose of property, both movable or immovable, and to contract and shall, by the said name sue or be sued.

(2) The State Government shall by notification constitute the Commission. The Commission shall consist of a Chairperson and two

members to be selected and appointed in the manner provided in this Act. The State Government shall designate any of the members as Chairperson. The inter se seniority amongst the two members shall be reckoned from the date of their respective appointment. In case two or more persons are selected at the same time, the State Government while making the appointment shall determine the seniority amongst them.

(3) The Chairperson and Members of the Commission shall be appointed whole time to exclusively discharge the functions of the Commission and they shall not hold any other office or undertake any other work.

(4) The State Commission constituted by the State Government by notification No. 5726-F. 3-20-XIII-98, dated 18-8-1998, issued under sub-section (1) of Section 17 of the Central Act and existing on the date of commencement of this Act shall be the first Commission for the purposes of this Act and shall be deemed to have been constituted under this Act for the remaining period of the term of the Chairperson and Members appointed.

(5) The headquarters of the Commission shall be at Bhopal, Madhya Pradesh and it may establish offices at other places. The Commission shall be entitled to conduct its proceedings, consultations and hearings in other places in the State.

4. Constitution Of Selection Committee To Select Chairperson And Members :-

(1) The State Government shall, for the purposes of selecting the members of the Commission, constitute a Selection Committee consisting of -

(a) the Chief Secretary of the State-Chairman;

(b) the Chairman of the Central Electricity Authority or in his absence a member nominated by the Chairman of the Central Electricity Authority-Member;

(c) the Managing Director of a public financial institution as set out in sub-section (1) of Section 4-A of the Companies Act, 1956 (1 of 1956) or the Managing Director of an undertaking owned or controlled by the Government of India engaged in the business of an electricity industry or funding or financing of an electricity industry-Member.

(2) The State Government shall, within one month from the date of occurrence of any vacancy in the Commission by reason of death, resignation or removal and four months before the superannuation

or the end of tenure of a member, constitute the Selection Committee as specified in sub-section (1) and make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Member, within one month from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) The State Government shall appoint the members from the panel of two names recommended by the Selection Committee for each vacancy and notify its decision within one month of the receipt of such recommendation.

5. Conditions For Appointment As Member Of Commission :-

(1) The members of the Commission shall be the persons of ability, integrity and standing who have adequate knowledge and experience of, or have shown capacity in dealing with problems relating to engineering, economics, commerce, finance, law, administration or management and further that all times the Commission shall consist of,-

(a) one person having qualification and adequate experience in the field of engineering with specialisation in generation or transmission, or sub-transmission or distribution of electricity; and

(b) the two other persons shall have qualifications and adequate experiences in any of the other disciplines namely, economics, commerce, finance, law, administration or management:

Provided that not more than one member shall be appointed under any of the specific disciplines mentioned in clause (b).

(2) A person shall be disqualified from being appointed as a member of the Commission if the person is a member of Parliament or of any State Legislature or Chairperson or Member of any local authority.

(3) A person who is considered for appointment as a member of the Commission shall notify the Selection Committee,-

(a) of any office, employment or consultancy agreement or arrangement which the person or his or her relative, has in his or her own name or in any firm, association of persons or body corporate, owned or otherwise controlled by any of them carrying on any of the following businesses :-

(i) generation, transmission, sub-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 the generation, transmission, sub-transmission, distribution, supply or use of electricity; and

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

(b) such other information as may be prescribed by the rules or otherwise by the Selection Committee.

Explanation.-For the purpose of this section, the term "relative" shall have the same meaning as assigned to it under Section 6 of the Companies Act, 1956 (1 of 1956).

(4) Each member of the Commission shall before joining the Commission divest himself from the interest in the businesses mentioned in sub-section (3) as a condition of his appointment.

(5) If a person to be appointed as a Member of the Commission holds any office under the State Government or Central Government or Government of any other State or any public sector undertaking or any Government body or is gainfully employed or engaged in service of any other person, Government authority, public or private sector or otherwise, the person shall resign or take voluntary retirement from that service before joining the Commission.

(6) A person appointed as a Member of the Commission who ceases to be a member for any reason whatsoever shall not, thereafter at any time, be appointed in the service of the State Government or in any body Corporate or institution or undertaking owned or controlled by the State Government.

(7) A person appointed as a member of the Commission, who ceases to be a member for any reason whatsoever shall not at any time appear or otherwise represent any person before the Commission or appear for or on behalf of the Commission in any proceedings.

(8) 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, the person shall not acquire, hold or maintain, directly or indirectly any office, employment or consultancy arrangement or any financial interest in any of the businesses mentioned in sub-section (3) and if the person acquires any such interest involuntarily or by way of succession or testamentary disposition the person will divest himself from such interest within a period of

three months of such interest being acquired.

(9) Before recommending any person, the Selection Committee shall satisfy itself that the person does not have any financial or other interest, which is likely to affect prejudicially his functions as a member.

6. Term Of Office, Conditions Of Service Etc. Of Members :-

(1) Every member shall hold office including Chairperson, for a term of five years from the date on which he enters upon his office or until the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment as Chairperson or- Member at any time after the expiry of the term of appointment :

Provided that no person shall be appointed as Member after he has attained the age of sixty-two years.

(2) The Chairperson and other Members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed by the rules :

Provided that the salary and allowances determined by the State Government for the Chairperson and Members shall at no time be inferior to those applicable at the relevant time to the post of Principal Secretary in the State Government :

Provided further that the salary, allowances and other conditions of service of the Chairperson and Members once prescribed shall not be varied to their disadvantage after appointment.

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

(4) The Chairperson or a Member may relinquish his office by giving, in writing to the State Government, notice of not less than three months.

7. Removal Of Chairperson Or Members :-

(1) A Member of the Commission who,-

(a) has been adjudged an insolvent, or

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

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

(d) has without reasonable cause refused or failed to act for a period of at least three months, or

(e) ceases to fulfil any of the conditions of appointment as Member,

or

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

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

(2) Except, where a member admits the charge, in writing, he shall not be removed from the office on the ground specified in clause (c), (d), (e), (f) or (g) of sub-section (1) until a sitting Judge of the High Court, as recommended by the Chief Justice of the High Court on a reference being made in this behalf by the State Government, has, on an inquiry, held in accordance with such procedure as may be prescribed in this behalf by the High Court, reported that the member ought on such ground or grounds to be removed.

(3) Pending the inquiry against the Member under sub-section (2), the State Government may suspend the Member from acting as Chairperson or Member of the Commission, only if the Chief Justice of the High Court or the Judge appointed under sub-section (2) to carry out the inquiry, recommends such suspension.

(4) A person who has been removed from the office of Chairperson or Member of the Commission shall not be eligible for re-appointment in any capacity in the Commission.

8. Appointment Of Secretary, Staff And Consultants Of Commission :-

(1) The Commission shall appoint a person as Secretary of the Commission to assist the Commission in the discharge of its functions.

(2) The Commission may, with the prior concurrence of the State Government, determine the number, nature and categories of other officers and employees required to assist the Commission in the discharge of its functions and also the scale of salaries and allowances payable to and the other terms and conditions of the appointment of the Secretary, officers and employees of the Commission.

(3) The expenses of the Commission including salaries and allowances payable to, or in respect of the Chairperson and Members of the Commission, the Secretary, officers and other employees of the Commission, shall be charged on the consolidated funds of the State.

