

ශ්‍රී ලංකා ප්‍රජාතාන්ත්‍රික සමාජවාදී ජනරජයේ ගැසට් පත්‍රය
අති විශේෂ
The Gazette of the Democratic Socialist Republic of Sri Lanka
EXTRAORDINARY

අංක 1951/1 - 2016 ජනවාරි මස 25 වැනි සඳුදා - 2016.01.25
No. 1951/1 - MONDAY JANUARY 25, 2016

(Published by Authority)

PART I : SECTION (I) — GENERAL
Government Notifications

L. D. B. 3/2009

SRI LANKA ELECTRICITY ACT, NO. 20 OF 2009

RULES made by the Public Utilities Commission of Sri Lanka under section 53 of the Sri Lanka Electricity Act, No.20 of 2009, read with sub sections (1) and (3) of section 39 of the aforesaid Act.

Chairman,
Public Utilities Commission of Sri Lanka.

Colombo,
25.01.2015.

Rules

1. (1) These Rules may be cited as the Electricity (Dispute Resolution Procedure) Rules.

(2) The Electricity (Dispute Resolution Procedure) Rules published in *Gazette Extraordinary* No.1707/15 dated 25.05.2011 are hereby rescinded.

(3) For the avoidance of doubt it is hereby stated that all the mediation, arbitration and court proceedings that have been commenced under the Rules published in the said *Gazette* and are still pending shall continue to be in force until their conclusion under the relevant procedure.

2. These Rules shall apply to -

(1) the procedures specified in PART I below which relates to resolution of disputes arising between following categories:-

(a) disputes between a licensee and a tariff customer arising under sections 25 to 30 or Schedules I, II or III of the Act;



- (b) disputes other than those specified in paragraph (a) above and arising between a licensee and a tariff customer;
 - (c) disputes arising between a licensee and any other affected party; and
 - (d) disputes arising between a licensee and another licensee
- (2) the procedure specified in PART II below which shall be followed in the resolution of disputes referred to the Commission where the parties to a dispute referred to in PART I fail to come to a settlement.

PART I

A. Resolution of disputes falling under Rule 2(1)(a), (b) and (c).

3. A tariff customer or any other affected party who has a dispute specified under Rule 2(1)(a), (b) or (c) with a licensee and wishes to resolve such dispute may, for that purpose, send to the Deputy General Manager of the respective Distribution, Transmission or Generation licensee of Ceylon Electricity Board (CEB), or Head of Operations of Lanka Electricity Company (Private) Limited (LECO) (hereinafter referred to as the "Dispute Resolution Officer") a written request substantially in Form A set out in the Schedule to these Rules, setting out the matter in dispute and any other facts that such tariff customer or any other affected party considers to be relevant there to, including a proposal for the resolution of the same.

4. Within ten (10) working days of the date of receipt of the request referred to in Rule 3, the Dispute Resolution Officer shall arrange a meeting between the two disputant parties,— Viz ;-

- (i) the tariff customer or other affected party ; and
- (ii) the officer responsible for the matter in dispute, (hereinafter referred to as the "Relevant Officer"),

and upon so meeting, both parties shall use their best efforts to resolve the dispute by reaching at a mutually acceptable settlement, with the help of the Dispute Resolution Officer.

5. Where the parties to the dispute are able to reach a settlement, such settlement shall be reduced to writing which shall be substantially in Form B set out in the Schedule to these Rules and shall be signed by both parties and also by the Dispute Resolution Officer, in proof of such settlement.

6. Where the parties to the dispute fail to reach a settlement which is acceptable to both parties within ten (10) working days of the date of the meeting specified in Rule 4, they shall sign a document to that effect which shall be substantially in Form C set out in the Schedule to these Rules and shall be endorsed by the Dispute Resolution Officer.

B. Resolution of disputes falling under Rule 2(1)(d)

7. A licensee who has a dispute with another licensee as is specified under Rule 2(1)(d) and who wishes to resolve the same may, send a written request which shall be substantially in Form A set out in the Schedule to these Rules, to the other licensee, setting out the matter in dispute and any other facts that the Licensee considers to be relevant under the circumstances, including a proposal for the resolution of the same. The Licensee shall also include the names and contact numbers of three persons, one of whom shall be selected by the consent of both parties, to be an Evaluator to help them in their attempt to solve the dispute.

