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### BIHAR ELECTRICITY REGULATORY COMMISSION Consumer Grievance Redressal Forum and Electricity Ombudsman Regulations

#### NOTIFICATION The 20th May 2006

No. BERC-Regulation-3/2006-192-In exercise of powers conferred on it by Section 181 read with sub-section (5), (6) and (7) of Section 42 of the Electricity Act 2003 (Act 36 of 2003 ) and all other powers enabling it in this behalf, the Bihar Electricity Regulatory Commission makes the following regulations:

#### CHAPTER- I GENERAL

##### 1. Short title, extent and commencement

- (1) These Regulations may be called the "Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2006".
- (2) These Regulations shall extend to the whole State of Bihar.
- (3) These Regulations shall come into force on the date of their publication in the official gazette.

##### 2. Definitions

- (1) In these regulations, unless the context otherwise requires,
  - (a) 'Act' means the Electricity Act, 2003 (36 of 2003);
  - (b) 'Area of supply' means the area within which a distribution licensee is authorized by his/her/their licence to supply electricity;

- (c) 'Chairperson' and 'Member' means the Chairperson and Member of the Forum;
- (d) 'Commission' means the Bihar Electricity Regulatory Commission;
- (e) 'Complainant' means-
  - (i) a consumer of electricity supplied by the licensee including applicants for new connections;
  - (ii) any voluntary consumer association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force;
  - (iii) The Central Government or any State Government – who or which makes the complaint;
  - (iv) one or more consumers, where there are numerous consumers having the same interest;
  - (v) in case of death of a consumer, his legal heirs or representatives.
- (f) 'Complaint' means any grievance made by a complainant in writing on: -
  - (i) defect or deficiency in electricity supply or service provided by the licensee;
  - (ii) unfair or restrictive trade practices of licensee in providing electricity services;
  - (iii) charging of a price in excess of the price fixed by the Commission for supply of electricity and allied services;
  - (iv) errors in billing;
  - (v) erroneous disconnection of supply;
  - (vi) electricity services which are unsafe or hazardous to public life in contravention of the provisions of any law or rule in force; or
  - (vii) any other grievance connected with the supply of electricity by the licensee to the consumers except grievances arising under Sections 126, 135 to 139, 143, 152 and 161 of the Act. :
- (g) 'Consumer' means any person who is supplied with electricity for his own use by a licensee and includes any person whose premises are connected for the purpose of receiving electricity with the works of a licensee or a person whose electricity supply is disconnected by a licensee or the person who has applied for connection for receiving electricity from a licensee, as the case may be;
- (h) 'Defect' means any fault, imperfection or shortcoming in the quality, quantity, purity 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 as is claimed, by the distribution licensee in any manner whatsoever in relation to electricity service;
- (i) '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 has been undertaken to be performed by distribution licensee in pursuance of a contract agreement or otherwise in relation to electricity

service or performance standard, violations of Electricity Supply Code, contraventions of Act, rules or regulations made there under with regard to consumer interest;

(j) 'Distribution system' means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station terminal in the absence of transmission lines and the point of connection to the installation of the consumers;

(k) 'Electricity Ombudsman' means an authority to be appointed or designated by the Commission, under sub-section (6) of Section 42 of the Act and these Regulations.

(l) 'Electricity Service' means in particular and without prejudice to the generality of the term, electricity supply, metering, billing, maintenance of supply, maintenance of distribution system and all other attendant sub service, etc;

(m) 'Forum' means 'Forum for redressal of grievances of consumers' to be constituted by the distribution licensee in terms of sub-section (5) of Section 42 of the Act and these Regulations.

(n) 'Licensee' means a distribution licensee authorized to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply and shall include the deemed distribution licensee under the provisions to Section 42 of the Act.

(2) Words and expressions used and not defined in these Regulations but defined in the Electricity Act, 2003 (36 of 2003) or the Consumer Protection Act, 1986 (68 of 1986) shall have the meanings respectively assigned to them in these Acts.

## **CHAPTER - II**

### **CONSUMER GRIEVANCE REDRESSAL FORUM**

#### **3. Constitution of the Forum**

(1) Every existing distribution licensee, including the deemed licensee shall not later than two months from the date of publication of these Regulations and any new licensee within six months from the grant of distribution licence, establish a Forum for redressal of grievances of the consumers in accordance with these Regulations.

(2) A licensee shall establish such number of Forums so as to ensure that the Forum decides on every complaint within a maximum period of 60 days from the date of receipt of complaint by it. The concentration of the consumers in a particular area and the number of complaints expected to be received and the constraints of the Forum in disposing of the complaint within the stipulated time frame shall be taken into account to determine the places and the number of Forums to be established. The licensee shall clearly state the location and the jurisdiction of each Forum in case of more than one Forum.

