

BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION

BAYS No. 33-36, SECTOR-4, PANCHKULA- 134112, HARYANA

Case No. HERC/PRO – 04 of 2020

DATE OF HEARING : 15.01.2020

DATE OF ORDER : 21.01.2020

IN THE MATTER OF:

Filing of Petition on behalf of DHBVN and UHBVN Seeking Review and Amendment of Regulation No 42/2019 Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy Regulations, 2019 under Regulation 5.2 and 5.4 of the said Regulations.

Petitioner

Dakshin Haryana Bijli Vitran Nigam Limited, & Uttar
Haryana Bijli Vitran Nigam Limited

PRESENT

On behalf of the Petitioner:

1. Samir Malik, Advocate
2. S.S. Rana, XEN/DHBVN

QUORUM

Shri D.S. Dhesi, Chairman
Shri Pravindra Singh, Member
Shri Naresh Sardana, Member

Order

1) Brief Background of the Case

The Petitioner has submitted that:

- 1.1** The present petition has been filed jointly by Dakshin Haryana Bijli Vitran Nigam (“DHBVN”) and Uttar Haryana Bijli Vitran Nigam (“UHBVN”) seeking review and suitable amendment of the Regulation No. 42/2019 (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2019 (“2019 Regulations”) under Regulation 5.2 and 5.4 of the said Regulations.
- 1.2** On 29.07.2016, this Hon’ble Commission notified the Regulation No. 37/2016 i.e. Haryana Electricity Regulatory Commission (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2016 (“2016 Regulations”) in exercise of the powers conferred on the Hon’ble Commission by Section 181 read with sub-sections (5) to (8) of Section 42 of the Electricity Act, 2003.
- 1.3** On 29.03.2019, this Hon’ble Commission notified the Haryana Electricity Regulatory Commission (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2019 and repealed the 2016 Regulations.
- 1.4** At the outset it is submitted that the changes have been made in the 2016 Regulations without giving sufficient reasons and justifications for the said amendments.
- 1.5** The present Petition is being filed jointly by the Haryana DISCOMS for seeking review and amendment of certain provisions of the 2019 Regulations which are elaborated here in below:

1.51Re: Regulation 2.5 - Appointment of Members of Consumer Grievances Redressal Forum

- a) It is submitted that the Regulation 2.5 of the 2016 Regulation has been considerably amended by the Hon'ble Commission in the 2019 Regulations. Regulation 2.5 of the 2016 Regulation allowed the Licensee per se to appoint the Chairperson and one of the members of the Consumer Grievances Redressal Forum ("Forum"/ "CGRF") whereas the other member who was supposed to be an independent member was to be appointed by the Commission. Regulation 2.5 of the 2016 Regulation is reiterated below:

"Each forum shall consist of one Chairperson and two Members. The Chairperson would be a technical person, one Member would be a person from finance/accounts, and another would be an independent Member. The Chairperson and Member shall be appointed by the licensee while the independent Member shall be appointed by the Commission."

- b) It is submitted that the Regulation 2.5 of the 2019 Regulation mandates that each Forum shall consist of one Chairperson and two Members in the following manner:
- i. Chairperson would be a technical person;
 - ii. One Member would be a person from finance/accounts, and
 - iii. One Member would be a legal/ consumers advocacy Member.
- c) The Regulation 2.5 of the 2019 Regulation further stipulates the following two conditions for the appointment of the Chairperson and the Members:
- i. One of the members who is familiar with the consumer affairs will be nominated by the Hon'ble Commission.
 - ii. The Chairperson and Members shall be appointed by the licensee after being selected by the selection committee constituted as per Regulation 2.11. It is relevant to state that as per Regulation 2.11 the Selection Committee comprises of the Commission, Managing Director of the licensee and the Electricity Ombudsman and it shall be headed by Chairperson of the Commission.
- d) The relevant Regulation 2.5 and 2.11 of the 2019 Regulation is reiterated below for ease of reference:

"2.5 The Consumer Grievances Redressal Forum shall consist of officers of the licensee. The Commission shall nominate one member who is familiar with the consumer affairs. Each forum shall consist of one Chairperson and two Members. The Chairperson would be a technical person, one Member would be a person from finance/accounts, and another would be a legal/ consumers advocacy Member. The Chairperson and Members shall be appointed by the licensee after being selected by the selection committee constituted as per Regulation 2.11.

...

2.11 Selection committee for persons to be appointed as Chairperson and Members of the Forum.

- a. A selection committee comprising of the Commission, Managing Director of the licensee and the Electricity Ombudsman shall select the employees of licensee to be appointed as Chairperson and/or Members of the Forum. The Committee shall be headed by Chairperson of the Commission.
- b. Member of CGRF, not in employment of the licensee, shall be selected by a committee comprising of the Commission and the Electricity Ombudsman. The Committee shall be headed by Chairperson of the Commission"

c. It emanates from the amended Regulation 2.5 of the 2019 Regulation that the prerogative of the licensee in appointing the members of the Forum have been completely jeopardized by taking away the autonomy of the licensee in appointing the members of the Forum. In this regard, it is pertinent to state that as per Section 42 (5) of Electricity Act 2003 (“Act”), establishment of CGRF is the sole prerogative of the distribution licensee which also involves selection of Chairperson and the respective members of CGRF under the guidelines framed by the Hon’ble Commission. Section 42 (5) of the Act is reiterated below:

“Every distribution licensee shall, within six months from the appointed date or date of grant of license, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.”

- d. It is submitted that guidelines as referred to in Section 42 (5) can define selection criteria and process to be followed but cannot take away prerogative of any entity i.e. selection of the members. It is submitted that the Regulation 2.5 of the 2016 Regulations was in line with the intent of Section 42 (5) of the Act as it provided for selection of the members by the licensee and one independent member by the Commission.
- e. It is further submitted that Regulation 2.5 of the 2019 Regulation further lacks clarity and creates confusion in so far as it stipulates that “The Commission shall nominate one member who is familiar with the consumer affairs”. However it does not clarify whether the nominated member is for selection committee or CGRF.
- f. It is further submitted that Regulation 2.5 of the 2019 Regulation does not provide for appointment of an independent member unlike the 2016 Regulations. Rather regulation 2.5 of 2019 Regulations specifically states that “The Consumer Grievances Redressal Forum shall consist of officers of the licensee”. Despite the same, Regulation 2.11 of 2019 Regulations stipulates to the contrary that “Member of CGRF, not in employment of the licensee, shall be selected by a committee comprising of the Commission and the Electricity Ombudsman”.
- g. Likewise Regulation 2.7 (b),(c), Regulation 2.8, 2.9, 2.18 of the 2019 Regulations also lay down the qualification and selection process and remuneration respectively in respect of appointment of person not being in service of the licensee.

“Regulation 2.8 of 2019 Regulations

The CGRF Chairperson and Members shall be selected/ appointed through proper advertisement in the press and website by the Licensee and also through circulation among the officers of the Licensee. The age of the persons, not being in service of the licensee, to be considered for appointment shall be minimum 45 but not more than 62 years and shall not hold office after attaining the age of sixty five years. The Chairperson and members shall have tenure of three years, and shall be eligible for extension for another term.

