

**JOINT /SELECT  
COMMITTEE REPORTS OF  
LEGISLATIVE ASSEMBLY -  
1948**

**The Electricity (Supply)  
Bill**

List of Reports of Select Committees presented to  
the Constituent Assembly of India(Legislative)  
in 1948.

S. No.	Short title of the Bill.	Date of presentation.	Date of publication.
1.	The Minimum Wages Bill./	28.1.48.	7.2.48.
2.	The Industrial Finance Corporation Bill.	28.1.48.	7.2.48.
3.	The Dock Workers (Regulation of Employment) Bill.	28.1.48.	7.2.48.
4.	The Pharmacy Bill.	28.1.48.	7.2.48.
5.	The Damodar Valley Corporation Bill.	28.1.48.	7.2.48.
6.	The Indian Army and the Indian Air Force(Amenment) Bill. /	28.1.48.	14.2.48.
7.	The Dentists Bill. /	28.1.48.	14.2.48.
8.	The Rehabilitation Finance, Administration Bill.	9.2.48.	21.2.48.
9.	The Workmen's State Insurance, Bill.	11.2.48.	21.2.48.
10.	The Electricity(Supply) Bill./	4.3.48.	20.3.48.
11.	The Taxation on Income(Investigation Commission) (Amdt.)Bill,	8.3.48.	20.3.48.
12.	The Provincial Insolvency (Amendment) Bill.	16.3.48.	20.3.48.
13.	The Indian Finance Bill.	22.3.48.	27.3.48.
14.	The Delhi and Ajmer-Merwara Land Development Bill.	29.3.48.	3.4.48.
15.	The Estate Duty Bill. (PRELIMINARY REPORT)	9.8.48.	14.8.48.
	The Factories Bill./	9.8.48.	21.8.48.

S. No.	Short title of the Bill.	Date of presentation.	Date of publication.
17.	The Hindu Code.	12.8.48.	21.8.48.
18.	The Income-tax and Business Profits Tax (Amdt.) Bill.	13.8.48.	21.8.48.
19.	The Indian Railways (Second Amendment) Bill.	24.8.48.	11.9.48.
20.	The Mines and Minerals (Regulation and Development) Bill.	25.8.48.	11.9.48.
21.	The Central Silk Board Bill.	26.8.48.	11.9.48.

**CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)**

**REPORT OF THE SELECT COMMITTEE ON THE ELECTRICITY  
(SUPPLY) BILL, 1947**

We, the undersigned, members of the Select Committee to which the Bill to provide for the rationalisation of the production and supply of electricity and generally for taking measures conducive to the electrical development of the provinces of India was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

*Clause 1, sub-clauses (4) and (5).*—To achieve the purpose in view by an early adoption of this measure all over the country, we consider it necessary to set a time limit within which the whole Act shall come into operation in all the Provinces. We appreciate that practical difficulties might prevent some Provinces from adopting this legislation within the time limit fixed. We have, therefore, reserved liberty to the Central Government to extend the time limit in the case of such Provinces. Sub-clauses (4) and (5) have accordingly been substituted for sub-clause (3).

*Clauses 3 and 4.*—The assignment of functions to a temporary organisation like the Central Technical Power Board was not considered desirable. The Central Technical Power Board has in fact now ceased to exist as such. We have, therefore, eliminated the Board and substituted "the Central Electricity Authority" in its place. We have widened the scope of the functions of the Authority, which will include the development of a sound, adequate and uniform national power policy and co-ordinate the activities of planning agencies. The Authority will also arbitrate in matters to be referred to it under the Bill.

*Clause 15.*—We have provided for a Provincial Electricity Council *inter alia* to advise the Board on major schemes and questions of policy and generally to review the progress and work of the Board.

*Clause 78.*—We do not think that there is justification for exempting the Board from Central taxation. We have, therefore, altered the clause so as to make the Board liable to income-tax and super-tax like a company within the meaning of the Indian Income-tax Act.

**SCHEDULES.**

*Schedule I, paragraph 1(2).*—The obligation to borrow funds for extension of a station from the Board alone would place a licensee at a disadvantage. We prefer to give him the alternative of raising the amount by a loan from an outside source or employing his own funds on similar terms. We have made provision for a first charge in favour of the Board on the extension and for a charge subject to prior encumbrances on the entire undertaking of the licensee to secure repayment of the loan advanced by the Board. We have altered the paragraph accordingly.

*Paragraph 17.*—We consider it fair that where the Board intends to acquire a controlled station, it should, at the option of the licensee, acquire his entire undertaking if a severance of the station from the rest of the undertaking is not possible or is likely to affect the licensee's interest adversely. We have accordingly amended this paragraph.

*Schedule VI.*—The Government had set up an advisory Board to examine the Sixth Schedule and report thereon. We have considered the report and also

given an opportunity to the industry and allied interests to explain their viewpoints to us. We have made modifications in this Schedule. The following are some of the important ones which deserve mention:—

(1) The term "capital Base" has been modified to cover all the assets at the service of the consumer.

(2) *Standard rate.*—We have now provided a uniform rate of 5 per cent. free of tax.

(3) *Reasonable return.*—We have provided for a small limited bonus to encourage efficient management.

(4) *Prescribed period.*—The definition has been altered to permit of variations by the Provincial Government in the lives of assets.

(5) *Clear Profits.*—We realise that it is not possible for a licensee to balance exactly his clear profits and the reasonable return. We have therefore allowed for a margin of 30 per cent. and provided for the disposal of any excess over the reasonable return.

(6) *Depreciation.*—The original Bill allowed the licensee to adopt either the compound interest method or the straightline method of computation of depreciation. We consider that the compound interest method is better adapted for computation of depreciation of assets employed in the Electricity Supply Industry. We have prescribed this method accordingly. However, having regard to the fact that the straightline method is in vogue with some licensees we have left the choice of adopting either method to such licensees.

Provision is also made for arrears of depreciation written off by equated payments.

2. The Bill was published in Part V of the *Gazette of India*, dated the 29th November, 1947.

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M. ANANTHASAYANAM AYYANGAR  
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BANARSI PRASAD JHUNJHUNWALA.  
MOHAN LAL SAKSENA

NEW DELHI:  
The 4th March, 1948.

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\*Subject to a minute of dissent.

## MINUTE OF DISSENT

*Clause I*

I am opposed to the change made in the scheme of this Bill. As it stood originally the option to accept the entire scheme for the control of the operation and development of electricity outlined in the Bill was vested in the Provincial Government. This in my view was the correct approach to the problem for the reason that provisions of the Bill had to be so framed as to suit the conditions obtaining in Provinces where development of electricity has been slow and halting. It was because of the existence of this option that I did not object to changes made in the body of the Bill and in the schedules attached thereto as a concession to the vested interests in certain Provinces. As I visualise it, it would not be in the interests of for example the Province of Madras to implement the provisions of this Bill as that Province has more or less reached the final stages of nationalisation of the production and distribution of electricity and from that point of view the change made in this clause is a retrograde step.

*Clause 78*

I must enter a strong protest against a complete reversal of the intentions of the original clause as it stood when the Bill was referred to the Select Committee. It is said that this is in tune with the new policy of the Central Government. Even if it were so I am unable to agree to the change made in the clause. In the case of a Province like Madras where almost the entire generation and the major part of the distribution is done by the Government the change made runs counter to the spirit of section 155 of the Government of India Act. It was said in support of the change that a so called expert committee appointed by the Constituent Assembly has recommended the taxation of Provincial industrial and trading undertakings and for that purpose the elimination in the new Constitution Act of any provision corresponding to section 155 of the Government of India Act. It is somewhat unusual to take cognizance in this connection of the views of any such outside body relating to the future set up of the financial powers of the Centre *vis-a-vis* the Provinces. As I see it, it is a surrender to the persistent agitation that has been carried on by vested interests in this country for some years past designed to thwart all ideas of nationalisation of industries. I feel I must object to this dubious step of giving anticipatory effect to a policy that runs counter to the spirit of a section of the Act by which the constitution is now governed.

T. T. KRISHNAMACHARI

NEW DELHI;

The 4th March, 1948.

(AS AMENDED BY THE SELECT COMMITTEE)

(Words underlined or sidelined indicate the amendments suggested by the Committee; asterisks indicate omissions.)

A

## BILL

*to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India.*

WHEREAS it is expedient to provide for the rationalisation of the production and supply of electricity, for taking measures conducive to the electrical development of the Provinces of India and for all matters incidental thereto;

It is hereby enacted as follows:—

### CHAPTER I

#### Introductory

**1. Short title, extent and commencement.**—(1) This Act may be called the Electricity (Supply) Act, 1948.

(2) It extends to all the Provinces of India.

(3) This section and sections 3, 4, 57, 58 and 77 and the Sixth Schedule and the Table appended to the Seventh Schedule of this Act shall come into force at once.

(4) The remaining provisions of this Act shall come into force in a Province on such date, not later than two years from the coming into force of the sections, Schedule and Table mentioned in sub-section (3), as the Provincial Government may, by notification in the official Gazette, appoint:

Provided that the Central Government may as respects any Province extend the said period of two years and in such event the remaining provisions of the Act shall come into force in that Province on such date, not later than the extended period, as the Provincial Government may, by notification in the official Gazette, appoint.

**2. Interpretation.**—In this Act, unless there is anything repugnant in the subject or context,—

(1) "Authority" means the Central Electricity Authority constituted under section 3;

(2) "Board" means a Provincial Electricity Board constituted under section 8.

(3) "bulk-licensee" means a licensee who is authorised by his licence to supply electricity to other licensees for distribution by them;

(4) "controlled station" means a generation station designated in a scheme sanctioned under Chapter V as a controlled station;

(5) "generating station" or "station" means any station for generating electricity, including any building and plant used for that purpose and the site thereof, a site intended to be used for a generating station, and any buildings used for housing the operating staff of a generating station, and where electricity

is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station for transforming, converting or distributing electricity;

(6) "licensee" means a person licensed under Part II of the Indian Electricity Act, 1910 (IX of 1910) to supply energy or a person who has obtained sanction under section 28 of that Act to engage in the business of supplying energy, but the provisions of section 26 of this Act notwithstanding, does not include the Board;

(7) "main transmission lines" means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or to a sub-station, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works and the operating staff thereot;

(8) "maximum demand" means, in respect of any period, twice the largest number of kilowatt-hours supplied and taken during any consecutive thirty minutes (calculated from either the commencement or the middle of an hour) in the period;

(9) "prescribed" means prescribed by rules made under section 78;

(10) "regulations" means regulations made by the Board under section 79;

(11) "Reserve Bank" means the Reserve Bank of India;

(12) "transmission lines" means all works mentioned in clause (7) used wholly or partially for the purposes of distribution;

(13) "year" means, in relation to the Board, the year commencing on the 1st day of April;

(14) "year of account" means, in relation to a licensee, his financial year;

(15) other expressions have the meanings respectively assigned to them in the Indian Electricity Act, 1910.

**CHAPTER II**

**The Central Electricity Authority**

**3. Constitution of the Central Electricity Authority.**—(1) The Central Government shall constitute a body called the Central Electricity Authority generally to exercise such functions and perform such duties under the Act and in such manner as the Central Government may prescribe or direct, and in particular to—

- (i) develop a sound, adequate and uniform national power policy, and particularly to co-ordinate the activities of the planning agencies in relation to the control and utilisation of national power resources;
- (ii) act as arbitrators in matters arising between the Provincial Government or the Board and a licensee or other person as provided in this Act;
- (iii) carry out investigations and to collect and record the data concerning the generation, distribution and utilisation of power and the development of power resources; and



- (iv) make public from time to time information secured under this Act and to provide for the publication of reports and investigations.
- (2) The Authority shall consist of not more than six members appointed by the Central Government, of whom at least three shall be full-time members.
- (3) The Central Government shall appoint one of the full-time members to be the Chairman of the Authority.
- (4) All the members of the Authority shall hold office during the pleasure of the Central Government.
- (5) No full-time member of the Authority shall be directly or indirectly concerned or interested in or have any share or interest in any company or other body corporate or an association of persons (whether incorporated or not), or a firm engaged in the business of supplying electrical energy or fuel, solid or liquid, for the generation of electricity.
- (6) The Authority may appoint a Secretary and such other officers and servants as it considers necessary for the performance of its functions under this Act on such terms as to salary, remuneration, fee, allowance, pension, leave and gratuity, as the Authority may, in consultation with the Central Government, fix:
- Provided that the appointment of the Secretary shall be subject to the approval of the Central Government.

(7) The Authority may act by two of its members in all matters.

**4. Power to require accounts, statistics and returns.**—It shall be the duty of each Provincial Electricity Board, Provincial Government Electricity Department or other licensee or person supplying electricity for public or private purposes, or generating electricity for its or his own use, to furnish to the Authority such accounts, statistics and returns relating to the generation, supply and use of electricity as it may require and at such times and in such form and manner as it may direct.

### CHAPTER III

#### Provincial Electricity Boards

**5. Constitution and composition of Provincial Electricity Boards.**—(1) The Provincial Government shall as soon as may be after the issue of the notification under sub-section (4) of section 1, constitute by notification in the official Gazette a Provincial Electricity Board under such name as shall be specified in the notification.

(2) The Board shall consist of not less than three, and not more than seven, members appointed by the Provincial Government. \* \* \*

(3) All members of the Board shall be full-time members.

(4) Of the members, one shall be a person of proved administrative ability and commercial experience; one shall be an electrical engineer with wide experience; and one shall be an accountant with experience of the electricity supply industry or other public utility.

(5) One of the members possessing any of the qualifications specified in sub-section (4) shall be appointed by the Provincial Government to be the Chairman of the Board.

(6) A person shall be disqualified from being appointed or being a member of the Board if he is, or within the twelve months last preceding has been, a member of the Central or of any Provincial Legislature.

(7) No act done by the Board shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

**8. Inter-provincial agreement to extend Board's jurisdiction to another Province.**—(1) Subject to the following provisions of this section, the Government of any Province may, after it has issued a notification under sub-section (4) of section 1, in lieu of constituting a Board under section 5 enter into an agreement with the Government of a contiguous Province to provide that the Board constituted for the latter Province shall exercise the functions of a Board under this Act in the former Province.

