BEFORE THE HON'BLE GUJARAT ELECTRICITY REGULATORY COMMISSION AT AHMEDABAD

August 3, 2002

CORAM : Justice S.D. Dave, Chairman
Shri B.M. Oza, Member
Shri R.K. Sharma, Member

PETITION NO. 53/2001

ORDER

1. This petition is taken out by the Gujarat Electricity Board (GEB) with the prayer to the Commission to consider extension of time limit from 3 years to 5 years for the purpose of installing energy meters at the premises of agricultural consumers. The petition first came up for hearing on 20.9.2001 when the Commission heard Mr V.C. Shah, General Manager (Commerce), GEB, Mr R.K. Shah, Under Secretary to Govt. of Gujarat, Energy & Petrochemicals Department and Professor Manubhai Shah who appeared for the Consumer Education & Research Society (CERS). The Commission observed at that stage that in the petition filed by the GEB names of various organizations who represented to the GEB on this matter had been listed. The Commission, therefore, decided to issue notices to these organizations so that they can be heard on the question of extension of the period of installation of energy meters. At the subsequent hearing when the various representatives of the organizations in the farm sector appeared, they were also given a hearing by the Commission. At this hearing it was agreed that the GEB will file a detailed affidavit pointing out the efforts which they had made in the direction of implementation of the Award of the Commission. The Government as well as various representatives of the farm sector submitted that they would also

like to place before the Commission their submissions and suggestions duly supported with necessary literature. They were also permitted to do so.

2. At the subsequent hearing held on the 20th December, 2001 the GEB presented before the Commission the particulars and information required, on an affidavit. In this hearing there was also a suggestion from the CERS that if a committee comprising the farm sector, GEB and CERS is constituted to look into the problems faced by each of them, it would be an appropriate exercise in the right direction. Subsequent hearings were held on the 1st May, 2002 and the 1st June, 2002 when the representatives of the Bharatiya Kisan Sangh and the Gujarat Khedut Samaj made their submissions at length, after which the hearing was concluded. We are now to decide the issue regarding extension of the time limit for providing energy meters in the light of various submissions made by the parties before us.

3. Let us briefly state the contention advanced by the GEB in their petition. GEB submitted that it was directed by the Commission in the Tariff Order dtd 10.10.2000 in para 12.11 of the order that it should prepare a time bound plan for installation of energy meters on all installations within a period of 3 years. The plan was to be prepared and submitted to the Commission within a period of 3 months from the date of issue of the order.

4. GEB also submitted that it had already submitted the action plan on 30.11.2000. GEB mentioned that the Commission decided to extend applicability of HP based tariff upto 30.6.2001 and also agreed to allow to exercise options by the agricultural consumers for putting up energy meters at their electrical installations. The application of HP based tariff was further extended upto 31.10.2001 by the Commission at the request of the State Government. GEB stated that all efforts were made by the GEB to persuade

the agriculturists to install meters in pursuance of the directives of the Commission. However, the response of the consumers in this regard had been very poor. It stated that till the date of application only 11.85% of consumers had exercised their option to install the meters. The resistance of the consumers continued and they had received various representations from the farmers' organizations as well as individuals suggesting to withdraw the tariff increase and orders for installation of energy meters. GEB also pointed out that the cost of required quantity of meters would be more than Rs. 72 crores. At the same time it also submitted that a record number of 56,000 new applications have been received for connection under the Tatkal Scheme and that they have planned to release these connections early and that this was likely to improve the proportion of metered installations. In the light of these facts GEB requested that it may be appropriate to consider extension of time limit from 3 years to 5 years for the purpose of installing energy meters at the agricultural consumers' premises.

5. The CERS appeared as an intervener in this matter at the early stage. The plea advanced by this organization was that any extension of time given to the GEB for installation of meters at the agricultural connections is a recipe for financial catastrophe and suicide. It also stated that the loss incurred by the GEB will be ultimately borne by the general public since it will result in unreasonable taxation. CERS also alleged that GEB was pushing through this proposal as a populist measure. They, therefore, requested that the proposal for extension of time limit should be rejected.