Regulation 2.9 of 2019 Regulations

Undertaking: The person applying for the post of Member, not being an employee of the licensee, shall furnish an undertaking along with his application to the effect that:-

- (i) No criminal case is pending against him;
- (ii) No charge sheet has been filed against him in any competent court relating to any crime.
- (iii) He has not been convicted for any such offence by any competent court.

Medical Examination: The selected person shall have to get his Medical Examination conducted from Civil Surgeon concerned before joining the duties.

Regulation 2.18 of 2019 Regulations

The Members who are not in service of the licensee shall be paid remuneration, allowances and other benefits equivalent to those paid to a Superintending Engineer of the Licensee in accordance with the provisions contained in civil services rules as applicable to the employees of the State of Haryana. He shall, however, not be entitled to any pension or any other retiral benefits for his service as member of CGRF”

h. Hence, in view of the above stated facts and submissions, it is submitted that earlier Regulation 2.5 of the 2016 Regulation was more appropriate. The present Regulations specifically the above-stated clauses are ambiguous and ought to be reviewed and amended.

1.52 Re: Regulation 2.7(b) - Qualifications of the Members of the Forum

a) A comparison of Regulation 2.7 (b) of the 2016 and the 2019 Regulations is stated below:

2016 Regulations	2019 Regulations
<p><u>Regulation 2.7(b)</u> Member: The person shall be an officer of the licensee possessing post Graduate degree with Ist Division in Commerce/Chartered Accountant/ ICWA/MBA (Finance)/LL.B. with at least 15 years of experience in licensee’s Accounts or Finance or Audit Wing or Legal Wing and holding a post equivalent to Superintending Engineer.</p> <p><u>Regulation 2.7(c)</u> Independent Member: The person shall be a person of ability, integrity and standing with degree in Law with first Division or LLB (Hons) with 2nd Division, Income Tax payer for last five years and having <u>7 years Advocate experience</u> out of which <u>adequate number of cases</u> that prove his knowledge of ‘Advocacy of Electricity matters/Consumer Affairs’. The condition of ‘First Division’ can be relaxed for candidates having <u>20 years’ or more experience</u>. In addition, he should have studied upto 10+2 level any of the subjects out of Commerce/Economics/Science.</p> <p>Or</p> <p>The person shall be a person of ability, integrity and standing having graduated with Ist Division and a representative of a registered society/ NGO/consumer organization having one of the objectives as consumer protection with at least 10 years of standing or alternatively the representing member should have <u>15 years experience in consumer related matters</u>. In addition, he should have studied upto 10+2 level any of the subjects out of Commerce/ Economics/Science. Provided that, a person applying for the post of Independent Member of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum</p>	<p><u>Regulation 2.7(b)</u> Member: The person shall be either an officer of the licensee possessing post Graduate degree with Ist Division in Commerce/Chartered Accountant/ ICWA/MBA (Finance) with at least 15 years of experience in licensee’s Accounts or Finance or Audit Wing and holding a post equivalent to Superintending Engineer <u>ora person possessing the qualifications of Chartered Accountant/ ICWA with at least 25 years of experience in dealing with matters of Finance/ accounts/ audit.</u></p> <p><u>Regulation 2.7(c)</u> Consumer Advocacy Member: a person holding a degree in Law with first Division or LLB (Hons) with 2nd Division, Income Tax payer for last five years and having <u>15 years Advocate experience</u> and with <u>adequate number of cases</u> that prove his knowledge of “Advocacy of Electricity matters/Consumer Affairs”. The condition of ‘First Division’ can be relaxed for candidates having <u>25 years’ or more experience</u>. In addition, he should have studied upto 10+2 level any of the subjects out of Commerce/Economics/Science.</p> <p>Or</p> <p>A representative of a registered society/ NGO/consumer organization having one of its objectives as consumer protection with atleast 10 years of standing or alternatively the representing member should have <u>25 years experience in consumer related matters</u>. In addition, he should have graduated with Ist Division and should have studied upto 10+2 level any of the subjects out of Commerce/ Economics/Science.</p>

2016 Regulations	2019 Regulations
period of three years prior to being appointed Independent Member of the Forum.	<u>Provided that, a person applying for the post of Member of the Forum and not being in service of the licensee, shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three years prior to being appointed Consumer Advocacy Member / finance Member of the Forum.</u>

- b) At the outset, it is submitted that the qualifications of the members as highlighted in the table above have been made more stringent in the 2019 Regulations without any reasonable justification.
- c) It is further submitted that requirement of a person possessing the qualifications of Chartered Accountant/ ICWA with at least 25 years of experience in dealing with matters of Finance/ accounts/ audit in Regulation 2.7 (b) of the 2019 Regulations is in contradiction to Regulation 2.5 of the 2019 Regulations as stated above which stipulates that Forum shall consist of officers of the Licensee. It is submitted that the use of the word “Shall” in Regulation 2.5 of the 2019 Regulations denotes that it is mandatory that the Forum should consist of officers of the Licensee only.
- d) As stated above, Regulation 2.7 (c) of the 2019 Regulations is also in contradiction to Regulation 2.5 of the 2019 Regulations as no employee of licensee can have Advocate Experience. Likewise, the condition of qualification given after “or” and proviso mentioned in Regulation 2.7(c)of the 2019 Regulations are also contradictory to the Regulation 2.5of the 2019 Regulations as it states that “a person applying for the post of Member of the Forum and not being in service of the licensee, shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three years prior to being appointed Consumer Advocacy Member / finance Member of the Forum”.
- e) It is further submitted that there is no clarity regarding the phrase “Adequate Number of Cases” used in Regulation 2.7 (c) of the 2016 as well as 2019 Regulations and the same has been left completely open for subjective interpretation. The Commission ought to have clarified this ambiguity in the amended Regulations.

1.53 Re: Regulation 2.14–Removal of Chairperson/ Members

- a) It is submitted that the Regulation 2.15 of the 2016 Regulations stipulates that “no Chairperson/ Member shall be removed from his/ her office on any ground specified in the aforesaid sub-clauses unless the licensee has held an independent inquiry”.
- b) However ,the amended Regulation 2.14 of the 2019 Regulations states that “no Chairperson/ Member shall be removed from his/ her office on any ground specified in the aforesaid sub-clauses unless the appointing authority has held an independent inquiry in accordance with such procedure as directed by the Commission”. In this regard it is submitted that appointing authority is not a defined term in the 2019 Regulations and apparently it has been used only in this Regulation. Hence there is lack of clarity as to who is the appointing authority. Further, there is no procedure provided under the instant Regulations for holding such inquiry. Therefore, it is submitted that such open-ended clause ought to be reviewed and clarified by the Commission.
- c) It is submitted that the earlier Regulation 2.15 of the 2016 Regulations is clearer and more unambiguous and should be retained.

