

THE ELECTRICITY (SUPPLY) AMENDMENT
ACT, 1956

Act No. 101 OF 1956

An Act further to amend the Electricity (Supply) Act, 1948.

[30th December, 1956]

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Electricity (Supply) Amend- Short title.
ment Act, 1956.

(2) The provisions of this Act except the provisions of sub-clause (ii) of clause (b) of section 27 and clauses (c) to (l) of that section shall come into force at once; the provisions of sub-clause (ii) of clause (b) of section 27 and clauses (c) to (l) of that section shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 1 of the Electricity (Supply) Act, 1948 (hereinafter Amendment
referred to as the principal Act), for sub-section (3), the following of section 1.
sub-section shall be substituted, namely:—

“(3) This section and sections 2, 3, 4, 57, 57A, 57B, 58, 76, 77, 77A, 77B, 77C, 82 and 83 and the provisions of the Sixth and the Seventh Schedules shall come into force at once.”

3. In section 2 of the principal Act, for clause (8), the following Amendment
clause shall be substituted, namely:— of section 2.

“(8) ‘maximum demand’ in relation to any period shall, unless otherwise provided in any general or special order of the State Government, mean twice the largest number of kilowatt-hours or kilo-volt-ampere-hours supplied and taken during any consecutive thirty minutes in that period;”

4. In section 5 of the principal Act, for sub-section (4), the follow- Amendment
ing sub-section shall be substituted, namely:— of section 5.

“(4) Of the members—

(a) one shall be a person who has experience of, and has shown capacity in, commercial matters and administration;

(b) one shall be an electrical engineer with wide experience; and

¹ 1st April, 1957, for provisions of sub-clause (ii) of clause (b), and clauses (c) to (l) of s. 27, vide Notification No. S.R.O. 661, dated 21st February, 1957, see Gazette of India, 1957, Pt. II, Sec. 3, p. 387.

(c) one shall be a person who has experience of accounting and financial matters in a public utility undertaking, preferably an electricity supply undertaking.”

Amendment
of section 10.

5. Section 10 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered, for clause (e), the following clause shall be substituted, namely:—

“(e) in the opinion of the State Government—

(i) has refused to act; or

(ii) has become incapable of acting; or

(iii) has so abused his position as a member as to render his continuance on the Board detrimental to the interests of the general public; or

(iv) is otherwise unfit to continue as a member; or”;

(b) after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

“(2) The State Government may suspend any member pending an inquiry against him.

(3) No order of removal shall be made under this section unless the member concerned has been given an opportunity to submit his explanation to the State Government, and when such order is passed, the seat of the member removed shall become vacant and another member may appointed under section 5 to fill up the vacancy.

(4) A member who has been removed shall not be eligible for re-appointment as member or in any other capacity to the Board.

(5) If the Board fails to carry out its functions, or refuses or fails to follow the directions issued by the State Government under this Act, the State Government may remove the Chairman and the members of the Board and appoint a Chairman and members in their places.”.

Insertion of
new section
10A.

6. After section 10 of the principal Act, the following section shall be inserted, namely:—

Power of
State Gov-
ernment to
declare cer-
tain trans-
actions void.

“10A. (1) The State Government may declare void any transaction in connection with which a member has been removed under sub-clause (iii) of clause (e) of sub-section (1) of section 10 after considering the report on the facts of the case made to it by a District Judge nominated by it in this behalf.

(2) A District Judge nominated under sub-section (1) shall, before making his report under that sub-section to the State Government in relation to any transaction, give all parties interested in the transaction a reasonable opportunity of being heard.

9 of 1872.

(3) Where a transaction is declared void under this section, it shall not be enforceable by any party to the transaction but the provisions of section 65 of the Indian Contract Act, 1872, shall, so far as may be, apply to such transaction as they apply to an agreement which is discovered to be void or a contract which becomes void.

(4) The decision of the State Government declaring any transaction void under this section shall be final and shall not be called in question in any court."

7. To section 15 of the principal Act, the following proviso shall be added, namely:— Amendment of section 15.

"Provided that the appointment of the Secretary shall be subject to the approval of the State Government."

8. In section 16 of the principal Act,—

Amendment of section 16.

