

**BEFORE THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION  
SHIMLA**

**In the matter of**

The draft of Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2012.

CORAM  
**SUBHASH C. NEGI**  
CHAIRMAN

**ORDER**

**1. INTRODUCTION**

- 1.1 With a view to simplify the process for registration and resolution of consumer(s) complaints, the Himachal Pradesh Electricity Regulatory Commission (herein after referred as "The Commission") recognises the urgency and need to revise and modify the existing regulations framed by the Commission.
- 1.2 After the issuance of the Himachal Pradesh Electricity Regulatory Commission(Guidelines for establishment of Forum for Redressal of Grievances of the Consumers) Regulations,2003 and the Himachal Pradesh Electricity Regulatory Commission (Electricity Ombudsman) Regulations,2004, there has been significant changes in the Distribution Performance Standards of licensee and in the consumer grievance redressal mechanism. Recommendations have been made by the Forum of Regulators (FOR) in its Report on "Protection of Consumer Interest" which have been endorsed and approved by the Hon'ble Appellate Tribunal for Electricity for implementation vide its Order dated 15.4.2010.
- 1.3 The Commission has published on 7<sup>th</sup> July,2012 in the Rajpatra, Himachal Pradesh, the draft HPERC(Consumer Grievances Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2012, (herein after referred as "Draft Regulations") providing guidelines to the distribution licensees in the State for establishing Forum(s) for redressal of grievances of consumers and for the appointment of Electricity Ombudsman by the Commission, for making representations against non-redressal of grievances of Consumers and the time and manner in which grievances are to be settled by the Consumer Redressal Forum and the Electricity Ombudsman, for matters incidental and ancillary thereto and further to provide that the consumers may, in their discretion, before approaching the Consumer Grievances Redressal Forum under these Regulations, approach the Internal Executive Disputes Resolution Mechanism, if any, set up by the distribution licensee.
- 1.4 As required vide sub-section (3) of Section 181 of the Electricity Act, 2003, read with rule 3 of the Electricity (Procedure for Previous Publication) Rules, 2005, the Commission invited the public objections and suggestions by way of insertions in two News papers having circulation in the State i.e. "The Tribune" and "Amar Ujala" on 09.08.2012 and full text of the draft Regulations has also been made available

on the Commission's website. Period of 30 days has been allowed for filing objections and suggestions in relation to the said draft Regulations.

- 1.5 The Commission received comments on the draft regulations from the following:-
1. The Consumer Grievances Redressal Forum, Shimla set up by Distribution Licensee i.e. the Himachal Pradesh State Electricity Board Ltd. (in brevity herein after referred as "CGRF").
  2. The HP State Electricity Board Ltd. Shimla, (in brevity herein after referred as "HPSEBL").
  3. M/s BBN Industries Association(Regd.) C/o Single Window Clearing Agency Industrial Area, Baddi-173205 (in brevity herein after referred as "BBNIA").
  4. Er. Rajiv Sindhu, Kala Sadan, Annadale, Shimla.
  5. Er. P.N. Bhardwaj, Consumer Representative, Arcadia, VIII. Ghat-ki-Ber, P.O. Dharampur, Distt. Solan(HP).

The Commission has considered all the comments/suggestions/objections received on the draft Regulations and the views/decision of the Commission alongwith the reasons for the same on the main objections/suggestions have been outlined in the succeeding paras of this order.

## **2. Definition and Interpretation (Regulations 3 and 4 of draft Regulations).**

- 2.1 The HPSEBL have suggested that definitions of following terms i.e. "Electricity Service", "Defect", "Deficiency", "Distribution System" and "Fund" may also be specified in the Regulations.
- 2.2 The Consumer Representative has suggested that to achieve more clarity the definition of "complaint receiving centre" be incorporated in the Regulations.

### **Commission's view**

After taking into consideration above suggestions, the Commission decides that there is no need to add more definition as the concern expressed by the HPSEBL has already been taken care in sub-regulation (2) of regulation 3 and regulation 4 of draft regulations. The expression 'complaint centre' as suggested by the Consumer Representative stands defined in the HPERC (Distribution Performance Standards) Regulation, 2010. However, the Commission considered it necessary to modify sub-regulation (2) of Regulation 16 of draft Regulation so that the Complainant may also submit his grievance at the nearest Zonal, operations Circle or Division headquarters of the licensee or at the other Complaint-Receiving Centre, set up by the licensee. As such necessary modification shall be carried out in regulation 16(2).