(4) The method and manner of selection of the Secretary, officers and other employees of the Commission shall be such as prescribed by the Commission.

(5) The Commission may, from time to time, appoint consultants required to assist the Commission in the discharge of its functions on the terms and conditions as may be prescribed by the Commission.

CHAPTER 3

FUNCTIONS, POWERS AND PROCEEDINGS OF COMMISSION

9. Functions Of Commission :-

Subject to the provisions of this Act, the Commission shall discharge, amongst others, the following functions, namely,-

(a) to regulate the purchase, distribution, supply and utilization of electricity, the quality of service, the tariff and charges payable considering the interest of the consumer and the Electricity Industry both;

(b) to promote efficiency, economy and safety in the use of the electricity in the State including in regard to quality, continuity and reliability of service and that all reasonable demand for electricity are met;

(c) to determine the tariff for electricity wholesale, bulk, grid or retail in accordance with the provisions of this Act;

(d) to determine the tariff payable for use of the intra-state transmission facilities in accordance with the provisions of this Act;

(e) to grant, revoke and amend licenses in accordance with the provisions of this Act, to determine the conditions to be included in the licenses, to grant exemption from licence requirement and determine the conditions to be complied by the; exempted persons;

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

(g) to require licensees and others to formulate perspective plans and schemes in coordination with others for the promotion of generation, transmission, sub-transmission, distribution supply and use of electricity;

(h) to collect and record information concerning the generation, transmission, sub-transmission, distribution, supply and utilisation of electricity and to require the licensees and other to collect such information and data and forecast on the demand for and use of electricity;

- (i) to regulate the operation of the power system in the State and the assets, properties and interest in properties concerning or related to the electricity industry in the State;
- (j) to set and enforce standards for the electricity industry in the State including standards relating to safety, quality, continuity and reliability of service and the development of codes and supply codes including grid code, distribution code;
- (k) to promote competitiveness in the electricity industry in the State;
- (l) to promote efficient utilisation and conservation of electricity through appropriate demand side management, reduction of wastes and losses in the utilisation of electricity;
- (m) to aid and advise the State Government, as the Commission may deem appropriate, on matters concerning generation, transmission, sub-transmission, distribution, supply and utilisation of electricity in the State;
- (n) to refer, if the Commission deems appropriate matters to other agencies and bodies dealing with consumer disputes, restrictive and unfair trade practices and management and administration of the affairs of the licensees;
- (o) to adjudicate upon the disputes and differences between the licensees and to refer matters to arbitration, if considered necessary in accordance with the provisions of this Act;
- (p) to coordinate with environmental regulatory agencies and to evolve policies and procedures for appropriate environmental regulations of the electricity industry in the State;
- (q) to lay down a uniform system of accounts among the licensees; and
- (r) to undertake all incidental or ancillary activities that the Commission may consider appropriate for the effective discharge of any of the above functions.

10. Powers Of Commission :-

- (1) The Commission shall, for the purposes of any inquiry or proceeding under this Act, have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908) while trying a suit, in respect of the following matters, namely,-
 - (a) the summoning and enforcing of attendance of any witness and examination on oath;
 - (b) the discovery and production of any document or other material object producible as evidence;

- (c) the reception of evidence on affidavits;
- (d) the requisition of any public record from any Court or office;
- (e) the issue of commission for examination of witnesses;
- (f) the review of its decisions, directions and orders; and
- (g) any other matters which may be prescribed by the State Government.

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

(3) The Commission may by general or special order in writing and subject to such conditions as may be specified in the order, delegate to any member, officer or any other person, such of the powers under this Act to aid and assist the Commission.

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

- (a) to produce before, an officer of the Commission specified in this behalf, who is allowed to examine and keep, 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, sub-transmission, distribution, supply or utilisation 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 the discharge of the functions by the Commission under this Act; and

- (b) to furnish to an officer so specified, such information in the possession, power or control of the person as may be required by the Commission for the purpose of discharging its function under this Act.

(5) The Commission or any other officer, not below the rank of a Gazetted Officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973 (No. 2 of 1974), in so far as it may be applicable.

(6) Where, during any inquiry or proceedings under this Act, the Commission has any ground to believe that any books or accounts or documents of, or relating to any unit or person in relation to which such inquiry is being made or which the owner of such unit may be required to produce in such inquiry, are being, or may be,

destroyed, mutilated, altered, falsified or secreted, the Commission may, by a written order authorise any officer of the Commission to exercise the powers of entry, search and seizure as may be exercised by an inspector appointed for inspection under Sections 240 and 240-A of the Companies Act, 1956 (1 of 1956).

(7) (a) Notwithstanding anything contained in any other law for the time being in force and for the purpose of discharging its functions, 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 by the Commission any information concerning the activities related to generation, transmission, sub-transmission, distribution, supply or utilisation of electricity, including the relationship or the connection between such person and any other person or undertaking; and

(b) The Commission shall be entitled to exercise powers to call for information, books, accounts, and other documents concerning the activities mentioned in clause (a) from any person for the purposes of providing the same to the Central Commission, Central Electricity Authority, the Central Government and the State Government.

(8) In the discharge of its functions, the Commission shall be entitled to consult to the extent the Commission considers appropriate from time to time such persons or classes of persons who may be affected or likely to be affected by the decisions of the Commission.

(9) A person to whom a notice is issued under this section shall duly furnish the information, books, accounts and other documents, which the Commission directs to furnish and the person shall be proceeded against and punishable for any failure or delay in complying with the directions issued 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 (Act 9 of 1910), and for the placing of the electric supply lines, appliances and apparatus for transmission, sub-transmission, distribution and supply of electricity, the Commission may, by order in writing, confer upon licensees or any other person engaged in transmission, sub-transmission, distribution or supply of electricity, any of the powers which the telegraph authority exercises under the Indian Telegraph Act, 1885 (No. 13 of 1885), with respect to placing of telegraph lines and post subject to such conditions as the Commission may specify.

11. Proceedings Of Commission :-

(1) Subject to the provisions of this Act, the Commission shall have the exclusive power to frame regulations for the conduct of its proceedings and discharge of its functions and all such regulations framed shall be published in the Official Gazette.

(2) Except as provided in sub-section (5), each member shall have one vote. 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 view of the majority.

(3) The quorum for the meeting of the Commission shall be two, provided that for a meeting of the Commission to review any previous decision taken by the Commission, the quorum for the meeting shall be all members being present, subject however to sub-section (5).

(4) When the Chairperson of the Commission is unable to discharge the functions owing to absence, illness or any other cause, the senior members of the Commission shall discharge the functions of the Chairperson, until the day the Chairperson assumes the charge of his office.

(5) The Chairperson including in the event where a senior member of the Commission acts as the Chairperson shall not have a second or casting vote :

Provided that where there are two members only by reason of vacancy in the office of the Chairperson or a Member or due to such disability of the Chairperson or a Member that the Commission cannot hold the proceedings with all the three members present for a period of more than 30 days, the Chairperson or the Senior Member acting as Chairperson, as the case may be, shall have a second and casting vote during the period of such vacancy or disability only :

Provided further that during the period of such vacancy or disability specified in the first proviso, two members shall constitute the quorum to review any previous decision taken by the Commission.

