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Electricity Department
UT Administration of Dadra and Nagar Haveli
Silvassa.

NOTIFICATION

THE DADRA & NAGAR HAVELI ELECTRICITY REFORMS TRANSFER SCHEME, 2013.

No:1-1(594)/ELE/2013/697

07/03/2013

WHEREAS the Electricity Department of the Administration of Union Territory of Dadra & Nagar Haveli is undertaking the functions of purchase, transmission and distribution of electricity in the Union Territory of Dadra & Nagar Haveli;

AND WHEREAS Government of India, Ministry of Power has advised to corporatise the Electricity Department, Dadra and Nagar Haveli;

AND WHEREAS, the Ministry of Home Affairs, Government of India vide letter No U-3034/59/2010-CPD dated 29th September, 2011 has conveyed its approval for taking up the matter for Corporatisation of Electricity Department of Dadra and Nagar Haveli with Ministry of Power, Government of India.

AND WHEREAS, the Ministry of Power, Government of India vide letter No 36/1/2010-R&R dated 29th February 2012 has conveyed its No Objection for the Corporatisation of Electricity Department, Dadra and Nagar Haveli;

AND WHEREAS the Administrator, having satisfied with the necessity to Corporatise the functions of the Distribution and its associated Divisions of the Electricity department, Dadra

and Nagar Haveli, has incorporated a Power Distribution Corporation in the name of "DNH Power Distribution Corporation Limited" with Registrar of Companies, Gujarat under the Companies Act, 1956 on 13th July, 2012;

AND WHEREAS the Administrator is satisfied that circumstances exist which render it necessary for him to make scheme for the peace, progress and good governance of the Union Territory of Dadra & Nagar Haveli and to transfer and vest specified assets, liabilities, proceedings and assign personnel of the Distribution and associated Divisions of the Electricity Department of Union Territory of Dadra & Nagar Haveli to the newly incorporated DNH Power Distribution Corporation Limited.

NOW THEREFORE, the Administrator, Dadra and Nagar Haveli in exercise of powers conferred vide Notification No F No U-11030/2/2003-UTL dated 22nd June 2004, by Ministry of Home Affairs, Government of India and under section 131, 133 and 134 of the Electricity Act, 2003, is pleased to make the following scheme for providing and giving effect to the transfer of assets, liabilities, rights, functions, obligations, proceedings and personnel of Distribution and associated Divisions of Electricity Department, Dadra and Nagar Haveli to the above referred Corporation.

1. **Short title, extent and commencement:** (1) This Scheme may be called the "Dadra & Nagar Haveli Electricity Reforms Transfer Scheme 2013".
 - (2) This Scheme shall extend to the whole of the Union Territory of Dadra & Nagar Haveli.
 - (3) The Scheme shall come into force on such date as may be notified in the Official Gazette.
2. **Definitions:** In this Scheme, unless there is anything repugnant in the subject or context:
 - (a) "Act" refers to the Electricity Act 2003 (No. 36 of 2003) as amended from time to time.
 - (b) "Administration" means Administration of Union Territory of Dadra & Nagar Haveli;
 - (c) "Assets" includes power systems, plants, machinery, equipment, motors, land, building, offices, stores, installations, furniture, fixtures, vehicles, residential quarters and amenities and installations pertaining thereto and other movable and immovable assets, cash in hand, cash at bank, investments, book debts, corporeal or incorporeal, tangible and intangible assets, benefits, rights, licenses, consents, authorities, registrations, liberties 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 owned/used by the Distribution and associated Divisions of Electricity Department of the Administration.
 - (d) "Company" means the company named as "DNH Power Distribution Corporation Ltd" incorporated by the Administration as provided under section 3(1) of this Scheme.