## **3. Establishment of Forum and its Head quarters (Regulation 5 and 6 of draft Regulations).**

- 3.1 The BBNIA have submitted that every distribution licensee, within six months, from the grant of licensees has to establish, in its area of Division, under sub-section (5) of section 42 of the Act, a Forum of Redressal of Grievances of the Consumers, in accordance with these Regulations. It is suggested that to ensure that all grievances are disposed off within the specified time limits the Commission may, from time to time direct the licensee to increase the number of Forum(s).

- 3.2 The Chairman, CGRF has submitted that the head-quarter of the Forum should be preferably in the middle of the H.P. State. As such Hamirpur / Sundernagar is the best choice for the head-quarter of the Forum. It will facilitate consumers all over the State to get the grievances redressed in a best way. Presently because of its location at Shimla, about 95% complaints are only from Solan, Shimla and Sirmour District. The consumers from other Districts are not coming to the Forum because of its location. The Forum, as may be considered necessary and proper by it, may conduct its hearings at the Zonal/Circle/Divisional headquarters of the licensee.
- 3.3 The Consumer Representative has submitted that Regulation 6 of draft Regulations provides that the Forum may, with the overall objective of ensuring that the complaints/grievances are heard and redressed within the time limit specified under these Regulations, conduct its sittings preferably at the Revenue Divisional headquarters or at such other places, within its area of jurisdiction, as may be considered necessary and proper by it, rather than leaving the decision on the Forum to hold meetings outside Shimla, the Regulations should specify that there should be a Forum for each of the three Zones.

### **Commission's view**

The draft Regulation 5(2) provides that "in order to ensure that all grievances are disposed of within the specified time limits, the Commission may, from time to time, direct the licensee to increase the number of Forums".

The Commission in the proceeding para-2 has decided to modify the regulation 16(2) of draft Regulation so that Complainant may submit his grievance at the nearest Zonal, Circle or Divisional headquarters of the licensee or at the Complaint-Receiving Centre.

As such, the provisions of regulation 5 and 6 of draft Regulations are reasonable / adequate shall be retained as such.

4. **Constitution of Forum and Appointment of its Members (Regulation 7 of draft Regulation)**
- 4.1 Shri Rajiv Sindhu has suggested that the State Government has upgraded the post of Chairman of Forum to the Director level and while providing the details to the Commission regarding appointment of the Members as per Regulation 7(3), the provision regarding, designation held by the Chairman in the organization of the licensee, needed to be incorporated. He has further suggested that for selection of Independent Member the words "press & website" may be replaced with "print media and on the website". The provision of minimum period of 2 years being not in the employment in any capacity with licensee or its any agency may be looked into.
- 4.2 The BBNIA have suggested that two Members may be appointed by the distribution licensee but after due approval of the Commission.
- 4.3 The Chairman CGRF has suggested that in addition to the qualifications mentioned in the proposed regulation, a retired Distt. Judge or a retired District Collector with at least 20 years of services in judiciary/administration may also be made eligible for the appointment of independent Member and head of the forum may not be more than the Rank of Superintending Engineer level officer. He further submitted that all three members of the forum should be appointed/selected by the licensee.

The posting orders of all the members be issued by the licensee after approval/concurrence from the HPERC. There should not be any concept like Independent Member. The HPERC may modify the regulation accordingly.

Chairman, CGRF has suggested that Ombudsman is supposed to be superior officer than the whole Forum consisting of three members, because representation against the Forum's order is heard/decided before/by the Ombudsman (Clause 25, Chapter IV). In all other States, the Ombudsman is definitely a very superior officer than the Chairman of the Forum. In Himachal Pradesh, the situation is reverse. The Chairman of the Forum is serving Director of Licensee and the Ombudsman is the retired Chief Engineer of the Licensee. Ethically it does not appear good and justified. In all other States of the country, the Chairman of the Forum is either working Superintending Engineer or a retired Chief Engineer. In Uttrakhand State, the members of the Forum are of the level of Sr. XENs.

