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The Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003

Act 24 of 2003

Keyword(s):

Electricity Industry, High Court, Licence, Licensee, Electricity Industry

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may be filed as a Separate Compilation.

PART - IV

Acts of the Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 3rd May, 2003 is hereby published for general information.

V. M. KOTHARE,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 24 OF 2003.

(First published, after having received the assent of the President in the "Gujarat Government Gazette",
on the 12th May, 2003.)

AN ACT

to provide for reorganisation and rationalisation of electricity industry in the State of Gujarat and for
establishing an Electricity Regulatory Commission in the State for regulating the electricity industry and
for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-fourth Year of the Republic of India
as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Short title, extent
and
commencement.

Definitions.

2. In this Act, unless the context otherwise requires,-
- (a) "Advisory Committee" means a committee constituted under section 41;
- (b) "Central Act" means the Electricity Regulatory Commissions Act, 14 of 1998;
- (c) "Central Commission" means the Central Electricity Regulatory Commission established under sub-section (1) of section 3 of the Central Act;
- (d) "Chairperson" means the Chairperson of the Commission;
- (e) "Commission" means the Gujarat Electricity Regulatory Commission established or deemed to be established under section 3;
- (f) "electricity industry" means business or activities of generation, transmission, distribution or supply of electricity, the operation of power system and activities and matters connected thereto;
- (g) "High Court" means the High Court of Gujarat;
- (h) "Licence" means a licence granted under section 20 or deemed to be granted under section 19;
- (i) "Licensee" means a person holding a licence;
- (j) "Local authority" means a municipal corporation, nagar panchayat, municipal council, district panchayat, taluka panchayat, notified area committee or Cantonment Board constituted under the relevant local authority law;
- (k) "Member" means a member of the Commission and includes the Chairperson;
- (l) "prescribed" means prescribed by rules;
- (m) "regulations" means regulations made under this Act;
- (n) "relevant local authority law" means-
- (i) in relation to a City, the Bombay Provincial Municipal Bom. LIX of Corporations Act, 1949; 1949.

- . 34 of 1964. (ii) in relation to a municipal borough, transitional area, smaller urban area and notified area, the Gujarat Municipalities Act, 1963;
- . 18 of 1993. (iii) in relation to a taluka and district, the Gujarat Panchayats Act, 1993;
1924. (iv) in relation to a cantonment, the Cantonments Act, 1924;
- (o) "rules" means rules made under this Act;
- (p) "Selection Committee" means the Selection Committee constituted under section 6;
- (q) "undertaking" means an unit engaged in generation, transmission, distribution or supply of electricity or in any other activity connected with the operation of power system in the State;
- (r) words and expressions used but not defined in this Act and defined in the Central Act shall have the meanings respectively assigned to them in that Act;
- (s) words and expressions used but not defined either in this Act or in the Central Act and defined in the Indian Electricity Act, 1910, or in the Electricity (Supply) Act, 1948 shall have the meanings respectively assigned to them in those Acts.
1910.
f 1948.

CHAPTER II

ESTABLISHMENT AND CONSTITUTION OF COMMISSION

3. (1) For the purpose of regulating electricity industry in the State, the State Government shall, by notification in the *Official Gazette*, establish a Commission by the name of the Gujarat Electricity Regulatory Commission.
- (2) The Commission shall be a body corporate, with perpetual succession and common seal and may sue or be sued in its corporate name and shall, subject to the provisions of this Act, be competent to acquire, hold or dispose of property both movable and immovable, and to contract and do all things necessary for the purposes of this Act.
- (3) (a) Notwithstanding that by virtue of section 70, the provisions of the Central Act in so far as they relate to State Commission have ceased to apply, the Gujarat Electricity Regulatory Commission

Establishment
and Incorporation
of Commission.

established under sub-section (1) of section 17 of the Central Act and functioning immediately before the date of commencement of this Act (hereinafter in this section referred to as "the said Commission") shall be deemed to be first Commission established under sub-section (1);

(b) The Chairperson and members of the said Commission holding office immediately before the said date, shall respectively be the Chairperson and members of the first Commission;

(c) the Chairperson and the members of the first Commission shall hold office for the period for which they would have held office under the Central Act subject, however, to the provisions relating to disqualifications, resignation, removal and vacancy in this Act.

Headquarters of
Commission.

4. The headquarters of the Commission shall be at Ahmedabad or at such other place as the State Government may, by a notification in the *Official Gazette*, specify.

Constitution of
Commission.

5. (1) The Commission shall consist of a Chairperson and two other members to be appointed by the State Government on the recommendation of a Selection Committee constituted under section 6.

(2) Out of three members, -

(a) one shall be a person who has special knowledge and professional experience in the field of engineering related to generation, transmission, distribution or supply of electricity;

(b) the other two shall be the persons who have special knowledge and professional experience in the field of finance, commerce, economics, regulation of industry, law or management:

Provided that not more than one member shall be appointed having professional knowledge and experience in the same field.

(3) A member of the Commission shall render whole time service and shall not hold any other office during his tenure of office.

(4) On occurrence of any vacancy in the office of a member due to death, resignation or any other reason, the same shall be filled in by the State Government in the manner provided in this Act.

6. (1) The State Government shall for the purpose of selecting persons for being appointed as members of the Commission, constitute at such times as specified in sub-section (3), a Selection Committee consisting of the following three members, namely :-

**Constitution of
Selection
Committee and its
functions.**

- (a) a Judge of the High Court designated by the Chief Justice to be the Chairperson *ex-officio*;
- (b) the Chief Secretary to the Government of Gujarat *ex-officio*;
- (c) the Chairman of the Authority or a member thereof nominated by the Chairman *ex-officio*.

(2) The Secretary to the Government of Gujarat in Energy and Petro-chemicals Department shall be the Secretary *ex-officio*.

(3) The State Government shall, within one month from the date of occurrence of any vacancy in the office of a Chairperson or member by reason of his death, resignation or removal or within six months before the superannuation of or the end of tenure of the Chairperson or a member constitute the Selection Committee and make a reference to it for recommending persons for being selected for appointment in the vacancy.

(4) The Selection Committee shall, after satisfying itself that the persons who are being recommended by it possess the qualifications mentioned in sub-section (2) of section 5 and are not disqualified under section 9, recommend within two months from the date on which the reference is received by it a panel of names of two persons for each vacancy in the office of a Chairman or, as the case may be, a member.

(5) The Selection Committee may, for the purpose of recommending persons under sub-section (4) follow such procedure as deemed fit including the appointment of a search committee consisting of such persons as the Selection Committee considers appropriate to suggest the panel of persons possessing the requisite qualification and experience and suitable for being considered for appointment as Chairperson or member of the Commission.

(6) The State Government shall within fifteen days from the date of the recommendation by the Selection Committee under sub-section (4), appoint one of the two persons recommended by the Selection Committee for the vacancy.

**Term of office
and conditions of
members.**

7. (1) A member shall hold office for a period of five years from the date on which he enters upon his office:

Provided that he shall cease to be a member on the day on which he attains the age of sixty-five years.

(2) No person shall be appointed as a member after he has attained the age of sixty-two years.

(3) A member shall not be eligible for re-appointment after the expiry of the term of his office.

(4) The salary and allowances payable to and other conditions of service of the members shall be such as may prescribed:

Provided that the salary and allowances and other conditions of service of a member shall not be varied to his disadvantage during the tenure of his office.

**Oath of office and
secrecy.**

8. The Chairperson and every member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed.

Disqualifications.

9. A person shall be disqualified for being appointed or being a member of the Commission, if-

(a) he is a member of the Parliament or of any State Legislature or any local authority; or

(b) he is a member of a political party;

(c) he is, or at any time, has been adjudged an insolvent or he has suspended payment of his debts or has compounded with his creditors;

(d) he is of unsound mind and stands so declared by a competent court;

(e) he is, or has been convicted of any offence which in the opinion of the State Government, involves moral turpitude;

- (f) he has either directly or indirectly any financial or other interest which is likely to affect prejudicially his functioning as a member;
- (g) he has either directly or indirectly any financial or other interest in -
 - (i) generation, transmission, distribution or supply of electricity,
 - (ii) manufacture, sale or supply of any fuel for generation of electricity,
 - (iii) manufacture of, or any dealings in, plant and machinery, equipments, apparatus or fittings for the matters specified in sub-clause (i), or
 - (iv) any body which provides professional services in relation to matters specified in the aforesaid sub-clauses.

10. (1) Notwithstanding anything contained in sub-section (1) of section 7, the State Government may, at any time, remove any member from office, if, in its opinion, such a member -

**Removal and
resignation of
member.**

- (a) is or has become, subject to any of the disqualifications mentioned in section 9,
- (b) has been guilty of misconduct in discharge of his duties,
- (c) has become physically or mentally incapable of discharging his duties as a member,
- (d) has so abused his position as to render his continuance in office prejudicial to public interest, or
- (e) has without reasonable cause refused or failed to perform his duties for a period of not less than three months:

Provided that no member shall be removed from his office-

- (i) on the ground specified in clause (f) or (g) of section 9 or clause (b), (c), (d) or (e) of this sub-section, unless the High Court on a reference made to it in this behalf by the State

Government, has on an inquiry, reported that the member is liable to be removed on such ground;

- (ii) on any ground specified in clauses (a) to (e) of section 9, unless an opportunity of being heard is given to the member.

(2) Pending an inquiry against Chairperson or a member under sub-section (1), the State Government may on the recommendation of the High Court suspend the Chairperson or the member from his office.