(a) for the words 'State Electricity Council' wherever they occur, the words 'State Electricity Consultative Council' shall be substituted;

(b) in sub-section (2), for the words 'and labour employed in the electricity supply industry', the words 'labour employed in the electricity supply industry and consumers of electricity' shall be substituted.

9. In section 23 of the principal Act, in sub-section (2), the words 'on terms similar to the terms offered by the Board' shall be omitted. Amendment of section 23.

10. In section 26 of the principal Act,—

Amendment of section 26.

(a) in the proviso, for the words and figures 'Clauses I to XII', the words and figures 'Clauses I to V, Clause VII and Clauses IX to XII' shall be substituted;

(b) after the existing proviso, the following proviso shall be inserted, namely:—

"Provided further that the provisions of Clause VI of the Schedule to that Act shall apply to the Board in respect of that area only where distribution mains have been laid by the Board and the supply of energy through any of them has commenced."

Amendment of section 28. 11. In section 28 of the principal Act, in the existing proviso, after the word 'Provided', the word 'further' shall be inserted and before the said proviso, the following proviso shall be inserted, namely:—

“Provided that no scheme or a part of a scheme which is estimated to result in a capital expenditure exceeding fifteen lakhs of rupees shall be prepared by the Board without prior consultation with the State Government.”

Amendment of section 29. 12. In section 29 of the principal Act,—

(a) in sub-section (1), for the words and figures 'The Board shall cause every scheme prepared under section 28', the words and figures 'Unless otherwise directed by the State Government or the Authority, the Board shall send a copy of every scheme prepared under section 28 to the State Government and to the Authority and shall cause every such scheme' shall be substituted;

(b) in the first proviso to sub-section (2), for the words 'fifty lakhs of rupees', the words 'one crore of rupees' shall be substituted.

Amendment of section 55. 13. Section 55 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) for the word 'directions', the words 'reasonable directions' shall be substituted;

(ii) for the words 'the station', the words 'his undertaking or any part thereof' shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) If any dispute arises between the Board and the licensee as to whether any directions given under sub-section (1) are reasonable or not, it shall be referred to the Authority whose decision thereon shall be final.”

Substitution of new sections for section 57. 14. For section 57 of the principal Act, the following sections shall be substituted, namely:—

Licensee's charges to consumers.

“57. The provisions of the Sixth Schedule and the Seventh Schedule shall be deemed to be incorporated in the licence of every licensee, not being a local authority—

(a) in the case of a licence granted before the commencement of this Act, from the date of the commencement of the licensee's next succeeding year of account; and

(b) in the case of a licence granted after the commencement of this Act, from the date of the commencement of supply,

and as from the said date, the licensee shall comply with the provisions of the said Schedules accordingly, and any provisions of the Indian Electricity Act, 1910, and the licence granted to him thereunder and of any other law, agreement or instrument applicable to the licensee shall, in relation to the licensee, be void and of no effect in so far as they are inconsistent with the provisions of section 57A and the said Schedules.

9 of 1910.

57A. (1) Where the provisions of the Sixth Schedule and the Seventh Schedule are under section 57 deemed to be incorporated in the licence of any licensee, the following provisions shall have effect in relation to the said licensee, namely:—

Rating committees.

(a) the Board or where no Board is constituted under this Act, the State Government—

(i) may, if satisfied that the licensee has failed to comply with any of the provisions of the Sixth Schedule; and

(ii) shall, when so requested by the licensee in writing,

constitute a rating committee to examine the licensee's charges for the supply of electricity and to make recommendations in that behalf to the State Government:

Provided that where it is proposed to constitute a rating committee under this section on account of the failure of the licensee to comply with any provisions of the Sixth Schedule, such committee shall not be constituted unless the licensee has been given a notice in writing of thirty clear days (which period, if the circumstances so warrant may be extended from time to time) to show cause against the action proposed to be taken:

Provided further that no such rating committee shall be constituted if the alleged failure of the licensee to comply with any provisions of the Sixth Schedule raises any dispute or difference as to the interpretation of the said provisions or any matter arising therefrom and such difference or dispute has been referred by the licensee to the arbitration of the Authority under paragraph XVI of that Schedule before the notice referred to in the preceding proviso was given or is so referred within the period of the said notice:

Provided further that no rating committee shall be constituted in respect of a licensee within three years from the date on which such a committee has reported in respect of that licensee, unless the State Government declares that in its opinion circumstances have arisen rendering the orders passed on the recommendations of the previous rating committee unfair to the licensee or any of his consumers;

(b) a rating committee under clause (a) shall,—

(i) where such committee is to be constituted under sub-clause (i) of that clause, be constituted not later than three months after the expiry of the notice referred to in the first proviso to that clause;

(ii) where such committee is to be constituted at the request of the licensee, be constituted within three months of the date of such request;

(c) a rating committee shall, after giving the licensee a reasonable opportunity of being heard and after taking into consideration the efficiency of operation and management and the potentialities of his undertaking, report to the State Government within three months from the date of its constitution, making recommendations with reasons therefor, regarding the charges for electricity which the licensee may make to any class or classes of consumers so, however, that the recommendations are not likely to prevent the licensee from earning clear profit sufficient when taken with the sums available in the Tariffs and Dividends Control Reserve to afford him a reasonable return as defined in the Sixth Schedule during his next succeeding three years of account:

Provided that the State Government may, if it so deems necessary, extend the said period of three months by a further period not exceeding three months within which the report of the rating committee may be submitted to it;

(d) within one month after the receipt of the report under clause (c), the State Government shall cause the report to be published in the Official Gazette, and may at the same time make an order in accordance therewith fixing the licensee's charges for the supply of electricity with effect from such date, not earlier than two months or later than three months, after the date of publication of the report as may be specified in the order and the licensee shall forthwith give effect to such order;

(e) the charges for the supply of electricity fixed under clause (d) shall be in operation for such period not exceeding three years as the State Government may specify in the order:

Provided that nothing in this clause shall be deemed to prevent a licensee from reducing at any time any charges so fixed.

(2) Where a Board is constituted under this Act, the rating committee shall consist of three members as follows:—

(i) one member shall be nominated by the State Government who shall be a person who is or has been a judicial officer not below the rank of a District Judge;

(ii) one member shall be a member of the Board having experience of accounting and financial matters; and

(iii) one member shall be a representative co-opted jointly by the two members referred to in clauses (i) and (ii) from an association of licensees of which the licensee concerned is or is eligible to be a member, and if there is no such association, from such Chamber of Commerce or similar body as the State Government may direct.

(3) Where no Board is constituted under this Act, the rating committee shall consist of five members of whom three members shall be nominated by the State Government, one member shall be nominated by the licensee and one member shall be nominated by the association referred to in sub-section (2) or if there is no such association, by such Chamber of Commerce or similar body as the State Government may direct.

(4) Of the three members to be nominated by the State Government under sub-section (3), one shall be a person who is or has been a judicial officer not below the rank of a District Judge; one shall be a registered accountant within the meaning of the Chartered Accountants Act, 1949, having at least ten years' experience and one shall be a person with administrative experience.

(5) The judicial member of a rating committee shall be its chairman.

(6) A rating committee may act notwithstanding that one of its members is absent.

(7) The expenditure incurred in connection with a rating committee as certified by it shall be payable,—

(a) where the rating committee was constituted at the request of a licensee, or where the rating committee has held that the licensee has failed to comply with any of the provisions of the Sixth Schedule, by the licensee from that part of the clear profit to which the licensee is entitled under that Schedule;

(b) in any other case, by the Board or the State Government, as the case may be.

(8) Where a licensee makes default in paying any amount which he is liable to pay under sub-section (7), such amount may, on application to a civil court having jurisdiction, be recovered from the licensee by the distress and sale of any movable property of the licensee.

Power of rating committee to call for information, etc.

57B. A rating committee constituted under section 57A may, for the purpose of discharging its functions, by notice in writing, require the licensee to give such information, or to furnish such accounts and other documents in his possession or power, as may be specified in the notice.”

Amendment of section 58.

15. To section 58 of the principal Act, the following proviso shall be added, namely:—

“Provided that the Board shall not issue any directions under this section except after obtaining the prior approval of the State Government.”

Amendment of section 60.

16. In section 60 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) All schemes sanctioned by the State Government and transferred to the Board shall, for the purposes of this Act be deemed to have been sanctioned by the Board.”

Amendment of section 67.

