

The Delhi Electricity Regulatory Commission (Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Ombudsman) Regulations, 2003

DELHI

India

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Rule

THE-DELHI-ELECTRICITY-REGULATORY-COMMISSION-GUIDELINES- of 2003

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The Delhi Electricity Regulatory Commission (Guidelines For Establishment Of Forum For Redressal Of Grievances Of The Consumers And Ombudsman) Regulations, 2003Published vide Notification No. 11(29)/DERC/2003-04/1265 dated 11th March, 2004[11th March, 2004]In exercise of the powers conferred on the Commission, by section 181 read with sub-section (5) of section 42 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it in that behalf, the Delhi Electricity Regulatory Commission hereby frames the following Regulations, namely:

1. Short title.

-These Regulations may be called the Delhi Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers and Ombudsman) Regulations, 2003.

2. Commencement and application.

(1)These Regulations shall be applicable to all Distribution & Retail Supply Licensees.(2)These Regulations shall extend to all the areas under jurisdiction of the Commission.(3)These shall come

into force on the date of their publication in the Official Gazette.

3. Definitions.

-In these guidelines, unless the context otherwise requires:-(a)"Act" means the Electricity Act, 2003;(b)"appointed date" means 10th day of June, 2003;(c)"chairperson" and "member" shall mean the Chairperson of the Forum and the member, respectively and unless the context otherwise requires, the expression 'member' shall also include the Chairperson;(d)"Commission" means Delhi Electricity Regulatory Commission;(e)"complainant" means(i)a consumer; or(ii)any consumer association registered under the Companies Act, 1956 (1 of 1956) or under any law relating to registration of societies and/or Charitable institutions or under any other law for the time being in force; or(iii)One or more consumers, where there are numerous consumers having the same interest;(iv)In case of death of a consumer, his legal heirs or authorised representatives;(v)Any other person claiming through or authorised by or acting as agent for the consumer and affected by the services or business carried out by the distribution licensee.(f)"complaint" means any grievance in writing made by a complainant that(i)an unfair trade practice or a restrictive trade practice has been adopted by the licensee in providing electricity service;(ii)the electricity services hired or availed of or agreed to be hired or availed of by him suffer from defect or deficiency in any respect;(iii)a licensee has charged for electricity services mentioned in the complaint, a price in excess of the price fixed by the Commission;(iv)electricity services which are hazardous to life and safety when availed, are being offered for use to the public in contravention of the provisions of any law for the time being in force or of any license;(v)violation of any law or license requiring the licensee to display the information in regard to the manner or effect of use of the electrical services;(vi)Breach of any obligation by the licensee which adversely affects any consumer or which the Forum may consider appropriate to be treated as a complaint.(g)"consumer" means any person who is supplied with electricity for his own use by a licensee and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a licensee;(h)"consumer grievance" means a complaint/protest/objection filed by the complainant;(i)"distribution licensee" or "licensee" means one who is authorised to operate and maintain a distribution system for supplying electricity to the consumers;(j)"defect" means any fault, imperfection or shortcoming in the quality, quantity, or standard of service, equipment or material which is required to be maintained by or under any law for the time being in force or under any contract, express or implied, or under any license or as is claimed by the distribution licensee in any manner whatsoever in relation to electricity service;(k)"deficiency" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or under any license or has been undertaken to be performed by distribution licensee in pursuance of a contract or otherwise in relation to electricity service or performance standard; viz. Interruption/ failure of Power supply, Voltage complaints, metering problems including meter shifting, charges /payments (billing problems), disconnection/ reconnection of power supply to the consumer, new connections/ extensions in load, notice of supply interruptions, violations of Electricity Supply Code, contravention of Act, rules or regulations made thereunder with regard to consumer interest;(l)In particular and without prejudice to the generality of the term the "electricity service" means supply, billing, metering & maintenance of electrical energy to the consumer and all other attendant

sub-services etc.;"(m)"Forum" means 'Forum for redressal of consumer grievances' constituted by distribution licensee under section 42(5) of the Act; (n) "Ombudsman" means an authority appointed/ designated by the Commission, under sub-section (6) of section 42 of the Act;(o)"Commission" means the Delhi Electricity Regulatory Commission; (p) Words and expressions used and not defined in these Regulations but defined in the Electricity Act, 2003 (36 of 2003) or in the Delhi Electricity Reforms Act, 2000 or in the Consumer Protection Act, 1986 (68 of 1986) shall have the meanings respectively assigned to them in these Acts and in case of any conflict, the meaning assigned in the Electricity Act, 2003 shall prevail.

