

GOVERNMENT OF JHARKHAND
ENERGY DEPARTMENT

Notification No. 18.....

Ranchi, Dated 06/01/2014

NOTIFICATION

THE JHARKHAND STATE ELECTRICITY REFORMS TRANSFER SCHEME, 2013

In exercise of the powers conferred by section 131, 133 and other applicable provisions of the Electricity Act, 2003, the Government of Jharkhand hereby makes the following Scheme for providing and giving effect to the transfer of properties, interests, rights, assets, liabilities, obligations, proceedings and personnel of Jharkhand State Electricity Board to the Transferees and for matters incidental and ancillary thereto.

1. *Short Title, Extent and Commencement: -*

- 1.1 This Scheme may be called the Jharkhand State Electricity Reforms Transfer Scheme, 2013.
- 1.2 The Scheme shall extend to the whole of the State of Jharkhand including properties, interests, rights, assets, liabilities, obligations, proceedings and personnel of Jharkhand State Electricity Board outside the State.
- 1.3 The Scheme shall come into force with effect from the date of Notification.

2. *Definitions - In the Scheme, unless the context otherwise requires :-*

- (a) "Act" means the Electricity Act, 2003 (36 of 2003) and any subsequent amendments thereto;
- (b) "Assets" means all assets & properties including power systems, plant, machinery, land, building, offices, stores, furniture, fixtures, vehicles, residential quarters and guest houses and amenities and installations pertaining and attached thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts - corporeal and incorporeal, tangible and intangible assets, benefits, licenses, consents, authorities, registration, patents, trademarks and powers of every kind, nature and description whatsoever, privileges, liberties, easements, advantages, benefits and approvals, contracts, deeds, schemes, bonds, agreements and other instruments and interest of whatever nature and wherever situated and 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" means Jharkhand State Electricity Board constituted under section 62 of The Bihar Reorganization Act 2000 and functioning under the Electricity (Supply) Act, 1948 (54 of 1948).
- (d) "Company" means a company incorporated under the Companies Act, 1956.
- (e) "Jharkhand Bijli Vitran Nigam Ltd", means the Distribution Company, to which the Distribution Undertakings of the Board are to be transferred in accordance with this Scheme;
- (f) "Jharkhand Urja Utpadan Nigam Ltd" means the Generating Company to which the

Undertakings of the Board are to be transferred in accordance with this Scheme.

- (g) "Jharkhand Urja Sancharan Nigam Ltd" means the Transmission Company to which the Transmission Undertakings of the Board are to be transferred in accordance with this Scheme;
- (h) "Jharkhand Urja Vikas Nigam Ltd" means the Company that will own all shares of newly incorporated reorganized three companies i.e. Jharkhand Urja Utpadan Nigam Ltd, Jharkhand Urja Sancharan Nigam Ltd and Jharkhand Bijli Vitran Nigam Ltd;
- (i) "Effective Date" means the date notified by the State Govt. at para 1.3 above for effecting transfer of different Undertakings or properties, interest, rights, assets and liabilities, proceedings or personnel of the Board forming part of the Undertakings, to the relevant Transferee, in accordance with the Act and this Scheme;
- (j) "Liabilities" include all liabilities, debts, duties, obligations and other out-standings including statutory liabilities and Government levies of whatever nature and contingent liabilities which may arise in regard to the dealings before the effective date of the transfer in respect of the Undertakings (defined hereinafter) transferred under this scheme.
- (k) "Personnel" means workmen, employees, staff and officers of the Board by whatever name called and includes trainees, if any, for the recruitment in the Board and those on deputation from the Board to other organizations or institutions, but shall exclude personnel on deputation from other organizations or institutions to the Board;
- (l) "Proceedings" means the proceedings of whatever nature including suits appeals, complaints, petitions, applications, conciliatory, arbitration whether civil or criminal or otherwise, in which Board is one of the parties;
- (m) "Schedules" means the Schedules appended to this Scheme;
- (n) "State" means the State of Jharkhand.
- (o) "State Government" means the Government of Jharkhand.
- (p) "Terminal Benefits" means the GPF(FW), GSS, Gratuity, Pension, Dearness Allowance, Leave Encashment and other applicable benefits including the right to have the appropriate revisions in the above benefits consistent with the practice that were prevalent in the Board.
- (q) "Transferee" means Jharkhand Urja Vikas Nigam Ltd, Jharkhand Urja Utpadan Nigam Ltd, Jharkhand Urja Sancharan Nigam Ltd, Jharkhand Bijli Vitran Nigam Ltd, as the case may be.
- (r) "Undertaking (s)" mean the functions, business and a block or blocks of properties, interest, rights, assets, liabilities, obligations, proceedings and personnel to the extent and in the manner specified as a part of the undertakings of the Board and such other properties, interests, rights, assets, liabilities, obligations and proceedings and wherever the context so admits shall include the Personnel as specified in this Scheme relevant to the functions:
- (s) Words and expressions which are used in the Scheme and also defined in the Act but not