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

(7) The Chairperson of the Commission may instruct the Secretary to call a meeting of the Commission to be held at such time and at such place as the Chairperson may direct and in addition any Member of the Commission may request a meeting of the Commission at any time by sending a notice in writing to the other

members and to Secretary.

(8) The notice of all meetings shall be given to the members in writing, unless all the members waive the notice in writing.

(9) The Commission shall be entitled to decide urgent matters by circulation.

(10) 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 including of the dissenting member, unless otherwise specified by the Commission, shall be available for inspection by any person and copies of the same shall be made available in a manner the Commission may prescribe.

(11) The proceedings of the Commission, unless otherwise specified by the Commission by general or special order, shall be open to public.

CHAPTER 4

POWERS OF STATE GOVERNMENT

12. General Powers Of State Government :-

(1) The State Government shall have the power to issue policy directives on matters concerning electricity in the State including on measures which are considered necessary for the overall planning and coordination for the development of Electricity Industry in the State.

(2) The policy directives under sub-section (1) shall be in writing and shall be consistent with the objects sought to be achieved by this Act and they shall not adversely affect or interfere with the functions and powers of the Commission including but not limited to licensing and determination of tariffs under the powers vested in the Commission under the Act.

(3) The State Government shall consult the Commission in relation to any policy directive which it proposes to issue or any legislation is proposed to be enacted affecting the Electricity Industry it shall duly take into account the recommendation if any, given by the Commission within such reasonable time as the State Government may specify.

13. Arbitration Of Dispute Between State Government And Commission :-

(1) If any dispute or difference arises between the Commission and the State Government on the matters specified in Section 12, the same shall be referred to the Central Commission for decision.

(2) On such reference being made the person appointed shall as far as possible decide the reference within 90 days, and his decision on the matter shall be final and binding.

CHAPTER 5

LICENCING OF TRANSMISSION AND SUPPLY

14. Licensing :-

(1) No person, other than those authorised to do so by licence or by virtue of exemption under this Act or who is authorised or exempted under Indian Electricity Act, 1910 (Act 9 of 1910) or the Electricity (Supply) Act, 1948 (Act 54 of 1948), shall engage in the State in the business of -

(a) transmitting electricity; or

(b) supplying electricity including bulk supply, sub-transmission or distribution :

Provided that all persons who are authorised or exempted under the Indian Electricity Act, 1910 (Act 9 of 1910) or the Electricity (Supply) Act, 1948 (Act 54 of 1948) shall be deemed to be licensees under this Act on the terms and conditions on which the licence or exemption has already been granted and the provisions of this Act applicable to a licensee shall apply mutatis mutandis to such person.

(2) Where any question arises as to whether any person is or is not in the business of transmitting or supplying electricity as described in sub-section (1), the decision of the Commission on such question shall be final and binding.

(3) The Commission shall have the power to order any person not licensed or otherwise authorised to cease operating and disconnect its apparatus relating to transmission, sub-transmission, distribution or supply of electricity in the State.

(4) Notwithstanding anything contained in this Act and during the period of six months from the commencement of this Act, the State Government shall have the power to grant provisional licence for a duration not exceeding twelve months to any person or persons to engage in the state in the business of transmitting or supplying or electricity on such terms and conditions as the State Government, may determine consistent with the provisions of this Act, subject to the following conditions :-

(a) each of the provisional licence granted by the State Government shall forthwith be placed before the Commission and shall be deemed to constitute an application for grant of a licence

by the Commission under the provisions of this Act; and

(b) each provisional licence granted under this section shall cease to be valid from the date the Commission may specify in its order on the application for licence mentioned in clause (a) above.

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

(6) The Commission shall be entitled to exercise all powers and functions under this Act in relation to any provisional licensee under sub-section (4) in the same manner as in the case of a licensee under Section 15 of this Act.

15. Grant Of Licence By Commission :-

(1) The Commission may on an application made in such form and on payment of such fee as the Commission 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 or bulk supply electricity to any other licensee or person to undertake sub-transmission or distribution or supply of electricity.

(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 the application in such manner, and with such particulars as may be prescribed by the Commission within 14 days after making the 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 may be considered by the Commission unless it is received within such time from the date of the first publication of the notice under clause (a) as the Commission may prescribe which shall not be less than 30 days; 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 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.

(3) Notwithstanding anything contained in Section 52 of the Indian

Electricity Act, 1910 (No. 9 of 1910) or clause (ii) of sub-section (1) of Section 3 and Section 76 of the Electricity (Supply) Act, 1948 (Act 54 of 1948), it shall be a condition of all licenses granted under this Act that the Commission shall have the power to act as an arbitrator or nominate arbitrator or arbitrators to adjudicate and settle the disputes arising between the licensees in accordance with the provisions of this Act.

(4) (a) A licence shall contain the duration, extent to which, and the terms and conditions under which the transmission or supply of electricity is to be made and contain such other conditions as the Commission may consider appropriate for achieving the purposes of this Act.

(b) Without prejudice to the generally of the provisions of clause (a), the licensee shall be required to,-

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

(ii) furnish information and documents which the Commission may requires for its purpose or for the purposes of the Central or State Government or the Central Commission or Central Electricity Authority;

(iii) undertake such functions and obligations of the Board under the Indian Electricity Act, 1910 (Act 9 of 1910) and the Electricity (Supply) Act, 1948 (Act 54 of 1948), as the Commission may specify;

(iv) obtain the approval of the Commission of things that are required under the licence conditions or for deviation from the same;

(v) notify the Commission of any scheme that the licensee is proposing to undertake including the schemes in terms of the provisions of this Act and the applicable provisions of the Electricity (Supply) Act, 1948 (Act 54 of 1948);

(vi) purchase electricity in an economical manner which shall include consideration of the principle of the least cost dispatch of power and under a transparent power purchase procurement process;

(vii) evolve scheme for metering points of supply of electricity for all consumer and for measures for reduction of losses in the transmission and supply of electricity;

(viii) supply in bulk to other licensees or to customers;

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

(x) act in accordance with the terms of the licence; and

(xi) comply with the requirements of this Act, the regulations, the Indian Electricity Act, 1910 (No. 9 of 1910) and the Electricity (Supply) Act, 1948 (No. 54 of 1948) or rules framed thereunder in so far as they are applicable.

(5) Without prejudice to the generality of the provisions contained in sub-section (4), conditions included in a licence granted by the Commission may require the holder of the licence to establish tariff and to calculate its charges from time to time consistent with the provisions of this Act.

(6) The provisions contained in the schedule to the Indian Electricity Act, 1910 (No. 9 of 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 exempted by the licence and shall, subject to any such additions, variations or exceptions which the Commission may make having regard to the purposes of this Act, apply to the undertaking authorised by the licence in relation to its activities in the State :

Provided that where a supply licence is granted by the Commission for the supply of electricity to other licensees for distribution by them, then in so far as such license relates to such supply, the provisions of clauses IV V VI, VII, VIII and XII of the 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 provisions included by virtue of sub-section (7) in a licence shall have effect in addition to the provision made by Section 17 and sub-section (5) of Section 18 of the Act.

(9) Unless otherwise specifically provided in the terms of a licence, the grant of licence 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 and 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 authority to take actions for metering points of supply of electricity, revenue realisation, disconnection of electricity, prosecution for theft, meter tampering, diversion of electricity, and all such and similar matters affecting the transmission, sub-transmission, distribution or supply of electricity as the Commission may prescribe.

