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ASSAM ACT X OF 1973 ]

(Received the assent of the President on 25th April, 1973)

THE TINSUKIA AND DIBRUGARH ELECTRIC SUPPLY  
UNDERTAKINGS (ACQUISITION) ACT, 1973

[Published in the *Assam Gazette*, Extraordinary, dated the 26th April  
1973]

An

Act

**to provide for the acquisition of Tinsukia and Dibrugarh  
Electric Supply Undertakings**

**Preamble.** Whereas it is expedient to provide for the acquisition of Tinsukia and Dibrugarh Electric Supply Undertakings for a public purpose and for giving effect to the policy of the State toward securing the principles specified in clause (c) of Article 39 of the Constitution of India;

It is hereby enacted in the Twenty-fourth year of the Republic of India, as follows:—

**Short title, extent and commencement.** 1. (1) This Act may be called the Tinsukia and Dibrugarh Electric Supply Undertakings (Acquisition) Act, 1973.

(2) It extends to the whole of the State of Assam.

(3) It shall be deemed to have come into force on the 27th day of September, 1972.

**Definitions and interpretation.** 2. In this Act, unless the context otherwise requires—

(a) 'Annual Account' means the account of the undertaking rendered to the Government annually under and in accordance with the Electricity Act;

(b) 'Board' means the Assam State Electricity Board constituted under section 5 of the Electricity Supply Act;

(c) 'Document' in relation to an undertaking, includes its books, accounts, registers, maps and plans;

(d) 'Electricity Act' means the Indian Electricity Central Act, 1910; 9 of 1910.

(e) 'Electricity Supply Act' means the Electricity Central Act 54 of 1948 ;

(f) 'Fixed assets' includes works, spare parts, stores, tools, motor and other vehicles, office equipment and furniture ;

(g) 'Government' means the Government of Assam ;

(h) 'Licensee' means the Tinsukia Electric Supply Company Ltd. and/or the Dibrugarh Electric Supply Company Private Ltd., as the case may be ;

(i) 'Prescribed' means prescribed by rules under this Act ;

(j) 'Undertaking' means the Tinsukia Electric Supply Undertaking owned and managed by the Tinsukia Electric Supply Company Ltd., and/or the Dibrugarh Electric Supply Undertaking owned and managed by the Dibrugarh Electric Supply Company Private Ltd., as the case may be ;

(k) 'Vesting date' means the 27th day of September, 1972, at 11:30 p.m., being the date and time when the undertaking shall vest in the Government under section 4 ;

(l) 'Works' includes electric supply lines and any lands, buildings, machinery or apparatus required to supply energy and to carry into effect the object of a licence granted under the Electricity Act ;

(m) Other expressions shall have the meanings respectively assigned to them in the Electricity Act.

**Application:** 3. (1) This Act shall apply to the undertakings.

(2) Any notice given under any of the provisions of the Electricity Act or the Electricity Supply Act to the licensee for the purchase of the undertaking and in pursuance of which notice the undertaking has not been purchased before the commencement of this Act, shall lapse and be of no effect.

*Explanation* :—There shall be no obligation on the part of the Government or the Board to purchase any undertaking in pursuance of any notice given as

aforesaid, nor shall the service of such notice be deemed to prevent the Government from taking any proceeding *denovo* in respect of the undertaking under this Act.

**Vesting dates** 4. The Tinsukia and Dibrugarh Electric Supply undertakings shall be deemed to be transferred to, and shall vest in the Government, on the 27th day of September, 1972, at 11-30 P. M.

**Transfer of undertakings to Board,** 5. The Government may, by an order in writing, transfer the undertaking acquired under this Act to the Board on such terms and conditions, as may be specified therein, and on such transfer the undertaking together with all assets, liabilities, rights and obligations which by virtue of this Act have devolved on the Government, shall thereupon vest and devolve on the Board.

**Gross amount payable to Licensee.** 6. (1) The gross amount payable to a licensee, shall be the aggregate value of the amounts specified below:—

- (i) the book value of all completed works in beneficial use pertaining to the undertaking and taken over by the Government (excluding works paid for by consumers) less depreciation calculated in accordance with Schedule I;
- (ii) the book value of all works in progress taken over by the Government, excluding works paid for by consumers or prospective consumers;
- (iii) the book value of all stores including spare parts taken over by the Government and in the case of used stores and spare parts, if taken over, such sum as may be decided upon by the Government;
- (iv) the book value of all other fixed assets in use on the vesting date and taken over by the Government less depreciation calculated in accordance with Schedule I;
- (v) the book value of all plants and equipments existing on the vesting date, if taken over by the Government, but no longer in use owing to wear and tear or to obsolescence, to the extent such value has not been written off in the books of the licensee less depreciation calculated in accordance with Schedule I;

(vi) the amount due from consumers in respect of every hire-purchase agreement referred to in section 7(1) (ii) less a sum which bears to the difference between the total amount of the instalments and the original cost of the material or equipment, the same proportion as the amount due bears to the total amount of the instalments;

(vii) any amount paid actually by the licensee in respect of every contract referred to in section 7 (1) (iii).

