



GOVERNMENT OF JAMMU & KASHMIR
POWER DEVELOPMENT DEPARTMENT
CIVIL SECRETARIAT, SRINAGAR

NOTIFICATION
Srinagar, 11th September, 2018

SRO 396 : In exercise of the powers conferred by Section 91 read with sub-section (1) and (2) of Section 93 of the Jammu and Kashmir Electricity Act, 2010 (Act No.XIII of 2010), the Government of Jammu & Kashmir hereby makes the following Scheme for providing effect to the transfer of certain Assets, Liabilities, Personnel, Proceedings, Properties, and undertakings of Power Development Department to the 'Transferee' as defined in this scheme and for matters incidental and ancillary thereto.

**POWER DEVELOPMENT DEPARTMENT
TRANSFER SCHEME (Phase-I) RULES, 2018**

1. Short title, extent and commencement:

- (1) This Scheme shall be called the "Power Development Department Transfer Scheme (Phase-I) Rules, 2018" (herein after referred to as 'Scheme');
- (2) The Scheme shall come into force with effect from 11.09.2018.

2. Application of Scheme to the Assets and Liabilities: The Scheme shall apply to such assets, properties, undertakings, interests, rights, obligations, liabilities, personnel and proceedings of the Power Development Department within & outside the State as mentioned in the Scheme

3. Definitions: In this Scheme, unless the context otherwise requires:

- (a) "Act" means the Jammu & Kashmir Electricity Act, 2010 (Act No. XIII of 2010);
- (b) "Appointed Date" means the date of 11.09.2018 for effecting transfer of functions, properties, interests, undertakings, rights and liabilities, proceedings and personnel of the Department to the Transferee in accordance with the Act and this Scheme for all objects and purposes under this Scheme;
- (c) "Assets" means all assets & properties including power systems, plant, machinery, land, building, offices, stores, furniture, fixtures, vehicles, computer, laptop, telephone, fax, 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 Appointed Date of transfer in respect of the specified Trading Undertaking;

- (d) "C&S Wing" shall mean the existing Commercial and Survey wing of Department responsible for (i) power purchases, (ii) setting up, maintenance & operations of communication network between different grids and power houses, (iii) enforcement of power curtailments as per schedule for maintaining of strict grid discipline, (iv) managing operations of SLDC and Sub-LDC, and (v) testing of electric protection for all electric installations, etc.;
- (e) "Cash Flow Arrangement" shall mean the arrangement to be put in place by the Transferee in accordance with Rule 14 of this Scheme;
- (f) "Company" means a company formed and registered under the Companies Act, 1956 / Companies Act 2013,
- (g) "Department" means the Power Development Department, Government of Jammu and Kashmir and responsible for all functions related to transmission, distribution and load despatch of electricity in the State;
- (h) "DCP" shall mean the Development Commissioner, Power and responsible for heading of the Department;
- (i) "EM&RE Wing" shall mean Electrical Maintenance and Rural Electrification Wing, an existing wing of the Department responsible for (i) setting up, maintenance and operation of distribution system at 66 KV level and below (ii) billing of energy to consumers and collection.
- (j) "Liabilities" means all liabilities, debts, duties, obligations and other outgoings including statutory liabilities and Government levies of whatever nature and contingent liabilities which may arise in regard to the dealings before the Appointed Date in respect of the Trading Undertaking transferred under this Scheme;
- (k) "P&D Wing" shall mean the Planning & Design wing, an existing wing of the Department, and responsible for (i) technical study & approval of projects, (ii) setting up standards of quality control for projects and (iii) procurement process of equipment for grid stations and transmission lines above 66 kV;
- (l) "P&MM Wing" shall mean the Procurement & Material Management wing, an existing wing of the Department, and responsible for procurement of line material and equipment for sub-transmission level at 66 KV and below;
- (m) "Personnel" means workmen, employees, staff and officers of the Department by whatever name called and includes trainees, if any for the recruitment in the Department and those on deputation from the Department to other organizations or

