

The M.P. Electricity Regulatory Commission (Conduct of Business) Regulations, 1999

MADHYA PRADESH

India

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Rule

THE-M-P-ELECTRICITY-REGULATORY-COMMISSION-CONDUCT-OF-B of 1999

- Published on 30 October 1999
- Commenced on 30 October 1999
- [This is the version of this document from 30 October 1999.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Electricity Regulatory Commission (Conduct of Business) Regulations, 1999Published vide Notification No. 345-4-1-ERC-99, dated the 30th October, 1999, M.P. Rajpatra (Asadharan), dated 31.12.1999Notification No. 345-4-I-ERC-99, dated the 30th October, 1999. - In exercise of the powers conferred by Section 58 of the Electricity Regulatory Commissions Act, 1998 (No. 14 of 1998) as notified by Madhya Pradesh Government Notification No. 5726-F. 3-20-XIII-98, dated 18th August 1998, the Madhya Pradesh Electricity Regulatory Commission hereby makes the following Regulations, namely :-

Chapter I

General

1. Title and commencement of Regulations.

(1)These Regulations may be called the Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.(2)The Regulations shall come into force from 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 Regulatory Commissions Act, 1998 (No. 14 of 1998);(b)"Commission" means the Madhya Pradesh

Electricity Regulatory Commission, established, under the Act;(c)"Chairperson" means the Chairperson of the Commission;(d)"Member" means Member of the Commission;(e)"Secretary" means the Secretary of the Commission;(f)"Officer" means an officer of the Commission, not being the member of the subordinate staff;(g)"petition" means and includes all petitions, applications, complaints, appeals, replies, rejoinders supplementary pleadings, other papers and document;(h)"proceedings" means and includes proceedings of all nature that the Commission may hold in the discharge of its functions under the Act;(i)"Board" means the Madhya Pradesh Electricity Boards; and(j)"State Government" means the Government of Madhya Pradesh.(2)Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the meaning as in the Act. Words and expressions used in these Regulations but not defined either in Regulations or in the Act but defined in the Indian Electricity Act, 1910 (No. 9 of 1910) or the Electricity (Supply) Act, 1948 (No. 54 of 1948) shall have the meanings respectively assigned to them in those Acts.(3)The provisions of the General Clauses Act, 1897 as amended from time to time shall apply to these Regulations.

3. Commission's office, office hours and sittings.

(1)The place of the offices of the Commission, may from time to time be specified by the Commission, by an order made in that behalf.(2)Unless otherwise directed, the headquarters and offices of the Commission shall open daily except on Sundays, second and third Saturdays of the month and on holidays notified by the State Government. The headquarters and other offices of the Commission shall open at such time as the Commission may direct.(3)When the last day for doing any act falls on a day on which the office of the Commission is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open.(4)The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time specified by the Commission.

4. Language of the Commission.

(1)The proceedings of the Commission shall be conducted in Hindi or English.(2)No petition in any language other than Hindi or English shall be accepted by the Commission, unless accompanied by Hindi or English version.

5. Commission to have seal of its own.

(1)The Commission shall have a seal of its own. The impression of the seal shall be certified and kept on record of the Commission.(2)Every order or communication made, notice issued or certified copy granted by the Commission, shall be stamped with the seal of the Commission and shall be certified by Secretary or an officer designated for the purpose.

6. Officers of the Commission.

(1)The Commission shall have the power to appoint officers including a Secretary for discharging

various duties. The Commission shall also prescribe the qualifications, experience and other terms and conditions for the appointments.(2)The Secretary shall perform such functions as are assigned to him by these Regulations or otherwise by the Commission or by the Chairperson.(3)In particular and without prejudice to the generality of the provisions of the above sub-clause, the Secretary shall have the following powers and perform the following duties, viz. : (i) he shall have custody of records and seal of the Commission; (ii) he shall receive or cause to receive all petitions, applications or references pertaining to the Commission; (iii) he shall prepare or cause to prepare the briefs and summaries of all pleadings presented before the Commission in discharge of its function in this regard; (iv) he shall assist the Commission in proceedings conducted by the Commission; (v) he shall authenticate the orders passed by the Commission; (vi) he shall ensure compliance of the orders passed by the Commission; and (vii) he shall have the right to collect from the State Governments, the Central Government and their agencies, including State Electricity Boards or other offices, companies and firm or any other party as may be directed by the Commission, such information as may be considered useful for the purpose of efficient discharge of the functions of the Commission under the Act and shall place the said information before the Commission.(4)The Secretary may, with the approval of the Commission, delegate to any officer of the Commission any function required by these Regulations or otherwise, to be performed by the Secretary.(5)In the absence of the Secretary, such other officer of the Commission, as may be designed by the Commission/ Chairperson, shall exercise all the functions of the Secretary.(6)The Commission/Chairperson may delegate to the officers such functions including functions that may be required by these Regulations to be performed by the Secretary on terms and conditions, the Commission may specify for the purpose.(7)The Commission at all times shall have the authority, either on an application made to it any interested or affected party or suo motu, to entertain, review, revoke, revise, modify, amend, alter or otherwise change any order passed or action taken by the Secretary or the officers of the Commission, if the Commission considers the same to be appropriate.

7. Recognition of Consumers Associations.

(1)(a)Every association, or other body corporate representing any group which is desirous of being recognised may make an application to the Commission for such recognition and the Commission after holding such inquiry as may be considered appropriate, recognise the association, forum or the body corporate by issuance of a certificate of recognition.(b)An association, forum or body corporate holding a certificate of recognition or any person with the permission of the Commission, shall be entitled to participate in any proceedings before the Commission, except when the Commission directs otherwise, for reasons to be recorded.(c)It shall be open to the Commission to recognise any association or other body corporate or any other group already recognised by the State Government or the Board without observing the procedure, referred to above, for any particular proceeding.(d)It shall be open to the Commission for the sake of timely completion of proceedings, to direct bunching up of associations/groups etc. referred to above, so that they can make collective affidavits.(2)The Commission may direct payment to the officer or person appointed to represent consumers interest, such fees, costs and expenses by such of the parties to the proceedings as the Commission may consider appropriate.