*Explanation.*:—The book value of any fixed asset means its original cost and shall comprise—

(i) the purchase price paid by the licensee for the asset, including the cost of delivery and all charge properly incurred in erecting and bringing the asset into beneficial use as shown in the books of the undertaking;

(ii) the cost of supervision actually incurred but not exceeding fifteen per cent of the amount referred to in paragraph (i):

Provided that before deciding the amounts under this sub-section, the licensee shall be given an opportunity by the Government of being heard, after giving him a notice of at least 15 days therefor.

(2) In addition, a sum equal to 10 per cent of the amounts assessed under clauses (i) to (iv) of sub-section (1) shall be paid to the licensee by the Government.

(3) When any asset is acquired by the licensee after the expiry of the period to which the latest annual accounts relate, the book value of the asset shall be such as may be decided upon by the Government:

Provided that before deciding the book value of any such asset, the licensee shall be given an opportunity by the Government of being heard, after giving him a notice of at least 15 days therefor.

Vesting of  
undertak-  
ings.

7. (1) The property, rights, liabilities and obligations specified below in respect of the undertaking shall vest in the Government on the vesting date:—

(i) all the fixed assets of the licensee and all the documents relating to the undertaking;

(ii) all the rights, liabilities and obligations of the licensee under hire-purchase agreements, if any, for the supply of materials or equipment made *bonafide* before the vesting date ;

(iii) all the rights, liabilities and obligations of the licensee under any other contract entered into *bonafide* before the vesting date, not being a contract relating to the borrowing or lending of money, or to the employment of staff.

(2) All the assets specified in sub-section (1) (i) shall vest in the Government free from any debts, mortgages or similar obligations of the licensee or attaching to the undertaking :

Provided that such debts, mortgages or obligations shall attach to the amount payable under this Act for the assets.

(3) In the case of an undertaking which vests in the Government under this Act, the licence granted to it under Part II of the Electricity Act shall be deemed to have been terminated on the vesting date and all the rights, liabilities and obligations of the licensee under any agreement to supply electricity entered into before that date shall devolve or shall be deemed to have devolved on the Government :

Provided that where any such agreement is not in conformity with the rates and conditions of supply approved by the Government and in force on the vesting date, the agreement shall be voidable at the option of the Government.

(4) In respect of any undertaking to which section 4 applies, it shall be lawful for the Government or their authorised representative on and after the vesting date, after removing any obstruction that may be or might have been offered, to take possession of the entire undertaking, or as the case may be, the fixed assets and of all documents relating to the undertaking which the Government may require for carrying it on.

(5) All the liabilities and obligations, other than those vesting in the Government under sub-sections (1) and (3), shall continue to be the liabilities and obligations of the licensee, after the vesting date.

*Explanation* : All liabilities and obligations in respect of staff, taxes, provident fund, employees'

state Insurance, industrial disputes and all other matters, upto and including the vesting date, shall continue to be the liabilities and obligations of the licensee, after the vesting date.

Effect of transactions not bona fide.

8. Where the Government are of opinion that any licensee has on or after the 1st January, 1971, disposed of any fixed asset whether by way of sale, exchange, gift, lease or otherwise, or incurred any expenditure, liability or obligation otherwise than in the normal course of events, with a view to benefit unduly the licensee or some other person and thereby caused loss to the Government as succeeding owners of the undertaking, the Government shall be entitled to deduct from the amount payable to the licensee under this Act, an amount which they consider to be the loss sustained by them:

Provided that before making such deduction, the licensee shall be given a notice within nine months of the vesting date to show cause against such deduction, within a period of fifteen days from the date of receipt of such notice.

Deductions from the gross amount.

