

Transfer Scheme for Punjab State Electricity Board

GOVERNMENT OF PUNJAB  
(DEPARTMENT OF POWER)

NOTIFICATION

No. 1/9/08-EB(PR)/

196

Dated Chandigarh

16, 6, 2010

In exercise of the powers conferred by Section 131, 132, 133 and other applicable provisions of the Electricity Act 2003, the Government of Punjab (hereinafter the State Government) hereby makes the following Scheme for providing and giving effect to the transfer of functions, undertakings, assets, properties, rights, liabilities, obligations, proceedings and personnel of Punjab Electricity Board to the extent and in the manner provided for herein to corporate entities to be constituted for the purpose.

**CHAPTER I - PRELIMINARY**

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

- (1) This Scheme may be called the Punjab Power Sector Reforms Transfer Scheme, 2010.
- (2) This Scheme shall extend to the whole of the State of Punjab and also to such Assets, Properties, Rights, Liabilities, Obligations, Proceedings and Personnel of the Punjab State Electricity Board outside the State of Punjab.
- (3) This Scheme shall come into force on the date of its publication in the official gazette.

**2. Definitions:**

- (1) In this Scheme, unless there is anything repugnant in the subject or context.
  - (a) "Act" means the Electricity Act, 2003 (Act No.36 of 2003);
  - (b) "Assets" means the Power system assets of any description whatsoever belonging to the Board include dams, dykes, reservoirs, tunnels, intake and outlet structures of water conductor systems, generating stations with associated plants, machineries, equipments, transmission and distribution systems, lands, buildings, offices, stores, furniture, fixtures, vehicles, residential

quarters and guest houses and amenities and installations pertaining thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts, corporeal or incorporeal, tangible and intangible assets, benefits, licences, consents, authorities, registrations, liberties, patents, trademarks and powers of every kind, nature and description whatsoever, rights, privileges, easements, advantages, benefits and approvals, contracts, deeds, schemes, bonds, agreements and other instruments and interest of whatever nature and wherever situated including the contingent Assets, which may arise in regard to dealings before the Effective Date of Transfer in respect of the specified Undertakings:

- (c) **"Board"** or **"PSEB"** means the Punjab State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (Central Act No. 54 of 1948) as was in force at the relevant time;
- (d) **"Effective date of transfer"** means date on which the Scheme becomes effective in terms of sub-clause (3) of clause (1);
- (e) **"Liabilities"** include all liabilities, debts, duties, obligations and other outgoings including statutory liabilities and Government levies of whatever nature including the contingent liabilities, which may arise in regard to dealings before the Effective Date of Transfer in respect of the specified Undertaking(s);
- (f) **"Personnel"** means existing and retired workmen, employees, staff and officers of the Board by whatever name called including those on deputation to other organisations or institutions, but shall exclude persons on deputation from other organisations to the Board;
- (g) **"Proceedings"** include all proceedings of whatever nature including suits, appeals, complaints, petitions, applications, conciliatory or arbitration, whether civil or criminal, or otherwise in which 'Board' is one of the parties;
- (h) **"Powercom"** means the limited company incorporated under the Companies Act, 1956 with the principal objective of engaging in the business of Generation, Trading and Distribution of power in the State but excluding transmission, State Load Dispatch and State Transmissions Utility functions ;
- (i) **"State"** means the State of Punjab
- (j) **"State Government"** means the Government of Punjab;
- (k) **"Transco"** means the limited company to be incorporated under the Companies Act, 1956 with the principal objective of engaging in the business of

Transmission of power (including State Load Dispatch and State Transmissions Utility functions) in the state;

(l) "Transferee" means Transco or Powercom, as the case may be;

(m) "Transmission Undertakings" means the undertakings as the State Government may classify as transmission undertakings in terms of clause 4 of this scheme which shall also include the functions and assets and liabilities pertaining to State Load Dispatch and State Transmission Utility; and

(n) "Undertaking (s)" mean a block or blocks of assets and liabilities of whatever nature of the Board, as the case may be, concerning generation, transmission distribution or supply of electricity.

(2) Words and expressions used and defined in the Act but not defined in this Scheme shall have the same meaning as assigned in the Act.