3. *Classification of Undertakings of the Board:-*

3.1 The undertakings of the Board are classified in the Following Schedules:

- (a) Transmission Undertakings as set out in Schedule 'A';
- (b) Generation Undertakings as set out in Schedule 'B';
- (c) Distribution Undertakings as set out in Schedule 'C';
- (d) Holding Undertaking as set out in Schedule 'D';
- (e) Residual assets and liabilities as set out in Schedule 'E';
- (f) Transfer of Personnel as set out in Schedule 'F';

3.2 If the assets of the Undertakings under sub-clause 3.1 above are subject to security documents or arrangements in favor of third parties for any financial assistance or obligations taken by the Board and the liabilities in respect thereof are to be classified in different Undertakings, the State Government, may by order to be issued for the said purpose, provide for the apportionment of the liabilities secured by such properties, assets and rights between the different Undertakings and upon such apportionment the security shall be applicable to the extent of apportioned liability.

4. *Transfer of Assets, Liabilities etc. to the State :-*

4.1 On and from the effective date, the assets and all interests, rights and liabilities of the Board as specified in such of the Schedules 'A' to 'E', as per the decision of the State Government, shall stand transferred to and vest in the State Government for the purposes of further transfers under this Scheme without any further act or thing to be done by the State Government or Board or any person, subject to the terms and conditions specified in the Act and this Scheme.

4.2 The assets and liabilities specified in Schedule - 'E' shall not form part of the assets and liabilities to be transferred to the proposed successor companies as classified in Schedules - 'A' to 'D' but shall form part of residuary assets and liabilities to be retained by the State Government. However, outstanding State Govt. Loans and interest thereon receivable from board will continue to be shown as recoverable from board in the books of State Govt., pending final adjustment between board and State Govt.

4.3 Nothing in sub-clause 4.1 above shall apply to rights, responsibilities, liabilities and obligations in respect of the personnel and personnel related matters including statutory dues such as salary, wages, gratuity, pension, provident fund, compensation, terminal and retirement benefits and the same shall be dealt with in the manner provided under Clause 6 of this Scheme.

5. *Transfer of Undertaking by the State :-*

5.1 The functions, business and Undertakings forming part of Transmission Undertakings as set out in Schedule 'A' hereto shall stand transferred to and vest in Jharkhand Urja Sancharan Nigam Ltd on and from the effective date, without any further act or thing to be done by the State Government or Board or any person, subject to the terms and conditions specified in the Act and this Scheme.

5.2 The functions, business and Undertakings forming part of Generation Undertakings as set out in

Schedule 'B' shall stand transferred to and vest in Jharkhand Urja Upadan Nigam Ltd on and from the effective date, without any further act or thing to be done by the State Government or Board or any person, subject to the terms and conditions specified in the Act and this Scheme.

5.3 The functions, business and Undertakings forming part of Distribution Undertakings as set out in Schedule 'C' shall stand transferred to and vest in Jharkhand Urja Vikas Nigam Ltd on and from the effective date, without any further act or thing to be done by the State Government or Board or any person, subject to the terms and conditions specified in the Act and this Scheme.

5.4 The function, business and undertakings forming part of Holding Undertakings as set out in Schedule 'D' shall stand transferred to and vest in Jharkhand Urja Vikas Nigam Ltd on and from the effective date, without any further act or thing to be done by the State Government or Board or any person, subject to the terms and conditions specified in the Act and this Scheme.