(2) Subject to such modifications (being of a character not affecting the general operation of the agreement) of the terms of the agreement as may from time to time be agreed upon by the Provincial Governments concerned, an agreement entered into under this section shall be for a period of not less than twenty-five years but may be determined earlier by mutual consent.

(3) An agreement under this section may—

(a) make such financial arrangements between the participating Provincial Governments as may be necessary for the purposes of the agreement;

(b) provide for consultation between the participating Provincial Governments either generally or with reference to particular matters arising under this Act;

(c) generally make such incidental, supplementary or ancillary provisions, not inconsistent with this Act, as may be deemed necessary or expedient for giving effect to the agreement.

**7. Effect of inter-provincial agreement.**—Where an agreement is entered into under section 6, the participating Provincial Governments shall, by notification in the official Gazettes, declare a date on which the agreement shall come into force, and on and after that date—

(a) the Board constituted for the one Province shall have all the powers and duties of a Board under this Act in respect of both Provinces as if they constituted a single Province;

(b) references in this Act to the Province shall, unless the subject or context otherwise requires, be construed as references to both Provinces, and in particular, the references in section 61 to the Provincial Legislature shall be construed as references to the Legislatures of both Provinces;

(c) the provisions of section 60 in relation to the assumption by the Board of the rights and liabilities of the Provincial Government arising before the first constitution of the Board shall apply to the assumption by the Board of the rights and liabilities of the Government of the Province to which the exercise of its functions under this Act is extended under the agreement, as if in that section for the words "before the first constitution of the Board" there were substituted the words and figure "before the date on which the agreement under section 6 came into force".

**8. Term of office of members of the Board.**—(1) Subject to the provisions of this Act, the Chairman and the members of the Board shall hold office for five years: \* \* \* \*

Provided that on the first constitution of the Board, the Chairman shall hold office for seven years and one of the members shall be appointed to hold office for three years only.

(2) Members shall be eligible for reappointment.

**9. Members not to hold interest in certain concerns.**—(1) A member of the Board shall, prior to his appointment, give to the Provincial Government intimation of, and shall, before taking charge of his office, sell or divest himself of, any interest which he may have for his own benefit whether in his own name or otherwise, in any firm or company carrying on the business of supplying electricity or any fuel for the generation of electricity, or of the manufacture,

sale or hire of machinery, plant, equipment, apparatus or fittings for the generation, transmission, distribution or use of electricity, or any interest in the managing agency or shares or securities of any such company; and it shall not be lawful for a member of the Board, so long as he holds office, to acquire or purchase any such interest in any such firm or company and if he, under any will or by succession or gift becomes entitled for his own benefit to any such interest, he shall sell the same within three months after becoming so entitled thereto; and he shall also, within three months sever any connection he may have and cease to have any interest, direct or indirect, in any such concern.

(2) Nothing contained in sub-section (1) shall prevent a member from acquiring or holding any share or interest in any firm or company other than a firm or company mentioned in sub-section (1):

Provided that if the Board has entered into, or is about to enter into any contract or agreement with any such firm or company in which a member holds any share or interest, he shall disclose the fact and nature of such interest and he shall not be entitled to vote on any decision of the Board relating to such contract or agreement.

(3) A disclosure referred to in the proviso to sub-section (2) shall forthwith be recorded in the minutes of the Board and communicated to the Provincial Government and the Provincial Government may thereupon give such directions as it may deem proper.

**10. Removal or suspension of members.**—The Provincial Government may suspend from office for such period as it thinks fit or remove from office any member of the Board who—

(a) is found to be a lunatic or becomes of unsound mind; or

(b) is \* \* \* adjudged insolvent; or

(c) fails to comply with the provisions \* \* \* of section 9; or

(d) becomes or seeks to become a member of the Central or any Provincial Legislature or any local authority; or

(e) in the opinion of the Provincial Government has \* failed or is unable to carry out his duties so as to render his suspension or removal, as the case may be, necessary; or

(f) is convicted of an offence involving moral turpitude.

**11. Temporary absence of members.**—If the Chairman or any other member of the Board is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Provincial Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder.

**12. Incorporation of Board.**—The Board shall be a body corporate by the name notified under sub-section (1) of section 5, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be sued.

**13. Authentication of orders and other instruments of the Board.**—All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other \* member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of such member or officer of the Board as may in like manner be authorised in this behalf.

**14. Meetings of the Board.**—(1) The Board shall hold ordinary meetings at such intervals as may be provided in the regulations; and a meeting may be convened by the Chairman at any other time for the transaction of urgent business.

(2) The number of members necessary to constitute a quorum at a meeting shall be such as may be provided in the regulations.

**15. Appointment of staff.**—The Board may appoint a Secretary and such other officers and servants as may be required to enable the Board to carry out its functions under this Act.

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**16. Provincial Electricity Council.**—(1) The Provincial Government shall constitute a Provincial Electricity Council for the Province, and in cases to which sections 6 and 7 apply, the Provincial Governments concerned shall constitute such one or more Provincial Electricity Council or Councils and for such areas as they may by agreement determine.

(2) The Provincial Electricity Council shall consist of the members of the Board and such other persons being not less than seven and not more than fifteen as the Provincial Government or the Provincial Governments concerned may appoint after consultation with such representatives or bodies representative of the following interests as the Provincial Government or the Provincial Governments concerned thinks or think fit, that is to say, local self-government, electricity supply industry, commerce, industry, transport, agriculture and labour employed in the electricity supply industry, but so that there shall be at least one member representing each such interest in the Council.

(3) The Chairman of the Board shall be *ex officio* Chairman of the Provincial Electricity Council.

(4) The Provincial Electricity Council shall meet at least once in every three months.

(5) The functions of the Provincial Electricity Council shall be as follows:—

(i) to advise the Board on major questions of policy and major schemes;

(ii) to review the progress and the work of the Board from time to time;

(iii) to consider such other matters as the Board may place before it; and

(iv) to consider such matters as the Provincial Government may by rules prescribe.

(6) The Board shall place before the Provincial Electricity Council the annual financial statement and supplementary statement, if any, before submitting such statement to the Provincial Government under section 61 together with copies of the report and proceedings.

**17. Local Advisory Committee.**—(1) The Provincial Government may from time to time constitute for such areas as it may determine Local Advisory Committees, consisting of such number of persons as it may think fit in each case and on such terms and conditions as may be prescribed.

(2) The Board may if it thinks fit consult the Local Advisory Committees concerned on any business coming before it, and shall so do in respect of such business as the Provincial Government may by general or special order in this behalf specify or when required by the regulations so to do.

(3) The Chairman of the Board or such other member of the Board as he may nominate in this behalf shall be *ex officio* Chairman of a Local Advisory Committee.

(4) Local Advisory Committees shall meet at such intervals as may be prescribed, and for the transaction of urgent business on such other occasions as the Chairman of the Board may require.

(5) The number of members necessary to constitute a quorum at a meeting of a Local Advisory Committee shall be such as the Provincial Government when constituting the Committee may specify.

## CHAPTER IV

### Powers and duties of Provincial Electricity Boards

**18. General duties of the Board.**—Subject to the provisions of this Act, the Board shall be charged with the general duty of promoting the co-ordinated development of the generation, supply and distribution of electricity within the Province 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 any licensee, and without prejudice to the generality of the foregoing provisions it shall be the duty of the Board—

- (a) to prepare and carry out when sanctioned schemes under Chapter V;
- (b) to supply electricity to owners of controlled stations and to licensees whose stations are closed down under this Act;
- (c) to supply electricity as soon as practicable to any other licensees or persons requiring such supply and whom the Board may be competent under this Act so to supply.

**19. Powers of the Board to supply electricity.**—(1) The Board may, subject to the provisions of this Act, supply electricity to any licensee or person requiring such supply in any area in which a scheme sanctioned under Chapter V is in force:

Provided that the Board shall not—

- (a) supply electricity for any purpose directly to any licensee for use in any part of the area of supply of a bulk-licensee without the consent of the bulk-licensee, unless the licensee to be supplied has an absolute right of veto on any right of the bulk-licensee to supply electricity for such purpose in the said part of such area, or unless the bulk-licensee is unable or unwilling to supply electricity for such purpose in the said part of such area on reasonable terms and conditions and within a reasonable time; or
- (b) supply electricity for any purpose to any person, not being a licensee, for use in any part of the area of supply of a licensee without the consent of the licensee, unless—

(i) the actual effective capacity of the licensee's generating station computed in accordance with paragraph IX of the First Schedule at the time when such supply was required was less than twice the maximum demand asked for by any such person; or

(ii) the maximum demand of the licensee, being a distributing licensee and taking a supply of energy in bulk is, at the time of the request, less than twice the maximum demand asked for by any such person;

(iii) the licensee is unable or unwilling to supply electricity for such purpose in the said part of such area on reasonable terms and conditions and within a reasonable time.

(2) After the Board has declared its intention to supply electricity for any purpose in any area, for which purpose and in which area it is under this section competent to supply electricity, no licensee shall, the provisions of his licence notwithstanding, at any time be entitled without the consent of the Board to supply electricity for that purpose in that area.

(3) For the purposes of sub-section (1) "absolute right of veto" means an unqualified right vested in a licensee by virtue of any law, licence or other instrument whereby a bulk-licensee is prevented from supplying electricity in any specified area without the consent of the licensee in whom the right of veto vests.

(4) If any question arises under sub-section (1) as to the reasonableness of the terms or conditions or time therein mentioned, it shall be determined as provided in section 76.

**20. Power to Board to engage in certain undertakings.**—(1) The Board may, in accordance with any regulations made in this behalf, manufacture, purchase, sell or let on hire on the execution of a hire-purchase agreement or otherwise, any electric machinery, control-gear, fittings, wires or apparatus for lighting, heating, cooling, or motive power or for any other purpose for which electricity can or may be used, or any industrial or agricultural machinery operated by electricity, and may install, connect, repair, maintain or remove such fittings, wires, apparatus, machinery or control-gear and in respect thereof demand and take such remuneration or rents and charges and make such terms and conditions as it deems fit.

\* \* \* \* \*

(2) The Board may maintain shops and showrooms for the display, sale or hire of fittings, wires, apparatus and machinery as aforesaid, conduct displays, exhibitions and demonstrations thereof, and generally do all things, including advertising, incidental to the sale and hire of such fittings, wires, apparatus and machinery and to the promotion and encouragement of the use of electricity.

(3) The Board shall show separately in its accounts moneys received and expended by it in connection with any undertakings in which it engages under this section.

**21. Powers of Board in relation to water-power.**—The Board may, with the previous approval of the Provincial Government, take such measures as in the opinion of the Board are calculated to advance the development of water-power in the Province, and may organise and carry out power and hydrometric survey work and cause to be made such maps, plans, sections and estimates as are necessary for any of the said purposes:

Provided that where any such measures relate to a source of water-power already operated upon by a licensee under a licence, the Board shall give the licensee notice of such measure and an opportunity to be heard on any representations he may desire to make in that behalf and may consider such representation.

**22. Power to Board to conduct investigations.**—Subject so far as the provisions of this section relate to water-power to the previous approval of the Provincial Government, the Board may at its own expense conduct such investigations, experiments and trials as it thinks fit for the improvement of the methods of transmission, distribution and supply of electricity or of the utilisation of fuel, water-power or other means of generating electricity, and may establish and maintain laboratories for the testing and standardisation of electrical instruments and equipment.

**23. Loans by Board to licensees.**—(1) Subject to any regulations made in this behalf, the Board may make loans or advances to any licensee for the purposes of his undertaking on such terms as the Board thinks proper.

(2) The Board in the discharge of its functions may call upon a licensee to expand his undertaking and offer to advance to him a loan on such terms and conditions as it may deem proper for such expansion, and if the licensee refuses, fails or neglects to accept the loan from the Board on the terms and conditions offered or to raise a loan from other sources or to employ his own funds on terms similar to the terms offered by the Board for purposes of such expansion and to carry out such expansion, the Board may after giving the licensee six months' notice in writing purchase his undertaking.

**24. Power to Board to contribute to certain associations.**—The Board may, subject to any regulations made in this behalf, pay reasonable subscriptions, whether annual or otherwise, to any association of persons engaged in the generation, distribution or supply of electricity founded for the promotion of their common interests and contribute such sums as it thinks fit to the funds of any recognised society not conducted for profit for the promotion and encouragement of the development and use of electricity or for the improvement of knowledge and education for the promotion of research in respect of electricity or electrical appliances.

**25. Consulting engineers.**—The Board may, subject to the prior approval of the Provincial Government, from time to time appoint qualified persons to be consulting engineers to the Board and pay them such remuneration as it thinks proper.

**26. Board to have powers and obligations of licensee under Act IX of 1910.**—Subject to the provisions of this Act, the Board shall, in respect of the whole Province, have all the powers and obligations of a licensee under the Indian Electricity Act, 1910 (IX of 1910), and this Act shall be deemed to be the licence of the Board for the purposes of that Act:

Provided that nothing in sections 3 to 11, sub-sections (2) and (3) of section 21 and sections 22, 23 and 27 of that Act or in clauses I to XII of the Schedule to that Act relating to the duties and obligations of a licensee shall apply to the Board.

**27. Other functions of the Board.**—The Board shall have such further powers and duties as are provided in this Act.

## CHAPTER V

### The Board's Works and Trading Procedure

**28. Preparation of schemes.**—With a view to rationalising the production and supply of electricity in any area the Board may from time to time prepare a scheme, not inconsistent with this Act, for that area, in which provision may be made for all or any of the following matters, namely:—

- (a) the establishment of the Board's own generating stations;
- (b) the designation of generating stations, whether existing stations or new stations, as controlled stations at which electricity shall be generated for the purposes of the Board;
- (c) the interconnection, by means of main transmission lines to be constructed or acquired by the Board, of any generating stations with any others and with any systems of licensees;
- (d) where a scheme relates to a specified area, the interconnection of the system of the Board in that area with the system of the Board in any other area with respect to which a scheme is in being or may subsequently be made;
- (e) the construction or acquisition of such other main transmission lines as the scheme may require;
- (f) the use by the Board of any transmission lines or main transmission lines of any licensee;
- (g) such supplemental, incidental and consequential provisions as may appear necessary or expedient for any of the purposes aforesaid:

Provided that a scheme shall not, without the consent of the owner,—

- (i) designate as a controlled station any generating station belonging to a person other than a licensee;
- (ii) authorise the use or acquisition of a transmission line or a main transmission line belonging to a person other than a licensee.