Chapter II

General Rules Concerning Proceedings before the Commission

8. Proceedings before the Commission.

- The Commission may, from time to time, hold hearings, meetings, discussions, deliberations, consultation and make enquiries and investigations at it may consider appropriate in discharge of its functions under the Act.

9. Authority to represent.

- A petitioner/respondent may authorise an advocate or a member of the Institute of Chartered Accountants of India or of the Institute of Cost and Works Accountants of India or of such other professional bodies, as the Commission may from time to time specify, to represent such party and to act and plead on his behalf before the Commission. A party may appear himself or with the permission of the Commission and may authorise any of the employees or an agent to appear before the Commission, to act and plead on his behalf.

10. Initiation of proceedings.

(1)The Commission may initiate any proceeding suo motu or on a petition filed by any affected or vested person.(2)The notice of initiation of the proceedings may be issued by the Commission and it may give such orders or directions as may be deemed necessary for service of notices to the concerned parties, the filing of reply and rejoinder in opposition or in support of the petition in such form as it may direct. The Commission may, if it considers appropriate, issue orders for advertisement of the petition inviting comments from interested parties, on the issues involved in the proceedings in such form as the Commission may direct.(3)While issuing the notice of inquiry, the Commission may, in appropriate cases, designate an Officer of the Commission or any other person whom the Commission considers appropriate to present the matter in the capacity of a petitioner in the case.

11. Petitions and pleadings before the Commission.

- All petitions to be filed before the Commission shall be type written, cyclostyled or printed, neatly and legibly on one side of white paper and every page shall be consecutively numbered. The Commission may in addition permit the petitions to be filed in a computer disk, on such terms and conditions, as the Commission may specify. The contents of the petition should be divided appropriately into separate paragraphs which shall be numbered serially. The petition shall be accompanied by such documents, supporting data and statements as the Commission may specify.

12. General headings.

- The general headings in all petitions before the Commission and in all advertisements and notices shall be in Form-1.

13. Affidavit in support.

- Petitions filed may be verified by an affidavit, and every such affidavit shall be in Form-2.

14.

In accordance with Section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any proceedings of the Commission or fabricates false evidence for the purpose of being used in any proceedings, shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

15. Presentation and scrutiny of the pleadings, etc.

- All petitions shall be filed in four copies and additional copies depending upon number of respondents. Each set of the petition shall be complete in all respects. The fee of Rs. 250/- (Rs. two hundred fifty only) shall be payable with the petition.

16.

All petitions shall be presented in person or by any duly authorised agent or representative at the headquarters or such other filing centre or centres as may be notified by the Commission from time to time and during the time notified. The petitions may also be sent by registered post acknowledgement due to the Commission at the places mentioned above. The Vakalatnama in favour of the advocate and, in the event the petitions are presented by an authorised agent or representative, the document authorities the agent or representative shall be filed along with the petition, if not already filed on the record of the case.

17.

Upon the receipt of the petition, the receiving officer (the officer of the Commission designed for the purpose), shall acknowledge the receipt by stamping and endorsing the date of its receipt/presentation and shall issue an acknowledgement. In case the petition is received by registered post, the date on which the petition is actually received at the office of the Commission shall be taken as the date of the presentation of the petition.

18.

The presentation and the receipt of the petition shall be duly entered in the register maintained for the purpose by the office of the Commission. After scrutiny, the receiving officer shall register the petition for consideration of the Commission.

19.

The receiving officer may decline to register any petition which does not conform to the provisions of the Act or the Regulations or directions given by the Commission or is otherwise defective or which is presented otherwise than in accordance with the Regulations or directions of the Commission :Provided, however, no petition shall be declined to be registered for defect in the pleadings or in the presentation, without giving an opportunity to the person filing the petition to rectify the defect within the time which may be granted for the purpose. The receiving officer shall advise in writing the petitioner of the defects in the petition filed.

20.

A person aggrieved by the advice of the receiving officer in regard to the registration of the petition may request the matter to be placed before the secretary of the Commission for appropriate orders.

21.

As soon as the petition and all necessary documents are lodged and the defects and objections, if any, are removed, and the petition has been scrutinised and registered, the petition shall be put up before the Commission for preliminary hearing and admission.

22.

The Commission may admit the petition for hearing without requiring the attendance of the party, Commission shall not, pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may also desire to hear the respondents.

23.

If the Commission admits the petition, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondents and other affected or interested parties for the filing of replies and rejoinder in opposition or in support of the petition.

24.

Service of notices and processes issued by the Commission. Any notice or process to be issued by the Commission may be served under any one or more of the following modes as may be directed by the

Commission -(a)service by any of the parties to the proceedings as may be directed by the Commission;(b)by hand delivery through a messenger;(c)by registered post with acknowledgement due; and(d)by advertisement in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc., on any person in the manner mentioned above.

25.

Every notice or process required to be served on or delivered to any person, may be sent to the person or his agent empowered to accept service at the address furnished by him or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.

26.

In the event, when any matter is pending before the Commission and the person to be served has authorised an agent or representative to appear for or represent him in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service on the person to be served.

27.

Where a notice is served by a party to the proceedings either in person or through registered post, an affidavit of service shall be filed by such party with the Commission giving details of the date and manner of service of notices and processes.

