

# **The Orissa Electricity Reform (Transfer of Transmission and Related Activities) Scheme, 2005**

ODISHA

India

## **The Orissa Electricity Reform (Transfer of Transmission and Related Activities) Scheme, 2005**

### **Rule**

### **THE-ORISSA-ELECTRICITY-REFORM-TRANSFER-OF-TRANSMISSION of 2005**

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The Orissa Electricity Reform (Transfer of Transmission and Related Activities) Scheme, 2005 Published vide Notification No. 6892, dated 9th June, 2005, Orissa Gazette Extraordinary No. 984, dated 20.6.2005 No. 6892. - In exercise of powers conferred under Sections 39, 131, 133 and 134 of the Electricity Act, 2003, read with Sections 23 and 24 of the Orissa Electricity Reform Act, 1995, the State Government hereby makes the following Transfer Scheme for the purpose of transfer and vesting of the Transmission Undertaking of the GRID Corporation of Orissa Limited and for determining the terms and conditions on which such transfer and vesting shall take effect:

#### **1. Short title, extent and commencement.**

(1) This Scheme shall be called the Orissa Electricity Reform (Transfer of Transmission and Related Activities) Scheme, 2005. (2) This Scheme shall extend to be whole of the State of Orissa and also to Assets, Liabilities, Proceedings and Personnel of the GRID Corporation of Orissa Limited situated outside the State. (3) This Scheme shall come into force from the 1st April 2005.

#### **2. Definitions.**

(1) In this Scheme unless the context otherwise requires, - (a) "Assets" includes the transmission lines, 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, licences, consents, authorities, registrations, liberties, patents, trade

marks, privileges, easements, advantages, benefits and approvals, contracts, deeds, schemes, bonds and interest of whatever nature;(b)"Central Act" means the Electricity Act, 2003;(c)"Commission" means the Orissa Electricity Regulatory Commission recognised under Section 3 of the State Act and Section 82 of the Central Act;(d)"Date of the transfer" means the date to be notified by the State Government as the effective date of the transfer in accordance with this Scheme;(e)"Liabilities" include all liabilities, debts, duties, obligations and other outgoing including contingent liabilities, statutory liabilities and Government levies of whatever nature;(f)"Personnel" means workmen, employees, staff and officers of the Transferor by whatever name called and includes trainees and those on deputation from the Transferor to other organisations or institutions;(g)"Proceeding" includes all proceedings of whatever nature, suits, appeals, complaints, petitions, applications, conciliatory, arbitration whether civil or criminal or otherwise;(h)"Schedule" means the Schedules appended to this Scheme;(i)"State" means the State of Orissa;(j)"State Act" means the Orissa Electricity Reform Act, 1995 in so far its provisions are not inconsistent with the provisions of the Central Act;(k)"State Government" means the Government of Orissa;(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 GRID Corporation of Orissa Limited, a wholly owned undertaking of the State Government and a company incorporated under the Companies Act, 1956 with Registration No. 15-03960 of 1995-96;(n)"Transferee" means the Orissa Power Transmission Corporation Limited, a wholly owned undertaking of the State Government and a company incorporated under the Companies Act, 1956 with Registration No. 15-07553 of 2003-04;(o)"Transmission Undertaking" means the undertaking related to the activities of Transmission, State Transmission Utility and State Load Despatch 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 and shall in the case of the Transferee include the Personnel;(2)Words and expressions used in this Scheme and defined in the Central Act but not specifically defined in this Scheme shall have the same meaning as assigned in the Central Act and or 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 Schedule 'A'; and(b)Trading Undertaking, namely other than those covered by Sub-clause (a) above as more fully described in Schedule 'B'.