6. Several other industrial organizations also appeared as interveners. These include Federation of Gujarat Industries, Bhavnagar District Small Industries Association and Bhavnagar Small Industries Association. The main contention advanced by these organizations was that lack of metering in agricultural sector creates undue burden on the other consumers and the burden is to be borne ultimately by the industrial consumers. They also opposed the petition filed by the GEB for extension of time limit for installation of energy meters.

7. The Govt. of Gujarat, which had also appeared, stated that the petition had been filed by the GEB in the context of GERC decision in respect of the metering of agricultural connections. The Government, therefore, stated that it would be in the fitness of things for GERC to take a view on the matter in the background of the representations made.

8. The other important group of interveners, which appeared before the Commission were a number of farmers organizations. This mainly included Bharatiya Kisan Sangh (BKS), Gujarat Khedut Samaj (GKS) and a number of other regional organizations in the State. All these organizations have been listed in the Annexure.

9. Since the issues raised by most of the farmers organization, centered around opposing the metering system, harassment arising out of the metering system and the defective and inadequate electricity supply to farmers as well as discriminative treatment meted out to them, it would serve the purpose if the points made by the two major organizations are summed up here.

(1) The BKS in its representation stated as follows :

(i) (a) On the basis of the submissions made by the GEB it can be concluded that it has not been possible to create faith among the farmers on the metering system,

(b) It has not been possible to convince the farmers that the metering system is better than HP based tariff

(c) It does not appear possible that all the agricultural connections can be covered by the metering system within the given time limit of 3 years

(ii) The BKS reiterated the points made by them in the course of their review petition dated 23.11.2000.

(iii) It reiterated the points made by them that in the original tariff application there was no prayer regarding making metering compulsory and therefore there was no need for the Commission to pass orders on meters.

(iv) BKS further submitted that lots of cases of harassment in metering system are still being received by their organization and that the officials with vested interest are still harassing the farmers in the name of the meter. All the regional leaders of their organization have clearly stated their disagreement about the metering system.

(v) Till the Commission decides about the total hours for which electricity will be given to the farmers, it is not possible to reconsider about the metering system as an organization.

(vi) It is not possible as a practical measure to complete the installation of meters in 3 years time. They therefore, requested the Commission to drop the direction regarding metering from their original tariff order dated 10.10.2000 and review the order.

(2) Another farmers organization, GKS made the following major points :-

(i) (a) They stated that the service provided by GEB to agricultural consumers was extremely inferior. The fluctuation in voltage to farmers is very common and creates expensive repairs and delay in irrigation. Farmers have to wait for long time in getting

electricity connection while in urban area electricity is easily available. In these circumstances it is very unfair to compel the farmers to install meters.

(b) Conversion of meters into HP based tariff has a distinct history of its own in the State. This is because metering is very difficult in agricultural fields. Meters are not protected in the field by permanent structure and so if the seals are not proper the farmers have to face legal and penal action. The meters also do not remain accurate and the farmers face problem. The tariff hike given in these circumstances is also very unfair.

(c) GKS also suggested a number of measures to improve generation and distribution of electricity as well as improving the service to the consumers, particularly for farmers.

(ii) In view of all these factors GKS submitted that there should be no compulsion for installing meters on agricultural connections and that the farmers should be given option for HP based tariff or meter installation. Proper study of HP and meter based system in the representative situations should be conducted and made available to farmers through seminars, shibirs, literature etc. and a separate authority should be instituted for supply and checking of meters whose decision should be final. It also requested that the Commission should review the tariff fixed for the agricultural consumers.

10. Before we deal with the issues raised by various parties, it would be relevant to trace the history of this case. In the course of hearing of the petition for determination of tariff by the GEB a number of consumers and consumer organizations complained about the defective meters, improvement in the quality of meters and metering the supply for agricultural consumption. They vehemently argued about the misuse of electrical energy in agricultural area. After considering all the factors and various contentions raised before the Commission on this matter, the Commission issued direction to the Board in para 9.6.6 of its order dated 10.10.2000 that the Board should install meters on unmetered connections in a phased manner. It also directed that all new connections should be given only with meters. After considering all aspects of the agricultural tariff it also directed in para 12.11 that the Board should prepare a time bound Action Plan for installation of meters on all agricultural installations within a period of 3 years.