5.5 On such transfer and vesting of the functions, business and Undertakings in terms of sub-clauses 5.1 to 5.4 above and except as otherwise provided, the respective Transferee, shall be responsible for all functions, contracts, rights, deeds, schemes, bonds, agreements, proceedings and other instruments of whatever nature relating to the respective Undertakings transferred to it to which the Board was a party, subsisting or having effect on the date of the transfer, and the same shall remain in force and effect against or in favor of the respective Transferee and may be enforced effectively as if the respective Transferee had been a party thereto instead of the Board.

5.6 As consideration for the transfer and vesting of the Undertakings as specified in this Scheme, the relevant Transferee shall have the financials and opening balance sheet and shall issue shares and / or/ other instruments as the State Government may notify by order (as specified in Part II of Schedule A to D respectively).

5.7 The State Government may, by an order to be issued for the purpose, amend, vary, modify, add, delete or otherwise change the terms and conditions specified in the Schedules at any time during the provisional period mentioned in Clause 9 of this Scheme.

5.8 The transfer value of the Assets & Liabilities forming part of the Schedules A, B, C & D of the respective Transferee have been taken at Book Values.

6. Transfer of Personnel :-

6.1 The transfer of personnel shall be subject to the terms and conditions contained in section 133 and other applicable provisions of the Act.

6.2 The personnel of the Board, involved in Distribution, Generation, Transmission and Common Services including at the Head Office, on the effective date, will stand transferred to the holding company.

6.3 Subject to sub-clause 6.2, the personnel on the effective date shall stand further transferred from Holding Company as under -

- i) All the personnel working with the Transmission function and activities of the Board shall be deemed to be transferred to Jharkhand Urja Sancharan Nigam Ltd.

the personnel working with the Generation function and activities of the Board shall be deemed to be transferred to Jharkhand Ugrat Ugradan Nigam Ltd.

iii) All the personnel working with the Distribution function and activities of the Board shall be deemed to be transferred to Jharkhand Bijli Vitran Nigam Ltd.

6.4 The detailed scheme and terms and conditions for transfer of group of employees in Transmission, Generation, Distribution and common services is given in Schedule F.

6.5 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 the Transmission, Generation and Distribution companies, as the case may be, but their rank, scale of pay and inter-se seniority as existing in the Board on the effective date shall be maintained in the holding company and the retirement benefits and other facilities shall be intact or shall be more favorable than the one existing in the Board on the effective date.

6.6 Notwithstanding the provisional nature of transfer of personnel to Holding Company and further transfer to Transmission, Generation and Distribution companies, as per para 6.2 and 6.3 above, the personnel shall discharge the duties and functions as may be assigned to them from time to time by Transmission, Generation and Distribution companies, as the case may be and the Transmission, Generation and Distribution companies shall have the power to exercise all administrative and disciplinary control over such personnel transferred to them as per this Scheme.

6.7 The transfer of personnel shall be subject to the following conditions, namely -

(a) That the personnel shall be governed by the Rules and Regulations framed by the Board existing on the effective date.

(b) The terms and conditions of the services applicable to personnel on the effective date shall be intact or shall be more favorable than those applicable to them immediately before the said effective date. Accordingly the salary, allowances and other pecuniary benefits including terminal benefits applicable on the effective date shall be protected and shall not be anyway changed;

(c) All such personnel shall have continuity of service in all respects;

(d) All benefits of service accrued before the said effective date shall be fully recognized and taken into account for all purposes including the payment of terminal benefits;

(e) To any orders that may be passed by the Courts in the proceedings pending on the said effective date in regard to seniority or other matters concerning the service conditions of the Personnel;

(f) 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 not covered in the scheme. The outstanding claims of employees shall not be extinguished because of Transfer Scheme/Unbundling of JSEB.

6.8 Subject to the Act and this Scheme, the Holding Company shall be entitled to frame regulations governing the conditions of personnel transferred to the subsidiary companies under this Scheme and till such time the existing (as suggested for modification) service rules/regulations of the Board shall apply mutatis-mutandis.

Subject to para 6.7 in respect of all statutory and other schemes and employee 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 Holding Company 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 Holding Company and the services of the personnel shall be treated as having been continuous for the purpose of the application of this sub-clause.