### **4. Transfer of Transmission Undertaking.**

(1)Subject to the terms and conditions contained in this Scheme the Transmission Undertaking as set out in Schedule 'A' shall stand transferred to and vest in 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 Schedule 'A' shall be at the book value as on the Date of Transfer and shall be adjusted to reflect the actual value on finalisation of 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, arrangements, agreements and other instruments or 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 limitations, specified in this Scheme or in the Schedules.(6)If the assets classified as a part of the Transmission Undertaking are subject to any charge, lien, encumbrance or other arrangements favour of third parties for any financial assistance or obligation taken or assumed by the Transferor 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 A and the opening Balance Sheet of the Transferor shall stand restructured as specified in Part II of the Schedule B.(8)In consideration of the transfer of the Transmission Undertaking from the Transferor to the Transferee as per this Scheme -(a)the Transferee shall issue shares in favour of the State Government at par value as specified in Part II of Schedule A; and(b)the shareholding and other rights of the State Government in the Transferor shall stand restructured as specified in Part II of Schedule B.(9)The transfer and vesting of the Transmission Undertaking in terms of this Scheme shall take effect immediately on the Date of the Transfer notified for the purpose, notwithstanding that the opening Balance Sheets of the Transferee and the Transferor as specified in Part II of Schedule A and Schedule B are subject to finalisation of accounts of the Transferor as on the Date of the Transfer, audit and adjustment of the actual values,

## **5. Provisions applicable to Transfer of Personnel.**

(1)All the Personnel of the Transferor shall stand transferred from the Transferor to the Transferee on the Date of the Transfer as a part of the Transmission Undertaking without any further act, deed or thing to be done by the State Government, the Transferor, the Transferee or the Personnel.(2)The transfer of Personnel to the Transferee shall be subject to the terms and conditions contained in Sections 133 and 134 of the Central Act and Sections 24 and 25 of the State Act.(3)The transfer of Personnel to the Transferee shall be subject to any orders that may be passed by the Courts or Tribunals in any of the proceedings pending on the date of the transfer.(4)Subject to the provisions of this Scheme, the Personnel transferred to the Transferee shall cease to be in the service of the Transferor as on and from the date of the Transfer and shall not assert or claim any benefit of service under the Transferor from the date of the Transfer.(5)Subject to the provisions of the Central Act, State Act and this Scheme, the Transferee may frame regulations governing the conditions of service of Personnel transferred to the Transferee, provided that such conditions shall not in any way be less favourable or inferior to those applicable to them immediately before the Date of the Transfer and till such time new regulations are framed, the existing service conditions of the

Transferor shall mutatis mutandis apply.(6)In respect of all statutory and other Schemes and Terminal Benefits including the provident fund, gratuity fund, pension and any other superannuation fund or any other special fund created or existing for the benefit of the Personnel and the existing pensioner the following shall apply :(i)the existing trusts established shall be for the benefits of the Personnel transferred;(ii)the Transferee shall stand substituted for the Transferor for all intent and purposes;(iii)all the rights, powers and obligations of the Transferor in relation to any and all such matters shall become those of the Transferee; and(iv)the services of the Personnel shall be treated as having been continuous for the purpose of this Sub-clause (6).For the purpose of this sub-clause the term -(i)"Existing Pensioner" means all the persons eligible for the pension as on the date of the transfer from the Transferor and shall include members of the Personnel as per the applicable Scheme; and(ii)"Terminal Benefits" means the gratuity, pension and other terminal benefits to the Personnel and existing Pensioner.(7)All proceedings including disciplinary proceedings pending against the Personnel prior to the Date of the Transfer from the Transferor to the Transferee or which may relate to misconduct, lapses or acts of commission or omission committed before the date of the transfer, shall not abate and may be continued by the Transferee.(8)The Personnel transferred to the Transferee, shall be deemed to have entered into an agreement with the Transferee to repay loans, advances and other sums due or otherwise perform obligations undertaken by them to the Transferor which remain outstanding as on the Date of the Transfer, on the same terms and conditions as contained in the arrangement with the Transferor.(9)The employees of the State Government working under the Transferor, shall not be governed by this scheme except that such employees shall continue to work on deputation in the Transferee under the orders of the State Government on the same terms and conditions as was in the Transferor till such time the services are required by the Transferee or till the expiry of the period of deputation whichever is earlier.