1.54 Re: Regulation 2.56 – Omission of role of higher authorities of licensee in ensuring compliances

- a) It is submitted that the amended Regulation 2.56 of the 2019 Regulations has omitted the role of higher authorities of the licensee in ensuring compliances of the orders of the Forum. It is submitted that this will unnecessarily burden the Hon'ble Commission for matters which can be resolved or complied with by interference of the higher authorities of the licensee.
- b) Hence, in this regard, it is submitted that the earlier Regulation 2.57 of the 2016 Regulations was more appropriate as it provided for the non-compliance matters to be taken up with higher authorities of the licensee prior to approaching the Hon'ble Commission with the issue of non-compliance.

1.6 In view of the forgoing facts and circumstances and also in the larger interest of the various stakeholders in the system, it is submitted that the above-stated provisions of the 2019 Regulations are required to be reviewed and suitably amended considering the disparity in the said provisions as elaborated in the forgoing paragraphs.

**RE: REGULATION 5.2 AND 5.4 OF THE 2019 REGULATIONS:-
POWER TO REMOVE DIFFICULTIES AND POWER TO VARY,
ALTER, SUSPEND, MODIFY, AMEND OR REPEAL ANY
PROVISIONS OF THESE REGULATIONS AFTER FOLLOWING
THE DUE PROCESS**

1.7 It is submitted that this Hon'ble Commission is empowered under Regulation 5.4 of the 2019 Regulations to vary, alter, suspend, modify, amend or repeal any provisions of these Regulations after following the due process. Further Regulation 5.2 also allows the Hon'ble Commission to remove difficulties and provide appropriate interpretation to an ambiguous or contradictory provision. Hence, it is submitted that the Hon'ble Commission has the jurisdiction to pass appropriate orders under the said Regulations in the instant Petition.

1.8 That the Petitioner herein has not moved any other Petition before this Hon'ble Commission for the relief as prayed for in the present Petition on any earlier occasion.

1.9 The present Petition is filed bonafide and in the interest of justice.

2) In view of above, the Petitioners have prayed as follows:

“

- a) *Admit the instant Petition;*
- b) *Review and suitable amend the provisions of Regulation No. 42/2019 (Guidelines for establishment of Forum for Redressal of Grievances of the Consumers, Electricity Ombudsman and Consumer Advocacy) Regulations, 2019 to the extent prayed in the petition above;*
- c) *Allow the Petitioner to modify and amend the Petition at a later stage if required,*
- d) *Pass any other order as this Hon'ble Commission may deem fit.”*

3) Commission's Analysis and Order:-

3.1 The petitioner has challenged Haryana Electricity Regulatory Commission Regulations (Guidelines for Establishment of Forum of Redressal of Grievances of the Consumer, Electricity Ombudsman and Consumer Advocacy) Regulation, 2019. It has been submitted that changes have been made in Regulation, 2016 without giving sufficient reasons for the said amendment and the petitioner has sought review of amendment of the

certain provisions of 2019 Regulations primarily on the ground that prerogative of the DISCOMs to appoint members to the Forum has been taken away while notifying the Regulations 2019.

- 3.2 The hearing of the case was fixed for 15.01.2020. The petitioners were heard at length and the petitioners reiterated the stand taken in the petition.
- 3.3 The matter was deliberated by the Commission. Certain objections raised by the petitioners were found to be noteworthy. The state of affairs of the Forum was deliberated by the Commission and it was decided that in order to make the Forum more effective, a fresh look is needed.
- 3.4 As per Section 42 (5) of Electricity Act, every distribution licensee shall establish a Forum for redressal of grievances of consumers in accordance with the guidelines as specified by the state Commission. Further, as per sub Section (6), any consumer, who is aggrieved by non-redressal of his grievances under sub Section (5) may make a representation for redressal of his grievances to an authority to be known as Ombudsman to be appointed or designated by State Commission.
- 3.5 A plain reading of Section 42 (5) gives a clear mandate to the Commission to specify guidelines for the DISCOMs to establish a Forum. Therefore, arguments put-forth by the petitioners that it is the prerogative of the DISCOMs to appoint Members to the Forum is without any merit. The establishment of the Forum is the responsibility of the DISCOMs as per Electricity Act, 2003, however, the same is to be established as per guidelines issued by the HERC from time to time.
- 3.6 Reference to Rule 7 of the Electricity Rules, 2005 would be helpful to make the things clear. Electricity Rule 7 states as under: -

“7. Consumer Redressal Forum and Ombudsman. –

(1) The distribution licensee shall establish a forum for redressal of grievances of consumers under sub-section (5) of section 42 which shall consist of officers of the licensee. The appropriate Commission shall nominate one independent member who is familiar with the Consumer affairs:

Provided that the manner of appointment and the qualification and experience of the persons to be appointed as member of the Forum and the procedure of dealing with the grievances of the consumers by the Forum and other similar matters would be as per the guidelines specified by the Commission.

(2) The Ombudsman to be appointed or designated by the State Commission under sub-section (6) of section 42 of the Act shall be such person as the State Commission may decide from time to time.

(3) The Ombudsman shall consider the representations of the consumers consistent with the provisions of the Act, the Rules and Regulations made hereunder or general orders or directions given by the Appropriate Government or the Appropriate Commission in this regard before settling their grievances.

(4) (a) The Ombudsman shall prepare a report on a six-monthly basis giving details of the nature of the grievances of the consumer dealt by the ombudsman, the response of the Licensees in the redressal of the grievances and the opinion of the ombudsman on the Licensee’s compliance of the standards of performance as specified by the Commission under section 57 of the Act during the preceding six months.

(b) The report under sub-clause (a) above shall be forwarded to the State Commission and the State Government within 45 days after the end of the relevant period of six months.”

- 3.7 A plain reading of Rule 7 mandates that one independent Member, who is familiar with the Consumer Forum, shall be nominated by the appropriate Commission and that the Forum for redressal of grievances of the

consumers shall consist of the officers of the Licensee along with independent member nominated by the Commission. However, the manner of appointment and the qualification and experience of the persons to be appointed as Members of the Forum is to be prescribed by the Commission. Therefore, the submissions made by the petitioners that the qualification so prescribed in 2019 Regulations are stringent does not hold any merit.

- 3.8 It was submitted by the petitioners that there are some inconsistencies in the Regulations 2019 vis-a-vis Electricity Act and certain provisions are ambiguous for interpretation and requested to clarify the ambiguities in Amended Regulations, 2019.
- 3.9 The Commission has also studied working of various redressal Forums in different states and it has been found that the Redressal Forum of few other States are working quite satisfactorily in helping the consumers, whereas, the Redressal Forum as has been established in the State of Haryana is not up to the mark and needs complete overhauling.
- 3.10 After analysing the guidelines framed by Regulatory Commissions, the Redressal Forum as established by the DISCOMs of Haryana, the Commission is of the view that certain directions are necessary for working of the Redressal Forum. It has been found that as far as Redressal Forum established at Hisar is concerned, the majority of the complaints are being received from Gurugram and Faridabad. The Commission deems it appropriate that the Consumer Redressal Forum for DHBVNL should be established at Gurugram for convenience of the consumers of DISCOMs at large.
- 3.11 The Commission acceding to the request of the petitioner has decided to amend the Regulations as appended at Annexure-A. In view of the above-mentioned discussions, the petition is disposed of in the above-mentioned terms. The amended Regulations be sent for notification.