28.

Save as otherwise provided in the Act or in the Regulations and subject to any direction which the Commission or the Secretary or time officer designated for the purpose may issue, the petitioner, the applicant or any other person whom the Commission makes responsible, shall arrange service of all notices, summons, and other processes and for advertisement and publication of notices and processes required to be served. The Commission may also effect service or issue directions for effecting service in any other manner, it considers appropriate. The Commission shall, however, be entitled to decide in each case the person(s) who shall bear the cost of such service and publications.

29.

In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notices, summons or processes or the advertisement and publication thereof, the Commission may either dismiss the petition or give such directions as it thinks fit.

30.

No service or publication required to be made shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and not proceedings shall be invalidated by reason of any defect or irregularity unless the Commission, on an object taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

31. Filing of reply, opposition, objections etc.

- Each person, whom the notice of inquiry or of the petition is issued (hereinafter the respondent) who intends to oppose or support the petition shall file the reply and the documents relied upon within such period and in such number of copies as may be required under these Regulations. In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry or of the petition and may also State such additional facts as considered necessary for just decision of the case. The reply shall be signed and verified and supported by affidavit in the same manner as in the case of the petition.

32.

The respondent shall serve a copy of the reply alongwith the documents duly attested to be true copies on the petitioner or his authorised representative and file proof of such service with the office of the Commission at the time of filing the reply.

33.

Where the respondent States additional facts as may be necessary for the just decision of the case, the Commission may allow the petitioner to file a rejoinder to the reply filed by the respondent. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.

34.

Every person who intends to file objection or comments in a matter pending before the Commission, pursuant to the advertisement and publication issued for the purpose (other than the persons to whom notices, processes, etc. have been issued calling for reply) shall deliver, to the receiving officer, the statement of the objections or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.

35. Hearing of the matters.

- The Commission may determine the stages, manner, the place, the date and the time of the hearing of the matter as it considers appropriate.

36.

(i)The Commission may decide the matter on the pleadings of the parties or may call for the evidence from the parties by way of affidavit or may require production of oral evidence in support of their case.(ii)If the Commission decides to receive the evidence of a party on affidavit, the Commission may, if it considers necessary or expedient, grant an opportunity to the other party to cross- examine the deponent.(iii)The Commission may, if it considers necessary or expedient, direct that the- evidence of any of the parties be recorded by an officer or person designated for the purpose by the Commission.(iv)The Commission may direct the parties to file their written note or arguments or submissions in the matter.

37. Powers of Commission to call for further information, evidence, etc.

- The Commission may, at any time before passing orders on any matter, require the parties or any one or more of them or any other person whom the Commission considers appropriate, to produce such documentary or other evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.

38.

The Commission may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, to requisition any public record from any office, to get the examination by an officer of the Commission of the books, accounts or other documents or information in the custody or control of any person, which the Commission considers relevant for the matter.

39.

In accordance with Section 228 of the Indian Penal Code, 1860, whoever intentionally offers any insult or causes any interruption in any of the proceedings of the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1000/- or both.

40. Reference of issues for advice or opinion.

- (i) At any stage of the proceedings, the Commission shall be entitled to refer such issue or issues involved in the matter, as it considers appropriate to person including, but not limited to, the officers and consultants of the Commission whom the Commission considers qualified to give expert advice or opinion.(ii)The Commission may nominate from time to time any person including, but not limited to officers and consultants to visit any place or places for inspection and to report on the existence or status of the place or about facilities therein.(iii)The Commission, if it thinks fit, may direct the parties to appear before the persons designated in sub-clause (i) or (ii) above to present their respective views on the issues or matters referred to.(iv)The report or the opinion received

from such person shall form part of the record of the case and the parties shall be given the copies of such report or opinion, on payment of a fee to be fixed by the Commission. The parties shall be entitled to file their version either in support or in opposition to the report or the opinion.(v)The Commission shall duly take into account the report or the opinion given by such above stated or the nominated person, the reply filed by the parties while deciding the matter and if considered necessary examine the person giving the report or the opinion :Provided, however, the Commission shall not be bound by the report or the opinion given.

41. Procedure to be followed where any party does not appear.

- Where, on the date of hearing or on any other date to which such hearing may be adjourned, any party or his authorised agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the petition for default or proceed ex-parte against the party in default and hear and decide the petition.

42.

Where a petition is dismissed in default or is decided ex-parte, the person aggrieved may file an application within 30 days from the date of such order or of being proceeded ex-parte, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non- appearance when the petition was called for hearing.

43. Orders of the Commission.

- The Commission shall pass order on the petition and the Chairperson and the Members of the Commission who hear the matter and vote on the decision, shall sign the order.

44.

The reasons given by the Commission in support of the order including those by the dissenting Member, if any, shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations. If no date for passing of the order is fixed, the intimation of passing of the order by the Commission shall be sent to the parties/their representative/counsel.

45. Inspection of records and supply of certified copies.

- Records of all proceedings, except of those parts which, for reasons specified by the Commission are confidential or privileged or otherwise not to be disclosed to any person, shall be open to inspection by all the parties to the proceedings either during the proceedings with the permission of the Commission or after the orders have been passed, subject to such person complying with such terms as the Commission may direct from time to time and also with regard to time, place and

manner of inspection and payment of fees. Inspection as above shall be available to any person other than parties to the proceedings, only after final orders are passed in the matter.

46.

Any person shall be entitled to obtain certified copies of the orders, directions, decisions and reasons in support thereof given by the Commission as well as the pleadings, papers and other parts of the records of the Commission to which he is entitled to inspect, subject to payment of fees and complying with other terms which the Commission may direct.