(3) The Forum shall consist of three Members including Chairperson to be appointed by the distribution licensee with the following composition :

(a) The Chairperson and one Member of the Forum shall be person retired from the services of the distribution licensee in the grade not below Superintending Engineer or equivalent and shall be person of ability, integrity and standing who have adequate knowledge and

have shown capacity in dealing with problems relating to electrical engineering, finance, law, commerce, economics or management. They shall devote their whole time for the Forum's work and not undertake any other part time or honorary work.

Provided when the Chairperson is unable to discharge the functions due to illness or any other cause the Member at sub-clause (a) shall discharge the functions of the Chairperson in his absence.

(b) The Commission shall nominate one independent member, who is familiar with the consumer affairs, shall be person of ability, integrity and understanding having adequate knowledge and have shown capacity in dealing problems relating to electrical, engineering, finance, law, commerce, economics or management. He/she shall devote full time in the work of the Forum and would not undertake any other part time work including honorary work.

Provided that the manner of appointment and qualification and experience of the person 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.

- (4) The Members of the Forum shall be appointed for a term of three years or till he/she attains the age of 65 years whichever is earlier, and shall not be eligible for reappointment.
- (5) A Member of the Forum shall not be replaced by the licensee during the tenure of three years, except with the prior approval of the Commission.
- (6) Notwithstanding anything contained in Regulations 3(3) and 3(4), the Commission may at any time direct the licensee to substitute a Member of the Forum with another person, as per the composition and qualification provided in Regulation 3(3), if in the opinion of the Commission such substitution is necessary for the proper discharge of the functions of the Forum.
- (7) On occurrence of any vacancy in the Forum for any reason, the licensee shall take action to fill up the vacancy within 30 days from the date of occurrence of the vacancy. No act or proceeding of the Forum shall be deemed 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.
- (8) The quorum for the Forum meeting shall be two amongst the three Members including chairperson and each Member shall have one vote.
- (9) The salary or honorarium and other allowances payable to and other terms and conditions of service of the Members & supporting staff shall be determined by the distribution licensee with the approval by the Commission.
- (10) The fund, office space, secretarial support and other facilities required by Members for efficient functioning of the Forum shall be provided by the distribution licensee.
- (11) The headquarters of the Forum(s) shall be at such place(s) as the distribution licensee may specify in accordance with the provisions of Regulation 3(2).

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1. The earlier provisions of Regulation 3(b) has been amended vide Extraordinary Bihar Gazette Notification No. Patna 451 dt. 22<sup>nd</sup> May 2007.

2. The provisions of Regulation 3(7), 3(8) and 3(9) have been added vide Extraordinary Bihar Gazette Notification No. Patna 451 dt. 22nd May 2007

(12) The Forum shall have sittings at the headquarters and/or at any other place in the licensee's area as may be decided by the Chairperson depending upon the number of grievances and area of operation.

#### **4. Jurisdiction of the Forum**

Subject to the other provisions of these Regulations, the Forum shall have jurisdiction to entertain the complaints within the entire area of the distribution licensee. If there is more than one Forum in the same licensee area, then the area of jurisdiction may be decided by the licensee in accordance with Regulation 3(2).

#### **5. Kinds of Grievances that can be taken up by the Forum**

The Forum shall take up any kind of grievances/complaints as defined in Regulation 2(1)(f).

#### **6. Licensee's obligations**

- (1) The licensee shall give wide publicity of the existence of the Forum. The names of the Forum Members, its officials, their address, telephone and facsimile numbers, email address, etc. of the Forum shall be displayed at all the offices of the licensee and shall also be duly publicized, including in the electricity bills raised on the consumers.
- (2) The electricity bills issued by the licensee to the consumers shall contain the address of the concerned Consumer Grievance Redressal Forum and the statement '**Complainants whose grievance is not redressed by the official of the licensee may approach the Consumer Grievance Redressal Forum**', shall be printed on the bills.
- (3) The licensee shall make available copies of the procedure for lodging complaints to the complainants free of cost. These forms shall be displayed at all the offices of the licensee and shall also be duly publicized.

#### **7. Grievance Filing Procedure**

Every grievance to the Forum shall be submitted in writing. The complaint can also be lodged through e-mail to the e-mail address of the Forum subject to fulfillment of such requirement as the Forum may consider appropriate.

