

The U.P. Electricity Reforms (Transfer of Transmission and Related Activities Including the Assets, Liabilities and Related Proceedings Scheme, 2010

UTTAR PRADESH

India

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Rule

THE-U-P-ELECTRICITY-REFORMS-TRANSFER-OF-TRANSMISSION-AND-RELATED-ACTIVITIES-INCLUDING-THE-ASSETS-LIABILITIES-AND-RELATED-PROCEEDINGS-SCHEME-2010

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The U.P. Electricity Reforms (Transfer of Transmission and Related Activities Including the Assets, Liabilities and Related Proceedings Scheme, 2010) Published Vide Notification No. 2974(1)/24-P-2-2010, dated 23.12.2010, published in the U.P. Gazette, Extraordinary, Part 4, section (Kha) dated 23.12.2010. In exercise of the powers conferred under sub-section (4) of Section 131 of the Electricity Act, 2003 (Act No. 36 of 2003) and in partial modification of the Scheme made under Section 23 of the Uttar Pradesh Electricity Reforms Act, 1999 (U.P. Act No. 24 of 1999), the State Government hereby makes the following Transfer Scheme for the purpose of transfer of the Transmission activities including the assets, liabilities and related proceedings from U.P. Power Corporation Limited to the Uttar Pradesh Power Transmission Corporation Limited and for determining the terms and conditions on which such transfer shall take effect.

1. Short title and extent.

(1) This Scheme shall be called the Uttar Pradesh Electricity Reform (Transfer of Transmission and Related Activities including the Assets, Liabilities and related Proceedings) Scheme, 2010. (2) This Scheme shall be applicable to the Assets, Liabilities and related Proceedings of U.P. Power Corporation Limited, its associated Companies and Uttar Pradesh Power Transmission Corporation

2. Definitions.

(1) In this Scheme unless the context otherwise requires :- (a) "Assets" includes the transmission lines, State Load Dispatch Center, Power system, lands, buildings, offices, stores, furniture, fixtures, vehicles, residential quarters and guest houses and amenities and installations pertaining thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts, corporeal or incorporeal, tangible and intangible assets, benefits, licenses, consents, authorities, registrations, liberties, patents, trade marks, privileges, easements, advantage, benefits and approvals, contracts, deeds, schemes, bonds and interest of whatever nature; (b) "Central Act" means the Electricity Act, 2003; (c) "Commission" means the commission defined under the Uttar Pradesh Electricity Reforms Act, 1999 (U.P. Act No. 24 of 1999) and also referred to in Section 82 of the Central Act; (d) "Date of the Transfer" means the date to be notified as the effective date of the transfer in accordance with this Scheme; (e) "Effective Date" means 01.04.2007, the date since which U.P. Power Corporation Ltd. and Uttar Pradesh Power Transmission Corporation Ltd. have started working as separate entities for purchase/sale of bulk power and Transmission works respectively; (f) "Liabilities" include all liabilities, debts, duties, obligations and other outgoing including contingent liabilities, statutory liabilities and Government levies of whatever nature; (g) "Proceeding" includes all proceedings of whatever nature, suits, appeals complaints, petitions, applications, conciliatory, arbitration whether civil or criminal or otherwise; (h) "Schedule" means Schedule appended to this Transfer Scheme; (i) "State" means the State of Uttar Pradesh; (j) "State Act" means the Uttar Pradesh Electricity Reforms Act, 1999 as amended from time to time; (k) "State Government" means the Government of Uttar Pradesh; (l) "Trading Undertaking" means the undertaking related to the activities of bulk purchase and bulk sale of energy presently being undertaken by transferor and acts incidental and ancillary thereto; (m) "Transferor" means the U.P. Power Corporation Limited owned and controlled by the State Government; (n) "Transferee" means the Uttar Pradesh Power Transmission Corporation Limited, a State Government Company and a company incorporated under the Companies Act, 1956; (o) "Transmission undertaking" means the undertaking related to the activities of Transmission, State Transmission Utility and State Load Dispatch Centre presently being undertaken by transferor and acts incidental and ancillary thereto; (p) "Undertaking" means the business unit with functions and activities, Assets Liabilities and Proceedings related thereto. (2) Words and expressions used in this Scheme and defined in the Central Act or in the State Act but not specifically defined in this Scheme shall have the same meaning as assigned to them in the Central Act or the State Act.

3. Classification of Undertakings of the Transferor.

- The existing Undertakings of the Transferor shall stand classified as under : (a) Transmission undertaking as more fully described and detailed in the Part-1 of the Schedule. (b) Trading undertaking, other than those covered by sub-clause (a) above.

