

HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

IN THE MATTER OF

Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) (Second Amendment) Regulations, 2022.

Decided on: 18.01.2022

CORAM: Hon'ble Sh. Devendra Kumar Sharma, Chairman
Hon'ble Sh. Bhanu Pratap Singh, Member
Hon'ble Sh. Yashwant Singh Chogal, Member(Law)

ORDER

The Himachal Pradesh Electricity Regulatory Commission (hereinafter referred to as "the Commission") made the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013, as published in the Rajpatra of Himachal Pradesh on 28th January, 2013. The same were subsequently amended as per the notification published in Rajpatra, Himachal Pradesh on 28th November, 2019. The aforesaid Regulations have hereinafter been jointly referred to as "the said Regulations".

2. The Ministry of Power, Government of India has notified the Electricity (Rights of Consumers) Rules, 2020 and published the same in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) dated 31.12.2020 which necessitate certain modifications in the existing provisions of the said Regulations.
3. Taking the above into consideration, the Commission, in exercise of the powers conferred under Clauses (r) and (s) of Sub-section (2) of section 181, read with Sub-sections (5) to (8) of Section 42, of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, proposed to amend some of the provisions of the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2013.
4. As required vide Sub-section (3) of the Section 181 of the Act read with Rule (3)

of Electricity (Procedure of Previous Publication) Rules, 2005, the Commission invited public objections and suggestions on the draft amendment Regulations by way of insertions in two News papers i.e. “Himachal Dastak” and “The Tribune” on 3rd December, 2021. The full text of the draft amendment Regulations was also made available on the Commission’s website: www.hperc.org;

5. The Commission, vide letter No. HPERC/H(1)-12/2021-2515-23 dated 06.12.2021, also sent copies of the public notice to the major stakeholders, including Industries Associations, State Government, Directorate of Energy, Consumer Representative and Distribution Licensee and requested them to send their objections/suggestions by 27.12.2021.
6. The Commission received suggestions/objections on the draft amendment Regulations from the following stakeholders:-
 - a. The Consumer Grievances Redressal Forum (CGRF), SDA Complex, Shimla through its Chairman.
 - b. Dr. Anoop Singh, Centre for Energy Regulation, Department of Industrial and Management Engg. IIT Kanpur.
 - c. Sh. Rakesh Bansal, 279 HIG, Sector-4, Parwanoo-173220.

7. **Consideration of written submissions made by the stakeholders and Commission’s views.-**

After having gone through all the written submissions, the Commission now proceeds to consider the various suggestions, which have been considered to be relevant to the amendment proposed in the draft Regulations, and finalize its views on the subject, as follows.-

(A) **Amendment of Regulation 3 of the said Regulations.-
Comments :-**

- (i) Dr. Anoop Singh, IIT Kanpur submitted that the draft Regulation provides the definition of ‘Prosumer’ but the same is not used further in this Regulation. He has suggested to append the proposed definition of Prosumer by including a statement just after its definition so that wherever there is a reference to consumer in this Regulation, it should also deem to include prosumers. The reference to ‘Prosumer’ may increasingly appear in a variety of other Regulations and orders (for example in the case of tariffs, open

access, SOPs etc.). Hence, it is suggested that this definition for Prosumer should be a part of the State's Grid Code. The prosumer may also refer to mobile storage such as electric vehicles (EVs) especially when EVs inject power in vehicle to grid mode (V2G).

- (ii) (a) The CGRF has submitted that the following sub-clause (v) may be inserted in definition of 'complainant' appearing at clause (d) of sub-regulation (1) of Regulation 3 to incorporate the provision for solar energy consumers/producers having grievance with the distribution licensee :-

“(v) any person or an entity registered under law in connection with solar power connection/connectivity having grievance with licensee.”

- (b) It has been further submitted that presently there is no platform available for the redressal of grievances of solar consumers and producers, except to approach the HPERC or the concerned licensee. So in view of the increased focus of the Government and Commission on promotion of the generation of solar energy in the State in times to come, the words “complaints related to solar energy” may be inserted in the definition of “Grievance”.

Commission's View :-

As per the provision contained in Sub-section (5) under Section 42 of Electricity Act, 2003 the Forum is mandated to redress the grievances of the consumers of the distribution license. A rooftop solar generator, covered under the provisions of HPERC Regulations for net metering, basically avails the connectivity with the grid in its capacity as the consumer of the distribution licensee. In view of above and also to avoid any confusion in this regard, the Commission decides to drop the proposal to include the definition of 'Prosumer' in the said amendment Regulations.

(B) Amendment of Regulations 5 of the said Regulations.-

Comments :-

- (i) Dr. Anoop Singh, IIT Kanpur submitted that -

- (a) the draft Regulation has a provision for the establishment of additional Forums by the distribution licensee and it is seen that the establishment of additional Forum is to be done by the sole order of the distribution

licensee without any intimation or prior approval of the Commission, although the Commission can issue directions for defining and modifying jurisdictions of these Forums under Draft Regulation 5(3).