17. In section 67 of the principal Act,—

(a) after the words ‘management expenses’, the words ‘and after provision has been made for the payment of taxes on its income and profits’ shall be inserted;

(b) in clause (vi), the words ‘repayment of principal and’ shall be omitted;

(c) after clause (vii), the following clause shall be inserted, namely:—

“(viii) the write-down of amounts in respect of intangible assets to the extent to which they are actually appropriated in any year for the purpose in the books of the Board;”;

(d) in clause (viii), after the words 'not exceeding', the words 'one-half of' shall be inserted;

(e) for clause (x), the following clause shall be substituted, namely:—

“(x) of the balance remaining, one-half in the reduction of tariffs or for such other purposes beneficial to electrical development in the State, as the Board may think fit, and the remaining one-half to the Consolidated Fund of the State.”

18. For sections 68 and 69 of the principal Act, the following sections shall be substituted, namely:—

Substitution of new sections for sections 68 and 69.

“68. (1) The Board shall create a depreciation reserve and, as far as compliance with the provisions of section 67 makes it practicable, shall, at the end of every year, credit to such reserve from its revenue, such amount as would if made annually throughout the prescribed period of assets specified in the Table appended to the Seventh Schedule and accumulated at compound interest at the rate of three per centum per annum produce by the end of the prescribed period an amount equal to 90 per centum of the original cost of the assets after taking into account the sums already written off and set aside in the books of the Board.

Depreciation reserve.

(2) The amount to be credited every year to the depreciation reserve under sub-section (1) shall consist of the incremental deposit plus interest on the accumulated balance in the reserve:

Provided that the contribution in respect of any asset to the depreciation reserve under this section shall cease at the end of the prescribed period as defined in the Sixth Schedule or when the asset ceases to be used by the Board, whichever is earlier:

Provided further that if in any year it is not practicable fully to comply with the provisions of this section, the amount by which the sums actually credited falls short of the amount required under this section in respect of that year, shall be carried forward and together with compound interest thereon at the aforesaid rate, shall be credited to the said reserve as soon as it is found possible in accordance with section 67, so to do:

Provided further that the accumulations in the depreciation reserve may be invested in the business of the Board, or utilised for repayment of principal not guaranteed under section 66 or for repayment of sums paid by the State Government under guarantees under that section.

Accounts and
audit.

69. (1) The Board shall cause proper accounts and other records in relation thereto to be kept, including a proper system of internal check and prepare an annual statement of accounts, including the profit and loss account and the balance sheet in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Board shall be audited by the Comptroller and Auditor-General of India or by such person as he may authorise in this behalf and any expenditure incurred by him in connection with such audit shall be payable by the Board to the Comptroller and Auditor-General of India.

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

(4) The accounts of the Board as certified by the Comptroller and Auditor-General of India or any other person authorised by him in this behalf together with the audit report thereon shall be forwarded annually to the State Government and that Government may issue such instructions to the Board in respect thereof as it deems fit and the Board shall comply with such instructions.

(5) The State Government shall—

(a) cause the accounts of the Board together with the audit report thereon forwarded to it under sub-section (4) to be laid annually before the State Legislature; and

(b) cause the accounts of the Board to be published in the prescribed manner and make available copies thereof on sale at a reasonable price.”

Amendment
of section 75. 19. In section 75 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) Without prejudice to the provisions of sub-section (1), the Board shall, as soon as may be after the end of each financial year, prepare and submit to the State Government in such form as may be prescribed a report giving an account of its activities during the previous financial year and the report shall

also give an account of the activities, if any, which are likely to be undertaken by the Board in the next financial year; and the State Government shall cause every such report to be laid before the State Legislature as soon as may be after it is received by the State Government."

20. In section 76 of the principal Act, after sub-section (3), the following sub-sections shall be inserted, namely:— Amendment of section 76.

"(3A) Where any question or matter is referred to the Authority for arbitration under this section,—

(a) the Authority shall be deemed to enter on the reference for the purposes of paragraph 3 of the First Schedule to the Arbitration Act, 1940, on the date on which the parties appear before the Authority for the first time:

roof 1940

Provided that where the parties or any of them fail to appear before the Authority on the date fixed for the first hearing of the case and the Authority decides either on that date or any subsequent date to proceed with the case in the absence of the parties or any of them, as the case may be, the Authority shall be deemed to enter on the reference on the date of such decision;

(b) the Authority may, having regard to the circumstances of each case, charge such arbitration fee as it may deem reasonable.