8. Within a period of five (5) working days of the date of receipt of the said written request specified in the preceding Rule 7 by the other party, the licensees along with their Evaluator shall meet at a venue convenient to all the parties, at which meeting, the parties to the dispute shall submit their dispute to the Evaluator.

9. With the assistance of the Evaluator the parties shall make every effort to reach at a settlement. The opinion of the Evaluator shall not be binding, but shall be taken in to consideration by the parties in their attempt at reaching a settlement.

10. Where the parties are able to reach a settlement, such settlement shall be reduced to writing and shall be substantially in Form B set out in the Schedule to these Rules and shall be signed by both parties to the dispute and also by the Evaluator in proof of such settlement.

11. Where parties to the dispute fail to reach a settlement which is acceptable to both parties within ten (10) working days of the date of the meeting, they shall sign a document to that effect which shall be substantially in Form C set out in the Schedule hereto, which shall be endorsed by the Evaluator.

PART II

12. Where the parties to a dispute referred to in PART I fail to reach at a settlement which is acceptable to both parties and signed a document as is referred to under Rule 6 or Rule 11, as the case may be, either party to the dispute may, by written communication which shall be substantially in Form D set out in the Schedule hereto, inform the Commission of such failure and shall call upon the Commission to resolve same.

13. Where a dispute falling under category (a) of Rule 2(1) is referred to the Commission, it shall within five (5) working days of such referral, appoint, for the purpose of resolving the dispute in issue a Panel of Mediators, which shall consist of three (3) persons one of whom shall be a member of the Commission or a member of the staff of the Commission or a public officer who shall be the Chairperson of the Panel and two (2) other members who shall be appointed from among retired public officers, having experience in the matters to which such dispute relates.

14. Where a dispute falling under the category of (b), (c) and (d) of Rule 2(1) is referred to the Commission under Rule 12, the Commission shall, within five (5) working days of such referral, conduct a pre-mediation assessment in order to decide whether it is more appropriate for the dispute to be determined either by the court or through arbitration rather than through mediation and -

- (a) if the Commission decides that it is more appropriate for the dispute to be determined either by the Courts or through arbitration, it shall communicate such decision to the parties to the dispute within ten (10) working days of the date of such referral; or
- (b) if the Commission decides otherwise, it shall, within ten (10) working days of such referral made under Rule 12, appoint a panel of Mediators which shall consist of three (3) persons one of whom shall be a member of the Commission or a member of the staff of the Commission or a public officer who shall be the Chairperson of the Panel and the other two (2) members who shall be appointed from among retired public officers who have experience in the matters to which such dispute relates.

15. When appointing Mediators for the purpose of Rule 13 or 14, the Commission shall have regard to the qualifications and experience of such appointees as may be determined by the Commission.

16. The Panel of Mediators (appointed under these rules), in facilitating a resolution to a dispute before them, shall follow the practice and procedure given below:-

- (a) within five (5) working days of the date of appointment of the Panel of Mediators under this Rules, parties to the dispute and such other parties whose presence is considered to be necessary for the purpose of resolving the dispute shall be notified in writing, to be present at a mediation conference, together or individually, at a time and place specified in the notification;
- (b) convene such number of mediation conferences as may be necessary in order to facilitate amicable settlement to the dispute by the parties;

- (c) maintain confidentiality in respect of all documents and information submitted by the parties and of any other matters that are revealed or discussed during the conduct of the mediation conferences;
- (d) endeavor, by using appropriate listening, communication and mediation skills, to cause the parties to the dispute to reach an amicable settlement which is acceptable to both parties;
- (e) throughout the mediation process, maintain independence, neutrality and impartiality;
- (f) conclude its deliberation within the period specified when the Panel of Mediators is appointed;
- (g) at the end of its deliberation:—
 - (i) if a settlement is reached between the parties, such settlement shall be reduced to writing (as per the format given in FORM E of the SCHEDULE) and both parties shall affix their signatures to the document signifying their agreement to the terms of such settlement, and the Panel of Mediators shall affix their signatures certifying that the dispute has been resolved under these rules; or
 - (ii) if settlement could not be reached between the parties, a certificate of non-settlement (as per the format given in FORM F of the SCHEDULE) shall be issued by the Commission certifying that the dispute has been attempted to be resolved by mediation, but failed.

