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GOVERNMENT OF HIMACHAL PRADESH
(DEPARTMENT OF MPP & POWER)

NOTIFICATION

No. MPP-A (3)-1/2001-IV

Dated Shimla:

10-06-2010.

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In exercise of the power conferred by Section 131(2), 132, 133 and other applicable provisions of the Electricity Act 2003, the Government of Himachal Pradesh (hereinafter the State Government) hereby makes the following Transfer scheme for providing and giving effect to the transfer of functions, undertakings, assets, properties, rights, liabilities, obligations, proceedings and personnel of erstwhile 'Himachal Pradesh State Electricity Board', which stand vested in the Government of Himachal Pradesh under section 131 (1) of the Electricity Act, 2003 vide Notification No. MPP-A(3)-1/2001-IV dated 15.6.2009 read with notification No. MPP-A(3)-1/2001-IV dated 3.10.2009, to the extent and in the manner provided for hereinafter in the corporate entities constituted for the purpose.

1. Short title, extent and commencement:

- (1) This Scheme maybe called the 'Himachal Pradesh Power Sector Reforms Transfer Scheme, 2010'.
- (2) This Scheme shall extend to the whole of the State of Himachal Pradesh and also to such Assets, Properties, Rights, Liabilities, Obligations, Proceedings and Personnel of the erstwhile Himachal Pradesh State Electricity Board as vested in the Government of Himachal Pradesh vide notification dated 15.6.2009 under section 131(1) of Electricity Act, 2003.
- (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 erstwhile Board including 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, equity, 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 vested in the State Government

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as per notification dated 15.6.2009 under section 131(1) of the Electricity Act, 2003 and the assets as created in the name of 'HPSEB' in the intervening period of 15.6.2009 and the effective date as mentioned above.

- (c) "Board" or HPSEB means the 'Himachal Pradesh State Electricity Board' constituted under Section 5 of the Electricity (Supply) Act, 1948 (Central Act No. 54 of 1948) as it existed before 15.6.2009;
- (d) "Effective date of re-vesting" means date on which the present Transfer Scheme becomes effective in terms of sub-clause (3) of clause (1) above;
- (e) "Liabilities" include all liabilities, debts, duties, obligations and other outgoings including statutory liabilities and Government levies of whatever nature including the contingent liabilities of the Board which may arise in regard to dealings before the effective date of re-vesting;
- (f) "Personnel" means existing and retired workmen, employees, staff and officers of the Board by whatever name called including those on deputation or on secondment in other organizations or institutions, but shall exclude persons on deputation from other organizations 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) "Himachal Pradesh State Electricity Board Limited" or "HPSEB Ltd." means "Himachal Pradesh State Electricity Board Limited" incorporated under the Companies Act, 1956;
- (i) "Scheme" means 'Himachal Pradesh Power Sector Reforms Transfer Scheme, 2010'
- (j) "State" means the State of Himachal Pradesh;
- (k) "State Government" means the Government of Himachal Pradesh;
- (l) "Himachal Pradesh Power Corporation Ltd." or "HPPCL" means "Himachal Pradesh Power Corporation Ltd." incorporated under the Companies Act, 1956.
- (m) "Himachal Pradesh Transmission Corporation (Private) Ltd." or "HPPTCL" means "Himachal Pradesh Transmission Corporation (Private) Ltd." incorporated under the Companies Act, 1956.
- (n) "Transferee" means "HPSEB Ltd." or "HPPTCL", as the case may be;