47. Interim Order.

- The Commission may pass such interim orders as it may consider appropriate at any stage of the proceedings.

Chapter III

Arbitration of Disputes

48.

The arbitration of disputes and difference between the licensees and utilities under the Act may be commenced by the Commission either on the application of the licensees or utilities concerned.

49.

Upon receiving the application under clause 48 of these Regulations, the Commission shall issue notice to the other parties to the dispute and other persons as the Commission considers appropriate. On appearance, if the parties seek the settlement of their dispute through arbitration, the parties shall be so referred to get their dispute settled through arbitration and would thereafter be governed by the provisions of the Arbitration and Conciliation Act, 1996.

Chapter IV

Investigation, Inquiry, Collection of Information, etc.

50.

The Commission may pass such orders as it thinks fit for collection of information, inquiry, investigation, entry, search, seizure, and without prejudice to the generality of its power in regard to the following :-(a)The Commission shall specially authorise, the Secretary or any other Gazette Officer to enter any building or place where there is reason to believe that any document or record relating to the subject matter of its inquiry or adjudication under the Act, may be found and to seize

or take extracts or copies thereof.(b)The Commission, may, at any time, direct the Secretary or any one or more officers or consultants or any other person as the Commission may consider appropriate to study, investigate or furnish information in respect to any matter within the purview of the Commission under the Act.(c)The Commission may for the above purpose give such other directions as it may deem fit and specify the time within which the report is to be submitted or information furnished.(d)The Commission may issue or authorise the Secretary or any other officer to issue directions to any person to produce before it the books, the accounts, other records, etc. for examination or retention thereof by such officer and/or to furnish the required information to such officer.(e)The Commission may issue such direction as may be necessary for the purpose of collecting any information, particulars or documents required for the proper discharge of its functions.(f)If any such report or information obtained appears insufficient or inadequate, the Commission or the Secretary or an officer authorised for such purpose may give directions for further enquiry, report and furnishing of information.

51.

In connection with the discharge of the functions under clause 50, the Commission may, if it thinks fit issue a notice of inquiry and proceed with, in a manner provided under Chapter II of these Regulations.

52.

The Commission may, at any time, take the assistance of institutions, consultants, experts, engineers, cost accountants, chartered accountants, advocates, surveyors and such other technical and professional persons as it may consider necessary, and ask them to study, investigate, inquire into any matter or issue and submit report or reports or furnish any information. The Commission may determine the terms and conditions for engagement of such professionals.

53.

If the report or information obtained in terms of the above clauses or any part thereof is proposed to be relied upon by the Commission for forming its opinion or view in any proceedings, the parties to the proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information.

Chapter V

Tariff Regulations

54.

These regulations shall apply with the provisions of Sections 22 and 29 of the Act :-(i)In determination of the tariff for wholesale, bulk, grid or retail supply of electricity and inter State

transmission of electricity.(ii)In regulating power purchase and procurement by the transmission utilities and distribution utilities.(iii)In determination of the price at which power shall be purchased from Generating Companies, Generating Stations or other sources. This will be governed under the provision of Section 22 of the Act as per terms and conditions for fixation of tariff contemplated in Section 29 of the Act.

55.

Neither the Board nor the utilities for transmission (intra-State transmission), distribution and supply of power shall charge any tariff without prior approval of the Commission.

56.

Any transmission or distribution utility, henceforth proposing to procure and purchase power, including the price at which power may be purchased, from any Generating Company, Generating Station or from any other source for transmission, distribution and supply in the State, shall take approval from the Commission, before entering into such contract.

57.

The Commission may from time to time, prescribe methodology and procedure for calculating the expected revenue from the permissible charges, in determining the tariff.

58.

(a)The Commission may at any time frame separate Regulations, through notifications, for fixation of tariff in accordance with the guidelines under Section 29(2) of the Act.(b)Unless otherwise specified by the Commission through separate Regulations, the fixation of tariff shall be based on the following factors :-(i)The financial principles and applications thereof, as laid down under Sections 46, 57 and 57-A and the Sixth Schedule of the Electricity (Supply) Act, 1948 in respect of licensees.(ii)In respect of Board or its successor, the financial principles and application thereof as laid down under Section 59 of Electricity (Supply) Act, 1948 shall be taken into consideration. The payment of interest to the State Government shall be according to the provision of Section 67-A of the above Act.(iii)While determining the tariff, the Commission may ask the State Government if it desires to grant concession in that regard to any consumer or class of consumers. If so, the State Government shall compensate the loss to the Board/Utility in the manner directed by the Commission.(iv)The carried over liabilities of Board/Utility and their extent maybe considered in fixing the tariff.(v)Different operational norms and performance levels such as plant load factor, period of stabilisation/commercial operation of new generation/transmission facilities, transmission and distribution losses, reduction in the unaccounted energy due to theft/pilferage, secondary fuel oil consumption, auxiliary consumption, station heat rate, recovery of old outstanding arrears, economy in operation/maintenance, establishment and other expenses.(vi)The tariff allowed in any financial year shall be subject to the adjustment in any tariff to be fixed for

subsequent period, if the Commission is satisfied for reasons to be recorded in writing that such adjustments for the excess amount or shortfall in the amount actually realised vis-a-vis estimated is necessary, and the Commission is further satisfied that the same is not on account of any reason attributable to the Board/Utility.(vii)If a licensee desires any deviation from the factors mentioned in the Sixth Schedule of the Electricity (Supply) Act, 1948, the licensee shall give the justification for such request. The Commission, may also on its own, provide for deviation from the Sixth Schedule by recording reasons therefor.

59.

The Commission shall also regulate charges payable to the State transmission utility/other utilities for wheeling power within the State.

60.