(3) Any member may resign from his office by giving notice in writing, for such period as may be prescribed, to the State Government, and on such resignation being accepted by the State Government, he shall be deemed to have vacated his office.

Prohibition of appearance before Commission, etc. on ceasing to be member.

11. A person who ceases to be a member shall not -

- (a) be entitled to appear in any proceedings before the Commission as a representative of any person for a period of three years from the date of such cesser;
- (b) acquire either directly or indirectly any financial or other interest of the nature specified in clause (g) of section 9 for a period of two years from the date of such cesser;
- (c) be appointed directly or indirectly in the service of the State Government or any company, body corporate, institution or undertaking, owned or controlled by the State Government or any electricity industry in the State, or in any subsidiary or associated company or firm of such electricity industry for a period of two years from the date of such cesser.

Proceedings of Commission.

12. (1) The Commission shall meet on such day and at such time and place as the Chairperson or, in his absence, a senior member fixes and shall, subject to sub-sections (2), (3) and (4), observe such rules of procedure with regard to transaction of its business at its meetings as may be provided by regulations.

(2) Every meeting shall be presided over by the Chairperson, if he is present at the time appointed for holding the same, and, if the office of the Chairperson is vacant or if the Chairperson is, for any reason, absent, by a member who is senior.

- (3) (a) No business shall be transacted at a meeting of the Commission unless at least two members are present from the beginning to the end of such meeting;
- (b) All questions at a meeting of the Commission shall be decided by a majority of votes.

(4) If, by reason of disability of a Chairperson or a member or of a vacancy in the office of the Chairperson or a member, there are two members present at the meeting, then in the event of equality of votes, the presiding authority shall have and exercise a second or casting vote.

(5) Notwithstanding anything contained herein, the Commission may decide urgent matters by the procedure of circulation subject to the following conditions:

(a) Where a matter is required to be decided by the Commission urgently, the Chairperson may, instead of bringing the matter for discussion at a meeting of the Commission, direct that it may be circulated to the members for opinion and if all the members are unanimous and the Chairperson thinks that a discussion at a meeting of the Commission is not necessary, the matter shall be decided without such discussion.

(b) If the members are not unanimous or if the Chairperson thinks that a discussion at a meeting is necessary, the matter shall be discussed at a meeting of the Commission.

13. (1) The Commission in order to enable it to perform its functions, may,-

(a) with the approval of the State Government, determine the number and category of officers and employees, and

(b) appoint Secretary, officers and other employees having regard to the number and category of officers and employees determined under clause (a).

(2) The manner of recruitment of, the salary and allowances payable to, and other conditions of service of the Secretary, officers and other employees, shall be such as may be determined by the Commission by regulations.

Officers and
employees of
Commission.

Consultants.

14. The Commission may, for the purpose of enabling it to perform its functions, appoint consultants on such terms and conditions as may be determined by the regulations.

Funding of expenses of Commission.

15. (1) The expenditure of the Commission shall be charged upon the Consolidated Fund of the State.

(2) The Commission may also levy on licensees and other persons seeking any approval, consent, order or directions from the Commission or making any other application to the Commission such fees and charges as the Commission may specify in the regulations and utilise the amounts collected thereof towards meeting the expenses of the Commission.

Provided that:

- (a) the extent of such fees and charges to be levied by the Commission shall be consistent with the budget submitted by the Commission under section 46; and
- (b) to the extent of the amount available to the Commission from such fees and charges there shall be no charge on the Consolidated Fund of the State.

Acts and proceedings presumed to be valid.

16. (1) No act or proceeding of the Commission shall be questioned or be invalid on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Commission.

(2) No act done by any person acting in good faith as a member shall be deemed to be invalid merely on the ground that he was disqualified to be a member or that there was any other defect in his appointment.

CHAPTER III

FUNCTIONS AND POWERS OF COMMISSION

Functions of Commission.

17. Subject to the provisions of this Act, the Commission shall perform the following functions, namely:-

- (a) to regulate purchase, transmission, distribution, supply and utilisation of electricity, the quality of service and the tariff and charges payable for the transmission, distribution or supply of electricity having regard to the interest of both the consumers and other persons availing the services and the utilities;

- (b) to regulate the procedure-
 - (i) for purchase and procurement of electricity from any source for transmission, sale, distribution and supply thereof in the State; and
 - (ii) for the determination of the price for such purchase or procurement;
- (c) to promote efficiency, economy and safety in the use of the electricity in the State;
- (d) to determine the tariff for electricity; wholesale, bulk, grid or retail in accordance with the provisions of this Act;
- (e) to determine the tariff payable for the use of the intra-State transmission facilities in accordance with the provisions of this Act;
- (f) to issue licences in accordance with the provisions of this Act and determine the conditions to be included in the licences;
- (g) to levy fees, charges and fines in accordance with the provisions of this Act and retain the same for its expenses;
- (h) to regulate the working of the licensees and to enable that the working of licensees is efficient, economical and equitable;
- (i) to require licensees to formulate prospective plans and schemes in co-ordination with the other persons for the promotion of generation, transmission, distribution, supply and use of electricity;
- (j) to require the licensees to collect data and forecast the demand for use of electricity;
- (k) to set and enforce standards for the electricity industry in the State including standards relating to safety, quality, continuity and reliability of service;
- (l) to promote competitiveness in the electricity industry in the State;
- (m) to formulate standards, codes and practices for operation of the State Grid and the power system;
- (n) to promote efficient utilisation and conservation of electricity, reduction of wastes and losses in the use of electricity;

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[PART IV

- (o) to give such advice to the State Government, as the Commission deems appropriate, on matters concerning generation, transmission, distribution, supply and utilisation of electricity in the State;
- (p) to refer, if the Commission deems appropriate, matters to other agencies and bodies dealing with consumer disputes, restrictive and unfair trade practices and management and administration of the affairs of the licensees;
- (q) to adjudicate upon the disputes and differences between the licensees and to refer matters for arbitration, if considered necessary in accordance with the provisions of this Act; and
- (r) to undertake all incidental or ancillary functions that the Commission may consider appropriate.

Powers of
Commission.

18. (1) The Commission shall, for the purposes of any inquiry under this Act have the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:

5 of 1908.

- (a) summoning and enforcing the attendance of any witness and examining him on oath;
 - (b) requiring the discovery and production of any document or other material object producible as evidence;
 - (c) receiving of evidence on affidavits;
 - (d) requisitioning of any public record or a copy thereof from any court or office;
 - (e) issuing commissions for examination of witnesses or documents;
 - (f) review of its decisions, directions and orders; and
 - (g) any other matter which may be specified by the Commission by regulations.
- (2) The Commission shall have the power to pass such interim order in any matter before it, as it may consider appropriate.
- (3) Where the Commission is of the opinion that it is necessary so to do for the purposes of this Act, it may require by an order in writing to any person-

- (a) to produce before, or to allow examination by, an officer specified in the said order such books, accounts, or other documents in the custody or control of that person, relating to any matter concerning the transmission, distribution, supply or use of electricity, as may be specified in the order, and
- (b) to furnish to the officer specified in the order such information in his possession, power or control as may be specified in the order.

(4) Where during any inquiry or proceedings under this Act, the Commission has reason to believe that any books or accounts or documents of or relating to any person engaged in transmission, distribution and supply or use of electricity in relation to whom such inquiry is made or proceedings are undertaken are being or may be destroyed, mutilated, altered, falsified or secreted, the Commission may by written order authorise any officer of the Commission to enter and search any place of business of the person or any other place where the Commission has reason to believe that the person keeps or is for the time being keeping the books, or accounts or documents and to seize the same and after granting a receipt therefore retain the same for so long as is necessary in connection with such inquiry.

2 of 1974.

(5) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply so far as may be, to the search made under sub-section (4).

(6) The Commission may, by a general or special order call upon any person to furnish to the Commission periodically or, as and when required, any information concerning his activities related to generation, transmission, distribution and supply or use of electricity.

9 of 1910.

(7) Notwithstanding anything contained in sections 12 to 16 (both inclusive) and sections 18 and 19 of the Indian Electricity Act, 1910, the Commission may for the purpose of placing of the electric supply lines, appliances and apparatus for transmission, distribution and supply of electricity, by order in writing, confer upon a licensee or any other person engaged in transmission, distribution or supply of electricity any of the powers which the telegraph authority possesses under the Indian Telegraph Act, 1885 with respect to placing of telegraph lines and posts subject to such conditions as the Commission may specify in such order.

13 of 1885.

CHAPTER IV

LICENSING OF TRANSMISSION AND SUPPLY OF
ELECTRICITY

Prohibition
against business
of transmission,
distribution or
supply of
electricity.

19. (1) No person shall carry on business of transmitting, distributing or supplying (whether in bulk or not) electricity in the State except-
- (a) the Board constituted under section 5 of the Electricity 54 of 1948. (Supply) Act, 1948,
 - (b) a Government company or a body corporate owned or controlled by the State Government to which undertakings vested in the State alongwith functions, duties, powers and obligations, are transferred under sub-section (3) of section 28 by schemes published in the *Official Gazette*, hereunder,
 - (c) under a licence granted under section 20 or exemption granted by the Commission under section 26 or under a sanction granted by the State Government under section 27,
 - (d) under a licence granted by the State Government under section 3 of the Indian Electricity Act, 1910 before the commencement of this Act or under sanction given by the Government under section 28 of that Act before such commencement so long as such licence or sanction is subsisting: 9 of 1910.

