

THE ELECTRICITY (SUPPLY) AMENDMENT
ACT, 1966

No. 30 OF 1966

[16th September, 1966]

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

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

1. (1) This Act may be called the Electricity (Supply) Amend- Short
ment Act, 1966. title
and com-
mence-
ment.

(2) Sections 20, 21 and 22 shall be deemed to have come into force
on the 1st day of April, 1966 and save as otherwise provided in this
Act, the remaining provisions shall come into force at once.

54 of 1948. 2. In section 5 of the Electricity (Supply) Act, 1948 (hereinafter
referred to as the principal Act), in sub-section (6), the words “, or
within the twelve months last preceding was,” shall be omitted. Amend-
ment of
section 5.

3. In section 7 of the principal Act, for clause (b), the following
clause shall be substituted, namely:— Amend-
ment of
section 7.

“(b) references in this Act to—

(i) the State,

(ii) the State Electricity Consultative Council, and

(iii) the State Legislature,

shall, unless the context otherwise requires, be construed as references respectively to—

(A) both States,

(B) where more than one State Electricity Consultative Council has been constituted under section 16, to all such Councils, and

(C) the Legislatures of both States;”.

Amend-
ment of
section 16.

4. In section 16 of the principal Act,—

(i) in sub-section (2), for the word “seven”, the word “eight” shall be substituted;

(ii) for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) The Board shall place before the State Electricity Consultative Council the annual financial statement and supplementary statement, if any, and shall take into consideration any comments made on such statement in the said Council before submitting the same to the State Government under section 61.”.

Amend-
ment of
section 19.

5. In section 19 of the principal Act, in sub-section (4), after the word “determined”, the words “by arbitration” shall be inserted.

Substitu-
tion of
new section
for section
29.

6. For section 29 of the principal Act, the following section shall be substituted, namely:—

Publica-
tion and
sanc-
tioning
of sche-
mes.

“29. (1) A scheme prepared for any area under section 28 may, subject to the provisions of this section, be sanctioned by the Board either generally or in respect of any part of the area and where a scheme has been sanctioned in respect of part of the area, it may subsequently be sanctioned in respect of other parts of that area.

(2) Every scheme sanctioned under this section shall be published in the Official Gazette and in such local newspapers as the Board may consider necessary:

Provided that it shall not be necessary to so publish any scheme which is estimated to result in a capital expenditure not exceeding twenty-five lakhs of rupees.

(3) Before sanctioning any scheme which is estimated to result in a capital expenditure exceeding one crore of rupees, the following procedure shall be adopted, namely:—

(i) The Board shall send a copy of the scheme to the State Government and to the Authority and cause such scheme to be published in the Official Gazette and in such local newspapers as the Board may consider necessary; and the Board shall give public notice of the date, not being less than two months after the date of the notice, by which licensees and other persons interested may make representations thereon and when publishing such a scheme the Board shall show estimates of the capital expenditure involved and of the initial and ultimate revenues anticipated from the sale of energy, meter rentals and other services.

(ii) The Board, after considering any such representations and after making such inquiries, if any, as it thinks fit, may sanction the scheme either without modification or subject to such modifications as it thinks fit, and either generally or in respect of any part of the area specified in the published scheme:

Provided that no such scheme shall be sanctioned by the Board without prior consultation with the Authority and until any recommendations which the Authority may, in accordance with the provisions of this Act, make upon such consultation have received due consideration by the Board:

Provided further that where the recommendations of the Authority in regard to any scheme are not accepted by the Board, the Board shall not sanction the scheme without the previous consent of the State Government.

(4) In respect of any scheme to which the provisions of sub-section (3) apply, the Board shall, within one month after being requested by the Authority so to do, supply the Authority with all such information incidental or supplementary to the scheme as may be specified in the request."

Amend-
ment of
section 30.

7. In section 30 of the principal Act, for the word, brackets and figure "sub-section (2)", the words, brackets and figures "clause (ii) of sub-section (3)" shall be substituted.

Amend-
ment of
section 31.

8. In section 31 of the principal Act,—

(i) for the word, brackets and figure "sub-section (2)", the words, brackets and figures "clause (ii) of sub-section (3)" shall be substituted;

(ii) in the proviso, for the word, brackets and figure "sub-section (3)", the word, brackets and figure "sub-section (4)" shall be substituted.