The Commission may work out appropriate incentive schemes for improved performance in generation, transmission, and distribution utilities, which shall be notified from time to time.

61.

The Commission may approve differential tariff as incentive linked with timely payment of bills.

62.

Board/Utilities shall submit tariff proposals in the form of partition based on the terms and conditions, provided in these Regulations. Such proposals should be submitted to the Commission at least three months before the date from which tariff is proposed to be enforced.

63.

The Commission shall invite objections/suggestions on the tariff proposals from the interested consumers and concerned parties. Similar petitions shall be clubbed and shall be summarily heard by the Commission.

64.

Admission of petitions from the parties other than those directly affected by the tariff shall be at the discretion of the Commission.

65.

(i)The Commission may get the books and records of the Board/Utilities concerned, examined by the officers and/or by consultants, as and when necessary. The report of the officers/consultants

shall be made available to the parties concerned and they shall be given opportunity to react on the report in the manner as prescribed in clauses 40 and 53 of these Regulations.(ii)The Commission may require the Board/Utilities to give such other information, particulars and documents as considered appropriate to enable the Commission to assess Board's/Utility's calculations.

66.

The Board/Utilities concerned shall publish the tariff as decided by the Commission, in the manner as may be provided in the order. The tariff so decided, shall be in force until any amendment on review is made by the Commission and published.

67.

(i)All applications for review of tariff in terms of Section 12(f) the Act shall also be in the form of petition and shall be governed by the provisions of Chapter-II.(ii)The Commission on its own, being satisfied that there is need to review the tariff of any utility, may initiate its process. The proceedings for suo motu review of the tariff shall be the same as set out in Chapter-II of these Regulations.

68.

Board/Utility found to be charging a tariff different from the one decided by the Commission shall be deemed to have not complied with the directions of the Commission and shall be liable to penalties under Sections 44 and 45 of the Act without prejudice to any other penalty to which it may be liable under any other Act. Any excess charges of tariff by Board/Utility in any year shall be dealt with as per the directions of the Commission.

69.

In the event of variation in the fuel cost, the Board/Utilities may make application to the Commission in terms of Section 12(f) of the Act for the amendment in the last tariff so as to adjust the same provisionally from the date of such application subject to final adjustment as per finalised accounts of the Board/Utilities.

70.

The Board/Utilities shall submit periodic returns as may be prescribed, containing operational and cost data to enable the Commission to monitor the implementation of its order and reassess the basis on which tariff was approved.

Chapter VI

License

71. Application of license.

- The Commission may on the application submitted by interested party for the grant of supply license/transmission license or if Commission considers appropriate by advertising in newspaper or otherwise notifying in such other manner as the Commission may decide, invite application for the grant of such license under the Act. Provided that the Commission shall consult Board / Utility before grant of supply license, whereas, for the transmission license the applicant shall obtain approval of the Board/Utility, since the application for the grant of transmission license is required to be considered only when the approval of the Board/Utility is obtained. The Board/Utility shall decide the matter for approval of such application within three months.

72.

(i)The Commission may from time to time issue standard forms of licenses in accordance with which applicants shall prepare draft licenses. These standard forms may be used for the purposes of these Regulations with such variations as the circumstances of each case require. Draft licenses shall contain such particulars as may be specified by the commission from time to time.(ii)The draft license shall generally contain the following particulars :(a)a short title descriptive of the proposed undertaking together with the address and description of the applicant, and if the applicant is a company, the names of all the directors of the company;(b)type of license applied for;(c)location of the proposed service area/segment;(d)a description of the proposed area/segment; and(e)such other particulars as the Commission may specify.

73.

Application for transmission license or supply license shall be made in accordance with the provision of the Indian Electricity Act, 1910, the Act and these Regulations. Every application for a license shall be signed by or on behalf of the applicant and addressed to the Secretary. Application shall be accompanied by the following signed documents :(a)printed copies, six in number or as the Commission may direct, of the draft license, with the name and address of the applicant and of his agent (if any) printed on the face of the draft;(b)six copies of the scaled map, as provided in Rule 11 of the Indian Electricity Rules, 1956 or as the Commission may direct, of the proposed area of transmission or supply and, in the case of supply, of the streets or roads to which the supply of energy is to made, which shall be so marked or coloured as to define any portion of such area and streets or roads which are under the administrative control of any local authority;(c)a list of any local authorities vested with the administration of any portion of the area of supply;(d)an approximate statement describing lands which the applicant proposes to acquire for the purpose of the license and the means of such acquisition;(e)an approximate statement of the capital proposed to be expended in connection with the undertaking and such other particulars as the Commission may require;(f)a copy each of the memorandum and articles of association, annual accounts for the last three years or other similar documents as may be required;(g)a receipt for such processing fee, as the Commission may require; and(h)where the application is supported with consent of the Board/ Utility, the Commission may enquire into the facts and circumstances in which such consent was granted.

74. Copies of the maps and draft license for public inspection.

- The applicant shall maintain at his own office and that of his agent (if any) and also at the office of every local authority vested with the administration of any portion of the proposed area of supply : (a) copies of the maps referred to in sub-clause (b) of Regulation 73 for public inspection, and (b) sufficient number of copies of the draft license to be furnished to all persons applying for them at a price not exceeding normal photocopying charges per copy.

75. Acknowledgement of application.

- On receipt of the application, the receiving officer shall note thereon the date of its receipt and shall furnish to the applicant an acknowledgement in that regard stating the date of receipt.

76. Calling for additional information.

- The Commissioner or the Secretary or any officer designed for the purpose may, upon scrutiny of the application, require the applicant to furnish within a specified period such additional information or particulars or documents as considered necessary for the purpose of dealing with the application.