(3B) All fees and charges due to the Authority in respect of any arbitration and award and all costs and charges for filing the award incurred by the Authority may, if they are not paid by the person from whom they are due within a period of one month from the date of a notice given to him by the Authority in this behalf, be recovered from him in the same manner as an arrear of land revenue."

21. For section 77 of the principal Act, the following sections shall be substituted, namely:— Substitution of new sections for section 77.

"77. If any licensee or other person, not being the Board, fails without reasonable excuse to comply with, or give effect to, any direction, order or requirement made under any of the following provisions, namely:— Penalties.

(a) section 4; or

(b) section 55; or

(c) clause (d) of sub-section (1) of section 57A; or

(d) section 57B; or

- (e) section 58; or
- (f) sub-section (3) of section 75;

he shall be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence with a further fine which may extend to fifty rupees for each day after the first during which the offence continues.

Source from which fines may be paid.

77A. All fines payable by a licensee under this Act or under any other law for the time being in force in respect of any offence committed by the licensee, shall be payable by him from that part of the clear profit to which he is entitled under the Sixth Schedule.

Offences by companies.

77B. (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all 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 with the consent or connivance of, or is attributable to any neglect on the part of, any director or 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 any 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.

Cognizance of offences.

77C. No court shall take cognizance of an offence under section 77, except on the complaint of,—

(a) in the case of an offence relating to section 4, by an officer of the Authority authorised in that behalf by the Authority;

(b) in the case of any other offence,—

(i) where a Board is constituted, by an officer of the Board authorised by the Board in that behalf;

(ii) where no Board is constituted, by an officer of the State Government authorised by the State Government in that behalf.”.

22. In section 78 of the principal Act, in sub-section (2),—

Amendment of section 78.

(i) in clause (a), for the words ‘the term of office’, the words ‘the powers of the Chairman and the term of office’ shall be substituted;

(ii) in clause (b), for the words ‘State Electricity Councils’, the words ‘State Electricity Consultative Councils’ shall be substituted.

23. After section 78 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 78A.

“78A. (1) In the discharge of its functions, the Board shall be guided by such directions on questions of policy as may be given to it by the State Government.

Directions by the State Government.

(2) If any dispute arises between the Board and the State Government as to whether a question is or is not a question of policy, it shall be referred to the Authority whose decision thereon shall be final.”.

24. In sub-paragraph (2) of paragraph I of the First Schedule to the principal Act, for the words beginning with ‘shall accept’ and ending with ‘on terms similar to the terms offered by the Board’, the following shall be substituted, namely:—

Amendment of First Schedule.

“may accept the loan from the Board on the terms and conditions offered or may raise a loan from other sources or employ his own funds for the purpose of such extension.”.

25. In sub-clause (i) of clause (b) of paragraph V of the Third Schedule to the principal Act, after the words ‘the station’, the words ‘or the entire undertaking’ shall be inserted.

Amendment of Third Schedule.

26. In the Fifth Schedule to the principal Act,—

Amendment of Fifth Schedule.

(a) in paragraph I,—

(i) in clause (b), for the words and brackets ‘(including super-tax payable by the licensee as a company, but excluding other taxes on profits)’, the words and brackets ‘(including all taxes payable on income and profits)’ shall be substituted;

(ii) in clause (e), for the words and brackets beginning with 'interest on money' and ending with 'attributable to lines', the following words and brackets shall be substituted, namely:—

“interest on the depreciated cost of the lines shown in the books of the undertaking and properly attributable to the lines (whether defrayed out of capital or revenue) and interest on such working capital as is properly attributable to the lines.”;

(b) in paragraph III, in sub-clause (b), for the words and figure '5 per centum per annum', the following words shall be substituted, namely:—

“the Reserve Bank Rate ruling at the beginning of the year referred to in paragraph I plus two per centum”.

Amendment
of Sixth
Schedule.