Provided that the Board referred to in clause (a) and the Government company or body corporate owned or controlled by the State Government referred to in clause (b) shall carry on business of transmitting or supplying (whether in bulk or not) electricity subject to such terms and conditions as the Commission may, by notification in the *Official Gazette*, specify:

Provided further that the persons to whom a licence or sanction referred to in clause (d) has been granted or given shall -

- (i) be deemed to be licensees or exemption holders under this Act on the terms and conditions on which the licence or sanction had been granted;

- (ii) the provisions of this Act applicable to a licensee shall *mutatis mutandis* apply to such deemed licensees or exemption holders; and
- (iii) the licence, or sanction granted to the deemed licensees or exemption holders shall be subject to such modification as the Commission may make consistent with the objective and purpose of the Act.

(2) Where any difference or dispute arises as to whether any person is or is not engaged or about to engage in the business of transmitting or supplying or distributing electricity, the matter shall be referred to the Commission and the decision of the Commission thereon shall be final.

(3) No licensee shall, on or after the date of the commencement of this Act, supply electricity to any consumer unless a meter is installed for ascertaining the quantity of electricity supplied to the consumer:

Provided that a licensee who on the date of the commencement of this Act supplies electricity without installation of a meter to an occupant of land assessed or held for the purpose of agriculture in the specified area of supply of the licensee may continue to supply till 30th June, 2006 electricity to such occupant without installation of a meter:

Provided further that the licensee shall before the said date install meters for ascertaining the quantity of electricity supplied to such occupants in a specified area of supply of the licensee in accordance with a scheme for progressive installation of meters formulated by the Commission.

- (4) No licence to distribute or supply electricity in a specified area of distribution or supply shall be granted to a generating company-
 - (a) if grant of such licence is likely to adversely affect the operation of the power system or organised development of electricity industry or is not in public interest or in the interest of the consumers in the specified area of distribution or supply, or
 - (b) unless the generating company undertakes to charge such tariff to the consumers in a specified area of distribution or supply of an existing licensee as is equal to or less than the tariff charged by such licensee in such area.

20. (1) The Commission may, on an application made to it in such form and on payment of such fee as may be specified by regulations, grant a licence to any person-

Grant of licence.

- (a) to transmit electricity in a specified area of transmission; or
- (b) to distribute electricity in a specified area of distribution; or
- (c) to supply electricity in a specified area of supply; or
- (d) to supply electricity in bulk to any other licensee; or
- (e) to engage in one or more of the activities mentioned in clauses (a) to (d):

Provided that no application for a licence to transmit electricity shall be entertained unless the applicant has obtained the approval of the State Transmission Utility in such manner as may be specified by regulations.

Explanation.- For the purpose of this Chapter and Chapter VI, the expression 'specified area' means the area specified in the licence.

- (2) (a) (i) A person who applies for a licence under sub-section (1) shall publish a notice of his application for the information of the public specifying therein that if there is any objection to the application, the same may be sent to the Commission for its consideration;
- (ii) the notice of his application shall be published within such time, in such manner and containing such particulars as the Commission may specify by regulations.
- (b) The Commission shall not grant a licence until,-
 - (i) all objections and suggestions received by the Commission with reference to the application have been considered by the Commission:

Provided that no objection or suggestion shall be considered unless it is received before the expiration of such period not being less than a month from the date of the first publication of the notice under clause (a), as the Commission may by regulations specify; and

- (ii) in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission

has ascertained that there is no objection from the Central Government to the grant of the licence.

(c) Where an objection is received from any local authority concerned, the Commission shall, if in its opinion, the objection is untenable, record the opinion in writing and communicate it to such local authority alongwith reasons therefor.

(3) (a) There shall be specified in a licence -

- (i) the specified area of transmission, or
- (ii) the specified area of distribution, or
- (iii) the specified area of supply, or
- (iv) other licensee or person to whom electricity may be supplied in bulk, and
- (v) such terms and conditions including those relating to transmission or distribution or supply as may be specified by regulations.

(b) The Commission may specify by regulations the conditions to be included in a licence requiring a licensee to-

- (i) enter into an agreement with another person permitting such person to use electric lines, electrical plant and associated equipment operated by the licensee;
- (ii) furnish information and documents which the Commission may require for its purpose;
- (iii) inform the Commission of any scheme permitted by the licence which the licensee proposes to undertake;
- (iv) undertake such functions and obligations of the Board under the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948 as the Commission may specify by regulations;

- (v) refer a dispute arising under the licence for determination by the Commission or by an arbitrator appointed by the Commission;
- (vi) supply electricity in bulk to other licensees or exemption holder or sanction holder in the State or to any person outside the State;
- (vii) comply with any direction given by the Commission; and
- (viii) act in accordance with the terms and conditions of the licence.

(4) A licence granted for transmission of electricity may authorise the licensee to construct, maintain or operate any intra-State transmission system under the direction, control and supervision of the State Transmission Utility.

(5) The provisions contained in the Schedule to the Indian Electricity Act, 1910 shall be deemed to be incorporated with, and to form part of, every licence granted under this Chapter save in so far as they are expressly added to, varied or excluded by the licence and shall, subject to any such additions, variations or exceptions which the Commission may make, apply to the undertaking authorised by the licence in relation to its activities in the State:

9 of 1910

Provided that where a licence is granted by the Commission for the bulk supply of electricity to other licensees for distribution or supply by them, then in so far as such licence relates to such bulk supply, the provisions of clauses IV, V, VI, VII, VIII and XII of the said Schedule shall not be deemed to be incorporated in the licence.

(6) The grant of a licence to a person shall not in any way hinder or restrict the power of the Commission to grant a licence to another person within the same specified area for a like purpose.

Powers of
licensee.

21. (1) Subject to the provisions of this Act, the provisions of sections 12 to 26 of the Indian Electricity Act, 1910 shall have effect as if reference to a licensee in those provisions is a reference to a licensee under this Act.

9 of 1910.

(2) (a) Where-

- (i) any person neglects to pay any charge for electricity or any sum other than a charge for electricity due from him to the

Board, or a licensee (hereinafter in this sub-section referred to as "the licensee") in respect of the supply of electricity to him, and

- (ii) the Board or the licensee to whom such charge or other sum is due is a Government company or a corporation owned or controlled by the State Government,

such charge or other sum or the aggregate of such charge and other sum due to the Board or the licensee shall be recoverable as arrears of land revenue.

- (b) For the purpose of effecting recovery of the charge or sum or both the charge and sum due from a person under clause (a) as the arrears of land revenue, such officer as may be appointed by the State Government in this behalf by notification in the *Official Gazette*, shall have and exercise all the powers and perform all the duties of the Collector under the Bombay Land Revenue Code, 1879.
- (c) No suit or other legal proceeding shall lie in any civil court against the recovery of charge or other sum due as arrears of land revenue unless the person from whom such charge or sum is due deposits the amount of such charge or sum with the Board or the licensee:

Provided that the court may, in the case of hardship caused to the person from whom such charge or sum is due, in depositing the whole amount, dispense with deposit of the amount to the extent of not more than twenty-five percent of the amount due.

22. (1) Where in its opinion the public interest so requires, the Commission may, on the application of the licensee and if the licensee is not a local authority, on the application of the local authority concerned or otherwise, may make such amendments in the terms and conditions of a licence as it thinks fit having regard to the object and purposes of this Act:

Amendment of
licence.

Provided that no such amendment, other than an amendment by virtue of a term or condition of a licence or of a term or condition imposed under sub-section (5) of section 23, shall be made except with the consent of the licensee.

- (2) Where the licensee has made an application under sub-section (1) proposing an amendment in his licence, the following provisions shall apply, namely:-

- (a) the licensee shall invite objections from interested persons by publishing a notice of the application in such manner and with such particulars as the Commission may specify by regulations;
 - (b) the Commission shall not make any amendment until all objections received by it with reference to the application within one month from the date of the first publication of the notice have been considered;
 - (c) in the case of an application proposing an amendment in an area of supply or distribution comprising the whole or any part of the cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Central Government for defence purposes, the Commission shall not make the amendment except with the consent of the Central Government.
- (3) Before making any amendment in a licence otherwise than on the application of the licensee, the Commission shall publish the proposed amendment in such manner and with such particulars as the Commission may specify by regulations and consider all objections received by it with reference to the proposed amendment within one month from the date of the publication of the notice.

**Revocation of
licence.**

23. (1) The Commission may inquire into the functioning of any licensee in carrying out the obligations under this Act or regulations made thereunder or the terms and conditions of the licence,-
- (a) upon receiving a complaint relating to the functioning of the licensee from a consumer or association of consumers; or
 - (b) upon a reference made to it by the State Government, Central Government, the Central Commission, Central Electricity Authority or any other Authority; or
 - (c) on its own motion.
- (2) If upon making such inquiry, the Commission is of the opinion, that the public interest so requires, it may revoke a licence in any of the following cases, namely:-
- (a) where the licensee, in the opinion of the Commission, has committed a willful or unreasonably prolonged default in doing anything required by or under this Act or regulations;

- (b) where the licensee commits a breach of any of the terms and conditions of the licence, the breach of which is expressly declared by such licence to render it liable to revocation;
 - (c) where the licensee fails within the period specified in the licence or any longer period that the Commission may, by order, allow -
 - (i) to show, to the satisfaction of the Commission, that he is in a position to discharge the duties and obligations imposed on him by the licence; and
 - (ii) to make the deposit or furnish the security required by the licence;
 - (d) where in the opinion of the Commission the financial position of the licensee is such that the licensee is unable to discharge the duties and obligations imposed on him; and
 - (e) where the licensee, in the opinion of the Commission has made default in complying with a direction given by the Commission.
- (3) Where in its opinion the public interest so requires, the Commission may, on the application or with the consent of the licensee, and if the licensee is not a local authority, after consulting the local authority concerned, revoke a licence as to the whole or any part of the area of transmission, distribution or supply upon such terms and conditions as it thinks fit.
- (4) No licence shall be revoked under sub-section (2) unless the Commission has given to the licensee not less than thirty days' notice in writing, stating the grounds on which it is proposed to revoke the licence and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.
- (5) The Commission may, instead of revoking the licence under sub-section (2), permit it to remain in force subject to such modifications or such further terms and conditions as it thinks fit to impose and the terms and conditions so imposed shall be binding upon, and be complied with by, the licensee, and be of like force and effect as if they were contained in the licence.

