

# **Rajasthan State Electricity Distribution Management Responsibility Act, 2016**

RAJASTHAN

India

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### **Act 7 of 2016**

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Rajasthan State Electricity Distribution Management Responsibility Act, 2016(Act No. 7 of 2016)Statement of Object and Reasons. - The State Owned Distribution Licensees are having huge financial losses which is affecting their operational and financial viability. Therefore, it is considered appropriate to provide for responsibilities of the State Government and State Distribution Licensees to ensure financial and operational turnaround and long-term sustainability of the State-owned Distribution Licensee to enable adequate electricity supply to consumers through financial restructuring support on sustainable basis in the areas of long term planning, corporate governance, regulatory compliances, and laying down of policy directives and various other measures.Since the Rajasthan Legislative Assembly was not in session and circumstances existed which rendered it necessary for the Governor of Rajasthan to take immediate action, he, therefore, promulgated the Rajasthan State Electricity Distribution Management Responsibility Ordinance, 2016 (Ordinance No. 1 of 2016) on 7th January, 2016, which was published in Rajasthan Gazette, Part IV(B), Extraordinary, dated 11th January, 2016.The Bill seeks to replace the aforesaid Ordinance.Hence the Bill.]Statement of Objects and Reasons. - Section 4 provides for accounting of energy distribution at transformer level. This Requirement has been revised under Ujwal Discom Assurance Yojana (UDAY). Therefore, this requirement is proposed to be removed by amending clause (c) of Section 4. There are similar provisions relating to setting up of State Load despatch centres in the Electricity Act, 2003 as Provided vide clause (g) of Section 4. Accordingly, clause (g) of Section 4 is proposed to be deleted.The purpose of constituting a financing vehicle under Section 6 of the Act was to raise funds at lower cost of borrowing. However, it has now come to light that this will not be tax efficient. Therefore, provisions related to sub-section (2) of Section 5 and Section 6 are proposed to be deleted.The Bill seeks to achieve the aforesaid objectives.Hence the Bill.[Dated 9.4.2016][Received the assent of the Governor on the 8th day of April, 2016]An Act to provide for responsibilities of the State Government and State Distribution Licensees to ensure financial and operational turnaround and long-term sustainability of the State-owned Distribution Licensee to enable adequate electricity

supply to consumers through financial restructuring, support on sustainable basis in the areas of long term planning, corporate governance, regulatory compliances, and laying down of policy directives and various other measures connected therewith or incidental thereto. Be it enacted by the Rajasthan State Legislature in the Sixty-Seventh Year of the Republic of India, as follows: -

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

(1) This Act may be called the Rajasthan State Electricity Distribution Management Responsibility Act, 2016. (2) It extends to the whole of the State of Rajasthan. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

## **2. Definitions.**

(1) In this Act, unless the context otherwise requires, - (a) "action plan" means the action plan referred to in clause (b) of sub-section (1) of Section 3 of this Act; (b) "aggregate technical and commercial loss", in relation to a given period, means the difference between the energy input into the distribution system and the energy realized for the period wherein the energy realized shall be equal to the product of energy sold for which bills have been issued to consumers and collection efficiency for the period, expressed as a percentage of the energy input; (c) "Authority" means the Central Electricity Authority referred to in sub-section (1) of Section 70 of the Electricity Act; (d) "Board" shall have the meaning assigned to it under the Electricity Act; (e) "collection efficiency" means the ratio of total revenue realized against sale of energy to the total amount billed for sale of energy for the same period; (f) "Electricity Act" means the Electricity Act, 2003 (Central Act No. 36 of 2003) as in force from time to time; (g) "financial restructuring plan" means the plan for financial restructuring of the Distribution Licensees as approved by the State Government from time to time in accordance with the provisions of the Financial Restructuring Scheme notified by the Central Government in terms of Office Memorandum No. 20/11/2012-APDRP dated 05th October, 2012; (h) [\*\*\*.] [Deleted by Act No. 36 of 2017, dated 9.11.2017.] (i) "key performance indicators" means the performance standards laid down by the State Commission, if any, and/or in the Financial Restructuring Plan, if any, and till such time the key performance indicators are laid down as above, the key performance indicators as specified in the Schedule to this Act; (j) "nodal bank" means the bank nominated by the Department of Financial Services, Ministry of Finance, Government of India, for the purposes of financial restructuring of the State Distribution Licensee and for the purposes of coordination with the State Government, State Distribution Licensee and the participating Lenders; (k) "notification" means notification published in the Official Gazette. (l) "prescribed" means prescribed by rules made by the State Government under this Act; (m) "rules" means rules made under the Act; (n) "State Commission" means Rajasthan Electricity Regulatory Commission constituted under Section 82 of the Electricity Act; (o) "State Distribution Licensee" means a government company vested with the function of distribution of electricity; (p) "true up petition" means a petition filed by the distribution licensee for previous years expenses and revenue based on audited accounts vis-a-vis the approved forecast and categorization of variation in performance as those caused by controllable and uncontrollable factors; (2) Words and expressions used but not defined in this Act and defined in the Electricity Act shall have the meanings assigned to them in that Act.