27. In the Sixth Schedule to the principal Act,—

(a) for the words, brackets and figures '(See section 57)', the words, brackets, figures and letter '(See sections 57 and 57A)' shall be substituted;

(b) in paragraph I,—

(i) for the words 'The licensee shall so adjust his rates for the sale of electricity by periodical revision that his clear profit in any year shall not as far as possible exceed the amount of reasonable return', the following shall be substituted, namely:—

“Notwithstanding anything contained in the Indian Electricity Act, 1910, and the provisions in the licence of a licensee, the licensee shall so adjust his rates for the sale of electricity whether by enhancing or reducing them that his clear profit in any year of account shall not, as far as possible, exceed the amount of reasonable return.”;

(ii) for the proviso, the following provisos shall be substituted, namely:—

“Provided that such rates shall not be enhanced more than once in any year of account:

Provided further that the licensee shall not be deemed to have failed so to adjust his rates if the clear profit in any year of account has not exceeded the amount of reasonable return by fifteen per centum of the amount of reasonable return:

Provided further that the licensee shall not enhance the rates for the supply of electricity until after the expiry of a notice in writing of not less than sixty clear days of his intention to so enhance the rates, given by him to the State Government and to the Board:

Provided further that if the rates of supply fixed in pursuance of the recommendations of a rating committee constituted under section 57A are lower than those notified by the licensee under and in accordance with the preceding proviso, the licensee shall refund to the consumers the excess amount recovered by him from them.”;

(c) in sub-paragraph (1) of paragraph II, for the words and figures “7½ per cent.,” the words ‘five per cent.’ shall be substituted;

(d) paragraph V shall be re-numbered as sub-paragraph (1) thereof and after sub-paragraph (1) as so re-numbered, the following sub-paragraph shall be inserted, namely:—

“(2) On the purchase of the undertaking, the balance remaining in the Contingencies Reserve shall be handed over to the purchaser and maintained as such Contingencies Reserve.”;

(e) after paragraph V, the following paragraph shall be inserted, namely:—

“VA. (1) There shall be created a reserve to be called the Development Reserve to which shall be appropriated in respect of each accounting year a sum equal to the amount of income-tax and super-tax calculated at rates applicable during the assessment year for which the accounting year of the licensee is the previous year, on the amount of development rebate to which the licensee is entitled for the accounting year under clause (vib) of sub-section (2) of section 10 of the Indian Income-tax Act, 1922:

Provided that if in any accounting year, the clear profit [excluding the special appropriation to be made under item (va) of clause (c), of sub-paragraph (2) of paragraph XVII] together with the accumulations, if any, in the Tariffs and Dividends Control Reserve less the sum calculated as aforesaid falls short of the reasonable return, the sum to be appropriated to the Development Reserve in respect of such accounting year shall be reduced by the amount of the short-fall.

(2) Any sum to be appropriated towards the Development Reserve in respect of any accounting year under subparagraph (1), may be appropriated in annual instalments spread over a period not exceeding five years from the commencement of that accounting year.

(3) The Development Reserve shall be available only for investment in the business of electricity supply of the undertaking.

(4) On the purchase of the undertaking, the Development Reserve shall be handed over to the purchaser and maintained as such Development Reserve.”;

(f) in paragraph VI—

(i) in sub-paragraph (2), after the words ‘electricity supply of the undertaking or’, the words ‘where it is not practicable to so invest them’ shall be inserted;

(ii) after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

“(3) Any sums invested in investments approved by the State Government under sub-paragraph (2) shall, as soon as practicable, be utilised in the business of electricity supply of the undertaking and if such sums are not so utilised they shall not form part of the capital base under clause (d) of sub-paragraph (1) of paragraph XVII.”;

(g) in paragraph VII, for sub-paragraphs (2) and (3), the following sub-paragraphs shall be substituted, namely:—

“(2) The written down cost of such fixed asset shall be charged against the Contingencies Reserve:

Provided that where the accumulations in the Contingencies Reserve are not sufficient to permit the charging of the entire written down cost of the asset, the excess amount may, be included in the capital base for the purpose of clause (a) of sub-paragraph (1) of paragraph XVII.