Provisions where
licence is revoked.

24. (1) Where the Commission revokes a licence, under sub-section (2) of section 23, the following provisions shall apply, namely:-

- (a) The Commission shall serve a notice of revocation upon the licensee and shall fix a date on which the revocation shall take effect and on and with effect from that date or on and with effect from an earlier date, on which the undertaking of the licensee is sold to a purchaser in pursuance of clause (c) or is delivered to a designated purchaser in pursuance of sub-section (3), all the rights, duties, obligations and liabilities of the licensee under this Act shall cease and determine.
 - (b) The Commission shall invite applications for purchase of the undertaking of the licensee whose licence is revoked and determine the price and other terms and conditions of the sale of the undertaking in consultation with the licensee and the person whose application has been accepted.
 - (c) The Commission may by notice in writing require the licensee to sell, and thereupon the licensee shall sell the undertaking to the person whose application has been accepted by the Commission (hereinafter in this section referred to as "the purchaser").
- (2) Where an undertaking is sold under sub-section (1), the purchaser shall pay to the licensee the purchase price of the undertaking determined under clause (b) of sub-section (1).
- (3) Where the Commission issues any notice under clause (c) of sub-section (1) requiring the licensee to sell the undertaking, it may by such notice require the licensee to deliver, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser pending the payment of the purchase price of the undertaking:

Provided that in any such case, the purchaser shall pay to the licensee interest at such per cent not exceeding the Reserve Bank lending rate prevailing at the time of delivery of the undertaking as the Commission may decide, on the purchase price of the undertaking for the period from the date of delivery of the undertaking to the date of payment of the purchase price.

- (4) (a) Where for any reason no sale of the undertaking has been effected under sub-section (1), the Commission may, in consultation with the State Government -
- (i) by an order published in the *Official Gazette*, authorise any person or body of persons to take over the management of the undertaking of a licensee for such period not exceeding five years from the date of revocation as may be specified in the order,
 - (ii) endeavour to sell the undertaking during the aforesaid period.
- (b) On the issue of the order authorising the taking over of the management of the undertaking -
- (i) all persons in-charge of the management immediately before the issue of the order shall be deemed to have vacated their offices; and
 - (ii) the person or body of persons authorised to take over (hereinafter in this section referred to as "the authorised person or body") shall take all such steps as may be necessary to take into his or their custody or control all the property, effects and actionable claims to which the undertaking is or appears to be entitled and all the property and effects of the undertaking shall be deemed to be in the custody of the person or, as the case may be, body of persons as from the date of the order;
 - (iii) where the undertaking of a licensee is a company, the persons authorised to take over the management of the undertaking shall, for all purposes, be the directors of the undertaking duly constituted under the Companies Act, 1956 and shall alone be entitled to exercise the powers of the directors of the undertaking whether such powers are derived from the said Act or the Memorandum or Articles of Association of the undertaking or from any other source;
 - (iv) subject to the control of the Commission, the authorised person or body shall take such steps as may be necessary for the purpose of effectively managing the business of the undertaking and shall exercise such other powers and have such other duties as may be specified by the Commission;

- (v) the authorised person or body shall, notwithstanding anything contained in the Memorandum or Articles of Association of the licensee, exercise his or their functions in accordance with such directions as may be given by the Commission.
- (c) Where the undertaking of the licensee is sold within the period specified in the order issued under sub-clause (i) of clause (a), the order shall be deemed to have been rescinded from the date of sale.
- (d) Where the undertaking of the licensee is not sold within the period specified in clause (a), the undertaking shall vest in the State Government free from all encumbrances.
- (e) Where an undertaking of the licensee vests in the State Government under clause (d), there shall be paid to the licensee such value as may be determined by the State Government.

Restrictions on licensees.

25. (1) No licensee shall, at any time, without the previous consent in writing of the Commission, acquire by purchase or otherwise the licence or the undertaking of, or associate himself so far as the business of transmission, distribution or supply of electricity is concerned with any person transmitting, distributing or supplying under any other licence or intending to transmit, distribute or supply electricity or with any generating company.
- (2) The licensee shall not, at any time, assign his licence or transfer his undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise without the previous consent in writing of the Commission.
- (3) A holder of a licence for supply or transmission of electricity may, unless expressly prohibited by the terms of his licence or by a general or special order passed by the Commission, enter into arrangements for the purchase of electricity from -
- (a) the holder of a licence for supply of electricity which permits the holder to supply electricity to other licensees for distribution or supply by them; and
 - (b) any supplier of electricity in accordance with the regulations of the Commission governing the power purchase and procurement process.
- (4) Any agreement relating to any transaction of the nature described in sub-section (1) or sub-section (2) made without the consent of the

Commission or any arrangement entered into in contravention of sub-section (3), shall be void.

26. (1) Notwithstanding anything contained in this Act, the Commission may by a general or special order grant exemption to any person from the requirement to have a licence to engage in transmission, distribution or supply of electricity including bulk supply subject to compliance with such conditions as may be specified by the regulations.

Exemption from the requirement to have a licence.

(2) The Commission shall not grant any exemption under sub-section (1):

(a) except with the consent of the Central Government, in any case where electricity is to be transmitted, distributed or supplied in any area forming part of any cantonment, aerodrome, fortress, arsenal, or camp or any building or place in the occupation of the Central Government for defence purposes;

(b) in any area falling within the area of transmission, distribution or supply, without giving an opportunity of hearing to the licensee of such area.

(3) An exemption under sub-section (1) may be granted having regard to such guidelines as may be specified in the regulations --

(a) to persons of a particular category; or

(b) to a particular person; or

(c) for a particular period.

(4) An exemption granted under sub-section (1) shall be published in such manner as the Commission considers appropriate.

(5) The exemption granted under sub-section (1) may be revoked by the Commission at any time for reasons to be recorded in writing.

(6) An exemption granted under sub-section (1), unless previously revoked, shall continue in force for such period as may be specified in or determined by or under the order granting the exemption.

27. Notwithstanding anything contained in this Act, where the State Government is of the opinion that an emergency has arisen wherein it is necessary to transmit, distribute or supply electricity to the public in an area,

Sanction by State Government in case of emergency.

it may, on an application made to it in such form and on payment of such fees as may be prescribed by an order in writing grant sanction to a person to engage temporarily, for a period not exceeding six months, in the business or activity of transmission, distribution or supplying electricity in such area and in accordance with such conditions as may be specified in the order.

CHAPTER V

REORGANISATION OF GOVERNMENT ELECTRICITY INDUSTRY

Reorganisation of
Government
Electricity
Industry.

28. (1) The State Government may from time to time by notification in the *Official Gazette*, publish schemes to reorganise the Government Electricity Industry and to effect the transfer of such of the functions, duties, powers and obligations and such of undertaking of the Government Electricity Industry or such portion thereof consisting of assets, properties, interest in properties, proceedings and liabilities in the manner and on the terms and conditions as the State Government may provide in the transfer scheme.

(2) On and from the date the transfer scheme under sub-section (1) is notified in *Official Gazette*, or on and with effect from such further date as may be specified in such transfer scheme, (hereinafter referred to as the effective date), the State Government may provide that such of the undertakings of the Government Electricity Industry or portion thereof consisting of assets, properties, interest in properties, proceedings, liabilities, rights and obligations which immediately before the effective date belong to the Government Electricity Industry shall stand transferred to and vest in the State Government on the terms and conditions specified in the transfer scheme without any further act, deed or thing to be done by the Government Electricity Industry or any other person.

(3) The State Government may from time to time by notification in the *Official Gazette*, publish schemes to effect transfer of the undertakings which vest in the State under sub-section (2) to such Government companies or bodies corporate owned or controlled by the State Government (hereinafter called "the First Transferee") on such terms and conditions and with such functions duties, powers and obligations as the State Government may provide in the transfer scheme and such transfer and vesting in the First Transferee shall take effect from the date specified in the transfer scheme without any further act, deed or thing to be done by any person.

