

The U.P. Electricity Reforms Act, 1999

UTTAR PRADESH

India

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Act 24 of 1999

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The U.P. Electricity Reforms Act, 1999(U P. Act No. 24 of 1999)Statement Of Objects And Reasons - With a view to protecting the interest of the consumers of electricity and for maintaining the quality of service and ensuring the development of healthy competition in the electricity industry' in the State, the Uttar Pradesh Electricity' Regulatory' Commission has been established and constituted under the Electricity Regulatory Commission Act, 1998. It has now been decided to make a comprehensive law to provide for the restructuring of the electricity industry in the State, the rationalisation of generation, transmission, distribution and supply of electricity in the State, regulation by an independent electricity regulatory Commission of the electricity industry in the State including the purchase, distribution, supply and utilisation of electricity, the quality of service, tariff and other charges keeping in view the interest of the consumers and utilities, creation of an environment which will attract participation of private sector entrepreneurs in the electricity industry in the State and generally for taking measures conducive to the development and management of the electricity industry in the State in an efficient economical and competitive manner. It has also been decided to continue the Electricity Regulatory Commission constituted under the Act, to discharge the duties and perform the functions of the Commission under the proposed law.The Uttar Pradesh Electricity Reforms Bill, 1999, is introduced accordingly.(As passed by the Uttar Pradesh Legislature)Recorded, the assent of the President on dated 23.06.1999 and published in the U.P. Gazette, Extraordinary, Part 1, Section (Kha) dated 07.07.1999.An Act to provide for the restructuring of the electricity industry in the State of Uttar Pradesh, the rationalisation of generation, transmission, distribution and supply of electricity in the State, regulation by an independent electricity regulatory Commission of the electricity industry in the State including the purchase, distribution, supply and utilisation of electricity, the quality of service, tariff and other charges keeping in view the interest of the consumers and utilities, creation of an environment which will attract participation of private sector entrepreneurs in the electricity industry in the State and generally for taking measures conducive to the development and management of the electricity industry in the State in an efficient, economical and competitive manner and for matters connected therewith or incidental thereto.It is hereby enacted in the Fiftieth Year of the Republic of India as follows :-

Chapter I

Preliminary

1. Short title and commencement.

(1) This Act may be called the Uttar Pradesh Electricity Reforms Act, 1999. (2) It extends to the whole of the State of Uttar Pradesh. (3) It shall come into force on such date as the State Government may, by notification, appoint in this behalf.

2. Definitions.

- In this Act, - (a) "area of supply" means the area within which a licensee is authorised to supply electricity; (b) "area of transmission" means the area within which a licensee is authorised to transmit electricity; (c) "Board" means the Uttar Pradesh Electricity Board constituted under Section 5 of the Electricity (Supply) Act, 1948; (d) "Central Act" means the Electricity Regulatory Commissions Act, 1998 (Act No. 14 of 1998); (e) "Chairperson" means the Chairperson of the Commission; (f) "Commission" means the Uttar Pradesh Electricity Regulatory Commission referred to in Section 3; (g) "licence" means a licence granted under Chapter V; (h) "licensee" means a person who holds a licence and includes the provisional licensee referred to in clause (a) of sub-section (3) of Section 13; (i) "Member" means a Member of the Commission and includes the Chairperson; (j) "regulations" means regulations made under this Act; (k) "relative" means relative as defined in Section 6 of the Companies Act, 1956; (l) "supply licence" means a licence for supply of electricity granted under sub-section (1) of Section 15; (m) "transmission" in relation to electricity, 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 or from one generating station to another generating station or from one sub-station to another sub-station or otherwise from one place to another; (n) "transmission licence" means a licence for transmission granted under sub-section (1) of Section 15; (o) "Power Corporation" means the Uttar Pradesh Power Corporation Limited referred to in Section 13; (p) "utility" means a person engaged in the generation, transmission, sale, distribution or supply of electricity; (q) words and expressions used but, not defined in this Act, shall have the meanings assigned to them in the Electricity (Supply) Act, 1948; (r) words and expressions used but not defined in this Act or in the Electricity (Supply) Act, 1948, shall have the meanings assigned to them in the Indian Electricity Act, 1910.

Chapter II

Establishment Of Commission, Its Functions And Powers

3. Constitution of the Commission.

(1)(a) There shall be a Commission in the State to be known as the Uttar Pradesh Electricity Regulatory Commission to exercise the powers conferred on, and to perform the functions assigned to it, under this Act; (b) The Uttar Pradesh Electricity Regulatory Commission established and constituted under Section 17 of the Central Act, shall be the Commission under this Act, and the Chairperson and Members thereof shall be deemed to have been appointed as such under this Act. (2) The Commission shall be a body corporate and its headquarters shall be at Lucknow. (3) The Commission shall consist of a Chairperson and two Members to be appointed by the State Government from amongst the persons possessing the following qualifications :- (a) one person having Bachelor's Degree in Engineering with experience of not less than twenty-five years in the field of generation, transmission or supply of electricity and having worked for at least two years on the post of a Chief Engineer or on any other post equivalent thereto in a State Electricity Board or any other utility; (b) one person having Bachelor's Degree with experience of not less than twenty-five years in the field of administration and having held a post of Additional Secretary to the Government of India or a post equivalent thereto under the Central or the State Government and having at least five years experience in one or more departments of finance, power, industry and commerce of Government. (c) one person having Bachelor's Degree in any discipline of Economics, Commerce, Accountancy, Law or Management with experience of not less than twenty-five years and having worked as a Professor in an Indian Institute of Management or as a whole time Director in a Public Financial Institution specified under Section 4-A of the Companies Act, 1956 or as a whole time Director in a Scheduled Bank within the meaning of the Reserve Bank of India Act, 1934 or as a Joint Secretary to the Government of India or as a District Judge or has held any other post equivalent thereto. (4) Every appointment under sub-section (3) shall be made on the recommendation of the Selection Committee constituted under Section 4. (5) Notwithstanding anything contained in sub-section (3) of sub-section (4), the State Government may appoint any person as the Chairperson from amongst the persons who is or has been a Judge of a High Court: Provided that no appointment under this sub-section shall be made except after consultation with the Chief Justice of the concerned High Court. (6) The Chairperson shall be the Chief Executive of the Commission. (7) 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 post or undertake any other work. (8) Where the Chairperson is unable to discharge his functions owing to absence, illness or any other cause or where any vacancy occurs in the office of the Chairperson by reason of his death, resignation or otherwise, the seniormost member shall discharge the functions of the Chairperson, until the Chairperson resumes his duties, or, as the case may be, a Chairperson appointed in accordance with the provisions of this Act, assumes charge of his office. Explanation. - The seniority of a member shall be determined from the date of his appointment as member. If two members are appointed on the same date, the member older in age shall be senior. (9) No act or proceedings of the Commission shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.