77. Certification of the application.

- If the Secretary or the officer designated by the Commission finds the application complete in all respects, he shall certify that the application is ready for being considered for grant of license in accordance with the procedure provided in the Act and Regulations.

78. Advertisement of application and filing objections for supply license.

(1) The applicant of a supply license shall, within fourteen days from the date of registration of the application publish notice of his application by public advertisement. (2) The advertisement shall bear a short title corresponding to the draft license and shall give the addresses of the offices at which copies of draft license and maps required as per these Regulations may be inspected or obtained by any person and shall also state that every local authority, utility or person, desirous of making any representation/objection may do so by a letter addressed to the Secretary of the Commission within three months of the date of issue of the first advertisement, complying with the requirement of Chapter II of these Regulations.

79.

The Commission may direct that notice of the application be also served on the Central Government, the State Government, the local authority or any other authority or person or body either by hand with receipt thereof or by registered post with acknowledgement due.

80.

(i)The applicant shall also apply and before regular hearing of application, obtain the 'no objection' required from the concerned local authority and also Central Government, wherever applicable, in terms of Section 3 of the Indian Electricity Act, 1910 before the application is placed for hearing by the Commission for grant of the supply license.(ii)The application for transmission license shall be accompanied by the approval of Board/State Transmission Utility containing norms and other terms and conditions for construction, maintenance and operation of the transmission system under the direction, control and supervision of the Transmission Utility.(iii)Application by the non-licensee for sanction to supply energy to the public shall also accompany the consent of Board/Utility, local authority, Central Government (if applicable) and of the licensee (if the area falls within the area of the supply of another licensee).

81. Local enquiries and hearings.

- If the applicant has duly published the notice of the application and if the time for filing of the objections is over and after the applicant has furnish to the Commission the 'no-objection', if any, required from the Central Government and/or other concerned agencies as applicable the Commission may proceed for regular hearing.

82.

The Commission shall give the notice of local inquiry or hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission considers appropriate. The objection, if considered trifling or vexatious in nature, shall not be entertained.

83. Approval of draft license and notification of the grant.

- After enquiry, if any, and the hearing, the Commission may decide to grant or refuse the license. If it decides to grant the license it may do so by approving the draft license with such modifications, changes or additions and subject to such other terms and conditions as the Commission may direct.

84.

When the Commission has approved a draft license, either in its original form or in a modified form, the Secretary shall inform the applicant to consent to such approval and of the form in which it is proposed to be granted and the conditions to be satisfied by the applicant including the fees to be paid for the grant of the license. The Commission may thereafter, direct the publication of the license or such part or gist thereof as the Commission considers appropriate.

85. Date of commencement of license.

- The license shall commence from such date as the Commission may specify in the order granting the license.

86. Deposit of maps.

- When a license has been granted, three sets of maps showing particulars specified in clause 74, shall be signed and dated by the Secretary corresponding with the date of notification of the grant of the license. One set of such maps shall be retained by the Secretary and two sets given to the licensee.

87. Deposit of printed copies.

(1) Every person who is granted a license shall, within thirty days of the grant thereof : (a) have adequate number of copies of the license printed; (b) have adequate number of maps prepared showing the area of supply/transmission, specified in the license; and (c) arrange to exhibit a copy of such license and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of supply. (2) Every such licensee shall, within the aforesaid period of thirty days, supply free of charge one copy of the license and the relevant maps to every local authority within the area of supply and shall also make necessary arrangements for the supply of printed copies of the license to all persons applying for the same at a price not exceeding normal photocopying charge

88. Preparation and submission of accounts.

(1) Every licensee, unless expressly exempted, shall cause the accounts of his undertaking be prepared upto the thirty-first day of March each year. (2) Such licensee shall prepare and render an annual statement of his duly audited account within a period of six months from the aforesaid date, or such extended period as the Commission may authorise, after it is satisfied that the time allowed is insufficient owing to any cause beyond the control of the licensee and the statement shall be rendered in such number of copies and in such forms duly signed, as the Commission may direct. (3) The Commission may by a special or general order direct that, in addition to the submission of the annual statement of accounts in the forms provided for in the above sub-clause, the licensee shall submit to the Secretary, such additional information as may be required.

89. Model conditions of supply.

(1) The licensee shall furnish to the Commission the conditions of supply. The Commission may direct, from time to time, the model conditions of supply to be adopted by the licensee, with such variations as the Commission may permit. (2) The licensee shall always, keep in his office the adequate number of printed copies of such conditions of supply and shall, on demand, supply such copies to any applicant at a price not exceeding normal photocopying charges.

90. Contravention of license.

- The Commission may pass such orders as it thinks fit in accordance with the provisions given below for the contravention or the likely contravention of the terms and conditions of the license by licensee.