- (x) "Trading-cum-Holding Company" or "JKSP Tradeco (JKSPTC)" means the Jammu & Kashmir State Power Trading Company Limited, a company incorporated under the Companies Act, 1956;
- (y) "Transferee" means Jammu & Kashmir State Power Trading Company Limited (JKSPTC);
- (z) "Transition Period" means the period starting from the Appointed Date till the date to be notified by the State Government;
- (aa) "Transmission Company" means the Jammu & Kashmir State Power Transmission Company Limited, a company incorporated under the Companies Act, 1956 with the main object of undertaking the transmission of electricity in the State of Jammu & Kashmir and to function as State Transmission Utility and perform load despatch functions as per the provisions of the Act;
- (bb) "Trading Undertaking" means the undertaking as specified in the Schedule I of this scheme and such other undertakings as may be specified by the Government from time to time by amending Schedule I of this scheme.

4. Words and expressions used in this Scheme but not specifically defined in this Scheme shall have the same meaning as assigned to them in the Act.

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

- a. The Trading Undertaking as set out in Schedule -I shall stand transferred to and vested in the Transferee on and from the Appointed Date subject to the terms and conditions specified in the Act and the Scheme;
- b. On such transfer and vesting of the Trading Undertaking in terms of sub-rule (a) above and except as otherwise provided, the Transferee, shall be responsible for all functions, contracts, rights, deeds, schemes, bonds, agreements and other instruments of whatever nature relating to the respective Trading Undertaking transferred to it to which the Department was a party, subsisting or having effect on the Appointed Date, in the same manner as the Department was liable immediately before the Appointed Date, and the same shall remain in force and effect against or in favour of the Transferee and may be enforced effectively as if the Transferee had been a party thereto instead of the Department;
- c. As consideration for the transfer and vesting of Assets and Liabilities to the Transferee as specified in this Scheme, the State Government and/or any Company will be issued shares and/ or instruments as may be decided by State Government;
- d. The transfer to and vesting of the Trading Undertaking to the Transferee in terms of this Scheme shall take effect immediately on the Appointed Date notwithstanding that the value of the Trading Undertakings have not been determined and shall be determined at a later date;

- e. The State Government may transfer appropriate assets such as chairs, tables, cupboards, computers, laptops etc. as may be necessary for smooth functioning of the Transferee. If the assets cannot be transferred from the Department, necessary arrangements shall be done by the State Government or the Department to procure the same for the Transferee.

The value of the Assets to be transferred to the Transferee shall be the fair value determined in any one or more of the following basis:

- i. Revenue earning potential, or
- ii. Depreciated replacement value, or
- iii. Depreciated Book value.

- f. The opening balance sheet of the Transferee shall be finalized and notified by the State Government on the date as may be decided by the State Government.

6. **Transfer of sanctioned positions:** The sanctioned positions of C&S wings as mentioned at Schedule-II shall stand transferred to the Transferee on the Appointed Date.

7. **Transfer of Personnel:**

- a. The transfer of Personnel shall be subject to the terms and conditions contained in Section 93 and Section 94, of the Act;
- b. On the Appointed Date, the Personnel working against the sanctioned posts mentioned in Schedule-II shall be deemed to have been deputed to the Transferee on as-is-where-is basis, on standard terms and conditions of deputation as defined in Schedule XVIII, Jammu and Kashmir Civil Services (Regulations), Vol-II as amended from time to time.
- c. The posts that are proposed to be transferred from the Finance Department as mentioned in Schedule-II shall be identified by the Department and deemed to have been deputed to the Transferee on as-is-where-is basis, on standard terms and conditions of deputation as defined in Schedule XVIII, Jammu and Kashmir Civil Services (Regulations), Vol-II as amended from time to time.
- d. The personnel for sanctioned but vacant posts identified for transfer from the C&S wing of the Department and posts approved for creation in the Transferee vide Cabinet Decision No. 188/29/2012 dated 10/10/2012 shall be taken on deputation or appointed by the Transferee as per the rules and regulations decided by the Board of Directors of the Transferee.
- e. The Board of Directors of the Transferee shall be constituted in accordance with its Memorandum of Association and Articles of Association as approved by the State Government.
- f. Notwithstanding the provisional nature of transfer of Personnel to the Transferee, as per sub-rule (b) above, the Personnel shall discharge the duties and functions as may be assigned to them from time to time by Transferee, as the case may be and the