- (e) **"Effective Date of Transfer"** shall mean the date notified by the Administration for transfer of the specified assets, interest, rights, functions and liabilities of Electricity Department to the Company under section 4 of this Scheme.
- (f) **"Electricity Department"** refers to the Electricity Department under the Administration of the Union Territory of Dadra & Nagar Haveli.
- (g) **"Licensees"** means a person who has been granted a licence or a deemed licensee under section 14 of the Electricity Act, 2003.
- (h) **"Liabilities"** includes the liabilities, debts, duties, obligations and other outgoing of whatever nature transferred to the Company as per the Opening Balance Sheet to be notified and shall include the applicable contingent liabilities which may arise in regard to dealings prior to the Effective Date of Transfer in respect of the Distribution and associated Division of Electricity Department;
- (i) **"Personnel"** means the personnel including ministerial and technical staff or casual labours/ daily wages/ contractual/ work charged basis working in the Distribution and associated Divisions of Electricity Department of the Administration as on Effective Date of Transfer and doing the work of, relating and incidental to, electricity distribution, meter testing and retail supply in the Union Territory whose services are being transferred to the Company in terms of this scheme.
- (j) **"Proceedings"** shall include all proceedings, exclusively relating to the Distribution and associated Divisions of Electricity Department, of whatever nature including suits, appeals, complaints, petitions, applications, conciliatory proceedings, arbitrations or any other proceeding whether civil or criminal or otherwise.'
- (k) **"Schedule"** shall mean the schedules appended to this scheme.
- (l) **"Union Territory"** means the Union Territory of Dadra & Nagar Haveli;
- (m) **"Associated Division"** means meter testing and laboratory Division of Electricity Department.

Words and expressions used in this scheme and not defined in this scheme but defined in the Electricity Act, 2003 (No. 36 of 2003) shall have the same meaning as ascribed to the said terms in the said Act.

3. Incorporation of Company:

- (1) For the purposes of this scheme and for the transfer of the functions presently under Electricity Department, the Administration has incorporated the Company in the name of "DNH Power Distribution Corporation Ltd" under the provisions of the Companies Act, 1956 with an authorized capital of Rs. 100 crores and paid up Capital of Rs. 5,00,600 (five lacs six hundred only). Subsequently, in the Board meeting, the Corporation has further allotted 3994994 equity shares of ` 100/- each and now the

paid-up capital of the Corporation is Rs. 40 crores. The entire paid-up share capital is presently held by the President of India and his nominees.

- (2) The Company shall be deemed to be a licensee for undertaking the activities of electricity distribution and retail supply under Section 12 and 14 of the said Act.
- (3) The Administration may take such steps as may be necessary to procure necessary approvals, confirmations etc. as may be necessary for the purposes of enabling the company to engage in and carry out the business of distribution and retail supply of electricity.

4. Transfer of Electricity Business:

- (1) Subject to the provisions of this Scheme on and with effect from such date as may be notified by the Administration as the Effective Date of Transfer
 - (a) The functions of Distribution and associated Divisions of Electricity Department as set out in Schedule A shall stand transferred to and vested with DNH Power Distribution Corporation Limited without any further act or things to be done by the Administration or the Company or any other person.
 - (b) The Assets, Proceedings and Liabilities.

The Assets, Proceedings and Liabilities as set out in Schedule 'B' shall stand transferred to and vested in the Company.
 - (c) The Personnel as set out in Schedule 'D' shall be transferred en masse and assigned to the Company on terms of Foreign Service without any Deputation Allowance and subject to the clarification given in Section 5 of this Scheme.
 - (d) The list of personnel to be assigned to the Company shall be notified separately.
- (2) On such transfer and vesting of the Distribution and associated Division of Electricity Department in terms of sub-section (1) the Company shall be vested with and stand responsible for the contracts, rights, deeds, schemes, bonds, agreements, and other instruments of whatever nature to the extent transferred as per the Opening Balance Sheet to be notified by the Administration pertaining to the Electrical Division transferred, to which the Administration was a party, subsisting or having effect on the Effective Date of Transfer, in the same manner as the Administration was liable immediately before the Effective Date of Transfer and the same shall be in full force and effect against or in favour of the Company and may be enforced as fully and effectively as if the Company had been a party thereto instead of the Administration;
- (3) If any of the Assets transferred to the Company is subject to any security interest or arrangements in favour of third parties for any financial assistance or obligation, such Assets shall stand transferred to the Company subject to such security interest or arrangements.

