

PUNJAB STATE POWER CORPORATION LIMITED
(OFFICE OF THE MEMBER/MANAGING COMMITTEE (LEGAL CELL), PATIALA)

To

All GMs/EICs/CEs/DGP
CCF/CA/All CAOs/SEs
All Dy. CAOs/Dy.FAs/Dy.CAs/Sr.XENs/Dy.SECs
All Sr.AOs/AOs/AEEs/AEs/Under Secys (including BBMB)
(Powercom & Transco)

Memo No. 1898/3398 /PSPCL(Transfer Scheme)/Legal

Dated: 23.4.2010

SUBJECT: FORMATION OF NEW COMPANIES PENDING COURT PROCEEDINGS.

Consequent to Notification of the Transfer Scheme for unbundling of Punjab State Electricity Board two companies namely Punjab State Power Corporation Limited and Punjab State Transmission Corporation Limited have come into existence from the effective date of transfer i.e. from 16.04.2010. The PSEB has ceased to exist. The process after unbundling of the Punjab State Electricity Board shall involve some procedural steps for continuation and prosecution of all pending proceedings in various courts by or against the transferee companies.

Section 131(6) of The Electricity Act, 2003 provides that "all suits or other legal proceedings instituted by or against the Board or transferor, as the case may be, may be continued or instituted by or against the State Government or concerned transferee, as the case may be." In the Transfer Scheme notified by the Govt. of Punjab (Department of Power) vide No. 1/9/08-EB(PR)/196 dated 16.04.2010 "Proceedings" has been defined in Sub Clause (1) (g) of Clause-2 as under:-

"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."

Clause-8 of the aforesaid Notification provides as under:-

"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 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

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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."

Order XXII Sub Rule (1) of Rule 10 & Rule 11, of the Code of Civil Procedure, 1908 also contains the enabling provisions for continuation of the court proceedings by or against assignee as under:-

10. Procedure in case of assignment before final order in suit.-(1) In other cases of an assignment, creation or devolution of any interest during the pendency of a suit, the suit may, by leave of the Court be continued by or against the person to or upon whom such interest has come or devolved.

11. Application of Order to appeals. - In the application of this order to appeals, so far as may be, the word "plaintiff" shall be held to include an appellant, the word "defendant" a respondent, and the word "suit" an appeal.

In view of the above position, it is advised that all the organizational heads should direct their concerned officers to move application(s) wherever necessary in consultation with and through Advocates already appointed in all the legal proceedings pending before any Court, Commission, Forum, Tribunal, Authority etc etc at the earliest thereby seeking leave of the Court, Commission, Forum, Tribunal, Authority etc etc for continuation of Proceedings by or against respective Corporation (Powercom or Transco). It is, however, observed that all the 'pending proceedings' in the cases pertaining to the consumers instituted by or against the Punjab State Electricity Board are required to be continued and prosecuted by or against Punjab State Power Corporation Limited (Powercom), Patiala and the same shall be the requirement in the cases filed by the employees regarding their service matters. The cases/proceedings exclusively or primarily pertaining to the Transmission Undertakings as enumerated in Appendix A as per Transfer Scheme should be continued and prosecuted by or against Punjab State Transmission Corporation Limited (Transco), Patiala.

(M. R. Aggarwal), I.A.S.,
Member,
Managing Committee For Administering
Powercom and Transco Electricity, Patiala.