- (b) The draft Regulation has a provision for the establishment of ‘at least one additional Forum’ for each of licensees’ operation circles, by the licensees, which also appears to be forming part of the distribution licensees’ Internal Executive Disputes Resolution Mechanism (IEDRM). He has also submitted that the provision of establishment of ‘additional Forum’ at Sub-division/Division and Circle levels appear akin to the IEDRM of the distribution licensee, already existing as indicated under Regulation 2(4) and Regulation 16 of the principal Regulations, and may in fact be part of their license condition. So, establishment of these ‘additional consumer grievance redressal Forums’ proposed in the Draft may create duplicity of the institutions. In this regard he has suggested to institutionalizing hierarchy structure among different levels of proposed Forums, which will help an aggrieved consumer at the Sub-divisional level to approach the next level and so on rather than going directly to the Ombudsman. Finally, there is apprehension that by establishment of these additional Forums, having part-time ex-officio Members (as proposed in the Draft) under the statutory provisions under Section 42(5) of the Electricity Act 2003, a right may accrue to any consumer aggrieved by an order of such an additional Forum to go directly with a representation to the Electricity Ombudsman under Section 42(6) of the Electricity Act 2003. This is likely to reduce and/or nullify the effectiveness of original Forums (having fulltime Members and an Independent Member) in addressing the Consumer Grievance first due to such bypass, before the appeals/representation there from going to the Ombudsman. This is also likely to increase the Ombudsman’s workload unnecessarily both in quantity & quality of representations, thus perhaps affecting the overall consumer grievance redressal system.
- (ii) Sh. Rakesh Bansal has suggested that timelines for establishment of additional Forums by the distribution licensee, be notified in the

Regulations, otherwise, it is feared that the licensee may delay setting up of such additional Forums. He has further suggested to include the provision in the proposed amendment Regulations to provide minimum frequency at which the Forums shall meet for redressal of grievances.

Commission's View :-

- (i) (a) The Sub-regulation (3) of Regulation 7 of the said Regulation provides that the distribution licensee shall give the intimation within seven days for appointment or designation of Members (other than the Independent Member) of the Forum. However, the Commission decides to suitably add the words “under intimation to the Commission” at appropriate places in sub-regulations (2) and (3) of Regulation 5 of the said Regulations.
 - (b) The provisions for the additional Forum have been proposed in line with the statutory provisions and as such there is no duplicity of statutory institutions. The provision shall basically help the consumers with smaller load by providing them access to grievances resolution mechanism at locations nearer to them. No hierarchy structure has been proposed in order to avoid many channels for the purpose, however, in any case, the option to file the appeal/representation before ombudsman shall continue to exist. The apprehension that it will unnecessary increase the work load of ombudsman may not be correct as it is expected that most of the grievances of the smaller consumers shall get resolved at Forum level. The Commission also observes that even at present most of the representations being filed before the CGRF and the Ombudsman pertain to the consumers covered under two part tariff.
- (ii) The Commission decides to specify the timeline by allowing a period of about three months for establishment of the Forums at Circle headquarters. However, it is not feasible to specify any such timelines for the Forums as may be established by the distribution licensee at other locations. As regards to the suggestion to provide minimum frequency for the meetings, the Commission observes that since the timelines for disposing of the

representations have already been specified, it may not be appropriate to fix the minimum frequency for the meetings.

(C) **Amendment of Regulation 6 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(D) **Amendment of Regulation 7 of the said Regulations.-**

Comments :-

Dr. Anoop Singh, IIT Kanpur has submitted that as per modified proviso added under Draft Regulation 7(1)(i)(b), the Members of additional Forums (at Operation Circle, Divisional/Sub-divisional level etc. (as proposed in the draft amendment of Regulation 9) are designated on Ex-officio basis from serving Officers of the distribution licensee, who perform their functions in addition to their normal assigned duties which is unlike to the full-time members appointed and/or nominated for the Forum under 7(1)(i) and 7(1)(ii).

Commission's View:-

Establishment of additional Forums have been proposed under Section 42 (5) of the Electricity Act, 2003 with a provision of one independent member to be appointed by the Commission. Since these additional Forums are also internal organ of distribution licensee, the licensee may assign the duties to its officers to function as members of the additional forums on Ex-officio basis, in addition to their normal assigned duties. As such the relevant provisions of the draft Regulations shall be retained without any change.

(E) **Amendment of Regulation 9 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any changes.