Amend-
ment of
section 32.

9. In section 32 of the principal Act, after the words "sanctioned and", the words "where so required" shall be inserted.

Amend-
ment of
section 40.

10. In section 40 of the principal Act, after the words "agreement be determined", the words "by arbitration" shall be inserted.

Substi-
tution of
new sec-
tion for
section 49.

11. For section 49 of the principal Act, the following section shall be, and shall be deemed always to have been, substituted, namely:—

Provisions as
for the
sale of
electricity
by the
Board to
persons
other than
licensees.

"49. (1) Subject to the provisions of this Act and of regulations, if any, made in this behalf, the Board may supply electricity to any person not being a licensee upon such terms and conditions as the Board thinks fit and may for the purposes of such supply frame uniform tariffs.

(2) In fixing the uniform tariffs, the Board shall have regard to all or any of the following factors, namely:—

(a) the nature of the supply and the purposes for which it is required;

(b) the co-ordinated development of the supply and distribution of electricity within the State in the most efficient and economical manner, with particular reference to such development in areas not for the time being served or adequately served by the licensee;

(c) the simplification and standardisation of methods and rates of charges for such supplies;

(d) the extension and cheapening of supplies of electricity to sparsely developed areas.

(3) Nothing in the foregoing provisions of this section shall derogate from the power of the Board, if it considers it necessary or expedient to fix different tariffs for the supply of electricity to any person not being a licensee, having regard to the geographical position of any area, the nature of the supply and purpose for which supply is required and any other relevant factors.

(4) In fixing the tariff and terms and conditions for the supply of electricity, the Board shall not show undue preference to any person."

12. After section 60 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 60A.

"60A. Where the right to recover any amount due to the State Government for or in connection with the consumption of electricity is vested in the Board and the period of limitation to enforce such right has expired before the constitution of the Board, or within three years of its constitution, then, notwithstanding anything contained in the Indian Limitation Act, 1908 or any other law for the time being in force relating to limitation of action, the Board may institute a suit for the recovery of such amount—

Period of limitation extended in certain cases.

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(i) where it has been constituted before the commencement of the Electricity (Supply) Amendment Act, 1966, within three years of such commencement; and

(ii) where it has been constituted after such commencement, within three years of its constitution."

13. In section 62 of the principal Act, in sub-section (1), for the words "twenty-five thousand" and "one lakh", the words "seventy-five thousand" and "three lakhs" shall respectively be substituted.

Amendment of section 62

14. In section 67 of the principal Act,—

Amendment of section 67

(i) in clause (viii), for the word "eight", the word "fifteen" shall be substituted;

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

"(x) the balance to be appropriated to a fund to be called the Development Fund to be utilised for—

(a) purposes beneficial, in the opinion of the Board, to electrical development in the State;

(b) repayment of loans advanced to the Board under section 64 and required to be repaid:

Provided that where no such loan is outstanding, one-half of the balance aforesaid shall be credited to the Consolidated Fund of the State."

Substitution of new section for section 68.

15. For section 68 of the principal Act, the following section shall be substituted, namely:—

Depreciation reserve.

68. 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 an amount calculated in accordance with the straight line method of depreciation, that is to say, such an amount as is arrived at by dividing ninety per cent. 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, by the prescribed period in respect of such assets:

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 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 simple interest thereon at the Reserve Bank rate ruling at the beginning of that year, 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 the principal of any loan raised under section 65 or for repayment of sums paid by the State Government under guarantees under section 66.

Explanation.—In this section, "prescribed period"—

(i) in relation to an asset which became available to the Board for its use in its business before the commencement of the Electricity (Supply) Amendment Act, 1966, means the pres-

cribed period as defined in the Sixth Schedule reduced by the number of years during which such asset was used or capable of being used, such years being computed from the beginning of the year next following that in which that asset became so available to the Board and up to the end of the year ending on or after such commencement;

(ii) in relation to any other asset, means the prescribed period as so defined in the said Schedule.

16. In section 75 of the principal Act,—

(i) sub-section (1) shall be omitted;

(ii) sub-section (1A) shall be re-numbered as sub-section (1) thereof and in sub-section (1) as so re-numbered,—

(a) the words, brackets and figure “Without prejudice to the provisions of sub-section (1),” shall be omitted,

(b) after the words “to the State Government”, the words “before such date and” shall be inserted.

