GOVERNMENT OF PUDUCHERRY
ELECTRICITY DEPARTMENT
NOTIFICATION

No.G.S.R. : Date:

In exercise of the powers conferred by Sections 131, 133 and 134 of the Electricity Act, 2003 the Government of Puducherry hereby makes the following Scheme for providing and giving effect to the transfer of assets, liabilities, proceedings, undertakings and personnel of Puducherry Electricity Department functioning as deemed Union Territory Transmission Utility and a Licensee, to the Transferees and for matters incidental and ancillary thereto.

SCHEME FOR TRANSFER OF ASSETS, LIABILITIES, UNDERTAKINGS, OBLIGATIONS, PROCEEDINGS AND PERSONNEL

1. Short title, extent and commencement. - (1) This Scheme may be called the "Puducherry Electricity Department Transfer Scheme, 2009". (2) The Scheme extend to the whole of the Union Territory of Puducherry and also to Assets, Liabilities and Personnel of the Puducherry Electricity Department, which are existing outside the Union Territory. (3) The Scheme shall come into force on the date of its publication in the Official Gazette.

2. Definitions.- In this Scheme, unless there is anything repugnant in the subject or context:-

(a) "**Act**" means the Electricity Act, 2003 (36 of 2003).

(b) "**Asset**" shall include equipment, transmission, towers, land, building, offices, stores, installations, furniture, fixtures, vehicles, residential quarters and guest houses and amenities and installations pertaining thereto and other movable and immovable assets, cash and in hand, cash at bank, investments, book debts, corporeal or incorporeal, tangible and intangible assets, benefits, licenses, consents, authorities, registrations, liberties, patents, trade marks 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;

(c) “**Department**” means the Puducherry Electricity Department;

(d) "**Effective Date** " means the date notified by an order made by the Union Territory Government for effecting transfer of Assets, Liabilities. Proceedings or Personnel, Undertakings to Puducherry Electricity Supply Company Limited (PESCO) or Puducherry Electricity Transmission Company Limited (PETCO) in accordance with the Act and this Scheme, and different dates may be appointed for different provisions and different transfers under the Scheme;

(e) "**Liabilities**" shall include all liabilities, debts, duties, obligations, arrangement, dealings and other outgoing including statutory liabilities and Government levies of whatever nature including the contingent Liabilities which may arise in regard to dealings before the Effective Date in respect of the specified Undertakings however excluding personnel and personnel related matters;

(f) "**PETCO**" shall mean Puducherry Electricity Transmission Company Limited, a company established by the Government of Puducherry with the principal object of taking over the existing Transmission under the control of the Department and engaging in the business of Transmission of Electricity in the Union Territory;

(g) "**PESCO**" shall mean Puducherry Electricity Supply Company Limited, a company established by the Government of Puducherry with the principal object of taking over the existing Distribution under the control of the Department and engaging in the business of Distribution of Electricity in the Union Territory;

(h) "**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 institutions.

(i) "**Proceeding**" means the proceedings of whatever nature including suits, appeals, complaints, petitions, applications, conciliatory, arbitration whether civil or criminal or otherwise;

(j) "**Rule**" means the rules under this transfer Scheme;

(k) "**Schedule**" means a schedule appended to these Rules;

(l) "**Transferee**" shall mean PESCO or PETCO as the case may be, in whom the Undertaking or Undertakings are vested;

(m) "**Undertaking**" shall mean a block or blocks of Assets, Liabilities, Proceedings and Personnel existing and engaged in the business of purchase, transmission, system operation, sales and supply belonging to the Department before the Effective Date of Transfer; and

(n) "**Union Territory**" shall mean the Union Territory of Puducherry.

(2) Words and expressions used but not defined in the Scheme shall have the same meaning as in the Act.

3. Transfer of Assets etc to the Union Territory.-

(1) On the Effective Date of first transfer all property, interest in property, right and liability and all the Assets, Liabilities, all matters, arrangements, dealings and things of the Department shall stand transferred to and vest in the Union Territory Government absolutely for the purposes of further transfers under this Scheme, and in consideration, thereof all loans, subventions and obligations of the Department towards the Union Territory Government shall stand extinguished and cancelled, which consideration shall be in full and final settlement of all claims whatsoever of the Department .