### **3. Transfer of Assets and Liabilities etc. to the State Government**

(1) On and from the Effective Date of Transfer, all assets, properties interest in properties rights and liabilities of the Board and including all obligations and contingencies shall stand transferred to and vest in and under the control of the State Government absolutely at book value and all claims of the Board against the State Government and all claims of State Government against the Board shall stand extinguished and cancelled, and the above consideration shall be in full and final settlement of all the claims of the Board.

(2) Nothing in sub-clause (1) shall apply to rights, responsibilities, liabilities and obligations in respect of the Personnel and matters relating thereto including statutory dues such as salary, wages, gratuity, pension, provident fund, compensation and retirement benefits and these shall be dealt with in the manner provided under clause 6 of this Scheme.

### **4. Classification of Assets, liabilities and proceedings:**

(1) The Assets, Liabilities and proceedings of the Board vested in the State Government in terms of clause 3 shall stand classified into:

- (a) Transmission Undertakings as specified in **Appendix A** to this Scheme and as per the provisional balance sheet forming part of **Appendix A**; and
- (b) Other undertakings including Residuary and Miscellaneous Assets, liabilities and interests not classified as Transmission Undertakings and as per the provisional balance sheet attached as **Appendix B**.

(2) If any of the assets under sub-clause (1) above are subject to security documents or arrangements in favour of third parties for any financial assistance or obligation taken by the Board and the liabilities in respect thereof are to be classified in an Undertaking in a company different from the company in which the asset is vested in terms of this Scheme, the State Government, may by order, provide for the apportionment of the liabilities secured by such properties, assets and rights between the different Undertaking (s) and upon such apportionment the security shall be applicable to the apportioned liability only.

#### **5. Transfer of functions and undertakings:**

(1) On and from the Effective Date of Transfer, the Transmission functions of the Board alongwith the Transmission undertakings inclusive of all assets, liabilities, interests, rights and obligations forming party of the transmission functions and undertakings as the State Government may specify shall stand re-vested in the Transco for all intent and purposes without any further act deed or thing to be done by the Board, the State Government or Transco or any other person and the transmission functions and the functions of State Load Dispatch and State Transmission Utility shall be discharged by the Transco from the above date but subject to the terms and conditions of this scheme.

(2) On and from the Effective Date of Transfer, all the remaining functions of the Board including the Generation, Trading and Distribution functions alongwith all undertakings including residuary and miscellaneous assets, rights, interests, liabilities and obligations vested in the State Government under Clause 3 of this Scheme excluding the Transmission Undertakings shall stand re-vested in and shall be discharged by the Powercom for all intent and purposes without any further act or thing to be done by the State Government or the Board or the Powercom or any other person and all such functions shall be discharged by Powercom, from the above date but subject to the terms and conditions of this Scheme.

(3) On such transfer and re-vesting of the functions and the Assets and Liabilities including all rights, interests, obligations and contingencies in terms of sub-clauses (1) and (2) above, the relevant Transferee shall be responsible for all its functions, including contracts, rights, deeds, schemes, bonds, agreements and other instruments of whatever nature pertaining to the Undertaking (s) transferred to it, to which the Board was initially a party, subsisting or having effect on the Effective Date of Transfer, in the same manner as the Board was liable immediately before the Effective Date of Transfer, and the same shall be in full force and effect against or in favour of the Transferee and may be enforced as fully and effectively as if the Transferee had been a party thereto instead of the Board.

(4) As consideration for the transfer and vesting of the Assets and Liabilities including all rights, obligations and contingencies to the Transferees as mentioned in sub-clauses (1) and (2) above the shares shall stand issued to the Transferees as may be notified by the State Government.

(5) The re-vesting of the Undertakings in the name of Transferee in terms of this Scheme shall take effect immediately on the Effective Date of Transfer irrespective of the fact that the value of such Undertakings re-vested in Powercom and Transco shall be notified by the State Government at a later date within provisionality period mentioned in clause 9 of this Scheme.