9. The Government shall be entitled to deduct the following sums from the gross amount payable under this Act to a licensee—

- (a) the amount, if any, already paid in advance;
- (b) the amount, if any, specified in section 8;
- (c) the amount due, if any, including interest thereon, from the licensee to the Board, for energy supplied by the Board before the vesting date ;
- (d) all amounts and arrears of interest, if any, thereon, due from the licensee to the Government ;
- (e) the amount, if any, equivalent to the loss sustained by the Government by reason of any property or rights belonging to the undertaking not having been handed over to the Government, the amount of such loss being deemed to be the amount by which the market value of such property or rights exceeds the amount payable therefore under this Act, together with any income which might have been realised by the Government, if the property or rights had been handed over on the vesting date ;
- (f) the amount of all loans due from the licensee to any financial institutions constituted by

or under the authority of the Government and arrears of interest, if any, thereon ;

- (g) all sums paid by consumers by way of security deposit and arrears of interest due thereon on the vesting date, in so far as they have not been paid over by the licensee to the Government, less the amounts which according to the books of the licensee are due from the consumers to the licensee for energy supplied by him before that date ;
- (h) all advances from consumers and prospective consumers, and all sums which have been or ought to be set aside to the credit of the consumer's fund, in so far as such advances or sums have not been paid over by the licensee to the Government ;
- (i) the amounts remaining in Tariffs and Dividends Control Reserve, Contingencies Reserve and the Development Reserve, in so far as such amounts have not been paid over by the licensee to the Government ;
- (j) the amount, if any, as specified in sections 11(2) and 11(3) ;
- (k) the amount, if any, relating to debts, mortgages or obligations as mentioned in proviso to section 7(2) :

Provided that before making any deduction under this section, the licensee shall be given a notice to show cause against such deduction, within a period of fifteen days from the date of receipt of such notice.

Manner of payment of net amount.

10. (1) The Government shall appoint, by order in writing, a person having adequate knowledge and experience in matters relating to accounts, as Special Officer to assess the net amount payable under this Act by the Government to the licensee, after making the deductions mentioned in section 9.

(2) The Special Officer may call for the assistance of such Officers and staff of the Government or the Board or the undertaking as he may deem fit, in assessing the net amount payable.

(3) The net amount due to a licensee under this Act shall be paid by the Government to the licensee within one year from the vesting date :

Provided that this period may be suitably extended by the Government if the licensee fails to furnish or delays the furnishing of accounts, information, particulars or documents as mentioned in section 12.

(4) The net amount payable shall bear interest at 4 per cent per annum from the vesting date:

Provided that no interest shall be payable during any extensions of time granted under the proviso to sub-section (3).

(5) Where the gross amount payable to the licensee is equal to or less than the total amount to be deducted under section 9, no payment shall be made to the licensee by the Government.

Provisions  
for existing  
staff of  
licensee.

11. (1) Every person who was genuinely employed in connection with the affairs of an undertaking as its employee immediately before the vesting date, shall become on the vesting date an employee of the Government and thereafter an employee of the Board on the date of transfer of the undertaking to the Board under section 5, and shall hold his service on the same terms and condition and with the same rights to pension, gratuity and other matters as would have been admissible to him if the undertaking had not been transferred to and vested in the Government or the Board, as the case may be, and continue to do so unless and until his employment under the Government or the Board, as the case may be, is terminated or until his remuneration, terms or conditions are duly altered by the Government or the Board, as the case may be.

(2) If the licensee fails to pay such an employee his dues as immediately before the vesting date, the Government or the Board, as the case may be, may pay him these dues and the amount so paid shall be deducted from the amount payable by the Government to the licensee.

(3) In case the Government or the Board, as the case may be, retrench any such employee within a period of one year from the vesting date, the amount payable to such an employee on retrenchment shall be deducted from the amount payable by the Government to the licensee.

(4) For the persons who immediately before the vesting date were the trustees for any pension, provident, gratuity or other like fund constituted for the employees of the licensee, there may be substituted as trustees, such persons as the Government may, by general or special order, specify.



(5) Notwithstanding anything contained in [the Central Act 14 of 1947. Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any employee from the licensee to the Government or from the Government to the Board, shall not entitle such employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(6) If any question arises as to whether or not any person was genuinely employed in connection with the affairs of the undertaking as its employee immediately before the vesting date, or whether or not the services of any person have been transferred to the Government or Board under this Act, it shall be decided by an officer authorised for this purpose by the Government and an appeal shall lie against his decision to the Government whose decision shall be final.

Inventory of assets and information.

12 (1) The licensee shall, within ninety days from the vesting date or such further time as may be granted by the Government, prepare and hand over to them a complete inventory of all the fixed assets belonging to his undertaking and of its documents.

(2) The licensee shall also write up the accounts of his undertaking upto the vesting date, get them audited and submit them to the Government within four months from that date or such further time as may be granted by the Government.