11. This direction of the Commission again came up for discussion and consideration in the course of Review Petition filed by a number of organizations including BKS. The Commission in para 7 of its order dated 22.12.2000 has considered in detail all the contentions raised by BKS. This also includes a number of contentions raised in respect of Commission's direction on the installation of meters. Dealing with the contentions raised by BKS in para 17.9 of the above stated order the Commission decided as follows:-

> "**Metering**. Bharatiya Kisan Sangh has also raised the issue of Commission's power to order about metering without any such

demand made by any party. It has also stated that the Commission's task should be limited to determination of tariff. Needless to say that such a view is misplaced. In terms of the provisions of Section 29(2) (d) of the ERC Act, 1998, the Commission, while determining the tariff is guided by "the factors which would encourage efficiency, economical use of resources, good performance, optimum investment and other matters which the Commission considers appropriate". There is hardly any doubt that metering electricity supply will encourage efficiency and economical use of resources. It is in this context that the Commission is fully competent to direct the Board to install meters on all unmetered connections in a phased manner and to give new connections only with meters. (para 9.6.6 of Tariff Order).

However, this does not mean that we are oblivious to the difficulties faced by farmers. In fact para 9.6.5 deals with this matter only. The Commission has asked the Board to take proper administrative measures to prevent harassment. The Commission would again reiterate that such measures may be absolutely necessary with participation from local leadership.

In view of the above the Commission is unable to make any changes in their directions about the metering of electricity supply".

It is against this background that the GEB has now approached the Commission to extend the time limit to a period of 5 years as against the limit of 3 years given in the original direction on 10.10.2000.

12. The contentions raised before us in this regard can be summed up as follows :-

(a) The GEB has contended that inspite of its sincere efforts it has not been able to achieve progress in the matter of installation of meters. Due to the resistance from the consumers the progress has been tardy. It hopes that the Tatkal Scheme will increase the proportion of metered consumers and requested that period of time granted to them may be increased to 5 years.

(b) The farmers organizations while opposing the very installation of meters, have brought up several other contentions like inefficient supply, discrimination against farmers in the matter of quality of supply and unaffordable tariff.

(c) The CERS, as well as the industrial consumers, while opposing the proposal of GEB have brought up the adverse impact that the proposal will have on the other consumers, on the inefficiency in the system as well as financial burden which would generally fall on the public due to increased taxation resulting from the loss suffered by the Board.

(d) The suggestion which has come from the CERS, which has also found acceptance from the other sides about formation of a Committee to

attend to the grievances of the farmers which were represented in the course of hearing and also to find ways and means to secure the compliance of the Commissions directions.

13. We shall first deal with the contentions raised by the GEB. Their first contention that they have made earnest efforts to implement the directions given by the Commission stands in contradiction with their other contention that the results achieved have been poor. It is seen from the submissions made by the GEB on 20.12.2001 that even among those who have given their option to install meters for electricity supply, out of 66,145 consumers meters have been installed only in case of 11,334 consumers. This works out to a poor percentage of 17.13. This while taking into account the fact that total number of consumers who have exercised such option is only about 12% of the total, makes the effort made by the Board very marginal and inadequate. In this circumstances, we are not able to appreciate the contention advanced by the Board that they have made adequate efforts to implement the direction given by the Commission.

14. The second contention made by the Board is that the Commission has already permitted the continuance of HP based tariff till 31.10.2001 and even thereafter upto 31st March, 2002. In fact, a petition has already been filed by the Government to continue the present arrangement even till 30.11.2002. We are not able to appreciate as to what direct relation this has got with non-installation of meters. The fact that the HP based tariff will have to be continued, was appreciated by the Commission even in its order of 10.10.2000. The Commission was fully aware that installation of meters could

not be completed in a very short period and 3 years time was given only to allow adequate time to complete such a task. In fact, in para 12.12 of the order dtd 10.10.2000 it has been started as follows :

> "Taking into account the facts discussed above, the Commission has decided that till the meters are installed on agricultural installations the HP based tariff should be continued."