Chapter I

Forum For Redressal Of Grievances Of The Consumers

4. Constitution of forum for redressal of grievances of the consumers.

(1)Every distribution licensee, shall within six months from the appointed date or grant of licence, whichever is earlier, establish a Forum for redressal of consumer grievances in accordance with these Regulations. The Forum shall be independent of the licensee.(2)Forum shall consist of not more than three members including the Chairperson of the Forum. The Distribution licensee shall submit before the Commission, a panel of persons who are eligible according to the qualifications hereinafter prescribed and shall appoint only such persons as the Chairperson or members of the Forum whose names have been approved by the Commission.(3)No person shall be eligible to be appointed to the Forum within two years of his retirement if, immediately before such retirement, he has been in the service of a licensee or in the holding company or subsidiary of such holding company of a licensee.(4)No person shall be appointed to the Forum or continue to be a member if he suffers from any of the disqualifications mentioned in regulation 5(2) or if he has reached the age of 67.(5)No person shall be eligible to be appointed to the Forum unless he has the following qualifications:(i)Chairperson of the Forum shall be a person possessing degree in electrical engineering, having served not below the rank of Superintending Engineer and having experience in the distribution of electricity;(ii)One member shall be a person possessing degree in law and having at least 10 years of experience in legal matters:Provided when the Chairperson of the Forum is unable to discharge the functions owing to absence, illness or any other cause, the member indicated in regulation 4(5)(ii) shall discharge the functions of the Chairperson, until the day on which the Chairperson assumes office.(iii)Another member shall be a representative of a registered society or NGO/Consumer Organization having one of its main objectives as consumer protection, with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer related matters.(6)Subject to clause (4) the term of the members of Forum shall be for a period of three years from the date of appointment/nomination to the Forum. (7) The licensee shall appoint/ designate one of his officers not lower than the rank of Grade-11 officer as full time Secretary to the Forum and shall also provide required supporting staff as approved by the Commission and office accommodation for functioning of the Forum.(8)The Chairperson of the Forum may instruct the Secretary to call for a meeting of the Forum to be hold at such time and at such place as the Chairperson may direct.(9)All decisions of the Forum shall be on the basis of majority of the members present and voting.(10)The quorum for the Forum meeting shall be two

and each member shall have one vote and in case of equality of votes on any issue or resolution, the Chairperson or as the case may be, the member of the Forum discharging the functions of the Chairperson under Regulation 4(5)(ii) presiding over the meeting shall, in addition, have a casting vote.(11)The Forum shall have sittings at the headquarters of the Forum or at any other place in the licensee's area as may be decided by the Chairperson.(12)The licensee shall give wide publicity to the formation of the Forum and shall necessarily obtain a post box number to facilitate easy registration of grievances by consumers.(13)Distribution licensee may specify the salary/ honorarium and other allowances payable to, and the terms and conditions of service of the Chairperson and members of the redressal Forum with the approval of the Commission.(14)Every member of the Forum shall, before entering upon his office, make and subscribe to an oath in such manner and before such authority as the Commission may direct.(15)The licensee shall, for the purpose of appointment of the Chairman and the Members of the Forum, invite applications through public advertisement and after receipt of the applications, shall submit for approval of the Commission, a panel of at least three names against each post except for the post of the member representing NGO. All such actions shall be completed within one month from the occurrence of the vacancy. The licensee shall complete such process within a period of one month of the occurrence of the vacancy.(16)The address of the Forum shall be displayed at all the offices of the distribution licensee and wide publicity shall be given in their areas of operation.

5. Removal of the members.

(1)No member shall be removed from office except in accordance with the provisions of this Regulation.(2)The licensee may, by order remove from office any member, if he-(i)has been adjudged an insolvent;(ii)has been convicted of an offence involving moral turpitude;(iii)has become physically or mentally incapable of acting as such member;(iv)has acquired such financial or other interest as is likely to effect prejudicially his functions as a member;(v)has so abused his position as to render his continuance in office prejudicially to the public interest;(vi)has been guilty of proved misbehaviour.(3)A member shall be liable to be removed from his office in the event of any of the disqualifications mentioned in sub-regulation (1) arising or being discovered:Provided that, no member shall be removed from his office on any ground specified in clause (iv), (v) or (vi) of sub-regulation (2) unless the said member has, on an enquiry, held by any member or nominee of the Commission, concluded that such member ought, on such ground or grounds to be removed.(4)No member of the Forum shall be removed under this Regulation without prior approval of the Commission. In case an enquiry as specified in the proviso to the foregoing clause has been conducted, such approval shall be granted only after the Commission has considered the report of such inquiry.

