



The Indian Electricity (Andhra Pradesh) (Amendment) Act, 2000

Act 35 of 2000

Keyword(s):

Area of Supply, Appropriate Commission, Central Commission, Central Transmission, Cogeneration, Consumer, Distribution Licensee, Electrical Inspector, Electricity Trader, Grid Code, Open Access, Premises

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ANDHRA PRADESH ACTS, ORDINANCES AND REGULATIONS Etc.

The following Act of the Andhra Pradesh Legislative Assembly which was reserved by the Governor on the 28th September, 2000 for the consideration and assent of the President received the assent of President on the 28th October, 2000 and the said assent is hereby first published on the 2nd November, 2000 in the Andhra Pradesh Gazette for general information:

ACT No. 35 OF 2000.

**AN ACT FURTHER TO AMEND THE INDIAN
ELECTRICITY ACT, 1910 IN ITS APPLICA-
TION TO THE STATE OF ANDHRA PRADESH**

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in the Fifty-first Year of the Republic of India as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Indian Electricity (Andhra Pradesh Amendment) Act, 2000.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall be deemed to have come into force with effect on and from the 31st July, 2000.

Amendment of section 39.

2. In the Indian Electricity Act, 1910, as in force in the State of Andhra Pradesh (hereinafter referred to as the Principal Act) in section 39:-

Central Act IX of 1910.

(i) for the words "imprisonment for a term which may extend to three years, or with fine which shall not be less than one thousand rupees, or with both", the words "imprisonment for a term which may extend to five years but which shall not be less than three months and with fine which may extend to fifty thousand rupees but which shall not be less than five thousand rupees" shall be substituted.

(ii) The following proviso shall be added namely:-

"Provided that a person on his conviction for an offence punishable under this Act shall be debarred from getting any supply of energy for a period of two years".

Amendment of section 39-A.

3. In section 39-A of the principal Act, after a word 'Whoever' and before the words 'abets an offence', the words "including an officer or employee of an Electricity Utility" shall be inserted.

4. After Section 49-A of the Principal Act, the following sections shall be inserted, namely:-

Insertion of new sections 49-A to 49-I.

49-B. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any officer of an Electricity Utility specially empowered in this behalf by the State Government may accept from any consumer or person who committed or who is reasonably suspected of having committed an offence of theft of energy punishable under this Act, a sum of money by way of compounding for the offence as specified in the Table below and as may be modified by notification by Government from time to time.

*Compounding of offences. Central Act 2 of 1974.

TABLE

Nature of Service.	Rate at which the sum of money for Compounding to be collected per KW/HP or part thereof for LT supply and per KVA of contracted demand for HT supply.
1. Industrial Service.	Rs. 20,000/-
2. Commercial Service.	Rs.10,000/-
3. Agricultural Service.	Rs. 2,000/-
4. Other Categories.	Rs. 4,000/-

(2) On payment of the sum of money in accordance with sub-section (1), any person in custody in connection with

that offence shall be set at liberty and no proceedings shall be instituted or continued against such consumer or person in any criminal court.

(3) The acceptance of the sum of money for compounding an offence in accordance with sub-section (1) by the officer specially empowered in this behalf shall be deemed to amount to an acquittal within the meaning of section 300 of the Code of Criminal Procedure, 1973.

(4) The compounding of an offence under sub-section (1) shall be allowed only once for any person or consumer.

Explanation:- For the purposes of this section, section 39-A and sections 49-C to 49-I, the word 'Electricity Utility' means a 'licensee' or 'license holder' under section 14 of AP Electricity Reform Act, to transmit or supply energy.

**A.P. Act
30 of
1998.**

**Constitution
of special
Tribunals.**

49-C. (1) For the purpose of providing for speedy trial, the State Government shall with the concurrence of the Chief Justice of the High Court, by notification in the official Gazette, specify for a District or Districts, a Court of District and Sessions Judge to be Special Tribunal to try the offences under this Act and determine the compensation to be awarded to the Electricity utility where the compensation to be awarded is upto the value of rupees five lakhs:

Provided that if, in the opinion of the Special Tribunal any case brought before it is a fit case to be tried by the

Special Court, it may, for reasons to be recorded by it, transfer the case to the Special Court for its decision in the matter.