(11) The Commission shall be entitled to authorise the licensees

and other persons to exercise such power and authority as the licensees and persons could be given under the provisions of the Indian Electricity Act, 1910 (No. 9 of 1910) and the Electricity (Supply) Act, 1948 (No. 58 of 1948).

16. Exemptions From The Requirement To Have A Licence :-

(1) The Commission may make regulations to grant exemption from the requirement to have a licence, but subject to compliance with such conditions, if any, as may be specified by the Commission :

Provided that a person exempted shall be required to comply with all the requirements which a licensee is required to do so either under the licence or under the provisions of this Act or the regulations except where the commission may otherwise specifically, provide under the order granting the exemption or under the regulations.

(2) The Commission shall not, under any such regulation, grant any exemption except with the consent,-

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

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

(iii) in any area falling within the area of transmission or supply, of the licensee of such area :

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.

(3) An exemption may be granted,-

(a) to persons of a particular category; or

(b) to a particular person; or

(c) for a particular period.

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

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

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

17. Amendment Of Conditions Of Licences :-

(1) The Commission may, where in its opinion the public interest so permits or requires and in accordance with the provisions of this Act, on the application of the licensee or if the licensee is not a local authority on the application of the local authority concerned or otherwise make such alterations and amendments to the terms and conditions of a licence as it thinks fit taking into account the object and purposes of this Act :

Provided that no such alterations or amendments, other than an alteration or amendment pursuant to a licence condition referred to in sub-section (7) of Section 15 or sub-section (5) of Section 18 shall be made except with the consent of the licence.

(2) Where the licence has made an application under sub-section (1) proposing any alterations or amendments in the conditions of 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 such time from the date of the first publication of the notice which the Commission may specify, which shall not be less than 30 days, have been considered; and

(c) in the case of an application proposing alterations or amendments in the conditions of licence granted for an area of supply comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, 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 the conditions of 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 such time from the date of the publication of the notice as the Commission may specify which shall not be less than 30 days.

18. Revocation Of Licences :-

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

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 State Government or by the Central Commission or the Central Government or the Central Electricity Authority or any other Authority; or
- (c) upon receiving a complaint from any company or person involved in the generation, transmission, sub-transmission, distribution or supply of electricity; or
- (d) upon its own knowledge or information derived from any source.

(2) After making the inquiry under sub-section (1), 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, has committed a wilful or unreasonable default in doing anything required by or under this Act or regulations made thereunder or the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act, 1948 (No. 54 of 1948) or rules or regulations made thereunder to the extent applicable in the State read with the provisions of this Act;
- (b) where the licensee commits a breach of any of the terms and conditions of the 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 the licence or any longer period that the Commission may allow by order-
 - (i) to show, to the satisfaction of the Commission, that it is in a position to fully and efficiently discharge the duties and obligations imposed by the licence; and
 - (ii) to make the deposit or furnish the security required by the licence; and
- (d) where the financial position of the licensee is such that the licensee is unable to fully and efficiently discharge the duties and obligations imposed on him by the licence.

(3) Notwithstanding anything contained in the provisions of sub-sections (1) and (2) where 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, revoke licence as to the whole or any part of the area of transmission or supply upon such terms and conditions as it thinks fit.

(4) No licence shall be revoked under sub-section (2) unless the Commission has given to the licensee not less than 30 days 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 the 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.

19. Provisions Where Licence Is Revoked :-

(1) Notwithstanding anything contained in Sections 6 and 7 of the Indian Electricity Act, 1910 (No. 9 of 1910), where the Commission revokes a licence, under sub-section (2) of Section 18 the following provisions shall apply :-

(a) the Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect 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 stand determined except for any obligation or liabilities that had accrued to that date;

(b) the Commission shall invite applications for acquiring the undertaking of the licensee whose licence has been revoked and determine the price payable and other terms and conditions of the sale of the undertaking;

(c) the Commission may by notice in writing require the licensee to sell at the price on terms and conditions determined under clause (b) and thereupon the licensee shall sell the undertaking to the person (hereinafter in this section referred to as "purchaser") and whose application has been accepted by the Commission; 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 of the licensee.

(2) Where an undertaking is sold under sub-section (1), the purchaser shall deposit the purchase price of the undertaking determined in accordance with the application submitted by the purchaser as per the directions of the Commission and the

Commission shall have the powers to direct that the outstanding amount of any fine, charge or compensation levied on the licensee in terms of Section 31 of the Act or any other amount due or outstanding from the licensee to the Commission or to any other person as per the orders passed by the Commission be first adjusted out of the amount deposited before releasing the amount to the licensee concerned.

(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 the undertaking and thereupon the licensee shall deliver on a date specified in the notice, 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 rate not exceeding the Reserve Bank leading 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) The licensee shall duly implement the orders of the Commission under this section, notwithstanding that the licensee may be aggrieved by the order and intends to challenge the orders of the Commission.

20. General Duties And Powers Of Licensees And Generating Companies :-

(1) It shall be the duty of the holder of a licence to develop and maintain an efficient, coordinated and economical system of electricity transmission, sub-transmission, distribution or supply in the area of transmission or area of supply or bulk supply of electricity, as the case may be, for which the licence has been granted.

(2) Each licensee and each generating companies shall comply with the provisions of the regulations framed from time to time governing the operation and maintenance of power system and electric supply lines.

(3) Subject to restrictions, exceptions and conditions, if any, the Commission may specify the Sections 12 to 19 of the Indian Electricity Act, 1910 (No. 9 of 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 the

person is a licensee in that Act.

21. Restrictions Of Licensees And Generating Companies :-

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

Provided that, before applying for such consent, the licensee shall give not less than one months notice of the application,-

(a) to the Commission, and

(b) if the licensee holds a supply licence, to every local authority both in the licensees area of supply and also in the area, if any, in which such other person supplies, or intends to supply electricity.

Explanation.-For the purpose of this section, a person shall be deemed to be associated with another if he is connected with the other by reasons of ownership, management or in any other manner and is in pursuit of a joint business interest with the other.

(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 (No. 54 of 1948) shall apply in the State after the coming into force of this Act with the following amendments :-

(a) that the consents required in the said section shall be taken from the Commission, instead of such consents to be obtained from the Board as provided under that section;

(b) notwithstanding anything contained in clauses (a), (b) and (c) of the proviso to sub-section (1) of the said Section 44, the Commission shall have the right to refuse the consent if in the opinion of the Commission, that the Grant of consent will adversely affect the operation of the power system or the development of the electricity industry in the State in an efficient manner or otherwise the public interest; and

(c) the provisions of sub-section (3) of said Section 44 will have no application in the State.

(4) A holder of a supply licence may, unless expressly prohibited by the terms of its licence or by a general or special order passed by

the Commission, 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 electricity to other licensees for distribution by them; and

(b) any generating company or other supplier of electricity in accordance with the regulations prescribed by the Commission governing the power purchase procurement process.

(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 the provisions contained in the said provisions, shall be void.

22. Annual Accounts Of Licensee :-

Every licensee shall, unless expressly exempted by the Commission, prepare and render to the Commission, before the date to be specified by the Commission, an annual statement or statements of accounts of its undertaking and of each separate business unit made up to such date, in such form and containing such particulars and audited or verified, as may be directed by the Commission and such statements or extracts thereof shall be published in the manner specified by the Commission.