6. Other conditions of appointment.

-1. Subject to fulfilment of the conditions of eligibility the members of the Forum shall be eligible for reappointment for another term of three years and no further. Such appointment shall be made with the approval of the Commission.

2. Remuneration and other terms of office of the members shall not be varied to the disadvantage of the member after his appointment.

7. Jurisdiction of the Forum.

(1)The Forum shall have the jurisdiction to entertain the complaints filed by the complainants with respect to the electricity services provided by the Distribution Licensee and to take up a matter suo moto if the same fulfils the requirements specified in Regulation clauses (i) to (vi) of sub-regulation (f) of Regulation 3.(2)The Forum shall entertain only those complaints where the complainant has approached the appropriate authority of the licensee as prescribed in the complaint handling procedure of the licensee approved by the Commission from time to time and either is not satisfied with the response of the licensee or there is no response within the time prescribed therein or within reasonable time:Provided that no complaint shall be entertained unless it is filed before the Forum within three months from the date the consumer exhausted the remedy under the complaint handling procedure or when no action is taken by the authority prescribed in that procedure within the period prescribed therein, from the expiry of such period as aforesaid, whichever is earlier:Provided further that the Forum may, for reasons to be recorded in writing, entertain a complaint which does not meet the aforesaid requirements;(3)The Forum shall not entertain a complaint if it pertains to the same subject-matter for which any proceeding before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority or forum or is frivolous or vexatious in nature:

8. Grievance filing.

(1)The Forum shall take up any kind of grievance concerning with electricity supply to the consumers except the grievances arising under sections 126, 127, 135, 139, 143, 152 and 161 of the Act.(2)Every grievance to the Forum must be submitted in writing to the Forum stating;(a)the name of the individual or the organization, postal address, K. No. and telephone number, fax number and the E-mail address (if any) of the complainant;(b)the name of the office of the origin of complaint, name of the electricity district etc.:(c)a full description of the matter, which is the source of the grievance, including copies of any relevant and supporting documents, if any;(d)the relief prayed for;(e)a statement that the matter is not pending before any other court, authority or Forum(3)A copy of response if any from the licensee shall be enclosed.(4)The Forum may accept complaints through e-mails or website subject to fulfilment of such requirements as the Forum may consider appropriate.

9. Grievance handling procedure for the Forum.

(1)On receipt of the consumer grievance, the Secretary shall make an endorsement on the grievance subscribing his dated initial.(2)Within 7 days of receipt of a consumer grievance, the Secretary shall send an acknowledgement to the applicant. Consumer grievances received shall be registered and serially numbered for each year, and shall be referred e.g. C.G. No. 1/2002, 2/2003 and so on. A copy of the grievance shall be forwarded simultaneously to the concerned officer of the licensee for

redressal or to file objection if any in writing in case the licensee is not agreeable to the request of the complainant.(3)The employee nominated/ authorised in this regard by the licensee or the employee named in the complaint shall furnish the para-wise comments on the grievance within 15 days from the date of receipt of the letter from the Forum, failing which the Forum shall proceed on the basis of the material available on record.(4)The Forum may call for, any record of the licensee or from the complainant relevant for examination and disposal of the grievance and the parties shall be under obligation to provide such information, document or record as the Forum may call for. Where a party fails to furnish such information, document or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.(5)On receipt of the comments from the licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall pass appropriate orders for disposal of the grievance, as far as possible, within 60 days of filing the complaint.(6)The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The decision/s of the Forum shall be based on the opinion of the majority members of the Forum present and voting. The order of the Forum shall be communicated to the complainant and licensee in writing within 7 days. The licensee shall, comply with the order of the Forum within 21 days from the date of receipt of the order.(7)The Forum may, subject to the Regulations made by the Commission in this regard, award such compensation to the complainants as it considers just and appropriate in the circumstances of the case.(8)The Forum may issue such interim orders pending final disposal of the complaint as it may consider necessary.(9)Where the complainant or the licensee fails to appear before the Forum on the date fixed for hearing on more than two occasions, the Forum may decide the complaint ex parte.(10)The Forum may settle any complaint in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such order.(11)The Forum shall not be bound to follow the procedure prescribed in the Civil Procedure Code, 1908 (5 of 1908). Subject to these Regulations the Forum may evolve procedure conforming to the principles of fair play and justice for efficient discharge of its functions.(12)Any complainant aggrieved by orders of the Forum may prefer a representation before the Ombudsman appointed /designated by the Commission.