(2) An appeal shall lie from any judgement or order, not being interlocutory order, of the Special Tribunal, to the Special Court. Every appeal under this sub-section shall be preferred within a period of sixty days from the date of judgement or order of the Special Tribunal:

Provided that the Special Court may entertain an appeal after the expiry of the said period of sixty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of sixty days.

(3) Every finding of the Special Tribunal with regard to any alleged act of theft of energy shall be conclusive proof of the fact of theft of energy and shall be binding on the person or consumer concerned.

(4) It shall be lawful for the Special Tribunal to pass an order in any case decided by it awarding compensation in terms of money for theft of energy which shall not be less than an amount equivalent to twelve months assessed quantity of the energy committed theft of at three times of tariff rate applicable to the consumer or person as per guidelines prescribed by State

Government from time to time and the amount of compensation so awarded shall be recovered as if it were a decree of a civil court:-

Provided that the Special Tribunal shall, before passing an order under this sub-section, give to the consumer or person an opportunity of making his representation or of adducing evidence, if any, in this regard and consider every such representation and evidence.

(5) Any case pending before any Court or other Authority immediately before the commencement of the Indian Electricity (Andhra Pradesh Amendment) Act, 2000, as would have been within the jurisdiction of a Special Tribunal shall stand transferred to the Special Tribunal, having jurisdiction as if the cause of action on which such suit or proceeding is based had arisen after such commencement.

(6) Every case brought before the Special Tribunal shall be disposed of finally by the Special Tribunal, as far as possible, within a period of six months from the date of its having been brought before it.

Central Act 2 of 1974. (7) Notwithstanding anything contained in section 260 or section 262 of the Code of Criminal Procedure, 1973, every offence punishable under this Act, shall be tried in a summary way by the Special Tribunal and the provisions of sections 263 to 265 of the said Code shall as far as may be apply to such trial.

49-D. (1) The State Government may, by notification in the Official Gazette, constitute a Special Court for the purpose of providing speedy enquiry into any alleged act of theft of energy and trial of cases and for awarding compensation to the Electricity Utility.

Constitution
of Special
Court.

(2) A special Court shall consist of a Chairman and not less than four other members to be appointed by the Government.

(3) The Chairman shall be a person who is or has been a Judge of a High Court and of the other four members, two shall be persons who are or have been District Judges (hereinafter referred to as Judicial Members) and the other two members, shall be persons with a Degree in Electrical Engineering and who hold or have held a post not below the rank of a Chief Engineer in a State Electricity Board or its successor entities or a post not below the rank of a Chief Electrical Inspector in the State Government (hereinafter referred to as Technical Members):

Provided that the appointment of a serving member of the judiciary as Chairman or a Judicial Member shall be made after consultation with the Chief Justice of the High Court concerned.

(4) The Chairman or a member shall hold office as such for a term of three years from the date on which he enters upon his office.

(5) (a) Subject to the other provisions of this Act, the jurisdiction, powers and authority of the Special Court may be exercised by benches

thereof, one comprising of the Chairman, a Judicial Member and a Technical member and the other comprising of a Judicial Member and a Technical member.

(b) Where the bench comprises of the Chairman, he shall be the Presiding Officer of such a bench and where the bench consists of two members, the Judicial Member shall be the Presiding Officer.

(c) It shall be competent for the Chairman, either Suo-moto or on a reference made to him to withdraw any case pending before the bench comprising of two members and dispose of the same or to transfer any case from one bench to another bench in the interest of justice.

(d) Where a case under this Act is heard by a bench consisting of two members and the members thereof are divided in opinion, the case with their opinions shall be laid before another Judicial Member or the Chairman, and that member or Chairman, as the case may be, after such hearing as he thinks fit, shall deliver his opinion, and the decision or order shall follow that opinion.

(6) The quorum to constitute a meeting of any bench of the Special Court shall be two.