The Forum has to report to the Ombudsman as per Clause 26, Chapter IV indicating the superior status of the Ombudsman. As per proposed regulations, two members will be working officers of the Licensee. One not below the rank of Chief Engineer and other not below the rank of Superintending Engineer, these conditions are not well defined., because as per these conditions, the licensee can appoint a very junior newly promoted Superintending Engineer as one Member and a very senior Chief Engineer or even the Director of management as Member/Chairman the Forum. Similarly Superintending Engineer with only 20 years experience and Chief Engineer or above officer with more than 30 years experience can be appointed as members of the Forum. As both will be members in the Forum and thus have equal status/powers.

In the view and experience of this office and in order to keep the Forum free from any influence of the licensee, it is proposed that the Chairman of the Forum should be a retired Superintending Engineer or a retired chief engineer so that he is not in any way under the administrative control of licensee. The other member should be the working officer of the licensee of the rank of Sr. XEN so that he may put up/watch the interest of licensee in the Forum. To post a serving Chief Engineer or above officer in the Forum is wastage of the talent and experience of very very senior persons which otherwise can be utilized by the licensee in public interest. It is also wastage of public funds because the licensee has to spend more than Rs. 1.10 lacs per month on the salary of working Chief Engineer or above whereas the retired S.E/C.E. will be easily available for about Rs. 25,000 to 30,000 per month.

- 4.4 The Consumer Representative has suggested that Regulation 7 of draft Regulations provides for appointment of three Members of the Forum, out of which two are to be appointed by the Licensee. If we go through all the judgments delivered, these have more or less favoured the licensee and have been struck down by the Ombudsman. One of the reasons is that majority of the members are appointed by the Licensee. To ensure justice to the complainants, only one member should be appointed by the Licensee from out of its serving engineers, who should be available to serve for a minimum tenure of one year. It has been the case that the members appointed by the Licensee either retire or are transferred, leading to delays in resolving consumer complaints.

He further added that the member, who shall chair the proceedings, should necessarily be a retired judge or a person with administrative background. Only after failing to shortlist the candidate, should the licensee be authorized to appoint the Chairperson out of its cadre of serving Chief Engineers and the independent member should preferably be a person having a good working knowledge of Electricity Act, various Regulations as well as day to day problems faced by the electricity consumers, which are many.

#### **Commission's view**

- a) Electricity Rules, 2005, provides that *“the distribution licensee shall establish a Forum for Redressal of Grievance 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's affair.”* As such provisions related to appointment of members shall be retained as proposed in the draft regulations.

The appointment of two members as per guidelines/ provisions of these regulations in the CGRF is an administrative discretion of the respective distribution licensee. The CGRF is an internal organ of the distribution licensee and appointments are to be made as per the guidelines/regulations of the Commission.

In view of above, the provisions contained in the draft regulation shall be retained. However, the provisions relating to age limit, publication, eligibility for independent member, shall be further modified to provide more clarity.

#### **5. Tenure of Members (Regulation 10 of draft Regulation)**

- 5.1 The Chairman CGRF has suggested that the retired person appointed as Chairman (read with para 4.3) of the Forum should have fixed term of three years and it should not be extended further. The new incumbent be appointed after three years. Similarly the independent member should also be appointed for fixed term of three years and this term should also not be extended beyond three years.

#### **Commission's view**

The provision tenure for Independent Member and Members appointed by distribution licensee has already incorporated in the draft regulations. However, to give more clarity, the Regulation 10 of draft regulation shall further be modified (re-drafted) in final regulations.

#### **6. Voting and Consensus (Regulation 11 of draft Regulation)**

- 6.1 Shri Rajiv Sindhu has suggested that word “meeting” may be substituted with the word “sitting” in the draft regulation 11.
- 6.2 Consumer Representative has submitted that the draft provides for a casting vote. It is therefore necessary, that if a member hearing the matter does not agree with the decision taken by other member(s), he may record his note of dissent with reasons. However, the decision taken by majority of members hearing the case should prevail.

## **Commission's view**

After taking into consideration the suggestions, the Commission decides to re-draft/modify the regulation 11 of draft regulation to the extent that- "Two Members shall form the quorum for the Forum's meeting and proceedings before the Forum and each Member shall have one vote. In case of equality of votes on any issue, the Chairperson or in his absence the person presiding shall have the second or casting vote." Regarding dissent note, the Commission's views are expressed in succeeding para-9. The same provision shall be incorporated in the final regulation accordingly.