## **6. Transfer of Personnel**

- (1) The transfer of personnel in terms of this Scheme shall be subject to the terms and conditions contained in the Act.
- (2) Subject to sub-clause (1), all the personnel on the Effective Date of Transfer shall stand transferred to Powercom.
- (3) On such transfer and subject to the provisions of the Act and other provisions of this Scheme the personnel shall form a part of the services of Powercom and their rank, scale of pay and inter-se seniority as existing in the Board on the Effective Date of Transfer shall be maintained and the retirement benefits and other facilities shall in no way be reduced than the one existing in the Board on the Effective Date of Transfer.
- (4) Notwithstanding the transfer of personnel to Powercom, as per this Scheme, the personnel shall discharge the duties and functions as may be assigned to them

from time to time by the Powercom or Transco as the case may be, and Powercom may in consultation with Transco, place any of such personnel on deputation or secondment to Transco on the same terms of employment including of remuneration for undertaking functions of Transco with Transco, having the power to exercise all administrative and disciplinary control over such personnel deputed or seconded to its services.

- (5) The transfer of personnel shall be further subject to the following conditions, namely, -
- (a) that the terms and conditions of the services applicable to personnel on the Effective Date of Transfer shall not in anyway be less favourable than those applicable to them immediately before the said Effective Date of Transfer. Accordingly the salary, allowances and other pecuniary benefits including terminal benefits applicable on the Effective Date of Transfer shall be protected and shall not be adversely changed;
  - (b) all such personnel shall have continuity of service in all respects;
  - (c) all benefits of service accrued before the said Effective Date of Transfer shall be fully recognised and taken into account for all purposes including the payment of terminal benefits;
  - (d) to any orders that may be passed by the Courts in the proceedings pending on the said Effective Date of Transfer in regard to seniority or other matters concerning the service conditions of the Personnel;
  - (e) subject to this Scheme, the personnel shall cease to be in the service of the Board and shall not assert or claim any benefit of service under the State Government or the Board.
- (6) Subject to the Act and this Scheme, Powercom shall be entitled to frame regulations governing the conditions of personnel transferred to Powercom under this Scheme and till such time the existing/ (as suggested for modification) service rules/regulations of the Board shall apply mutatis-mutandis.
- (7) Subject to sub-clause(a), in respect of all statutory and other schemes and employment related matters including the provident fund, gratuity fund, pension, leave encashment and any other Superannuation fund or any other special fund created or existing for the benefit of the personnel, the Powercom shall stand substituted for the Board for all purposes and all the rights, powers and obligations of the Board in relation to any and all such matters shall become

those of the Powercom and the services of the personnel shall be treated as having been continuous for the purpose of the application of this sub-rule.

- (8) Powercom shall be responsible to ensure that the Terminal Benefit Trusts including Pension, Gratuity and Leave encashment of the Board personnel are progressively funded to meet the pension, gratuity and leave encashment payments pertaining to the years of service rendered by the personnel of the Board including retired personnel in the Board as determined as per actuarial valuation/to be determined as per actuarial valuation to be done for the purpose. The State Government has also assumed the responsibility of making appropriate arrangement for the funding of Terminal Benefits.
- (9) Powercom shall be responsible to ensure that the contribution to the Trusts relating to personnel related funds, for the services after the Effective Date of Transfer, of the personnel are made as required from time to time.
- (10) All obligations in respect of pension, gratuity, leave encashment and other retirement benefits including provident fund, Superannuation and Gratuity to the employees, who have retired from the services of the Board before the Effective Date of Transfer, shall be discharged by Powercom.
- (11) All proceedings including disciplinary proceedings pending against the personnel prior to the Effective Date of Transfer from the Board or which may relate to misconduct, lapses or acts of commission or omission committed before the Effective Date of Transfer shall not abate and will be continued with the Powercom consistent with the applicable service Rules.
- (12) The State Government may in consultation with Powercom and Transco finalise the transfer of personnel from Powercom to Transco and permanent absorption of such personnel in Transco on the following terms and conditions:
  - (a) This shall be done taking into account the suitability, ability and experience of the personnel, number and nature of the vacancies and other relevant factors and issue appropriate orders for such permanent absorption.
  - (b) For the above purpose, the State Government shall, in consultation with Powercom and Transco, constitute a Committee as the State Government may consider appropriate to (i) receive representations from the Personnel in regard to their transfer and absorption in Transco and (ii)

to make recommendation on such transfer and absorption, within such time as State Government may specify for the purpose.

(c) The State Government shall take a decision on the transfer and permanent absorption of the Personnel in Transco after considering the recommendation of the Committee appointed for the purpose and shall issue orders for such transfer and permanent absorption of the Personnel.