This Order is signed, dated and issued by the Haryana Electricity Regulatory Commission on 21.01.2020.

Date: 21.01.2020 **(Naresh Sardana)** **(Pravindra Singh)** **(D.S. Dhesi)**
Place: Panchkula **Member** **Member** **Chairman**

THE HARYANA ELECTRICITY REGULATORY COMMISSION

Notification

The 20th January, 2020

No.HERC/_____/2020- In exercise of the powers conferred under Section 181 and other provisions of the Electricity Act, 2003 (36 of 2003) and all other powers enabling the Commission in that behalf, the Haryana Electricity Regulatory Commission hereby makes the following Regulations providing for guidelines to the Licensees for establishment of Forum for Redressal of Grievances of the consumers ; for appointment of Ombudsman; for representation against non-redressal of grievances of consumers and the time and manner of settlement of grievances by Ombudsman and for matters incidental and ancillary thereto:-

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- 1.1 These Regulations may be called the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020.
- 1.2 These Regulations shall be applicable to all distribution licensees including a deemed licensee under the Act.
- 1.3 These Regulations shall extend to the whole of the State of Haryana.
- 1.4 These Regulations shall come into force on the date of their publication in the official gazette.

DEFINITIONS

- 1.5 In these Regulations, unless the context otherwise requires:-
 - (a) "Act" means the Electricity Act, 2003;
 - (b) "Chairperson" and "Member" shall mean the Chairperson and Member of the Forum respectively and unless the context otherwise requires, the expression 'Member' shall also include the Chairperson;
 - (c) "Commission" means the Haryana Electricity Regulatory Commission;
 - (d) "Complainant" means & includes any of the following who have a grievance as defined in these regulations and makes a complaint;
 - (i) a consumer as defined under sub-section 15 of section 2 of the Act;
 - (ii) any consumers association registered under any law for the time being in force;
 - (iii) any un-registered association or group of consumers where the consumers have common or similar interest;
 - (iv) in case of death of a consumer, his legal heirs or authorized representative;
 - (v) any other person claiming through or authorized by or acting as agent for the consumer and affected by the service or business carried out by the distribution licensee;
 - (vi) an applicant for a new electricity connection.
 - (e) "complaint" means any grievance in writing made by a complainant that :
 - (i) an unfair trade practice or a restrictive trade practice has been adopted by the licensee in providing electricity service;
 - (ii) the electricity services hired or availed of or agreed to be hired or availed of by him suffer from defect or deficiency in any respect;
 - (iii) a licensee has charged for electricity services mentioned in the complaint, a price in excess of the price fixed by the Commission;
 - (iv) electricity services which are hazardous to life and safety when availed, are being offered for use to the public in contravention of the provisions of any law for the time being in force or of any licence;
 - (v) violation has occurred of any law or licence requiring the licensee to display the information in regard to the manner or effect of use of the electrical services; or

- (vi) breach has occurred of any obligation by the licensee which adversely affects any consumer or which the Forum may consider appropriate to be treated as a complaint.
 - (f) “consumer” for the purpose of these Regulations shall be a consumer as defined under sub-section (15) of Section 2 of the Act and shall also include a person applying for new connection;
 - (g) “consumer grievance” means & includes any complaint relating to any fault, imperfection, short coming, defect or deficiency in the quality, nature and manner of service or performance in pursuance of a licence, contract, agreement or under Electricity Supply Code or in relation to Standards of Performance specified by the Commission including payment of compensation or billing disputes of any nature or recovery of charges by the licensee and matters relating to the safety of the distribution system having potential of endangering the life or property. However, the matters pertaining to Open Access granted under the Act and Section 126, 127, 135 to 140, 142, 143, 146, 152 and 161 of the Act shall not form grievance under these regulations.;
 - (h) “distribution licensee” or “licensee” means one who is authorised to operate and maintain a distribution system for supplying electricity to the consumers;
 - (i) “defect” means any fault, imperfection or shortcoming in the quality, quantity, or standard of service, equipment or material which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or under any licence or as is claimed by the distribution licensee in any manner whatsoever in relation to electricity service;
 - (j) “deficiency” means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or under any licence or has been undertaken to be performed by distribution licensee in pursuance of a contract or otherwise in relation to electricity service or performance standard; viz interruption/ failure of power supply, voltage complaints, metering problems including meter shifting, charges /payments (billing problems), disconnection/reconnection of power supply to the consumer, release of new connections / extension or reduction in load / demand, notice of supply interruptions, violations of Electricity Supply Code, contravention of Act, Rules or Regulations made thereunder with regard to consumer interest;
 - (k) In particular and without prejudice to the generality of the term the “electricity service” means supply, billing, metering and maintenance of electrical energy to the consumer and all other attendant sub-services etc;
 - (l) “Forum” means ‘Forum for redressal of grievances of consumers’ constituted by distribution licensee under sub-section (5) of Section 42 of the Act;
 - (m) “Government” means Government of Haryana;
 - (n) “Ombudsman” means an authority appointed / designated by the Commission, under sub-section (6) of Section 42 of the Act;
- 1.6 Words and expressions used and not defined in these Regulations but defined in the Electricity Act, 2003 (36 of 2003) shall have the same meanings as assigned to them in the Act.

CHAPTER II
FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS

Number, Location & Settings

- 2.1 Every distribution licensee shall establish at least one Forum for redressal of grievances of consumers within six months of coming into force of these regulations or date of grant of license in accordance with the guidelines laid under these regulations.
- 2.2 The number of Fora, their locations and areas of jurisdiction may be altered by the Commission keeping in view the public convenience and the work load of each Forum.
- 2.3 While deciding the number of Fora, their location and areas of jurisdiction, it may be ensured that at least one sitting of the Forum is ensured in each circle in a month and all grievances are redressed within the time limit specified under these regulations.

Appointment and other Terms & Conditions of service

- 2.4 Each Forum shall consist of 3 Members including Chairperson of the Forum. The Chairperson shall be appointed/nominated by the Commission and other two members shall be appointed by the licensee as specified under these regulations. Provided that in the case distribution licensee has less than one lac consumers in its area of supply, the Forum shall consist of one member only.
- 2.5 The members including Chairperson of the Forum to be appointed/nominated shall meet the following criteria:
 - (i) **Chairperson:**

One independent member who is familiar with the consumer affairs shall be appointed/nominated by the Commission & discharge the functions of the Chairperson of the Forum. The person should be a retired senior electrical engineer not below the rank of Chief Engineer having experience of distribution in electricity. The Commission shall invite applications for the post of Chairperson through advertisement in leading Newspapers. Provided further that the Chairperson shall have working knowledge of Hindi.