**29. Publication and sanctioning of schemes.**—(1) The Board shall cause every scheme prepared under section 28 to be published in the official Gazette and in such local newspapers as it may consider necessary, and 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.

(2) 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, and shall publish the scheme as sanctioned by it; and where the scheme has been sanctioned in respect of part of the said area, it may subsequently be sanctioned in respect of other parts of that area:

Provided that no sanction shall be accorded by the Board to any scheme or part of a scheme estimated to result in a capital expenditure exceeding fifty lakhs of rupees 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 Provincial Government.

(3) In respect of any scheme to which the first proviso to sub-section (2) applies, the Board shall, within one month after being requested by the Central Technical Power Board so to do, supply that Board with all such information incidental or supplementary to the scheme as may be specified in the request.

**30. Matters to be considered by the Authority.**—The Authority shall, before making any recommendations in respect of a scheme upon which it has been consulted under the first proviso to sub-section (2) of section 29, have particular regard to whether or not in its opinion—

(a) any river-works proposed by the Board will prejudice the prospects for the best ultimate development of the river or its tributaries for power-generation, consistent with the requirements of irrigation, navigation and flood-control, and for this purpose the Authority shall satisfy itself that an adequate study has been made of the optimum location of dams and other river works;

(b) the proposed scheme will prejudice the proper combination of hydro-electric and thermo-electric power necessary to secure the greatest possible economic output of electric power;

(c) the proposed main transmission lines will be reasonably suitable for regional requirements;

(d) the scheme provides reasonable allowances for expenditure on capital and revenue account;

(e) the estimates of prospective supplies of electricity and revenue therefrom contained in the scheme are reasonable.

**31. Recommendations of the Authority.**—Where the Authority has been consulted under the first proviso to sub-section (2) of section 29 in respect of a scheme, it shall forward its recommendations thereon to the Board, sending a copy thereof to the Provincial Government, within six months from the date of the receipt by it of the scheme:

Provided that if the Board fails to supply in due time any information requested under sub-section (3) of section 29, the period within which the Authority shall forward its recommendations shall be correspondingly increased.



**32. Carrying out of schemes.**—The Board shall carry out and give effect to a scheme as soon as reasonably practicable after it has been sanctioned and published.

**33. Power to alter or extend schemes.**—The Board may from time to time alter or extend a scheme by a supplementary scheme made and sanctioned in the manner hereinbefore provided:

Provided that any alterations or extensions of a scheme which are in the opinion of the Board and the Authority minor in character may be made without preparing a supplementary scheme.

**34. Controlled stations.**—Where a generating station situate within an area for which a scheme is in force has been designated in the scheme as a controlled station, the relations between the Board and the licensee owning the station shall, subject to any arrangements agreed under section 47, be regulated by the provisions of the First Schedule.

**35. Supply by the Board to licensees owning generating stations.**—The Board may at any time declare to a licensee owning a generating station, other than a controlled station, situate within an area for which a scheme is in force that it is ready to make a supply of electricity available to the licensee for the purposes of his undertaking, and thereupon but without prejudice to the provisions of section 47, the provisions of the Second Schedule shall apply in respect of the relations between the Board and the said licensee.

**36. Power to Board to close down generating stations.**—The Board may at any time declare to a licensee owning a generating station situate within an area for which a scheme is in force that the station shall be permanently closed down, and thereupon but without prejudice to the provisions of section 47, where the station is a controlled station the provisions of Part III of the First Schedule, or in other cases the provisions of the Third Schedule, shall apply in respect of the relations between the Board and the said licensee with reference to the station to be closed down.

**37. Purchase of generating stations or undertakings or main transmission lines by the Board.**—(1) Where under the First or Third Schedule any generating station or undertaking is to be purchased by the Board, or where a sanctioned scheme provides for the purchase by the Board of a main transmission line belonging to any licensee.—

(a) the generating station or undertaking from such date of purchase as may be fixed under the appropriate schedule, or the main transmission line from such date of purchase as the Board shall, by notice in writing given not less than one month before the said date, intimate to the licensee, shall vest in the Board free, save as provided in sub-section (2), from any debt, mortgage, lien or other similar obligation of the licensee or attaching to the Station or undertaking or line, as the case may be, and any such debt, mortgage, lien or obligation shall, save as aforesaid attach to the purchase-money in substitution of the station or line:

Provided that notwithstanding any agreement to the contrary the licensee shall pay and the mortgagee, chargee, lien holder or obligee shall accept the whole or part of the purchase money as the case may be in full or part satisfaction of the debt according as the amount of the purchase money is more or less than the amount of his debt.

(b) without prejudice to the provisions of section 47, the Board shall pay, or tender payment of, the price to be determined in accordance with the Fourth Schedule as soon as the amount thereof has been determined, together with interest on such amount from the date of purchase to the date of payment or tender of payment as aforesaid at the rate of one per centum over the average of the Reserve Bank rates between the said dates;

(c) the receipt of the licensee shall, notwithstanding anything in any other law, be a full and sufficient discharge to the Board for the payment due in respect of the purchase.

(2) Where a generating station or undertaking or main transmission line purchased by the Board under this Act is in course of construction, extension or repair at the date of purchase, the rights and liabilities of the former owner thereof under any contract for such construction, extension or repair shall be deemed to have been transferred to the Board, except such rights or liabilities acquired or incurred after the date of receipt of the notice of purchase without the prior sanction of the Board.

(3) Notwithstanding anything contained elsewhere in this Act—

(i) where any generating station purchased by the Board under this Act contains any plant or apparatus which, while the station was in operation, were used jointly for the purposes of generation and transmission or distribution or wholly for the purposes of transmission or distribution, then unless otherwise agreed between the Board and the licensee, such plant or apparatus shall not be purchased by the Board but shall remain the property of the licensee.

(ii) Where under the provisions of section 28 a scheme provides for the purchase of any main transmission line belonging to any licensee the Board shall not exercise the powers of acquisition thereby afforded without the prior consent of the licensee, which consent shall not be unreasonably withheld.

**38. Provision of new generating stations.**—The Board shall itself establish a new generating station in any area in which it is required by any sanctioned scheme to be situated, but the Board may, with the sanction of the Provincial Government, make arrangements with any licensee or other person for the establishment of a new generating station required by a sanctioned scheme, if in the opinion of the Board it is desirable so to do.

**39. Operation of Board's generating stations.**—Where the Board itself establishes a new generating station or acquires a generating station otherwise than for the purpose of closing it down, it shall operate the station itself, but the Board may with the sanction of the Provincial Government, make arrangements with any licensee or other person for its operation, if in the opinion of the Board it is desirable so to do.

**40. Provision regarding connections with main transmission lines purchased by the Board.**—Where the Board has purchased a main transmission line and by reason of the user thereof by the Board any alteration or replacement of switch-gear or other apparatus of any licensee\* connected with the line becomes necessary, the Board may in its discretion itself carry out such alteration or replacement at its own cost or defray the reasonable expenses incurred by the licensee\* in effecting such alteration or replacement; and any question whether such alteration or replacement is necessary or whether the expenses incurred in connection therewith are reasonable shall in default of agreement be determined as provided under section 76.

**41. Use by Board of transmission lines.**—(1) Where the Board considers it necessary to use for any of its purposes any transmission lines or main transmission lines of a licensee, the Board shall have power to use such lines to the extent to which the capacity thereof is or thereafter remains surplus to the requirements of the licensee for the transmission of electricity, on payment of charges calculated in accordance with the provisions of the Fifth Schedule.

(2) The Board may, by agreement with any licensee or other person, use any transmission line or main transmission line of that licensee or person for such time and upon such terms as may be agreed.

**42. Powers to Board for placing wires, poles, etc.**—Notwithstanding anything contained in sections 12 to 16 and 18 and 19 of the Indian Electricity Act, 1910 (IX of 1910), but without prejudice to the requirements of section 17 of that Act,

where provision in such behalf is made in a sanctioned scheme, the Board shall have, for the placing of any wires, poles, wall-brackets, stays, apparatus and appliances for the transmission and distribution of electricity, or for the transmission of telegraphic or telephonic communications necessary for the proper co-ordination of the works of the Board, all the powers which the telegraph authority possesses under Part III of the Indian Telegraph Act, 1885 (XIII of 1885) with regard to a telegraph established or maintained by the Government or to be so established or maintained:

Provided that where a sanctioned scheme does not make such provision as aforesaid, all the provisions of sections 12 to 19 of the first-mentioned Act shall apply to the works of the Board.

**43. Power to Board to enter into arrangements for purchase or sale of electricity under certain conditions.**—(1) The Board may enter into arrangements with any person producing electricity within the Province for the purchase by the Board, on such terms as may be agreed, of any surplus electricity\* which that person may be able to dispose of.

(2) Where a sanctioned scheme so provides, the Board may, on such terms as may be agreed upon, enter into arrangements with any Government or person for the purchase or sale of electricity to be generated or used outside the Province:

Provided that the Board may not enter into such arrangements with any such Government or person without the consent of the Provincial Government, or into arrangements with any such person without the consent of the Government of the Province within which the electricity is to be generated or used.

**44. Restriction on establishment of new generating stations or major additions or replacement of plant in generating stations.**—(1) Notwithstanding anything contained in any other law for the time being in force or in any licence but subject to the provisions of this Act, it shall not be lawful for a licensee, or any other person not being the Central Government except with the previous consent in writing of the Board, to establish or acquire a new generating station or to extend or replace any major unit of plant or works pertaining to the generation of electricity in a generating station:

Provided that such consent shall not, except in relation to a controlled station, be withheld unless within three months from the date of receipt of an application—

(a) for consent to the establishment or acquisition of a new generating station, the Board—

(i) gives to the applicant being a licensee an undertaking that it is competent to, and will, within twenty-four months from the said date afford to him a supply of electricity equivalent to that required by him pursuant to his application; or

(ii) shows to the applicant \* \* \* \* that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source;

(b) for consent to the extension \* \* of any major unit of plant or works as aforesaid, the Board—

(i) gives to the applicant being a licensee an undertaking that within twenty-four months from the said date either the station to which the application pertains will become a controlled station in terms of section 34, or the Board will make a declaration to the applicant in terms of section 35 offering him a supply of electricity equivalent to that required by him pursuant to his application, or the Board will make a declaration to him in terms of section 36: or

(ii) shows to the applicant \* \* \* \* that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source or by other appropriate means;

(c) for consent to the replacement of any major unit of plant or works, the Board—

(i) gives to the applicant being a licensee an undertaking that within eighteen months from the said date either the station to which the application pertains will become a controlled station in terms of section 34 or the Board will make a declaration to him in terms of section 36; or

(ii) shows to the applicant that the electricity required by him pursuant to his application could be more economically obtained within a reasonable time from another appropriate source or by other appropriate means.

(2) There shall be stated in every application under this section such particulars as the Board may reasonably require of the station, plant or works, as the case may be, in respect of which it is made, and where consent is given thereto, in acting in pursuance of such consent, the applicant shall not, without the further consent of the Board, make any material variation in the particulars so stated.

(3) Any difference or dispute arising out of the provisions of this section shall be referred to the arbitration of the Authority.

**45. Power to Board to enter upon and shut down generating stations in certain circumstances.**—(1) If any licensee fails to close down his generating stations pursuant to a declaration of the Board under section 36, or if any person establishes or acquires a new generating station or extends or replaces any plant or works in any generating station in contravention of section 44, the Board may authorise any of its officers to enter upon the premises of such station and shut down the station or the plant or works, as the case may be, in respect of which the failure or contravention has occurred.

(2) Any expenses incurred by the Board under this section shall be recoverable by it from the licensee or person concerned as an arrear of land revenue, and for such purpose the Board shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890 (I of 1890).

(3) Any difference or dispute arising out of the provisions of this section shall be referred to the arbitration of the Authority.

**46. The Grid Tariff.**—(1) A tariff to be known as the Grid Tariff shall, in accordance with any regulations made in this behalf, be fixed from time to time by the Board in respect of each area for which a scheme is in force, and tariffs fixed under this section may, if the Board thinks fit, differ for different areas.

(2) Without prejudice to the provisions of section 47, the Grid Tariff shall apply to sales of electricity by the Board to licensees where so required under any of the First, Second and Third Schedules, and shall, subject as hereinafter provided, also be applicable to sales of electricity by the Board to licensees in other cases:

Provided that if in any such other case it appears to the Board that, having regard to the extent of the supply required, the transmission expenses involved in affording the supply are higher than those allowed in fixing the Grid Tariff, the Board may make such additional charges as it considers appropriate.

(3) The Grid Tariff shall be so framed as to include as part of the charge, and show separately a fixed kilowatt charges component and a running charges component:

Provided that if in respect of any area the electricity to be sold by the Board is wholly or substantially derived from hydro-electric sources, the running charges component may be omitted.

(4) The fixed kilowatt charges component in the Grid Tariff may be framed so as to vary with the magnitude of maximum demand.

(5) Where only a portion of a licensee's maximum demand for the purposes of his undertaking is chargeable at the Grid Tariff, the price payable for that portion shall not be greater than the price which would have been payable for any equivalent portion had the whole of the said maximum demand of the licensee been chargeable at the Grid Tariff.

(6) The Grid Tariff may contain provisions for—

(a) adjustment of price having regard to the power factor of supply taken or the cost of fuel or both;

(b) a minimum charge related to a past or prospective demand of a licensee on the Board.

(7) The Grid Tariff may contain such other terms and conditions, not inconsistent with this Act and the regulations, as the Board thinks fit.