4. Transfer of Transmission undertaking.

(1) Subject to the terms and conditions contained in this Scheme, the Transmission undertaking as set out in Schedule shall stand transferred to and vest with the Transferee on and from the date of the transfer notified for the purpose without any further act, deed or thing to be done by any person including the State Government, the Transferor or the Transferee. (2) The Trading undertaking shall continue to vest in the Transferor. (3) The assets and liabilities of the Transmission undertaking transferred from the Transferor to the Transferee as specified in the Part-II of the Schedule as on the Date of the transfer provided under clause 2(f)(e) and shall be adjusted to reflect the actual value on finalization and audit of accounts of the Transferor. (4) On such transfer and vesting of the Transmission undertaking in terms of this Scheme, the Transferee shall be responsible for all contracts, rights, deeds, schemes, arrangement, agreements and other instruments of whatever nature relating to the Transmission Undertaking transferred to the Transferee to which the Transferor was a party, subsisting or having effect on the date of the transfer in the same manner as the Transferor was liable immediately before the date of the transfer and the same shall be in force and effect against or in favour of the Transferee and may be enforced effectively as if the Transferee had been a party thereto instead of the Transferor. (5) The rights in the assets or undertaking transferred to the Transferee shall be subject to the restrictions and limitation specified in this scheme. (6) If the assets classified as a part of the Transmission Undertaking are subject to any charge, lien, encumbrance or other arrangement in favour of third parties for any financial assistance or obligation taken or assumed by the Transferor hereinafter referred to as "Security" and the liabilities in respect thereof are to be discharged either wholly or partly by the Transferor, the Transferor shall indemnify the Transferee from all claims arising out of the enforcement of such security. (7) The transfer of the Transmission undertaking from the Transferor to the Transferee under this Scheme shall be a de-merger of the Transferor within the meaning of Section 2 (19AA) of the Income Tax Act, 1961 and subject to sub-clause (3) above, the opening Balance sheet of the Transferee as on the date of the transfer shall be as per Part II of Schedule of this scheme. (8) In consideration of the transfer of the Transmission Undertaking from the Transferor to the Transferee as per this scheme, the Transferee shall issue shares in favour of the Transferor at par value as specified in Part II of Schedule of this scheme. (9) The transfer and vesting of the Transmission Undertaking in terms of this Scheme shall take effect on the date of the transfer notified for the purpose under clause 2(1)(e), notwithstanding that the opening balance-sheets of the Transferee are subject to finalization of accounts of the Transferor as on the date of the transfer, audit and adjustment of the actual values.

5. Rights and obligations of third parties restricted.

- Upon the transfer being effected in accordance with the provisions of the Act and this scheme, the rights and obligations of all persons in regard to the Transmission Undertaking transferred to the Transferee as per this scheme shall be restricted to the Transferee and notwithstanding anything to the contrary contained in any deed, documents, instruments, agreements or arrangements which such person has with the Transferor, he shall not claim any right or interest against the State Government, the Transferor or any person other than the Transferee.

6. Pending suits and proceedings.

(1) All Proceedings of whatever nature by or against the Transferor pending on the date of the transfer relating to the Transmission Undertaking shall not abate or discontinue or otherwise in any way prejudicial be affected by reason of this scheme and the proceedings may be continued, prosecuted and enforced by or against the Transferee. (2) The proceedings referred to in sub-clause (1) above may be continued in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Transferor if the transfers specified in this scheme had not been made.

7. Classification and transfer provisional.

(1) The Classification and transfer of Undertaking under this scheme shall be provisional. (2) The final Transfer Scheme shall be issued within one year from the date of issuance of this Transfer Scheme or the any other period decided by Government of Uttar Pradesh. Further while finalising the Transfer Scheme, Government of Uttar Pradesh may amend, vary, modify, add, delete or otherwise change terms and conditions of the transfer in such manner and on such terms and conditions as Government of Uttar Pradesh may consider appropriate. (3) On issue of such Transfer Scheme so finalised, the transfer of undertaking, properties, interests, rights, liabilities and proceedings made in accordance with the scheme shall become final.

8. Rights of the Transferee.

- The Transferee, being declared as State Transmission Utility' of Uttar Pradesh vide Government of Uttar Pradesh Notification No. 122/UNNP/24-07, Lucknow dated July 18, 2007, shall be deemed to be a licensee under Section 14 of the Central Act for undertaking the business to transmit electricity in the State.

9. Obligations of the Transferee and Transferor.

(1) The Transferee shall be responsible to duly discharge the bulk supply obligations of the Transferor in so far as they relate to the transmission of electricity and matters connected therewith such as the provisions dealing with operating arrangements, connection and metering, rights of access, non interfering with equipment in the same manner as the Transferor was bound to immediately before the date of the transfer. (2) The Transferee shall undertake the activities of transmission of electricity in the State under the regulatory control of the Commission as per the provisions of the Central Act and State Act.