10. Reasoned Orders.

-Every Order made by the Forum shall be a Reasoned Order and signed by the members conducting the proceedings. Where the members differ on any point or points, the opinion of the majority shall be the Order of the Forum. The opinion of the minority shall, however, be recorded and form part of the Order.

11. Orders of the Forum to be binding.

-Subject to the right of the representation before the Ombudsman specified in these Regulations, the Orders of the Forum shall be binding on the consumers and the licensee.

12. Inspection of records and supply of certified copies.

(1)The consumer and the licensee may obtain certified copies of the Orders, decisions, directions and reasons in support thereof given by the Forum in respect of the complaint.(2)Any person may obtain copy of the Orders of the Forum subject to payment of such fee and after complying with such other terms, which the Forum may direct.

13. Monitoring of the consumer grievances by Forum.

(1)The Forum will keep a record of consumer grievances reported to it and the results thereof.(2)The Forum shall submit a report on the number of complaints received, redressed and pending, every month to the Commission for the period of 1st of the month to end of the calendar month and a copy shall also be forwarded to the distribution licensee.

Chapter II

Redressal Of Grievances By Ombudsman

14. Appointment of Ombudsman.

-The Commission shall designate or appoint a person to be known as Ombudsman to carry out the functions entrusted to him by the Act and these Regulations. The Commission may appoint more than one Ombudsman if so deemed necessary.

15. Qualifications, terms of appointment and removal of Ombudsman.

(1)(a)The Ombudsman shall be a person of integrity and repute and standing in any of the areas of law, management, engineering, finance, commerce, public administration or in non-government organizations.(b)Ombudsman shall be appointed from among such persons who have served at the level of the Secretary to the Govt. of NCT of Delhi or equivalent and in case of the persons having served in any public or private sector undertaking or an NGO, whose level of experience, in the opinion of the Commission, can be treated as comparable to the aforesaid.(c)No person shall be eligible to be appointed as Ombudsman within two years of his retirement if, immediately before such retirement, he has been in the service of a licensee or in the holding company or subsidiary of such holding company of such licensee.(2)The appointment of Ombudsman shall be for a period of three years. (3) The Ombudsman appointed under sub-clause (1) shall devote his whole time to the affairs of his office. He shall not undertake any other part-time or honorary work.(4)The Ombudsman shall be paid such salary and allowances as the Commission may by order, decide.(5)The Ombudsman shall, before entering upon his office, make and subscribe to an oath in such manner and before such authority as the Commission may direct.(6)The conditions mentioned in Regulation 4(4) regarding age and the other terms and conditions of appointment of the members of the Forum specified in regulation 6 shall, mutatis mutandis apply to the appointment of the Ombudsman.(7)The Commission may, by order in writing, remove the Ombudsman from his

office on the grounds and in the manner specified in Regulation 5.(8)The Commission shall invite applications through public advertisement for appointment of the Ombudsman.

16. Location of office and temporary headquarters.

-The office of the Ombudsman be located at such place as may be specified by the Commission. In order to expedite disposal of complaints, the Ombudsman may hold sittings at such other places within his area of jurisdiction as he may consider necessary.

17. Staff.

-The Commission shall provide secretariat and such staff to the Ombudsman as it may consider necessary. Without prejudice to any other arrangement that may be made, the Commission may also direct the Distribution Licensees to make available such staff for the Ombudsman as it considers necessary and the licensees shall promptly comply with such direction/order. The staff so provided for the Ombudsman shall work under his administrative control.

18. Expenses on Ombudsman.

-Without prejudice to any other arrangement, the salary and allowances to be paid to the Ombudsman and to the staff and all other expenses to be incurred in connection with his office and establishment shall be shared by the Distribution Licensees in such proportion as may be determined by the Commission.

19. Powers and duties of the Ombudsman.

-The Ombudsman shall have the following powers and duties:(1)To receive the representation from complainants aggrieved by any order of the Forum and to exercise all the powers as are available to a Forum under these Regulations and such other powers as may be delegated by the Commission from time to time.(2)The Ombudsman shall exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business of the office.(3)To advise the Commission on redressal of grievances of the Consumers.(4)The Ombudsman may, after hearing a Forum or any other interested party, if any, from time to time, issue such orders, instructions or directions to any Forum for the performance of its functions under these Regulations, as it may deem fit.