(7) The Special Court may, by notification, make regulations not in consistent with the provisions of this Act relating to the procedure to be followed for the conduct of the cases and for regulating the manner of taking decisions.

(8) the Special Court may cause a public notice of the substance of such regulations for the information of the general public.

(9) (i) Notwithstanding anything in the Code of Civil Procedure, 1908, the Special Court may follow its own procedure which shall not be inconsistent with the principles of natural justice and fair play and subject to the other provisions of this Act while deciding the amount of compensation to be awarded to the Electricity Utility. **Central Act 5 of 1908.**

(ii) Notwithstanding anything contained in section 260 or section 262 of the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be tried in a summary way by the Special Court and the provisions of the sections 263 to 265 of the said code shall, as far as may be apply to such trial. **Central Act 2 of 1974**

(10) No act or proceeding of the Special Court shall be deemed to be invalid by reason only of the existence of any vacancy among its members or a defect in the constitution thereof.

49 - E. (1) The Special Court may either Suo-moto or on a complaint under section 5 of this Act, take cognizance of such cases arising out of any alleged act or omission of energy whether before or after the commencement of this Act, where the value of compensation to be awarded to the Electricity Utility exceeds rupees five lakhs and such orders (including orders by way of interim directions) as it deems fit. **Procedure and powers of the Special Court.**

Provided that if in the opinion of the Special Court, any complaint filed before it is Prima-facie frivolous or vexatious, it shall reject the same without any further enquiry:

Central Act 5 of 1908
 Central Act 2 of 1974
 AP Act 19 of 1972.

(2) Notwithstanding anything contained in the Code of Civil Procedure 1908; the Code of Criminal Procedure, 1973 or the Andhra Pradesh Civil Courts Act, 1972, any case in respect of an alleged act of theft of energy under sub-section (1) shall be triable only in the Special Court and the decision of the Special Court shall be final.

(3) If the Special Court is of the opinion that any case brought before it, is not a fit case to be taken cognizance of by it, it may return the same for presentation before the Special Tribunal:

Provided that if on an application from an interested person to withdraw and try a case pending before any Special Tribunal, the Special Court is of the opinion, that it is a fit case to be withdrawn and tried by it, it may, for reasons to be recorded in writing, withdraw any such case from such special tribunal and shall deal with it as if the case was originally instituted before the Special Court.

Central Act 2 of 1974.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for the Special Court to try all offences punishable under this Act.

(5) The Special Court shall determine the order in which the civil and criminal liability against a consumer or person be initiated. It shall be within the discretion of the Special Court whether or not to deliver its decision or order until both civil and criminal proceedings are completed. The evidence admitted during the criminal proceeding may be made use of while trying the civil liability. But additional evidence, if any, adduced in the civil proceedings shall not be considered by the Special Court while determining the criminal liability. Any person accused of theft or the abetment thereof before the Special Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charge made against him or any person charged together with him in the criminal proceedings:

Provided that he shall not be called as a witness except on his own request in writing or his failure to give evidence shall not be made the subject of any comment by any of the parties or the Special Court or give rise to any presumption against himself or any person charged together with him at the same proceeding.

(6) Every case under sub-section(1) shall be disposed of finally by the Special Court as far as possible within a period of six months from the date of institution of the case before it.

(7) Every finding of the Special Court with regard to any alleged act of theft of energy shall be conclusive

proof of the fact of theft of energy and of the person or consumer who committed such theft.

(8) It shall be lawful of the Special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms of money for theft of energy which shall not be less than an amount equivalent to twelve months assessed quantity of the energy committed theft of at three times of tariff rate applicable to the consumer or person as per the guidelines prescribed by the Government and the amount of compensation shall be recovered as if it were a decree of a civil court:

Provided that the Special Court shall, before passing an order under this sub-section give to the consumer or person an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider every such representation and evidence.

(9) Any case, pending before any court or other authority immediately before the constitution of a special court as would have been within the jurisdiction of such Special Court, shall stand transferred to the Special Court as if the cause of action on which such suit or proceeding is based had arisen after the constitution of the Special Court.