(F) **Amendment of Regulation 13 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(G) **Amendment of Regulation 14 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(H) **Amendment of Regulation 15 of the said Regulations.-**

Comments :-

Dr. Anoop Singh, IIT Kanpur has submitted that the Regulation should also provide for online monitoring of the compliance of orders at various level through the consumer redressal forum enabling the Commission to ensure that timely redressal is available to the consumers. A dedicated portal at the licensee's website should allow one to know status of the complaint redressal, order thereof at various levels and their compliance with timely information to the consumers through SMS/app/email etc. The portal should also generate monthly report to be submitted to the Ombudsman and the Commission.

Commission's View :-

The proposal already includes the provision to provide a link on its web portal and mobile app for registering the complaint/grievance in the relevant CGRF and also to provide online tracking system of the complaints. However, in order to be more specific, this shall also be suitably included in the Regulations 15.

(I) **Amendment of Regulation 16 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(J) **Amendment of Regulation 17 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(K) **Amendment of Regulation 26 of the said Regulations.-**

Sh. Rakesh Bansal has submitted that proposed amendment in Sub-regulation (1) seeks to reduce the rate of interest payable to the consumer from 15% to 12%. However, the late payment surcharge applicable on the dues is presently notified

by the Commission is @ 1.5% per month, which works out to 18% per annum, so in the interest of fairness, the interest should be applicable at the same rates to either of the parties and suggested that the rate of 15% be allowed to continue.

Commission's View :-

The rate of interest payable to the consumers can not be compared with the late payment surcharge applicable in case of non payments of the dues as latter involves a penal aspect also. Accordingly, the Commission decides to retain the provision of the draft Regulations in the final Regulations without any change.

(L) **Amendment of Regulation 27 of the said Regulations.-**

Sh. Rakesh Bansal has submitted that as per Regulation 27(1) a period of 30 days has been proposed for compliance of the orders passed by the Forum. On the other hand, the Regulation 28(2)(b) requires that the representation before the Ombudsman is to be filed within 30 days of the issuance of the order by the Forum. There are situations, when it is difficult to determine the satisfaction until and unless the actual implementation takes place, particularly when the orders passed by the Forum are subject to different interpretations. It is only when the compliance is carried out that it is realized that the orders passed by the CGRF are not clear enough and dissatisfaction arises. By the time this happens, the time period of 30 days from the issuance of orders already stands expired. He has further submitted that the period of 30 days for filing a representation should start only after the end of the compliance period of 30 days or a different period as per orders passed by the CGRF. In this regard, he has suggested to substitute the words and figure appearing in Regulation 28(2)(b) "within 30 days after issuance of the Order by the Forum" with the words and figure "within 30 days after expiry of the allowed compliance period."

Commission's View :-

The period of 30 days is basically allowed for submission of the representation by the complainant before the ombudsman in case he is not satisfied with the order of the CGRF. In case the distribution licensee does not comply with the order of the Forum, either partially or fully, the same may amount to non compliance of the order of the Forum for which suitable remedy has already been provided.

(M) **Amendment of Regulation 29 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(N) **Amendment of Regulation 37 of the said Regulations.-**

Dr. Anoop Singh, IIT Kanpur has submitted that issuance of order as proposed in draft Regulation 37 (5), double the duration of compliance and implementation of the Ombudsman order by the licensee i.e. from 15 to 30 days. No justification is provided to support this. Further, it is highlighted that in the current era with significant intervention of information technology with online solutions to follow up the orders, the overall compliance period should be limited. Given the various levels of redressal forums, there may be significant delay in cumulative terms to redress a consumer concern.

Commission's View :-

The commission observes that no hierarchy structure has been proposed for the Redressal Forums and, as such, the apprehension that there may be significant delay in cumulative terms to redress a consumer concerns may not be correct. The Commission otherwise also feels that the proposed period of 30 days is quite fair and reasonable.

(O) **Amendment of Regulation 38 of the said Regulations.-**

No comments have been received in respect of the proposed provisions of draft amendment Regulations. As such, the Commission decides to retain the proposed provisions in the final Regulations without any change.

(P) Some other suggestions have also been made by Sh. Rakesh Bansal and the Consumer Grievances Redressal Forum, Shimla. The Commission, after going through the same, finds that the same do not form the subject matter of the proposal made in the draft amendment Regulations. As such, the Commission decides not to consider the same in this order.

The Commission, after concluding its views on the objections and suggestions received on the draft Regulations, decides to finalize the Himachal Pradesh Electricity Regulatory Commission (Consumer Grievances Redressal Forum and Ombudsman)

(Second Amendment) Regulations, 2021 by taking into account the proposal made in the draft Regulations and the changes therein on the above lines, apart from other minor clarificatory changes as considered necessary.

Sd/-
(Yashwant Singh Chogal)
Member (Law)

Sd/-
(Bhanu Pratap Singh)
Member

Sd/-
(Devendra Kumar Sharma)
Chairman