### **3. State Electricity Distribution Management Statement to be laid before the State Legislature.**

(1)The State Government shall lay, in each financial year during the Budget Session, before the State Legislature, a State Electricity Distribution Management Statement on the measures taken by the State Government in relation to electricity distribution in the State including, in the areas of long-term planning, consumer protection, regulatory compliance, corporate governance, financial restructuring of the State Distribution Licensee, so as to bring about the operational and financial viability of the State Distribution Licensee, on sustainable basis and in particular it shall comprise of the following: -(a)State Electricity Distribution Strategy Statement mentioning the targets for the key performance indicators and laying down the policies and strategies of the State Government for achieving the targets set for the key performance indicators, for the ensuing financial year, relating to the conditions or provisions referred to in Section 4, Section 5, Section 6, Section 7 and Section 9 and description of other activities which have potential implications on financial and operational turnaround of the State Distribution licensees;(b)time bound action plan, on long-term, medium term and short-term basis including, -(i)activities to achieve targets for key performance indicators;(ii)monitoring mechanism to ensure achievements of targets for key performance indicators;(iii)feedback loop for in/ mid-course corrections; and(iv)such other actions as may be required to meet the obligations cast under this Act on the State Government to achieve the objectives of this Act:Provided that the Action plan shall contain steps, including disciplinary action against defaulting officers, for eliminating/ minimizing deviation in actual performance and targets for key performance indicators.(c)State Electricity Distribution Performance Statement laying down an assessment of compliance, by the State Electricity Distribution Licensees or the State Government, as the case may be, with the conditions or provisions referred to in Section 4, Section 5, Section 6, Section 7 and Section 9 and vis-a-vis the key performance indicators.(2)The State Electricity Distribution Management Statement shall be in such form as may be prescribed.(3)The State Electricity Distribution Management Statement shall be without prejudice to any consequences to which the State Distribution Licensee may be liable under the Electricity Act, in particular, the timeline referred to in Section 55 of the said Act and any orders and directions of the authorities in relation to any of the requirements under the said Act:Provided that nothing in this section shall imply relaxation of any requirement under the Electricity Act.

### **4. Long term Planning for sustainability of State Distribution Licensee.**

- The State Government shall undertake appropriate measures to provide for the following matters, namely: -(a)that the State Distribution Licensees estimates the demand and availability of electricity on long term basis and, contracts, with the approval of the State Commission, through long/ medium/ short term agreements for purchase of power to meet the demand:(b)that the State Distribution Licensees prepares, with the approval of the State Commission, a time bound road map for aggregate technical and commercial loss reduction:Provided that the road map shall be prepared within six months from the date of coming into force of this Act:(c)that the State Distribution Licensees undertake energy accounting and auditing of all 33 Kilo Volt feeders and 11 Kilo Volt feeders along with consumer indexing and time bound metering of each category of consumers and in doing so the Distribution Licensee considers latest developments in metering technologies. [\*\*\*]