- (o) "Undertaking(s)" means the functions, properties, interest, rights and liabilities of the Board as specified in the Scheme.
- (2) Words and expressions used and defined in the Electricity Act, 2003 or the Rules framed there under but not defined in this scheme shall have the same meaning as assigned in the Act or Rules.
3. **Re-Vesting of Assets and Liabilities etc. from the State Government in to the corporate bodies:**
 The assets and liabilities of the Board as already vested in the State Government as per Notification No. MPP-A(3)-1/2001-IV dated 15.6.2009 read with notification No. MPP-A(3)-1/2001-IV dated 3.10.2009 issued under section 131(1) etc. of the Act, shall be re-vested in the corporate bodies as under:-
- (1) On and from the effective date of re-vesting all assets, properties, interest in properties, rights and liabilities of the Board including all obligations and contingencies vested in the State Government as stated above shall stand re-vested in 'Himachal Pradesh State Electricity Board Ltd' except those re-vested in "Himachal Pradesh Transmission Corporation (Private) Ltd." as described below:-
- (i) On and from the effective date of re-vesting all assets, properties, interest in properties, rights and liabilities of the Board including all obligations and contingencies vested in the State Government as stated above relating to transmission lines (not being essential part of distribution system or the dedicated lines from existing or future power houses of 'HPSEB Ltd.') as detailed in Schedule-A shall stand vested/transferred to 'HPPTCL'.
- (ii) On and from the effective date of re-vesting all assets, properties, interest in properties, rights and liabilities of the Board including all obligations and contingencies already transferred to 'HPPCL' would remain vested in 'HPPCL'.
- (2) The assets of the Board as on 31.3.2008 have been described in Schedule attached with Notification No. MPP-A(3)-1/2001-IV dated 15.6.2009 read with notification No. MPP-A(3)-1/2001-IV dated 3.10.2009. The government may re-valuate the assets of the Board up to the effective date of re-vesting.
- (3) The re-vesting of the undertakings in the names of the transferees in terms of this scheme shall take effect immediately on the effective date of re-vesting irrespective of the fact that the value of such undertakings re-vested in 'HPSEB Ltd.' and 'HPPTCL' shall be notified by the State Government within a period of 12 months from the effective date of re-vesting or 6 months of the audited accounts of the erstwhile Board are available after the date of effective date of re-vesting. Till the

time proper valuation or re-valuation is done by the Government, the book value shall be taken as the base value of the assets.

- (4) Nothing in sub-clause (1) above 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 5 of this Scheme.

4. Transfer of functions and undertakings:

- (1) With effect from date of re-vesting, the 'HPSEB Ltd.' shall undertake the functions of generation, distribution and trading of electricity along with all undertakings including residuary and miscellaneous assets, rights, interests and obligations which have not been specifically transferred to 'HPPTCL', under the scheme or retained by the government.
- (2) With effect from the date of re-vesting, the function of evacuation of power by intra-state or inter-state transmission lines shall be done by 'HPPTCL' subject to permissible transmission system remaining part of distribution network of the 'HPSEB Ltd'.
- (3) The 'HPSEB Ltd.' while acting as distribution licensee, shall be entitled to lay and operate such electric line, sub-station and electrical plant that is primarily maintained for the purpose of distributing electricity in the area of supply of 'HPSEB Ltd.', notwithstanding that such line, sub-station or electrical plant are high pressure cables or overhead lines or associated with such high pressure cables or overhead lines; or used incidentally for the purpose of transmitting electricity for others, in accordance with Electricity Act, 2003 or the Rules framed there under.
- (4) The 'HPSEB Ltd.' shall operate and maintain existing generating stations and shall establish, operate and maintain generating stations, tie-lines, sub-stations and dedicated transmission lines connected there with as per the provisions of the Act and the Rules framed there under.
- (5) The 'HPSEB Ltd.' shall be entitled to trade in electricity as permissible under the Act.
- (6) The statutory functions of 'State Load Dispatch Centre' under the Act shall be undertaken by an entity under the Directorate of Energy, Government of Himachal Pradesh. To undertake the economic dispatch of electricity from the generating stations to various load centers, including the on-line real time monitoring and control of supply of electricity in the area of supply, 'HPSEB Ltd.' shall run its 'Area Load Dispatch Centre'. The present 'State Load Dispatch Centre' shall also include the 'HPSEB

Area Load Dispatch Centre', each with their independent functions. An appropriate division of assets shall take place within a period of 12 months from the effective date of re-vesting or 6 months of the audited accounts of the erstwhile Board becoming available after the effective date of re-vesting.