4. Constitution of Selection Committee.

(1) For the purposes of making appointment of the Chairperson and members, the State Government, shall constitute a Selection Committee which shall consist of -

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| (a) A person who has been a Judge of the High Court | Chairman |
| (b) The Chief Secretary to the State Government | Member |
| (c) The Chairman, Central Electricity Authority or his nominee not below the rank of member of the Central Electricity Authority. | Member |

(2) The State Government shall within one month from the date of occurrence of any vacancy by reason of death, resignation or removal and six months before the superannuation or end of tenure of the Chairperson or other member, make a reference to the Selection Committee for filling up of the vacancy. (3) The Selection Committee while making selection of the Chairperson and other members, shall have due regard to performance record, ability, integrity, character, qualifications and experience of the person proposed to be selected as Chairperson or other member as the case may be. (4) The Selection Committee shall finalise the selection of the members within two months from the date on which the reference is made to it. (5) The Selection Committee shall recommend a panel of two names for every vacancy referred to it. (6) A person who is considered for selection as Chairperson or member of the Commission, shall notify to the Selection Committee, - (a) of any office, employment or consultancy agreement or arrangement which the person or his relative has in his 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, 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, distribution, supply or use of electricity; and (iv) any entity providing any professional services to any of the businesses referred to in clauses (i), (ii) and (iii) above. (b) such other details and information as may be prescribed in the rules or by the Selection Committee. (7) The details received from the persons referred to in sub-section (6) shall be placed for consideration of the Selection Committee at the time of selection and recommendation of the person for appointment as member. (8) Each member of the Commission shall before taking charge of the office divest himself or herself from the interest in the businesses mentioned in subsection (6) as a condition of his or her appointment. (9) If a person to be appointed as a member of the Commission holds any office under the State or Central Government or any public sector corporation or any Government body, or is gainfully employed or engaged in service by any other person, Government authorities, public or private sector or otherwise, he shall submit his resignation or take voluntary retirement from that service before joining the Commission. (10) So long as a person holds the office of the member and for a period of two years after he ceases to be a member for any reason whatsoever, he shall not acquire, hold or maintain, directly or indirectly any office, employment or consultancy arrangement or any financial interest in any of the businesses mentioned in sub-section (6) and if he acquires any such interest involuntarily or by way of succession or testamentary disposition he will divest himself of the interest within a period of three months of such interest being acquired. Explanation. - For the purposes of this section a member shall not be taken as holding financial interest in any business if the member is a

shareholder holding less than two per cent of the issued share capital in any public company.(11)Before recommending any person, the Selection Committee shall satisfy itself that such person does not have any financial or other interest as referred to in sub-section (6) which is likely to affect prejudicially his functions as a member.(12)All decisions of the Selection Committee shall be by a majority.(13)The procedure of selection and appointment of the Chairperson and the other members shall be such as may be prescribed.

5. Term of office and conditions of service of members.

(1)The Chairperson or other member shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier and shall not be eligible for re-appointment.Provided that a member other than the Chairperson shall be eligible for appointment as Chairperson for the remaining period of his term as member.(2)A member may, at any time by giving in writing to the Governor notice of not less than three months, relinquish his office or may be removed from his office in accordance with the provisions of Section 7.(3)The Chairperson shall, before entering upon his office make and subscribe an oath of office and secrecy before the Governor and every other member before the Chairperson in such form as may be prescribed.(4)The salary and allowances payable to, and other terms and conditions of service of the members shall be such as may be prescribed.(5)The salary, allowances and other conditions of service of the members shall not be varied to their disadvantage.(6)Any member ceasing to hold office as such shall -(a)be ineligible for further employment under the State Government for a period of two years from the date he ceases to hold such office;(b)not accept any commercial employment for a period of two years from the date he ceases to hold such office; and(c)not represent any person before the Commission in any manner.Explanation. - For the purposes of this sub-section -(i)"employment under the State Government" includes employment under any local or other authority within the territory of India, under the control of the State Government, or under any corporation or society owned or controlled by the State Government.(ii)"commercial employment" means employment in any capacity under, or agency of, a person engaged in commercial, industrial or financial business in the electricity industry and includes also a director of a company or partner of a firm and it also includes setting up practice either independently or as partner of a firm or as an advisor or a consultant.

6. Disqualification for being a member.

- A person shall be disqualified for appointment as a member, if he, -(a)has been adjudged an insolvent; or(b)has become physically or mentally incapable of acting; or(c)has been convicted and sentenced to imprisonment for any offence involving moral turpitude; or(d)has acquired such financial or other interest as is likely to affect his functions as a member; or(e)has so abused his position as to render his continuance in office prejudicial to the public interest; or(f)is a Member of Parliament, the State Legislature or any local authority or is a candidate for election thereto; or(g)is a member of a political party' or holds a post therein.

7. Removal of member.

(1) Subject to the provisions of sub-section (2), any member shall only be removed from his office by the State Government, on the ground of proved misbehaviour after the Chief Justice of the High Court, or a sitting Judge of the High Court nominated in this behalf by the Chief Justice, on reference being made to him by the State Government, has, on inquiry, held by him in accordance with the procedure specified in this behalf by the Chief Justice or such Judge, reported that the member ought on any such ground to be removed. (2) Notwithstanding anything contained in sub-section (1), the State Government may by order, remove a member from his office if he has incurred any of the disqualifications mentioned in Section 6. (3) Notwithstanding anything contained in sub-section (2), no member shall be removed from his office on the ground specified in clause (b), clause (d) or clause (e) of Section 6 unless the Chief Justice of the High Court or a sitting Judge of the High Court nominated in this behalf by the Chief Justice, on a reference being made to him in this behalf by the State Government, has on an inquiry, held by him in accordance with the procedure specified in this behalf by the Chief Justice or such Judge, reported that the member ought on such ground or grounds to be removed. (4) The State Government shall act in accordance with the report referred to in sub-section (1) or sub-section (3), as the case may be, and the final decision of the State Government shall be communicated to the member concerned within a period of 60 days of receipt of such report.

8. Officers of the Commission and other staff.

(1) The Commission may appoint a Secretary' to exercise and perform, under the control of the Chairperson, such powers and duties as may be specified by regulations. (2) The Commission may, in consultation with 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 appoint them. (3) The salaries and allowances payable to, and other conditions of service of, the Secretary, officers and other employees shall be such as may be determined by regulations, in consultation with the State Government. (4) The Commission may appoint consultants required to assist the Commission in the discharge of its functions on such terms and conditions as may be determined by regulations.

9. Proceedings of the Commission.

(1) The Commission shall ordinarily meet once in every fortnight at such time and place within the State as the Chairperson may think fit: Provided that a meeting shall be convened earlier if a request is so made by a member. (2) All matters which come up before the Commission shall be decided by a majority of the members present and voting and all decisions, directions and orders of the Commission shall be in writing supported by reasons and shall be available for inspection by any person and copies of the same shall also be made available in such manner as the Commission may determine. (3) Two members shall form the quorum for a meeting of the Commission, but, in case, of a difference of opinion among them on any issue, the matter shall be placed at the next meeting : Provided that where there is a vacancy in the Commission or only two Members are present at the meeting, the member presiding over the meeting shall have a casting vote. (4) The Commission shall

regulate its own procedure.(5)All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorised by the Secretary' in this behalf.

10. Functions of the Commission.

- The Commission shall have the following functions, namely, -(a)to determine the tariff for electricity, wholesale, bulk, grid or retail, as the case may be;(b)to determine the tariff payable for the use of the transmission facilities;(c)to regulate power purchase and procurement process of the transmission utilities and distribution utilities including the price at which the power shall be procured from the generating companies, generating stations or from other sources for transmission, sale, distribution or supply in the State;(d)to promote competition, efficiency and economy in the activities of the electricity' industry to achieve the objects and purposes of this Act;(e)to regulate investment approval for transmission, distribution or supply of electricity to the entities operating within the State;(f)to aid and advise the State Government in matters concerning electricity generation, transmission, distribution and supply in the State;(g)to issue licence for transmission, distribution or supply of electricity and determine the conditions of the licence,(h)to regulate the working of licensees and other persons authorised or permitted to engage in the electricity industry in the State and to make their working efficient, economical and equitable;(i)to require licensees to formulate plans and schemes for the promotion of generation, transmission, distribution, supply or utilisation of electricity and quality of service and to device proper power purchase and procurement process;(j)to set standards for the electricity industry in the State including standards relating to quality, continuity and reliability of service;(k)to promote competitiveness and make avenues for participation of private sector in the electricity industry in the State and also to ensure a fair deal to the consumers;(l)to lay down and enforce safety standards;(m)to aid and advise the State Government in formulating power policy for the State;(n)to collect and record information relating to generation, transmission, distribution or utilization of electricity;(o)to collect and publish data and forecasts on the demand for, and use of electricity in the State and to require the licensees to collect and publish such data;(p)to regulate the assets, properties and interest in properties relating to the electricity industry in the State in such manner as to safeguard the public interest;(q)to adjudicate upon the disputes and differences between a licensee and utility or to refer the same for arbitration;(r)to co-ordinate with environmental regulatory agencies for evolving policies and procedures for appropriate environmental regulation of Electricity Section in the State; and(s)to aid and advise the State Government on any other matter referred by the State Government.