## **7 Remuneration and other expenses (Regulation 13 of draft Regulation)**

- 7.1 The Chairman CGRF has suggested that the serving officer of the licensee appointed/posted as Member of the Forum should be given a quasi-judicial allowance of Rs. 5000/- per month in addition to whatever he is eligible as regular employee of the licensee. Because he has to perform in a very changed circumstances and environment and has to perform quasi-judicial functions. This will help him not to feel isolated from his parent department and encourage him to deliver justice.

## **Commission's view**

To give special pay/allowance to its employees serving in the CGRF is a prerogative of the distribution licensee. However, it is clarified that CGRF is an internal organ of the licensee for complaint settlement and is not a quasi judicial body.

## **8 Secretariat of Forum (Regulation 14 of draft Regulation)**

- 8.1 Sh. Rajiv Sindhu has suggested that out of such staff, one person not below the rank of Grade-II Officer shall be appointed by the licensee and designated as full time Secretary of the Forum for a minimum period of one and half years. The tenure of the Chairperson and Members is minimum one year. If the minimum tenure is practiced then for period of roll over, the Secretary so appointed shall bear the role of institutional memory.
- 8.2 The Chairman CGRF has suggested that the working officer of the licensee appointed as Member of Forum is given same personal staff as is admissible to him in the department of licensee. The Secretary of the Forum should be Class-I officer of the licensee. Because he has to deal with the licensee, Ombudsman and the Commission/High Court. He further submitted that the Forum should be independent in deciding its tour programme etc. The Chairman of the Forum will sent intimation of his tour programme to the licensee. Approval of the tour programme etc. from the licensee will not keep the Forum's working independent. The mode of payments to the Members and Staff of the Forum should be independent from the control of the licensee.

## **Commission's view**

Regulation 14(2) of draft regulations provides for full time Secretary of the Forum. However, the transfer and posting of other staff of the Forum is an internal policy matter of the distribution licensee(s).The regulation 6 provides for sitting of the Forum preferably at the Revenue Division headquarters or at such other places, within its area of jurisdiction, as may be considered necessary and proper by the

Forum. As such provisions made in the draft regulation shall be retained. Other issues are not relevant to the regulations.

## **9 Comments from HPSEBL**

### **9.1** The HPSEBL have suggested that:-

- i. The Forum shall hold at least three sittings in a week on alternate days in the H/Q except on the days of travel.
- ii. The mobility schedule of the forum should be linked with the holding of Bijlee Adalats by the licensee in particular areas and at least one sitting in a month should be held outside headquarters.
- iii. The quorum for any sitting of the Forum shall be two and each member shall have one vote. In case of equality of votes on any issue, the Chairperson shall have a casting vote. All decisions of the Forum shall, as far as possible, be unanimous or be on the basis of decision by majority of the members present. If a member hearing the matter does not agree with the decision taken by other members, he may record his note of dissent with the reasons but the decision taken by majority of members hearing the case will prevail.
- iv. In absence of Chairperson, the other member of the forum nominated by the Licensee shall preside over the meeting. 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 amongst its members.
- v. All decisions of the Forum shall strictly be in accordance with the provisions of the Act, Rules and Regulations framed there under and orders and directions issued by the Commission from time to time.
- vi. For expeditious resolution of problems of a complainant, any mechanisms existing within the Licensee, other than the Forum established under these Regulations, may be retained:
- vii. The complainant shall have the right to approach the Forum directly in respect of matters falling under jurisdiction of the Forum.

The HPSEBL have further submitted that the following shall also be added in the chapter of CGRF i.e. the name, address, e-mail, facsimile and telephone numbers of the Forums shall be widely publicized through newspapers and also displayed on the websites and all the offices of the Licensee and shall be intimated to the Consumers through their electricity bills. The electricity bills shall also contain a statement to the effect that a complaint whose complaint/ Grievance are not resolved by the Licensee may file a Complaint before the Forum. The above mentioned details may be published through electronic media.

### **Commission's view**

Some of the concern expressed by the HPSEBL has already been taken care in regulations (6),(11),(12) & (15) of draft regulations. However, the Commission decides to add following provisions in regulation 23 of draft regulations i.e. " The Order of the forum shall be reasoned and the reasons given by the Forum in support of the Order, including those by the dissenting, Member, if any, shall form a part of the Order, and the Members who heard the matter shall sign the Order". As such the regulation 23 of draft regulation shall be redrafted/modified accordingly in the final regulations. Other issues raised are purely administrative matters.