(1) Interim order : (i) Where the Commission is satisfied that a licensee is contravening or is likely to contravene any of the relevant conditions or requirements of its license, it shall by final order under sub-clause (2) and, if it thinks appropriate in accordance with sub-clause (1) (ii), by interim order under this clause, issue such directions as it deems proper for securing compliance. (ii) In determining whether it is appropriate that an interim order be made, the Commission shall have regard in particular to; (a) the extent to which the contravention or likely contravention by the licensee will affect the achievement of the objects and purposes of the Act; (b) the extent to which any person is likely to sustain loss or damage in consequence of anything which is likely to be done or omitted to be done in contravention of the relevant condition or requirement, before a final order can be made; and (c) the extent to which there is any other available remedy in respect of the alleged contravention of a relevant condition or requirement. (iii) If the Commission proposes to make an interim order, it shall give notice to the licensee; (a) stating that it proposes to make the order; (b) setting out; (i) the relevant conditions or requirements with which the proposed order is intended to secure compliance; (ii) the acts or omissions which, in its opinion, constitute contravention of that condition or requirement; (iii) the order facts which in its opinion, justify the making of the proposed order; and (iv) the effects of the proposed order. (c) specify the period not being less than five days from the date of notice within which the licensee may make representations or objections to the proposed order. (iv) Subject to sub-clause (1)(v), having considered any of the representations or objections from the licensee pursuant to sub-clause (1)(iii)(c), the Commission may make an interim order at any time after expiry of the period referred to above, if (a) The Commission has reason to believe that the licensee to whom the order relates has contravened or is contravening or is likely to contravene any relevant condition or requirement; and (b) the provisions made by the order are requisite for the purpose of securing compliance with that condition or requirement. (v) The Commission may not make an interim order if it is satisfied that the licensee has agreed to take and is taking all such steps as the Commission considers necessary to secure compliance with the condition or requirement in question. (vi) The order- (a) shall require the licensee to whom it relates, to do or to abstain from doing such things as are specified in the order; (b) shall take effect from such time as is specified in the order; and (c) may be revoked, modified or rescinded at any time by the Commission, but in any event shall cease to have effect at the end of such period as is stated in the order, unless the Commission is at that time following the procedure set out in sub-clause (2) to declare the interim order to be a final order. (vii) As soon as practicable, after making an interim order, the Commission shall- (a) serve a copy of the order on the licensee to whom the order relates; (b) publish the order in such manner as it considers appropriate for the purpose of bringing it to the attention of the persons likely to be affected by it; and (c) commence proceedings to declare the interim order to be a final order in accordance with sub-clause (2).

(2) Final order : (i) If the Commission proposes to make the final order or to declare an interim order to be the final order, the Commission shall give notice to the licensee : (a) stating that it proposes to make the final order or to declare the interim order to be the final order; (b) setting out the information referred to in sub-clause (1)(iii)(b) of clause 90 in respect of the proposed final order; and (c) specifying the period, not being less than sixty days from the date of publication of the

notice, within which representations or objections to the proposed order may be made.(ii)The Commission shall consider the representations or objections that are duly made and not withdrawn by the licensee and shall publish details of such representations or objections specifying a period, not less than thirty days from the date of publication of notice within which further representations or objections may be made.(iii)A notice under sub-section (2)(i) shall be given by serving a copy of notice and a copy of the proposed final order on the licensee to whom the order relates, and a notice under sub-clause (2) (ii) by publishing it in such manner as the Commission considers appropriate for the purpose of bringing the matters to which the notice relates, to the attention of persons likely to be affected.(iv)The Commission shall not modify the proposed final order as a result of representations or objections received following publication of the notice referred to in sub-clause (2)(ii) except-(a)after considering the representations or objections; and(b)with the consent to the modification of the licensee to whom the proposed final order relates.

91. Grant of exemption from transmission license.

- An application under Section 27-D(5) of the Indian Electricity Act, 1910 for exemption from obtaining the transmission license shall be made in the form prescribed for the purpose by the Commission, and the application shall contain such particulars and shall be accompanied by such documents as the Commission may direct. The application shall be supported by affidavit as provided in Chapter II of the Regulations.

92.

Unless otherwise specified in writing by the Commission, each application for exemption shall be accompanied by a receipt of processing fee as the Commission may prescribe.

93.

Unless otherwise specified in writing by the Commission, the procedure for grant of license, in so far as it can be applied, shall be followed while dealing with an application for exemption from a transmission license.

94. Revocation of the license.

- The Commission may, under the powers vested by Section 22(2) of the Act and under Section 4 of the Indian Electricity Act, 1910, may initiate proceedings for revocation of license, suo moto or on receiving any complaint or information from any person, consumer or utility or any reference made to the Commission by the State Government, Central Government or Central Electricity Authority.

95.

The Commission may give notice of the proceedings for the revocation of license to the licensee and to such other persons, authority or body as it may consider necessary.

96.

Having regard to the provisions of clause 90 of these Regulations and the procedure prescribed therein, the inquiry by the Commission on the revocation of license, in so far as it is applicable, shall be in the same manner as provided in Chapter II of these Regulations. The licensee shall be given not less than three months notice in writing to show cause against the proposed revocation, stating the ground on which it is proposed to revoke the license.

97.

If the Commission decides to revoke the license, it shall issue the notice of revocation specifying the effective date from which revocation shall take effect and containing such other terms and conditions as the Commission may decide.

98.

The Commission may, instead of revoking the license, pass, any order imposing further terms and conditions, which the licensee shall be required to abide thereafter.

99. Amendment of licenses.

- Application by the licensee or otherwise for alterations or amendments in the terms and conditions of the license granted, under Section 22(2) of the Act and Section 4-A of the Indian Electricity Act, 1910, shall be made in such form as may be prescribed by the Commission. The application shall be supported by affidavit as provided in Chapter II of the Regulations.

100.

Unless otherwise specified in writing by the Commission, each application for amendment or alteration in the license shall be accompanied by a receipt of such fee as the Commission may prescribe.

101.

Unless otherwise specified in writing by the Commission, the procedure prescribed in these Regulations for grant of license, in so far as applicable, shall also be followed while dealing with an application for amendment or alteration of the license.

Chapter VII

Miscellaneous

102. Constitution of State Advisory Committee.

(a)The State Advisory Committee envisaged under Section 24 of the Act shall consist of such number of members, not exceeding 21 representing various interests as referred to in the Act, as may be decided by the Commission and the tenure of the members shall normally be one year or as decided and notified by the Commission.(b)The Commission may pay to the members of the Committee such allowances/fees apart from reimbursement of expenses as may be decided by the Commission from time to time, for attending the meetings.