- (7) The statutory function of 'State Transmission Utility (STU)' shall be performed by the HPPTCL.
- (8) On such transfer and re-vesting of the Assets and Liabilities including all rights, interests, obligations and contingencies, 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/ State was initially a party, subsisting or having effect on the effective date of re-vesting, in the same manner as the Board/State was liable immediately before the effective date of re-vesting, 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/State. However, the contribution towards pension and other terminal benefits of relevant personnel shall be paid to "HPSEB Ltd." by the respective entities i.e. HPPTCL or HPPCL.
- (9) With effect from the date of re-vesting, the 'HPPCL' will continue to work as a generation company as permissible under law, owning the assets already transferred to it by the Board or owned by it, till the date of re-vesting. Some assets have been transferred to 'HPPCL' by the State Government, after the assets and properties of the Board were vested in the State Government vide notification dated 15.6.2009 and before the framing of the present transfer scheme. Such assets shall also remain vested in 'HPPCL' and such transfer shall stand regularized.
- (10) As consideration for the re-vesting of the assets and liabilities, including all rights, obligations and contingencies to the Transferees as mentioned in sub-clause (1) and (2) above, shares of appropriate amount shall be issued to the State Government.

5. Transfer of Personnel:

Section 133
of EA,
2003

- (1) The transfer of personnel in terms of this Scheme shall be subject to the terms and conditions contained in section 133 of the Act.
- (2) Subject to sub-clause (1), all the personnel of the Board as on the effective date of re-vesting shall stand transferred to 'HPSEB Ltd.' and as required further deployment in HPPTCL or HPPCL as the case may be.

- (3) The personnel of HPSEB Ltd. deployed in HPPCL shall have their work experience in a particular category counted from date of appointment for purposes of seniority vis-à-vis directly recruited employees of HPPCL. All posts in HPPCL of categories existing in HPSEB Ltd. will be filled by deployment from HPSEB Ltd. and only in case of non availability of requisite personnel in HPSEB Ltd., HPPCL shall carry out direct recruitment. Further, issues relating to equivalence of employees of erstwhile Board working at present or to be deployed in future in HPPCL shall be reviewed from time to time.
- (4) After the effective date of re-vestment, HPSEB Ltd. shall be the cadre controlling authority with respect to all the employees of HPSEB Ltd. and all such employees of HPSEB Ltd. who are deployed/to be deployed in HPPCL and HPPTCL. After the effective date of re-vestment, all the future requirements of HPPTCL shall be fulfilled from amongst the cadres of HPSEB Ltd. and all need based fresh recruitments shall be undertaken by HPPTCL in the name of HPSEB Ltd. All such recruitments shall be integral part of cadre strength of HPSEB Ltd. This methodology shall be reviewed after one year considering its efficacy and efficiency. The contribution towards pension and terminal benefits shall be paid to HPSEB Ltd. by the respective entities.
- (5) From the effective date all transferred employees shall be employees of 'HPSEB Ltd.' and their rank, scale or 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 or made inferior to that immediately before the effective date of re-vesting.
- (6) Notwithstanding the transfer of personnel to 'HPSEB Ltd.', as per this Scheme, the personnel shall discharge the duties and functions as may be assigned to them from time to time by the 'HPSEB Ltd.', or by 'HPPCL' or 'HPPTCL' which are deployed with these entities, as the case may be and such entities shall have the power to exercise all administrative and disciplinary control over such personnel.
- (7) The transfer of personnel shall be further subject to the following conditions; namely that:
 - (a) the terms and conditions of the services, regulations and policies applicable to personnel on the effective date of re-vesting shall not in any way be less favorable than those applicable to them immediately before the said effective date of re-vesting. Accordingly, the salary, allowances and other pecuniary benefits including terminal benefits applicable on the effective date of re-vesting shall be protected and shall not be adversely changed;