(2) Nothing in sub-rule (1) shall apply to rights, responsibilities, liabilities and obligations in respect of the Personnel and Personnel related matter including statutory dues such as salary, wages, gratuity, pension, provident fund, if any, compensation and retirement benefits and the same shall be dealt with in the manner provided under Rule 6 of the Scheme.

4. Classification of Assets etc into Undertakings.-

(1) All the Assets, Liabilities, all matters, arrangements, dealing and things vested in the Union Territory Government in terms of Rule 3 and such other Assets and Liabilities as the Union Territory Government may consider to be appropriate but excluding those specified in sub-rule (3) shall stand classified into:
(a) PETCO Undertakings as set out in **Schedule A**, and
(b) PESCO Undertakings, as set out in **Schedule B**.

(2) The Union Territory Government may within three months from the Effective Date of first transfer by order notify the provisional balance sheets as at the Effective Date of first transfer of the PETCO Undertakings listed in Schedule A and PESCO Undertakings listed in Schedule B.

(3) The liabilities as may be specified by the Union Territory Government in the order made under sub-rule (2) shall not form a part of the liabilities classified in PETCO Undertaking and PESCO Undertakings, in Schedule A or B, and they shall be retained by the Union Territory Government as residuary liabilities.

(4) If the assets under sub-rule (1) are subject to security documents or arrangements in favour of third parties for any financial assistance or obligation taken by the Department

and the liabilities in respect thereof are to be classified in different Undertakings, the Union Territory Government, may by order to be issued for the 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 apportioned liability only.

5. Transfer of Assets, Liabilities, etc by the Union Territory.-

(1) The Assets, Liabilities, all matters, arrangements, dealings and things forming part of PETCO Undertaking as set out in Schedule A shall stand transferred to and vest in PETCO on the Effective Date of first transfer without any further act or thing to be done by the Union Territory Government or the Department or PETCO or any other person, subject, however, to the terms and conditions specified in this Scheme.

(2) The Assets, Liabilities, all matters, arrangements, dealings and things forming part of PESCO Undertaking, as set out in Schedule B, shall stand transferred to and vest in PESCO on the Effective Date of first transfer notified for the purpose without any further act or thing to be done by the Union Territory Government or the Department or PESCO or any other person subject, however, to the terms and conditions specified in this Scheme.

(3) On such transfer and vesting of the Assets, Liabilities, all matters, arrangements, dealings and things in terms of sub-rule (1) to PETCO or sub-rule (2) to PESCO, as the case may be, the PESCO or the PETCO, (Transferee) shall be responsible for all contracts, rights, deeds, schemes, bonds, agreements, arrangements or dealings and other instruments of whatever nature to which the Department was initially a party, subsisting or having effect on the Effective Date, in the same manner as the Department was liable immediately before the Effective Date of first transfer, and the same shall be 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.

(4) Under this Scheme:

(i) As consideration for the transfer and vesting of the Assets and Liabilities to the Transferees as specified in this Scheme, the Union Territory Government and or any company or organisation designated by the Union Territory Government will be issued shares and / or instruments as specified in Schedules - A and B respectively.

(ii) the provisional opening balance sheet of the PETCO shall be as per Part-II of Schedule-A and of PESCO as per Part-II of Schedule-B.

(5) The Union Territory 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 Rule 11 of this Scheme.

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6. Transfer of Personnel.-

(1) The transfer of Personnel shall be subject to the terms and conditions contained in Section 133 and Section 134, of the Act.

(2) Under this Scheme: -

(i) On the Effective Date, notified by the Union Territory Government for transfer of the specific Undertakings under Rule 6, the Personnel of the Department shall stand assigned to the services of the PETCO and PESCO, as the case may be, on as is where is basis, namely, that they will continue to serve in the place where they are working on the appointed date, till further orders of the Union Territory Government.

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Transfer of personnel for shared services

(ii) The Union Territory Government may issue orders at any time within twelve months from the Effective Date, in accordance to the Act, directing the Personnel rendering services in the Department relating to Undertakings classified in Schedules A and B, to be assigned to the Undertakings classified under a specified schedule and thereupon such Personnel shall be deemed to have assigned to the services of such undertakings for all intent and purposes.

(3) The assignment under Sub-Rule 7(1) and 7(2) above to the Transferees shall continue till the Personnel are absorbed in the services of the specific Transferee, in accordance with the provisions of the Act, this Scheme, and orders to be issued by the Union Territory Government under this Scheme.