Provided also that the Chairperson shall not take any assignment for providing any consultancy services to any licensee or a consumer or any person during his period of appointment in the Forum.
 - (ii) One Technical Member shall be appointed by the licensee in consultation with the Commission from amongst its serving officers. He should possess a degree in electrical engineering with at least 15 years' experience in distribution of electricity and working on post of Executive Engineer or above.
 - (iii) One member shall be appointed by the licensee in consultation with the Commission from amongst its serving officers having at least 15 years' experience in Finance & Accounts or Revenue matters and working on a post of Senior Accounts Officer or above.
 - (iv) The age limit for occupying the post of Chairperson shall be 65 years.
 - (v) For appointment of two members mentioned at Sr. No. (ii) & (iii) above, the Distribution licensee shall submit a panel of three serving officers for each post of member with proven record of integrity who have at least 2 years service left before superannuation to the Commission. After considering the qualification, experience and ability of the officer, proposed for each post by the distribution licensee, the Commission shall approve the name of each member for appointment by the licensee. After its approval, the licensee shall appoint the members.
- 2.6 No person shall be appointed and/or be entitled to continue as a member if he/she stands disqualified on account of his/her:
 - a) Having been adjudged an insolvent;

- b) Having been convicted of an offence which, in the opinion of the licensee, involves moral turpitude;
 - c) Having become physically or mentally incapable of acting as such a member;
 - d) Having acquired such financial or other interest as is likely to affect prejudicially his/her functions as a member;
 - e) Having so abused his/her position as to render his/her continuance
 - f) in office prejudicial to public interest; or
 - g) Having been guilty of proved misbehaviour.
- 2.7 An existing member shall be liable to be removed from his office forthwith on account of any of the aforesaid disqualifications arising or being discovered.
Provided that no member shall be removed from his/her office on any ground specified in the aforesaid sub-clauses unless the licensee has held an independent inquiry in accordance with such procedure as directed by the Commission.
- 2.8 The licensee shall ensure that no post of a member in the Forum remains vacant for a period exceeding 30 days. Provided that in case the licensee is unable to fill up the vacant post(s) within a period of one month, the Commission may, at the request of the licensee grant such additional time, as it deems fit, to the licensee for the purpose of filling of such vacancy.
- 2.9 Every member of the Forum shall hold office for a period of two years. The tenure of a member may be extended by the licensee with the approval of the Commission for a further period of one year.
Provided that the tenure of Chairperson may be extended by the Commission for a further period of one year subject to maximum age limit of 65 years.
Provided further that no serving officer of the licensee performing the duties of Member of the Forum shall continue after retirement from the service of the licensee.
Provided also that in case the licensee requires to transfer the serving officer working as member in the Forum before the expiry of 2 years tenure due to administrative exigencies, prior approval of the Commission shall be sought.
- 2.10 All members shall work full time and shall be provided with suitable office accommodation along with supporting staff by the licensee. The Chairperson and other members shall be entitled to all office paraphernalia as is admissible to officers of the equal rank working with the distribution licensee.
- 2.11 The Chairperson shall have the general powers of superintendence and control over the Forum.
- 2.12 No act or proceeding of the Forum shall be deemed to be invalid by reason only of some defect in the constitution of the Forum or by reason of the existence of a vacancy among its members.

Remuneration

- 2.13 The remuneration including any honorarium & allowances payable to the members including Chairperson shall be such as may be approved by the Commission. Chairperson shall be paid fixed salary of Rs. 75000/- P.M.
Provided that the terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms & conditions of his/her employment with the licensee and shall continue to draw same salary as he/she is entitled as a regular employee of the licensee.

General

- 2.14 The licensee shall appoint/designate one of its officers not lower than the rank of Grade-II officer as full time Secretary to the Forum and shall also

- provide required supporting staff and office accommodation etc. for functioning of the Forum.
- 2.15 The office expenditure of the Forum will be considered by the Commission while working out the revenue requirement of the Licensee and will be allowed as a pass-through expense.
 - 2.16 In case the Chairperson of the Forum is unable to discharge the functions owing to absence, illness or any other cause, the Technical Member who is an officer of the Licensee shall discharge the functions of the Chairperson, until the day on which the Chairperson assumes office.
 - 2.17 No adjournment shall ordinarily be granted by the Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum.
 - 2.18 All decisions of the Forum shall be taken on the basis of majority of the Members present and voting. The quorum for the Forum meeting shall be two and each Member shall have one vote. In case of equality of votes on any issue or resolution, the Chairperson or the Member discharging the functions of the Chairperson and presiding over the meeting shall, in addition, have a casting vote.
 - 2.19 The Forum shall ordinarily hold its sittings at its headquarters. However, sittings may also be held at other prominent places by the Forum within its jurisdiction for public convenience.
 - 2.20 The Forum shall comply with such general directions or order as the Commission may issue from time to time in the interest of efficient and effective redressal of grievances in a timely and expeditious manner.
 - 2.21 The licensee shall give wide publicity to the formation of the Forum and the address of the Forum shall be displayed at all the offices of the distribution licensee to facilitate easy registration of grievances by consumers.

Consumer's right to approach

- 2.22 For expeditious resolution of the complaint of a complainant at the local level, the Commission may approve a procedure namely "Consumer Complaint Handling Procedure" [in short CCHP] which shall perform such functions and shall have such jurisdiction as may be approved by the Commission.
Provided that the complainant shall have the right to approach the Forum directly in respect of matters falling under the jurisdiction of the Forum.
Provided further that the Commission may dispense with the "Consumer Complaint Handling Procedure" or amend it without any notice in case the continuation of such procedure is found to be detrimental to the interests of the consumers or the licensee.
- 2.23 Any complainant aggrieved by non-redressal of his grievance within the time period specified by the Commission or is not satisfied with the redressal of the complaint by the licensee and/or under the Consumer Complaint Handling Procedure, as the case may be, may himself or through his authorized representative, approach the Forum in writing for the redressal of his grievance.

Jurisdiction

- 2.24 The Forum shall have the jurisdiction to entertain all the monetary/non-monetary complaints/grievance filed by the complainants or to take up the matter suo-moto with respect to the electricity services provided by the distribution licensee if the same fulfils the requirements specified in sub-regulation (e) read with subregulation (g) of Regulation 1.5 or against the decision of a Dispute Settlement Committee constituted under CCHP.
- 2.25 The Forum shall entertain only those complaints where the representation is made within 2 years from the date of cause of action in case the complainant approaches the Forum directly or within 2 months from the

date of receipt of the orders of respective Dispute Settlement Committee constituted under CCHP.

Provided that the Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements.

- 2.26 In case a complainant approaches the Forum directly for redressal of his monetary dispute under first proviso to regulation 2.22 above, the consumer shall be required to deposit following amount (inclusive of amount already deposited on this account), with the Licensee, in cash or cheque (subject to realization) or through demand draft payable at the headquarters of the concerned sub-division, pending disposal of any dispute between the complainant and the Licensee and attach a copy of the receipt with the complaint:

a) Disputed current electricity bill amount (covered under Reg.6.10 of Supply Code): payment as per Regulation 6.10.1 of Supply Code, 2014 Regulations, as amended from time to time.

b) Cases Other than that covered under (a) above: 20% of the disputed amount other than the current bill amount.