Amend-
ment of
section 75.

17. In section 76 of the principal Act, sub-section (1) shall be omitted.

Amend-
ment of
section 76.

18. In section 82 of the principal Act, for the words “any person”, the words “any member, officer or servant of the Board” shall be substituted.

Amend-
ment of
section 82.

19. In the Fourth Schedule to the principal Act, in paragraph II, in the second proviso, after the word “determined”, the words “by arbitration” shall be inserted.

Amend-
ment of
Fourth
Sche-
dule.

20. In the Fifth Schedule to the principal Act, for paragraph III, the following paragraph shall be substituted, namely:—

Amend-
ment of
Fifth
Sche-
dule.

‘III. For the purposes of clause (e) of paragraph I—

(i) “depreciated cost of the lines” means original cost thereof as determined in accordance with the provisions of sub-paragraph (6) of paragraph XVII of the Sixth Schedule less the amount written off or set aside on account of depreciation on fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,—

(a) where the licensee owning the lines is a local authority, the average rate payable on the money raised by that authority for the purpose of constructing the lines;

(b) in any other case, the Reserve Bank rate ruling at the beginning of the year referred to in paragraph I plus two per centum.

Amend-
ment of
Sixth
Schedule.

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

(i) in paragraph I,—

(a) for the word "rates", wherever it occurs, the word "charges" shall be substituted;

(b) in the second proviso for the word "fifteen", the word "twenty" shall be substituted;

(c) the following proviso shall be added at the end, namely:—

"Provided also that nothing in this Schedule shall be deemed to prevent a licensee from levying, with the previous approval of the State Government, minimum charges for supply of electricity for any purpose.";

(ii) after paragraph I, the following paragraph shall be inserted, namely:—

"IA. The notice referred to in the third proviso to paragraph I shall be accompanied by such financial and technical data in support of the proposed enhancement of charges as the State Government may, by general or special order, specify.";

(iii) in paragraph II, to sub-paragraph (3), the following proviso shall be added, namely:—

"Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve may be deducted from the price payable to the licensee.";

(iv) in paragraph IV, for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:—

"(2) The sums appropriated to the Contingencies Reserve shall be invested in securities authorised under the Indian Trusts Act, 1882 and such investment shall be made 2 of 1882.

within a period of six months of the close of the year of account in which such appropriation is made.”;

(v) in paragraph V, for sub-paragraph (2), the following sub-paragraph shall be substituted, namely:—

“(2) On the purchase of the undertaking, the Contingencies Reserve, after deduction of the amounts drawn under sub-paragraph (1), shall be handed over to the purchaser and maintained as such Contingencies Reserve:

Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve computed as above shall, after further deduction of the amount of compensation, if any, payable to the employees of the outgoing licensee under any law for the time being in force, be handed over to the Board or the State Government, as the case may be.”;

(vi) in paragraph VA, to sub-paragraph (4), the following proviso shall be added, namely:—

“Provided that where the undertaking is purchased by the Board or the State Government, the amount of the Reserve may be deducted from the price payable to the licensee.”;

(vii) in paragraph VII, in sub-paragraph (2)—

(a) after the words “fixed asset”, the words “including expenses incurred on the dismantling thereof” shall be inserted;

(b) in the proviso, after the words “cost of the asset”, the words “and the dismantling expenses” shall be inserted;

(viii) in paragraph XV, in sub-paragraph (1), after the words “which exceeds”, the words “in any year of account,” shall be inserted;

(ix) in paragraph XVII—

(1) in sub-paragraph (1),—

(a) in clause (b), the words “including expenses on account of new capital issue” shall be inserted at the end;

(b) in clause (e),—

(i) in sub-clause (ii),—

(a) for the words “cash and bank balances”,

the words and brackets "cash and bank balances (whether credit or debit)" shall be substituted;

(b) for the words, brackets and figures "clauses (i), (iv) and (x)", the words, brackets, figures and letters "sub-clauses (i), (iv), (iv-a), (iv-b) and (x)" shall be substituted;

(ii) after sub-clause (ii) (which provides for deduction of certain amounts), the following sub-clauses shall be inserted, namely:—

"(ii-a) the amount of any loans borrowed from organisations or institutions approved by the State Government;

(ii-b) the amount of any debentures issued by the licensee;";

(iii) for sub-clause (iii) (which provides for deduction of certain amounts), the following sub-clause shall be substituted, namely:—