**47. Power to Board to make alternative arrangements with licensee —**

Notwithstanding anything contained in sections 34 to 37 and sub-section (2) of section 46 but subject to any regulations made in this behalf, the Board may make such arrangements as may be mutually agreed with any licensee whose area of supply is situate within an area for which a scheme is in force, in regard to the purchase or sale of electricity and the price thereof, or the purchase, operation or control of any generating station or main transmission line:

Provided that in making any such arrangement the Board shall not show undue preference to any licensee.

**48. Power to licensee to carry out arrangements under this Act.—**Where under any provision of this Act the Board is authorised or required to enter into arrangements with any licensee for any purpose, then notwithstanding anything contained in any law or in any license, memorandum of association or other instrument regulating the constitution or powers of the licensee, it shall be lawful for the licensee to enter into and carry out any such arrangements.

**49. Provision for the sale of electricity by the Board to persons other than licensees.—**Subject to the provisions of this Act and of any regulations made in this behalf, the Board may supply electricity to any person not being a licensee upon such terms and conditions as the Board may from time to time fix having regard to the nature and geographical position of the supply and the purposes for which it is required:

Provided that in fixing any such terms and conditions the Board shall not show undue preference to any person.

**50. Board not to supply electricity in certain circumstances.—**Nothing contained in sections 34, 35, and 36 shall apply in any case where under section 19, it is not permissible for the Board to supply electricity directly to a licensee owning a generating station; and nothing in sections 46, 47 and 49 shall empower the Board to supply electricity directly to any licensee or person to whom it is not otherwise entitled so to supply electricity.

**51. Provisional payments.—**Where the price to be paid for electricity by or to the Board under this Act cannot be finally ascertained until after the end of a year of account, the amount to be paid shall be ascertained as soon as practicable thereafter, but the party from whom the payment is due shall make to the other monthly payments on account of the net amounts due in accordance with estimates made for the purpose, subject to adjustment as soon after the end of the year of account as the actual liability can be ascertained.

**52. Lower limit of power factor in supply by Board.—**Unless otherwise agreed between the Board and the licensee, no supply of electricity taken by a licensee from the Board under this Act shall be taken at an average power factor below 0.85 during the period of maximum demand of the licensee in any month, and

in the event of the average power factor as aforesaid being lower than 0.85, the licensee shall within a reasonable time take such measures, the cost of which shall not be borne by the Board, as may be necessary to raise it to a value not lower than 0.85.

**53. Provision of accommodation and right of way.**—(1) Where the Board for the purposes of any arrangements which it has made with any licensee under this Act requires accommodation on, in, under or over the premises of the licensee for any works or apparatus to be provided by the Board, the licensee shall, if suitable and sufficient accommodation exists \* \* \* grant such accommodation free of cost to the Board, or if such accommodation does not exist, it shall be provided upon such terms and conditions as may be agreed between the Board and the licensee.

(2) The Board and any licensee shall at all times have a right of access to their own property on, in, over and under the property of the other.

**54. Power to Board to connect meters, etc., to apparatus of licensees.**—The Board shall have power to connect with the apparatus of any licensee any such correct meters, switch-gear and other equipment as may be necessary to enable it to carry out the provisions of this Act, and such meters, switch-gear and other equipment shall, unless otherwise agreed, be provided and maintained by the Board at its own cost.

**55. Licensees to comply with Board's directions.**—Every licensee \* \* \* shall comply with such \* \* \* directions as the Board may from time to time give him for the purpose of achieving the maximum of economy and efficiency in the operation of the station.

**56. Leases of generating stations.**—\*No licensee shall, except with the previous approval in writing of the Board and subject to any conditions which the Board may think fit to impose, enter into any arrangement \* \* \* whereby any generating station is to be let or held on lease by him, and any such arrangement entered into in contravention of this sub-section shall be void and of no effect.

\* \* \* \* \*

**57. Licensees charges to consumers.**—(1) After the issue of the notification under sub-section (3) of section 1, the provisions of the Sixth Schedule and the Table appended to the Seventh Schedule shall be deemed to be incorporated in the licence of every licensee, not being a local authority, from the date of the commencement of the licensee's next succeeding year of account, and from such date the licensee shall comply therewith accordingly and any provisions of such licence or of the Indian Electricity Act, 1910 (IX of 1910), or 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 this section and the said Schedule and Table.

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

(a) The Board, or where no Board is constituted under this Act the Provincial Government, may, if it is satisfied that the licensee has failed to comply with any provision of the Sixth Schedule, and shall when requested so to do by the licensee, constitute a rating committee to examine the licensee's charges for the supply of electricity and to recommend thereon to the Provincial Government:

Provided 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 Provincial 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) The 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 Provincial Government making recommendations (and giving 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 profits sufficient when taken with the sums available in the Tariffs and Dividends Control Reserve to afford him a reasonable return during his next succeeding three years of account if the efficiency of operation and management and the potentialities of the undertaking of the licensee so permit.

(c) Within one month after the receipt of the report under clause (c) the Provincial 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:

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

(3) Where a Board is constituted under this Act, the rating committee shall consist of three members, two of whom shall be members of the Board and one shall be a representative, co-opted by the two members of the Board from a licensee's association of which the licensee concerned is or is eligible to be a member or, if there is no such association, from such Chamber of Commerce or similar body as the Board may direct; one of such members of the Board shall be experienced in accounting and financial matters and one of the members of the Board shall be the Chairman of the committee.

(4) Where no Board is constituted under this Act, the rating committee shall consist of five members of whom the Chairman and two other members shall be nominated by the Provincial Government, one member shall be nominated by the licensee and one member shall be nominated by the local Electric Licensees' Association, or if there is no such association, by such Chamber of Commerce or similar body as the Provincial Government may direct.

(5) Of the three members to be nominated by the Provincial Government under sub-section (4), 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 having at least ten years' experience and one shall be a person with administrative experience.

**58. Power \* \* to direct amortisation and tariffs policies of licensees being local authorities.**—The Board or where no Board is constituted under this Act, the Provincial Government shall have power to direct the amortisation and tariffs policies of any licensee, being a local authority, with respect to his licensed undertaking in such manner as the Board or the Provincial Government, as the case may be, after giving the local authority a reasonable opportunity of being heard, considers expedient for the purposes of the Act; and the licensee, being a local authority, the provisions of any other law or of any rules made or directions given thereunder notwithstanding, shall give effect to any such directions of the Board or the Provincial Government, as the case may be.

## CHAPTER VI

## The Board's Finance, Accounts and Audit

**59. General principles for Board's finance.**—The Board shall not, as far as practicable and after taking credit for any subventions from the Provincial Government under section 63, carry on its operations \* \* \* under this Act \* \* \* at a loss, and shall adjust its charges \* \* \* accordingly from time to time:

Provided that where necessary any amounts due for meeting the operating, maintenance and management expenses of the Board or for the purposes of clauses (i) and (ii) of section 67 may, to such extent as may be sanctioned by the Provincial Government, be paid out of capital.

**60. Board to assume obligations of Provincial Government in respect of matters to which this Act applies.**—(1) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Provincial Government for any of the purposes of this Act before the first constitution of the Board shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board; and all suits or other legal proceedings instituted or which might but for the issue of the notification under sub-section (4) of section 1 have been instituted by or against the Provincial Government may be continued or instituted by or against the Board.

(2) All expenditure which the Provincial Government may, not later than two months after the first constitution of the Board, declare to have been incurred before the issue of the notification under sub-section (4) of section 1 on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board under section 64 on the date of the said declaration, and all the assets acquired by such expenditure shall thereupon vest in the Board.

**61. Annual financial statement.**—(1) In February of each year the Board shall submit to the Provincial Government a statement in the prescribed form of the estimated capital and revenue receipts and expenditure for the ensuing year.

(2) The said statement shall include a statement of the salaries of members, officers and servants of the Board and of such other particulars as may be prescribed.

(3) The Provincial Government shall as soon as may be after the receipt of the said statement cause it to be laid on the table of the Chamber, or as the case may be, Chambers of the Provincial Legislature; and the said statement shall be open to discussion therein, but shall not be subject to vote.

(4) The Board shall take into consideration any comments made on the said statement in the Provincial Legislature. \* \* \* \* \*

(5) The Board may at any time during the year in respect of which a statement under sub-section (1) has been submitted submit to the Provincial Government a supplementary statement, and all the provisions of this section shall apply to such statement as they apply to the statement under the said sub-section.

**62. Restriction on unbudgeted expenditure.**—(1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding twenty-five thousand rupees on account of recurring expenditure or exceeding one lakh of rupees on account of non-recurring expenditure shall be expended by the Board in any year of account unless such sum has been included in a statement submitted under sub-section (1) or sub-section (5) of section 61.



(2) Where any such sum is expended under circumstances of extreme urgency, a report thereon indicating the source from which it is proposed to meet the expenditure shall be made as soon as practicable to the Provincial Government.

**63. Subventions to the Board.**—The Provincial Government may, with the approval of the Provincial Legislature, from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the Provincial Government may determine.

**64. Loans to the Board.**—The Provincial Government may from time to time advance loans to the Board on such terms and conditions, not inconsistent with the provisions of this Act, as the Provincial Government may determine.

**65. Power of Board to borrow.**—(1) The Board may from time to time with the previous sanction of the Provincial Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(2) Rules made by the Provincial Government for the purposes of this section may empower the Board to borrow by the issue of bonds or stock or otherwise and to make arrangements with bankers, and may apply to the Board with such modifications as may be necessary to be consistent with the Act the provisions of the Local Authorities Loans Act, 1914 (IX of 1914) and the rules made thereunder as if the Board were a local authority:

(8) The maximum amount which the Board may at any time have on loan under sub-section (1) shall be ten crores of rupees, unless the Provincial Government, with the approval of the Provincial Legislative Assembly, fixes a higher maximum amount.

(4) Stock issued by the Board under this section shall be issued, transferred, dealt with and redeemed in such manner as may be prescribed.

**66. Guarantee of loans.**—The Provincial Government may guarantee in any manner as it thinks fit the payment of the principal and interest of any loan proposed to be raised by the Board or of either the principal or the interest:

Provided that the Provincial Government shall, so long as any such guarantees are in force, lay before the Chamber or, as the case may be, Chamber of the Provincial Legislature in every year during the budget session a statement of the guarantees, if any, given during the current financial year of the Province and an up-to-date account of the total sums, if any, which have been paid out of Provincial revenues by reason of any such guarantees or paid into Provincial revenues towards repayment of any money so paid out.

**67. Priority of liabilities of the Board.**—The revenues of the Board shall, after meeting its operating, maintenance and management expenses, be distributed as far as they are available in the following order, namely:—

(i) Interest on bonds not guaranteed under section 66.

(ii) Interest on stock not so guaranteed.

(iii) Credits to depreciation reserve under section 68.

(iv) Interest on bonds guaranteed under section 66.

(v) Interest on stock so guaranteed.

(vi) Repayment of principal and interest on sums paid by the Provincial Government under guarantees under section 66.

(vii) The write-down of amounts paid from capital under the proviso to section 59.

(viii) Contribution to general reserve of an amount not exceeding one per centum per annum of the original cost of fixed assets employed by the Board so however that the total standing to the credit of such reserve shall not exceed eight per centum of the original cost of such fixed assets.

(ix) Interest on loans advanced or deemed to be advanced to the Board under section 64, including arrears of such interest.

(x) Of the balance remaining, one-half in the reduction of tariffs or for such other purposes beneficial to electrical development in the Province, as the Board may think fit; and the remaining one-half as far as available in the following order, namely:—

(a) repayment of interest-free loans;

(b) to Provincial revenues.

**68. Depreciation reserve.**—The Board shall create a depreciation reserve and, as far as compliance with the provision of section 67 makes it practicable, shall at the end of every year credit to such reserve from its revenues—

(i) sums ascertained in accordance with the Seventh Schedule, and

(ii) interest at the rate of three per centum per annum on all sums at credit of the depreciation reserve on the first day of the said year.

Provided 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.

**69. Accounts and audit.**—(1) The Board shall cause to be maintained such proper books of account and other books in relation to its accounts as the regulations may require, and shall prepare in accordance with the rules and annual statement of accounts.

(2) The accounts of the Board shall be audited concurrently and annually by a person who shall be qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913), to act as an auditor of companies and who shall be appointed by the Provincial Government.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Provincial Government, and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(4) The Board shall comply with such orders and instructions, \* \* \* as the Provincial Government may, upon perusal of the report of the auditor, think fit to issue.

## **CHAPTER VII**

### **Miscellaneous**

**70. Effect of other laws.**—(1) No provision of the Indian Electricity Act, 1910 (IX of 1910) \* \* \*, or of any rules made thereunder or of any instrument having effect by virtue of \* such law or rule shall, so far as it is inconsistent with any of the provisions of this Act, have any effect:

Provided that nothing in this Act shall be deemed to prevent the Provincial Government from granting, after consultation with the Board, a licence not inconsistent with the provisions of the Indian Electricity Act, 1910, to any person in respect of such area and on such terms and conditions as the Provincial Government may think fit.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to, and not in derogation of, the Indian Electricity Act, 1910.

**71. Rights and options to purchase under Act IX of 1910 to vest in Board.**—Where under the provisions of the Indian Electricity Act, 1910, any right or option to purchase the undertaking of a licensee vests in the Provincial Government or a local authority, such right or option shall be deemed to be transferred to the Board, and shall be exercisable by the Board in accordance with the provisions of the said Act applicable to the exercise of such right or option by the Provincial Government or a local authority, as the case may be.

**72. Water-power concessions to be granted only to the Board.**—The Provincial Government shall not grant any concession for the development or use of water-power for any electrical purpose to any person other than the Board, unless \* \* \* the Provincial Government is of opinion that it is not expedient for the Board or that the Board is unable so to develop or use the water-power concerned.

**73. Co-ordination between the Board's Schemes and Multi-purpose Schemes.**—Where a multi-purpose scheme for the development of any river in any region is in operation, the Board shall co-ordinate its activities with the activities of the persons responsible for such scheme in so far as they are inter-related.

**74. Powers of entry.**—Any officer or servant of the Board generally or specially authorised by the Board in this behalf may at any reasonable time after giving the owner or occupier reasonable notice enter upon any land or premises and there do such things as may be reasonably necessary for the purposes of lawfully using any transmission lines or main transmission lines, or of making any survey, examination or investigation preliminary or incidental to the exercise of powers or the performance of duties by the Board under this Act.