Provided that in case the consumer is unable to make payment as specified above, the Chairperson of the Forum shall be competent to fix the amount to be deposited before consideration of the grievance by the Forum.

- 2.27 The Forum may reject the grievance at any stage, through a speaking order, under the following circumstances:

a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;

b) In cases which fall under Sections 126, 127, 135 to 140, 142, 143, 146, 152 and 161 of the Act or the matters relating to open access granted under the Act.

c) In cases where the grievance has been submitted two years after the date on which the cause of action has arisen or after two months from the date of receipt of the orders of DSC; and

d) In the case of grievances which are:

- Frivolous, vexatious, mala fide;
- Without any sufficient cause; or
- Where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected unless the Complainant has been given an opportunity of being heard.

Grievance filing

- 2.28 Every grievance to the Forum must be submitted in writing to the Forum stating-

(a) the name of the individual or the organization, complete postal address, telephone number, fax number and the E-mail address (if any) of the complainant;

(b) the name of licensee's office viz. sub-division, division or circle office to which the grievance pertains ;

(c) a full description of the matter, which is the source of the grievance, including copies of any relevant and supporting documents, if any;

(d) the relief prayed for ;

(e) that the matter is not pending before any other court, authority or forum.

- 2.29 A copy of response, if any, from the licensee shall be enclosed.

- 2.30 The Forum may seek additional information and details from the complainant(s).

- 2.31 The Forum may receive complaints through e-mail or facsimile mode and also during its sittings at places other than its headquarters subject to fulfillment of such requirements as the Forum may consider appropriate.
- 2.32 The grievances shall be prioritized for redressal based on the following priority order:
- a) Non-Supply
 - b) Connection
 - c) Disconnection of supply
 - d) Meter-related issues
 - e) Billing-related issues
 - f) Other issues viz deficiency in service &/or performance &/or safety norms etc.
- 2.33 In case of grievances related to non-supply, connection or disconnection of supply, the Forum shall pass the order within 15 days of filing of the grievance.
- Provided also that in the event of grievance being disposed of after the maximum period specified above, the Forum should record in writing, the reasons for the same at the time of disposing the said grievance and inform the Ombudsman.

Grievance handling procedure

- 2.34 On receipt of the consumer grievance, the Secretary to the Forum shall make an endorsement on the grievance subscribing his dated initial.
- 2.35 Consumer grievances received shall be registered and serially numbered for each year, and shall be referred e.g. C.G. No. 1/2005, 1/2006 and so on. Within 3 working days of receipt of a consumer grievance, the Secretary to the Forum shall send an acknowledgement to the applicant showing serial number and date of receipt of the complaint/grievance. He shall also be responsible to inform the complainant of the status of his complaint in the Forum in case of inquiry by the complainant in this regard.
- 2.36 A copy of the grievance shall be forwarded simultaneously to the concerned officer of the licensee for redressal or to file objection, if any, in writing in case the licensee is not agreeable to the request of the complainant.
- 2.37 The employee nominated/authorized in this regard by the licensee or the employee named in the complaint shall furnish the parawise comments on the grievance within 10 days from the date of receipt of the letter from the Forum, failing which the Forum shall proceed on the basis of the material available on record.
- 2.38 In addition to the record of the concerned Dispute Settlement Committee (if applicable), the Forum may call for further information or record from the Licensee or the complainant that it considers relevant for examination and disposal of the grievance and the parties shall be under obligation to provide such information or record as the Forum may call for. The concerned party will send the same to the Forum within 7 days of receipt of its requisition. Where a party fails to provide such information, document or record within the stipulated time and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.
- 2.39 On receipt of the comments from the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, as far as possible, within 45 days of filing the complaint. The complaint/grievance by senior citizens, physically challenged or person suffering from serious ailments shall be disposed of on priority. However, the order in case of grievance relating to nonsupply, connection or disconnection of supply shall be issued by the Forum within 15 days of the filing of the grievance.

- 2.40 The Forum may direct the Licensee to undertake an inspection with regard to the grievance, as may be required for expeditious redressal. The Forum may also engage a third party (other than the licensee) at the instance and request of the Complainant, to undertake inspection and obtain an independent report. The Forum shall record the reasons for the need for such third-party inspection, which should generally be resorted to rarely and keeping in view the special circumstances of a case.
The expenses of such third-party inspection shall be payable by the Complainant and got deposited in advance.
- 2.41 The decisions of the Forum will be recorded duly supported by reasons. The Order of the Forum will be communicated to the complainant, Licensee and the concerned Dispute Settlement Committee, if applicable, in writing within 7 days of the passing of the Order. The Licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the Licensee, may extend the period for compliance of its order up to a maximum of three months.
In case of non-compliance of the Order of the Forum or that of a Dispute Settlement Committee, the aggrieved consumer may approach the Commission who will provide the consumer as well as the Licensee an opportunity of being heard. The Commission may initiate proceedings under section 142 of the Act for violation of the Regulations framed by the Commission.
- 2.42 The Forum may, subject to the Electricity Supply Code and Related Matters Regulations made by the Commission in this regard, award such compensation to the complainants as it considers just and appropriate in the circumstances of the case. Provided that the interest payable on recoverable/ refundable amount if any, by either party shall be at SBI Base Rate prevalent on 1st of April of the relevant year plus 2%.
- 2.43 Where the complainant or the licensee fails to appear before the Forum on the date fixed for hearing on more than two occasions, the Forum may decide the complaint ex-parte.
- 2.44 The Forum may evolve procedure conforming to the principles of fair play and justice for efficient discharge of its functions. It shall also follow the guidelines, if any, given by the Commission regarding the procedure to be adopted by it for handling the complaints.
- 2.45 Any complainant aggrieved by orders of the Forum may prefer a representation before the Ombudsman appointed / designated by the Commission.

Special Provision: Interim Order:

- 2.46 Upon request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary including but not restricted to grant of temporary injunction to stay or prevent or restrain such act as the Forum thinks fit.
Provided that the Forum shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Forum that prima facie, the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that the Forum has jurisdiction on such matter. Provided further that, except where it appears that the object of passing such the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.
Provided also that where any injunction has been granted by the Forum without notice to the opposite party, the Forum shall make efforts to finally

dispose of the application within 30 days from the date on which the injunction was granted.

Provided also that any interim order may be reviewed/set aside by the Forum on an application made by any party if it is found that the complainant has made a false or misleading statement.

Reasoned Orders

2.47 Every order made by the Forum shall be a speaking order and signed by the Members conducting the proceedings. Where the Members differ on any point or points, the opinion of the majority shall be the order of the Forum. The opinion of the minority shall, however, be recorded and form part of the order.

Provided that every order shall indicate clearly that the complainant may approach the Ombudsman in case he/she is not satisfied with the order of the Forum.

Escalation Mechanism

2.48 A Complainant may prefer a representation before the Ombudsman appointed/designated by the Commission under sub-section (6) of section 42 of the Act, under the following two circumstances:

- a) if the Complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified, and
- b) if the Complainant is aggrieved with the orders passed by the Forum.