CHAPTER 6

REORGANISATION OF THE BOARD

23. Reorganisation Of The Madhya Pradesh State Electricity Boards Properties, Functions And Duties :-

(1) The State Government may from time to time frame rules to provide for transfer schemes to reorganise the Board and to effect the transfer of such of the functions, duties, powers and obligations and such of undertakings of the Board or such portion thereof consisting of assets, properties, interest in properties, proceedings and liabilities in the manner and on the terms and conditions which the State Government may provide in the transfer scheme.

(2) On and from the date the transfer scheme under sub-section (1) is published or on and with effect from such further date as may be specified in such transfer scheme (hereinafter referred to as the effective date), the State Government may provide that such of the undertakings of the Board consisting of assets, properties, interest in properties, proceedings, liabilities, rights and obligations or such portions thereof which immediately before the effective

date belong to the Board shall stand transferred to and vest in the State Government on the terms and conditions specified in the transfer scheme without any further act, deed or thing to be done by the Board or any other person.

(3) The State Government may, from time to time, frame rules to provide for transfer schemes to effect transfer of the undertakings which vest in the State under sub-section (2) to such companies or bodies corporate or Person or authority (hereinafter called "Transferee") on such terms and State Government may provide in the transfer scheme and such transfer and vesting in the Transferee shall take effect from the date specified in the transfer scheme without any further act, deed or thing to be done by any person.

(4) The State Government may, after consulting the transferee to whom the functions, duties, rights, powers or undertakings, as the case may be, have been transferred and vested in terms of the foregoing provisions (hereinafter referred to as the "First Transferee"), frame rules for transfer schemes to transfer and vest in any other company or body corporate or person or authority (hereinafter referred to as the "Second Transferee") such part of the undertakings from the first transferee to the Second Transferee on such terms and conditions as the State Government may specify and such transfer shall take effect from the date specified in the transfer scheme without any further act, deed or thing to be done by any person.

(5) The State Government may by notification provide that such of the functions, duties, powers and obligations exercisable by the Board under the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act, 1948 (No. 54 of 1948) or any rules framed thereunder shall be exercisable by the First Transferee or the Second Transferee or by other companies or bodies corporate or person or authority, as the State Government may specify.

(6) Notwithstanding anything contained in this section, where a transaction of any description is effected in pursuance of the transfer scheme under this part, it shall be binding on all persons including third parties.

(7) A transfer scheme may,-

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

(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 undertaking; or

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

(b) provide that any rights or liabilities specified or described in the scheme shall be enforceable by or against the first Transferee or the Second Transferee;

(c) provide for restructuring or re-organisation of the undertakings, including forming of subsidiaries, joint ventures, mergers and demergers;

(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; and

(e) make such supplement incidental and consequential provisions as it is considered appropriate including provision specifying the order in which any transfer or transaction will be effective.

(8) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board, or the First Transferee before the relevant transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the First or the Second Transferee, as the case may be.

(9) All suits or other legal proceedings instituted or that may be instituted or pending involving the Board or the First Transferee, as the case may be, before the relevant transfer scheme becomes effective shall in the manner specified in the relevant transfer scheme be continued or instituted by or against the First or the Second Transferee.

(10) If pursuant to the transfer scheme framed by the State Government a licensee is required to vest any part of its undertaking in another company or body corporate or person, the Commission shall amend the licence granted to the licensee and issue the requisite licence to enable such other company or body corporate or person to discharge the functions.

(11) The Board shall cease to be charged with, and shall not perform, the functions, rights, powers and duties to the extent the same are transferred and vested in any other company or body corporate or person in accordance with the provisions of this Act.

(12) The exercise by a licensee of any of the rights and powers of the Board may be made on such conditions as shall be specified in the transfer scheme including a condition that they shall be exercised by the licensee only with the approval of the Commission.

24. Provisions Relating To Personnel :-

(1) The State Government may provide for the transfer of the personnel of Board to the First or Second Transferee, as the case may be, on the vesting of properties, rights and liabilities in the said Transferee, as a part of the undertaking transferred under Section 23 and such transfers shall be effective in the like manner as in the case of transfers under Section 23.

(2) Upon such transfers the personnel, shall hold office or service under the First or Second Transferee, as the case may be, on terms and conditions that may be determined in the transfer scheme subject to the following, namely :-

(a) that the terms and conditions of the service applicable to them in the First or Second Transferee 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 all benefits of service accrued before the transfer shall be recognised and taken into account for all purposes including the payment of any and all terminal benefits.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (No. 14 of 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 in terms of the provisions of this part shall not entitle such employees to any compensation or damage under this Act, or any other Central or State law or under the general law, save as provided in the transfer scheme.

Explanation.-For the purposes of this part and the Transfer Scheme, the term "Personnel" shall mean and include all persons who on the effective date are the employees of the Board, by whatever name called.

25. Variation Of Transfers :-

The State Government may provide that the transfers in terms of Sections 23 and 24 shall be provisional for a period of twelve months from the effective date of transfer and reserve the right to alter, vary, modify, add or otherwise change the terms in such manner as the State Government may consider appropriate.

26. Tariffs :-

(1) Notwithstanding anything contained in any other law, the tariff for intra-State Transmission of electricity and the tariff for sub-transmission, distribution and supply of electricity, grid, wholesale, bulk or retail, as the case may be, in the State (hereinafter referred to as the "tariff"), shall be subject to the provisions of this Act and the tariff shall be determined by the Commission in accordance with the provisions of this Act:

Provided that the tariffs and charges set by the Board by notifications No. 05-01/GA/192/A/134, No. 05-01/GA/192/B-1, No. 05-01/GA/192/B-2, No. 05-01/GA/192/C-1, No. 05-01/GA/192/C-2, No. 05-01/GA/192/C-3, No. 05-01/GA/192/D-1, No. 05-01/GA/192/D-2, No. 05-01/GA/192/D-3, No. 05-01/GA/192/E and No. 05-01/GA/192/F, all dated 1st March, 1999 shall be valid and enforceable notwithstanding any order or direction made by the Madhya Pradesh Electricity Regulatory Commission constituted under Section 17 of the Central Act.

(2) The Commission shall determine by regulations, the terms and conditions for the fixation of tariff, and in doing so, shall be guided by the following factors, namely :-

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

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

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

(d) the interest of the consumers are safeguarded and at the same time, the consumer pay for the use of electricity in a reasonable manner;

(e) the principles and their applications provided in Sections 46 and 57 of the Electricity (Supply) Act, 1948 (No. 54 of 1948) and the Sixth Schedule thereto; and

(f) in the case of the Board the principles under Section 59 of the Electricity (Supply) Act, 1948 are observed :

Provided that where the Commission, departs from factors specified in clause (e) it shall record reasons therefor in writing.

(3) The holder of each licence and other persons including the Board or its successor body authorised to transmit, sell, distribute or supply electricity wholesale, bulk or retail in the State shall

observe the methodologies and procedures specified by the Commission from time to time in calculating the expected revenue from charges which the holder is permitted to recover and in determining tariffs to collect those revenues.

(4) If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariffs which is determined by the State Commission under this section, the State Government shall pay the amount to compensate the person affected by the grant of subsidy in the manner which the Commission may direct, as a condition for the licensee or any other person concerned to implement the subsidy provided for by the State Government.