- (4) The State Government may, after consulting the First Transferee to whom the functions, duties, rights, powers, obligations and undertakings, as the case may be, have been transferred and vested in terms of the foregoing provisions by notification in the *Official Gazette*, publish schemes to transfer and vest in any other company or body corporate or person or authority (hereinafter called "the Second Transferee") such part of the undertakings from the First transferee to the Second Transferee on such terms and conditions and with such functions, duties, powers and obligations as the State Government may specify and such transfer shall take effect from the date specified in the transfer scheme without any further act, deed or thing to be done by any person.
- (5) Notwithstanding anything contained in this section or any other provision of this Act, in the case of any transfer or vesting of the ownership or control of any undertaking or portion thereof under sub-section (4) or the transfer of the controlling interest in the First Transferee or the Second Transferee to any Company, body corporate, person or authority other than that owned or controlled by the State Government, the same shall be given effect to only with the prior approval by a resolution of the State Legislature.
- (6) The State Government may by notification provide that such of the functions, duties, powers and obligations exercisable by the Board under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or any rules framed there under shall be exercisable by the First Transferee or the Second Transferee or by other companies or bodies corporate or person or authority, as the State Government may specify.
- (7) Notwithstanding anything contained in this section, where a transaction of any description is effected in pursuance of the transfer scheme under this Part, it shall be binding on all persons including third parties.
- (8) A transfer scheme may-
- (a) define the property, interest in property, rights and liabilities to be transferred;
 - (i) by specifying or describing the property, rights and liabilities in question;
 - (ii) by referring to all the property, interest in property, rights and liabilities comprised in a specified part of the undertaking; or
 - (iii) partly in the one way and partly in the other;
 - (b) provide that any rights or liabilities specified or described in the scheme shall be enforceable by or against the First Transferee or the Second Transferee;

of 1910.
of 1948.

- (c) provide for restructuring or re-organisation of the undertakings, including forming of subsidiaries, joint ventures, mergers and demergers;
- (d) impose on any licensee an obligation to enter into such written agreements with, or execute such other instruments in favour of, any other subsequent licensee as may be specified in the scheme; and
- (e) make such supplemental, incidental and consequential provisions as it is considered appropriate including provision specifying the order in which any transfer or transaction will be effective.
- (9) All debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Government Electricity Industry, or the First Transferee before the relevant transfer scheme becomes effective shall, to the extent specified in the relevant transfer scheme, be deemed to have been incurred, entered into or done by the First or the Second Transferee, as the case may be.
- (10) All suits and other legal proceedings instituted or that may be instituted or pending involving the Government Electricity Industry or the First Transferee, as the case may be, before the relevant transfer scheme becomes effective shall in the manner specified in the relevant transfer scheme be continued or instituted by or against the First or the Second Transferee.
- (11) If pursuant to a transfer scheme framed by the State Government a licensee is required to vest any part of its undertaking in another company or body corporate or person or authority, the Commission shall amend the licence granted and issue requisite licence to enable such other company or body corporate or person or authority to discharge the functions.
- (12) The Government Electricity Industry shall cease to be charged with, and shall not perform, the functions, rights, powers and duties to the extent the same are transferred and vested in any other company or body corporate or person or authority in accordance with the provisions of this Act.
- (13) The exercise by a licensee of any of the rights and powers of the Government Electricity Industry may be made on such conditions as shall be specified in the transfer scheme including a condition that they shall be exercised by the licensee only with the approval of the Commission.

Explanation.- For the purposes of this section and section 29, the expression "Government Electricity Industry" means the Board and any other electricity industry owned or controlled by the State Government.

29. (1) The State Government may provide for transfer of such of the personnel of the Board to the First Transferee or from the First Transferee to the Second Transferee, as the case may be, as a part of the undertaking transferred under section 28 and on such terms and conditions as the State Government may prescribe and such transfers shall be effective in the like manner as in the case of transfers under section 28.

Provisions relating to transfer of personnel.

(2) Upon such transfers the personnel, shall hold office or service under the First Transferee or the Second Transferee, as the case may be, on terms and conditions that may be determined in the transfer scheme subject to the following, namely:-

- (a) that the terms and conditions of the service in regard to emoluments and other monetary benefits applicable to them in the First Transferee or the Second Transferee shall not in any way be less favourable than those applicable to them immediately before the transfer;
- (b) that the personnel shall have continuity of service in the First Transferee and the Second Transferee; and
- (c) that all benefits of service accrued before the transfer shall be recognized and appropriately provided for to secure the interest of the personnel.

of 1947.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or any other law as is applicable and except for the provisions made in this Act, the transfer of the employment of the personnel in terms of the provisions of this Part shall not entitle such employees to any compensation or damage under this Act, or any other Central or State law or under the general law, save as provided in the Transfer Scheme.

Explanation. – For the purposes of this Chapter and the Transfer Scheme, the term “personnel” shall mean and include all persons who on the effective date are the employees of the Government Electricity Industry, by whatever name called.

30. The State Government may provide that the transfers in terms of sections 28 and 29 shall be provisional for a period of twelve months from the effective date of transfer and reserve the right to alter, vary, modify, add or otherwise change the terms in such manner as the State Government may consider appropriate.

Variation of transfer.

Furnishing of information regarding establishment of generating stations.

31. (1) Notwithstanding anything contained in any law for the time being in force, any person who establishes a generating station or acquires a generating station, or extends or replaces major unit of plant or works pertaining to generation of electricity in a generating station, shall furnish information relating to such establishment, acquisition, extension or replacement in such form and manner as may be prescribed, to the State Government and the Commission within seven days of such establishment, acquisition, extension or replacement.

(2) A generating company shall make available to the State Government, the Commission and the Licensees such information as may be prescribed by the State Government or as may be directed by the Commission relating to the generation plan, shut down proposed for planned maintenance, break down of the plant and other factors affecting the generation and supply of electricity for the purposes of facilitating the effective planning of the power purchase and procurement process in the State.

CHAPTER VI

TARIFFS

Tariffs.

32. (1) Notwithstanding anything contained in any other law or in any existing contract or agreement or arrangement the tariff for intra-State transmission of electricity and the tariff for distribution and supply of electricity (wholesale, bulk or retail, as the case may be,) in the State (hereinafter called the "tariff"), shall be determined by the Commission in accordance with the provisions of this Act.

(2) The Commission may determine by regulations, the terms and conditions for the fixation of tariff, and in doing so, shall be guided by the following factors, namely:-

- (a) that the tariff progressively reflect the cost of supply of electricity at an adequate and improving level of efficiency;
- (b) the factors which would encourage efficiency, economical use of the resources, good performance, optimum investments and other matters which the Commission considers appropriate for the purpose of this Act;
- (c) the electricity generation, transmission, distribution and supply are conducted on commercial principles;

- (d) the interests of the consumers are safeguarded and at the same time, the consumers pay for the use of electricity in a reasonable manner;
- (e) the principles and their applications provided in sections 46 and 57 of the Electricity (Supply) Act, 1948 and the Sixth Schedule thereto; and 54 of 1948.
- (f) in the case of the Board, the principles under section 59 of the Electricity (Supply) Act, 1948 are observed: 54 of 1948.

Provided that where the Commission, departs from factors specified in clause (e) it shall record reasons therefor in writing.

(3) The Licensee shall observe the methodologies and procedures specified by the Commission from time to time in calculating the expected revenue from charges which the Licensee is permitted to recover and in determining tariffs to collect those revenues.

(4) If the State Government requires the grant of any subsidy to any category of consumer or class of consumers in the tariffs which is determined by the Commission under this section, the State Government shall pay the amount to compensate the person affected by the grant of subsidy in the manner which the Commission may direct, as a condition for the licensee or any other person concerned to implement the subsidy provided for by the State Government.

(5) Any retail tariff is determined or implemented under this Act shall not show undue preference to any consumer of electricity, but may differentiate according to the consumer's load factor, power factor, and total consumption of electricity during any specified period or the time at which supply is required or the geographical position of any area, or the nature of supply and the purpose for which the supply is required and further within a class of consumer the paying capacity of category of customers and need for cross subsidization by others in that class;

- (a) shall, be in a manner that the existing subsidy given to any class or classes of consumer by charging higher tariff from other classes of consumer is progressively reduced to the extent that within a period of five years from the commencement of this Act, the tariff to every class of consumer shall reflect a minimum of sixty-seven per cent of the licensee's average cost of supply of electricity to that class;

- (b) shall be just and reasonable and be such as to promote efficiency in the supply and consumption of electricity; and
- (c) shall satisfy all other relevant provisions of the Act, regulations and conditions of licence.
- (6) Every licensee shall provide to the Commission, at such time and in such manner, as may be specified by the regulations, full details of its calculations for the ensuing financial year of the expected aggregate revenue from charges, which it believes to have been permitted to recover under the tariff and such further information, as the Commission may require to assess such calculations.
- (7) The Commission may after a public hearing of the licensee and other interested parties determine the tariff to be charged by the licensee at the time of initial grant of licence and thereafter at such intervals not exceeding five years and in such manner as the Commission may specify.
- (8) The Commission shall be entitled to include in the tariffs of the licensee an amount to be appropriated to special funds, which the Commission, in its opinion, consider necessary, to meet the expenses required for implementing projects to enable transmission, distribution or supply of electricity in different places in the State.
- (9) No tariff or part of any tariff which is determined by the Commission and implemented may be revised at the instance of the licensee more than once in any financial year, except in respect of any changes expressly permitted to be revised including under any fuel surcharge formula as may be specified by the Commission in the order determining the tariff. The licensee shall provide details of the proposed revision in tariff to the Commission, together with such further information as the Commission may require. The Commission shall notify its decision on the proposed revision in tariff within ninety days of receipt of all information and after hearing the interested persons.
- (10) The licensee shall publish in a daily newspaper having circulation in the specified area and such tariff shall take effect only after seven days from the date of such publication.
- (11) Notwithstanding anything contained in sections 46, 57A and 57B of the Electricity (Supply) Act, 1948 no Rating Committee shall be constituted after the date of commencement of this Act. 54 of 1948.

Explanation.- In this section —

- (a) “the expected revenue from charges” means the total revenue which a licensee is expected to recover from charges for the level of forecast supply in any financial year, in respect of goods or services supplied to consumers.
- (b) “Tariff” means a schedule of standard prices for transmission, distribution or supply of electric energy or charges for specified services, which are applicable to all such specified services provided to the type or types of purchaser or person who avails the service or consumer specified in the Tariff.