Transferee shall have the power to exercise all administrative and disciplinary control over such Personnel transferred to them as per this Scheme.

- g. All Proceedings including disciplinary proceedings pending against the Personnel prior to the Appointed Date which may relate to misconduct, lapses or acts of commission or omission committed before the Appointed Date, shall not abate and shall be continued by the Transferee;
- h. The Personnel transferred to the Transferee, shall be deemed to have entered into an agreement with the Transferee to repay loans, advances and other sums due or otherwise perform obligations undertaken by them to the Department which remain outstanding as on the Appointed Date, on the same terms and conditions as contained in the arrangement with the Department;
- i. Nothing contained in this Scheme shall apply to Personnel of the Central Government or any other organization on deputation to Department as on the Appointed Date but such Personnel shall continue to be on deputation to the Transferee to whose services they are assigned on "as-is-where-is" basis.
- j. In case the Department is unable to transfer persons of such qualification/s as may be required by law or by any regulation for enabling the Transferee to carry out its activities as normal course of business, the Transferee shall have the independence to hire the services of such personnel from outside the Department.
- k. Absorption of Personnel in Transferee will be decided by the State Government in future. However, at the time of absorption as may be decided by the State Government, the rank, scale of pay, salary, allowances and other pecuniary benefits including pension, Terminal Benefits etc., of the Personnel after the Appointed Date shall not in any way be inferior to those applicable to them immediately before the said transfer.

8. Treatment of Terminal Benefits: -

- a. The Terminal Benefits for the personnel on deputation from the Department shall be as per the applicable policies of the Department.
- b. The Terminal Benefits for personnel who have been hired by the Transferee directly shall be as per the relevant policies developed/to be developed by the Transferee in this regard.

9. Shared Services / common services:

- a. However, the Department shall continue to extend expert support and knowledge with respect to Shared Services / common services including but not limited to Human Resource Management, IT support, Secretarial services support, audit, and administrative support to the Transferee

- b. The Personnel transferred to the Transferee Company on deputation shall be eligible to use facilities of the rest houses or the guest houses or the transit houses of the Department for a nominal charge as decided by the State Government or the Department.

10. Rights and obligations of third parties restricted: -

- a. All the outstanding liabilities against power purchase cost of the Department as on the Appointed Date shall not be transferred to the Transferee and shall vest with the Department.
- b. Upon the transfer being effected in accordance with the provisions of the Act and this Scheme, the rights and obligations of all persons (including body corporate, financial institutions, lenders, etc.) shall be restricted to the Transferee to whom they are transferred to and notwithstanding anything to the contrary contained in any deed, documents, instruments, agreements or arrangements which such person has with the Department, he shall not claim any right or interest against the State Government or the Department except the liability provided under Rule-10a.
- c. In such case, the Transferee shall discharge its undertakings as the same would have been done by the Department before the Appointed Date.

11. Pending Suits, Proceedings, etc.:

- a. All proceedings of whatever nature by or against the Department pending on the Appointed Date shall not abate or discontinue or otherwise in anyway prejudicially be affected by reason of the transfer under this Scheme and the Proceedings shall be continued, prosecuted and enforced by or against the Department;
- b. The proceedings may be transferred to the Transferee at a later date by issuance of an order or a scheme by the State Government.