(3) The licensee shall also, within such time as may be specified by the Government, furnish to them such information and particulars as may be required by the Government in regard to documents relating to the undertaking.

(4) The licensee shall not destroy any document relating to the undertaking and shall hand over to the Government on vesting date all such documents as are necessary for ascertaining the assets of the undertaking, the rights, liabilities and obligations attaching thereto and for determining the amount payable or deductible in respect of the undertaking under this Act.

(5) Where the documents aforesaid have been taken possession of by the Government, the licensee or any person authorised by him in this behalf, shall have access to such documents at all reasonable times and shall also be entitled to take copies thereof or extracts therefrom.

Power of entry.

13. Any employee of the Government or the Board authorised in this behalf by general or special order by the Government, or the Special officer

appointed under section 10 may, at any time after giving the licensee reasonable notice, enter upon any land or premises in his possession and make any survey, examination or investigation preliminary or incidental to the purposes of this Act.

**Penalties.**

14. (1) Whoever, being required to furnish any information or make any statement under this Act, furnishes any information or makes any statement which he knows to be false, or whoever wilfully fails to hand over to the Government or obstructs in taking over by the Government of any fixed asset or document belonging to the undertaking or wilfully suppresses or damages or destroys such fixed asset or document, which is to be taken over by the Government, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to twenty thousand rupees or with both, and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(2) Whoever fails, without reasonable cause, to comply with any of the provisions of this Act or the rules made thereunder, or any direction or order issued in pursuance thereof, shall, if the case be not governed by sub-section (1), be punishable with fine which may extend to twenty thousand rupees and in the case of a continuing offence, with an additional fine which may extend to five hundred rupees, for every day after the first during which the offence continues.

(3) No Court shall take cognizance of an offence punishable under this section except with the previous sanction of the Government or of an officer authorised by them in this behalf.

(4) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Government in this behalf, to impose a sentence of fine exceeding two thousand rupees when awarding punishment under sub-section (1) or (2). Central Act  
5 of 1898.

**Offences by  
Corporation.**

15. Where a person committing any offence punishable under this Act is a company or an association or a body of persons, the manager, Secretary, agent or other principal officer managing the affairs of the company, association or body shall be deemed to be guilty of such offence.

Protection  
of action.

16. No suit, prosecution or other legal proceeding shall lie against the Government or the Board or any employee of the Government or the Board or the Special Officer appointed under section 10, acting under the direction of the Government or the Board or aiding or assisting the Government or the Board or an employee of the Government or the Board, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Bar to jurisdiction of Court.

17. Notwithstanding anything contained in any other law for the time being in force, no court or tribunal shall call in question any order, notification, or any other act done or purported to have been done under this Act.

Effect of other laws.

18. (1) No provision of the Electricity Act, the Electricity Supply Act, or any other Act for the time being in force and of any rule made under any of those Acts or of any instrument including license having effect by virtue of any of those Acts or any rule made thereunder, shall, in so far as it is inconsistent with any of the provisions of this Act, have any effect.

(2) Save as otherwise provided in this Act, the provisions of this Act shall be in addition to and not in derogation of the Electricity Act and the Electricity Supply Act.

Power to remove difficulties.

19. If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, do anything which appears to them necessary for the purpose of removing the difficulty.

Arbitration

20. (1) Where any dispute arises in respect of any of the matters specified below, it shall be determined by an arbitrator appointed by the Government, who shall be a sitting or retired District or High Court Judge—

- (a) Whether any property belonging, or any right, liability or obligation attaching to the undertaking, vests in the Government;
- (b) Whether any fixed asset forms part of the undertaking;
- (c) Whether any contract or hire-purchase agreement or other contract referred to in section 7 (1) (ii) or (iii) has been entered into *bonafide* or not;

(d) Whether any agreement to supply electricity entered into by the licensee prior to the vesting date is of the nature referred to in the proviso to section 7 (3).

(2) Subject to the provisions of this section, the provisions of the Arbitration Act, 1940, shall apply to all arbitrations under this Act. Central Act  
10 of 1940.

**Power to make rules.** 21. The Government may make rules to carry out the purposes of this Act.

**Repeal and savings.** 22. (1) The Tinsukia and Dibrugarh Electric Supply Undertakings (Acquisition) Ordinance, 1972, is hereby repealed. Assam Or-  
dinance  
VIII of  
1972.