#### **8. Grievance Handling Procedure for the Forum**

- (1) On receipt of the complaint from any complainant, the Chairperson shall make endorsement on the complaint subscribing his dated initial. Complaints received shall be registered and serially numbered for each year.
- (2) Within seven days of receipt of a complaint, the Forum shall send an acknowledgement to the complainant. If the petition is anonymous, the same shall be rejected on receipt and placed before the Forum in the next available opportunity for recording the same.
- (3) On receipt of the complaint, the Forum shall determine admissibility of the complaint within 10 days from the date of receipt and in case the complaint is found to be without substance, then on its rejection with reasoned order the complainant shall be informed accordingly. Where a complaint is found admissible, the Forum shall proceed with the complaint in the manner provided under these Regulations.

- (4) The Forum shall forward a copy of such complaint to the nodal officer of the concerned licensee for redressal or to file objection in writing, if the licensee is not agreeable to the request of the complainant.
- (5) The licensee shall furnish the para-wise comments on the grievance within 15 days of receipt of the letter from the Forum, failing which the Forum shall proceed on the basis of the material available on record. The complainant can represent himself or through a representative of his choice. Where the complainant or his representative fails to appear on the date of hearing before the Forum, the Forum may either dismiss the complaint for default or decide it on merits.
- (6) The Forum shall be entitled to call for any record of the licensee and also from the complainant in respect of the grievance received by the Forum for examination and disposal of the grievance.
- (7) On receipt of the comments from the licensee or otherwise, the Forum shall complete enquiry as expeditiously as possible and every endeavour shall be made to pass appropriate order on the complaint within a maximum period of **60 days** from the date of receipt of complaint by the Forum.
- (8) All decisions shall be taken by a majority of votes by the Members present and voting. In the event of the equality of the votes, the facts and opinion, may be recorded by each Member and referred to the Electricity Ombudsman for final orders.

All the Members present shall sign every order passed by the Forum.

- (9) The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The order of the Forum along with time frame for compliance shall be communicated to the complainant and licensee in writing within 7 days.
- (10) The licensee shall implement the decisions of the Forum within the timeframe specified in the order and report compliance to the Forum within 5 days of the implementation of the order.
- (11) The Forum may issue such interim orders pending final disposal of the complaint as it may consider necessary.
- (12) The Commission shall have the general powers of superintendence and control over the Forum and the Forum shall duly comply with such directions as the Commission may issue from time to time.

#### **9. Representation before Electricity Ombudsman against the order made by the Forum**

- (1) Any consumer aggrieved by an order made by the Forum may prefer representation against such order or in case where the Forum has failed to redress the grievance within the specified period, to the Electricity Ombudsman in such form and manner as may be specified.
- (2) A representation may be preferred against an order of the Forum within a period of 30 days from the date of the order.

(3) The Electricity Ombudsman may entertain an appeal after expiry of the specified period if it is specified that there was sufficient cause for not filing it within such period. The Electricity Ombudsman shall record the reason in writing.

## CHAPTER - III

### ELECTRICITY OMBUDSMAN

#### **10. Appointment of Electricity Ombudsman**

The Commission shall designate or appoint a person to be known as Electricity Ombudsman to carry out the functions entrusted to him by the Act and these Regulations. The Commission may appoint or designate more than one Electricity Ombudsman for a licensee or a common Electricity Ombudsman for two or more licensees.

#### **11. Qualification and Terms of Appointment**

- (1) The Electricity Ombudsman shall be selected by the Commission from amongst persons who have experience and exposure in any of areas of law, engineering, economics, finance, commerce, public administration or consumer affairs.
- (2) The Electricity Ombudsman appointed / designated shall be a person of ability, integrity, conversant with the working of electricity sector.
- (3) The Electricity Ombudsman shall be appointed/designated for a term not exceeding three years or till he/she attains the age of 65 years, whichever is earlier and shall not be eligible for reappointment.

Notwithstanding anything contained in sub-clause (1) above, Electricity Ombudsman may—

- (a) relinquish his/her office by giving in writing to the Commission a notice of not less than three months; or
- (b) be removed from his/her office in accordance with Regulation (16) of these Regulations.
- (4) A person after ceasing to hold office of Electricity Ombudsman as such shall not accept any commercial employment or represent any person before the Commission or any authority for a period of two years from the date he/she ceases to hold such office.
- (5) The Electricity Ombudsman appointed under Regulation (11) shall devote his/her whole time to the affairs of his/her office. He/she shall not undertake any other part time or honorary work.