- (4) The Balance Sheet of the Company shall be drawn as on the Effective Date of Transfer giving effect to the provisions contained herein above and as per the Opening Balance Sheet to be notified by the Administration separately.
- (5) The transfers in terms of this Scheme shall be provisional for a period of twenty four months from the effective date of transfer, specifically in order to enable the Administration to exercise the right to alter, vary, modify, add or otherwise change the terms of such transfers including the value of the Assets, Liabilities and Undertaking transferred in such manner as the Administration may consider appropriate. After the said period of twenty four months, the said provisional transfer shall stand confirmed without any further act or deed.
- (6) The Electricity Department shall cease to be charged with the duty to perform the functions, rights, powers and duties to the extent the same are transferred and vest in Company in accordance with the provisions of this scheme.
- (7) The transaction of any description as effected in pursuance of this Scheme shall be binding on all persons including third parties, even if such persons or third parties have not consented to it.
- (8) The functions, duties, personnel, assets, liabilities and proceedings as set out in Schedule 'C' shall not be transferred to the Company and vest with Electricity Department.

5. General Conditions applicable to transfer of Personnel:

- (1) The transfer of Personnel from the Administration to the Company under Section 4 of this Scheme shall be subject to the following conditions:-
 - (a) The terms and conditions of the services applicable to them on transfer shall not in any way be less favourable or inferior to than those applicable to them immediately before the Effective Date of Transfer or the relevant date of transfer (hereinafter referred to as the date of transfer);
 - (b) All such personnel. shall, have continuity of service in all respects;
And
 - (c) All benefits of service accrued including their entitled government benefits during their service under Electricity Department before the date of transfer shall be fully recognized and protected and taken into account for all purposes including for the payment of any and all terminal benefits of such personnel.
- (2) The transfer of Personnel shall be further subject to the orders that maybe passed by the Courts in the proceedings pending as on the date of transfer in regard to seniority or other matters concerning the service conditions of such personnel.
- (3) The personnel belonging to the technical and other common cadre including accounts of the Administration and transferred/assigned to the Company under the provisions of this Scheme, may within a period of two years from the effective date of the transfer under Section 4 of this Scheme opt to be permanently absorbed in the services of the Company whereupon such personnel who exercise the option shall stand absorbed in the services of the Company.

- (4) If the personnel of the technical and other common cadre including accounts do not opt for absorption in the Company within the period of two years from the Effective date of transfer under section 4 of this Scheme, such personnel shall stand reverted to the services of the Administration from such date as the Administration may direct and from the effective date of transfer till such time the Administration so directs, the personnel shall be treated on deputation to the Company.
- (5) Subject to the provisions of this Scheme, upon transfer of the Personnel, the Personnel shall form a part of the services of the Company in the status, grade, scale of pay, seniority and other terms as they had in the Administration before the date of transfer.
- (6) Subject to the provisions of the Act and this Scheme, the Company shall be entitled to modify or frame new regulations governing the conditions of service of personnel transferred to the Company under this Scheme, but the rank, scale of pay, salary, allowances and other pecuniary benefits including terminal benefits after the effective date of transfer shall not in any way be inferior to those applicable to them immediately before the transfer. Till, such time new regulations are framed, the existing service rules/regulations of the Administration shall apply mutatis-mutandis.
- (7) In respect of all statutory and other schemes and employment related matters including the provident fund, gratuity, pension and any other superannuation fund or any other special fund or welfare scheme created or existing for the benefit of the Personnel, the Company shall stand substituted for the Administration for all purposes and all the rights, powers and obligations of the Administration in relation to any and all such matters shall become those of the Company.
- (8) The employees engaged by the Administration under a contract shall continue to perform their duties assigned to them as per their terms of contract. Their terms and conditions of service shall continue to be governed by their contract of employment. These employees shall not be entitled to take recourse to any other benefits granted to Personnel, under these Rules.
- (9) Subject to any residual functions as may be prescribed by the Administration, to be performed by Electricity Department, employees as may be required from time to time and as may be mutually decided from time to time, between the Company and Electricity Department, shall be deputed to Electricity Department for such duration as may be prescribed by the Administration.
- (10) On such deputation, the Personnel shall continue to be employees of the Company in the status, grade, scale of pay, seniority and other terms before the date of deputation and such period of deputation shall be construed as if they had been in the services of the Company, as the case may be, for that duration.
- (11) The Company shall be responsible to ensure that the Terminal Benefit including Pension, Gratuity and Leave encashment of the personnel are progressively funded to meet the pension, gratuity and leave encashment payments pertaining to the years in service rendered by the personnel of the Administration as determined as per actuarial valuation/ to be determined as per actuarial valuation to be done for the purpose.
- (12) The Administration shall be responsible for payment of all pensions and other terminal benefits to the Personnel of the Electricity Department only up to the date of the actual transfer whereas the Company shall be responsible for all such payments from the date of transfer;