33. The State Government may provide financial assistance to licensees on such terms and conditions as it thinks fit to impose, in the following manner, namely:-

Financial assistance to licensee by State Government.

- (a) Grant of subventions.
- (b) Grant of loans.
- (c) Guarantee of repayment by a licensee of the amount of loan, or interest on loan or both the loan and the interest thereon.

CHAPTER VII

COMMISSION'S POWER TO PASS ORDERS AND ENFORCE DECISIONS

34. (1) Where the Commission is satisfied that a licensee is contravening, or is likely to contravene any of the provisions of this Act or rules or regulations made thereunder or any of the conditions of the licence, it shall either by an interim order under sub-section (4) or by a final order under section 35, issue such directions as it deems proper for preventing such contravention.

Orders for preventing contraventions by licensees.

(2) In determining whether it is appropriate that an interim order be made, the Commission shall have regard, in particular to-

- (a) the extent to which the contravention or likely contravention by the licensee may affect the purposes of this Act;

- (b) the extent to which any person is likely to sustain loss or damage in consequence of such contravention before a final order is made; and
 - (c) whether there is any remedy available to prevent such contravention.
- (3) If the Commission proposes to make an interim order, it shall give notice of the proposed interim order to the licensee setting out therein the following, namely:-
- (i) the contravention that the proposed order is intended to prevent;
 - (ii) the acts or omissions which, in its opinion constitute such contravention;
 - (iii) the facts which in its opinion, justify the making of the proposed order;
 - (iv) the effects of the proposed order; and
 - (v) the period, being not less than fifteen days from the date of notice, within which the licensee may show cause why the proposed order be not made.
- (4) The Commission may after considering the reply of the licensee to the notice, if any, make such interim order as it thinks fit at any time after the expiry of the period specified in the notice, if the Commission has reason to believe that,-
- (a) the licensee to whom the notice was given has contravened or is contravening or is likely to contravene any of the provisions of this Act or rules or regulations made thereunder or any condition of licence; and
 - (b) the order is necessary for the purpose of preventing such contravention.
- (5) An interim order -
- (a) may provide for the taking over of the management of the Licensee's Undertakings and functions and authorizing any person or body of persons to manage the affairs and exercise in respect of the whole or any part of the undertaking of the

licensee, such functions or control may be specified in the order till further orders of the Commission;

- (b) may require the licensee to do, or abstain from doing, such things as are specified in the order;
- (c) shall take effect from such date, as is specified in the order; and
- (d) shall cease to have effect on such date as is specified in the order unless the order is rescinded earlier:

Provided that where the Commission has commenced the procedure for making the interim order as final order before the cesser of the interim order, the interim order shall not cease to have effect and shall continue to be in force till a final order is made.

(6) Where the Commission has made an interim order, it shall as soon as possible thereafter,-

- (a) serve a copy of the order on the licensee and publish the same in such manner as it deems fit, and
- (b) commence proceedings to declare the interim order to be a final order in accordance with section 35.

35. (1) If the Commission proposes to make a final order or to declare an interim order to be a final order, the Commission shall give notice of the proposed final order to the licensee -

Final orders for preventing contraventions.

- (a) stating that it proposes to make the final order or as the case may be, declare the interim order to be a final order;
- (b) setting out the matters referred to in sub-section (3) of section 34 in respect of the proposed final order; and
- (c) specifying the period being not less than thirty days from the date of the notice within which the licensee may show cause why the proposed order may not be made.

(2) The Commission may, after considering the reply of the licensee to the notice, pass such final order as it thinks fit.

(3) Where the Commission has made a final order, it shall, as soon as possible thereafter, serve a copy of the order on the licensee and publish the same in such manner as deemed fit.

(4) The Commission shall, as soon as practicable, after making a final order, require the licensee to do or abstain from doing such things as are specified in the order

Power to modify or revoke final order.

36. (1) The Commission may, of its own motion within one year or on an application made to it by a licensee within six months from the date of the final order, modify or revoke the final order.

(2) The Commission shall, before making an order under sub-section (1), give a notice of not less than thirty days to the licensee to show cause as to why the final order may not be modified or revoked.

(3) The Commission may, after considering the reply of the licensee to the notice modify or revoke the final order and inform the licensee of its decision.

Enforcement of orders.

37. An order made by the Commission under section 34, 35 or 36 shall be enforced as if it were a decree of a civil court.

Power of Commission to assume management or control of undertaking of a licensee in certain cases.

38. (1) If, pending an inquiry and passing of an interim or final order under this chapter, the Commission is of the opinion that the undertaking of the licensee is being managed in a manner detrimental to maintenance of continued transmission, distribution or supply of electricity and for maintaining such continued transmission, distribution or supply of electricity in public interest it is necessary to assume forthwith the management or control of the undertaking of the licensee, the Commission may by order notified in the *Official Gazette*, authorise any person or body of persons to take over the management of the whole or part of the undertaking of the licensee and exercise in respect of the whole or any part of the undertaking of the licensee, such functions or control as may be specified in the order.

(2) Any order issued under sub-section (1) shall have effect till the interim or final order is made under section 34 or 35.

Fines and charges.

39. (1) The Commission shall be entitled to impose such fines and charges as may be specified by regulations for non-compliance or violation

on the part of the Generating Companies, licensees or other persons, of the provisions or requirements of this Act or rules and regulations framed thereunder and licence conditions, directions or orders of the Commission made from time to time. The fines which the Commission shall be entitled to impose may extend upto two lakhs rupees for an act of non compliance or violation and a further amount not exceeding ten thousand rupees for every day during which the non compliance or violation continues.

(2) The Commission shall be entitled to direct compensation to be paid by the person guilty of violation or non-compliance as provided in sub-section (1) to the person or persons affected by such violation or non compliance.

(3) The fines, charges and compensation which may be imposed by the Commission under this section shall be in addition to and not in derogation or any other liability, which the person guilty of violation or non compliance, may have incurred.

40. (1) The District Magistrate and the District Superintendent of Police having jurisdiction in the area concerned shall so far as may be, co-operate by themselves or through their subordinates, with the Commission for carrying into effect and enforcing the provisions of this Act.

Co-operation of
police.

(2) It shall be the duty of every police officer to communicate without any delay to the Commission any information which he receives of a design to commit or the commission of any offence under this Act, rule or regulation and to assist the Commission or any officer or servant reasonably demanding his aid for the lawful exercise of any power vesting in the Commission or in such officer or servant.

CHAPTER VIII

ADVISORY COMMITTEE, STANDARDS OF PERFORMANCE AND DISCLOSURE OF INFORMATION BY LICENSEES

41. (1) The Commission shall by notification in the *Official Gazette*, and in consultation with the State Government constitute an Advisory Committee.

Advisory
Committee.

(2) (a) The Advisory Committee shall consist of not less than five and not more than fifteen members;

(b) The constitution of the Advisory Committee shall be as follows:-

- (i) The Chairperson and members of the Commission shall be the Chairperson and members of the Committee, *ex-officio*.
 - (ii) Other members of the Committee shall be appointed by the Commission from amongst persons who are interested in the electricity industry in the State.
- (3) The Committee shall meet at least once in every three months.
- (4) The term of office of the members of the Committee shall be three years.
- (5) Subject to sub-section (3), the Committee shall meet at such times and places and observe such rules of procedure in regard to transaction of its business at its meetings as may be determined by it.
- (6) The Committee shall advise the Commission-
- (a) on questions of policy relating to electricity industry, and
 - (b) on any matter including the matter relating to quality, continuity and extent of the service of transmission, distribution or supply of electricity provided by a licensee or compliance of terms and conditions of licence by him which the Commission may refer to it for advice.

Performance of standards of supply of electricity.

42. (1) The Commission may, after consultation with the Advisory Committee, the licensees and persons likely to be affected, by an order,-

- (a) lay down-
 - (i) such standards of overall performance in connection with the transmission, distribution or supply of electricity as, in its opinion is necessary for the licensee to achieve,
 - (ii) such standards in connection with efficient use of electricity by consumers as in its opinion are necessary:

Provided that such standards, shall, so far as may be, consistent with the standards set up for the electricity industry by -

- 1 of 1948. (i) Central Electricity Authority constituted under the Electricity (Supply) Act, 1948.
- 3 of 1986. (ii) Bureau of Indian Standards established under the Bureau of Indian Standards Act, 1986,
- 4 of 1998. (iii) Central Electricity Regulatory Commission established under the Electricity Regulatory Commissions Act, 1998,

(b) specify power system operation standards and codes including grid codes and distribution and supply codes to be complied with by licensees,

(c) specify safety regulations in the use of electricity and for operation of the power system.

(2) The Commission may lay down different standards and codes for different licensees.

(3) The Commission shall publish standards, codes and regulations laid down under sub-section (1) in such form and in such manner as it thinks fit.

43. The Commission may, after consultation with the Advisory Committee, licensees supplying electricity and persons likely to be affected, specify by regulations the circumstances in which such licensees shall inform consumers of electricity of their rights in relation to supply of electricity to them and compensation to be paid by such licensees to consumers for any delay or default by such licensees in supplying electricity to the consumers.

Information on standards of performance.

44. (1) The Commission may from time to time collect information with respect to:-

Information with respect to level of performances.

(a) the fines or penalties levied on licensees under this Act;

(b) the levels of performance achieved by such licensees in connection with the transmission, distribution and supply of electricity; and

(c) the levels of performance achieved by such licensees in connection with the efficient use of electricity by consumers.

