GUJARAT ELECTRICITY REGULATORY COMMISSION
AHMEDABAD

13th February, 2002

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

PETITION NO.47/ 2001 WITH PEITION NO. 49 / 2001

ORDER
13/2/2001

1. We at the Commission, are concerned with these two Petitions, taken out by the very same Petitioner, namely, Surendranagar District Industries Association, Wadhawan City, under rather the same circumstances. These Petitions have been heard together and shall be decided and disposed off under these common Orders.

2. The Government of Gujarat in the Ministry of Industry and Mines had come out with a Government Resolution dated 5th March, 2001 granting certain reliefs to certain Industrial Units situated in the Earthquake affected area. This detailed GR, any how, makes it clear, under the General Clause No 6, that the reliefs being granted under the GR shall be available to the consumers in the Areas falling within Seismic Zones IV & V.

3. As the reliefs to be granted under the said GR were related to the above said Zones alone, Petition No. 47 of 2001 came to be filed before us. The principal prayer in the Petition is that the benefits and reliefs which are being granted under the said GR dated 5/3/2001 should be extended to other Earthquake affected Areas also. This Petition came to be filed on 9/5/2001. As the Commission was of the opinion that the question requires to be studied and investigated, the Notices came to be issued to the Government in the appropriate Departments. Any how, when the Commission was in the midst of the hearing of the Petition, the Government of Gujarat, in the Industry and Mines Department came out with another G.R dated 24/4/2001. The whole idea on the part of the Government, to come out with this fresh G.R was to extend the benefits being given by the earlier G.R dated 5/3/2001 to the consumers in the Earthquake affected Areas falling within the Seismic Zones IV & V, to the areas falling within or under any other Zone or Zones.

4. It appears that, because of this revised G.R dated 24/4/2001, the grievances being urged before us by the Petitioner in Petition No. 47 of 2001 have been redressed to a very great extent. Any how, during the course of the hearing, there was some debate regarding the interpretation of the term " Minimum Charges". This has happened

because, the earlier G.R dated 5/3/01 and the later G.R. dated 24/4/01 also speak of "Minimum Charges" and the "Actual consumption Charges", and grant relief or exemption for a period of one year by saying that, for the above said period of one year, instead of the **"Minimum Charges**", the **"Actual consumption"** shall be billed, and the consumers shall have to pay accordingly. It is not in dispute that Minimum Charges would include other heads on which consumption would be charged, while the actual consumption would mean the charges for the consumption of Electrical Energy only.

5. When on the above said basis, the grievance was canvassed before us, we had desired that the Government should come out with the necessary clarification on this aspect of the matter. The Government, ultimately, has presented before us, the letter dated 4/12/01 addressed to Member (Finance), Gujarat Electricity Board, Vadodara, under the signature of one Mr. R.K. Shah, Deputy Secretary, Energy & Petrochemicals Department. The endeavor on the part of the Petitioner who is one and the same, in both the Petitions was to urge before us that under the guise of the clarificatory Orders, the Government has, in fact, taken away many benefits, exemptions, or reliefs, granted under the earlier G.R. dated 5/3/01. We have studied the above said two G.Rs alongwith the Communication dated 4/12/01. We are of the opinion that the grievance being raised by the Petitioner that

the later clarification takes away the major portion of the reliefs granted by the earlier G.R is genuine and could not be disputed. We, any how, wanted to explore the possibility of the redressal of the grievances, voiced by the Petitioner, before us.

6. In this process, we have noticed that, though, the case of the Petitioner in both the Petitions, requires a sympathetic approach, we at the Commission would not be able to assist the Petitioner, because, in our opinion, we lack the basic jurisdiction to do so.

7. It could have been urged before us ofcourse feebly, by taking recourse to the provisions contained under Section 22(2)(b) of the ERC Act, 1998, that we would be perfectly authorized and justified to aid and advise the State Government, in matters concerning Electricity Distribution and Supply in the State.

8. Any how, when the G.R. dated 5/3/01 is studied, it appears that, a Special Committee to be appointed by the Government, shall have the jurisdiction to adjudicate upon the interpretation, dispute or difference of opinion, arising under the scheme as envisaged, by the said G.R.. The G.R. dated 24/4/01 indeed brings in certain changes, but retains the above said clause, regarding the jurisdiction. In the ultimate

para, it has made, abundantly clear that all other terms and conditions and provisions as stipulated in the G.R dated 5/3/01 shall be maintained.

9. In the process of the interpretation of the said G.R, the Government has held a meeting on 6/11/01, chaired by the Chief Secretary of the State and being attended by the Members of the Sub-Committee of the Disaster Management Authority. Thus, it appears that though the interpretation which is being projected by the letter dated 4/12/01 cannot be accepted by us and is found to be falling short of a sympathetic consideration, the same is based upon the decision taken by the Committee as envisaged under the G.R dated 5/3/01.

10. Thus it appears that, though, the case of the Petitioner, in these two Petitions require to be viewed sympathetically and the redressal of the grievances of the Petitioner could have been arranged by granting the reliefs to the extent possible, we are unable to do so, as we are wanting or lacking the requisite jurisdiction.

11. **We are therefore, of the opinion that, we should not entertain these Petitions, any further, and advise the Petitioner to approach the Government in the appropriate Department or to the above said Committee, if so advised, for the redressal of their grievances. We would like to add that, if it so happens, then it would**

be in fitness of things, if the Government or the appropriate Department, or the above said Committee, consider the case of the Petitioner with all the sympathy which the Petitioner deserves. We order accordingly.

12. The net result is that, it would be open to the Petitioner to approach the Government or the appropriate Department or the Committee as said above, within a reasonable time frame and to raise all the contentions there, which are being raised before us in the Petitions, and during the course of the oral hearing, and that the same should meet with sympathetic consideration.

These two Petitions, stand disposed off with these Orders.

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

Place: Ahmedabad
Date: 13th February, 2002