49-F. Save as expressly provided in Special. this Act, the provisions of the Code of Court to Civil Procedure, 1908, the Andhra have the Pradesh Civil Courts Act, 1972 and the powers of Code of Criminal Procedure, 1973, in so the Civil far as they are not inconsistent with the Court and provisions of this Act, shall apply to the Court the proceedings before the Special Court of Sessio and for the purposes of the provisions of the said enactments, the Special Court shall be deemed to be a Civil Court, or as the case may be, a Court of Session and shall have all powers of a Civil Court and a Court of a Session and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

49-G. The Special Court may in order Review. to prevent miscarriage of justice review its judgement or order passed under Section 49-E, but no such review shall be entertained except on the ground that it was passed under a mistake of fact, ignorance of any material fact or any error apparent on the face of the record:

Provided that it shall be lawful for the Special Court to admit or reject review petitions in circulation without hearing the petitioner:

Provided further that the Special Court shall not allow any review petition and set aside its previous order or judgement without hearing the parties affected.

Deposit of 49-H. (1) In any appeal before the
 Compensation. Special Court against the Judgement or
 order of a Special Tribunal awarding
 compensation or in any proceeding before
 the High Court against the Judgement or
 order of the Special Court awarding
 compensation, no stay or suspension of
 the operation of such judgement or order
 or any other interim order of a like
 nature shall be granted unless the
 compensation awarded by such judgement
 or order is deposited into Special Court
 or High Court as the case may be.

(2) The Electricity Utility
 concerned on an application made by it
 in this behalf shall be permitted to
 withdraw the amount so deposited under
 sub-section (1) subject to the result of
 such appeal or proceeding.

(3) If such appeal or proceeding is
 finally decided against the Electricity
 Utility; the amount so withdrawn under
 sub-section (2) shall be redeposited to
 the credit of such appeal or proceeding
 within one month from the date of such
 final decision.

(4) The provisions of this section
 shall have effect notwithstanding
 anything contained in the Code of Civil
 Procedure, 1908.

Disputes 49-I. Notwithstanding anything contained
 relating in sub-section (6) of section 26
 to meters. and the Schedule of this Act or any
 judgement or order of any Court, a
 Special Tribunal and a Special Court
 constituted under this Act shall have
 jurisdiction to decide any dispute
 relating to correctness or otherwise of
 any meter."

5. The Indian Electricity (Andhra Pradesh Amendment) Ordinance, 2000 is hereby repealed. Repeal of Ordinance 8 of 2000.

G. BHAVANI PRASAD,
Secretary to Government,
Legislative Affairs & Justice,
Law Department.

STATEMENT OF OBJECTS AND REASONS

Theft of Energy is a major problem effecting the financial position of the Andhra Pradesh State Electricity Board, now the Andhra Pradesh TRANSCO (Transmission Corporation of Andhra Pradesh Limited) substantially. Over the years, pilferage/ theft of energy has become rampant in both urban and rural areas. In spite of best efforts, there is not much success in eradicating the menace. In order to curb the menace of theft/ pilferage of energy, the Government have taken a decision to amend the existing Indian Electricity Act, 1910 suitably.

In order to have speedy trial it has been proposed to create special machinery by way of Special Courts and Tribunals. It is also proposed to award a deterrent punishment to offenders which may extend to five years but which shall not be less than three months and with fine which may extend to Rs. 50,000/- (Rupees fifty thousand only) but which shall not be less than Rs. 5,000/- (Rupees five thousand only). It is also proposed to achieve speedy disposal of the cases of theft of energy through Special Court and Tribunals through summary trials.

To achieve the above objects in view, the Government have decided to amend the Indian Electricity Act, 1910 in its application to the State of Andhra Pradesh, suitably.

As the Legislative Assembly of the State was not then in session, having been prorogued and as it has been felt necessary to give effect to the above decision immediately, the Indian Electricity (Andhra Pradesh Amendment) Ordinance, 2000 (Andhra Pradesh Ordinance 8 of 2000) was promulgated by the Governor on the 31st July, 2000.

This Bill seeks to replace the said Ordinance.

KOTHAPALLI SUBBARAYUDU,
Minister for Energy, Coal and Boilers.