(2) For the purposes of sub-section (1) each licensee shall, on or before such date in each year as may be specified by the Commission in a direction issued in that behalf, furnish to the Commission the following information with respect to each standard laid down under clause (a) of sub-section (1) of section 42, namely:-

(a) the number of cases in which penalties are levied and the aggregate value thereof, and

(b) such information regarding the level of performance achieved by a licensee as required by the direction.

(3) The Commission may at least once in every year publish in such form and in such manner as it may deem fit such of the information collected by or furnished to it under this section as deemed fit.

Restriction on disclosure of information.

45. (1) Subject to the provisions of this Act, no information relating to business of generation, transmission or distribution and supply of electricity carried on by any person shall be disclosed by the Commission without the consent of the person so long as the business is carried on if such information-

(a) is obtained by the Commission by or under this Act, and

(b) is confidential in nature.

(2) The restriction imposed by sub-section (1) shall not apply to the disclosure of such information-

(a) in any suit, prosecution or other legal proceeding,

(b) for the purposes of the State,

(c) before any authority established by law, or

(d) in public interest, or

(e) in the annual report referred to in section 48.

CHAPTER IX

ACCOUNTS, AUDIT AND REPORTS

46. The Commission shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Commission and forward the same to the State Government. Budget of Commission.
47. (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India. Accounts and audit of Commission.
- (2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
- (4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.
48. (1) The Commission shall prepare once every year in such form and at such time as may be prescribed, an annual report including a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government. Annual report of Commission.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before the State Legislature.

CHAPTER X

ARBITRATION AND APPEALS

Arbitration by Commission.

49. (1) (a) Notwithstanding anything contained in the Arbitration and Conciliation Act, 1996, any dispute arising between licensees shall be referred to the Commission. 26 of 1996.

(b) The Commission may proceed to act as an arbitrator or nominate an arbitrator or arbitrators to adjudicate and settle such dispute.

(c) The practice and procedure to be followed in connection with any adjudication and settlement under this section shall be such as may be specified by the Commission by regulations.

(2) Where an award is made by the arbitrator appointed by the Commission, it shall be filed before the Commission and the Commission shall be entitled to pass such order as deemed fit including an order-

- (a) confirming and enforcing the award;
- (b) setting aside or modifying the award; or
- (c) remitting the award to the arbitrator for reconsideration.

(3) An award made by the Commission under sub-section (1) or an order passed by the Commission under sub-section (2) shall be deemed to be a decision or order of the Commission

(4) An award made by the Commission under sub-section (1) or an order passed by the Commission under sub-section (2) shall be enforceable as if it were a decree of a civil court.

(5) The Commission may make such interim orders as the Commission considers appropriate at any time during the pendency of the proceedings under this section.

Appeals against the orders of the Commission.

50. (1) Any person aggrieved by any decision or order of the Commission passed under this Act may file an appeal to the High Court, on question of law arising out of such decision or order.

(2) Subject to the provisions of sub-section (4), no appeal shall be entertained unless it is filed within sixty days from the date of decision or order appealed against.

(3) The High Court may admit an appeal after the period of limitation specified in sub-section (2), if the appellant satisfies the High Court that he had sufficient cause for not filing appeal within such period.

36 of 1963. (4) In computing the period of limitation the provisions of sections 4 and 12 of the Limitation Act, 1963 shall so far as may be, apply.

34 of 1959. (5) Notwithstanding anything contained in the Bombay Court Fees Act, 1959, an appeal under this section shall bear a court fee stamp of such value as may be prescribed.

51. Every order passed under this Act or the rules or regulations made thereunder by the Commission or by any officer appointed by it, shall subject to appeal under section 50, be final and shall not be called in question in any civil court. **Finality of decision of Commission.**

Explanation.- For the purposes of sections 51 and 52, the civil court means the courts subordinate to the High Court.

52. Save as otherwise provided in this Act no Civil Court shall have jurisdiction to deal with or decide any question which the Commission or any officer appointed by it is empowered to deal with or decide by or under this Act. **Bar of jurisdiction of civil court.**

CHAPTER XI

OFFENCES AND PENALTIES

53. Whoever carries on business of transmitting, distributing or supplying electricity in the State in contravention of sub-section (1) of section 19 shall on conviction be punishable with imprisonment which may extend to six months or with fine not exceeding five lakhs rupees or with both and in the case of a continuing offence with an additional fine not exceeding twenty thousand rupees for every day after the first, during which the offence continues. **Penalty for contravention of section 19.**

54. Where a licensee or any other person fails without reasonable excuse, to comply with any order, direction or requisition lawfully made or **General penal.**

given under any provision of this Act or any rule or regulation made thereunder, he shall on conviction be punishable with imprisonment which may extend to three months or with fine not exceeding two lakh rupees or with both and in the case of a continuing offence with an additional fine not exceeding ten thousand rupees for every day after the first, during which the offence continues.

Offences by
companies.

55. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section-

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm, means a partner in the firm

Cognisance of
offences.

56. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the offences under sections 53 and 54 shall be cognisable by the Metropolitan Magistrate or the Magistrate of the First Class and no such Magistrate shall take cognisance of the offence except on a complaint in writing made by an officer of the Commission generally or specially authorised in this behalf by it: 2 of 1974.

(2) Notwithstanding anything contained in section 200 of the said Code, it shall not be necessary in respect of the offences referred to in

sub-section (1), to examine the authorised officer of the Commission when the complaint is presented in writing.

57. (1) The Commission may, either before or after the institution of proceedings, for any offence punishable under section 53 or 54 except from any person charged with such offence by way of composition of the offence a sum not exceeding

Compounding of offences.

(i) five lakh rupees, where the offence charged is under section 53, and

(ii) two lakh rupees, where the offence charged is under section 54.

(2) On payment of such sum as determined by the Commission under sub-section (1), the accused person if in custody shall be set at liberty and if proceedings shall have been instituted against the accused in any criminal court, the composition shall be held to amount to an acquittal and no further proceedings shall be taken against the accused person in respect of that offence.

CHAPTER XII

MISCELLANEOUS

58. The fees, fines, charges and such other sums due to the Commission under this Act shall be recoverable as arrears of land revenue.

Recovery of fees, fines, charges, etc.

59. The Commission or the Court imposing fine under this Act may direct that the whole or any part thereof shall be applied towards payment of the costs of the proceedings.

Application of fine.

60. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

Proceedings before Commission.

Members, officers and servants of the Commission and members of Selection Committee to be public servants.

61. All members and officers and employees of the Commission and members of Selection Committee and the search committee shall when acting or purporting to act in pursuance of the provisions of this Act or any rule or regulation made thereunder, be deemed to be a public servant within the meaning of section 21 of Indian Penal Code.

XLV of

Protection of action taken in good faith.

62. No suit, prosecution or other legal proceedings shall lie against the Commission or Selection Committee or the search committee, any member, officer or employee of the Commission or Selection Committee for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or rules or regulations made thereunder.

Power of the State Government to give directions.

63. The State Government may give directions not inconsistent with the provisions of this Act to the Commission on matters of policy and of public interest including the matters relating to planning and co-ordination of the development of the electricity industry and the Commission shall comply with such directions:

Provided that the State Government shall not give any directions to the Commission in respect of fixation of tariff.

Power of State Government to make rules.

64. (1) The State Government may, by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

- (a) the salaries and allowances payable to and other conditions of service of members of Commission under sub-section (4) of section 7;
- (b) the form and manner in which and the authority before whom the oath of office and secrecy shall be subscribed by the Chairperson and members under section 8;
- (c) the period of notice of resignation to be given in writing under sub-section (3) of section 10;

- (d) the form of application for grant of sanction to engage in the business or activity of transmission, distribution or supply of electricity and the fees to be paid therefor under section 27;
- (e) the form and manner in which the information relating to establishment, acquisition, extension, or replacement of a generating station is to be furnished to the State Government under section 31;
- (f) the form in which and the time at which the Commission shall prepare its budget under section 46 ;
- (g) the form in which annual statement of accounts shall be prepared by the Commission under sub-section (1) of section 47;
- (h) the form in which and the time at which the Commission shall prepare the annual report under sub-section (1) of section 48;
- (i) the value of court fee stamp which an appeal shall bear under sub-section (5) of section 50;
- (j) any other matter which is to be, or may be, prescribed under this Act.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

65. (1) The Commission may by notification in the *Official Gazette*, make regulations not inconsistent with the Act and the rules made thereunder, for enabling it to discharge its functions under this Act.

**Power of
Commission to
make regulations**

(2) In particular, and without prejudice to the generality of the foregoing provision such regulations may provide for all or any of the following matters, namely:-

- (a) the rules of procedure to be followed by the Commission in regard to the transaction of its business at meetings under sub-section (1) of section 12;
- (b) the manner of recruitment of, the salary and allowances payable to and other conditions of service of the Secretary, officers and other employees of the Commission, under sub-section (2) of section 13 ;
- (c) the terms and conditions on which consultants may be appointed under section 14;
- (d) any other matter in respect of which the Commission shall have the powers of a civil court;
- (e) the form of application for grant of a licence and fees to be paid therefor, under sub-section (1) of section 20;
- (f) the time within which, the manner in which and the particulars with which the notice of the application shall be published under sub-clause (ii) of clause (a) of sub-section (2) of section 20 and the period not less than a month before the expiration of which objections if any, received are to be considered under proviso to sub-clause (i) of clause (b) of sub-section (2) of section 20;
- (g) the conditions to be included in a licence under clause (b) of sub-section (3) of section 20;
- (h) functions and obligations of the Board under the Electricity Act, 1910 and the Electricity (Supply) Act, 1948 to be undertaken by a licensee, under sub-clause (iv) of clause (b) of sub-section (3) of section 20 ;
- (i) the manner in which and particulars with which notice of application proposing an amendment in the licence is to be published under clause (a) of sub-section (2) of section 22;
- (j) the manner in which and particulars with which proposed amendments in licence otherwise than on application are to be published under sub-section (3) of section 22;
- (k) governing the power purchase and procurement process under clause (b) of sub-section (3) of section 25;

9 of 1910.
54 of 1948.