## **10 Submission of Grievances (Regulation 16 of draft Regulation)**

- 10.1 Sh. Rajiv Sindhu has suggested that w.r.t. provision made in regulation 16(5) of draft regulations, it is proposed that since officer are to attend sittings in various cases so why not to authorize an officer or panel of officers to attend CGRF sittings on behalf of the licensee means that 'designate' officer for this purpose only as it saves time of the field officers.
- 10.2 The Consumer Representative has submitted that Regulation 16 provides for submission of grievance before the Forum. The language of the form (Annex-II) is English. This should be backed with a vernacular translation, so that all complainants not comfortable with English, may benefit and also provision should also exist at complaint receiving centre to help the complainant to fill the form (Annex-II).

Annex-II should have a tear sheet for acknowledging the receipt of the complaint, indicating the date of receipt of complaint along with attachments, duly signed and stamped by an authorised person.

### **Commission's view**

- a) The Commission finds it appropriate to leave it to licensee whether the concerned field officer should be present before the Forum to defend the distribution licensee.
- b) The Commission is of the view that the complaint receiving centre should help the complainant while filling the annexure-II (Grievance Submission form before the Forum). However, the Hindi version of Annexure-II as suggested by the Consumer Representative shall be incorporated in the final Regulations alongwith the provision of acknowledge/tear sheet in the annexure-II.

## **11 Prioritization of complaints and Limitations /pre-conditions for submission of Grievance (Regulations 17&18of draft Regulation)**

- 11.1 Shri Rajiv Sindhu has suggested that the draft regulation 17, the top most priority should be given in the matters related to safety of distribution system having potential of endangering life or property. The same be re-prioritized and further submitted that do we intend to reject grievance where any conduct under 126 or 135 leading to hazard to safety of distribution system having potential of endangering life or property? Suitable exclusion of this situation is required.

### **Commission's view**

The Commission is of the view that the priority order made in the regulation 17 shall be retained without any change. The aforesaid issue is required to be tackled as per the provisions made in Indian Standards(s)/ code(s) on Electricity, provisions of Electricity Act,2003 & Rules framed under it and in the HPERC(Distribution Code) 2009. The provisions made in draft Regulation17 and 18 are inline with FOR Model Regulation for Protection of Consumers Interest. As such Commission decides to retain the same without any change.

## **12. Inspection (Regulation 20 of draft Regulation)**

- 12.1 Shri Rajiv Sindhu has submitted that in case the licensee is at fault, no expense should be passed through and if the grievance is of substance, there should be provision to refund the amount of advance deposited by the consumer.

**Commission's view**

The Commission is of the view that the present provision is sufficient to handle the matters related to inspection. The provision made in the draft Regulation shall be retained except that heading i.e. 'Third Party' shall be substituted with 'Inspection' in the final regulation.

**13 Appearance through an Advocate (Regulation 21 of draft Regulation)**

- 13.1 The Chairman CGRF has suggested that the complainant should be allowed to hire advocate. In case the complainant hires advocate, the respondent should also be allowed to hire advocate, otherwise not.

**Commission's view**

The provision has been incorporated in the regulations as per FOR Model Regulation on Protection of Consumer Interest. As such provisions incorporated in the draft regulations shall be retained.

**14. Interim Order (Regulation 22 of draft Regulation)**

The HPSEBL have suggested that in case of dispute of bills or wrong billing the complainant shall be required to deposit 50% of the amount of the bill along with the application.

**Commission's view**

The Commission after thoughtful consideration decides to incorporate the provision regarding deposit of  $\frac{1}{3}^{rd}$  of disputed amount with the licensee in the final regulation. As such final regulation shall be modified accordingly.

**15. Issuance of Order (Regulation 23 of draft Regulation)**

- i. The BBNI have submitted that undue charges paid by the complainant be refunded at the rate paid by the State bank of India for a fixed deposit plus 5% for duration nearest to the period for which the undue charges were withheld by the licensee.
- ii. The consumer representative has submitted that the time limits for disposal of various complaints to the Forum are required to be reviewed. Complaints by domestic, commercial and small industry consumers need to be addressed post haste and as soon as possible. The limit of 45 days prescribed should be applicable to high revenue yielding consumers only, while a lesser time limit needs to be prescribed for other consumers.
- iii. The HPSEBL have raised the point that to review the order, clause may be added, so that either party may file a review of Forum order under order 47, Rule 1 CPC.