12. Classification and transfer of property, rights, Liabilities and Proceedings to be provisional in the first instance:-

- a. The classification and transfer of Trading Undertaking including Personnel under this Scheme, unless otherwise specified in any order issued by the State Government, shall be provisional and shall be finalized during the Transition Period or any other date notified by the State Government.
- b. Finalization of the Scheme:-

- i. At any time within the Transition Period or any other date notified by the State Government, 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, Liabilities, Personnel and Proceedings forming part of Trading

Undertaking of the Transferee to that of the Department in such manner and on such terms and conditions as the Department may consider appropriate;

- ii. During the Transition Period, the PPAs, MoUs and other similar arrangements with respect to purchase of power or power trading, if any, shall be allocated to the Transferee;
- iii. On the expiry of the Transition Period or any other date notified by the State Government and subject to any directions given by the State Government, the transfer of Trading Undertaking, properties, interests, rights, Liabilities, Personnel and Proceeding made in accordance with this Scheme shall become final.

13. Revenue Mechanism

- i. The Transferee will procure power from power suppliers (generators, other traders, power exchange) and will bulk supply the same to the Distribution Licensees of JKPDD with margin at rates regulated by the State Government. The State Government may take guidance from the margin rates as permitted by the Central Electricity Regulatory Commission of India for inter-state power trading business.
- ii. The filing of ARR to the State Electricity Regulatory Commission will be done by the Department or as may be decided by the State Government.
- iii. If permitted by the State Government, a trading margin can be charged by the Transferee subject to applicable rules and regulations issued by the J&K State Electricity Regulatory Commission or Central Electricity Regulatory Commission, as the case may be.
- iv. The Transferee will meet its expenditure through the following sources:
 - a. Rebate on early payment of power purchase cost
 - b. Sale of power to the procurers other than the Department
 - c. Trading margin if allowed by the State Government.
 - d. Recovery of expenditure through annual revenue requirement of the Department.
- v. The Transferee will also be entitled to recover the interest and finance charges on the working capital loan and letter of credit from the Department on actual basis.

14. Cash Flow Arrangement and Accounting Procedures:-

- i. The Transferee shall create/open new bank account to manage its cash flow.
- ii. The Transferee will generate revenues by procuring power from various generating stations or traders through long-term, medium-term or short-term PPAs as well as from power exchanges and selling the same to the Department for further distribution to the consumers in the state. Expenses to be made by the Transferee viz. power procurement cost, interest on loans, statutory payments, if any, operations expenses such as salary, capital expenditure, if any, etc. shall be handled

by the Transferee itself. However, the same shall be recovered as mentioned in Sub Rule (iv) & (v) of Rule 13.

- iii. The power procured by the Transferee from within the state will be at ex-bus bar of the generating stations and at the periphery of the State of Jammu & Kashmir in case of procurement of power from generating stations and other power trading companies outside the State unless otherwise provided in the power purchase agreement.
- iv. All the bills raised by the Transferee on the Department for the power supplied will be verified by the Department and recommendation for payment will be made to State Government Treasury. The payment from the State Government Treasury will be directly made to the bank account of the Transferee
- v. The Transferee shall be entitled to avail short-term loans /letter of credit / line of credit to meet its working capital requirements as per prudent financial management practices

15. Delegation of Power

- a. All Personnel of the Department who are on deputation to the Transferee shall continue to fulfill their responsibilities as per their existing delegation of power till the finalization of the delegation of power by the Transferee;
- b. All approvals beyond the delegation of power of Chief Engineers shall be vested with Board of Directors of the Transferee till finalization of new delegation of power by Transferee.

16. Transfer by operation of law:-

- a. The transfer under this Scheme shall be operative and 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, Department, Transferee or any other person, subject to the terms and conditions of this Scheme.

17. Rights and powers of the Transferee:-

The Transferee shall be a deemed licensee under section 2 of Jammu and Kashmir Electricity (Amendment) Act, 2018, Act No.XI of 2018.

18. Decision of State Government to be final:-

- a. 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.
- b. The State Government may, by order published in the Government 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.