[Deleted 'Distribution Transformer level energy auditing will be carried out in Restructured Accelerated Power Development and Reforms Programme towns within two years' by Act No. 36 of 2017, dated 9.11.2017.]: Provided that the road map in relation to energy accounting and auditing and time bound metering of all consumers shall be prepared within six months from the date of coming into force of this Act and approval for the same shall be sought from the State Commission: Provided further that the consumer indexing shall be completed within one year from the date of coming into force of this Act: Provided also that the State Distribution Licensees shall [the State Government,] [Inserted by Act No. 36 of 2017, dated 9.11.2017.] the Authority and the State Commission half yearly progress reports with respect to energy accounting, auditing, metering and feeder wise consumer indexing; (d) that if the State Government requires the grant of any subsidy to any consumer or class of consumers, the State Government shall declare the quantum of subsidy in advance categorically stating the consumer or the class of consumers to whom it is to be provided; (e) creation of annual budgetary provision and also timely release of subsidies, if committed, in accordance with Section 65 of the Electricity Act: (f) that there are no arrears of electricity charges for electricity supplied to various departments and institutions of the State Government on or before the date of coming into force of this Act and in case of failure to do so it shall be adjusted against the budgetary grant; (g) [\*\*\*.] [Deleted by Act No. 36 of 2017, dated 9.11.2017.] (h) the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger or reconstruction or arrangements in relation to the State Distribution Licensees which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, public private partnership, encourage competition and protect consumer interests; and (i) such other matters as may be prescribed.

## 5. Financial Restructuring Plan for State Distribution Licensee.

- [\*\*\*] [Deleted by Act No. 36 of 2017, dated 9.11.2017.] (2) [\*\*\*.] [Deleted by Act No. 36 of 2017, dated 9.11.2017.]

## 6. [ [Deleted by Act No. 36 of 2017, dated 9.11.2017.]

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6. Constitution and functions of the financing vehicle and Government support.- (1) As soon as may be after commencement of this Act, the State Government shall establish the Rajasthan Rajya Vidyut Vitaran Vitt Nigam Ltd. under the provisions of the Companies Act, 2013 (Central Act No. 18 of 2013) to act as a financing vehicle for the purposes of this Act and to facilitate raising of capital and/or lower cost borrowings for the State Distribution Licensees. (2) The State Government shall provide following financial support to the financing vehicle for even financial year for a period upto financial year 2021-22 starting from financial year 2015-16, namely: -(a) an amount equal to electricity duty collected by the State; (b) an amount equal to compounding charges collected under the Electricity Act; and (c) such other amounts as may be granted by the State Government from time to time. (3) The financing vehicle may raise funds from the market for the purposes of this Act with the approval of the State Government. (4) The State Government may guarantee the repayment of funds raised under sub-section (3). (5) Subject to the general or specific directions of the State

Government, the financing vehicle shall provide financial support to the state distribution licensees for the purposes of this Act.

## **7. Accounting measures.**

(1)The State Government shall ensure that the State Distribution Licensees establish, within six months from the date of coming into force of this Act, an Empowered Committee to ensure identification, provisioning and write offs of receivables and bad and doubtful debts in the books of accounts of the State Distribution Licensee:Provided that the State Distribution Licensees shall prepare accounting policies which shall provide for its financial management and management of its receivables and provisioning for bad and doubtful debts containing timeline for writing them off.(2)The State Government shall ensure that the Distribution Licensees complete physical verification and prepare fixed assets register as per accounting standards prescribed under the Companies Act, 2013 (Central Act No. 18 of 2013) within two years of the enactment of this Act.(3)The State Government shall, by notification in the Official Gazette, establish an Empowered Committee for each State Distribution Licensee. The Empowered Committee shall consist of the following namely: -

- (i) Secretary in charge of the Energy Department of the State - Chairperson;
- (ii) Managing Director of the State Distribution and Licensee - Member-Secretary;
- (iii) Director (Finance) of the State Distribution Licensee concerned - Member

Explanation. - For the purpose of this sub-section, "Secretary in charge" means the Secretary in charge of the Department and includes an Additional Chief Secretary and Principal Secretary when he is in charge of a department.