It will thus be appreciated that the Commission's directive in para 9.6.6 to install meters and the Commission's decision in para 12.12 to continue HP based tariff parallely with the metered tariff are not mutually exclusive. In other words the work of installation of meters should be continued even while continuing the HP based tariff. In view of these facts, the Commission's decision on the request of Government to continue the pre-revised rate of HP based tariff and extending it upto various dates, taken in the petition meant for determining the procedure for disbursement of the subsidy arising as a result of the difference in the rates, does not amount to any relaxation in the time given for installation of meters in para 12.11 of its order dated 10.10.2000. We are, therefore, unable to appreciate the contention advanced by the Board in this regard.

15. The third contention advanced by the Board is about the cost involved in installation of meters. It has stated that the total cost of covering all the consumers will be around Rs. 72 crores. We are surprised at this contention because such a contention has never been advanced by the Board on any previous occasion. We believe that for the purpose of installation of meters

enough assistance will be available to the Board from various quarters, including from the Power Finance Corporation and other financial institutions. The investment in meters will apparently be very sound since the Board will be able to recover this investment much faster as the benefit to the system by such an investment would be immense. We are, therefore, of the view that the arrangement of the required funds for installation of meters should not be a problem for the Board.

16. In the last contention, the Board has indicated that it is implementing the Tatkal Scheme on a large scale. The Tatkal Scheme involves the out of turn allotment of agricultural connection in a preferential manner for the metered supply at a slightly higher rate of 70 paise per unit. The Board has stated that it has released more than 30,000 connections as on 30.7.2001. It has also received more than 56,000 new applications and it plans to release more connections. It has submitted that such release of connection would, in itself, create a counter force to encourage the agriculturists to come forward for installation of energy meters at their premises. We appreciate the contention advanced by the Board. However, releasing the connections for Tatkal Scheme can not be a substitute for universal metering of electricity supply in the State. It is true that the scheme like this or any other incentive provided on similar line can be of great help in furthering the cause of universal metering. However, separate and distinct efforts have to be made to ensure that the meters are installed on all installations.

17. The representatives of farmers organizations in their submissions have gone a step further and opposed the meter system itself. They have forcefully

represented that in the name of meters there is a continuous harassment of farmers and that there is deliberate discrimination against the farmers as a group in the matter of electricity supply. The BKS has brought generally the old points mentioned by them in the course of their submission before us while dealing with the Review Petition in December, 2001. As mentioned earlier these points were dealt with by the Commission in para 17.9 of our order dated 22.12.2000. As mentioned above, the Commission's decision regarding metering was based on the overall consideration of infusing order and efficiency, economic use of resources and good performance in the electricity system in Gujarat. It has now been recognized all over the country that the metering of electricity supply is a must before any major reform of the system can be undertaken. This has been stressed and decided in a number of forums time and again. We are of the view that although it would be quite legitimate to discuss the difficulties involved in installation of meters and it will also be desirable to explore the ways and means to remove such difficulties, it would not be permissible at this stage to reopen the issue of metering itself. That the metering is absolutely essential for survival of electricity industry in Gujarat is a settled fact and neither material has been produced before us in the course of hearing to reconsider this matter, nor was it an issue before the Commission in this petition, in which the Board approached us to extend the time prescribed in our earlier order. We are, therefore, unable to accept this contention to review the metering system to review our direction regarding installation of meters on all electrical installations.

18. This is however, not to say that the difficulties faced by various consumers and particularly agricultural consumers should be ignored. In fact, the Commission was and is very conscious about such difficulties. The difficulties faced by agricultural consumers were dealt with at length in para 9.6.5 of our order dtd 10.10.2000. After considering the harassment by the officials and other difficulties faced by the farmers the Commission had mentioned in this para as follows :

> "The Commission would like the Board to establish new administrative mechanism and increased supervision by higher level personnel to avoid any kind of harassment of agricultural consumers in rural areas".

Again in para 9.6.6 of the above stated order it was stated that :

> "The Commission would like the Board to prepare this plan after taking the consumers into confidence and to work hand to hand with the consumers looking after their interest."

19. From the submissions made before us by the Board and by other parties, we are not convinced that the Board has made adequate efforts in this direction. It is in this context that the suggestion made by the CERS to constitute a Committee of the interested parties assumes relevance. Fortunately, a consensus has developed on this suggestion among all the parties in the course of the hearing. We shall deal with this suggestion in the subsequent paragraphs.