20. Filing of representation before the Ombudsman.

(1)Any complainant, aggrieved by orders of the Forum may himself or through his authorised representative make a representation in writing to the Ombudsman.(2)The representation shall state clearly:(i)the name/s and addresses of the Consumer/s, service connection number, category, the name of the local licensees' office, against which the representation is made, the facts giving rise to the representation, the grounds thereof, the relief sought from the Ombudsman.(ii)the name of

the Forum, date of order or decision of the Forum shall be as the case may be, mentioned in or enclosed with the representation.(3)No representation to the Ombudsman shall lie unless:(i)The consumer had, before making a representation to the Ombudsman approached the Forum constituted under section 42(5) of the Electricity Act, 2003 for redressal of his grievance;(ii)The representation is made within one month from the date of receipt of the order of the Forum:Provided that the Ombudsman may entertain a representation beyond one month on sufficient cause being shown by the person filing the representation that he had sufficient reasons for not filing the representation within the aforesaid period of one month.(iii)The person filing the representation deposits an amount equal to one-third of the amount assessed by the Forum in cash or by way of bank draft with the licensee and documentary evidence of such deposit is enclosed with the representation.

21. Procedure before the Ombudsman.

(1)After registering the representation the Ombudsman, within seven days of registration, shall call for records relating to the representation from the concerned Forum. The concerned Forum shall send the entire records within 7 days from the date of receipt of such notice to the office of the Ombudsman.(2)The Ombudsman may determine the manner, the place, the date and the time of the hearing of the matter as the Ombudsman considers appropriate. (3) The Ombudsman may hear the parties and may direct the parties to submit written statements of submissions in the matter.(4)The Ombudsman shall pass a written order giving reasons for all his findings and award.(5)The Ombudsman shall pass an award as early as possible but in any case, within three months from the date of receipt of the representation. Where there is delay in disposal of a representation within the said period of three months, the Ombudsman shall record reasons of such delay. A copy of the order or award shall be sent to the parties.

22. Finality of award.

-The award or the orders of the Ombudsman shall be final and binding on the parties.

23. Powers to call information.

-For the purpose of carrying out his duties, Ombudsman shall have the same powers to call for records or information as are available to the Forum under Regulation 9(4)

24. Power to remove difficulties.

-If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do anything, not inconsistent with the provisions of the Electricity Act, 2003, which it considers necessary or expedient for the purpose of removing the difficulties.

25. General.

(1)The Ombudsman shall send to the Commission, biannually, a report containing a general review of the activities of his office during the preceding six months and shall furnish such other information as the Commission may direct.(2)The Commission may, if it considers necessary in the public interest so to do, publish the reports of the Ombudsman in such consolidated form or otherwise as it deems fit.(3)The Commission may by order provide for or clarify any matter on which no provision is made in these Regulations or the provision made is insufficient.(4)The Forum and Ombudsman shall exercise such other powers as the Commission may, by order, delegate from time to time.(5)Chairman and Members of the Forum, the Secretary and the staff thereof, the Ombudsman and the staff thereof, when purporting to act under any provision of the Electricity Act, 2003 or under any provision of these Regulations or directions or orders issued thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 and section 2 of the Prevention of Corruption Act, 1988.(6)Subject to these Regulations, the Forum and the Ombudsman shall be guided by the principles of natural justice and shall have powers to regulate their own procedure.

26. Power to relax.

-The Commission may, in public interest and for the reasons to be recorded in writing, relax any provision of these Regulations.

27. Inherent powers of the Commission.

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

28. Repeal and Savings.

(1)Nothing contained in these Regulations shall affect the rights and privileges of the consumers under any other law for the time being in force, including the Consumer Protection Act, 1986 (68 of 1986).(2)Upon constitution of the respective Forums, the Grievance Redressal Officers nominated by the Commission under the Delhi Electricity Regulatory Commission (Redressal of Consumers' Grievances) Regulations, 2003 shall not entertain such complaint or grievance as the Commission may, by order, direct.(3)The Delhi Electricity Regulatory Commission (Redressal of Consumers' Grievances) Regulations, 2003 shall stand repealed with effect from such date as the Commission may notify.