- (13) Any proceedings including disciplinary proceedings pending against any Personnel as on the date of transfer or which may be initiated in relation to misconduct, lapses or acts of commission or omission committed before the date of transfer shall not abate by reason of transfer of such personnel and the same may be continued by the Company, as the case may be, as if the same has been initiated by the Company.
- (14) Notwithstanding anything contained herein above any matter regulating the service conditions, retirement benefits etc. relating to the employees transferred from electricity department shall be governed and settled as per the Government of India's relevant rules/ instructions on conversion of Government departments into Public Undertakings/ Corporations.

6. Rights and obligations of third parties restricted:

Except as provided otherwise in this Regulation, from the date of transfer to the Company, as the case may be, the rights and obligations of all persons in relation to any matter forming part of this Scheme and subject matter of transfer to the Company shall be restricted to the Company and notwithstanding anything to the contrary contained in any deed, documents, instruments, agreements or arrangements which such person has with the Administration or the Company, he shall not claim any right or interest against the Administration or the Company, as the case may be.

7. Pending suits, proceedings etc:

- (1) The Proceedings of whatever nature by or against the Administration pending on the date of transfer in regard to the Distribution and allied Division of Electricity Departments shall not abate or discontinue or otherwise in anyway prejudicially be affected by reason of the transfer under this Regulation and the proceedings may be continued, prosecuted and enforced by or against the company, as the case may be.
- (2) The proceedings mentioned in sub section (1) 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 Administration if the transfer specified under this Regulation had not been made.

8. Functions of the Company

The functions and duties of the Company shall be as set out in Schedule- E

9. Decision of Administration Final

If any doubt, dispute, difference or issue that may arise in regard to the transfers under this Scheme the decision of the Administration thereon shall be final, subject to the provisions of the Act.

10. The Administration may by order published in the Official Gazette, amend this Scheme and make such provisions not in consistent with the provisions of the Act, as may be necessary for removing the difficulties arising in implementing the transfers under this Scheme.

11. The transfer under this scheme and its implementation shall be exempted from all taxes, duties, levies of the U.T. Administration and all its local bodies.

12. Transfer by operation of law

The Transfers under this Scheme shall operate and be effective on and from the date of transfer notified for the purpose, without any further act, deed or thing to be done by the Administration, or any other person.

13. Power to Remove Difficulties:

(1) The Administration shall have the power to remove difficulties arising in implementing the transfers affected under the provisions of this regulation and the decision of the Administration shall be binding on all persons.

By order and in the name of
Administrator
Dadra & Nagar Haveli.

(V. M. Bhagi)
Deputy Secretary (Power)

Schedule to Notification No:1-1(594)/ELE/2013/697, dated:07/03/2013

SCHEDULE 'A'

FUNCTIONS TRANSFERRED TO THE COMPANY

1. The business of Electricity Sub Transmission, Distribution and retail supply in the Union Territory of Dadra and Nagar Haveli and other places.
2. The business of purchasing, importing, exporting, wheeling trading of all forms of electrical energy; whether nuclear, steam, hydro or tidal, water, wind, solar, hydrocarbon fuel, thermal or any other form generated by any source like Generating companies, Captive power plants, Electricity utilities, Governments, other bodies and organizations, trading concerns licences and others including import from abroad.
3. The business of selling, supplying, trading, formulation of tariff to the extent to which Govt. Instructions/ regulations permits, billing and collection thereof, plan research, design, and prepare project reports, diagnose operational difficulties and weakness and advice on remedial measures to improve and modernize sub-transmission and supply line and sub-station.
4. The business of testing electrical meters, equipments in its Laboratory and/or arranging such testing to ensure the required standards.

5. The business of generating non conventional source of energy to comply with the CERC/ JERC regulations and instructions.