- 6.10 The Holding Company shall, in consultation with Jharkhand Urja Utsadan Nigam Ltd, Jharkhand Urja Sancharan Nigam Ltd and Jharkhand Bija Vidyan Nigam Ltd, finalize the transfer to and permanent absorption of the Personnel in the subsidiary companies 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 within the provisional period of transfer of the Undertakings specified in Clause 9 of this Scheme.
- 6.11 For the purpose of sub-clause 6.10 above the Holding Company may constitute a Committee as specified in Schedule-F of this scheme to (a) receive options of choice from the Personnel for their transfer and absorption in the subsidiary companies in terms of Schedule-F (b) receive representations from the Personnel who may raise grievances in regard to their transfer and absorption in the subsidiary companies in terms of Schedule-F and (c) make recommendation on such transfer and absorption, within the provisional period or such extended time as State Government may specify for the purpose.
- 6.12 The Holding Company shall take a decision on the transfer and permanent absorption of the Personnel in the subsidiary companies after considering the recommendation of the Committee appointed for the purpose and shall issue orders for such transfer and permanent absorption of the Personnel.
- 6.13 Upon the finalization and issue of orders in terms of the sub-clause 6.10 above, the personnel shall form part of the services of the subsidiary company 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 Holding Company or the subsidiary company or the Personnel or any other person.
- 6.14 The liability in respect of existing pensioners of the Board (based on actuarial valuation as on 31.03.2012) shall be the liability of the State Government. Further the liability, as assessed on actuarial valuation, in respect of the retiral dues of the existing employees, as on the effective date, to the extent they are unfunded shall also be the liability of the State Govt. As per actuarial valuation carried out by registered actuary, the net present value of the total terminal benefit liabilities is Rs. 2126.25 Crores out of which total unfunded liability is approximately Rs. 2038.63 Crores as on 31.03.2012.
- 6.15 The unfunded liabilities accumulated in respect of terminal benefits of the employees, covered under State Govt.'s policies and directions, will be borne by the State Govt. The above unfunded terminal benefit liability will be determined on yearly basis by the actuary considering the impact of inflation, pay revisions etc. After the effective date, the liability on account of service in the subsequent periods shall be borne by the respective successor companies. The disbursement of terminal benefits will be through a master trust administered by the holding company. The

...from the State Govt. will be paid in advance in two installments every year i.e. by 31st May and 30th November and the successor companies will be contributing on monthly basis by 7th of the following month. The State Govt. and the transferees shall be jointly and severally liable for payments arising thereon till such notification, establishment of master trust and proper funding.

6.16 For the purpose of this clause 6, the term:-

- (i) "Existing Pensioner" means all the personnel eligible for the pension as on the effective date of the transfer from the Board and shall include family members of the personnel as per the applicable scheme, and
- (ii) "Terminal Benefits" means the GPF(FW), GSS, Gratuity, Pension, Dearness Allowance, Leave Encashment and other applicable benefits including the right to have the appropriate revisions in the above benefits consistent with the practice that were prevalent in the Board.

6.17 All proceedings including disciplinary proceedings pending against the personnel prior to the effective date of the transfer of the personnel from the Board to the Transferee or from such Transferee to another Transferee, as the case may be, or which may relate to misconduct, lapses or acts of commission or omission committed before the effective date of the transfer, shall not abate and may be continued by the relevant Transferee consistent with the applicable service rules.

6.18 The personnel transferred to the Transferees including on deputation, shall be deemed to have entered into an agreement with the Transferee concerned to repay loans, advances and other sums due and perform obligations undertaken by them to the Board which remain outstanding as on the effective date of the transfer for the benefit of the Transferee in the same manner on the same terms and conditions as contained in the arrangement with the Board.

6.19 Nothing contained in this Scheme shall apply to personnel of the State Government or other organization on deputation to Board as on the effective date but such personnel shall continue on deputation to the concerned Transferee(s) to whose services they are assigned on "as-is-where-is" basis till further orders of the Transferee.

6.20 The officers and the employees of the board after the restructuring shall have continuity of service. Their service conditions will be intact or shall be more favorable than to the present service conditions and in case the transferee companies do not fulfill any service condition, the State Govt. guarantees and shall ensure through holding company continuance of those benefits. However these provisions will not be applicable to the new employees appointed in the transferee companies after the effective date of restructuring.