"(iii) the amounts deposited in cash with the licensee by consumers by way of security;";

(iv) in sub-clause (iv) (which provides for deduction of certain amounts), the words "at the beginning of the year of account" shall be inserted at the end;

(v) for sub-clause (v) (which provides for deduction of certain amounts), the following sub-clause shall be substituted, namely:—

"(v) the amount standing to the credit of the Development Reserve at the close of the year of account;";

(vi) in sub-clause (vi) (which provides for deduction of certain amounts), after the words "carried forward", the words "at the beginning of the year of account" shall be inserted;

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

(a) after sub-clause (iv), the following sub-clauses shall be inserted, namely:—

"(iv-a) interest on loans borrowed from organisations or institutions approved by the State Government;

(iv-b) interest on debentures issued by the licensee;";

(b) for sub-clause (xii), the following sub-clauses shall be substituted, namely:—

“(xii) contributions to provident fund, staff pension and gratuity computed under any law for the time being in force or any such scheme as is approved by the State Government;

(xii-a) expenses on apprentice and other training schemes;”;

(3) in sub-paragraph (9),—

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

“(c-1) an amount equal to one-half of one *per centum* on the amounts borrowed from organisations or institutions approved by the State Government;

(c-2) an amount equal to one-half of one *per centum* on the amounts realised by the issue of debentures;”;

(b) after clause (d), the following clause shall be inserted, namely:—

“(e) such other amount as may be allowed by the Central Government, having regard to the prevailing tax structure in the country.”;

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

“(10) “standard rate” in respect of any year of account means—

(a) in relation to that part of the capital base for that year of account which is equivalent to the capital base as on the 31st day of March, 1965, seven *per centum per annum*;

(b) in relation to the remaining part of the capital base for that year, the Reserve Bank rate ruling at the beginning of that year, *plus two per centum*:

Provided that the Central Government may, by notification in the Official Gazette, and with effect from such date as may be specified therein, increase or decrease the standard rate specified in clause (b), if, after consultation with the Authority, that Government considers it necessary so to do to ensure that any rise or fall in the Reserve Bank rate does not affect the reasonable return in any subsequent year of account in

relation to that part of the capital base which is equivalent to the capital base as computed on the last date of the previous year of account.

Amend-
ment of
Eighth
Schedule.

22. In the Eighth Schedule to the principal Act, in paragraph II, for the words, brackets, letter and figure "For the purposes of clause (e) of paragraph I of the rate of interest shall be—", the following shall be substituted, namely:—

'For the purposes of clause (e) of paragraph I—

(i) "depreciated cost of the station" means original cost thereof as determined in accordance with the provisions of sub-paragraph (6) of paragraph XVII of the Sixth Schedule less the amount written off or set aside on account of depreciation on fixed assets and the amount written off in respect of intangible assets thereof in the books of the undertaking before or after the commencement of this Act;

(ii) the rate of interest shall be,—'

Amend-
ment of
Ninth
Schedule.

23. In the Ninth Schedule to the principal Act, in paragraph III, for the letter and words "L—the average load factor of the station;" the letter and words "L= the percentage average load factor of the station;" shall be substituted.

Validation
of imposi-
tion and col-
lection of
charges for
the supply
of electri-
city
under sec-
tion 49 of
the Electri-
city
(Supply)
Act, 1948.

24. (1) Notwithstanding any judgment, decree or order of any court, all rates fixed under section 49 of the Electricity (Supply) Act, 1948, for the sale of electricity to any person other than a licensee before the commencement of this Act shall be deemed to have been validly fixed as if the provisions of the said section, as amended by this Act, had been in force at all material times when such rates were fixed and accordingly,—

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(a) no suit or other proceeding shall be maintained or continued in any court for the refund of any amount collected from any person on the basis of such rates:

(b) no court shall enforce a decree or order directing the refund of any amount collected from such person on the basis of such rates;

(c) any amount due from any person on the basis of such rates before the commencement of this Act but not recovered before such commencement may be recovered in the manner provided under the Electricity (Supply) Act, 1948.

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(2) For the removal of doubts, it is hereby declared that nothing contained in sub-section (1) shall be construed as preventing any person from claiming refund of any amount paid by him in excess of the amount due from him under the said Act as amended by this Act, and the rules or regulations made thereunder.