#### **12 Location of Office and Jurisdiction**

- (1) The office(s) of the Electricity Ombudsman(s) will be located at such places(s) as may be specified by the Commission. In order to expedite disposal of complaints, the Electricity Ombudsman may hold sittings at such places within his area of jurisdiction as may be considered necessary and proper by him in respect of a complaint or reference, as the case may be, before him.
- (2) The territorial limits of Electricity Ombudsman extend to the whole of the State of Bihar. In case Commission appoints more than one Ombudsman, the Commission shall specify the territorial limits.

**13. Remuneration**

The Electricity Ombudsman shall be paid a consolidated/salary and such other allowances as determined by the Commission, by order, from time to time.

**14. Secretariat**

The Commission shall provide to the Electricity Ombudsman a secretariat and such staff as it considers necessary. Without prejudice to any arrangement that may be made, the Commission may also direct the distribution licensee(s) to make available such staff for the Electricity Ombudsman as it considers necessary and licensee shall promptly comply with such order/direction.

**15. Power and Duties of Electricity Ombudsman**

The Electricity Ombudsman shall have the following powers and duties:

- (1) To receive the representations against the order of the Forum and consider such representation and facilitate their satisfaction or settlement by agreement through conciliation and mediation between the licensee and complainant or by passing an award by a reasoned order in accordance with the Act and these Regulations;
- (2) Shall exercise general powers of superintendence and control over his office and assume responsibility for the conduct of business thereat;
- (3) Such other functions as the Commission may, by order, decides/directs from time to time.

**16. Removal of Electricity Ombudsman**

No person shall be appointed and/or be entitled to continue as Electricity Ombudsman if he stands disqualified on account of his:

- (1) having been adjudged an insolvent;
- (2) having been convicted of an offence involving moral turpitude;
- (3) having become physically or mentally or otherwise incapable of acting as an Ombudsman;
- (4) having acquired such financial or other interest as is likely to affect prejudicially his function as an Ombudsman;
- (5) having abused his position as to render his continuance in office prejudicial to the public interest;
- (6) having been guilty of proved misbehaviour;
- (7) having become a member of a political party.

**17. Procedure for Making Representation to the Electricity Ombudsman**

- (1) Any consumer aggrieved by an order or non redressal of grievance by the Forum, may himself/herself or through his/her authorized representative make a representation in writing in the form specified duly signed to the Electricity Ombudsman exercising jurisdiction over the distribution licensee.
- (2) The representation shall state clearly:
  - (a) The name(s) and address of the consumer(s), service connection number, category, the name of the local licensees' office, against which the representation is made, the facts

giving rise to the representation, the grounds thereof, the relief sought from the Electricity Ombudsman;

(b) The name of the Forum, date of order or decision of the Forum shall, as the case may be, mentioned in or attached with the representation;

(3) No representation to the Electricity Ombudsman shall lie:

- (a) Unless the complainant has made a written representation in the prescribed form to the Forum;
- (b) Unless the complainant is aggrieved on account of his complaint being not redressed by the Forum within the period and manner specified in these Regulations;
- (c) Unless the representation against an order of the Forum was made within the period specified in Regulation (9) (2) and is not in respect of the same subject matter that has been settled by the Electricity Ombudsman in any previous proceedings;
- (d) In cases where a representation for the same grievance by the complainant is pending in any proceedings before any court, tribunal or 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.
- (e) The person filing the representation deposits an amount equal to one third of the amount assessed by the Forum in cash or by way of bank draft with the licensee and documentary evidence of such deposit is enclosed with the representation.

#### **18. Rejection of the Complaint**

The Electricity Ombudsman may reject the representation at any stage if it appears to him/her that the representation made is:

- (a) Frivolous, vexatious, malifide; or
- (b) Without any sufficient cause; or
- (c) That it is not pursued by the complainant with reasonable diligence; or
- (d) Prima facie, there is no loss or damage or inconvenience caused to the complainant.

#### **19. Redressal of Grievance by the Electricity Ombudsman**

- (1) The representation admitted by the Electricity Ombudsman shall be disposed of **within a period of three months from the date of receipt of the representation**. Provided that in the event of the representation being disposed of after the completion of the said period of three months, the Electricity Ombudsman shall record, in writing, the reasons for the same;
- (2) The Electricity Ombudsman, within seven days of admission, shall call for records relating to the representation from the concerned Forum. The concerned Forum shall send the entire records within 7 days from the date of receipt of such notice to the office of the Electricity Ombudsman.
- (3) The representation shall be disposed of either through settlement by agreement or through proceedings held by the Electricity Ombudsman after hearing the parties;
- (4) The Electricity Ombudsman shall be guided by such factors, which in the opinion of the

Ombudsman are necessary in the interest of justice, and shall ensure transparency while exercising its powers and discharging its functions;

**20. Powers to Call Information**

For the purpose of carrying out his duties, the Electricity Ombudsman may require the licensee named in the complaint or any of his officers to furnish certified copies of any document relating to the subject matter of the complaint, which is or is alleged to be in his possession, within 15 days. Provided that in the event of failure of a licensee to comply with the requisition without any sufficient cause, the Electricity Ombudsman may, if he deems fit, draw the inference that the information, if provided, or copies if furnished, would be unfavourable to the licensee and proceed to settle the case on the basis of material available on record.