103. Review of the decisions, directions and others.

(1)Within 60 days after making of any decision, direction or order, the Commission may on its own motion or on the application of any of the persons or parties concerned, correct any clerical/arithmetical errors, or review such order, decision or direction and pass such appropriate orders as the Commission thinks fit.(2)The application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations.

104. Continuance of proceeding after death, etc.

(1)Where in any proceeding any of the parties to the proceedings dies or is adjudicated insolvent or in the case of a company under liquidation/winding up, the proceedings shall continue through the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned.(2)The Commission may, for reasons to be recorded, treat the proceedings as abated in case the Commission so directs that there is no need to bring the successors-in-interest on the record of the case.(3)In case any person wishes to make a successor-in-interest a party to the proceedings, he shall file an application for the purpose within 90 days from the date of knowledge of its predecessor's death, insolvency, liquidation or winding up, which shall be decided by the Commission after hearing the parties.

105. Proceedings to be open to public.

- The proceedings before the Commission shall be open to the public :Provided that the Commission may, if it thinks fit, and for reasons to be recorded in writing, order at any stage of the proceedings of any particular case that the public generally or any particular person or group of persons shall have no access or restricted access.

106.

In accordance with Section 345 of the Code of Criminal Procedure, 1973, whoever intentionally offers any insult or cause any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may at any time before the raising of the Commission on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section for such

act, sentence, the offender to fine not exceeding Rs. 200/- and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine be sooner paid.

107.

If the Commission considers that a person has committed the offence under Section 228 of the Indian Penal Code, in its view or presence and he should be imprisonment otherwise than in default of payment of fine or that a fine exceeding Rs. 200/- should be imposed on him or the Commission for any other reason is of the opinion that the case should to be disposed off by it under the above clause, it may forward the case to a Magistrate having jurisdiction to try the same and may require that security be given for the appearance of such person before such Magistrate or if required security is not given, shall forward such person in custody to such Magistrate.

108. Publication of petition.

- Where any application, petition or other matter is required to be published under the Act or under these Regulations or as per the directions of the Commission, it shall, unless the Commission otherwise orders or the Act or Regulations otherwise provide, be advertised under an appropriate heading not less than five days before the date fixed for hearing.

109. Confidentiality.

(1)Records of the Commission, except those parts which for reasons specified by the Commission are confidential or privileged, shall be open to inspection by all, subject to the payment of fee and complying with the terms as the Commission may direct.(2)The Commission may, on such terms and conditions as it considers appropriate, provide for the supply of the certified copies of the documents and papers available with the Commission to any person.(3)The Commission may, by order, direct that any information, documents, other papers and materials in the possession of the Commission or any of its officers, consultants and representatives, which are required by law or for other reasons to be specified by the Commission to be kept confidential or privileged, shall not be available for inspection or supply of copies.

110. Issue of orders and directions.

- Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and directions and prescribe procedure with regard to the implementation of the Regulations.

111.

Saving of inherent power of the Commission. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to pass such orders as may be necessary for the ends of justice or to prevent the abuse of the process of the Commission.

112.

Nothing in these Regulations shall bar the Commission from adopting a procedure for dealing with matters in conformity with the provisions of the Act, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient.

113.

Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters and exercise such powers and functions in manner it thinks fit.

114. General Power to amend.

- The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.

115. Power to remove difficulties.

- If any difficulty arises in giving effect to any of the provisions of the Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

116. Power to dispense with the requirement of the Regulation.

- The Commission shall have power, for reasons to be recorded in writing and with notice to the affected parties, to dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be specified.

117. Extension or abridgement of time prescribed.

- Subject to the provisions of the Act, the time prescribed by these Regulations or by other order of the Commission for doing any act, may be extended (whether it has already expired or not) or abridged for sufficient reason, by the order of the Commission.

118. Effect of non-compliance.

- Failure to comply with any requirement of these Regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

119. Costs.

(1) Subject to such conditions and limitations as may be directed by the Commission, the cost of and incidental to all proceedings shall be awarded at the discretion of the Commission and it shall have full power to determine by whom or out of which funds and to what extent, such costs are to be paid and give all necessary directions for the aforesaid purpose. (2) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of a Civil Court.

120. Enforcement of orders of the Commission.

- The Secretary shall ensure enforcement and compliance on the orders of the Commission, by the persons concerned in accordance with the provisions of the Act and Regulations and if necessary, Secretary may seek further orders and directions of the Commission.

Form 1 General Heading for Proceedings (See Regulation 12) Before the Madhya Pradesh Electricity Regulatory Commission, Bhopal
Filing No. Case No. (To be filled by the Office) In the matter of: (Gist of the purpose of the petition or application) And In the matter of: (Name and full addresses of the petitioners/ applicants and names and full addresses of the respondents)

Form 2 (See Regulation 13) Before the Madhya Pradesh Electricity Regulatory Commission, Bhopal
Filing No. Case No. (To be filled by the Office) In the matter of: (Gist of the purpose of the petition or application) And In the matter of: (Name and full addresses of the petitioners/ applicants and names and full addresses of the respondents)

Affidavit verifying the petition/reply, application, I, XY son of..... aged..... normally residing at..... do solemnly affirm and say as follows :

1. I am the petitioner/applicant/respondent etc. or I am a Director/ Secretary/Partner..... of..... the petitioner/applicant/respondent in the above matter and I am duly authorised by the said petitioner/applicant/ respondent to make this affidavit.

2. The statements made in paragraphs..... of the petition/ application/reply herein shown to me and marked with the letter "Z" are true to my knowledge and the statements made in paragraphs..... are based on information and I believe them to be true.

Solemnly affirm at..... on this day of..... that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom. (Identified before me by)