## **6. 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.

## **7. 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 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.

## **8. Transfer of functions of the Transferee.**

- The State Government may, at such time and in such manner and on such terms and conditions as it considers appropriate, issue an order to transfer the Transmission Undertaking of the Transferee and vest the same in another company or companies or in the alternative transfer the functions of the State Transmission Utility and/or the State Load Despatch Centre from the Transferee to another company or body corporate, as the case may be, as per the provisions of Section 39 of the Central Act.

## **9. Classification and transfer provisions.**

(1)The classification and transfer of Undertaking including Personnel under this Scheme shall be provisional and shall be final upon the expiry of 12 months from the date of the transfer (As appended Part II to Schedule 'A' and Schedule 'B' of this notification).(2)At any time within a period of 12 months from the date of the transfer, the State Government may by order to be notified amend, vary, modify, add, delete or otherwise change terms and conditions of the transfer in such manner and on such terms and conditions as the State Government may consider appropriate.(3)On the expiry of the period of 12 months from the date of the transfer and subject to any directions, if any, given by the State Government, the transfer of Undertaking, properties, interests, rights, liabilities, Personnel and proceedings made in accordance with the Scheme shall become final.

## **10. Rights of the Transferee.**

(1)The Transferee shall be deemed to be a licensee under Section 14 of the Central Act for undertaking the business to transmit electricity in the State.(2)The Transferee is hereby notified as the State Transmission Utility and shall also discharge the State Load Despatch functions till further orders of the State Government from the date of the Transfer.(3)The Transferor shall not undertake the functions of the State Transmission Utility and the State Load Despatch Centre from the date of the Transfer.

## **11. Obligations of the Transferee and the Transferor.**

(1)The Transferee shall be responsible to duly discharge the obligations contained in the Bulk Supply Agreements listed in Schedule C in so far as they relate to the transmission of electricity and matters connected therewith such as the provisions dealing with operating arrangement, 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 the State Act.(3)The Transferee shall charge for the transmission of energy as per the tariff, terms and conditions determined by the Commission from time to time and till further orders of the Commission or any agreements being finalised between the Transferee and others, the transmission capacity shall be made available by the Transferee to the Transferor and the Transferor shall make payment for the capacity so made

available :Provided that from the date of the transfer and till the tariff for the transmission of electricity by the Transferee is separately determined by the Commission, the Transferee shall charge the Transferor rate per Kwhr as fixed by OERC.(4)The Transmission and other charges payable by the Transferor to the Transferee shall be duly secured by a first charge over the receivables of the Transferor in favour of the Transferee to ensure that the transmission services are available for transmission of electricity to the distribution licensees in the State without interruption and to maintain the supply of electricity to public in the State.

## **12. Miscellaneous.**

(1)The Transfers under this Scheme shall operate and be effective on the Date of the Transfer notified for the purpose 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.

## **'A'**

Transmission UndertakingPart-IUnless otherwise specified by the State Government the Transmission Undertaking shall comprise of all the assets, liabilities, personnel and proceedings concerning Transmission consisting of -I. Transmission Assets - (1) All transmission lines with towers of voltage 66 KV, 132 KV, 220 KV and 400 KV on double circuit/single circuit/single circuit on double circuit towers 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 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 utilised and operated by or associated with the assets referred to under Sub-clauses (1) and (2) above, alongwith the residential colonies and properties like shops situated in the colonies.II. State Load Despatch Centre Assets - Assets belonging to the Unified State Load Despatch Centre at Mancheswar and Sub-load Despatch Centres at Bhubaneswar, Meramundali, Jayanagar and Budhipadar with the land, buildings, plant and equipments and also other assets of the nature mentioned in Sub-clauses (1), (2) and (3) of

Clause I above associated or related to the State load and Sub-load Despatch Centres.III. Personnel - All the Personnel working with the Transferor on the Date of the Transfer.IV. Liabilities and Others - 1. Contracts, agreements, interest and arrangements.