(2) Notwithstanding such repeal and notwithstanding any judgement, decree or order of any court or tribunal, any action taken or purported to have been taken, or anything done or purported to have been done, or any right, obligation or liability acquired or incurred, by or on behalf of the Government or the Board, in pursuance of the provisions of the Tinsukia and Dibrugarh Electric Supply Undertakings (Acquisition) Ordinance, 1972, shall be deemed to have been taken, done, acquired or incurred under the corresponding provisions of this Act, by or on behalf of the Government or the Board, as the case may be. Assam Or-  
dinance  
VIII of  
1972.

**Declaration.** 23. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in Clause (b) of Article 39 of the Constitution of India.

#### SCHEDULE I

[See section 6 (1)]

For purposes of determining the amount payable under section 6 (1), the depreciation shall be calculated at annual rates arrived at by dividing ninety per cent of the book value of each asset by the number of years of life of the asset as specified in the table below. For the year in which an asset was brought into beneficial use, the depreciation shall be calculated at half the annual rate and for the period after the licensee's last

completed financial year till the vesting date, the depreciation shall be calculated *pro-rata*. Depreciation shall not be calculated for any period beyond the life of the asset as prescribed herein.

**Table**

Description of asset	Number of years of life of asset
(1)	(2)
A. Land owned under full title	Infinity.
B. Land held under lease—	
(a) for investment in the land	The period of the lease, or the period remaining unexpired on the assignment of the lease.
(b) for cost of clearing site	The period of the lease remaining unexpired at the date of clearing the site.
C. Assets purchased new—	
(a) Plant and machinery in generating stations, including plant foundations—	
(i) Hydro-electric	Thirty-five.
(ii) Steam electric	Twenty-five.
(iii) Diesel electric	Fifteen.
(b) Cooling towers and circulating water systems.	Thirty.
(c) Hydraulic works forming part of a hydro-electric system including—	
(i) dams, spillways, weirs, canals, reinforced concretes flumes and syphons.	One hundred.
(ii) reinforced concrete pipelines and surge tanks, steel pipelines, sluice gates, steel surge tanks, hydraulic control valves and other hydraulic works.	Forty.

(d) Buildings and civil engineering works of a permanent character, not mentioned above—

(i) offices and show-rooms	...	...	Fifty.
(ii) containing thermo-electric generation plant.	...	...	Thirty.
(iii) containing hydro-electric generating plant.	...	...	Thirty-five.
(iv) temporary erections such as wooden structures.	..	..	Five.
(iva) roads other than katcha roads	...	...	One hundred.
(v) Others	...	...	Fifty.

(e) Transformers, transformer kiosks, sub-station equipment and other fixed apparatus (including plant foundations)—

(i) transformers (including foundations) having a rating of 100 kilovolt amperes and over.	...	...	Thirty-five.
(ii) others	...	...	Twenty-five.
(f) switchgear, including cable connections	...	...	Twenty.
(ff) Lightening arrestors—			
(i) Station type	...	...	Twenty.
(ii) Pole type	...	...	Fifteen.
(iii) Synchronous condensers	...	...	Thirty-five.
(g) Batteries	...	...	Ten.
(h)(i) underground cables including joint boxes and disconnecting boxes.	...	...	Forty.
(ii) Cable duct system	...	...	Sixty.

(i) Overhead lines including support—		
(i) lines on fabricated steel supports operating at nominal voltages higher than 66 kilovolts.		Thirty-five.
(ii) lines on steel supports operating at nominal voltages higher than 13.2 kilovolts but not exceeding 66 kilovolts.		Thirty.
(iii) lines on steel or reinforced concrete supports		Twenty-five.
(iv) lines on treated wood support	...	Twenty.
(j) Meters	... ..	Fifteen.
(k) Self-propelled vehicles	... ..	Seven.
(l) Static machine tools	.. ... ..	Twenty.
(m) Air conditioning plant—		
(i) Static	... ..	Fifteen.
(ii) Portable	... ..	Seven.
(n)(i) office furniture and fittings	... ..	Twenty.
(ii) office equipment	... ..	Ten.
(iii) Internal wiring, including fitting and apparatus.	... ..	Fifteen.
(iv) Street-light fittings	... ..	Fifteen.
(o) Apparatus let on hire—		
(i) other than motors	.. ... ..	Seven.
(ii) Motors	... ..	Twenty.
(p) Communications equipment—		
(i) radio and high frequency carrier system		Fifteen.
(ii) telephone lines and telephone	...	Twenty.
D. Assets purchased second hand and assets not otherwise provided for in this table.	...	Such reasonable period as Government determines in each case having regard to the nature, age and condition of the asset at the time of its acquisition by the licensee.