2.49 Such a representation may be made within 30 days from the date of receipt of the order of the Forum or expiration of 30 days after the time limit specified for issuance of the order, whichever is applicable.

2.50 The Forum may settle any grievance in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such an order.

Inspection of records and supply of certified copies

2.51 The consumer and the licensee may obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Forum in respect of the complaint.

2.52 Any person may obtain copy of the orders of the Forum subject to payment of such fee and after complying with such other terms, which the Forum may specify.

Monitoring of the consumer grievances

2.53 The Forum will keep a record of consumer grievances submitted to it and the decisions thereof and make available such records for inspection of the Commission as and when required.

2.54 The Forum shall submit a quarterly report on the number of grievances received, redressed and pending, within 15 days of the close of each quarter to the Commission with a copy to the distribution licensee.

CHAPTER III

REDRESSAL OF GRIEVANCES BY OMBUDSMAN

Qualifications, Terms of Appointment and Removal of Ombudsman

- 3.1 In accordance with sub-section (6) of section 42 of the Act, the Commission shall designate or appoint a person to be known as Ombudsman to carry out the functions entrusted to him under sub-section (7) of section 42 of the Act and these Regulations. The Commission may appoint more than one Ombudsman for a licensee, if deemed necessary or one Ombudsman for more than one licensee.
- 3.2 The Ombudsman shall be a person of ability, integrity and standing who has adequate knowledge of, and has shown capacity in dealing with problems relating to engineering, finance, commerce, economics, law or management. The person should be a retired civil service officer not below the rank of Secretary to State Government or a retired senior judicial officer/district judge or a retired Chief Engineer or above having experience in distribution of electricity for at least 15 years.
- 3.3 The appointment of the Ombudsman shall be for a period of two years which may be extended by the Commission by one year subject to age limit of 65 years.
- 3.4 The Ombudsman appointed under clause 3.2 shall devote his whole time to the affairs of his office. He shall not undertake any other part-time or honorary work.
- 3.5 The Ombudsman shall be paid fixed remuneration of Rs. 80,000/- P.M. or as may be determined by the Commission from time to time. Ombudsman shall also be entitled to office facilities, casual leave/ extra ordinary leave & TA/DA as admissible to Grade-1 officers of State Government.
- 3.6 The Ombudsman shall, before entering upon his office, make and subscribe to an oath in such manner and before such authority as the Commission may direct.
- 3.7 No person shall be appointed as Ombudsman or continue in his appointment as such if he suffers from any of the disqualifications mentioned in clause 3.8 below.
- 3.8 The Commission may, by an order, remove from office the Ombudsman if he –
- (i) has been adjudged an insolvent;
 - (ii) has been convicted of an offence involving moral turpitude;
 - (iii) has become physically or mentally incapable of acting as such;
 - (iv) has acquired such financial or other interest as is likely to effect prejudicially his functions as Ombudsman;
 - (v) has so abused his position as to render his continuance in office prejudicial to the public interest;
 - (vi) has been guilty of proved misbehaviour.
- 3.9 The Ombudsman shall be liable to be removed from his office in the event of any of the disqualifications mentioned in clause 3.8 above arising or being discovered:
Provided that the Ombudsman shall be removed from office on any ground specified in sub-clause (iv), (v) and (vi) of regulation 3.8 above only after an inquiry is held by any Member or nominee of the Commission and the person concerned is given due opportunity to explain his position.
- 3.10 The Commission shall invite applications through public advertisement for appointment of the Ombudsman.

Location of office and temporary headquarters

- 3.11 The office of the Ombudsman shall be located at such place as may be specified by the Commission. In order to expedite disposal of complaints,

the Ombudsman may hold sittings at such other places within his area of jurisdiction as he may consider necessary.

Staff

3.12 The Commission shall direct the distribution licensee to make available such staff for the Ombudsman as the Commission considers necessary and the licensee shall promptly comply with such direction/order. The staff so provided for the Ombudsman shall work under his administrative control.

Provided that the Commission may authorize the Ombudsman to fill up any of the approved posts by engaging suitable person(s), purely on contract basis.

Expenses

3.13 Without prejudice to any other arrangement, the salary and allowances to be paid to the Ombudsman and to the staff and all other expenses to be incurred in connection with his office and establishment shall be borne by the distribution licensee(s). All such expenditure shall be treated as part of the revenue requirement of the licensee and allowed as a pass-through expense.

3.14 The Ombudsman shall prepare an annual budget and the Commission will approve and intimate the same to the Licensee. The Ombudsman will exercise powers of expenditure within the budget so approved.

The Commission may however, arrange to pay these expenses to the Ombudsman through a separate head of account and, in turn, recover the same from the Licensee(s). The share of the expenditure to be borne by each Licensee will be decided by the Commission.

Powers and duties

3.15 The Ombudsman shall consider the representation of the consumers consistent with the provisions of the Act, Rules & Regulations made thereunder or general orders or directions given by the Commission in this regard before settling their grievances. He shall have the following powers / duties:-

- (i) - to receive the representations from complainants aggrieved by any order of the Forum;
-to exercise all the powers as are available to a Forum under these Regulations ; and
-such other powers as may be entrusted by the Commission from time to time.
- (ii) To exercise general powers of superintendence, control over his office and conduct of business of the office.
- (iii) To suggest to the Commission on matters pertaining to redressal of grievances of the consumers.

Filing of representation

3.16 Any complainant, aggrieved by orders of the Forum may himself or through his authorized representative make a representation in writing including through email or facsimile mode to the Ombudsman. The representation of the complainant shall be acknowledged within 3 days of its receipt clearly indicating the date of receipt & unique case number assigned to it.

3.17 The representation shall state clearly:

- (i) the name/s and address of the consumer/s, service connection number, category, the name of the licensee's office, against which the representation is made, the facts giving rise to the representation, the grounds thereof, the relief sought from the Ombudsman.
- (ii) the name of the Forum, date of order or decision of the Forum, as the case may be, along with a copy thereof.

3.18 No representation to the Ombudsman shall lie unless:

- (i) The consumer had, before making a representation to the Ombudsman approached the Forum constituted under sub-section (5) of Section 42 of the Act, for redressal of his grievance;
- (ii) The representation is made within one month from the date of receipt of the order of the Forum:
Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the complainant that he/she had reasons for not filing the representation within the aforesaid period of one month.
- (iii) The person filing the representation makes a deposit of 40% (forty per cent) of the amount assessed by the Forum (inclusive of amount already deposited on this account), with the Licensee, in cash or through demand draft payable at the headquarters of the concerned sub-division and submit documentary evidence of such deposit.
- (iv) The representation by the Complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority.
- (v) The Ombudsman may reject the representation at any stage if it appears to him that the representation is:
 - a) Frivolous, vexatious, malafide;
 - b) Without any sufficient cause'
 - c) There is no prima facie loss or damage or inconvenience caused to the Complainant;

Provided that the decision of the Ombudsman in this regard shall be final and binding on the Complainant and the Distribution Licensee.

Provided further that no representation shall be rejected in respect of subclauses (a), (b) and (c) unless the Complainant has been given an opportunity of being heard.