**Commission's view**

- a) Taking into consideration the suggestions, the Commission decides to incorporate interest rate in clause(ii) sub-regulation 2(a) of regulation 23 of draft regulation i.e.

“equal to the short term prime lending rate of State Bank of India as on 1<sup>st</sup> April of the financial year”. As such the sub-regulation shall be modified/redrafted in the final regulations accordingly.

- b) The concern expressed by the Consumer Representative has already been taken care by fixing the time limits to address the grievances as well as prioritization of different type of complaints in these regulations.
- c) The Commission agrees with the licensee and decides to incorporate the following provisions in the final regulation to the extent that: “The Forum may at any time, after affording an opportunity of being heard, review its Order either on its own motion or an application of any of the parties to the original proceedings, within 30 days of the order on-
  - (i) the discovery of new and important matter of evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time the order was made;
  - (ii) on account of some mistake or error apparent from the face of the record;
  - (iii) for any other sufficient reasons.”

As such aforesaid provision shall be incorporated in the final regulations accordingly.

## **16 Compliance of the order of Forum (Regulation 24 of draft Regulation)**

- 16.1 The HPSEBL have submitted that the time period of compliance of order should be made within 45 day instead of 21 days, where approval of WTD (whole time member) is not required and three months where approval of WTD is required.
- 16.2 BBNIA have suggested that the compliance of the orders should be priority based such as: 7 days for on-supply, 7 days for connection/disconnection/disconnection of supply, 15 days for meter-related issues, 15 days for billing-related issues, 21 days for other issues.
- 16.3 Shri Rajiv Sindhu has suggested that provision for action in non-compliance should be incorporated.
- 16.4 The Chairman CGRF has suggested that the provision made i.e. *incase of non compliance of Forums Orders, the Forum shall take up the matter with the higher authorities of the licensee for compliance. If even after that the order is not complied with, the Forum shall inform the Commission regarding such non compliance*, and same should be deleted as it will dilute the authority and influence of Forum’s orders. The licensee is fully responsible to implement the order of the Forum. His nodal officer should keep record of implementation of all orders. The licensee should report compliance of the order of the Forum every month to the Forum, Ombudsman and the commission. The non implementation the orders of the Forum will be liable for action under section 142 of the Act. The Forum will refer all such cases to the Commission to take action under section 142 of the Act.

### **Commission’s view**

- a) A provision for extension of time period upto maximum of three months for compliance of Forum Orders, considering the nature of cases has already been

made in the regulations 24(1) of draft regulation. Licensee can request the Forum accordingly. However, Commission decides to incorporate the provision in regulation 24(1) of draft regulation for compliance within such shorter period as may be directed by an orders made by the Forum. As such final regulation shall be modified accordingly.

- b) Non-compliance of the order of the Forum shall be treated as violation of Regulations of the Commission and if licensee(s) is on fault, he shall be liable for action under Section 142 of the Electricity Act,2003.
- c) The Commission is of the view that the CGRF is primarily for redressal of grievances of the consumers of distribution licensee and is an internal organ of the licensee and hence Forum should make administrative efforts for implementation of its findings by way of co-ordinations also. As such the provision made in the draft regulation shall be retained.

#### **17 Representation against the Forum's orders (Regulation 25 of draft Regulation)**

- 17.1 The HPSEBL have submitted that the Licensee should be allowed to represent before the Ombudsman, in the cases to meet the end of justice (i) If the consumers opt to approach the Ombudsman directly after CGRF fails to dispose of the grievances within the stipulated period- (ii) The licensee is not satisfied with the decision of the Forum, although it is assumed that the orders of the CGRF would be acceptable to the licensee (as it is their internal organ), yet the licensee as well as the consumers can both be aggrieved parties.

#### **Commission's view**

As per the Electricity Act,2003, Forum is a dedicated internal organ of distribution licensee and hence there is no logic in approaching the Ombudsman by licensee against the decision of Forum. The provision made in the draft regulations shall be retained. Provision of Review will serve the purpose and have been made accordingly.