10. Miscellaneous.

(1) The transfers under this scheme shall operate and be effective on the date of transfer notified for the purpose under clause 2(1)(e) as a statutory transfer and without any further act, deed or thing to be done by the State Government, the Transferor, the Transferee or any other person. (2) If any

doubt, dispute, difference or issue shall arise in regard to the transfers under this scheme, subject to the provisions of the Central Act, the decision of the State Government thereon shall be final and binding on all parties.(3)The State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of the Act as may appear to be necessary for removing the difficulties arising in implementing the transfers under this scheme.

Schedule

Transmission Undertaking

Part I – Unless otherwise specified by the State Government and/or U.P. Power Corporation Limited, the Transmission Undertaking shall comprise of all the assets, liabilities and proceedings concerning Transmission consisting of :

I. Transmission assets. - (1) All transmission lines with Grid sub-stations of various capacities with all associated and related equipment including step-down transformers, circuit breakers, metering arrangements and other protective devices with power-line communication system, lands, buildings, roads and other auxiliary' assets spread over within and outside the territory of the State including such assets under construction and assets acquired, transferred or rights of which vest with the Transferor by transfer, sale, lease or otherwise, but excluding such constructions or installations lawfully owned and operated by others.(2)Special tools and equipment, material handling equipment, earth movers, bulldozers, concrete mixers, cranes, trailers, heavy and light vehicles, furniture, fixtures, office equipment, air conditioners, refrigerators, computers and signal systems, spares, consumables, raw materials, civil works, installations including roads, buildings, schools, dispensaries, testing laboratories and equipment, training centres, workshops, works in progress, machineries and equipment sent for repairs, scrap and obsolete materials.(3)Other assets and movable properties including plant and machinery, motor cars, jeeps, trucks, cranes, trailers and other vehicles, furniture, fixtures, air conditioners, computers, etc to the extent they are utilized and operated by or associated with the assets referred to under sub-clauses (1) and (2) above, along with the residential colonies and properties like shops situated in the colonies.II. State Load Despatch Centre Assets. - Assets belonging to the State Load Despatch Centre at Lucknow and its Sub-Load Despatch Centres with the land, buildings, plant and equipments and also other assets of the nature mentioned in sub-clause (1), (2) and (3) of Clause 1 above associated or related to the State Load and Sub-Load Despatch Centres.III. Liabilities and others. - 1. Contracts, agreements, interest and arrangements.

2. Loans secured and unsecured to the extent specified in Balance Sheet in Part II of this Schedule.

3. Cash and bank balance to the extent specified in Balance Sheet in Part II of this Schedule.

4. Other current assets to the extent they are exclusively or primarily associated with or related to Transmission Undertaking or activities of State load and sub-load Despatch Centres referred to in Clauses I and II above.

5. Current and other liabilities and provisions to the extent to be specified in Balance Sheet in part II of this Schedule.

6. Proceedings to the extent they are exclusively or primarily associated with or related to Transmission activities or load despatch activities or Undertaking or Assets referred to in clauses I and II above.

IV. Notwithstanding that the transmission system and lines vest in the Transferee, any Distribution and Retail Supply of electricity to the consumers directly from the transmission system/lines (without going through the distribution system/lines), shall be the business of the Distribution Licensee in the area of supply and not that of the Transferee. The Transferee will provide to the Distribution Licensees the meter readings and other information relating to such direct supply to the consumers from the Transmission system/lines.

Part II – Provisional Balance Sheet As On April 1, 2007 Of Uttar Pradesh Power Transmission Corporation Limited (Transferee)

Sources of Funds	Rupees Crores
Shareholders' Fund	
Share Capital	1263.97
Share Application Money	579.00
Reserves and Surplus	55.60
Loan Funds	2491.66
R.E.C 'N'	379.44
P.F.C. (T.L.)	895.38
P.F.C (B.L.C.)	52.32
N.C.R.P.B.	54.96
HUDCO	419.08
R.E.C. (UPPCL)	169.56
R.E.C. TRN'	24.97
I.D.B.I.	3.64
Govt of Uttar Pradesh	492.31

Total Sources of Funds	4390.23
APPLICATION OF FUNDS	
Fixed Assets	
Gross Block	4608.90
Less: Accumulated Depreciation	1783.41
Net Block	2825.49
Capital Work in Progress	536.44
Current Assets, Loans and Advances	
Stores and Spares	289.66
Sundry' Debtors (Receivables from UPPCL)	400.00
Cash and Bank Balances	14.88
Other Current Assets	19.70
Loans and Advances	6.13
Inter Unit Accounts	100.00
Less:	
Current Liabilities and Provision	778.35
Net Current Assets	52.03
Profit and Loss Account	976.27
Total Application of Funds	4390.23