Absorption of personnel in Transferee Company

(4) The Union Territory Government shall in consultation with the PETCO and PESCO finalize the transfer to and permanent absorption of the Personnel in a Transferee 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, as it may think fit, for such permanent absorption within the provisional period mentioned in Rule 9.

(5) For the purpose of sub-Rule 7(4) above the Union Territory Government shall, in consultation with PETCO and PESCO, constitute and notify a Committee as the Union Territory Government may consider appropriate to:-

(i) receive representations from the Personnel in regard to their transfer and absorption in the Transferee, and
(ii) make recommendation on such transfer and absorption, within such time as Union Territory Government may by notification specify for the purpose.

(6) The Union Territory Government shall take a decision on the transfer and permanent absorption of the Personnel in the Transferee after considering the recommendation of the Committee appointed for the purpose and shall issue orders for such transfer and permanent absorption of the Personnel.

(7) Upon the finalization and issue of orders in terms of the sub-Rule 7(6), the personnel shall form part of the service of the Transferee 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 Union Territory Government or the Department or the Transferee or any other person including the personnel.

(8) Subject to the provisions of the Act and this Scheme, the Transferee shall be entitled to modify or frame new regulations governing the conditions of service of personnel transferred to the Transferee under this Scheme, but their rank, scale of pay, salary, allowances and other pecuniary benefits including pension, terminal benefits etc., after the appointed date shall not in any way be inferior to those applicable to them immediately before the said transfer.

(9) In respect of all statutory and other schemes and employment related matters including the provident fund, gratuity fund, pension and any other superannuation fund or any other special fund created or existing for the benefit of the personnel, the relevant Transferee shall stand substituted for the Department for all purposes and all the rights, powers and obligations of the Department in relation to any and all such matters shall become those of the Transferee concerned and the services of the personnel shall be treated as having been continuous for the purpose of the application of scheme.

Arrangement for Provident Fund

(10) The Union Territory Government shall notify appropriate arrangements with regard to the funding and all the payments of provident fund including loans advances and final settlement to the employees, and the contribution for the existing employees towards the provident fund.

Arrangement for existing pensioners

(11) The Union Territory Government shall make appropriate arrangements in regard to the funding and due payment of all terminal benefits to the existing pensioners of the Department as on the Effective Date of transfer and till such arrangements are made the payment falling due shall be made by the PESCO or PETCO as the case may be, subject to such adjustments as may be decided between the Union Territory Government PESCO and PETCO.

Explanation: For the purposes of this sub-rule, the term-

(i) "**Existing Pensioner**" means all the persons eligible for the pension as on the Effective Date of transfer from the Department and shall include family members of the Personnel as per the Scheme, and

(ii) "**Terminal Benefits**" means the gratuity, pension, dearness and other applicable relief 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 Department.

(12) The provisions of Sub-Rule 7(10) and 7(11) above shall apply only to existing personnel, and existing pensioner of the Department, as on the Effective Date. All personnel recruited and appointed by the Transferee, after the notification of this Scheme, shall be governed by appropriate scheme of Provident Fund, which the Transferee concerned may establish, for the purpose.

(13) 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 relevant Transferee.

(14) The personnel transferred to the Transferees, shall be deemed to have entered into an agreement with the Transferee concerned to repay loans, advances and other sums due

or otherwise perform obligations undertaken by them to the Department which remain outstanding as on the Effective Date, on the same terms and conditions as contained in the arrangement with the Department.

(15) Nothing contained in this Scheme shall apply to personnel of the Union Territory Government or the Central Government or other organization on deputation to Department as on the Effective Date but such personnel shall continue to be on deputation to the concerned Transferee(s) to whose services they are assigned on as is where is basis or otherwise as per the orders of the Union Government from time to time, issued in this behalf.

(16) Save and except as provided in sub-rules (1) to (15) above, the personnel shall cease to be in the service of the Department and shall not assert or claim any benefit of service under the Union Territory Government or the Department, except as provided in the Act or these Rules.

7. Rights and obligations of third parties restricted

(1) 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 Union Territory Government, Department or any other Transferee.

8. Pending Suits, Proceedings, etc.

(1)All Proceedings of whatever nature by or against the Department pending on the Effective Date shall not abate or discontinue or otherwise in anyway prejudicially be affected by reason of the transfer under this Scheme and the proceedings may 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.

(2) Such proceedings may 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 Department if the transfers specified in this Scheme had not been made.

