DELEGATION OF POWERS
TO
DIVISIONAL SECRETARIES
BY
THE PUBLIC UTILITIES COMMISSION OF SRI LANKA

DETERMINING COMPENSATION ON GRANT OF WAYLEAVE
AND
MAKING ORDERS ON FELLING OR LOPPING OF TREES

17th October 2013

1. Introduction

1.1 The Public Utilities Commission of Sri Lanka (hereinafter referred to as 'Commission'), established under the Act, No. 35 of 2002, is the economic, safety and technical regulator of the electricity industry in Sri Lanka.

1.2 In terms of Section 2A(1)(b) of the Sri Lanka Electricity Act, No. 20 of 2009 as amended by the Act, No.31 of 2013 (hereinafter referred to as 'Electricity Act'), the Commission may delegate any power conferred on it by items 3, 4, 5 and 6 of Schedule I of that Act to any Divisional Secretary.

1.3 However, as per item 3 of the Schedule I of the Electricity Act, the Divisional Secretaries are empowered to authorize or prohibit a licensee to install or keep installed an electric line on, over or under any land. Item 5 of the same Schedule specifies the procedure to be adopted by owners/occupiers of any land and the licensees when a requirement arises to remove an electric line already installed from a land. Hence, a requirement does not arise to delegate any powers to the Divisional Secretaries under items 3 and 5 of the Electricity Act.

1.4 In terms of Section 2A(2) of the Electricity Act, the Divisional Secretaries to whom any power is delegated shall exercise such power subject to such directions as may be given to such officers by the Commission.

1.5 In terms of Section 2A(3) of the Electricity Act, the Commission shall notwithstanding any delegation made under paragraph 1.2 have the authority to exercise, perform or discharge any power, duty or any function so delegated.

2. Delegation of powers conferred on the Commission by item 4 of Schedule I of the Electricity Act

2.1 The Commission hereby delegates the powers conferred on it by the item 4 of Schedule I of the Electricity Act to the Divisional Secretaries, to:

(a) determine the amount of compensation that a landowner may recover from the licensee in respect of grant of wayleave;

(b) determine the amount of compensation that a person may recover from the licensee for any disturbance caused to his or her enjoyment of any land or movables in consequence of the exercise of any right conferred by a wayleave; and

(c) conduct inquiries, on its own motion or on the application of a person affected, to determine whether a licensee is liable to pay any person any compensation under (a) and (b) above.

3. Delegation of powers conferred on the Commission by item 6 of Schedule I of the Electricity Act

3.1 The Commission hereby delegates the powers conferred on it by the item 6 of Schedule I of the Electricity Act to the Divisional Secretaries, to:

(a) accept any matter referred by a licensee in terms of paragraph (5) of item 6 of the Electricity Act;

(b) make orders, after giving the parties an opportunity of being heard, on a reference of any matter under paragraph (5) of item 6 of the Electricity Act, as provided for under paragraph (6) of that item

4. Directions given by the Commission

4.1 The Divisional Secretaries shall exercise the powers delegated, under sections 2 and 3 above, subject to the following directions given by the Commission:

(a) It shall be ensured that all inquiries, hearings, meetings, etc. held and decisions made by the Divisional Secretaries are arrived at by following a due process and based on the principles of natural justice. This would ensure fairness towards all and the legitimacy and dependability of the decisions made.

(b) The minutes/records of all inquiries, hearings, meetings, etc. held in the exercise of the powers delegated shall be maintained and submitted to the Commission when requested to do so.

(c) All efforts shall be made to optimize the usage of land which is a limited natural resource.

(d) Any decision made by a Divisional Secretary, including the basis on which it has been made, shall be duly informed to all parties concerned