**75. Annual reports, statistics and returns.**—(1) The Board shall, before such date and in such form as may be prescribed, submit to the Provincial Government an annual report upon such matters as may be prescribed, and the Provincial Government shall cause such report to be published in the official Gazette.

(2) The Board shall furnish to the Provincial Government at such times and in such form and manner as may be prescribed or as the Provincial Government may direct, such statistics and return and such particulars in regard to any proposed or existing scheme as the Provincial Government may from time to time require.

(3) The Board may, at any time, by notice in writing require any licensee or person supplying electricity for public or private purposes or generating electricity for his own use to furnish it with such information and accounts relating to such supply or generation and in such form and manner as the notice may specify.

**76. Arbitration.**—(1) All questions arising between the Provincial Government or the Board and a licensee or other person shall be determined by arbitration.

(2) Where any question or matter is, by this Act, required to be referred to arbitration, it shall be so referred—

(a) in cases where the Act so provides, to the Authority and on such reference the Authority shall be deemed to have been duly appointed as Arbitrators, and the award of the Authority shall be final and conclusive; or

(b) in other cases, to two arbitrators, one to be appointed by each party to the dispute.

(3) Subject to the provisions of this section, the provisions of the Arbitration Act, 1940 (X of 1940) shall apply to arbitrations under this Act.

(4) The arbitrators shall in making their award have regard to the provisions of this Act and any rules and regulations made thereunder relevant to the reference.

(5) The arbitrators may, if they think it expedient so to do, call in the aid of one or more qualified assessors and hear the reference wholly or partially with the aid of such assessors.

(6) The provisions of sub-sections (4) and (5) shall apply to the umpire, if he enters on the reference, as they apply to the arbitrators.

**77. Penalties and procedure.**—(1) If any licensee or other person fails without reasonable excuse to comply with or give effect to any direction, order or requirement made under section 55 or under clause (c) of sub-section (2) of section 57 or under section 58 or under sub-section (B) of section 75, he shall be deemed to have committed an offence under this section and shall be punishable with fine which may extend to five hundred rupees, and in the case of continuing offence with an additional fine which may extend to fifty rupees for every day after the first during which the offence continues.

(2) Where any licensee or other person is a firm, company or other body corporate, every partner, managing director, \* manager, secretary or other responsible officer thereof shall, unless he proves that an offence under this section was committed without his knowledge or that he exercised all due diligence to prevent its commission, be deemed to be guilty of the offence.

(3) No Court shall take cognisance of an offence under this section except on the complaint of an officer of the Board, or where no Board is constituted under this Act on the complaint of an officer of the Provincial Government, authorised by the Board or as the case may be by the Provincial Government in this behalf.

**78. Power to make rules.**—(1) The Provincial Government may after previous publication, by notification in the official Gazette make rules to give effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the remuneration, allowances and conditions of service of members of the Board;

(b) the terms and conditions of appointment of members of Provincial Electricity Councils and Local Advisory Committees, the convening of meetings of such councils and Committees, and the conduct of business thereat;

(c) the form in which the annual financial statement and supplementary statements under section 61 shall be prepared by the Board, and the particulars to be included therein;

(d) the conditions subject to which the Board may borrow under section 65;

(e) the manner in which stock issued by the Board shall be issued, transferred, dealt with and redeemed;

(f) the manner in which the accounts of the Board shall be published under section 69;

(g) the form in which and the date by which the annual report of the Board shall be submitted under section 75, and the form and manner of furnishing statistics and returns by the Board under that section.

(h) the business of the Board upon which the Local Advisory Committees concerned shall be consulted.

**79. Power to make regulations.**—The Board may make regulations not inconsistent with this Act and the rules made thereunder to provide for all or any of the following matters, namely:—

(a) the administration of the funds and other property of the Board, and the maintenance of its accounts;

(b) the summoning and holding of meetings of the Board, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to constitute a quorum;

(c) the duties of officers and servants of the Board, and their salaries, allowances and other conditions of service;

(d) all matters necessary or expedient for regulating the operations of the Board under section 20;

(e) the making of advances to licensees by the Board under section 23 and the manner of repayment of such advances;

(f) the making of contributions by the Board under section 24;

(g) the procedure to be followed by the Board in inviting, considering and accepting tenders;

(h) principles governing the fixing of Grid Tariffs;

(i) principles governing the making of arrangements with licensees under section 47;

(j) principles governing the supply of electricity by the Board to persons other than licensees under section 49;

(k) any other matter arising out of the Board's functions under this Act for which it is necessary or expedient to make regulations:

Provided that regulations under clauses (a) and (d) shall be made only with the previous approval of the Provincial Government and regulations under clauses (h) and (i) shall be made with the concurrence of the Authority.

**80. Provision relating to income-tax and super-tax.**—(1) For the purposes of the Indian Income-tax Act, 1922 (XI of 1922), the Board shall be deemed to be a company within the meaning of that Act and shall be liable to income-tax and super-tax accordingly on its income, profits and gains.

(2) The Provincial Government shall not be entitled to any refund of any such taxes paid by the Board.

**81. Members, officers and servants of the Board to be public servants.**—All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860)

**82. Protection to persons acting under this Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

**83. Saving of application of Act.**—Nothing in this Act shall be deemed to apply to a licensee on whom a notice under section 5 or section 7 of the Indian Electricity Act, 1910 (IX of 1910), has been served prior to the coming into force of the sections, Schedule and Table mentioned in sub-section (8) of section 1.

## THE FIRST SCHEDULE

(See sections 84 and 86).

## Arrangements in respect of controlled stations

## PART I

## Assumption of control

I. (1) The Board shall by notice in writing to the licensee fix a date (hereafter in this Schedule referred to as the date of control), being the first day of a year of account of the licensee, and from such date the licensee shall, except where prevented by causes beyond his control, be under obligation—

(a) subject to such directions as the Board may from time to time give him, to keep the station at all times in good and substantial repair and condition and ready for use, together with adequate staff for operating, maintaining and controlling the station, and not to make any substantial alterations or renewals in, or remove any essential or substantial part of, the station without the consent in writing of the Board;

(b) to operate the station so as to generate such quantity of electricity with such units of plant at such rates of output and at such times, or to cease to generate electricity during such periods, as the Board may direct;

(c) to carry out as soon as may be practicable such reasonable extensions, alterations or renewals of the station or any part thereof as the Board may from time to time direct;

(d) to supply to the Board all the electricity generated at the station.

(2) To enable a licensee to comply with any direction under sub-paragraph (1) requiring extension of the station or any part thereof for purposes of the Board, the Board may, if it considers it expedient and practicable so to do, offer to advance to him a loan upon such terms and conditions as it may deem proper and the licensee shall accept the loan from the Board on the terms and conditions offered, unless he raises a loan from other sources or employs his own funds for purposes of such extension on terms similar to the terms offered by the Board:

Provided that notwithstanding anything contained in any law or in any mortgage, charge or instrument executed by the licensee, the loan so advanced by the Board and the interest thereon shall be a first charge on the extension and subject to any prior encumbrance shall also be charged on the undertaking and all the revenues of the licensee and no such loan shall be amortised in any way by the licensee:

Provided further that if at the date of purchase of the station under this Act or of the licensee's undertaking under the Indian Electricity Act, 1910 (IX of 1910), the said principal or any part thereof remains unpaid though due for redemption or is not on that date due for redemption, then any sum payable by the purchaser as a percentage on account of compulsory purchase under this Act or the said Act shall be reduced by an amount which bears the same proportion to that sum as the amount of the said principal or part thereof remaining unpaid or not being due for redemption as aforesaid bears to the total of the ordinary, preference and debenture capital of the licensee and the loans other than loans advanced by the Board under this sub-paragraph.

*Explanation.*—In this sub-paragraph, the expressions "ordinary capital", "preference capital" and "debenture capital" have the meanings respectively assigned to them in the Sixth Schedule.

\* \* \* \* \*

II. From the date of control the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

III. Unless otherwise agreed between the board and the licensee, the licensee shall not, where he has received a notice under paragraph I, purchase after the date of control any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of control or for such other period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

IV. The Board shall pay to the licensee, whether or not any electricity is generated at the station, the costs ascertained in accordance with the provisions of the Eighth Schedule.

V. The prices to be paid by the licensee for electricity supplied by the Board shall be determined in the manner provided in the appropriate Part of this Schedule.

VI. The points at which electricity to be supplied under this Schedule shall be delivered by the Board and the licensee respectively shall, unless otherwise agreed between the Board and the licensee, be at the generating station, and the pressure of the supplies shall be such as the Board and the licensee may agree.

VII. Where any licensee owns more than one controlled station—

(a) such of the several controlled stations as are interconnected shall, for the purposes of this Schedule, be deemed to comprise a single controlled station, and unless the subject or context otherwise requires, the provisions of this Schedule shall be construed as if the word "combined" had been inserted before the word "station" or the words "generating station" wherever they occur;

(b) the electricity supplied at the several controlled stations by the licensee to the Board, or by the Board to the licensee, shall each respectively be treated as single supplies;

(c) in the application of clause (a) of paragraph XII, the costs of production at each of the several controlled stations shall be separately ascertained; and in the application of clause (c) of the said paragraph—

(i) the sums ascertained in accordance with clause (a) of paragraph I of the Eighth Schedule in respect of each of the several controlled stations shall be separately allocated between fixed costs and running costs, and

(ii) the sum of the several fixed costs and the sum of the several running costs shall be the fixed costs and the running costs respectively of the combined station;

(d) in directing the operation of the combined station under clause (b) of sub-paragraph (1) of paragraph I, the Board shall have regard to the nature and capacity of the licensee's transmission system interconnecting the several controlled stations and to the requirements of the licensee at each of those stations.

VIII. In the event of the licensee failing, except where prevented by causes beyond his control, to perform or continue to perform any obligation imposed upon him under this Part, the Board may give notice to him in writing that on the first day of the licensee's next succeeding year of account the generating

station will be purchased by the Board, and on such day the Board shall purchase the station at a price determined in accordance with the Fourth Schedule; and thereafter—

(a) all the provisions of this Schedule except paragraph II and this paragraph shall, in relation to the licensee, cease to have effect;

(b) the Board shall supply the licensee with the electricity required by him under paragraph II at such price and on such conditions as the Board may determine.

## PART II

### Price to be paid for electricity supplied by the Board under Part I

IX. There shall be agreed between the Board and the licensee in respect of each month of the licensee's year of account—

(a) the maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the station as were available for reliable and regular commercial operation on the first day of the month, including the capacity of such plant and works as were temporarily out of commission;

(b) the number and size of units of plant and works, forming part of the aforesaid plant and works, which ought properly to be deemed to be standby if the station were not a controlled station;

(c) the standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account;

(d) the actual effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

X. (1) The licensee shall be entitled to purchase from the station in each month at a price determined under paragraph XIII a number of kilowatts not exceeding the scheduled effective capacity of the station on the first day of that month as determined in sub-paragraph (2).

(2) The scheduled effective capacity of the station shall be agreed between the Board and the licensee in respect of each month of the year of account, and shall be computed in the same manner as the actual effective capacity under paragraph IX, except that there shall be left out of account such units of plant and works, if any, forming part of the plant and works referred to in clause (a) of the said paragraph, as the licensee declares to be surplus to his requirements for the time being.

Provided that the licensee shall not declare to be surplus to his requirements any such units of plant or works as were installed or were on order at the date of control which were included in any previous computation of the scheduled effective capacity.

Provided further that if as a result of the licensee declaring as surplus to his requirements any units of plant or works, the scheduled effective capacity is in respect of any month computed to be less than the maximum demand of the licensee on the station for the purposes of his own undertaking, then such units of plant or works and all further additional units of plant or works shall thereafter always be deemed to be surplus to the requirements of the licensee as aforesaid unless the Board decides otherwise.

XI. The licensee shall be entitled to purchase from the Board in each month at a price determined under paragraph XIII a number of kilowatt-hours not exceeding the number of kilowatt-hours which bears the same proportion to the total number of kilowatt-hours agreed to be purchased by the licensee from the Board in the month as the scheduled effective capacity for the month bears to the maximum demand of the licensee on the Board in that month:



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 Provided that if the station is a hydro-electric station or if any unit of a combined station is a hydro-electric unit, the number of kilowatt-hours which the licensee shall be entitled to purchase as aforesaid shall be reduced by such amount, if any, as may be agreed between the Board and the licensee, having regard to the number of kilowatt-hours actually supplied in the month from such hydro-electric station or unit.

XII. As soon as practicable after the end of a year of account—

(a) there shall be ascertained in respect of that year the cost of production at the station in accordance with the provisions of the Eighth Schedule;

(b) there shall be deducted from the total sum ascertained in respect of that year under clauses (b), (c), (d), (e) and (f) of paragraph I of the Eighth Schedule, such proportion of the charges referred to in the said clauses as are wholly attributable to so much of the plant and works, if any, as has been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements, and the balance remaining after such deduction shall for the purposes of this Schedule be referred to as the scheduled overhead charges;

Provided that in assessing the said proportion regard shall be had to the period during which any such plant or works were declared to be surplus as aforesaid;

(c) there shall be allocated between fixed costs and running costs in accordance with the provisions of the Ninth Schedule the sum ascertained in respect of that year under clause (a) of paragraph I of the Eighth Schedule, and the amount of running costs divided by the number of kilowatt-hours supplied from the station in that year shall for the purposes of this Schedule be referred to as the running charges component;

(d) there shall be ascertained in respect of that year an amount (in this Schedule referred to as the scheduled fixed works costs) calculated from the

expression,  $\frac{A}{2} + \frac{A}{2} \times \frac{B}{C}$  where—

A = the amount of fixed costs ascertained in respect of that year under clause (c);

B = the sum of the scheduled effective capacities for each month of that year;

C = the sum of the actual effective capacities for each month of that year.