20. CERS has submitted before the Commission that adequate efforts have not been made by the Board and that any attempt to reverse the decision of the Commission is likely to burden other consumers with the additional load of tariff or unreasonable taxation by the State to fund the demand for additional subsidies. While we appreciate the efforts of CERS to evaluate the impact of the submission made by the Board, we would like to state that the decision of the Commission for installation of meters for all the consumers was not motivated by any of these factors. The decision was purely based on the criteria of infusing efficiency, proper energy accounting, reduction of losses and ultimate benefit to all the consumers. These contentions are as much valid today as they were at the time of issue of the order.

21. The CERS has also made a valuable suggestion to constitute a Committee to study the problems faced by the agricultural consumers and the harassment caused by GEB staff while implementing the metering programme. In fact, in their submission dated 25.2.2002 the CERS has suggested formation of two Committees, one for study of the above problems and the second for redressal of grievances at District level. We are of the view that at this stage it would be desirable to form one single Committee to take care of both these issues. We are of the view that close interaction among the consumers as well as GEB on this matter will go a long way in creating proper climate and serving the cause of efficient system and consumers' co-operation in the GEB. It will also give an opportunity to GEB and the consumers to understand each other and help them exploring ways and means to make the metering a successful programme. At the same time, the problem of

harassment, inefficient administration, discriminate supply and other issues will also be sorted out by effective interaction with the Board's officials.

22. In view of what we have discussed above, we are of the view that the petition taken out by the Board to consider extension of time limit from 3 years to 5 years for the purpose of installing energy meters at the premises of agricultural consumers is premature. Adequate efforts are required to be made by the Board by soliciting the co-operation of the consumers, providing proper incentives and creating confidence among the consumers in the system which is proposed to be implemented. The Board should therefore start in earnest to implement the direction regarding installation of meters on all electricity installations in expeditious manner. Therefore, we do not see any necessity to review our direction given in para 12.11 of our order dated 10.10.2000 at this stage. We order accordingly.

23. We, however, recognize that there is a need to have effective mechanism to provide interaction among the consumers and the Board to implement this direction and also to sort out other grievances of the consumers, particularly the agricultural consumers. We, therefore, accept the suggestion given by the CERS and supported by all other parties to form a Committee consisting of representatives of various interested parties. We therefore order that a Committee consisting of the following members shall be constituted:

(a) A representative nominated by the GEB - Chairman

(b) Two representatives nominated by BKS

(c) Two representatives nominated by GKS

(d) Two representatives nominated by CERS

(e) A representative nominated by GERC

(f) Member Secretary at appropriate level to be nominated by GEB

The Committee will also invite the local representatives of the farmers/ consumers to participate in the meetings, while discussing the issues or grievances faced by a particular area. All the above organizations shall intimate the names of their representatives on the Committee within a period of two weeks from the date of issue of this order to the General Manager (Commercial), Gujarat Electricity Board, Vadodara under intimation to the Secretary, GERC.

24. The Committee .shall have the following terms of reference :

(i) To consider and suggest various measures to implement the direction of the Commission for installation of meters at all agricultural installations within the given time limit.

(ii) To consider the problems of harassment and other grievances faced by agricultural consumers .

(iii) To consider various issues regarding the quality of supply to rural areas.

(iv) To consider the suggestions about the improvement in the efficiency of generation, transmission and distribution of electricity as well as the reduction in T&D losses in the State

(v) Any other matter which may be considered relevant by the Committee.

The initial term of the Committee shall be one year. The GEB shall provide the secretarial assistance to the Committee. The expenditure involved in holding meetings as well as other incidental expenses shall also be met by the GEB. The Committee shall send a report to the Commission of the deliberations made or decisions taken, every quarter, commencing from the date of holding its first meeting.

With these orders, the petition stands disposed off.

Sd/-	Sd/-	Sd/-
(JUSTICE S.D. DAVE)	**(B.M. OZA)**	**(R.K. SHARMA)**
CHAIRMAN	**MEMBER**	**MEMBER**

Place : Ahmedabad
Date : 3rd August, 2002