By order of the Governor of Jammu and Kashmir.

Sd/-

(Hirdesh Kumar)IAS

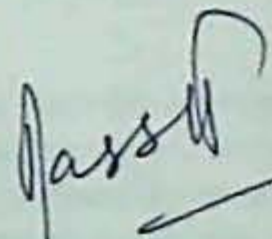
Commissioner/Secretary to Government
Power Development Department

Dated: 11.09.2018

No: PDD/IV/31/2010-part file

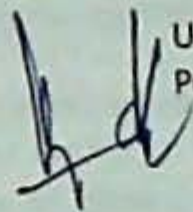
Copy to the:-

1. Advocate General, J&K High Court Srinagar/Jammu
2. All Financial Commissioners.
3. Principal Accountant General, J&K, Srinagar/Jammu
4. All Principal Secretaries to Government
5. Principal Secretary to Hon'ble Governor
6. All Commissioner/Secretaries to Government
7. Divisional Commissioner, Kashmir/Jammu
8. Commissioner of Vigilance, J&K, Srinagar
9. Director General, Information, J&K
10. Managing Director, J&K State Power Development Corporation
11. All District Development Commissioners
12. Development Commissioner, Power, J&K, Srinagar
13. General Manager, Government Press
14. Private Secretary to Chief Secretary
15. I/C Website, PDD
16. Government Order file/Stock file



(Syed Nazir Ahmad)

Under Secretary to Government
Power Development Department



SCHEDULE -I
TRADING UNDERTAKING
PART I

ASSETS AND LIABILITIES

The Trading Undertaking shall comprise generally of all the assets and proceedings including the following but not limited to them, belonging to the C&S Wing of the Department, concerning the trading of electricity:

I. MISCELLANEOUS

- (a) Contracts, agreements, interest and arrangements to the extent they are associated with or related to trading activities or to the undertaking or assets including all agreements and contracts with Central Power Sector Undertakings (for which no allocation of power is made by the Central Government for the State), contracts, agreements, interest and arrangements with Independent Power Producers and Captive Power Plants in the State;
- (b) Proceedings to the extent they are associated with or related to power trading activities or to the undertakings referred above.

II. GENERAL

- (a) In consideration of the transfer mentioned above, the State Government may direct the Transferee to issue instruments such as equity shares, preference shares, debentures and other securities in favour of the State Government as the State Government may direct taking into account the assets and liabilities, if any transferred from Department to the Transferee.
- (b) The number and value of instruments mentioned above shall be consistent with the requirements of the Central Electricity Regulatory Commission (Procedure, terms and conditions for grant of trading license and other related matters) Regulations, 2009 or as amended from time to time.

**TRADING UNDERTAKING
PART II**

FUNCTIONS AND DUTIES OF TRADING-CUM-HOLDING COMPANY

The functions and duties of the Trading-cum-Holding Company will be detailed as per the clauses of the Memorandum of Association and Articles of Association of the Company constituted there under as originally framed or as altered from time to time.

Main functions and duties of Trading-cum-Holding Company are:

- a) To act as a bulk purchaser and supplier of electricity:
 - i. As a bulk purchaser and supplier, the trading cum holding company shall be responsible for purchase of the entire power requirement from state owned generating station, Central Generating Stations, traders, Merchant Power Producers, Independent Power Producers and any other source to meet the demand of state distribution companies and perform the activity of bulk supplier of power to all the distribution companies at bulk supply tariff
 - ii. Under this role the trading cum holding company shall be responsible for sale of power contracted under MoU (free/ subsidized/ SERC determined tariff) on behalf of State government
- b) To act as a Residual Company and perform following functions:
 - i. To provide a clean and financially strong opening balance sheet to the other successor companies to ensure their financial viability, by transferring the un-reconciled balances, accumulated losses and unfunded liabilities to the trading cum holding company
 - ii. Entrusted with contract, agreements, rights, interest & arrangements, loans, cash & bank balance, current assets & liabilities and obligations & proceedings to the extent they are associated with or related to common activities or not associated directly with generation, transmission and distribution activities
- c) To act as an investment company and carry out the following key functions / responsibilities:
 - i. Hold equity in successor entities and subscribe to additional equity on behalf of state government
 - ii. Invest on behalf of the State Government in various schemes/projects for the development of power sector in the state
 - iii. Invest equity in all existing and future Joint Venture (JV) projects on behalf of State Government for the development of new power projects