11. Powers of the Commission.

(1)The Commission shall, while performing its adjudicatory functions under this Act, have all the powers of a Civil Court trying a suit in respect of the following matters, namely :-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery' and production of any document;(c)receiving evidence on affidavits;(d)requisitioning any public record or copy thereof from any Court or office;(e)issuing commissions for the examination of witnesses and documents; and(f)any other matter which may be prescribed.(2)The Commission shall have the

power to require any person :-(a)to produce before, and allow to be examined and kept by, an officer of the Commission specified in this behalf, such books, accounts, or other documents in the custody or under the control of the person so required as may be specified or described in the requisition, being documents relating to any matter concerning the generation, transmission, distribution or supply or use of electricity, the functioning of any undertaking involved in the above areas and other matters, the examination of which may be required by the Commission for the purpose of this Act; and(b)to furnish to any officer so specified such information in his possession, power or control as may be required by the Commission for the purposes of discharge of its functions under this Act.(3)Where, during any inquiry or proceedings under this Act, the Commission has any ground to believe that any books or documents of, or relating to, any unit or person to which such inquiry is being made or proceedings relates, or which the owner of such unit may be required to produce in such inquiry or proceedings, 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 powers of entry, search and seizure as may be exercised by an Inspector under Sections 240 and 240-A of the Companies Act, 1956.(4)Notwithstanding anything contained in any other law for the time being in force, the Commission may, by general or special order, call upon any person, including a generating company or a licensee, to furnish periodically any information, concerning the activities carried on by such person relating to generation, transmission, distribution or supply or use of electricity, or with regard to the connection between such person and any other person or undertaking including information relating to the organisation, business and cost of production of electricity to enable the Commission to carry out its functions under this Act.(5)In the discharge of its functions, the Commission may consult persons or group of persons affected or likely to be affected by the decisions of the Commission.(6)The Commission may, at any time, call for and examine any information, details, books, accounts or other document from any person including a generating company or a licensee and shall make it available to the Central Electricity Authority, the Central Government or the State Government, if so required by them under any law for the time being in force.(7)Every person to whom a notice may be issued under this Act, shall furnish such information, details, books, accounts and other documents, as may be specified in such notice by the Commission.(8)Notwithstanding anything contained in Sections 12 to 16 and Sections 18 and 19 of the Indian Electricity Act, 1910, the Commission may, by order in writing, for the placing of the electric supply lines, appliances and apparatus for transmission, distribution or supply of electricity or for the purpose of telephonic or telegraphic communications necessary for proper co-ordination of works, confer upon any licensee or any other person engaged in the business of transmission, distribution or supply of electricity, under this Act, subject to such conditions and restrictions, as the Commission may think fit, any of the powers which the telegraph authority possesses under the Indian Telegraph Act, 1885 with respect to placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Central Government or to be so established or maintained.

Chapter III

Powers Of The State Government

12. Powers of the State Government.

(1)The State Government may, from time to time, issue directions not inconsistent with this Act, on a policy matter in regard to electricity and if any dispute arises between the Commission and the State Government, as to whether a question is or is not a policy matter, it shall be referred to the Central Electricity Regulatory Commission, whose decision thereon shall be final and binding.(2)(a)The State Government shall be entitled to issue policy directions with respect to the subsidies to be granted for supply of electricity to any class or classes of persons or in respect of any area in addition to the subsidies adjusted by the Commission while regulating and approving the tariff structure :Provided that the State Government shall contribute the amount to compensate licensee or person affected by the grant of the subsidies to the extent of the subsidies granted.(b)The amount of the subsidy to be paid under clause (a) and the method and manner of payment and the time within which such amount is to be paid by the State Government shall be determined by the Commission and the Commission will calculate such amount in accordance with the procedure provided in the regulations.

Chapter IV

The Uttar Pradesh Power Corporation Limited

13. Formation and functions of the Uttar Pradesh Power Corporation Limited.

(1)For the purposes of procurement, transmission and supply of electricity, a Company by the name of the Uttar Pradesh Power Corporation Limited shall be formed and registered under the Companies Act, 1956 as soon as may be after the commencement of this Act by the State Government.(2)The Power Corporation shall undertake planning and co-ordination in regard to transmission and shall determine the electricity requirements in the State in consultation with the generating companies, the State Government, contiguous states, the Commission, the Regional Electricity Board, the Central Electricity Regulator Commission and the Central Electricity Authority.(3)The Power Corporation shall, -(a)be provisional licensee for transmission and supply of electricity within the State until the grant of licence by the commission;(b)be responsible for transmission system operations;(c)be the legal successor of the Board in relation to all power purchase and transmission agreements entered into by the Board with generating and transmission companies including those owned or controlled by the Central Government; and(d)undertake such other functions as may be required under the licence.(4)Upon the grant of licence to it under Section 15, the Power Corporation shall have such powers and discharge such duties and perform such functions of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 or the rules made thereunder as may be specified by the Commission in the licence.(5)The Commission may, in consultation with the Power Corporation grant licence also to a company subsidiary to the Power Corporation.

Chapter V

Licensing Of Transmission And Supply

14. Licensing.

(1) No person shall engage in the business of transmission or supply of electricity unless he, -(a) holds a licence; or (b) is exempted under Section 16 from the requirement of a licence; or (c) is so authorised under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948. (2) Where a dispute arises as to whether any person is or is not engaged in the business of transmission or supply of electricity under sub-section (1), the matter shall be referred to the Commission and the decision of the Commission thereon shall be final. (3) The Commission shall have the powers to order a person, who is not a licensee, to cease operating and disconnect its apparatus.

15. Grant of licence by the Commission.

(1) The Commission may on an application made in such form and on payment of such fee, as may be provided by regulations, grant a licence authorising any person for transmission or supply of electricity, or both, in an area of transmission or supply, or both, as the case may be. (2) In respect of the grant of a licence under sub-section (1), the following provisions shall apply :- (a) any person applying for a licence shall publish a notice of his application in such manner, and with such particulars as may be provided in the regulations, within fourteen days after making the application; (b) the Commission shall not grant a licence until -(i) the objections, if any, received within three months from the date of last publication of the notice referred to in clause (a) have been considered by the Commission; (ii) in the case of an application for licence to transmit or supply of electricity 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, it has been ascertained that there is no objection to the grant of licence on the part of the Central Government; (c) where an objection is received from any local authority, the Commission shall, if in its opinion the objection is insufficient, record reasons for such opinion and communicate it to such local authority; (d) no application for a licence shall be made by a local authority except in pursuance of a resolution passed in a meeting of such authority held after a notice, specifying the purpose of the meeting, has been given in the manner in which the notices for the meetings of such local authority are usually given. (3) The provisions of clause (a), sub-clause (i) of clause (b) and clause (c) of sub-section (2) shall not apply to the power corporation. (4) A licence may prescribe the 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 objects of this Act. (5) Without prejudice to the generality of sub-section (4), the conditions of the licence may require the licensee to :- (a) enter into an agreement on specified terms with any other person for the use of any electric lines, electrical plant and associated equipment operated by the licensee; (b) comply with any direction given by the Commission; (c) refer all disputes arising under the licence for determination by the Commission or by an arbitrator nominated by it; (d) furnish information, documents and details which the Commission may require; (e) comply with the requirements of the Indian Electricity Act, 1910 and