(5) Any retail tariff is determined or implemented under this Act,-

(a) shall not show undue preference to any consumer of electricity, but may differentiate according to the consumers load factor power factor, and total consumption of electricity during any specified period or the time at which supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required or paying capacity of category of customers and need for cross subsidisation.

(b) shall, except in the case of financially weak consumers who are to be provided limited quantum of electricity at reduced tariff for meeting the basic needs, be in a manner that the existing subsidy given to any class or classes of consumers by charging higher tariff from other class or classes of consumers is progressively reduced and within a period of five years from the commencement of this Act the tariff to any class of consumer shall reflect a minimum of seventy five percent of the licensees average cost of supply of electricity to that class;

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

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

(6) Every licensee shall provide to the Commission, at such time and in such manner, as may be prescribed by the Commission, full details of its calculations for the ensuing financial year of the expected aggregate revenue from charges, which it believes to have been permitted to recover under the tariff and such further information, as the Commission may reasonably require to assess such calculations.

(7) (a) The Commission may after a public hearing of the licensee and other interested parties determine the tariff to be charged by

the licensee at the time of initial grant of licence and thereafter at such intervals not exceeding three years and in such manner as the Commission may prescribe.

(b) The Commission shall be entitled to include in the tariffs of the licensee an amount to be appropriated to Special Funds which the Commission, in its opinion, consider necessary to meet the expenses required for implementing projects to enable supply of electricity to consumers in different places in the area of supply of the licensee.

(8) No tariff or part of any tariff which is determined by the Commission and implemented may be revised at the instance of the licensee more than once in any financial year, except in respect of any changes expressly permitted to be revised including under any fuel surcharge formula as may be specified by the Commission in the order determining the tariff. The licensee shall provide details of the proposed revision in tariff to the Commission, together with such further information as the Commission may require. The Commission shall notify its decision on the proposed revision in tariff within ninety days of receipt of all information and after hearing the interested persons.

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

(10) The licensee shall not revise or amend any tariff unless the Commission has approved the amendment and the amended tariff is published in the manner provided in sub-section (9).

(11) Notwithstanding anything contained in Sections 46, 57, 57-A and 57-B of the Electricity (Supply) Act, 1948 (54 of 1948) no Rating Committee shall be constituted after the date of commencement of this Act and the Commission shall secure that the licensee complies with the provisions regarding the charges for the sale of electricity, both wholesale and retail and for connection to and use of their assets or system in accordance with the provisions of this Act.

Explanation.-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 (6), in any financial year, in respect of goods or services supplied to

consumers.

(b) "Tariff" means a schedule of standard prices for supply of electric energy or charges for specified services, which are applicable to all such specified services provided to the type or types of purchaser or consumer specified in the Tariff.

27. Subvention By The State Government :-

(1) The State Government may make subventions for such amounts and on such terms and conditions as the State Government may determine to enable implementations of specific projects by the licensee which the State Government may consider necessary in public interest.

CHAPTER 8

ORDERS AND ENFORCEMENT

28. Orders For Securing Compliance :-

(1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any relevant condition or requirement, it shall by final order under Section 29 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 provisions hereinafter provided in this section) there is any other remedy available 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 conditions or requirement that the proposed order is intended to secure compliance;

(ii) the acts or omissions which, in its opinion constitute contravention of that condition or requirement;
(iii) the other facts which in its opinion, justify the making of the proposed order; and

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

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

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

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

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

(6) An interim order,-

(a) may 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 which are of 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 29 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 knowledge 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 29.

29. Final Orders For Securing Compliance :-

(1) If the Commission proposes to make a final order or to declare an interim order to be a final order, 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 28 in respect of the proposed final order; and

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

and shall consider any representations or objections that are duly made and not withdrawn. The Commission shall publish notice of such representations or objections and specify a period (being not less than 30 days from the date of publication of the notice) within which further representations or objections may be made.

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

(a) by publishing the notice in such manner as the Commission considers appropriate for the purpose of bringing the matters, to which the notice relates, to the knowledge of persons likely to be affected; 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 publications of the notice referred to in sub-section (1), except,-

(a) with the consent of the licensee to whom the proposed final order relates; and

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

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

(c) consider any representations or objections that are duly made

within the time specified and not withdrawn.

(5) The provisions of clauses (a) and (b) of sub-section (6) of Section 28 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 28.

(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 30 days from the date of delivery of the notice) within which representations or objections to the proposed revocation may be made, and shall consider any representations or objections which are duly made within the time specified and not withdrawn.

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

(9) A notice under sub-section (7) or (8) shall be given by the procedure set out in clauses (a) and (b) of sub-section (7) of Section 28.

30. Emergency Provision :-

(1) The Commission shall be entitled to give directions for vesting in any person the management and control of any of the undertaking of the licensee with the assets, interests and rights of the undertaking. If the Commission considers, taking into account the object and purposes of this Act and the need to maintain continued supply of electricity in an efficient and safe manner to the consumer, it may give directions forthwith.

(2) The directions issued under sub-section (1) shall not be questioned on the ground that no prior notice of giving direction, or hearing of the intention to pass the direction was given to the licensee but the Commission shall give opportunity to the licensee and hear the licensee before passing further orders in terms of Sections 28 and 29 of this Act.

31. Effect And Enforcement Of Interim And Final Orders, Fines And Charges :-

(1) All interim or final orders passed and directions given by the

Commission shall be enforceable in law as if it is a decree passed by a Civil Court.

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

(3) The Commission shall be entitled to impose such fines and charges as may be prescribed by the Commission in the regulations for non-compliance or violation on the part of the generating companies, licensees or other persons, of the provisions or requirements of this Act or regulations framed thereunder and directions or orders of the Commission made from time to time. The fines which the Commission shall be entitled to impose may extend up to Rs. 1,00,000 (one lakh) for an act of non-compliance or violation and a further amount not exceeding Rs. 6,000 (six thousand) for every day during which the non-compliance or violation continues.

(4) The Commission shall, while making an interim or final order under this part, or otherwise by any general or special order, direct compensation to be paid by the person guilty of violation or non-compliance as provided in sub-section (3) to the person or persons affected by such violation or non-compliance.

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

32. General Control Of Commission :-

(1) The licensees, generating companies and all others shall comply with the provisions of the regulations framed by the Commission from time to time governing the terms and conditions for the operation and maintenance of the power system and electric supply lines.

(2) After the Act comes into force all assets, properties, interests in property and other facilities forming part of or used in connection with the electricity industry in the State, established in the State whether before or after the commencement of the Act, shall be subject to the regulations to be framed by the Commission to achieve the objects and purposes of the Act and in particular the need to have the continued operation and maintenance of the power system and electric supply lines.

33. State Advisory Committee :-

(1) The Commission shall constitute a committee to be known as the State Advisory Committee, in consultation with the State Government which shall consist of such number of persons being not less than 9 and not more than 15 as the Commission may appoint after consultation with such representatives or bodies representing the following interests as the Commission thinks fit, that is to say, holders of supply licenses in the State, holders of transmission licences in the State; generating companies operating in the State, non-government organisations, consumers and consumer groups, academic institutions, research bodies, commerce, industry, transport, agriculture and labour employed in the Electricity Industry.

(2) The Chairperson and Members of the Commission shall be ex officio Chairperson and Members of the State Advisory Committee.