Hearing of Representation

- 3.19 The Ombudsman shall, within seven days of registration of a representation, call for the relevant record from the concerned Forum which will forward such record within seven days from the date of receipt of notice from the Ombudsman.
- 3.20 The Ombudsman may, at the same time, also call for a written statement/parawise comments of the Licensee on the representation. The Licensee will furnish the written statement/parawise comments within fifteen days from the date of receipt of such letter. Any other document required and called for by the Ombudsman will also be furnished by the Licensee/ consumer within the stipulated period.
In case the Licensee fails to furnish the written statement/parawise comments within the stipulated period, the Ombudsman may impose costs as are considered reasonable and sufficient subject to a maximum of Rs. 15,000/-. The concerned consumer may also be liable for similar action in the event of failure to furnish any additional document called for by the Ombudsman.
- 3.21 The Ombudsman may hear the parties and may direct the parties to submit written statements of submissions in the matter.
- 3.22 No adjournment shall ordinarily be granted by the Ombudsman unless sufficient cause is show and the reasons for grant of adjournment have been recorded in writing by the Ombudsman.

Special Provision: Interim Order:

- 3.23 Upon request of the Complainant, the Ombudsman may issue such interim orders pending final disposal of the grievance as it may consider necessary including but not restricted to grant of temporary injunction to stay or prevent or restrain such act as the Ombudsman thinks fit.
Provided that the Ombudsman shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may

consider appropriate if the Complainant satisfies the Ombudsman that prima facie, the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that the Ombudsman has jurisdiction on such matter.

Provided further that, except where it appears that the object of passing such the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

Provided also that where any injunction has been granted by the Ombudsman without notice to the opposite party, the Forum shall make efforts to finally dispose of the application within 30 days from the date on which the injunction was granted.

Provided also that any interim order may be reviewed/set aside by the Ombudsman on an application made by any party if it is found that the complainant has made a false or misleading statement.

Reasoned Orders

- 3.24 The Ombudsman shall pass a speaking order giving reasons for all his findings and award. While making an order, the Ombudsman shall be guided by the provisions of the Act, rules and regulations framed under the Act, guidelines, directions & orders of the Commission issued from time to time and such other factors which are necessary in the interest of justice. The Ombudsman shall also decide regarding interest payable by either party on excess or short deposits made by the complainant.
- 3.25 The Ombudsman will pass an award as early as possible but in any case, within 60 days from the date of receipt of a representation. The complaint/grievance by senior citizens, physically challenged or person suffering from serious ailments shall be disposed of on priority. Where there is delay in disposal of a representation, the Ombudsman will record reasons for such delay. Copies of the Ombudsman's award/Order will be sent to the parties and the Forum.
- 3.26 The Licensee will comply with the award/Order within 15 days of the date of receipt. Non-compliance of the award/ Order within the stipulated period shall be treated a violation of these Regulations and liable for appropriate action by the Commission under the provisions of the Act. Such violation, if any, may be brought to the notice of the Ombudsman by the consumer. The Ombudsman will provide the consumer as well as the Licensee an opportunity of being heard and send a report to the Commission within 30 days of the date of such hearing. On consideration of the report of the Ombudsman, the Commission will take further action including that under Section 142 of the Act as it may deem fit.
- 3.27 The Ombudsman may evolve a procedure conforming to the principles of fair play and justice for efficient discharge of its functions. The Ombudsman will also follow the guidelines, if any, given by the Commission from time to time regarding the procedure to be adopted for handling consumer complaints.

Finality of award

- 3.28 No party can file an appeal before the Commission against the order passed by the Ombudsman. However, this is without prejudice to the rights of the complainant and the licensee to seek appropriate remedy against the order passed by the Ombudsman before appropriate bodies.

Powers to call information

- 3.29 For the purpose of carrying out his duties, Ombudsman shall have the same powers to call for records or information as are available to the Forum under Regulation 2.37.

Reporting Requirements

- 3.30 The Ombudsman shall prepare a report on a six monthly basis giving details of the nature of the grievances of the consumers dealt by the Ombudsman, the response of the licensees in the redressal of the grievances and the opinion of the Ombudsman on the licensee's compliance of the standards of performance as specified by the Commission under Section 57 of the Act during the preceding six months.
- 3.31 The report under sub-clause (a) above shall be forwarded to the Commission and the Government within 45 days after the end of the relevant period of six months.
- 3.32 The Commission may, if it considers necessary in the public interest so to do, publish the reports of the Ombudsman in such consolidated form or otherwise as it deems fit.

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CHAPTER IV

MISCELLANEOUS PROVISIONS

General

- 4.1 The Commission may by order provide for or clarify any matter on which no provision is made in these Regulations or the provision made is insufficient.
- 4.2 The Forum and Ombudsman shall exercise such other powers as the Commission may, by order, delegate from time to time.
- 4.3 Chairperson and Members of the Forum, the Secretary and the staff thereof, the Ombudsman and the staff thereof, when purporting to act under any provision of the Electricity Act, 2003 or under any provision of these Regulations or directions or orders issued thereunder shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 and Section 2 of the Prevention of Corruption Act, 1988.
- 4.4 Subject to these Regulations, the Forum and the Ombudsman shall be guided by the principles of natural justice and shall have powers to regulate their own procedure.

Removal of difficulties

- 4.5 If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by an order, make such provision, not being inconsistent with the Act and these Regulations, which appears to the Commission to be necessary for removal of the difficulties.

Power to relax

- 4.6 The Commission may by general or special order, for reasons to be recorded in writing and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations of its own or on an application made before it by an interested person.

Inherent powers of the Commission

- 4.7 Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent powers of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of process envisaged in these Regulations.

Repeal and Savings

- 4.8 Save as otherwise provided, these Regulations shall supersede the Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2004 and read with all amendments thereto.
- 4.9 Notwithstanding sub-regulation 4.8 above, the provisions of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2004 as amended from time to time, shall continue to apply to all proceedings pending under it before the Forum or the Ombudsman as if the said Regulations have not been superseded.
- 4.10 Anything done or any action taken or purported to have been done or taken including any appointment made, or any document or instrument executed or any direction given under the repealed regulations, shall, in so far as it is not inconsistent with the provisions of these Regulations, be deemed to have been done, taken, made or given under the corresponding provisions of these Regulations;
- 4.11 The Forum for Redressal of Grievances of Consumers constituted under HERC (Forum and Ombudsman) Regulations, 2004, as amended from time to time, shall continue to perform its duties till it is reconstituted under HERC (Forum and Ombudsman) Regulations, 2020 and other Forum(s), as may be decided by the Commission, are constituted and made

functional by the licensee. Thereafter, the pending grievances shall be transferred to respective Forum according to its territorial jurisdiction as may be decided by the Commission.

- 4.12 All appointments (other than of serving officers of the distribution licensee) made before the commencement of these regulations shall continue to be governed by the terms and conditions under which such appointment has been made till the expiry of the present term.
- 4.13 Nothing contained in these regulations shall affect the rights and privileges of the consumers under any other law for the time being in force.

Secretary
Haryana Electricity Regulatory Commission