- iv. Execute Memorandum of Understanding (MOUs) and Implementation Agreements (IAs) with the Independent Power Producers (IPPs)/ Captive Power Producers (CPP), establishing power plant in the State
- d) To act as a Coordinator while performing the following key functions/responsibilities are being carried out:
- i. Deal with shared services till final allocation to successor companies
 - ii. Responsible for the cash management function (centralized cash flow arrangement) for all the successor companies during transition phase
 - iii. Planning of capital expenditure/ capital projects for all the successor companies
 - iv. Supervision, co-ordination and facilitation of the activities of other successor companies and act as coordinator between Government and successor entities for smooth functioning of the latter
 - v. Coordination functions related to finance, accounts, human resources and legal issues
 - vi. Implementation, coordination and monitoring of the projects and schemes supported by any financial institution, Accelerated Power Development Reform Programme and any other scheme concerning the electricity sector in the State
- e) Till the time, the next phase of restructuring takes place, the Transferee shall be responsible to carry out the duties & functions mentioned as a bulk purchaser and supplier or as an investment vehicle to invest equity in all existing and future Joint Venture (JV) projects on behalf of State Government for the development of new power projects

SCHEDULE -II

The following sanctioned positions from C&S wing shall stand transferred to the Transferee on the Appointed Date:

Post	Number of posts	Post/s to be migrated from
Chief Engineer	1	C&S wing
Superintending Engineer	1	Circle office, C&S wing
Executive Engineer	3	One from sanctioned vacant posts at C&S wing One from Survey, Jammu One from Survey, Srinagar
Assistant Executive Engineer	5	One from sanctioned vacant posts at C&S wing One from Circle Office One from LDM&T, Jammu (Billing sub-division) One from Survey, Jammu One from Survey, Srinagar
Assistant Engineer	2	One from Direction Office One from LDM&T, Jammu
Junior Engineer	13	One from sanctioned vacant posts at C&S wing Three from Direction Office Two from LDM&T, Jammu (Billing sub-division) Four from Survey, Jammu Three from Survey, Srinagar
Chief Accounts Officer	1	Direction Office
Accounts Officer	3	One from Commercial, Jammu Two from posts approved for creation by the State Cabinet
Assistant Accounts Officer	1	Direction Office
Law Officer	1	Post approved for creation by the State Cabinet
Private Secretary/Personal Assistant	1	Post approved for creation by the State Cabinet
Section Officer/Head Assistant	3	One from Circle Office Two from sanctioned vacant posts at C&S wing
Computer Operator	1	One from sanctioned vacant posts at C&S wing
Computer Assistant	6	Six from sanctioned vacant posts at C&S wing
Junior Assistant	6	One from Circle Office One from Survey, Jammu Four from sanctioned vacant posts at C&S wing
Junior Accounts Assistant	6	One from Circle Office Two from Commercial, Jammu Three from Finance Department, JKPDD
Senior Assistant	18	One from Circle Office Two from Survey, Jammu One from Commercial, Jammu Fourteen from sanctioned vacant posts at C&S wing
Peon / support staff	7	Three from Circle Office One from Survey, Jammu Three from sanctioned vacant posts at C&S wing
Peon / Orderly	8	Four from Survey, Jammu Four from sanctioned vacant posts at C&S wing
Peon	5	One from Circle Office One from Survey, Jammu Three from sanctioned vacant posts at C&S wing
Peon/Tech-IV	1	One from Survey, Jammu
Total	93	