- (b) all such personnel shall have continuity of service in all respects;
 - (c) 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 and perform obligations undertaken by them to the Board which remain outstanding as on the date of the transfer in the same manner and on the same terms and conditions as existed prior to the re-vesting;
 - (d) all benefits of service accrued before the said effective date of re-vesting shall be fully recognized and taken into account for all purposes including the payment of terminal benefits;
 - (e) any orders that may be passed by the Courts in the proceedings pending on the said effective date of re-vesting 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 under the State Government or the Board.
- (8) Subject to the Act and this Scheme, 'HPSEB Ltd.' shall be entitled to modify or frame new regulations governing the conditions of personnel transferred to 'HPSEB Ltd.' under this Scheme and till such time the existing service rules/regulations of the Board shall apply mutatis-mutandis.
- (9) 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 'HPSEB Ltd.' 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 'HPSEB Ltd.' and the services of the personnel shall be treated as having been continuous for the purpose of the application of this sub-rule.
- (10) The HPSEB Ltd. shall make appropriate arrangement in regard to the funding for the provision of pension and other personnel related funds of the personnel of the erstwhile Board, including for the due payment of the amounts to personnel who retire till the date of re-vesting and thereafter. The transferees jointly and severally shall make appropriate arrangements to ensure to make such payments to the personnel. In the event of any failure to

fulfill above commitments, these obligations shall be discharged by the Government.

- (11) The HPSEB Ltd. shall make appropriate arrangements in regard to the funding and the payment of the pension and other benefits, including terminal benefits, which are not yet disbursed to the existing pensioners of the erstwhile Board as on the date of re-vesting. The state government has also assumed the responsibility of making appropriate arrangement for the funding of Terminal Benefits.
 - (12) All proceedings including disciplinary proceedings pending against the personnel prior to the effective date of re-vesting from the Board or which may relate to misconduct, lapses or acts of commission or omission committed before the date of re-vesting, shall not abate and will be continued with the 'HPSEB Ltd.' consistent with the applicable service Rules.
6. Rights and obligations of third parties restricted -
Upon the re-vesting being effected in accordance with the Act and the relevant undertakings being vested in the Transferees 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).
7. Pending proceedings -
All proceedings of whatever nature by or against the Board pending on the effective date of re-vesting of the undertakings to the Transferees 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.
8. 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 time as orders are modifying the same issued by the Himachal Pradesh State Electricity Regulatory Commission.

9. Decision of State Government final

- (1) The Government shall have power to amend, vary, modify, add, delete or otherwise change terms and conditions of the transfers, within the period as specified in clauses 3(2) and 3(3), as the state government may consider appropriate.
- (2) 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.
- (3) The State Government may, by order, publish in the Official Gazette, 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


(Deepak Sanan)

Principal Secretary (Power) to the
Govt. of Himachal Pradesh

Date: Shimla

Endst. No No. MPP-A(3)-1/2001-IV Dated: Shimla 10-06-2010.
A copy is forwarded to the following for information and necessary action:

- 1) The Secretary, Ministry of Power, Government of India, Shram Shakti Bhawan, Rafi Marg, New Delhi- 110001.
- 2) The Secretary, HE the Governor, Himachal Pradesh, Shimla- 2.
- 3) The Chief Secretary to the Government of Himachal Pradesh, Shimla-2.
- 4) The Principal Secretary to the Chief Minister, Himachal Pradesh, Shimla-2.
- 5) The Controller, Printing & Stationary, HP, Shimla with the request to publish this notification immediately in the official gazette.
- 6) All the Administrative Secretaries to the Government of Himachal Pradesh, Shimla-2.
- 7) The Accountant General, Himachal Pradesh, Shimla- 171003.
- 8) The Chairman, HPERC, Keonthal Complex, Khalini, Shimla-2.
- 9) The Managing Director, HPSEB Ltd./ HPPCL/ HPPTCL, Shimla.
- 10) The Director, Energy, Thakur Vatika, Khalini, Shimla- 2.
- 11) The Secretary, HPSEB, Vidyut Bhawan, Shimla-4.
- 12) The Chief Electrical Inspector, Block No.-29, Kasumpti, Shimla-9.
- 13) The Special Secretary, GAD, to the Govt. of HP, Shimla-2 w.r.t. item No. 10 dated 09-06-2010.
- 14) Guard file. (20 copies)


(S.C. Pal)

Joint Secretary (Power) to the
Government of Himachal Pradesh