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

(4) The term of the State Advisory Committee shall be three years.

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

(a) to advise the Commission on major questions of policy relating to the Electricity Industry in the State; and

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

34. Electricity Supply; Performance Standards :-

(1) The Commission may, after consultation with the licensees, the State 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 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 efficient and ought to be achieved by such licensees :

Provided that such standards shall be consistent with the standards

set up for the Electricity Industry by authorities constituted by the Central Government and in no case it shall be inferior to such standards;

(b) prescribe power system operation codes for the licensees, generating companies and others to comply including but not limited to intra-State grid transmission code, distribution code, supply code and supply regulations;

(c) prescribe safety regulations in the use of electricity and for operation of the power system; and

(d) arrange for the publication, in such form and in such manner as it considers appropriate, of the standards, codes, regulations and other matters so determined under clauses (a), (b) and (c).

(2) The Commission may determine different standards and codes for different licensees.

35. Information On Standards Of Performance :-

The Commission may, after consultation with (a) holders of licenses, and (b) other persons or bodies appearing to the Commission to be representative of persons and categories of persons likely to be affected and (c) the State Advisory Committee, frame regulations prescribing,-

(i) the charter for the consumers and public in general, their right to information about the working of the licensees;

(ii) the circumstances in which such licensees are to inform consumers of their rights and payment of compensation to consumers for any delay or default on the part of such licensees;

(iii) the standards of performance in relation to any duty arising under clause (i) or otherwise in connection with the electricity supply to the consumers; and

(iv) the circumstances in which licensees are to be exempted from any requirements of the regulations or of this section and may make different provision for different licensees.

36. Savings For Consumer Protection Laws :-

Nothing in this Act in any way shall prejudice or affect the rights and privileges of the consumers under other laws including the Consumer Protection Act, 1986 (No. 68 of 1986).

37. Information With Respect To Levels Of Performance :-

(1) The Commission shall, from time to time, collect information

with respect to,-

- (a) the fines or penalties levied on licensees under this Act;
- (b) the levels of 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 of value of those penalties; and
- (b) with respect to each standard determined and such information with respect to the level of performance achieved by the licensee as may be so specified.

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

38. Restriction On Disclosure Of Information :-

Subject to the provisions of this Act, the Commission may, for reasons to be recorded, direct that any information with respect to licensees, generating companies or any other person shall be treated as confidential and restrict the disclosure of the same.

CHAPTER 10

ARBITRATION AND APPEALS

39. Arbitration By Commission :-

(1) (a) Notwithstanding anything to the contrary contained in the Arbitration and Conciliation Act, 1996 (No. 26 of 1996) or any other law relating to arbitration, any dispute arising between licensees shall be referred to the Commission.

(b) The Commission may proceed to act as arbitrator and make an award or nominate arbitrators to adjudicate and settle the dispute.

(c) The practice and procedure to be followed in connection with any such adjudication and settlement shall be such as may be prescribed by the regulations.

(2) Where the award is made by the arbitration appointed by the Commission it shall be filed before the Commission and the Commission may pass appropriate orders on the award including, order to :-

(a) confirm and enforce the award;

(b) set aside or modify the award; or

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

(3) The award given by the Commission, or the order passed by the Commission under sub-section (2), shall be a decision or order of the Commission and shall be appealable as provided in this Act.

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

(5) The Commission may make such interim orders as the Commission considers appropriate at any time before the commencement of proceedings or at any time during the pendency of the proceedings under this part.

40. Appeals From Decisions Of Electrical Inspectors :-

Notwithstanding anything to the contrary in the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act (No. 54 of 1948) or any rule made thereunder, an appeal shall lie from the decision of an Electrical Inspector other than an Inspector of the Central Government or the Central Electricity Authority to the Commission.

41. Appeals Against The Orders Of Commission :-

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

Provided that the High Court may entertain an appeal within a further period not exceeding 90 days after the expiry of the period of sixty days if it is satisfied that the aggrieved person had sufficient cause for not preferring the appeal within the said period of sixty days.

CHAPTER 11

ACCOUNTS, AUDIT AND REPORTS

42. Budget Of Commission :-

The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Commission and forward the same for approval to the State Government.

43. Accounts And Audit Of Commission :-

(1) The Commission shall maintain proper accounts and other relevant records and prepare annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission shall be audited by any person appointed by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular; shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forward annually to the State Government by the Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, on the table of the State Legislative Assembly.

44. Annual Report Of Commission :-

(1) The Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the-State Government.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, on the table of the

45. Penalty For Contravention Of Section 14 :-

Whoever in contravention of the provisions of this Act or the regulations framed under this Act or of the provisions of any other applicable law engaged in the business of transmission or supply or use of electricity, shall be punishable with imprisonment which may extend to 6 months or with penalty by way of fine which may extend to Rs. 1,00,000 (one lakh) or with both and a further penalty which may extend to Rs. 6,000 (six thousand) for each day after the first during which the offence continues.

46. Penalties For Contravention Of Other Provisions :-

If any licensee or other person refuses or fails without reasonable excuse to comply with or give effect to, any direction, order or requirement made under any of the provisions of this Act, he shall be punishable with imprisonment which may extend to 3 months or with penalty by way of fine which may extend to Rs. 1,00,000 (one lakh) or with both and a further penalty which may extend to Rs. 4,000 (four thousand) for each day after the first during which the offence continues.

47. Offences By Companies :-

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

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

(2) Notwithstanding anything contained in sub-section (1), wherein 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 purposes of this section,-

(a) "company" means a body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.

48. Cognizance Of Offences And Power To Compound :-

(1) No Court shall take cognizance of any offence punishable under this Act except upon a complaint in writing made by an officer of the Commission, generally or specially authorised in this behalf by the Commission, and no Court other than that of a Judicial Magistrate of First Class or a Court superior thereto shall try any such offence.

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

(3) 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.

49. Penalties And Proceedings Not To Prejudice Other Actions :-

The proceedings and actions under this Act against a person contravening the provisions of this Act or regulations or orders passed by the Commission shall be in addition to and without prejudice to actions that may be initiated under other Acts.

CHAPTER 13

MISCELLANEOUS

50. Recovery Of Fees, Fines And Charges :-

The Commission shall be entitled to recover all sums due to it under this Act, whether by way of licence, fees or fines and charges, in accordance with the provisions of the Madhya Pradesh Public Moneys (Recovery of Dues) Act, 1987 (No. 1 of 1988), 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.

51. Application Of Fine And Charges :-

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

52. No Part Of The Fines Or Penalties Imposed To Be Passed On :-

The licensee, generating companies and others on whom the fines, charges or penalties are imposed under this Act shall not, directly or indirectly, pass the same to the consumers in the form of tariff or charges payable.

53. Bar Of Jurisdiction :-

No order or decision made under this Act or rules or regulations framed thereunder shall be appealable except as provided in the Act and no Civil Court including any Court or Tribunal under any Arbitration Law for the time being in force shall have jurisdiction in respect of any matter which the Commission under the Act is empowered by or under this Act.

54. Power To Remove Difficulties :-

If any difficulty arises in giving effect to the provisions of this Act or the rules, regulations, scheme or orders made thereunder, the State 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.