9. Classifications and Transfer of Assets and Liabilities provisional in the first instance.-

(1) The classification of Undertakings and the value of the assets and liabilities assigned in the provisional Balance Sheets notified under sub-rule (2) of rule 4 shall be provisional and shall be final upon the expiry of one year from the Effective Date when the Undertakings are transferred to PESCO or PETCO in terms of these Rules.

(2) So long as the classification is provisional the Union Territory Government by order to be notified shall be entitled to amend, vary, modify, add, delete or otherwise change the items classified and identified in an Undertaking in such manner as the Union Territory Government may consider appropriate.

(3) All transfers and vesting specified in Rule 5 in the first instance shall be provisional and shall be final upon the expiry of one year from the Effective Date when the undertakings are transferred to PESCO or PETCO in terms of these Rules.

(4) At any time within a period of one year from the Effective Date mentioned in sub-rules (1) and (3) above, the Union Territory Government may by order to be notified amend, vary, modify, add, delete or otherwise change the terms and conditions of the transfer including the value assigned to the assets and liabilities in the provisional Balance Sheets to be notified under sub-rule (2) of Rule 4, the items included in the transfer, and transfer such Assets, Liabilities and Proceedings forming part of an Undertaking of one Transferee to that of any other Transferee or to the Union Territory Government in such manner and on such terms and conditions as the Union Territory Government may consider appropriate.

(5) On the expiry of the period of one year from such Effective Date and subject to any directions given by the Union Territory Government, the transfer of Undertakings, Assets, Liabilities, Proceedings made in accordance with this Scheme shall become final.

(6) The provisions of this Rule shall not apply to the transfer of Personnel and personnel related matters.

10. Power to remove difficulty etc. –

(1) The Union Territory Government shall have the power to remove difficulties arising in implementing the transfers mentioned above.

(2) The Union Territory Government may exercise any of the powers vested in it under this Scheme by issue of an order to be notified in official gazette.

11. Decision of Union Territoy Government to be final.

(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 Union Territoy Government thereon shall be final and binding on all parties.

(2)The Union Territory Government may, by order published 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.

BY ORDER AND IN THE NAME OF THE
LIEUTENANT GOVERNOR OF PUDUCHERRY
Under Secretary to Government,
Energy Department.

SCHEDULE – "A"
(See Rule 4(1) (a))

PETCO UNDERTAKINGS

Unless otherwise specified by the Union Territory Government, the PETCO Undertaking shall consist of all Assets and Liabilities concerning Transmission, consisting of:

- Sub stations: All of the 17 substations owned by Puducherry Electricity Department, not counting the sub station owned by PPCL, and including the two upcoming sub stations in the Union Territory, and all associated assets including step down and step up transformers, circuit breakers, metering arrangements and other protective devices and communication systems, control rooms, lands (including right of way) their stores, fixtures, tools and other equipment and buildings.

- System control centre and its related assets, equipment, fixtures, buildings and land

- Wires and lines: All wires, lines and accessories (underground or overhead) that are rated greater than or equal to 22KV, excluding those (if any) that are connected to any end customer (the length thereof being calculated as length from sub station to customer), including HT line supports and accessories.

- General assets: All assets under the following heads that are integral to the function of transmission by virtue of being employed in transmission function as defined above currently on an as is basis – special tools and equipment, material handling equipment, heavy and light vehicles, furniture, fixtures, office equipment, air conditioners, computers and signal systems, communication sets, spares and consumables, raw materials, buildings, scrap and obsolete materials

MISCELLANEOUS:

1. Contracts, agreements, interest and arrangements to the extent they are associated with or related to Transmission activities or to the undertakings or assets referred to above.

2. Loans secured and unsecured to the extent they are associated with or related to Transmission activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

3. Cash and bank balance to the extent they are associated with or related to Transmission activities or the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

4. Provident Fund, Pension Fund, Gratuity Fund and any other Funds based on servicing capability of the Undertaking.

5. Other current assets to the extent they are associated with or related to Transmission activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

6. Other Current liabilities and provisions to the extent they are associated with or related to Transmission activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

7. Other liabilities to the extent they are associated with or related to Transmission activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below, excluding any liabilities contingent upon the Department till the date of transfer.

8. Proceedings to the extent they are associated with or related to Transmission activities or to the Undertakings or Assets referred to above.