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

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

**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 A.**

**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.**

V. Notwithstanding that the transmission system and lines vest in the Transferee, any Distribution and Retail supply or 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 31st March 2005 of OPTCL(Transferee){||-||| (in Rs.)|-| SOURCES OF FUNDS|||-| Shareholders' Fund|||-| Share Capital| ...| 5,11,936,561|-| Reserves and Surplus| ...| 2,800,975,394|-||| 3,312,911,955|-| Loan Funds|||-| Secured Loans| ...| 4,527,356,000|-| Unsecured Loans| ...| 12,268,012,094|-||| 16,795,368,094|-| Other Funds|||-| Consumers' Security Deposit| ...| 83,334|-||| 20,108,363,383|-| APPLICATION OF FUNDS|||-| Fixed Assets|||-| Gross Block| ...| 17,153,314,847|-| Less : Accumulated Depreciation| ...| 7,385,312,322|-| Net Block| ...| 9,768,002,525|-| Capital Work in Progress| ...| 9,994,002,166|-| Investments| ...| 1,13,400,000|-| Investment in New Company|||-| Current Assets, Loans and Advances|||-| Stores and Spares| ...| 4,93,429,708|-| Sundry Debtors| ...| 4,394,524,137|-| Cash and Bank Balances| ...| 9,07,857,555|-| Other Current Assets| ...| 8,87,683,744|-| Loans and Advances| ...| 3,32,684,984|-||| 7,016,180,128|-| Less|||-| Current Liabilities and Provision|||-| Current Liabilities| ...| 3,758,786,137|-| Provisions| ...| 3,024,435,299|-| Net Current Assets| ...| 2,32,958,692|-| Miscellaneous Expenditure to the extent not written off or adjusted| ...|-| Profit and loss Account| ...|-||| 20,108,363,383|}

## 'B'

The transferor will undertake Bulk Purchase and Bulk Supply activities but shall not undertake any transmission and related activities. Part-II Provisional Balance Sheet as on 31st March 2005 of GRIDCO(Transferor){||-||| (in Rs.)|-| SOURCES OF FUNDS|||-| Shareholders' Fund|||-| Share Capital| ...| 4,929,814,000|-| Reserves and Surplus| ...| 2,140,382,150|-||| 7,070,196,150|-| Loan Funds|||-| Secured Loans| ...| 5,893,298,774|-| Unsecured Loans| ...| 25,452,569,046|-||| 31,345,867,820|-| Other Funds|||-| Consumers' Security Deposit| ...|-||| 38,416,063,970|-| APPLICATION OF FUNDS|||-| Fixed Assets| ...| ...|-| Gross Block| ...| ...|-| Less : Accumulated Depreciation| ...| ...|-| Net Block| ...| ...|-| Capital Work in Progress| ...| ...|-| Investments| ...| 11,213,765,171|-| Investment in New Company| ...| 511,936,561|-| Current Assets, Loans and Advances| ...| ...|-| Stores and Spares| ...|-| Sundry Debtors| ...| 13,648,121,145|-| Cash and Bank Balances| ...| 10,000,000|-| Other Current Assets| ...| 5,097,425,420|-| Loans and Advances| ...| 1,670,561,759|-||| 20,426,108,324|-| Less|||-| Current Liabilities and Provision|||-| Current Liabilities| ...| 5,660,035,621|-| Provisions| ...|-| Net Current Assets| ...| 14,766,072,704|-| Miscellaneous Expenditure to the extent not written off of adjusted| ...| 8,691,467|-| Profit and Loss Account| ...| 11,915,598,067|-||| 38,416,063,970|}

## 'C'

Details of the Bulk Supply Agreements

**1. Bulk Supply Agreements between GRIDCO and WESCO, GRIDCO and NESCO, GRIDCO and SOUTHCO, dated the 24th May, 1999.**

**2. Bulk Supply Agreements between GRIDCO and CESCO, dated the 18th September, 1999.**