XIII. The licensee shall pay to the Board in respect of each month of the year of account for the electricity purchased under paragraphs X and XI—

(a) in respect of kilowatts, an amount equal to one-twelfth of the sum of the scheduled overhead charges and the scheduled fixed works costs;

(b) in respect of kilowatt-hours a sum found by multiplying the number of kilowatt-hours supplied by the running charges component;

Provided that if in any year of account the station for any reason ceases to generate electricity for one thousand hours or more, then for the purposes of ascertaining the running charges component and the scheduled fixed works costs under clauses (c) and (d) respectively of paragraph XII—

(i) the said clause (c) shall be construed as if there were substituted for the words "that year" in both places where they occur, the words "the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more" and as if to the said clause the following proviso were added, namely:—

"Provided that so much of the said sum as is represented by the cost of fuel shall be adjusted to take account of the cost which would have been in-

... had that fuel been consumed at the average prices prevailing in the actual year of account";

(ii) in evaluating the expression contained in the said clause (d), the letter C shall be deemed to be equal to the sum of the actual effective capacities for each month of the most recent year of account in which the station did not cease to generate electricity for one thousand hours or more:

Provided further that if in any year of account there exist in the station any units of plant or works which have been declared by the licensee under sub-paragraph (2) of paragraph X to be surplus to his requirements in that year, there shall be added to the running charges component in respect of that year the amount, if any, by which that part of the said component attributable to the cost of fuel is less than ninety *per centum* of the corresponding part of the running charges component in respect of the year of account immediately preceding that in which the earliest installed of the said units of plant or works first came into commercial operation in the station, and in ascertaining the corresponding part as aforesaid, the fuel consumed shall be deemed to be of the same average quality and to be consumed at the same average cost per ton as the fuel consumed in the year of account:

Provided further that if in respect of any month of the year of account any units of plant or works previously declared by the licensee as aforesaid to be surplus to his requirements are for the first time taken into account in assessing the scheduled effective capacity for that month, then in addition to the payment referred to in clause (a) the licensee shall pay to the Board a sum equal to any sums previously paid by the Board to the licensee on revenue account (in respect of any period prior to the date on which the said units of plant or works came into commission) by way of interest, depreciation, testing and tuning-up expenses attributable to the said units of plant or works; and the sum to be paid as aforesaid shall become due in one or more instalments and at such time or times as the Board may direct.

XIV. The price payable by the licensee to the Board for all electricity supplied by the Board to him in excess of the quantities referred to in paragraphs X and XI shall be the Grid Tariff.

XV. The licensee shall have the right at any time, on giving to the Board prior notice in writing expiring at the end of any year of account, to purchase from the Board at the Grid Tariff the whole of the electricity supplied to him by the Board thereafter:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the scheduled effective capacity of the station becomes nil, pay to the Board in respect of each month in addition to the Grid Tariff one-twelfth of such proportion as the Board may fix of the annual charges by way of interest and depreciation which would have been payable to the Board in respect of the year of account had the said notice not been given:

Provided further that in assessing the scheduled effective capacity for the purposes of the first proviso all units of plant or works which may have been under this Schedule declared or deemed to be surplus to the requirements of the licensee at the date of the expiration of the said notice and all additional units of plant or works shall after that date always be deemed to be surplus to the requirements of the licensee:

Provided further that after the expiration of the said notice the licensee shall not be entitled any time to purchase electricity from the Board at the price ascertained under paragraph XIII.

## PART III

## Permanent closing down of a controlled station

XVI. The Board may give the licensee not less than six months' notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account it will not again direct the licensee to generate any electricity in the station, and upon that date (hereinafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

XVII. From the date of closing down paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and on receipt of the notice under paragraph XVI the licensee shall have the option (to be exercised by a date not later than three months prior to the date of closing down) either—

(a) (i) to sell the station \* \* \* at any time after the date of closing down, and

(ii) to purchase the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station or at the option of the licensee the undertaking of the licensee at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XVIII:

Provided that where the station cannot be severed from the distributing system of the licensee or where the severance of the station from the distributing system of the licensee is likely to affect prejudicially the interests of the licensee, the licensee shall be entitled to demand that the Board shall purchase his entire undertaking and on such demand being made the Board shall purchase the entire undertaking of the licensee.

Any question arising under the proviso to this paragraph shall be referred to arbitration under section 76.

XVIII. Where a licensee exercises his option under paragraph XVII in terms of clause (b) thereof, the Board shall comply with the requirement to purchase the station under sub-clause (i) of that clause, and in applying the provisions of Part II to the purchase by the licensee of electricity supplied to him by the Board,—

(a) the station shall, notwithstanding that it has been permanently closed down, be deemed to remain a controlled station in operation but to be such a station which has ceased to generate electricity for one thousand hours or more during each year of account;

(b) clause (a) of paragraph IX shall be construed as if the following were substituted therefor, namely:

"(a) the maximum capacity of the station, that is to say the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of each month, had the station not been closed down under Part III and had no replacement of any major item of such plant or works been carried out;

(c) clause (a) of paragraph XII shall be construed as if the following were substituted therefor, namely:—

"(a) there shall be ascertained in respect of the year of account such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under Part III as would have resulted from the application of

clauses (e) and (f) of paragraph I of the Eighth Schedule had those assets remained in the ownership of the licensee;"

(d) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted;

(e) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph XIII in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression,  $\frac{A \times B}{O}$

A = that part of the scheduled overhead charges payable by the licensee to the Board in respect of the most recent year of account during which the station did not cease to generate electricity for one thousand hours or more, which relates to the items referred to in clauses (b), (c) and (d) of paragraph I of the Eighth Schedule;

B = the sum of the scheduled effective capacities for each month of the year of account;

O = the sum of the scheduled effective capacities for each month of the most recent year of account as aforesaid.

#### PART IV

##### Purchase by Board of controlled station not to be closed down

XIX. Where in respect of any month notified by the Board (and hereinafter in this Schedule referred to as the relevant month), the scheduled effective capacity of the station is computed under paragraph X to be less than one-half of the actual effective capacity of the station, the Board may give to the licensee six months' notice in writing that on the first day of the year of account next following the date of expiration of such notice the station will be purchased by the Board.

XX. Notwithstanding anything contained in paragraph X, in computing the scheduled effective capacity for purposes of paragraph XIX there shall be left out of account all such units of plant and works as would not reasonably have been required by the licensee for purposes other than supply to the Board had the station not been a controlled station.

XXI. Where a notice under paragraph XIX has been served by the Board on the licensee, the Board shall purchase the station or where a severance of the station from the distributing system of the licensee is not possible or is likely to affect prejudicially the interest of the licensee and the licensee so requires the entire undertaking of the licensee at the date specified in the notice and at a price determined under the Fourth Schedule.

XXII. From the date of purchase of the station or at the option of the licensee the undertaking of the licensee under paragraph XXI the provisions of paragraphs I, IV and VIII shall, in relation to the station, cease to have effect, and the licensee shall be required to purchase the electricity supplied to him by the Board in accordance with the provisions of Part II as modified by paragraph XXIII.

XXIII. In applying the provisions of Part II to the purchase by a licensee whose station has been purchased under this Part of electricity supplied to him by the Board,—

(a) the station shall, notwithstanding that it has been purchased by the Board, be deemed to remain a controlled station;

(b) clause (a) of paragraph XII shall be construed as if the reference therein to the provisions of the Eighth Schedule excluded a reference to clauses (b), (c)

and (d) of paragraph I of that Schedule, and as if the following proviso were added to the said clause (a), namely:—

“Provided that the annual charges to be included in accordance with clauses (e) and (f) of paragraph I of the said Schedule shall be such as would have resulted had the assets purchased by the Board under Part IV remained in the ownership of the licensee”;

(e) clause (b) of paragraph XII shall be construed as if the reference therein to clauses (b), (c) and (d) of paragraph I of the Eighth Schedule were omitted;

(d) there shall be added to the sum payable by the licensee to the Board under clause (a) of paragraph XIII in each month of the year of account a sum equal to one-twelfth of the amount calculated from the expression,  $\frac{A \times B}{C}$  where—

A = that part of the scheduled overhead charges payable by the licensee to the Board in respect of the last year of account in which the station was in the ownership of the licensee, which relates to the items referred to in clauses (b), (c) and (d) of paragraph I of the Eighth Schedule;

B = the sum of the scheduled effective capacities for each month of the year of account;

C = the sum of the scheduled effective capacities for each month of the said last year of account.

## THE SECOND SCHEDULE

(See section 95)

### Supply by Board to licensees owning stations other than controlled stations

I. Before the end of each year the Board shall declare to the licensee in respect of each of the two next succeeding years the maximum number of kilowatts which it will make available for the purpose of the licensee's undertaking.

II. Where the Board and the licensee agree that the number of kilowatts declared under paragraph I will be inadequate to meet the requirements of the licensee having regard to the capacity of the licensee's generating plant, the Board shall not refuse its consent under section 44, the provisions of that section notwithstanding, to the installation by the licensee of such generating plant as he may reasonably require for the purposes of his undertaking, unless the Board is able appropriately to amend its declaration within a reasonable time.

III. The licensee shall be entitled to demand from the Board, and the Board shall, except where prevented by causes beyond its control, be under obligation to supply to the licensee, a maximum number of kilowatts in each year not exceeding, without the consent of the Board, the maximum number of kilowatts declared under this Schedule in respect of that year.

IV. The point at which the electricity to be supplied under this Schedule shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

V. The Board shall bear the whole of the cost of the service apparatus required for making the supply under this Schedule available to the licensee.

VI. The price to be paid by the licensee to the Board in respect of each year for electricity supplied under this Schedule shall be the Grid Tariff.

## THE THIRD SCHEDULE

(See section 86)

## Closing down of generating stations other than controlled stations

I. Where the Board proposes under section 86 permanently to close down a generating station other than a controlled station, it shall give the licensee owning the station not less than six months' notice in writing expiring at the end of any year of account that from the first day of the next succeeding year of account (hereafter in this Schedule referred to as the date of closing down) the station shall be permanently closed down.

II. From the date of closing down the Board shall be under obligation to supply to the licensee, except where prevented by causes beyond its control, and the licensee shall be under obligation to take from the Board, the whole of the electricity required by the licensee for the purposes of his undertaking, except such quantity of electricity as the licensee may for the time being be entitled under paragraph III to purchase from a source other than the Board or as he may be generating in another station, not being a controlled station.

III. Unless otherwise agreed between the Board and the licensee, the licensee shall not, where he has received a notice under paragraph I, purchase after the date of closing down any quantity of electricity from a source other than the Board:

Provided that where on the date of the receipt of such notice the licensee is bound under any contract to purchase any quantity of electricity from some other source, he may, for a period not exceeding two years after the date of closing down or for such further period, if any, as the Board may allow, continue to purchase electricity under the said contract from such other source.

IV. (1) The point at which electricity to be supplied by the Board shall be delivered to the licensee shall, unless otherwise agreed between the Board and the licensee, be at the licensee's generating station, and the pressure of supply shall be such as may be agreed between the Board and the licensee.

(2) The Board shall bear the whole of the cost of the service apparatus required for making the supply available to the licensee.

V. The licensee shall have the option, to be exercised by a date not later than three months prior to the date of closing down, either—

(a) (i) to sell the station \* \* \* at any time after the date of closing down, and

(ii) to purchase the whole of the electricity supplied to him by the Board at the Grid Tariff, or

(b) (i) to require the Board to purchase the station at the date of closing down at a price determined under the Fourth Schedule, and

(ii) to purchase the whole of the electricity supplied to him by the Board on the terms hereafter set out in this Schedule.

VI. Where a licensee exercises his option under paragraph V in terms of clause (b) thereof, the Board shall comply with the requirement to purchase under sub-clause (i) of that clause, and the following provisions of this Schedule shall apply.

VII. As soon as practicable after the licensee has exercised his option as aforesaid, there shall be ascertained and agreed between him and the Board the following quantities in respect of each year of account subsequent to the date of closing down, namely:—

(a) The maximum capacity of the station, that is to say, the maximum capacity (expressed in kilowatts available for supply to feeders) of such plant

and works appertaining to the generation of electricity at the date of closing down as would have been available for reliable and regular commercial operation on the first day of the year of account, had the station not been closed down under this Schedule and had no replacement of any major item of such plant or works been carried out subsequent to the date of closing down.

(b) The number and size of units of plant and works, forming part of the aforesaid plant and works, which would have represented reasonable standby in the station.

(c) The standby capacity of the station, that is to say, the number of kilowatts (expressed in kilowatts available for supply to feeders) by which the maximum capacity of the station would be reduced if the standby plant and works referred to in clause (b) were to be left out of account.

(d) The agreed effective capacity of the station, that is to say, the number of kilowatts by which the maximum capacity exceeds the standby capacity.

VIII. As soon as practicable after the date of closing down there shall be ascertained in agreement between the Board and the licensee in respect of each of the three consecutive years of account immediately preceding the date of closing down (hereafter in this Schedule referred to as the basic years)—

(a) the sums expended by the licensee and wholly attributable to the generation of electricity under the following heads, namely:—

(i) fuel;

(ii) oil, water and stores consumed;

(iii) salaries and wages and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servants;

(iv) repairs and maintenance, and renewals not chargeable to capital account;

(v) management, rents, rates and taxes (including super-tax payable by the licensee as a company, but excluding other taxes on profits), insurance of plant and general establishment charges;

(vi) any other expense on revenue account.

(b) the actual effective capacity of the station on the first day of each such year agreed in accordance with the principles set out in paragraph IX of the First Schedule.

IX. As soon as practicable after the beginning of each year of account there shall be ascertained in respect of that year such annual charges by way of interest and depreciation attributable to the assets purchased by the Board under this Schedule as would have resulted from the application of clauses (c) and (d) of paragraph I of the Eighth Schedule, had those assets remained in the ownership of the licensee.

X. The licensee shall be entitled to purchase from the Board in each year of account at a price determined under paragraph XI—

(a) a number of kilowatts not exceeding the agreed effective capacity ascertained in respect of that year under paragraph VII, and

(b) a number of kilowatt-hours not exceeding the number of kilowatt-hours which bears the same proportion to the total number of kilowatt-hours required by the licensee in that year for the purposes of his undertaking as the agreed effective capacity ascertained in respect of that year bears to the total maximum demand of the licensee in that year for the said purposes.