SCHEDULE 'B'

ASSETS, PROCEEDINGS AND LIABILITIES TRANSFERRED TO THE COMPANY

Unless otherwise specified by the Administration, Company shall be vested with and shall comprise of all the Assets, Liabilities and proceedings concerning distribution and retail supply activities of the Administration forming part of the Opening Balance Sheet and excluding assets, liabilities, personnel and proceeding specified under Schedule 'C', and the same shall consist of:

- I. Distribution Assets : All Sub stations and lines of 66/11 KV and below including lines and Sub Stations under construction on various types of support and associated substations of various capacities including support and associated substations under construction along with all incoming and outgoing feeders including incoming and outgoing feeders under construction with overhead lines and underground cables on different types of support with various sizes of conductors and step-up/ step- down transformers, breakers, protective and metering devices and control rooms, testing laboratories, rights of way, buildings, roads, diesel generating sets or other conventional and non- conventional generating units, service connections and installations inside consumers' premises, street lighting and signal systems owned by or leased to the Department but excluding fittings, fixtures and installations owned by private persons or local authorities.
- II. General Assets/ Liabilities: Special tools and equipment, material handling equipment, heavy and light vehicles, furniture, fixtures, office equipment, air conditioners, refrigerators, computers and signal systems, spares, consumables, raw materials, lands and civil works installations including roads, buildings, testing laboratories and equipment, training centres, workshops, works in progress, machinery and equipment sent for repairs, scraps and obsolete etc.;
- III. Other Assets: Other assets and movable properties including land, buildings , plant and machinery, motor car, jeeps, trucks, cranes, trailers and other vehicles, furniture, fixtures, air conditioners, computers, etc. to the extent they are utilized in, operated by or associated with the assets referred to above;
- IV. Miscellaneous:
 - i. Contracts, agreements, interest and arrangements to the extent they are exclusively or primarily associated with or related to Distribution and retail supply activities;
 - ii. Loans, secured and unsecured to the extent specified in Opening Balance Sheet;
 - iii. Cash and bank balance to the extent specified in Opening Balance Sheet, other current assets to the extent they are exclusively or primarily associated with or related to Distribution and retail supply activities;

- iv. Current and other liabilities and provisions to the extent specified in the Opening Balance Sheet and all contingent liabilities;
- v. Proceedings to the extent they are exclusively or primarily associated with or related to Distribution and Laboratory/meter testing activities or assets referred to in items I to III above.

SCHEDULE 'C'

Unless otherwise specified by the Administration, the assets, liabilities, personnel and proceedings in relation to the following shall not be transferred to the Company:

1. Function of the generation of electricity except non conventional source of energy.
2. Functions of transmission of electricity;
3. Functions of Policy making, Planning & Coordination;
4. Functions which are not transferred to the Company under this Scheme.

SCHEDULE 'D'

DETAILS OF PERSONNELS TRANSFERRED/ ASSIGNED TO THE COMPANY.

All regular, daily wages, work charged and contractual personnel working in the following offices:

1. Distribution Division of Electricity Department, Silvassa.
2. Distribution Sub Division- North Zone- I.
3. Distribution Sub Division- North Zone- II.
4. Distribution Sub Division South Zone.
5. Meter Testing and Laboratory Division, Silvassa.
6. All other personnel not specifically covered above and presently working for the Distribution and Meter Testing and Laboratory functions in Electricity Department, Dadra and Nagar Haveli.

SCHEDULE 'E'

FUNCTIONS AND DUTIES OF DNH POWER DISTRIBUTION CORPORATION LIMITED.

The functions and duties of DNH Power Distribution Corporation Limited will be as detailed in the clauses of Memorandum and Articles of Association of the Company originally or as altered from time to time.

Main functions and duties of DNH Power Distribution Corporation Limited are:

- (i) To carry out the business of Electricity Sub Transmission, Distribution and retail supply in the Union Territory of Dadra and Nagar Haveli and other places permitted by the appropriate authorities and for this purpose to plan, acquire, establish, alter, renovate, modernize, work and use a power system network in all its aspect.
- (ii) To carry on the business of purchasing , importing, exporting, wheeling, trading of all forms of electricity energy; whether nuclear steam, hydro or tidal, water, wind, solar, hydrocarbon fuel, thermal or any other form generated by any source like Generating companies, Captive power plants, Electricity utilities, Governments, other bodies and organizations, trading concerns licences and others including import from abroad.
- (iii) To carry on the business of selling, supplying, trading, formulation of tariff to the extent to which Govt. Instructions/regulations permits, billing and collection thereof, plan, research, design and prepare project reports, diagnose operational difficulties and weakness and advice on remedial measures to improve and modernize sub-transmission and supply line and sub-station.

(V. M. Bhagi)
Deputy Secretary (Power)
Dadra & Nagar Haveli
Silvassa.