The Union Territory Government may however transfer any of the above Assets and Liabilities with in one year from the Effective Date, as it may consider appropriate, to PESCO or PETCO under the powers vested in it under these Rules.

Part II of Schedule A

Basis for Asset and liability identification – Provisional Balance Sheet of the Transmission entity (PETCO) as on March 31, 2009

Provisional Balance Sheet - Transmission (March 2009)	
LIABILITIES (Lakhs)	
Long Term Liabilities	
Government equity	10698.5
Existing Long Term Loans	1891.7
Other Market Borrowings	0.0
Current Liabilities	
Staff related liabilities	84.2
Liabilities towards suppliers	78.2
Others	0.0
Repayment due but not paid	2.7
Employee liabilities in respect of 6th Pay Commission arrears	0.0
Net of Current and Long term liabilities	6320.7
Total Liabilities + Equity	12755.2
ASSETS (Lakhs)	
Net block at start of year	11982.7
Additions during year, less depreciation	272.9
Net block at year end	12255.6
Current Assets	
Stores	301.0
Cash	0.2
Bonds	130.6
Short Term Investments	67.9
Total Assets	12755.2

SCHEDULE `B'
(See Rule 4(1)(b))
PESCO UNDERTAKINGS

Unless otherwise specified by the Union Territory Government, the PESCO Undertakings shall consist of all Assets and Liabilities concerning Distribution, consisting of:

- O&Ms: All of the O&M centres owned by Puducherry Electricity Department including any upcoming O&Ms and all associated assets including transformers, circuit breakers, metering arrangements and other protective devices and communication systems, control rooms, lands (including right of way), their stores, fixtures, tools and other equipment and buildings

- Wires and lines: All wires, lines and accessories (underground or overhead) that are rated less than 22KV, and anything above not withstanding, all wires and related equipment leading to end customer (calculated from previous sub station)

- General assets: All assets under the following heads that are integral to the function of transmission by virtue of being employed in distribution function as defined above currently on an as is basis – special tools and equipment, material handling equipment, heavy and light vehicles, furniture, fixtures, office equipment, air conditioners, computers and signal systems, communication sets, spares and consumables, meters, raw materials, buildings, scrap and obsolete materials

MISCELLANEOUS:

1. Contracts, agreements, interest and arrangements to the extent they are associated with or related to Distribution activities or to the undertakings or assets referred to above.

2. Loans secured and unsecured to the extent they are associated with or related to Distribution activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

3. Cash and bank balance to the extent they are associated with or related to Distribution activities or the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

4. Provident Fund, Pension Fund, Gratuity Fund and any other Funds based on servicing capability of the Undertaking.
5. Other current assets to the extent they are associated with or related to Distribution activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

6. Other Current liabilities and provisions to the extent they are associated with or related to Distribution activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below.

7. Other liabilities to the extent they are associated with or related to Distribution activities or to the undertakings or assets referred to above and included in the provisional Balance Sheets given below, excluding any liabilities contingent upon the Department till the date of transfer

8. Proceedings to the extent they are associated with or related to Distribution activities or to the Undertakings or Assets referred to above.

The Union Territory Government may however transfer any of the above Assets and Liabilities with in one year from the Effective Date, as it may consider appropriate, to PESCO or PETCO under the powers vested in it under these Rules.

Part II of Schedule B

Basis for Asset and liability identification – Provisional Balance Sheet of the Distribution entity (PESCO) as on March 31, 2009

Provisional Balance Sheet - Distribution (March 2009)	
LIABILITIES	
Long Term Liabilities	
Government equity	12985
Existing Long Term Loans	0
Other Market Borrowings	0
Current Liabilities	
Consumer Security Deposits	13022
Power Purchase Liabilities	6243
Staff related liabilities	337
Liabilities towards suppliers	78
Others	0
Repayment due but not paid	11
Employee liabilities in respect of 6th Pay Commission arrears	0
Net of Current and Long term liabilities	36746
Total Liabilities + Equity	32675
ASSETS	

Net block at start of year	8386
Additions during year, less depreciation	351
Net block at year end	8737
Current Assets	
Stores	1204
Gross Receivables against supply of power	14624
Less: Provision for Doubtful items (under litigation) - previous dues	1743
Less: Adjustment for write off of unrecoverable items	3441
Net Receivables against supply of power	9441
Cash	1
Bank Balance	5513
FDR, NSC	4461
Bank Guarantees	3049
Short Term Investments	272
Total Assets	32675