The price payable by the licensee in respect of each year of account for the quantity of electricity specified in paragraph X shall be—

(a) in respect of kilowatts, a fixed charge equal to the sum of—

(i) an amount calculated from the expression  $\frac{A}{2} + \frac{A}{2} \times \frac{B}{C}$

(ii) an amount calculated from the expression  $\frac{B \times D}{C}$

(iii) the annual charges by way of interest and depreciation ascertained in respect of the year of account under paragraph IX, where—

A = one-third of the total costs during the basic years under heads (ii), (iii), (iv) and (v) set out in clause (a) of paragraph VIII;

B = the agreed effective capacity for the year of account;

C = one-third of the sum of the actual effective capacities [ascertained under clause (b) of paragraph VIII] for each of the basic years,

D = one-third of the total costs during the basic years under head (v) set out in clause (a) of paragraph VIII;

(b) in respect of kilowatt-hours, a running charge per kilowatt-hour ascertained—

(i) by multiplying the total number of tons of fuel consumed in the station in the basic years by the estimate agreed between the Board and the licensee of the cost per ton which would have been incurred in delivering and handling the same quantity of fuel of equivalent calorific value to the furnaces in the station during the year of account, had the station remained in the ownership of the licensee, and

(ii) by dividing the total cost so found by the total number of units sent out from the station in the basic years.

XII. The price payable by the licensee for all electricity supplied to him by the Board in excess of the quantity specified in paragraph X shall be the Grid Tariff.

XIII. The licensee shall have the right at any time on giving the Board prior notice in writing expiring at the end of a year of account of purchase at the Grid Tariff the whole of the electricity supplied to him by the Board:

Provided that the Board in those circumstances may make it a condition that the licensee shall, until the date on which the agreed effective capacity of the station becomes nil, pay to the Board in each year of account in addition to the Grid Tariff a sum equal to such proportion as the Board may fix of the annual charges by way of interest and depreciation ascertained in respect of the year under paragraph IX:

Provided further that after the expiration of the said notice, the licensee shall not be entitled at any time to purchase electricity from the Board at the price ascertained under paragraph XI.

#### THE FOURTH SCHEDULE

(See sections 23 and 37 and First and Third Schedules)

#### Price for undertakings, generating stations and main transmission lines purchased by the Board

I. For the purposes of this Schedule—

(a) "date of vesting" means the date on which the undertaking, generating station, main transmission line or asset forming part of such station or line, as the case may be, vests in the Board;



(b) "original cost" of an asset means the amount of expenses certified or determined under paragraph II to have been properly incurred on and incidental to the provision of the asset for the purposes of the undertaking, generating station or main transmission line, as the case may be;

(c) "prescribed period" shall have the meaning assigned to it in the Sixth Schedule.

II. The price to be paid for any undertaking, generating station or main transmission line as the case may be purchased by the Board under this Act shall be such sum as may be certified by an auditor appointed by the Provincial Government in this behalf to have been the amount properly incurred on and incidental to the establishment of the undertaking, station or main transmission line, as the case may be, less depreciation thereon on the scale set out in paragraph III:

Provided that there shall be added to such sum as aforesaid on account of such purchase of the generating station or main transmission line such reasonable compensation as may be determined by the Board having due regard to the fact that a portion of the undertaking is to be acquired:

Provided further that if the Board or the licensee is dissatisfied with the sum so certified, the matter shall, in default of agreement between them, be determined as provided in section 76.

III. The scale of depreciation referred to in paragraph II shall be in respect of the portion of the prescribed period prior to the date of vesting,—

(a) for land owned under full title, including the cost of clearing the site, nil

(b) for other assets specified in the Table appended to the Seventh Schedule the amount which would be produced by the end of the said portion of the prescribed period if during that portion an allowance were made annually of account of depreciation in accordance with the provisions of paragraphs VIII and XVII of the Sixth Schedule.

IV. The auditor appointed under paragraph II shall be a person qualified under the provisions of section 144 of the Indian Companies Act, 1913 (VII of 1913) to act as an auditor of companies.

V. The auditor's costs under this Schedule shall be shared equally by the Board and the licensee concerned

### THE FIFTH SCHEDULE

(See section 41)

#### Charges for use by Board of transmission lines and main transmission lines

I. The following charges and allowances shall be made in respect of a year of account for the use by the Board of main transmission lines or transmission lines (hereafter in this Schedule referred to as lines), namely:—

(a) the actual cost of maintenance of the lines, including renewals thereof not chargeable to capital account;

(b) sums paid in respect of the lines for insurance and as rents, rates and taxes (including super-tax payable by the licensee as a company but excluding other taxes on profits); \* \* \*

(c) the proportion of management and general establishment charges properly attributable to the lines;

(d) any other expenses on revenue account properly attributable to the lines;

(e) interest on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the lines, and interest on such working capital as is properly attributable to the lines:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal interest on which is charged to capital;

(f) an allowance for depreciation of an amount determined in respect of the lines in accordance with the scale set out in the Seventh Schedule.

II. If the lines are used partly by the Board and partly by the licensee owning them, or if the arrangement for their use comes into force or determines otherwise than at the beginning or end of a year of account, the charges and allowances referred to in paragraph I shall be the proper proportion thereof having regard to the use made of the lines by the Board and the period of such use during the year and with the addition of the cost of such additional transmission lines as may have been incurred by the licensee as a result of the Board's user of the lines.

III. For the purposes of clause (e) of paragraph I 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, 5 per centum per annum. \* \* \*

#### THE SIXTH SCHEDULE

(See section 57)

##### FINANCIAL PRINCIPLES AND THEIR APPLICATION.

I. 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:

Provided that the licensee shall not be considered to have failed so to adjust his rates if the clear profit in any year of account has not exceeded the amount of the reasonable return by more than thirty *per centum* of the amount of the reasonable return.

II. (1) If the clear profit of a licensee in any year of account is in excess of the amount of reasonable return, one third of such excess, not exceeding  $7\frac{1}{2}$  per cent. of the amount of reasonable return, shall be at the disposal of the undertaking. Of the balance of the excess, one half shall be appropriated to a reserve which shall be called the Tariffs and Dividends Control Reserve and the remaining half shall either be distributed in the form of a proportional rebate on the amounts collected from the sale of electricity and meter rentals or carried forward in the accounts of the licensee for distribution to the consumers in future, in such manner as the Provincial Government may direct.

(2) The <sup>Tariffs</sup> Tariffs and Dividends Control Reserve shall be available for disposal by the licensee only to the extent by which the clear profit is less than the reasonable return in any year of account.

(3) On the purchase of the undertaking under the terms of its licence any balance remaining in the Tariffs and Dividends Control Reserve shall be handed over to the purchaser and maintained as such Tariffs and Dividends Control Reserve.

III. There shall be created from existing reserves or from the revenues of the undertaking a reserve to be called "Contingencies Reserve".

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IV. (1) The licensee shall appropriate to Contingencies Reserve from the revenue of each year of account a sum not less than one quarter of one per centum and not more than one half of one per centum of the original cost of fixed assets; provided that if the said reserve exceeds, or would by such appropriation, be caused to exceed, five per centum of the original cost of fixed assets, appropriation only to that extent shall be made.

(2) The amount of the Contingencies Reserve shall be invested in securities authorised under the Indian Trusts Act, 1882 (II of 1882).

V. The Contingencies Reserve shall not be drawn upon during the currency of the licence except to meet such charges as the Provincial Government may approve as being—

- (a) expenses or loss of profits arising out of accidents, strikes or circumstances which the management could not have prevented;
- (b) expenses on replacement or removal of plant or works other than expenses requisite for normal maintenance or renewal;
- (c) compensation payable under any law for the time being in force and for which no other provision is made.

VI. (1) There shall be allowed in each year in respect of depreciation of fixed assets employed in the business of electricity supply such an amount as would, if set aside annually throughout the prescribed period and accumulated at compound interest at 4 per centum per annum, produce by the end of the prescribed period an amount equal to 90 per cent. of the original cost of the asset after taking into account the sums already written off or set aside in the books of the undertaking. Annual interest on the accumulated balance will be allowed as an expense from revenue as well as the annual incremental deposit:

Provided that, within 3 months from the date upon which these Principles are enacted, a licensee may elect to adopt the Straight-line method of depreciation accounting in lieu of the compound interest method above prescribed. Straight-line method of depreciation accounting means the method whereby an allowance is made in each year in respect of depreciation of fixed assets employed in the business of such an amount as is arrived at by dividing ninety per cent. of the original cost of the asset by the prescribed period in respect of such asset.

(2) The year in which any asset becomes available for use in the business and the relative cost thereof shall, in the absence of satisfactory record be determined by the Provincial Government. All sums credited to depreciation account shall be invested only in the business of electricity supply of the undertaking or investments, approved by the Provincial Government.

VII. (1) Where any fixed asset ceases to be available for use through obsolescence, inadequacy, superfluity or for any other reason, it shall be described in the books of the licensee as no longer in use and no further depreciation in respect thereof shall be allowed as a charge against revenue.

(2) The written down cost of such fixed asset shall be carried to a special account in the books of the licensee and the amount for which the asset is sold or the amount of its scrap value when actually realised shall be set off against the amount so carried.

(3) The written down cost which still remains to be written off in respect of such fixed asset shall be charged against the Contingencies Reserve by equal annual instalments from the year of account in which the asset ceases to be available for use as aforesaid up to the date of the next option of purchase of the undertaking under the licence or up to the expiration of the prescribed period, whichever is earlier.

VIII. When any asset has been written down in the books of the undertaking to 10 per cent. or less of its original cost, no further depreciation shall be allowed in respect of that asset.

IX. When any fixed asset is sold for an amount exceeding its written down cost the excess shall be credited to the Contingencies Reserve.

X. Except with the consent of the Provincial Government no sums shall be carried to a reserve, and no dividends in excess of 3 per cent. on share capital and no other distribution of profits shall be made to shareholders while any sum allowed in respect of depreciation for the year of account or any instalments due in respect of any arrears of depreciation as provided in paragraph XI remains to be written-off in the books of the undertaking.

XI. Arrears of depreciation calculated in accordance with paragraph VI may be written off by equated payments over the remainder of the prescribed period and the amount so set aside in the books of the undertaking may be taken into account in any year as a special appropriation for purposes of assessing the clear profit.

XII. Where contributions are made by consumers towards the cost of construction of service lines constructed after the date on which this Act comes into force only the net cost of such service lines after deducting such contributions shall be included in the cost of fixed assets for the purposes of arriving at the capital base:

Provided that for the purposes of depreciation under paragraph VI, the total original cost of construction of the service lines shall be taken into account.

XIII. (1) Subject to the provisions of sub-paragraph (2) the ordinary remuneration of a managing agent excluding the office allowance mentioned in sub-paragraph (3) but including purchasing commission, if any, shall be based on a percentage of net profits as defined in section 87(C)(3) of the Indian Companies Act, 1913 (VII of 1913), and shall not exceed—

(a) in respect of the first Rs. 5 lakhs of such net profits—10 per cent; and

(b) in respect of all net profits in excess of Rs. 5 lakhs—7 per cent.

(2) The amount paid to a managing agent shall be subject to a minimum payment on account of ordinary remuneration not exceeding two rupees per annum for each complete thousand rupees of paid up share and debenture capital, provided that for purposes of computing the minimum payment should the share and debenture capital be less than rupees five lakhs it shall be taken as rupees five lakhs and should the said capital be greater than rupees one crore it shall be taken as rupees one crore.

(3) An office allowance drawn by a managing agent which shall include the salaries and wages of all persons employed in the office of the managing agent, but not the salaries of the engineering staff employed for purposes of the undertaking, shall be a percentage of the operating expenditure and the expenditure during the year of account on capital works. The office allowance so drawn shall not exceed—

(a) In respect of the first Rs. 1 lakh of operating expenditure—8 per cent.

In respect of the next Rs. 2 lakhs of operating expenditure—5 per cent.

In respect of the next Rs. 7 lakhs of operating expenditure—2½ per cent.

In respect of all operating expenditure in excess of Rs. 10 lakhs—1½ per cent.; and

(b) In respect of the first Rs. 1 lakh of capital expenditure incurred during the year of account—4 per cent.

In respect of the next Rs. 2 lakhs of capital expenditure incurred during the year of account—3 per cent.

In respect of the next Rs. 7 lakhs of capital expenditure incurred during the year of account—1½ per cent.

In respect of all capital expenditure in excess of Rs. 10 lakhs incurred during the year of account—1 per cent.

Operating expenditure for the purposes of sub-paragraph (3) (a) above shall mean the sum of the items of expenditure as defined in sub-paragraph (2)(b) of paragraph XVII with the omission of those under clauses (i), (iv), (ix) and (x) thereof.

XIV. The Board of Directors of an undertaking shall not contain more than ten directors.

XV. (1) Where at any time within three years before the next option of purchase under the licence arises, the licensee proposes to make any capital expenditure which exceeds twenty-five thousand rupees or two per centum of the capital base, whichever is more, in respect of which any amount would in the event of purchase under the option be payable by the purchaser to the licensee, the licensee shall, before giving effect to such proposal, apply to the Board for its concurrence.

(2) If the Board does not within one month from the receipt of such application, consent to such expenditure, the licensee may refer the matter to the arbitration of the Authority.

XVI. Any dispute or difference as to the interpretation or any matter arising out of the provisions of this Schedule shall be referred to the arbitration of the Authority.