## **8. Corporate Governance.**

(1)Subject to the provisions of the Companies Act, 2013(Central Act No.18 of 2013) the State Government shall ensure that the Board of Directors of the State Distribution Licensee has an optimum combination of functional, nominee and independent directors:Provided that the number of functional directors (including Chairman and Managing Director/Managing Director) shall not exceed fifty percent of the actual strength of the Board:Provided further that the number of nominee directors appointed by the State Government shall be restricted to a maximum of two:Provided also that the number of independent directors shall be as per the provisions of the Companies Act, 2013 (Central Act No. 18 of 2013).Explanation. - 'independent director' shall have the same meaning as defined in sub-section (5) of Section 149 of the Companies Act, 2013 (Central Act No.18 of 2013).(2)The State Government shall lay down a code of conduct in line with the Guidelines on Corporate Governance for Public Sector Enterprises, as notified by the Department of Public Enterprises, Government of India, for all Board Members and senior management of the State Distribution Licensee, which shall include but shall not be limited to a clear delineation of the roles and division of responsibilities between the Board and the management.

## **9. Regulatory compliance and tariff filings.**

(1)The State Government shall, twice in a year, evaluate the status of compliance by the State Distribution Licensees with the Electricity Act and rules and regulations made thereunder as also regulatory directives and policies as well as steps taken to rectify instances of non-compliances since the last such evaluation.(2)The State Government shall ensure regular and timely filing of true-up petitions, aggregate revenue requirement and tariff petitions, and petitions for adjustments on account of fuel and cost of power purchased by the State Distribution Licensees, as per the orders or regulations specified by the State Commission.(3)The State Government shall ensure that the State Distribution Licensees shall take necessary steps to liquidate the regulatory assets within a period of five years from the date of their existence or within such period stipulated, if any, by the State Commission whichever is earlier.

## **10. Memorandum of Understanding.**

(1)The State Government and the State Distribution Licensees, shall, within a period not exceeding six months from the date of coming into force of this Act, enter into a memorandum of understanding for setting targets for key performance indicators and performance evaluation of the State Distribution Licensees for each financial year:Provided that the memorandum of understanding shall be aimed at providing greater autonomy to the State Distribution Licensees to perform and comply with its legal and regulatory obligations including but not limited to -(a)timely filing of aggregate revenue requirement and tariff petitions and adjustments on account of fuel and cost of power purchased by the State Distribution Licensee;(b)prudent investment and capital expenditure planning; and(c)financial management, to enable adequate and affordable electricity supply to consumers:Provided further that the memorandum of understanding shall provide for performance milestones for all the financial and operational parameters prescribed under this Act and State Electricity Distribution Management Statement.(2)The State Distribution Licensees shall submit every six months, a report to the State Government, on its operational and financial performance as required under various provisions of this Act:Provided that the report shall lay down the strategy and plan for achieving the performance milestones and actual performance against these performance milestones as prescribed by the State Government:Provided further that the State Distribution Licensee shall indicate revised strategies and plans in case they fail to achieve the agreed milestones.

## **11. Monitoring Mechanism.**

- The State Government shall, by notification in the Official Gazette, establish a Committee for effective implementation of this Act, consisting of the following, namely: -

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|-------------------------------------------------------------------|---------------------|
| (a) Chief Secretary of the State                                  | - Chairperson;      |
| (b) Secretary in charge of Finance Department                     | - Member;           |
| (c) Secretary in charge of Energy Department                      | - Member-Secretary; |
| (d) Managing Director of each of the State Distribution Licensees | - Member;           |

- (e) Managing Director, Rajasthan Vidyut Utpadan Nigam Limited - Member;
- (f) Managing Director, Rajasthan Vidyut Prasaran Nigam Limited - Member;
- (g) Representatives of the Nodal Bank and three major lenders of the State Distribution Licensees - Member;
- (h) Representative from the Authority - Member.

Explanation. - For the purpose of this sub-section, "Secretary in charge" means the Secretary in charge of the Department and includes an Additional Chief Secretary and Principal Secretary when he is in charge of a department.