the Electricity (Supply) Act, 1948, and the rules made thereunder in so far as they are applicable;(f)undertake such functions and obligations of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, as the Commission may specify;(g)notify to the Commission any scheme which is proposed to be undertaken including the schemes under the Electricity (Supply) Act, 1948;(h)purchase power in an economical manner in accordance with the guidelines, if any, issued by the Commission;(i)supply electricity to any consumer or to any other licensee;(j)establish a tariff or to calculate its charges from time to time in accordance with the directions of the Commission; and(k)pay the fees and charges as may be required by the Commission;(6)The provisions contained in the Schedule to the Indian Electricity Act, 1910, shall be deemed to be incorporated in, and shall form part of, every licence granted under this chapter, save in so far as they are expressly varied or excepted by the licence and shall, subject to any such additions, variations or exceptions which the Commission is empowered to make having regard to the purposes of this Act, apply to the undertaking authorised by the licence in relation to its activities in Uttar Pradesh :Provided that where a licensee is granted licence for the supply of electricity to other licensees for distribution by them, then, in so far as such licence relates to such supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the said Schedule shall not be deemed to be incorporated in the licence.(7)The conditions included in a licence may contain provision for any of the conditions to cease to have effect or be modified at such times, in such manner and in such circumstances as may be specified therein.(8)Any provision included under sub-section (7) in a licence shall have effect in addition to the provisions made under sub-section (5) of Section 18 and subsection (1) of Section 19.(9)The grant of a licence under this section to any person shall not be a bar against grant of a licence to any other person for the same area.(10)The licence may provide that the licensee shall have the power and authority to take appropriate action for revenue realisation, prosecution for theft of electricity, meter tampering, diversion of electricity and any other matter affecting the distribution and supply of electricity.(11)The Commission may authorise licensees and other persons to exercise such powers and authority as the licensees and other persons could be given under the provisions of the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948.

16. Exemptions from the licence.

(1)The Commission may grant exemption from the requirement of a licence on such terms and conditions as may be specified in the regulations :Provided that the Commission shall not grant any exemption under this subsection except with the consent :-(i)in case where electricity is to be supplied in an 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, of the Central Government;(ii)in case where electricity is to be supplied in an area falling within the area of supply of a licensee, of that licensee :Provided further that, except in a case, under clause (i) of the first proviso, no such consent shall be necessary' if the Commission is satisfied that such consent has been unreasonably withheld.(2)An exemption may be granted to a person or to a class of persons for a definite period, and every such exemption shall be published for general information in at least two newspapers having wide circulation in the area concerned.(3)The Commission may, at any time, for reasons to be recorded in writing, revoke the exemption granted under this section.

17. Duties and powers of the licensee.

(1) It shall be the duty of the licensee of transmission or supply in respect of an area of transmission or supply, as the case may be, to develop and maintain an efficient, co-ordinated and economical system of electricity transmission or supply. (2) Every licensee and generating company shall comply with the provisions of the regulations made from time to time governing the terms and conditions for the operation and maintenance of the power system and electric supply lines. (3) Sections 12 to 19 of the Indian Electricity Act, 1910 shall have effect in relation to a licensee as if he were a licensee under the said Act: Provided that the Commission may impose such restrictions, exceptions and conditions as it may deem fit. (4) A licensee may, unless expressly prohibited by the licence, enter into arrangements for the purchase of electricity from, - (a) the holder of a supply licence which permits the holder of such licence to supply electricity to other licensees for distribution by them; or (b) any other person or generating company with the consent of the Commission.

18. Revocation of licence.

(1) The Commission may inquire into the functioning of a licensee in respect of his obligations under this Act, in the following circumstances, namely :- (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, the Central Government, the Central Electricity Regulatory Commission or Central Electricity Authority; or (c) upon receiving a complaint from a person engaged in the generation, transmission, distribution or supply of electricity, or (d) upon its own knowledge or information that the licensee is committing or has committed any default in carrying out such obligation. (2) The Commission may revoke a licence on one or more of the following grounds, namely :- (a) that the licensee has committed a willful default to do anything required to be done by or under this Act, the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948; (b) that the licensee has committed breach of any of the terms and conditions of the licence, the breach of which is expressly declared by the licence to render it liable to revocation; (c) that the licensee has failed within the period specified in the licence or any longer period allowed by the Commission to show that he is in a position to fully and efficiently discharge the duties and obligations imposed on him by the licence or to pay the fees or charges or to make the deposit or furnish the security required by the licence; (d) where in the opinion of the Commission the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by the licence. (3) Notwithstanding anything contained in sub-sections (1) and (2), the Commission may, on the application or with the consent of the licensee, revoke the licence in respect of the whole or any part of the area of transmission or supply, upon such terms and conditions as it thinks fit. (4) A licence shall be revoked under this section only after giving to the licensee a notice of not less than three months, stating the grounds on which the revocation is proposed and after affording him an opportunity of being heard. (5) Where the Commission might under sub-section (2) revoke a licence, it may instead of revoking the licence permit it to remain in force subject to such further terms and conditions as it thinks fit to impose and any further terms or conditions so imposed shall be binding upon, and be observed by the licensee, and shall be deemed to be incorporated in the licence. [Revocation of a licence. - A revocation of a licence means that the licence has not been suspended but cancelled for all times to come entailing civil consequences and complete abolition of the right for the exercise of

which the licence was granted.] [Laxmi khandsari verses State of U.P., (1981) 2 SCC 600.]

19. Amendment of the licence.

(1)The Commission may, either on its own or on an application of the licensee, make such alterations and amendments in the terms and conditions of a licence as it thinks fit:Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.(2)Where the licensee has made an application under sub-section (1), the following provisions shall apply, namely :-(a)the licensee shall publish a notice of the application in such manner and with such particulars as may be provided by regulations;(b)the Commission shall not make any alteration or amendment until all the objections received within three months from the date of the last publication of the notice have been considered; and(c)in the case of an application proposing amendments in an area of transmission or supply comprising 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 shall not make any alteration or amendment except with the consent of the Central Government.(3)Before making any alteration or amendment in a licence otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or amendments and consider all the objections received within three months from the date of the last publication of the notice.

20. Procedure to be followed after revocation of the licence.

(1)Notwithstanding anything contained in the provisions of Sections 6 and 7 of the Indian Electricity Act, 1910, where the Commission decides to revoke a licence under Section 18, the following provisions shall apply, namely :-(a)the decision of the Commission shall be communicated to the licensee, and the licence shall stand revoked on such communication of the decision;(b)the Commission shall, simultaneously with the communication of its decision under clause (a), make such interim arrangement in regard to the undertaking of the licensee for the purposes of maintaining and continuing transmission and supply of electricity as it may consider appropriate including the appointment of an administrator or administrators for such undertaking, and such administrator or administrators shall be deemed to be interim licensees;(c)the Commission shall, by advertising in at least two widely circulated newspapers, invite applications from such persons as are intending to purchase the undertaking of the licensee whose licence has been revoked and are also willing to obtain a licence under Section 15;(d)the Commission shall consider the applications received under clause (c) for the purposes of granting a licence under Section 15 and shall also determine the terms and conditions for the disposal of the said undertaking, and may and by notice in writing, require the licensee whose licence has been revoked, to sell his undertaking to the person whose application has been accepted by the Commission, hereinafter referred to in this section as the purchaser, for the purchase price put forward in the application; and(e)on and with effect from the date of revocation, or, where the undertaking of the licensee is sold to a purchaser earlier in pursuance of any of the provisions of this Act, on and with effect from the date of such sale, all rights, duties, obligations and liabilities of the licensee under this Act, shall cease except from any liabilities that have accrued to that date.(2)Where an undertaking is sold under clause (d) of

sub-section (1), the purchaser shall pay its purchase price to the licensee, within such period, not exceeding three months, as may be determined by the Commission.(3)Where the Commission issues any notice under clause (d) of sub-section (1), requiring the licensee to sell the undertaking, it may, by such notice, require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser pending the payment of the purchase price of the undertaking :Provided that the purchaser shall pay to the licensee interest at such rate, not less than the Reserve Bank of India, lending rate in force at the time of the delivery' of the undertaking, as the Commission may decide, on the purchase price of the undertaking for the period from the date of delivery' of the undertaking to the date of payment of the purchase price.(4)Where, for any reason whatsoever, the undertaking of a licensee where licence has been revoked, cannot be sold under sub-section (1) the State Government shall acquire the said undertaking and pay the licensee whose licence has been revoked, the amount determined in accordance with Section 7-A of the Indian Electricity Act, 1910, as applicable to Uttar Pradesh, and shall discharge all the obligations of the licensee until such times as the State Government sells the said undertaking to a new- licensee, which it shall endeavour to do expeditiously without undue delay.