- (l) the conditions subject to the compliance of which exemption to any person from the requirement of a licence shall be granted under sub-section (1) of section 26 and the guidelines under sub-section (3) of the said section 26 having regard to which exemption shall be granted;
- (m) terms and conditions for fixation of tariff to be charged by the licensee under sub-section (2) of section 32;
- (n) the time at which and the manner in which the licensee shall provide the Commission the information under sub-section (6) of section 32.
- (o) imposition of fines and charges under sub-section (1) of section 39;
- (p) the circumstances in which licensees shall inform consumers of electricity of their rights in relation to supply of electricity and compensation to be paid for delay or default in supplying electricity to consumers on the part of the licensees under section 43; and
- (q) the practice and procedure to be followed in connection with adjudication and settlement under clause (c) of sub-section (1) of section 49.

(3) In making regulations under this section, the Commission may direct that a breach thereof shall be punishable with fine not exceeding five lakhs rupees and when the breach is a continuing one, with fine not exceeding twenty thousand rupees for every day during which the breach continues after conviction for first breach.

(4) All regulations made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made.

66. If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order published in the *Official Gazette*, make such provision, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made under this section after the expiry of three years from the commencement of this Act.

Amendment of
IX of 1910.

67. In the Indian Electricity Act, 1910 in its application to the State of Gujarat, in section 36, after sub-section (2), the following sub-section shall be added, namely:-

“(3) Notwithstanding anything to the contrary contained in sub-section (2) or any other provision of this Act, an appeal shall lie from the decision of the electrical inspector appointed by the State Government to the Gujarat Electricity Regulatory Commission referred to in section 3 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003.”.

Amendment of
54 of 1948.

68. In the Electricity (Supply) Act, 1948 in its application to the State of Gujarat-

(1) in section 5-

(a) for sub-section (2), the following shall be substituted, namely:-

“(2) The Board shall consist of such number of members not less than three but not more than ten as the State Government may, from time to time by notification in the *Official Gazette*, specify.”;

(b) for sub-section (5), the following sub-section shall be substituted, namely:-

“(5) The State Government may, from time to time, by notification in the *Official Gazette*, designate the members of the Board as Chairman, Vice-Chairman, Chief Executive Officer and full time members and prescribe the functions to be discharged by such members.”;

(2) in section 44-

(a) for the word “Board” wherever it occurs, the word “Commission” shall be substituted;

(b) after sub-section (2A), the following sub-section shall be inserted, namely:-

“(2B) Where the Commission is of the opinion that the grant of consent under sub-section (1) is likely to adversely affect the operation of the Power System or development of electricity industry in the State or is not in public interest, it may refuse to give consent.”.

CHAPTER XIII

EFFECT ON EXISTING CENTRAL LEGISLATION

- of 1910.
54 of 1948.
69. (1) The provisions of this Act shall have effect notwithstanding that the same are inconsistent with the provisions of the Indian Electricity Act, 1910 and the Electricity (Supply), Act, 1948, in their application to the State of Gujarat which continue to apply after the commencement of this Act. Effect of Act on IX of 1910 and 54 of 1948.
- 9 of 1910.
54 of 1948.
- (2) Notwithstanding anything contained in the Indian Electricity Act, 1910 and the Electricity (Supply) Act, 1948, in their application to the State of Gujarat, the Board and the State Government shall cease to exercise such powers and perform such functions to regulate the electricity industry in the State, which have been conferred or imposed on the Commission under this Act.
- of 1910.
- (3) (a) In respect of matters provided in sections 3 to 11, 27D and 28 of the Indian Electricity Act, 1910, in its application to the State of Gujarat (hereinafter in this sub-section referred to as “the said Central Act”) to the extent this Act has made specific provisions, the said provisions of the said Central Act shall cease to apply in the State.
- (b) Notwithstanding that the provisions of the said Central Act referred to in sub-clause (a) have ceased to apply, anything done or any action taken under the provisions which have so ceased to apply, shall be deemed to have been done or taken under the corresponding provisions of this Act and accordingly a licence granted under the ceased section 3 of the said Central Act and subsisting on the date of commencement of this Act shall be deemed to be a licence granted under section 20 of this Act and shall be valid until substituted, suspended or revoked under the provisions of this Act and a sanction given under ceased section 28 of the said Central Act shall be deemed to be a sanction granted under section 26 of this Act and shall be valid until the expiry of its period.

(c) Any reference to a "licence" or "transmission licence" in the said Central Act shall be construed as a reference to a licence granted or deemed to have been granted under this Act and a reference to "licensee" or "licence holder", or "transmission licensee" or "transmission licence holder" in the said Central Act shall be construed accordingly.

54 of 1948.

(4) (a) In respect of matters provided in sections 43A, 45 to 47, 50, 52, 56 to 59 of the Electricity (Supply) Act, 1948, in its application to the State of Gujarat (hereinafter in this sub-section referred to as "the said Central Act") to the extent this Act has made specific provisions, the said provisions of the said Central Act shall cease to apply in the State.

(b) Notwithstanding that the provisions of the said Central Act referred to in sub-clause (a) have ceased to apply, anything done or any action taken under the provisions which have ceased to apply, shall be deemed to have been done or taken under the corresponding provisions of this Act.

(c) Any reference to a "licence" or "transmission licence" in the said Central Act shall be construed as a reference to a licence granted or deemed to have been granted under this Act and a reference to "licensee" or "licence holder", or "transmission licensee" or "transmission licence holder" in the said Central Act shall be construed accordingly.

Effect of the
Act on 14 of
1998.

70. (1) The provisions of Chapters IV and V and sections 29, 30, 33, 34, 36, 39, 57, 58 and 59 of the Electricity Regulatory Commissions Act, 1998 shall cease to apply in the State (hereinafter referred to as "the ceased provisions") and on such cesser, the following consequences shall ensue, namely:-

14 of 1998.

- (i) the Commission established under the ceased provisions and functioning immediately before the date of commencement of this Act (hereinafter called "the said Commission") shall be deemed to be the Commission established under sub-section (1) of section 3,
- (ii) the Chairperson and members of the said Commission holding office immediately before the said date shall respectively be the Chairperson and the members of the Commission,

- (iii) the Chairperson and the members shall hold office as such Chairperson and members for the period for which they would have held office under the said Act, subject however to the provisions relating to disqualification, resignation, removal and vacancy provided in this Act,
- (iv) all properties, moveable and immovable and assets vesting in the said Commission shall stand transferred to and vest in the Commission,
- (v) all rights, liabilities and obligations of the said Commission (including those arising under any agreement or contract) shall be deemed to be the rights, liabilities and obligations of the Commission,
- (vi) all sums due to the said Commission shall be recoverable by the Commission, and for the purpose of such recovery, the Commission shall be competent to take such measures which were competent for the said Commission to take subject to all limitations, conditions and rights or interests of any person subsisting immediately before the said date,
- (vii) all contracts made with and all instruments executed on behalf of the said Commission shall be deemed to have been made with or by or on behalf of the Commission and shall have effect accordingly,
- (viii) all proceedings and matters pending before the said Commission or any authority of the said Commission under the ceased provisions immediately before the said date shall be deemed to be transferred to the Commission or to such authority as the Commission may direct,
- (ix) in all suits and legal proceedings pending on the said date in or to which the said Commission was a party, the Commission shall be deemed to be substituted therefor,
- (x) all officers and employees of the said Commission shall be the officers and employees of the Commission,
- (xi) any reference to the said Commission in any instrument shall unless a different intention appears be construed as a reference to the Commission.

(2) Notwithstanding the cesser of the provisions of the said Act referred to in sub-section (1) but subject to the consequences referred to in the said sub-section (1), anything done or any action taken under the ceased provisions shall be deemed to have been done or taken under the corresponding provisions of this Act.

Application of
section 7 of
Bom. I of 1904.

71. Without prejudice to the provisions contained in clause (b) of sub-section (3) of section 69, clause (b) of sub-section (4) of that section and sub-sections (1) and (2) of section 70 but subject to consequences referred to in sub-section (2) of section 70, section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the cesser provided in clause (a) of sub-section (3) of section 69, clause (a) of sub-section (4) of that section and sub-section (1) of section 70 as if such cesser were repeal.

Bom. I of
1904.

Saving.

72. (1) Notwithstanding anything contained in this Act, the powers, rights and functions of Regional Electricity Board, the Central Electricity Authority, the Central Government and Authorities, other than the State Electricity Board and the State Government under the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 or rules framed thereunder shall remain unaffected and shall continue to be in force.

9 of 1910.
54 of 1948.

(2) Nothing contained in this Act will apply to the Power Grid Corporation, or other bodies or licensees in relation to the inter-State transmission of the electricity or Generation Companies owned or controlled by Central Government or undertaking owned by the Central Government in relation to the generation and sale of electricity to licensees and other persons authorized to engage in the transmission, distribution or supply of electricity in the State.

(3) All decisions and orders of the State Commission made prior to the commencement of this Act shall be valid and binding.

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