17. The Commission may at the end of all deliberations by the Panel of Mediators pertaining to mediating and resolving a dispute, may charge from either party a sum in respect of the costs or expenses incurred by the Commission. The amount to be charged and the proportion to be recovered from each party shall be determined by the Commission, having regard to the conduct and means of the parties and any other relevant circumstances. The following criteria shall be applied in determining the amount to be charged -

- (a) disputes falling under category (a) of rule 2(1) - no costs or expenses shall be recovered from the parties to the dispute;
- (b) disputes falling under category (b) and (c) of Rule 2(1) - no costs or expenses shall be recovered, if the parties to the dispute arrived at an amicable settlement at the end of the first mediation conference held in that regard and if no such settlement is reached, costs or expenses incurred by the Commission shall be recovered from parties in equal proportions;
- (c) disputes falling under category (d) of Rule 2(1) - costs and expenses incurred by the Commission shall be recovered from parties in equal proportions.

18. All communications between the parties to a dispute under these rules shall be made in writing and, unless the parties have agreed to any other means of services such as facsimile or electronic mail, shall be sent by registered post and shall be deemed to have been received by the other party on the next day of delivery of mail immediately following the date of posting. Where the parties have agreed upon any other means of service, the communication shall be deemed to have been received only upon acknowledgement of the receipt thereof by the other party.

19. References, communications and submissions may be made to the Commission by registered post, facsimile, electronic mail or through any other means of communication made available by the Commission. The references, communications and submissions made *via* any mode of communication referred to above except in the case of registered post, shall be deemed to be received only upon acknowledgement of receipt thereof by the Commission.

20. Every person who contravenes any of the provisions of these rules or any requirement imposed under any of these rules shall be guilty of an offence under the Act.

21. In these Rules unless the context otherwise requires :-

“Act” means the Sri Lanka Electricity Act No. 20 of 2009 :

“Commission” means the Public Utilities Commission of Sri Lanka, established by the Public Utilities Commission of Sri Lanka Act, No. 35 of 2002;

“dispute” means a disagreement arising between a licensee and a tariff customer; licensee and another licensee, or a licensee and any other affected party, in connection with the supply or use of electricity, as referred to in subsection (1) of section 39 of the Act;

“distribution licensee” means a person who has been granted a distribution licence;

“licensee” means a person who has been granted a generation, transmission or distribution licence under the Act;

“tariff customer” means a person who requires a supply of electricity from a distribution licensee in pursuance of section 25 of the Act and is supplied as such by the distribution licensee.

SCHEDULE

FORM A

[Rule 3 and Rule 7]

[Postal address of a tariff customer or other affected party or licensee - 1]

[Contact number]

[Electricity account number (in the case of a tariff customer) or reference number of any agreement entered into between the parties (if any)]

[Complaint reference number obtained from the respective Relevant Officer (in the case of a tariff customer or other affected party)]

[Date]

[Deputy General Manager (in the case of CEB)]

Name of Distribution Province

Or

[Head of Operations (in the case of LECO)]

Or

[Deputy General Manager, Transmission]

Or

[Deputy General Manager, Generation]

Or

Licensee – 2

[Postal Address]

REQUEST FOR THE RESOLUTION OF A DISPUTE BY THE PARTIES TO THE DISPUTE

In terms of Part I of the Electricity (Dispute Resolution) Rules made by the Public Utilities Commission of Sri Lanka, I hereby request your intervention for the resolution of the dispute set out below :-

(a) Explanation of the matter in dispute

(b) Details of the Relevant Officer or any other officer who is related to the dispute (not applicable to Licensee - 1 or Licensee - 2):

(c) Facts relevant to the dispute (further to explanation given under (a) above) :

(d) Proposal for the resolution

(e) Proposed three names to be selected one as the Evaluator (applicable to Licensee - 1 or Licensee - 2 only)

1.....

2.....

3.....

Please inform me of the meeting arranged in this regard as per terms of the aforementioned Rules, via the contact details given above.

.....
[Name of the disputant party]

[Rule 5 and Rule 10]

FORM B

MEMORANDUM OF AGREEMENT

This agreement is entered into between..... (full name of the tariff customer, the affected party or Licensee - 1)and (Relevant Officer or Licensee - 2)..... at.....

Terms of agreement :

1.
2.
3.
4.
5.

.....
[Signature of tariff customer,
the affected party or the
representative of the
Licensee -1]

Name :
Organization : (if applicable)
NIC No.

.....
[Signature of Relevant Officer,
or the representative
of the Licensee -2]

Name :
Designation :

.....
Witness I

Name :
NIC No.

.....
Witness 2

Name :
NIC No.