21. Restrictions on licensees and generating companies.

(1)No licensee or generating company shall, unless it has applied for and obtained the consent in writing of the Commission, acquire the licence, or the undertaking of, or associate with, any other licensee or any other person generating, transmitting, supplying or intending to generate, transmit or supply electricity :Provided that the Commission shall hear such person or authority as it considers proper before giving the consent under this section.(2)The Commission shall dispose of an application received under sub-section (1), within two months of receiving such application, after taking into account the objection, if any, of the concerned person or authority.(3)The licensee shall not 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.(4)Any person to whom the provisions of Section 44 of the Electricity (Supply) Act, 1948, are applicable shall obtain the consent of the Commission under that section in place of that of the Board.

22. Annual accounts of a licensee.

- Every licensee shall, unless expressly exempted under the licence, prepare and render to the Commission, on or before such date in each year as may be specified in the licence, an annual statement of accounts of his undertaking and of each separate business unit in such form and containing such particulars, as may be required under the licence and such statements shall be published in at least two daily newspapers having wide circulation in the area concerned.

Chapter VI

Reorganisation Of The Electricity Industry

23. Transfer of the Board's properties, powers, functions, duties and personnel.

(1) On and from the date specified in a transfer scheme, prepared and notified by the State Government, to give effect to the objects of this Act, hereinafter referred to as the appointed date in this Act, all properties, and all interests, rights and liabilities of the Board therein shall vest in the State Government. (2) The properties, interest, rights and liabilities vested in the State Government under sub-section (1), shall be re-vested by the State Government, in the Power Corporation and in a generating company in accordance with the transfer scheme so notified along with such other property, interest, rights and liabilities of the State Government, as may be specified in such scheme, on such terms and conditions as may be determined by the State Government. (3) In addition to the rights and power of the Power Corporation as specified in chapter IV of this Act, such of the rights and powers exercisable by the Board under the Electricity (Supply) Act, 1948, as the State Government may, by notification, specify shall be exercisable by the Power Corporation or the generating company, as the case may be, for the purposes of performing the functions and discharging the duties under the said Act of 1948. (4) The State Government may, after consultation with the generating company or the power corporation, hereinafter referred to in this section as transferor, may, require transferor to draw up a transfer scheme to vest in a person hereinafter referred to in this section as transferee, any of the functions including distribution function, property, interest, right or liability which may have been vested in the transferor under this section and notify the same as statutory transfer scheme under this Act. The transfer scheme to be notified under this sub-section shall have the same effect as the transfer scheme under sub-section (2). (5) Where, -(a) a transfer scheme involves the transfer of any property or right in favour of any person or undertaking not wholly owned by the State Government, the scheme shall give effect to the transfer only for fair value to be paid by the transferee to the transferor; (b) a transaction of any description is made in pursuance of a transfer scheme, it shall be binding on all persons including third parties, even if such persons have not consented to it. (6) A transfer scheme may, -(a) define the property, interest, rights and liabilities to be allocated -(i) by specifying the property, rights and liabilities; (ii) by referring to all the properties, interests, rights and liabilities comprising a specified part of the transferor's undertaking; or (iii) partly in one way and partly in the other; (b) provide that the rights or liabilities specified in the scheme shall be enforceable by or against the transferor or the transferee; (c) impose on the transferee an obligation to enter into such written agreements with or execute such other instruments in favour of any other transferee as may be rectified in the scheme; and (d) make such supplemental, incidental and consequential provisions as the transferor may consider appropriate including provisions specifying the order in which any transfer or transaction shall take effect. (7) The State Government, may provide in any of the transfer schemes framed under this section for the transfer of personnel to the Power Corporation or a company subsidiary to the Power Corporation or a generating Company, on the vesting of properties, rights and liabilities in the Power Corporation or a company subsidiary to the Power Corporation or a generating company, as a part of the undertakings transferred under this section and on such transfer the personnel shall hold office or service under the Power Corporation or a company subsidiary to it or a generating company, as the case may be, on terms and conditions that may be determined in accordance with the transfer scheme subject however to the following namely : (a) terms and conditions of service of the personnel shall not be less favourable to the terms and conditions which were applicable to them

immediately before the transfer;(b)the personnel shall have continuity of service in all respects; and(c)all benefits of service accrued before the transfer shall be fully recognised and taken into account for all purposes including the payment of any or all terminal benefits :Provided that, notwithstanding anything contained in any other law for the time being in force, and except as provided in the transfer scheme and in this Act, the transfer shall not confer any right on the personnel so transferred to any compensation or damages :Provided further that the posts in the Board of all the personnel whose services are to be so transferred shall stand abolished with effect from the date of transfer.Explanation. - For the purposes of this section and the transfer scheme, the expression "personnel" means all persons who on the appointed date are the employees of the Board and who under the transfer scheme are given the option to join service under the control of the transferee.(8)All debts and obligations incurred, all contracts entered into and all matters and things done by, with or for the Board, including all securities and guarantees given on behalf of the Board before the appointed date for a transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by, with or for the State Government or the concerned transferee and all suits or other legal proceedings instituted by or against the Board may be continued or instituted by or against the State Government, or the concerned transferee, as the case may be.(9)Where a licensee is required to vest any part of his undertaking in another licensee under sub-section (4), the licence of the transferee may be amended under Section 19 or revoked under Section 18.(10)The Board shall cease to be charged with, and shall not perform the functions and duties specified by notification issued under sub-section (3) with regard to transfers made on or after the date of the said notification.

Chapter VII

Tariffs

24. Licensee's revenues and tariffs.

(1)The licensee shall follow the procedure specified in the regulations in calculating the expected revenue from charges which he is permitted to recover and in determining tariffs.(2)Save as provided in sub-section (3), the Commission may specify in regulations the terms and conditions for the determination of the revenue and tariffs and, in doing so, the Commission shall be guided by the following, namely :-(a)the financial principles and their application provided in Sections 46, 57 and 57-A of the Electricity (Supply) Act, 1948 and in the Sixth Schedule thereto;(b)the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments, observance of the conditions of the licence and other matters which the Commission may consider appropriate for the purposes of this Act; and(c)the interest of the consumers;(3)Where the Commission departs from the factors specified in clauses (a) to (c) of sub-section (2), it shall record the reasons for such departure.(4)(a)Every licensee shall provide to the Commission at such time and in such manner as may be provided by the regulations, full details of its calculation for the ensuing financial year of the expected revenue from charges which it believes to have been permitted to recover and thereafter it shall also furnish such further information as the Commission may reasonably require to assess the licensee's calculation.(b)The licensee shall also publish, within three days of submission of his proposal for the tariff for the ensuing year, a notice in at least two