(3) The amount for which any such fixed asset is sold or the amount of its scrap value when actually realised shall be credited to the Contingencies Reserve.”;

(h) in paragraph IX, after the words ‘the excess’, the words ‘after deducting all taxes payable thereon’ shall be inserted;

(i) for paragraph X, the following paragraph shall be substituted, namely:—

“X. Except with the previous consent of the State Government, no sums shall be carried forward to a reserve

and no dividends in excess of 3 per cent. shall be paid on share capital and no other distribution of profits shall be made to the shareholders in respect of any year of account so long as any of the following sums remain to be written off in the books of the undertaking, namely:—

(i) normal depreciation due for that year of account calculated in accordance with the provisions of paragraph VI;

(ii) equated instalment in respect of arrears of depreciation, computed in accordance with the provisions of paragraph XI, for that year of account;

(iii) arrears, if any, in respect of normal depreciation referred to in clause (i), accumulated after the date of application of the provisions of the Sixth Schedule to the licensee;

(iv) arrears, if any, in respect of equated instalments referred to in clause (ii).";

(j) in paragraph XIII,—

(a) in sub-paragraph (1), for the words, figures, brackets and letter 'as defined in section 87C(3) of the Indian Companies Act, 1913, (7 of 1913)', the following shall be substituted, namely:—

"as determined in accordance with the provisions of section 349 of the Companies Act, 1956.";

(b) the following *Explanation* shall be added at the end, namely:—

Explanation.—For the purposes of this paragraph, the expression 'managing agent' shall include every person, by whatever name called, who is in charge of the management of the whole, or substantially the whole, of the undertaking and where more persons than one are placed in charge of the management of the whole, or substantially the whole, of the undertaking, the total remuneration payable to all such persons shall not in the aggregate exceed the limits specified in this paragraph.";

(k) to paragraph XVI, the following proviso shall be added, namely:—

"Provided that where a rating committee has been constituted under section 57A, no such dispute or difference

shall be referred to the arbitration of the Authority during the period between the date of the constitution of such committee and the date of the order of the State Government made on the recommendations of the committee.”;

(l) in paragraph XVII,—

(a) in sub-paragraph (1),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) the original cost of fixed assets available for use and necessary for the purpose of the undertaking subject to the provisions of paragraph XII in respect of service lines, and the excess amount referred to in the proviso to sub-paragraph (2) of paragraph VII in respect of any fixed asset which has ceased to be available for use;”;

(ii) for clause (d), the following clause shall be substituted, namely:—

“(d) the amount of investments compulsorily made under paragraph IV of this Schedule together with the amount of such investments made after the commencement of this Act from contributions towards depreciation as in the opinion of the Authority could not be utilised for the purpose of the business of electricity supply of the undertaking;”;

(iii) in clause (e) (i) (which provides for deduction of certain amounts), the word ‘and’ at the end shall be omitted;

(iv) in clause (e) (ii) (which provides for deduction of certain amounts), the words, figures and brackets ‘under the provisions of sub-paragraph (2) of paragraph I of the First Schedule’ shall be omitted;

(v) after the said clause (e) (ii), the following sub-clauses shall be inserted, namely:—

“(iii) the amount of security deposits of consumers held in cash;

(iv) the amount standing to the credit of the Tariffs and Dividends Control Reserve;

(v) the amount set apart for the Development Reserve;

(vi) the amount carried forward in the accounts of the licensee for distribution to the consumers under paragraph II.”;

(b) in clause (b) of sub-paragraph (2),—

(i) for the words ‘expenditure incurred on’, the words ‘expenditure properly incurred on’ shall be substituted;

(ii) in sub-clause (iv), the words, brackets and figures ‘under sub-paragraph (2) of paragraph I of the First Schedule’ shall be omitted;

(iii) in sub-clause (x), for the word ‘hereinafter’, the word ‘hereinbefore’ shall be substituted;

(iv) in sub-clause (xi), after the words ‘other expenses’, the words and brackets ‘(excluding interest on debentures and loans)’ shall be inserted;

(v) after sub-clause (xii), the following sub-clause shall be inserted, namely:—

“(xiii) bonus paid to the employees of the undertaking—

(a) where any dispute regarding such bonus has been referred to any tribunal or other authority under any law for the time being in force relating to industrial or labour disputes, in accordance with the decision of such tribunal or authority;

(b) in any other case, with the approval of the State Government.”;

(c) in clause (c) of sub-paragraph (2),—

(i) in sub-clause (i), for the words, ‘actually appropriated for the purpose in the books of the undertaking’, the words ‘permitted by the State Government’ shall be substituted;