.....
Signature of the Dispute Resolution Officer/Evaluator
Name :
Designation :
Place :
Date :

FORM C

[Rule 6 and Rule 11]

CERTIFICATE OF NON-SETTLEMENT

I the undersigned hereby declare that the dispute between the parties specified below has been referred to me as the “Dispute Resolution Officer” or the “Evaluator” as the case may be for settlement, and that no settlement in respect of such dispute has been possible under the provisions of the Electricity (Dispute Resolution Procedure) Rules under the Sri Lanka Electricity Act, No. 20 of 2009.

Parties to the dispute :

1. (Full name of tariff customer or affected party)
2. (name and designation of the Relevant Officer)

or

1. Licensee - 1
2. Licensee - 2
(as applicable)

Matter in dispute : (in brief) :

Reference Number :

Date of referral :

Date/dates of conferences :

Reasons for non-settlement

.....
Dispute Resolution Officer/Evaluator.

Name :

Date :

Designation :

FORM D

[Name of the disputant party - 1]

[Designation]

[Contact number]

[Compliant/dispute reference number]

[Date]

Director-General,
Public Utilities Commission of Sri Lanka.

REFERAL OF A DISPUTE TO THE PUBLIC UTILITIES COMMISSION OF SRI LANKA

In terms of the Electricity (Dispute Resolution Procedure) Rules, I..... (name and designation of the disputant party - 1) hereby refer a dispute to the Public Utilities Commission of Sri Lanka to be resolved by the said Commission. I also state that despite the best effort taken by the parties in order to resolve the dispute (the minutes of the meetings held are attached herewith) the parties were unable to come to an agreement.

Category of dispute :

☐

Licensee vs. a tariff customer arising under Sections 25-30 or Schedules I, II or III to the Sri Lanka Electricity Act

☐

Licensee vs. a tariff customer (other than above)

☐

Licensee vs. any other affected party

☐

Licensee vs. another licensee

Details of the disputant party - 2 :

Name :

Designation :

Contact Number :

Details of other party to the dispute :

Name :

Postal Address :

Contact Number :

Electricity account number (in the case of a tariff customer) or reference number of any agreement entered into between the parties (if any) :

Matter in dispute :

Proposal(s) made by the disputant party - 2 for the resolution of the dispute :

Response(s) of disputant party - 1 with respect to above proposals (including reasons for not agreeing to the same) :

Proposal(s) for the resolution of the dispute :

.....

[name and signature of the disputant party - 1]

Attachments - check list :

☐

Written request received from the tariff customer/another licensee/other affected party requesting a resolution for the dispute

☐

Minutes of the meetings held to endeavor to reach a mutually acceptable settlement (signed by both parties)

☐

Copies of any written agreement(s) that the parties had entered into

FORM E

SETTLEMENT AGREEMENT

PUCSL Reference Number :

Date of reference :

This agreement is entered into between.....(full name of the disputant party - 1) and
.....(full name of disputant Party-2).....at the office of the Public Utilities Commission of Sri Lanka.

Terms of agreement :

1.
2.
3.
4.
5.

.....
Signature of disputant party - 1

.....
Signature of disputant party - 2

Name :

Organization : (if applicable)

NIC No.

Name :

Designation :

We hereby certify that the dispute (reference number.....) between the above parties was resolved by mediation in terms of the Electricity (Dispute Resolution) Rules.

.....
Chairman of the
Panel of Mediators

.....
Member of the Panel of
Mediators

.....
Member of the Panel of
Mediators

Name :

Name :

Name :

Date :

[Rule 16 (g) (ii)]

FORM F

CERTIFICATE OF NON-SETTLEMENT

I the undersigned hereby declare that the dispute between the parties specified below has been referred to the Public Utilities Commission ("Commission") of Sri Lanka for settlement, and that no settlement by mediation in respect of such dispute has been possible under the provisions of the Electricity (Dispute Resolution Procedure) Rules of the Commission under the Sri Lanka Electricity Act, No. 20 of 2009.

Parties to the dispute :

1. (full name of disputant party - 1)
2. (full name of disputant party - 2)

Matter in dispute : (in brief) :

PUCSL Reference Number :

Date of referral to PUCSL :

Date/dates of mediation conferences :

Reasons for non-settlement :

.....
Chairman of the Panel of Mediators

Name :

Date :

I hereby certify that the above declaration may be considered as the opinion of the Public Utilities Commission of Sri Lanka.

.....
Chairman, Public Utilities Commission of Sri Lanka.

Name:

Date:

02-185