daily newspapers, widely circulating in the area of supply, outlining the proposed tariff and calling for objections from the interested persons and the State Government.(c)The Commission while determining the tariff shall also take into consideration the objections, if any, received, within one month from the date of last publication of the notice referred to in clause (b).(5)The Commission shall, within ninety days from the date on which the licensee has furnished the information under sub-section (4), give notice to the licensee that it, -(a)accepts the licensee's calculations; or(b)does not consider the licensee's calculations to be in accordance with the procedure given in the licence or considers that it is otherwise incorrect, specifying the reasons therefor and proposing modifications or alternative calculations.(6)The Commission may, after notifying its decision on the licensee's calculations as provided in sub-section (5), determine whether the tariff charged by the licensee is required to be modified, and if so, require the licensee to modify the tariff or any part thereof with immediate effect.(7)Each holder of a supply licence shall publish in at least two daily newspapers, widely circulating in the area of supply, and make available to the public on request, the tariff for the electricity within its area of supply and such tariff shall come into force after seven days from the last date of such publication, and any tariff implemented under this section, -(a)shall not show any preference or favour to any consumer of electricity, but may differentiate on the ground of the consumer's load factor or purpose of use or power factor, the consumer's total consumption of electricity during any specified period, or the time during which the supply is required;(b)shall be just and reasonable and be such as to promote economy and efficiency in the supply and consumption of electricity; and(c)shall accord with all other relevant provisions of this Act, and the conditions of licence.(8)Tariff shall not be determined more than once in a financial year except in respect of any changes expressly permissible under the terms of any fuel surcharge formula as may be provided by regulations. At least one hundred days before the proposed date for implementation of any tariff, the licensee shall provide details of the proposed tariff to the Commission, together with such further information as the Commission may require with a view to determining whether the proposed tariff is in accordance with sub-section (7). If the Commission considers that the proposed tariff of a licensee does not fulfill any one or more of the requirements of sub-Section (7), it shall, within ninety days of receipt of all the information which it required, and after consultation with the Electricity Advisory Committee constituted under Section 29, and the licensee, inform the licensee that the tariff is not acceptable to the Commission, and it shall provide to the licensee an alternative tariff which shall be implemented by the licensee. The licensee shall not implement any tariff unless it has been approved by the Commission.(9)Notwithstanding anything contained in Sections 57-A and 57-B of the Electricity (Supply) Act, 1948, no "Rating Committee" shall be constituted after the commencement of this Act, and the Commission shall ensure compliance of the terms and conditions of the licence by the licensee in relation to charges for the sale of electricity', both wholesale and retail, and for the connection to and use of, their assets or systems accordance with the provisions of this Act.Explanation. - For the purposes of this section, -(a)the word "licensee" shall include a person authorised to transmit, sell, distribute or supply electricity;(b)"the expected revenue from charges" means the revenue which a licensee is expected to recover from charges on supply forecast used in the determination of tariff under sub-section (4); and(c)"tariff means a schedule of standard prices or charges for specified services, which are applicable to all such specified services, provided to the category' or categories of customers specified in the tariff.

25. Financing of licensees and generating companies.

(1)The State Government may, from time to time, make subventions to any licensee for the purposes of sub-section (2) of Section 12 for such amounts as may be recommended by the Commission.(2)The State Government may, from time to time, advance loans to any licensee or generating company, which for the time being is wholly or substantially owned by the State Government, on such terms and conditions as the State Government, may determine.(3)The State Government may guarantee, in such manner as it thinks fit, the repayment of the principal or the payment of interest, or both, of any loan proposed to be raised by, or, the discharge of any other financial obligation of any licensee or generating company for the time being wholly or substantially owned by the State Government:Provided that the State Government shall, so long as such guarantee is in force, lay before the State Legislature every' year a statement of the guarantees, if any, given during the preceding year and an up-to-date account of the total sums, if any, paid out of the State revenue in each case by reason of any such guarantees or paid into the State revenue towards repayment of any money so paid out.(4)The State Government shall be entitled to inspect and verify the accounts of every licensee or generating company obtaining any benefits under sub-Section (1) or sub-Section (2) or sub-Section (3).

Chapter VIII

Commission s Power To Pass Orders And Enforce Directions

26. Orders by the Commission.

(1)Where it comes to the knowledge of the Commission from a complaint or otherwise that any of the terms and conditions of a licence has been contravened by the licensee or is likely to be contravened, it may by an order require the licensee to do, or to abstain from doing, such things as may be specified in such order for the purposes of securing compliance with the terms and conditions of the licence.(2)While making an order under this section, the Commission shall have regard to the following facts, namely :-(a)the extent to which the contravention referred to in sub-section (1) 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 any of the terms and conditions of the licence, before an order can be made; and(c)any other remedy available in respect of the contravention referred to in sub-section (1).(3)Before making an order under sub-section (1), the Commission shall give a notice to the licensee :-(a)stating that it proposes to make the order;(b)setting out, -(i)conditions or requirements, with which the proposed order is intended to secure compliance;(ii)the acts or omissions which, in its opinion, constitute contravention of any of the terms and conditions of the licence; and(iii)any other facts which, in its opinion, justify the making of the order; and(c)specifying the period not being less than thirty days from the date of the notice within which the licensee may make representation or objections to the proposed order.(4)A notice under sub-section (3) shall be published for general information, in at least one daily newspaper widely circulated in the area of supply.(5)Where the Commission is of the view that the purpose of making an order shall be defeated by delay in making the order, or the contingency of the circumstances so

require, it may make an interim order not inconsistent with the order proposed under sub-section (3) any time after seven days from the date of the said notice.(6)The Commission shall have the powers to give directions for the vesting of the management and control of any of the undertakings of the licensee with the assets, interests and rights of the undertaking with any person or authority pending an inquiry in the matter, if the Commission considers it necessary to make such direction after taking into account the objects and purposes of this Act, and the need to maintain continuous supply of electricity in an efficient and safe manner to the consumers ;Provided that no direction under this sub-section shall be issued without giving the licensee a reasonable opportunity of being heard.(7)The Commission may, after considering the representations or objections received and after affording the licensee an opportunity of being heard, make an order at any time after the expiry of the period referred to in clause (c) of sub-Section (3), if, -(a)the Commission has reasons to believe that the licensee has contravened or is contravening or may in all probability contravene any of the terms and conditions of the licence; and(b)the order appears to be necessary for securing compliance with the terms and conditions of the licence.(8)Where, after a notice has been issued under sub-section (3), the licensee has taken or has agreed to take all such steps as may be necessary for the implementation of the terms and conditions of the licence, it shall not be necessary for the Commission to make an order under this section.(9)An order under this section, -(a)shall take effect from such prospective date as may be specified in the order; and(b)may be revoked or modified at any time by the Commission after affording an opportunity of being heard to the licensee and all other such persons as are likely to be affected by such order.(10)An order under sub-section (1) or sub-section (5), shall be published in at least one daily newspaper widely circulated in the area of supply.

27. Enforcement of the orders and directions of the Commission.

(1)Without prejudice to the provisions of Section 45, every direction or order made by the Commission may be enforced by the Commission as if it were a decree or order made by a Civil Court and the Commission had all the powers to execute it.(2)The Commission shall have the powers to take such assistance from the police and other authorities as may be considered necessary for the enforcement of its orders and directions.

28. Fines, compensation and charges.

(1)The Commission shall have the powers to impose such fines and charges as may be provided by the regulations for contravention by a generating company, licensee or other person, of any of the provisions of this Act, or the rules and regulations made thereunder or the directions or orders of the Commission made from time to time. The fines that the Commission may impose may extend to rupees five lakh for contravention of any of the provisions of this Act, and in case of a continuing contravention, the Commission may impose a further fine which may extend to rupees twenty thousand for each day during which such contravention continues.(2)The Commission shall have the power to direct the person, who has contravened the provisions of this Act, to make payment of compensation to the person who has suffered loss or damage due to such contravention.(3)The fines and charges imposed and compensation ordered to be paid under this section shall be in addition to and not in derogation of any other liability' under Chapter XI or under any other law for the time

being in force.