7. *Rights and obligations of third parties restricted:* - Upon the transfer being effected in accordance with the Act and this Scheme, the rights and obligations of all persons shall be restricted to the Transferee 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 the Board or any other Transferee, except the transferee to whom it is assigned.

- 8.1 All Proceedings of whatever nature by or against the Board pending on the effective date shall not abate or discontinue or otherwise in any way prejudicial be affected by reason of the transfer under this Scheme and the proceedings shall be continued, prosecuted and enforced by or against the Transferee to whom the same are assigned in accordance with this Scheme and orders issued there under.
- 8.2 The proceedings covered under sub-clause 8.1 above shall be continued in the same manner and to the same extent as it would or might have been continued, prosecuted and enforced by or against the Board if the transfers specified in this Scheme had not been made.
9. *Classifications and transfer of property, rights, assets, liabilities and proceedings to be provisional in the first instance:-*
- 9.1 The classification and transfer of Undertakings including personnel under this Scheme, unless otherwise specified in any order made by the State Government, shall be provisional for a period of one year from the effective date.
- 9.2 At any time within a period of one year from the effective date, the State Government may, by order to be notified, amend, vary, modify, add, reduce, delete or otherwise change terms and conditions of the transfer including items included in the transfer, and transfer such properties, interests, rights, assets, liabilities, personnel and proceedings and forming part of an Undertaking of one Transferee to that of any other Transferee or to the State Government in such manner and on such terms and conditions as the State Government may consider appropriate.
- 9.3 On the expiry of the period of one year from the effective date and subject to any directions given by the State Government, the transfer of undertakings, properties, interests, rights, assets, liabilities, personnel and proceedings made in accordance with, this Scheme shall become final.
10. *Transfer by operation of law:-* The transfer under this Scheme shall operate and be effective pursuant to action of the State Government by publishing this Scheme and Orders issued in terms of this Scheme and without any further act, deed or thing to be done by the State Government, Board, Transferees or any other person, subject to the terms and conditions of this Scheme.
11. *Decision of State Government to be final:-*
- 11.1 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.
- 11.2 The State Government may, by order publish in the *Official Gazette*, amend this Scheme and 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.
12. *Exemption of Duty:-* Exemption from all types of taxes, duties, levies of State Govt. and local bodies arising out of transfer and implementation thereof under this transfer scheme will be considered separately by the State Govt. as per the requirement.

Order:- Ordered that this notification be published in Jharkhand Gazette Extraordinary issue for information to general public.

By order of the Governor of Jharkhand

Sd/-

Principal Secretary, Energy Department

Memo No-.....

Ranchi, Dated.....

Copy with CD forwarded to Superintendent, Govt. Press Jharkhand, Ranchi to publish in forthcoming extraordinary issue of the Jharkhand Gazette.

He is requested to make available 100 copies of the published gazette to Energy Department, Govt. of Jharkhand.

Sd/-

Principal Secretary, Energy Department

Memo No-.....

Ranchi, Dated.....

Copy forwarded to Principal Secretary to Hon'ble Governor/Principal Secretary to Hon'ble Chief Minister/Chief Secretary/All Principal Secretary/Secretary, Jharkhand/Cabinet Secretariat & Coordination, Jharkhand/Accountant General, Jharkhand, Ranchi/All Departments of Govt. of Jharkhand/All Heads of Department/ All Divisional Commissioners/ All District Magistrates/Registrar General, High Court, Ranchi for information and necessary action.

Sd/-

Principal Secretary, Energy Department

Memo No-19.....

Ranchi, Dated. 06/01/2014

Copy forwarded to Secretary, Ministry of Power, Govt. of India, New Delhi/ Chairman CEA/ Chairman CERC/ Chairman/Member, Jharkhand Electricity Regulatory Commission/ Chairman, Jharkhand State Electricity Board, Ranchi/Chairman and Managing Director, Jharkhand Urja Vikas Nigam Ltd/Chairman, Jharkhand Urja Utpadan Nigam Ltd/Chairman, Jharkhand Urja Sancharan Nigam Ltd/Chairman, Jharkhand Bijli Vitran Nigam Ltd.

VKL 06/01/14

Principal Secretary, Energy Department