

UNIT 9

REORGANIZATION OF STATE ELECTRICITY BOARDS (SEB'S)

Prosperity through Electricity
Motto of CSEB

9.1 Background

Providing reliable power at an affordable tariff has always been the prime aim of any Power reform in India. However the existing setup is not meeting the expectations it out to fulfill. One of the way out is to restructure the industry. Part XIII of the Electricity Act 2003 provides for the broad mechanisms for Reorganization of the State Electricity Boards.

9.2 Vesting of property SEB in State Government¹

From the effective date (Date of publication of Transfer Scheme or the Date provided for by the State Government) any property, interest in property, rights and liabilities which immediately before the effective date belonged to the State Electricity Board shall vest in the State Government. The above-mentioned shall be such as will agreed upon the State Government and the Electricity Board

Any property, interest in property, rights and liabilities vested in the State Government under the Transfer Scheme shall be re-vested by the State Government in a Government company or in a company or companies, along with such other property, interest in property, rights and liabilities of the State Government as may be stipulated in such Transfer scheme. The terms shall be agreed between the State Government and such company or companies being State

¹ Section 131 of the Electricity Act 2003

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Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.

9.3 Transfer Value on the basis of Revenue Potential

The Act also provides that the transfer value of any assets transferred hereunder shall be determined as far as may be based on the revenue potential of such assets. The terms shall be such as may be agreed between the State Government and the State Transmission Utility or generating company or transmission licensee or distribution licensee, as the case may be.

9.4 Transfer to Non State Entity

In case of transfer of the assets to a non state entity the Scheme shall give effect to the transfer only for fair value which has to be paid to the State Government by the transferee. The Act also provides that when a transaction of any description is effected in pursuance of a transfer scheme, it shall be binding on all persons including third parties and the consent of third party is immaterial

9.5 Transfer Scheme

The Act provides that a transfer scheme under this section may provide for -

“(a) for the formation of subsidiaries, joint venture companies or other schemes of division, amalgamation, merger, reconstruction or arrangements which shall promote the profitability and viability of the resulting entity, ensure economic efficiency, encourage competition and protect consumer interests;

(b) Define the property, interest in property, right and liabilities to be allocated-

(i) by specifying or describing the property, rights and liabilities in question ; or

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(ii) by referring to all the property, interest in property, rights and liabilities comprised in a described part of the transferor's undertaking; or

(iii) partly in one way and partly in the other;

- (c) provide that any rights or liabilities stipulated or described in the scheme shall be enforceable by or against the transferor or the transferee;*
- (d) impose on the transferor an obligation to enter into such written agreements with or execute such other instruments in favor of any other subsequent transferee. As may be stipulated in the scheme;*
- (e) mention the functions and duties of the transferee;*
- (f) make such supplemental, incidental and consequential provisions as the transferor considers appropriate including proposition stipulating the order as taking effect; and*
- (g) provide that the transfer shall be provisional for a stipulated period.”*

The Electricity Board shall cease to be charged with and shall not perform the functions and duties with regard to transfers made on and after the effective date.

9.6 Revenue from the Sale

Section 132 provides that if the Board or any utility owned or controlled by the Government is sold or transferred in any manner to a non Government entity the proceeds from such sale or transfer shall be utilized in the following priority –

The dues (including retirement benefits due) to the officers and employees of such Board or utility, who have been affected by the aforesaid sale or transfer, shall be considered first and the payment of debt or other liabilities of the transferor as may be required by the existing loan covenants shall be considered second.

9.7 Officers and employees²

² Section 133

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The Transfer Scheme may also provide for the transfer of the officers and employees to the transferee. The personnel shall hold office or service under the transferee on such terms and conditions as may be determined in accordance with the transfer scheme. The terms and Conditions on the transfer of the employee shall not be less favorable than the pre-existing terms and conditions. Moreover the transfer can be provisional for a stipulated period. The act does not distinguish between any employee on the basis of his position.

9.8 Payment of compensation or damages on transfer³

The Transfer of the employee under the provisions of this Act shall not entitle any person to approach the institutions made under *Industrial Disputes Act, 1947* or any other law. However the transfer scheme can provide anything to the contrary.

9.9 Remedy for Deteriorating financial Condition of SEB'S

Due to various reasons the financial condition of the SEB's has been very unhappy. The Losses amounted to almost 30,000 crore. Outstanding dues to many Generating units have also been very high. To ameliorate the situation and to make SEBs financially viable the Government constituted Montek Singh Ahluwalia Committee. The salient features of the same are stated in the box. West Bengal will be the first state to issue bonds. These will be 15 years bond bearing a coupon rate of 7% .Hopefully this will to a great extent ameliorate the difficult financial condition of the SEB's. It will not be out of place to mention that Financial Debts to Railways is also very high in many cases. Interestingly the Railways is resorting to adjustment of outstanding dues against traction bills of some of the SEB's.⁴

Settlement Scheme between SEBs and CPSUs⁵

³ Section 134 of the Electricity Act 2003

⁴ March 12,2003 The Hindu Business Line, New Delhi

⁵ Recommendation of Montek Singh Ahluwalia Committee

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- States to issue bonds through the Reserve Bank of India in favor of Central Power Sector Undertakings
- States to get a 60 per cent waiver on the surcharge for the one time settlement.
- Bonds will have tenure of fifteen years , and a five year moratorium on their redemption.
- Bonds will carry an interest rate of 8.5 per cent , which will be tax free.
- Of the total bonds issued in favor of CPSUs only ten per cent can be traded in the market.

9.10 Employees of SEB's

Regarding the SEBs Employee uncooperative behavior and attitude retrenchment is not the answer, rather we need to make them accountable and offer incentive for better performance. Moreover these employees have vast and long experience which needs to be tapped in an innovative way using new management and Organizational Development Strategies.

9.11 Conclusion

Electricity Boards have much strength which can be leveraged for privatization or restructuring. Some of the strengths are–

- 1.Wide Spread Network
- 2.Experienced and Skilled Manpower
- 3.Real estate at key locations
- 4.Consumer Base
- 5.Consumer Data

However it will greatly depend on the ingenuity of the State leadership to leverage the same to the best advantage of the consumers.

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