Chapter IX

Electricity Advisory Committee And Consumer Protection

29. Electricity Advisory Committee.

(1)The Commission shall, in consultation with the State Government, constitute a committee to be known as the Electricity Advisory Committee which shall advise the Commission on policy matters and on any other matter relating to quality and continuity of service provided by licensees.(2)The Electricity Advisory Committee shall consist of such number of persons including ex-officio Chairperson and Members, being not less than fifteen and not more than twenty one, as the Commission may decide. The Commission shall appoint the members on the said Committee in such manner that there shall be at least one member representing each of the interests of licensees, generating companies operating in the State, commerce, industry, transport, agriculture, labour employed in the electricity supply industry and consumers of electricity.(3)The Chairperson and the other Members of the Commission shall respectively be ex-officio Chairperson and other Members of the Electricity Advisory Committee.(4)The Electricity Advisory Committee shall meet at least once in every three months.

30. Power of commission to make regulation.

(1)The Commission may, in consultation with the licensee and the Electricity Advisory Committee and any other person as it thinks fit, make regulations which may provide for all or any of the following matters, namely, -(a)The circumstances in which licensees are to inform customers of their rights;(b)standards of performance in relation to any duty arising out of the rights referred to in clause (a), and(c)the circumstances in which the licensees are to be exempted from any requirements of the regulations,and may make different provisions for different licensees.(2)Nothing in this Act, shall affect the rights and privileges of the consumers under any other law for the time being in force.

31. Electricity supply and overall performance standards.

(1)The Commission may, from time to time, in consultation with the licensees, the Electricity Advisory Committee and any other person as it thinks fit :-(a)determine such standards of overall performance in respect of electricity supply services and promotion of the efficient use of electricity by consumers, as in its opinion, are economical and ought to be achieved by such licensees, and different standards may be determined for different licensees; and(b)publish the standards so determined in such form and in such manner as the Commission may consider proper.

32. Information with respect to levels of performance.

(1) On or before such date in each year as may be specified by the Commission, every licensee shall furnish to the Commission the information in respect of the following, namely :-(a) the number of cases in which a penalty was imposed and the amount of the penalty; and (b) the level of performance achieved by the licensee for each standard determined under Section 31. (2) The Commission shall, at least once in every year, publish for general information, the information received by it under sub-Section (1) in at least two daily newspapers widely circulating in the area of supply of the licensees.

33. Restriction on disclosure of information.

(1) Save as otherwise provided in this Act, no unpublished information in respect of any person or business which, has been furnished to, or obtained by, the Commission under this Act, shall be disclosed by the Commission, without the consent of the concerned person or the person in charge of the business : Provided that such information may be disclosed to the Central Government, the State Government, Accountant General of the State or a person who requires it in connection with the discharge of his functions under the law relating to insolvency or in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings. (2) The restriction contained in sub-section (1) shall not apply to the information relating to tariff.

Chapter X

Arbitration And Appeals

34. Arbitration.

(1) Notwithstanding anything contained in the Arbitration and Conciliation Act, 1996, any dispute or differences arising between licensees or in respect of matters specified in sub-Section (1) of Section 30, shall be referred to the Commission for arbitration. The Commission may proceed to act as arbitrator or nominate an arbitrator to adjudicate and settle the dispute. The arbitrator shall follow such procedure as may be in accordance with the principles of natural justice. (2) Where the award is made by an arbitrator nominated by the Commission it shall be filed before the Commission and the Commission may make an 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) An award made under sub-section (1) or an order made under sub-Section (2) by the Commission, involving a valuation of over 50,000 rupees shall be appealable under this Act. (4) An award made under sub-section (1) or an order made under sub-section (2) by the Commission, shall be enforceable as if it were a decree of the Civil Court.

35. Appeals from the orders of the Electrical Inspector.

- Notwithstanding anything contained in the Indian Electricity Act, 1910, the Electricity (Supply)

Act, 1948, or any rules 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, within a period of thirty days from the date of communication of the order appealed from, to the Commission.

36. Appeals from the orders of the Commission.

- Any person aggrieved by an award or order of the Commission under this Act, (other than an award or order under Section 34 involving a valuation of up to 50,000 rupees only) may, within sixty days from the date of communication to him of the order of the Commission, prefer an appeal to the High Court: Provided that the High Court may, if it is satisfied that appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be preferred within a further period not exceeding sixty days.

Chapter XI

Offences And Penalties

37. Offences and Penalties.

(1) Whoever, -(a) in contravention of the provisions of this Act, the rules or the regulations made under this Act or of the provisions of the Indian Electricity Act, 1910 the Electricity (Supply) Act, 1948 or the rules made thereunder, engages in the business of transmission or supply of electricity, or (b) refuses or fails without reasonable cause to comply with, or give effect to, any direction, order or requirement made under this Act, shall be guilty of an offence under this Act. (2) Any person guilty of offence under clause (a) of sub-section (1), shall be punished with imprisonment which may extend to one year or with fine which may extend to rupees five lakh, or with both, and a further penalty which may extend to rupees twenty thousand for each day after the first during which the offence continues. (3) Any person guilty of an offence under clause (b) of sub-section (1) shall be punished with imprisonment which may extend to six months or with fine which may extend to rupees five lakhs, or with both, and a further penalty which may extend to rupees twenty thousand for each day after the first during which the offence continues.

38. Offences by Companies.

(1) If the person committing an offence under this Act, is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that no such person shall be liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence 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.

39. Composition of offences.

(1) The Commission may, for reasons to be recorded in writing, accept from an person who has committed or is reasonably suspected of having committed an offence punishable under this Act, a sum of money not exceeding rupees five lakh by way of composition fee and compound the offence. (2) On the composition of any offence under sub-Section (1) no proceeding shall be taken or continued against the person concerned in respect of such offence, and if any proceedings in respect of that offence have already been instituted against him in any Court, the composition shall have the effect of his acquittal.

40. Cognizance of offences.

(1) No Court shall take cognizance of any offence under this Act, except on a complaint in writing of an officer of the Commission authorised in this behalf by the Commission. (2) An offence under this Act shall be triable by a Court not lower in rank than that of the Chief Judicial Magistrate or Additional Chief Judicial Magistrate having jurisdiction.

41. Penalties and proceedings not to prejudice other actions.

- All proceedings and actions against a person under this Act, shall be in addition to and not in derogation of, any proceeding or action under any other law for the time being in force.

Chapter XII

Accounts And Audit

42. Grant by the State Government.

(1) The State Government shall after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of money as the State Government may think fit for being utilized for the purposes of this Act: Provided that expenditure in respect of salaries and allowances of the Chairperson and other members shall be charged on the Consolidated Fund of the State. (2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grant referred to in sub-section (1).

43. Accounts and Audit.

(1)The Commission shall maintain accounts and other records and shall cause to be prepared an annual statement of accounts in such form as may be prescribed.(2)The accounts of the Commission shall be audited by the Accountant General, Uttar Pradesh, or any officer authorised by him in this behalf.(3)The copies of annual statement of accounts of the Commission together with the audit report thereon shall be forwarded to the State Government.(4)A copy of the annual statement of accounts of the Commission together with the audit report thereon received by the State Government under sub-section (3) shall be laid before each House of the State Legislature.

44. Annual Report of the Commission.

(1)The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and copies thereof shall be forwarded to the State Government.(2)The State Government shall cause the annual report to be laid, as soon as may be, after it is received, before each House of the State Legislature.

Chapter XIII

Miscellaneous

45. Amount recoverable as land revenue.

- Any amount payable under this Act, except an amount payable under Chapter X may, on a certificate of the Secretary of the Commission, be recovered as arrears of land revenue.

46. Application of fines and charges.

- The Commission while imposing any fine or charges under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the cost of the proceedings to a party.

47. Protection of action taken in good faith.

- No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or rules or regulations or orders made thereunder.

48. Bar of jurisdiction.

- No order or proceeding made under this Act shall be appealable except as provided in this Act and no Civil Court shall have jurisdiction in respect of any matter which the Commission or any other authority is empowered by or under this Act to decide.

49. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, by reasons of anything contained in the Act, or any other enactment for the time being in force, the State Government may, as the occasion requires, by order direct that this Act shall, during a period not extending beyond twelve months after the date of such order have effect subject to such adaptations, whether by way of modification, addition or omission, as it may deem to be necessary and expedient and any such order may be made with retrospective effect from any date not earlier than the commencement of this Act. (2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act. (3) The provisions of sub-section (1) of Section 23-A of the Uttar Pradesh General Clauses Act, 1904 shall apply to an order made under sub-section (1) as they apply in respect of rules made by the State Government under any Uttar Pradesh Act.

50. 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 and the Commission shall be deemed to be a Civil Court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

51. Chairperson, Members and staff of the Commission to be public servants.

- The Chairperson, members and other employees of the Commission shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

52. Power to make regulations.

(1) The Commission may make regulations not inconsistent with this Act or the rules made thereunder for the efficient performance of its functions under this Act. (2) In particular, and without prejudice to the generality of the provisions of sub-section (1) such regulations may provide for all or any of the following matters, namely :- (a) the administration of the affairs of the Commission in the exercise of its functions; (b) determination of the functions to be assigned to licensees and other persons involved in the generation, purchase, transmission, distribution or supply of electricity, the manner in which such functions shall be discharged and the procedures to be adopted and enforced in regard to the operation and maintenance of power system and electric supply lines; (c) the procedure and the conditions for the grant of licences, the particulars and documents to be made available by the persons applying for licences, the standards and general conditions subject to which the licence shall be granted, the grant of exemptions from the requirement of a licence, the revocation and amendment of licences and the effect thereof and all matters related thereto; (d) the duties, powers, rights and obligations of licensees; (e) the particulars to be furnished, and the form and manner for furnishing information, particulars, documents, accounts and books by the persons involved in the generation, transmission, distribution, supply or use of electricity; (f) the terms and conditions and the procedure for determination of revenues and tariffs; (g) the determination of the

standards of performance of the persons involved in the generation, transmission, distribution or supply of electricity in the State;(h)the fees and charges payable by the licensee and the consumer of electricity;(i)the amount of fines and penalties to be imposed for violation of the provisions of this Act including the method and manner of imposition of fines and penalties and collection of the same;(j)any other matter which is required to be, or may be, provided by regulations.

53. Power to make rules.

(1)The State Government may, by notification, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the power contained in sub-section (1), such rules may provide for all or any of the following matters, namely :-(a)the procedure to be adopted by the Selection Committee for selection and appointment of the Chairperson and the Members;(b)the form and manner in which the accounts of the Commission shall be maintained; and(c)any other matter which is required to be, or may be, prescribed by rules.

Chapter XIV

Effect On Existing Central Law

54. Effect of this Act on the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948.

(1)Except as provided in Section 55, the provisions of this Act, notwithstanding that the same are inconsistent with or contrary to the provisions of the Indian Electricity Act, 1910, or the Electricity (Supply) Act, 1948 shall prevail in the manner and to the extent provided in sub-section (3).(2)Subject to sub-section (1), all matters in the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, with which the Board has been concerned or dealing with, shall be subject to the following :-(a)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 or regulations made under the Act;(b)upon the issue of notifications in terms of Section 23 of this 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 sub-sections (1) and (2), upon the establishment of the Commission, the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 shall, in so far as this State is concerned, be read subject to the modifications, and reservations provided in this Act including the following :-(i)All references to the State Electricity Board in the Indian Electricity Act, 1910 in so far as this 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 or regulations framed under this Act and wherever it relates to general policy matters, the State Government.(ii)The provisions of Sections 3 to 11, 28, 36(2), 49-A, 50, 51 and 52 of the Indian Electricity Act, 1910, to the extent this Act has made specific provisions, shall not apply in the State.(iii)The provisions of all other sections of the Indian Electricity Act, 1910 shall apply except that :-(a)the terms "licence", or "licensee" shall have the meaning as defined in this Act and the licences issued under the said Act of 1948 shall be construed as having been issued under this Act;(b)the reference to the sections of the Indian Electricity Act, 1910 and the Electricity

(Supply) Act, 1948 in the provisions of the Electricity (Supply) Act, 1948, shall be taken as references to the corresponding provisions of this Act to the extent modified by this Act;(c)the reference to arbitration in this Act, except where it is by the Central Electricity Authority, shall be taken as reference to the proceedings under Section 34 of this Act and the arbitration procedure prescribed under the Indian Electricity Act, 1910 shall not apply;(iv)The Schedule to the Indian Electricity Act, 1910 shall be applicable only with reference to the provisions of this Act wherein the applications of the Schedule are specified and not otherwise.(v)All reference to the State Electricity Board in the Electricity (Supply) Act, 1948, in so far as this State is concerned shall be read as references to the Commission or companies or body corporate or person or authority as provided in this Act or any rules or regulations framed under this Act and wherever it relates to general policy matter, the State Government.(vi)In respect of matters provided in Sections 5 to 15, 16, 17, 18, 19, 20, 23 to 26, 27, 37, 40 to 43, 44, 45 to 54, 56 to 69, 72, 75 and 76 to 83 of the Electricity (Supply) Act, 1948, to the extent this Act has made specific provisions, the provisions of the Electricity (Supply) Act, 1948, shall not apply in the State.(vii)The provisions of all other sections of the Electricity (Supply) Act, 1948, shall apply except that :-(a)the terms "licence", or "licensee" shall have the meaning as defined under this Act and the licences issued under the said Act of 1948 shall be construed as having been issued under this Act;(b)the reference to the sections of the Indian Electricity Act, 1910 and Electricity (Supply) Act, 1948, in the provisions of the Electricity (Supply) Act, 1948, shall be taken as reference to the corresponding provisions of this Act to the extent modified by this Act;(c)the reference to arbitration in these provisions except where it is by the Central Electricity Authority shall be taken as reference to the proceedings under Section 34 of this Act and the arbitration procedure prescribed under the Electricity (Supply) Act, 1948, shall not apply.(viii)The provisions of Sections 72 and 73 of the Electricity (Supply) Act, 1948, shall be restricted to generating companies and references to the State Electricity Board in these sections shall stand omitted.(ix)The Schedules to the Electricity (Supply) Act, 1948, shall be applicable only with reference to the provisions of this Act wherein the application of the Schedules are specified and not otherwise.

55. Savings.

(1)Notwithstanding anything contained in this Act, the powers, rights and functions of the Regional Electricity Board, the Central Electricity Authority, the Central Government and authorities other than the State Electricity Board and the State Government under the Indian Electricity Act. 1910 or the Electricity (Supply) Act, 1948, or rules made thereunder shall remain unaffected and shall continue to be in force.(2)Nothing contained in this Act shall, in relation to the inter-State transmission of electricity, apply to the Power Grid Corporation of India Limited, or to licensees, generating companies, undertakings or other bodies owned or controlled by the Central Government.(3)All actions taken, by the State Government or the Commission under the Central Act prior to the commencement of this Act shall be valid and enforceable notwithstanding that they are inconsistent with or contrary to the provisions of this Act.NotificationEnglish Translation of OOrja Anubhag-1, Notification No. 150/P-I/2000, dated 14.01.2000, published in the U.P. Gazette, Extraordinary, Part 4, Section (Kha), dated 14.01.2000. - In exercise of the powers under sub-section (3) of Section 23 of the Uttar Pradesh Electricity Reforms Act, 1999 (U.P. Act No. 24 of 1999), the Governor is pleased to specify that the rights and powers exercisable by the Uttar Pradesh

State Electricity Board under Sections 21, 22, 42 and sub-section (2) of 53 and Section 74 of the Electricity (Supply) Act, 1948 shall be exercisable by the Uttar Pradesh Power Corporation with effect from the date of publication of this notification for the purpose of performing the functions and discharging the duties under the said Act of 1948.