**21. Settlement of Representation by Agreement**

- (1) As soon as it may be practicable to do, the Electricity Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to the concerned office of the licensee named in the complaint and endeavour to promote a settlement of the complaint by agreement between the complainant and the licensee through conciliation or mediation.
- (2) For the purpose of facilitating settlement of the representation, the Electricity Ombudsman may follow such procedures, as he/she may consider appropriate.
- (3) When a complaint is settled through mediation of the Electricity Ombudsman in pursuance of request made in writing by complainant and licensee through mutual agreement, the Electricity Ombudsman shall make a recommendation, which he thinks fair in the circumstances of the case. The copies of the recommendation shall be sent to the complainant and the licensee concerned. Such recommendation shall be made not later than 30 days from the date of the receipt of the complaint.
- (4) The Electricity Ombudsman shall send to the licensee a copy of the recommendation along with the acceptance letter received from the complainant. The licensee thereupon comply with the terms of the recommendations immediately not later than 21 days of the receipt of such recommendation and the licensee shall inform the Electricity Ombudsman of its compliance.

**22. Hearing of the Matter and Award**

- (1) Where the representation is not settled by agreement, within a period of 30 days, the Electricity Ombudsman may determine the stage, the manner, the place, the date and the time of the hearing of the matter as he/she considers appropriate.
- (2) The Electricity Ombudsman may decide the matter on the pleadings of the parties and direct the parties to furnish written note of arguments or submission in the matter.
- (3) The Electricity Ombudsman shall pass a speaking order with detailed reasoning that he thinks fair under the facts and circumstances of the representation. The order shall be in writing and shall state the full details of the award.

- (4) A copy of the award shall be sent to the complainant and the licensee named in the complaint. A copy of the award may also be sent to the concerned Forum for information.
- (5) The distribution licensee and consumer may within one month from the date of receipt of the award –
  - (a) either comply with the award and intimate the compliance to the Electricity Ombudsman or
  - (b) in case aggrieved by the award prefer an appeal to the Commission.

## **CHAPTER - IV**

### **MISCELLANEOUS**

#### **23. Submission of Report to the Commission**

- (1) The Forum shall submit a report to the Commission on the category-wise number of complaints received, redressed and pending for every quarter of calendar year within one month from the end of the preceding quarter.
- (2) The Electricity Ombudsman shall send to the Commission a report on a six monthly basis giving details of grievances of the consumers dealt, the response of the licensees in the redressal of the grievances for the preceding six months. Such report shall be sent on 31st January and 31st July of every calendar year. The Electricity Ombudsman shall also send to the Commission an annual report containing general review of activities of their office(s) during the preceding calendar year.
- (3) The Commission may, if it considers necessary in the public interest so to do, publish the reports received from the Electricity Ombudsman in such consolidated form or otherwise as it deems fit.

#### **24. Implementation of Orders/Awards**

Any order/award passed or direction issued by Electricity Ombudsman shall be implemented or complied with by the licensee or the person required by the order or direction to do so.

#### **25. Certified Copies**

- (1) Every party to a proceeding in the Forum or before the Electricity Ombudsman or any interested person may obtain certified copy of any order passed by the Forum or Electricity Ombudsman.
- (2) Certified copy of the order passed by the Forum shall be supplied, on demand, within 7 days.

#### **26. Savings**

Nothing contained in these Regulations shall affect the rights and privileges of the consumers under any other law for the time being in force, including the Consumer Protection Act, 1986 (Act 68 of 1986).

#### **27. Powers to Remove Difficulties**

If any difficulty arises in giving effect to any of the provisions of these Regulations, the

Commission may by general or special order, direct the licensee to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to it to be necessary or expedient for the purpose of removing difficulties.

**28. Power to Amend**

The Commission may, at any time add, modify, delete or amend any provision of these Regulations subject to the provision of the Electricity Act, 2003.

**By the order of the Commission**

Sd/-

**Secretary**