55. Power To Make Regulations :-

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

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

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

- shall be held and the conduct of the business of the Commission;
- (b) the duties of the Secretary, officers and employees of the Commission;
 - (c) determination of the functions to be assigned to licensees and to persons exempted under Section 16 of this Act and others involved in the generation, purchase, transmission, distribution and supply, the manner in which such functions shall be discharged and the procedure and code to be adopted in regard to power system and electric supply lines, determination of the conditions to be complied with by such persons and other matters related thereto;
 - (d) the procedure for licensing of transmission, sub-transmission, distribution and supply, the conditions for the grant of licences and particulars and documents to be made available by the persons applying for the licence, the standard and general conditions subject to which the licence shall be granted, the exemption from grant of licence, revocation 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, accounts, and books from 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 licensees revenues, tariff fixation, the matters to be considered in such determination and fixation;
 - (h) the power purchase and procurement process to be followed by the licensees;
 - (i) the constitution of the State Advisory Committee;
 - (j) the determination of the codes of conduct and standard of performance of the persons involved in the generation, transmission, sub-transmission, distribution, supply and use of electricity in the State;
 - (k) the amount of fines and charges to be imposed for violation of provisions of this Act including the method and manner of imposition of fines and charges and collection of the same;
 - (l) the amount of fees and charges payable;
 - (m) to prescribe the form and manner in which the accounts of the Commission shall be maintained;
 - (n) to regulate the operation and maintenance of the Power System and electric supply lines;
 - (o) to regulate the properties, assets and interest in the properties

used for or in connection with the electricity industry in the State;
and

(p) any other matter which is required to be prescribed by regulation under the provisions of this Act.

56. Power To Make Rules :-

(1) The State Government may, by notification, make rules to carry out the purposes of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power and matters specifically provided for in this Act, such rule 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 the Act;

(b) the salaries and allowances payable to members and other terms and conditions of service applicable to members; and

(c) the preparation and implementation of the transfer schemes, the transfer of assets, liabilities and personnel to effect the re-organisation of the Board.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, on the table of the State Legislative Assembly.

57. Members And Staff Of Commission To Be Public Servants :-

(1) The Chairperson, members, officers and other employees of the Commission shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).

(2) No suit or legal proceedings shall lie against the Commission 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 rules or regulations or order made thereunder.

58. Proceedings Before The Commission To Be Judicial Proceedings :-

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 (45 of 1860) 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 (No. 2 of 1974).

CHAPTER 14

EFFECT OF EXISTING CENTRAL LEGISLATION AND SAVINGS

59. Effect Of The Act On The Indian Electricity Act, 1910 And The Electricity (Supply) Act, 1948 :-

(1) Except as provided in Section 61 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 (No. 9 of 1910), or the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall prevail.

(2) Subject to the provisions of sub-section (1), all matters in the Indian Electricity Act, 1910 (No. 9 of 1910) and the Electricity (Supply) Act, 1948 (No. 54 of 1948), with which the Board has been concerned or dealing with shall be subject to the following :-

- (a) all regulatory functions shall be undertaken by the Commission;
- (b) the Board shall cease to undertake the functions which are to be discharged by the Commission in terms of the provisions of this Act or any rules made thereunder; and
- (c) upon the issue of notifications bringing into force the relevant transfer scheme in terms of Section 23 of the Act the Board shall cease to undertake such of the functions of the Board as are assigned under the notification to the companies or body corporate or persons or authority.

(3) Subject to the provisions of sub-sections (1) and (2) of this section and Section 12, the provisions of the Indian Electricity Act, 1910 (No. 9 of 1910) and the Electricity (Supply) Act, 1948 (No. 54 of 1948), shall, in so far as the State is concerned, be read subject to the provisions contained hereunder :-

INDIAN ELECTRICITY ACT, 1910 (NO. 9 OF 1910)

(i) All references to the Board in the Indian Electricity Act, 1910 (No. 9 of 1910) in so far as the State is concerned shall be read as reference to the Commission or companies or body corporate or person or authority as provided in this Act or any rules framed under this Act and wherever it relates to general policy matters, the State Government:

Provided that the Board may continue to exercise functions other than regulatory functions which the Board has been undertaking or otherwise as the State Government may specify subject, however,

to the regulatory control, powers and functions of the Commission,
(ii) In respect of matters provided in Sections 3 to 11, 28, 36 (2), 49-A, 50 and 51 of the Indian Electricity Act, 1910 (No. 9 of 1910), to the extent to which this Act has made specific provisions, the provisions of the Indian Electricity Act, 1910 shall not apply in the State.

(iii) The provisions of all other sections of the Indian Electricity Act, 1910 (No. 9 of 1910) shall apply except that,-

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

(b) the reference to the sections of the Electricity (Supply) Act, 1948 (No. 54 of 1948) in the provisions of the Indian Electricity Act, 1910 (No. 9 of 1910) shall be taken as reference to the corresponding provisions of this Act, wherever applicable;

(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 39 of this Act and the arbitration procedure prescribed under the Indian Electricity Act, 1910 (No. 9 of 1910) shall not apply.

(iv) The Schedules to the Indian Electricity Act, 1910 (No. 9 of 1910) shall be applicable only with reference to the provisions in this Act wherein the applications of the Schedules are specified and not otherwise.

ELECTRICITY (SUPPLY) ACT, 1948 (NO. 54 OF 1948)

(v) All references to the Board in the Electricity (Supply) Act, 1948 in so far as the State is concerned shall be read as reference to the Commission or companies or body corporate or person or authority as provided in this Act or any rules framed under this Act and wherever it relates to general policy matters, the State Government:

Provided that till such time all the functions of the Board are reorganised under Chapter VI of this Act, the Board may continue to exercise functions other than the regulatory functions which the Board has been undertaking or otherwise as the State Government may specify subject, however, to the regulatory control, powers and functions of the Commission.

(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 (No. 54 of 1948), to the extent to which this Act has made specific provisions, the provisions of the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall not apply in

the State.

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

(a) the terms "licence", "licensee", "licence holder" shall have the meaning 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 (No. 9 of 1910) in the provisions of the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall be taken as reference to the corresponding provisions of this Act wherever applicable;

(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 39 of this Act and the arbitration procedure prescribed under the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall not apply.

(vii) The Schedules to the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall be applicable only with reference to the provisions in this Act and with the modifications provided in this Act.

60. Effect Of The Act On The Electricity Regulatory Commissions Act, 1998 (Central Act 14 Of 1998) :-

(1) On the commencement of this Act, the State Electricity Regulatory Commission constituted under Section 17 of the Central Act shall exercise all powers and functions in accordance with the provisions of this Act and not under the Central Act.

(2) Except as provided in sub-section (1) the provisions of the Central Act in so far it deals with the State Commission shall have no application in the State.

61. Savings :-

(1) Notwithstanding anything contained in this Act, the powers, rights and functions of the Central Commission, Regional Electricity Board, the Central Electricity Authority, the Central Government and authorities under the Central Government under the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act, 1948 (No. 54 of 1948) or rules framed thereunder shall remain unaffected and shall continue to be in force.

(2) Nothing contained in this Act will apply to the Power Grid Corporation of India Limited 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

undertakings owned by the Central Government.

(3) All actions taken by any person or authority including the Board under the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act, 1948 (No. 54 of 1948) prior to the commencement of this Act shall be valid and enforceable notwithstanding the modifications to the said Acts made by this Act.