#### DEFINITIONS

XVII. For the purposes of this Schedule—

(1) "capital base" means the sum of—

- (a) The original cost of fixed assets, subject to the provision of para. XII in respect of service lines;
- (b) the cost of intangible assets;
- (c) the original cost of works in progress;
- (d) The amount of investments compulsorily made under paragraph IV of this schedule, together with such investments made before or after the commencement of this Act from contributions towards depreciation as may be shown to the reasonable satisfaction of the Authority as being amounts which could not be or could not have been utilised by the undertaking under clauses (a) and (b) of this sub-paragraph;
- (e) an amount on account of working capital equal to the sum of—
  - (i) one-twelfth of the sum of the book cost of stores, materials and supplies including fuel on hand at the end of each month of the year of account;
  - (ii) one-twelfth of the sum of cash and bank balances and call and short term deposits at the end of each month of the year of account, not exceeding in the aggregate an amount equal to one quarter of the expenditure under sub-paragraph 2(b) of this paragraph excluding clauses (i), (iv) and (x);

Less—

- (i) the amounts written off or set aside on account of depreciation of fixed assets and amounts written off in respect of intangible assets in the books of the undertaking before or after the commencement of this Act, and

(ii) the amount of any loans advanced by the Board under the provisions of sub-paragraph (2) of paragraph I of the First Schedule

(2) "clear profit" means—

the difference between the amount of income and the sum of expenditure plus specific appropriations, made up in each case as follows:—

(a) income derived from—

- (i) gross receipts from sale of energy, less discounts applicable thereto;
- (ii) rental of meters and other apparatus hired to consumers;
- (iii) sale and repair of lamps and apparatus;
- (iv) rents, less outgoings not otherwise provided for;
- (v) transfer fees;
- (vi) investments, fixed and call deposits, and bank balances;
- (vii) other general receipts accountable in the assessment of Indian Income Tax and arising from and ancillary or incidental to the business of electricity supply.

(b) expenditure incurred on—

- (i) generation and purchase of energy;
- (ii) distribution and sale of energy;
- (iii) rents, rates and taxes, other than all taxes on income and profits;
- (iv) interest on loans advanced by the Board under sub-paragraph (2) of paragraph I of the First Schedule;
- (v) interest on security deposits;
- (vi) legal charges;
- (vii) bad debts;
- (viii) auditors' Fees;
- (ix) management including managing agents' remuneration as provided for in para. XIII hereafter;
- (x) depreciation, computed as hereinafter set out;
- (xi) other expenses admissible under the law for the time being in force in the assessment of Indian Income Tax and arising from and ancillary or incidental to the business of electricity supply;
- (xii) contributions to Provident Fund, staff pension, gratuity and apprentice and other training schemes.

(c) special appropriations sufficient to cover—

- (i) previous losses (that is to say excess of expenditure over income) which have arisen from the business of electricity supply to the extent in any year actually appropriated for the purpose in the books of the undertaking;
- (ii) all taxes on income and profits;
- (iii) instalments of written down amounts in respect of intangible assets and new capital issue expenses to the extent in any year actually appropriated for the purpose in the books of the undertaking; provided that the amounts so appropriated shall not exceed the amount found by dividing the written down cost of such assets by the number of complete years remaining before the next option of purchase under the licence arises;
- (iv) contributions to the contingency reserve, computed as hereinafter set out;
- (v) contributions towards arrears of depreciation;
- (vi) Other special appropriations permitted by the Provincial Government.

(3) "debenture capital" means—  
capital raised against debentures or other instruments creating a charge or lien on the assets of the undertaking.

(4) "intangible assets" means—  
underwriter's commission and such preliminary and promotional expenditure shown as a debit in the capital account of the undertaking, as has fairly arisen in promoting the business of electricity supply excluding any amount paid on account of goodwill

(5) "ordinary capital" means—  
In the case of a company, the amount of ordinary capital paid up and attributable to the undertaking of the licensee.

In other cases the net amount standing to the credit of the proprietor or proprietors' account or accounts whether in capital, personal or any other account howsoever called and properly attributable to the business of electricity supply.

- (6) "original cost" means in respect of any asset the sum of—
- (a) the cost of the asset to the licensee, including the cost of delivery and all charges properly incurred in erecting and bringing the asset into beneficial use.
  - (b) interest charges on capital expenditure incurred from borrowed money and properly attributable to the asset up to the date of bringing it into use at a rate not exceeding average Reserve Bank rate ruling at that time plus one per cent.
  - (c) a proper addition on account of supervision not exceeding fifteen *per centum* of the cost referred to in sub-para. (a).

So however that the original cost of any asset shall not in any case exceed the original cost attributed thereto in the books of the undertaking.

(7) "Preference Capital" means—  
The amount of paid up capital attributable to the undertaking of the licensee, issued on such preferred terms as are sufficient to qualify it for such description.

(8) "prescribed period" means—  
in respect of each of the assets specified in the table appended to the Seventh Schedule, the number of years or period specified therein, in relation to such asset, running in each case from the beginning of the year of account next following that in which the particular asset became available for use in the business:

Provided that, on the application of the licensee, the Provincial Government may vary the prescribed period in respect of any assets in use on the date when this Schedule comes into force if, having regard to the physical condition of such assets the application of the table to such assets would be unreasonable. Any question arising out of the decision of the Provincial Government on any such application shall be referred to the Authority for arbitration.

- (9) "reasonable return" means—  
in respect of any year of account, the sum of the following:—
- (a) the amount found by applying the standard rate to the capital base at the end of that year;
  - (b) the income derived from investments other than those made under paragraph IV of this Schedule;
  - (c) an amount equal to one half of one *per centum* on any loans advanced by the Board under sub-paragraph (2) of paragraph I of the First Schedule.

(10) "standard rate" means—  
5 *per centum*.

(11) "written down cost" means—

Original cost less the amounts set aside or written off on account of depreciation in the books of the undertaking.

## THE SEVENTH SCHEDULE

(See section 68 and the Fifth and Eighth Schedules)

### Depreciation of assets

I. For the purposes of this Schedule—

(a) "financial year" means the financial year of the owner of the asset concerned;

(b) "original cost" and "prescribed period" shall have the meanings respectively assigned to them in the Sixth Schedule.

\* \* \* \* \*

II. (1) Save as provided in the Fourth and Sixth Schedules, the scale of depreciation applicable to the assets specified in the Table appended to this Schedule in any financial year, and proportionately for any portion of a financial year, shall be an allowance of such amount as would if made annually throughout the prescribed period and accumulated at compound interest at the rate of 4 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 asset.

(2) Such allowance shall cease at the end of the prescribed period or when the asset ceases to be used for the purposes of the undertaking, whichever is earlier:

**TABLE**

(See also section 57 and the Fourth and Sixth Schedules)

Description of asset	Number of years or period
A. Land owned under full title . . . . .	Infinity.
B. Land held under lease—	
(a) for <u>investment</u> in the land . . . . .	The period of the lease, or the period remaining unexpired on the assignment of the lease.
(b) for cost of clearing site . . . . .	The period of the lease remaining unexpired, at the date of clearing; the site.
C. Assets purchased new—	
(a) Plant and machinery in generating stations, including plant foundations—	
(i) hydro-electric . . . . .	<u>Thirty-five</u>



Description of asset	Number of years or period
(ii) steam-electric . . . . .	<u>Twenty-five</u>
(iii) diesel-electric . . . . .	Fifteen.
(b) Cooling towers and circulating water systems . . . . .	Thirty.
(c) Hydraulic works forming part of a hydro-electric system, including—	
(i) dams, spillways, weirs, canals, reinforced concrete flumes and siphons, . . . . .	One hundred.
(ii) reinforced concrete pipe-lines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valve and other hydraulic work . . . . .	Forty.
(d) Buildings and civil engineering works of a permanent character, not mentioned above,—	
(i) offices and show-rooms . . . . .	<u>Fifty</u>
(ii) containing thermo-electric generating plant . . . . .	Thirty
(iii) containing hydro-electric generating plant . . . . .	<u>Thirty-five</u>
(iv) temporary erections such as wooden structures. . . . .	Five.
(v) others . . . . .	<u>Fifty</u>
(e) Transformers, transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations)—	
(i) transformers (including foundations) having a rating of 100 kilovolt amperes and over . . . . .	<u>Thirty-five</u>
(ii) others . . . . .	<u>Twenty-five</u>
(f) Switchgear, including cable connections . . . . .	Twenty.
(g) Batteries . . . . .	Ten.
(h) (1) Underground cables, including joint boxes and disconnecting boxes . . . . .	Forty
(2) Cable duct system . . . . .	<u>Sixty.</u>
(i) Overhead lines, including supports—	
(i) lines on steel or reinforced concrete supports, operating at nominal voltages higher than 13.2 kilovolts . . . . .	Thirty.
(ii) other lines on steel or reinforced concrete supports . . . . .	Twenty-five
(iii) lines on wood supports . . . . .	Twenty.
(j) Motors . . . . .	<u>Fifteen</u>
(k) Self-propelled vehicles . . . . .	Seven.
(l) Static machine tools . . . . .	Twenty.
(m) Air-conditioning plant—	
(i) static . . . . .	Fifteen.
(ii) portable . . . . .	Seven.
(n) (i) Office furniture and fittings . . . . .	Twenty.
(ii) Office equipment . . . . .	Ten
(o) Apparatus let on hire,—	
(i) other than motors* . . . . .	Seven.
(ii) motors* . . . . .	<u>Twenty.</u>

Description of asset	Number of years or period
D. Assets purchased second hand and assets not otherwise provided for in this Table	Such reasonable period as the Provincial Government determines in each case, having regard to the nature, age and condition of the asset at the time of its acquisition by the owner.

### THE EIGHTH SCHEDULE

(See the First and Third Schedules)

#### Determination of cost of production of electricity at generating stations

I. For the purposes of the First and Third Schedules, the cost of production of electricity at a generating station shall be ascertained by calculating and taking into account the following costs, charges and allowances in respect of the year of account, namely:—

(a) sums expended for fuel, oil, water and stores consumed, for salaries and wages, and any contribution by the licensee for pensions, provident fund, superannuation and insurance of officers and servants, for repairs and maintenance and for renewals not chargeable to capital account;

(b) sums paid in respect of the station for insurance and as rents, rates and taxes (including super-tax payable by the licensee as a company but excluding other taxes on profits); \* \* \* ;

(c) the proportion of management and general establishment charges properly attributable to the station;

(d) any other expenses on revenue account properly attributable to the station;

(e) interest on money properly expended for capital purposes (whether defrayed out of capital or revenue) and attributable to the station, and interest on working capital properly attributable to the station and the production of electricity therein:

Provided that for the purpose of ascertaining the principal on which interest is payable within the meaning of this clause, there shall be left out of account any part of principal on which interest is payable out of capital;

(f) an allowance for depreciation of an amount determined in respect of the station in accordance with the scale set out in the Seventh Schedule.

II. For the purposes of clause (e) of paragraph I of the rate of interest shall be—

(a) on such part of the principal on which interest is payable within the meaning of the said clause as has been advanced on loan by the Board under paragraph I of the First Schedule, the actual rate charged by the Board on the loan in the year of account;

(b) on the balance of the said principal,—

(i) where the licensee owning the station is a local authority, the average rate payable in the year of account on the money raised by that authority for the purposes of the station;

(ii) in any other case, 5 per centum per annum. \* \* \* \*

THE NINTH SCHEDULE

(See the First Schedule)

Allocation of costs of production at generating stations

I. For the purposes of this Schedule—

(a) the average load Factor of a station shall be expressed as a percentage, and shall be ascertained by multiplying the number of kilowatt-hours supplied from the station during the year of account by 100, and dividing the product so obtained by the product of the average monthly maximum demand multiplied by the number of hours during which the station was in commission in the year of account;

(b) the average monthly maximum demand shall be the arithmetical average of the monthly maximum demands on the station in those calendar months during which the station was in commission in the year of account;

(c) a station shall be deemed to be in commission when the whole or any portion of the plant in the station is generating electricity or is in readiness to generate electricity upon demand;

(d) "cost of fuel" means the sums expended for fuel consumed plus the cost of any transport, handling, preparation or treatment incurred in connection with the delivery of fuel to the boiler hoppers, furnaces or engines and in connection with the disposal of the products or residues of combustion, plus the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants properly attributable to such delivery or disposal, less any sums received from the sale of any products or residues of combustion;

(e) "cost of oil, water and stores" means the sums expended for oil, water and stores consumed;

(f) "cost of repairs, maintenance and renewals" means the sums expended for repairs and maintenance and for renewals not chargeable to capital account, together with the proportion of salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants properly attributable to repairs, maintenance and renewals;

(g) "salaries and wages" means the sums expended for salaries and wages and any contributions made by the owner of the station for pensions, provident fund, superannuation and insurance of officers and servants, less the proportion of such sums properly attributable to the cost of fuel under clause (d) and to the cost of repairs, maintenance and renewals under clause (f).

II. Of the costs of production of electricity at a generating station ascertained in accordance with the Eighth Schedule, the following costs, charges and allowances in respect of the year of account shall be allocated as "fixed costs", namely:—

(a) of the costs, charges and allowances set out in clause (a) of paragraph I of the said Schedule, portions calculated from the appropriate formulae set out in paragraph III;

(b) the whole of the costs, charges and allowances set out in the remaining clauses of paragraph I of the said Schedule.

III. The portion of the following costs, charges and allowances to be allocated as fixed costs shall be ascertained from the formula hereinafter set out against each, namely:—

	100
(a) cost of fuel . . . . .	100 + 12.8 L
	100
(b) cost of oil, water and stores . . . . .	100 + 9.66 L

(c) salaries and wages  $\frac{100}{100 + 0.38 L}$ ;

(d) cost of repairs, maintenance and renewals  $\frac{100}{100 + 0.0001 NL}$ ;

where—

L—the average load factor of the station ;

N—the number of hours during which the station was in commission in the year of account.

IV. The amount of the difference between the costs of production at a generating station ascertained in accordance with the Eighth Schedule and the fixed costs in respect of the year of account determined in accordance with this Schedule shall be allocated as "running costs".

V. The foregoing provisions of this Schedule shall not apply in any case where it is agreed between the Board and the owner of the station that the circumstances or conditions of operation in the station, whether temporary or continuing, are such that the said provisions ought not reasonably to be applied; and in such case the allocation between fixed costs and running costs shall be made in such manner as the Board and the said owner may agree.

**THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)**

**Report of the Select Committee on the Bill to provide for the rationalisation of the production and supply of electricity, and generally for taking measures conducive to the electrical development of the Provinces of India ; with the Bill as amended.**

*(As reported by the Select Committee)*