#### **18 Qualifications, terms above appointment and removal of Ombudsman (Regulation 27 of draft Regulation).**

- 18.1 The Consumer Representative has suggested that provisions for extending the tenure of three years by two more years may prove detrimental and reflect on the independent functioning of Ombudsman.
- 18.2 Shri Rajiv Sindhu has also made his reservations on extension of Ombudsman tenure as such provisions are not available in the present Ombudsman Regulations.

#### **Commission's view**

The Commission after thoughtful consideration decides to omit the provision of extension of tenure for further period of two years. The final regulation shall be modified accordingly.

#### **19. Office of the Ombudsman (Regulation 28 of draft Regulation)**

- 19.1 The BBNIA have suggested that the Ombudsman must hold hearing or proceedings at various places, within the State, in order to expedite the disposal of representations received before him.

- 19.2 The HPSEBL have submitted that all expenses of Ombudsman office including that of the secretariat shall be borne by the commission and should be met from the HPERC Fund created under Section 103 for this purpose.
- 19.3 Sh. Rajiv Sindhu has suggested that pass through provisions are to be linked with percentage of cases in which the licensee is at fault. It will improve performance. The expenses of (Forum as well as Elect. Ombudsman office) should be linked with performance of the licensee.

#### **Commission's view**

- a) The Commission is the view that to hold hearings /proceedings at various places of the State may depend upon the pendency of cases before the Ombudsman. As such the provision made in the draft regulation shall be retained being adequate.
- b) This issue was agitated separately also by the licensee and the Commission in its order dated 05.01.2013 in the petition no 123 of 2011 in matter of HPSEB Ltd. held that redressal of consumer grievances, for which Ombudsman is also an institutions, is the function of distribution licensee under Section 42 of the Electricity Act,2003 and such expenses is borne by the licensee and is recoverable through tariff. Since this is not a fees that Commission can recover, it cannot be credited to the Fund of the Commission. However, for independent functioning of Ombudsman, Commission shall be approving the budget estimate of the Ombudsman and its office, and licensee shall be paying quarterly advance to the Ombudsman in the last month of previous quarter for the succeeding quarter. Provision in the regulation shall be made accordingly.

#### **20 Pre-conditions/limitations for entertaining Complainant's representation (Regulation 30 of draft Regulation)**

- 20.1 The HPSEBL have submitted that the complainant shall be required to deposit with the Ombudsman 50% of the amount assessed by the Forum if any.

#### **The Commission's view**

The Commission agrees and decides that in regulation 30(1)(g) of draft regulation the words "One third" shall be substituted with figure "50%".

#### **21. Consumer Advocacy (Regulation 36 of draft Regulation)**

- 21.1 Shri Rajiv Sindhu has suggested that in the draft regulation 36, the relevant provision of the Electricity Act,2003, needs citation appropriately and also made his reservation that if officers of the Commission are posted in the Consumer advocacy cell, then their salary etc. shall be charged to the fund.
- 21.2 The Chairman CGRF has suggested that instead of Consumer Advocacy cell, the CGRF be given the duty of consumer sensitization and advocacy with additional staff.

#### **Commission's view**

The Commission, as per the FOR Model Regulation on Consumer Protection February, 2011, have proposed the provisions for Consumer Advocacy in the draft Regulations. Taking into consideration the comments received from the stakeholders the Commission notes that there is no specific supporting provision

available in the Electricity Act, 2003 to setup consumer advocacy cells in the Commission. The Commission is of the view that consumer advocacy is one of the important area to guide/inform consumer(s) about their rights and the separate wing already available in the Commission i.e. Dy. Director (Consumer Affairs) is adequate at this stage to look after such functions. The Commission is regularly monitoring the reports received under section 57 of the Electricity Act, 2003 and other reports received from Forum/Ombudsman office.

The Commission decides to omit the aforesaid provisions in final regulations. The title of the final regulations be amended as HPERC (Consumer Grievances Redressal Forum and Ombudsman) Regulation 2013.

The Commission accordingly orders that the regulations published in draft form be published in the official Gazette after incorporating the changes as decided in the forgoing paragraphs.

Place: Shimla

Date: the 16<sup>th</sup> January, 2013.

**(Subhash C. Negi)**  
**Chairman**