(ii) in sub-clause (iv), for the word ‘hereinafter’, the word ‘hereinbefore’ shall be substituted;

(iii) after sub-clause (v), the following sub-clause shall be inserted, namely:—

“(va) contributions to the Development Reserve referred to in paragraph VA.”;

(d) in sub-paragraph (6), for clause (b), the following clause shall be substituted, namely:—

“(b) interest charges on capital expenditure incurred, during the period between the date of the grant of the licence and the date when the undertaking commences supply, from borrowed money and properly attributable to the asset, accrued upto the date of such commencement of supply at a rate not exceeding the average Reserve Bank rate ruling at that time plus one *per centum*.”;

(e) in sub-paragraph (9),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) the income derived from investments other than those included in the capital base under the provisions of clause (d) of sub-paragraph (1).”;

(ii) in clause (c), the words, figures and brackets ‘under sub-paragraph (2) of paragraph I of the First Schedule’ shall be omitted;

(iii) after clause (c), the following clause shall be inserted, namely:—

“(d) an amount equal to one-half of one *per centum* on the accumulations in the Development Reserve created under paragraph VA of this Schedule.”;

(f) for sub-paragraph (10), the following sub-paragraph shall be substituted, namely:—

“(10) ‘standard rate’ in respect of any year of account means the Reserve Bank rate ruling at the beginning of that year, plus two *per centum*.”.

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Schedule.

28. In the Seventh Schedule to the principal Act,—

(a) for the words, figures and brackets ‘(See section 68 and the Fifth and Eighth Schedules)’, the following shall be substituted, namely:—

“(See sections 57, 57A and 68 and the Fourth and the Sixth Schedules.”;

(b) the heading, namely, ‘Depreciation of assets’ and paragraphs I and II shall be omitted;

(c) the heading of the Table, namely, the words, figures and brackets ‘(See also section 57 and the Fourth and Sixth Schedules)’ shall be omitted;

(d) in the Table, in item C,—

(i) after sub-item (d) (iv), the following sub-item shall be inserted, namely:—

“(iva) Roads other than kutchra roads—one hundred.”;

(ii) after sub-item (f), the following sub-item shall be inserted, namely:—

“(ff) Lightning arrestors—

(i) station type—Twenty.

(ii) pole type—Fifteen.

(iii) synchronous condensers—Thirty-five.”;

(iii) for sub-item (i), the following sub-item shall be substituted, namely:—

“(i) Overhead lines, including supports—

(i) lines on fabricated steel supports operating at nominal voltages higher than 66 kilovolts—Thirty-five.

(ii) lines on steel supports operating at nominal voltages, higher than 13.2 kilovolts but not exceeding 66 kilovolts—
Thirty.

(iii) lines on steel or reinforced concrete supports—
Twenty-five.

(iv) lines on treated wood supports—Twenty.”;

(iv) in sub-item (n), after clause (ii), the following clauses shall be inserted, namely:—

“(iii) Internal wiring, including fittings and apparatus—
Fifteen.

(iv) street-light fittings—
Fifteen.”;

(v) after sub-item (o), the following sub-item shall be inserted, namely:—

“(p) Communication equipment—

(i) Radio and high frequency carrier system—
Fifteen.

(ii) Telephone lines and telephones—Twenty.”.

29. In the Eighth Schedule to the principal Act,—

(i) in paragraph I,—

(a) in clause (b), for the words and brackets ‘(including super-tax payable by the licensee as a company but excluding other taxes on profits)’, the words and brackets (including

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Schedule.

all taxes payable on income and profits, shall be substituted;

(b) in clause (e), for the words and brackets beginning with 'interest on money' and ending with 'the production of electricity therein', the following words and brackets shall be substituted, namely:—

"interest on the depreciated cost of the station shown in the books of the undertaking and properly attributable to the station (whether defrayed out of capital or revenue) and interest on working capital properly attributable to the station and the production of electricity therein.";

(ii) in paragraph II, in clause (ii) of sub-paragraph (b) for the words and figure '5 per centum per annum', the words 'the Reserve Bank rate ruling at the beginning of that year plus two per centum' shall be substituted.

THE INDIAN MEDICAL COUNCIL ACT, 1956

Not Corrected: See India Code

Vol. VI A - Part I

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