(d) Upon the finalization and issue of orders in terms of the above, the personnel transferred to Transco shall form part of the service of the Transco concerned, in the post, scale of pay or seniority in accordance with the orders that may be issued for this purpose, without any further act, deed or thing to be done by the State Government or the Board or the Transferee or any other person including the personnel.

(e) Subject to the provisions of the Act and this Scheme, the Transco shall be entitled to modify or frame new regulations governing the conditions of service of personnel transferred to the transferee under this Scheme, but their rank, scale of pay, salary, allowances and other pecuniary benefits including terminal benefits etc., after the Effective Date of Transfer shall not in any way be inferior to those applicable to them immediately before the transfer and the services of such personnel shall be treated as having been continuous for the purpose in respect of all statutory and other schemes and employment related matters.

#### **7. Rights and obligations of third parties restricted –**

Upon the transfer being effected in accordance with the Act and the relevant undertakings being vested in the Transferee as per the provisions of this Scheme the rights and obligations of all persons shall be restricted to the Transferee (s) to whom they are assigned to and notwithstanding anything contained in any deed, documents, instruments, agreements or arrangements which such person has with the Board, the person shall not claim any right or interest against the State Government or any other Transferee(s).



#### **8. Pending proceedings –**

All proceedings of whatever nature by or against the Board pending on the Effective Date of Transfer of the undertakings to the Transferee shall not abate or discontinue or otherwise in anyway be affected prejudicially by reason of the transfers provided in this Scheme, and such proceedings may be continued and prosecuted by or against the Transferee (s) to whom the assets and liabilities including all rights, obligations and contingencies relating to such proceedings are assigned in accordance with this Scheme. Such proceedings may be continued in the same manner and to the same extent as it would or might have been continued and prosecuted by or against the Board if the transfers specified in this Scheme had not been made.

#### **9. Classifications and Transfer of Assets and Liabilities provisional in the first instance**

- (1) The classification and transfer under this Scheme, is provisional and will be made final upon the expiry of 12 months from the Effective Date of Transfer or 6 months after the audited accounts as on the Effective Date of Transfer are available, whichever is later.
- (2) At any time within the period specified in sub-clause (1) above, the State Government may by order to be notified amend, vary, modify, add, delete or otherwise change terms and conditions of the transfer including items included in the transfer or the value thereof, and transfer such assets, properties, rights, interests, liabilities, obligations and forming part of one Transferee (s) to that of any other Transferee (s) or to the State Government in such manner and on such terms and conditions as the State Government may consider appropriate.
- (3) On the expiry of the period specified in sub-clause (1) above, subject to any directions given by the State Government, the transfer of Undertaking (s), assets, liabilities, interests, right sand obligations made in accordance with this Scheme shall become final.

## 10. License and Tariff

- (1) As per Section 14 of the Act read with Section 131 the Transferee shall be a deemed Licensee for the activities and functions of the erstwhile Board transferred to it.
- (2) The tariff, terms and conditions for the sale and supply of electricity shall be continued as such from the date of vesting and until such modified orders are issued by the Punjab State Electricity Regulatory Commission.

## 11. Decision of State Government final

- (1) If any doubt, dispute, difference or issue shall arise in regard to the transfers under this Scheme subject to the provisions of the Act, the decision of State Government thereon shall be final and binding on all parties.
- (2) The State Government may, by order publish in the Official Gazette, make such provisions, not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulties arising in implementing the transfers under this Scheme.

Dated Chandigarh  
16<sup>th</sup> April 2010

Arun Goel  
Principal Secretary to Government Punjab  
Department of Power

Endst.No. 1/9/08-EB(PR)/

Dated Chandigarh

A copy is forwarded to the Controller, Printing & Stationery Department, Punjab, Chandigarh. He is requested to publish the notification in the Extra Ordinary Gazette of Punjab Government and twenty copies of the same may please be sent to this Department.

Additional Secretary Power

Endst.No. 1/9/08-EB(PR)/

Dated Chandigarh

A copy is forwarded to the following for immediate necessary action:-

1. Accountant General, Punjab, Chandigarh.
2. Secretary, Punjab State Electricity Regulatory Commission, Chandigarh.
3. The Chairman, Managing Committee for administrating PSEB/Powercom and Transco, Electricity Patiala
4. Director, Information and Public Relation, Punjab, Chandigarh.