## **12. Measures to enforce compliance.**

(1) The Committee established under Section 11 shall review, every quarter, compliance of the obligations cast on the State Government and State Distribution Licensees under this Act and recommend remedial measures, if any. (2) Where owing to unforeseen circumstances, there is a deviation in fulfilling the obligations cast on the State Government and State Distribution Licensees under this Act, the State Government shall make a statement before the State Legislature explaining - (i) the reasons for deviation in fulfilling the obligations cast on the State Government and State Distribution Licensees under this Act; (ii) whether such deviation is substantial and has potential implications on financial and operational turnaround of the State Distribution Licensees; and (iii) the remedial measures that the State Government proposes to take on the recommendations made by the Committee established under Section 11.

## **13. Powers of State Government to make rules.**

(1) The State Government may, within six months from the date of coming into force of this Act, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: - (i) the form of the State Electricity Distribution Management Statement referred to in sub-section (2) of Section 3; (ii) such other matters for long term planning under clause (i) of Section 4; (iii) any other matter which is required to be, or may be, prescribed. (3) All rules made under this section shall be laid, as soon as may be, after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which they are so laid or of the session immediately following/ the House of the State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or amendment shall be without prejudice to the validity of anything previously done thereunder.

## **14. Protection of action taken in good faith.**

- No suit, prosecution or other legal proceeding shall lie against the State Government or State Distribution Licensee or any officer of the State Government or State Distribution Licensee, for

anything which is in good faith done or intended to be done under this Act.

## **15. Application of other laws not barred.**

- The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

## **16. Power to remove difficulties.**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the Official Gazette, do anything, not inconsistent with the provisions of this Act, which appears to it to be expedient for removing the difficulty: Provided that no such order under this section shall be made after the expiry of a period of one year from the date of commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be, after it is so made, before the House of the State Legislature.

## **17. Act not to apply in certain cases.**

- Nothing in this Act shall apply to any State Distribution Licensee that is not owned or controlled by the State Government or to a successor entity of the State Distribution Licensee that is not owned or controlled by the State Government.

## **18. Repeal and savings.**

(1) The Rajasthan State Electricity Distribution Management Responsibility Ordinance, 2016 (Ordinance No. 1 of 2016) is hereby repealed. (2) Notwithstanding such repeal, all things done, actions taken or orders made under the principal Act as amended by the said Ordinance shall be deemed to have been done, taken or made under the principal Act as amended by this Act.

## **Schedule**

[See Section 2(i)] Key Performance Indicators The State Electricity Distribution Management Statement as provided in Section 3 of this Act shall include but not be limited to, the following Key Performance Indicators: -

### **1. Aggregate technical and commercial loss induction trajectory:**

(a) Aggregate technical and commercial losses to be reduced at least at the rate 3% per year if losses are above 30%; (b) Aggregate technical and commercial losses to be reduced at least at the rate 1.5% per year if losses are in the range of 20% to 30%; (c) Aggregate technical and commercial losses to be reduced at least at the rate 1% per year if losses are in the range of 15% to 20%; (d) Aggregate technical and commercial losses to be reduced at least at the rate 0.5% per year if losses are in the range of 10% to 15%.



**2. Energy accounting and energy auditing of all 33 Kilo Volt feeders and 11 Kilo Volt feeders - to be achieved within one year.**

**3. Percentage of Feeder metering and consumer indexing - to be maintained at level of 100%, as measured at the end of each quarter. A feeder shall be considered to be non-metered only if it is non-metered for a period as may be notified by the State Government provided that it shall not exceed two months. Similarly, a consumer shall be considered to be non-indexed only if he is non-indexed for a period as may be notified by the State Government provided that it shall not exceed two billing cycles - to be achieved within one year.**

**4. Percentage of consumers billed on actual meter reading - to be achieved at the level of 98% within two years. Meter will be considered as defective if it remains defective for period as may be notified by the State Government provided that it shall not exceed two billing cycles.**

**5. Collection efficiency - to be maintained above 99% in each year.**

**6. Recover of past receivables - Past receivables to be reduced at the rate 10% per year till the normative level allowed by the Commission in the working capital computation.**

**7. Timely preparation and audit of annual accounts (Annual accounts to be prepared within due date of 30th September and realigned with the current accounting standards.**

**8. Corporate Governance:**

(a)Number of functional directors. - As per guidelines for Corporate Governance for Central Public Sector Undertakings.(b)Number of independent Directors. - As per guidelines for Corporate Governance for Central Public Sector Undertakings.