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ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

ESTABLISHMENT OF FORUM AND VIDYUT OMBUDSMAN FOR REDRESSAL OF GRIEVANCES OF CONSUMERS

[Regulation No. 1 of 2004]

INTRODUCTION:

Section 42 of the Electricity Act, 2003 deals with the duties of the Distribution Licensee and open access. Sub-sections (5), (6), (7) and (8) of Section 42 deal with the establishment of a Forum for redressal of grievances of the consumers and Vidyut Ombudsman to hear the representation against non-redressal of grievances by the Forum. These facilities provided to the consumers are without prejudice to the rights which the consumers may have otherwise in law.

In accordance with the above, the Consumer Redressal Forum to be established is really an internal Forum of the Distribution Licensee.

However, to give certain objectivity and status to the Forum, there is a requirement that it should consist of three persons to be appointed by the Licensee with certain qualification and experience and it has also been provided that the Forum should co-opt a representative of a registered consumer organization. The consumer organisation's representative will not have the voting right in the decision making process of the Forum. He shall, however, have the right to participate in the meetings and also express his views.

The views expressed by him shall be communicated along with the decision of the Forum. The members of the Forum will have a fixed tenure of three years to avoid the Licensee changing the person from time to time. It has also been provided that the members will not be changed or removed except for the specified reasons during the above period. Appropriate provisions have been made for the office and expenses of the Forum.

The Vidyut Ombudsman to be appointed will be an independent person. The Vidyut Ombudsman will receive representation on the decision of the Forum against the non-redressal. Provisions have been made prescribing the functions of the Vidyut Ombudsman and for meeting the expenses of the Vidyut Ombudsman. The appointment of Vidyut Ombudsman will be made under a separate Regulation by the Commission.

There is already in place a Complaint Handling Procedure in all Distribution Companies. It is proposed that a separate Forum for grievances should be provided at Distribution Companies and for redressal of grievances of consumers as provided in the Act. This is in addition to the existing Complaint Handling Procedure being followed by Distribution Companies. The Consumer shall have the option to wait for actions to be finalised under the existing complaint handling procedure followed by the Distribution companies before approaching the Redressal Forum or approach the Redressal Forum at any stage if he is not satisfied with the progress in the complaint handling procedure.

If the consumer is not satisfied with the redressal of his grievance by the Forum, the consumer can make a representation to the Vidyut Ombudsman. The Vidyut Ombudsman will have the right to settle the grievances. Before the Vidyut Ombudsman adjudicates upon the matter, the Vidyut Ombudsman will attempt a conciliation between the consumer and the Distribution Licensee concerned. If the grievance can be settled through conciliation i.e. by mutual agreement of the consumer and the distribution licensee, the Vidyut Ombudsman will record the settlement and dispose of the matter. In the event of non-agreement between the consumer and the Distribution Licensee in the conciliation proceedings, the Vidyut Ombudsman will proceed to adjudicate on the issue. Once the Vidyut Ombudsman adjudicates on the issue, the consumer can accept adjudication, in which event, the matter will be treated as settled. In such an event the Distribution Licensee will pay in accordance with the adjudication made by the Vidyut Ombudsman. If the consumer does not accept the adjudication by the Vidyut Ombudsman, the Distribution Licensee will not be required to implement the Order passed by the Vidyut Ombudsman.

The Commission had prepared a draft regulation. The draft regulation was published in the Official Gazette on 29.11.2003. The comments and suggestions on the draft Regulation were invited. The Commission had received suggestions and comments from the general public, Consumer Forum's and Distribution Licensees. The Commission has considered these suggestions and comments and made suitable changes in the draft regulation, wherever necessary.

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION
(ESTABLISHMENT OF FORUM AND VIDYUT OMBUDSMAN FOR REDRESSAL OF
GRIEVANCES OF THE CONSUMERS) REGULATION, 2004.

In exercise of the powers under sub-sections (5) (6) and (7) of section 42 read with clauses (r) and (s) of sub-section (2) of section 181 of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, Andhra Pradesh Electricity Regulatory Commission hereby makes the following Regulation providing for guidelines to the licensees in the State of Andhra Pradesh for setting up the Forum for redressal of grievances of the Consumers, for the appointment of Vidyut Ombudsman by the Commission, for the representation to Vidyut Ombudsman against non redressal of grievances of the Consumers and the time and manner of settlement of grievances by Vidyut Ombudsman and for matters incidental and ancillary thereto:-

CHAPTER - I

PRELIMINARY

1. SHORT TITLE, COMMENCEMENT AND INTERPRETATION:

- (1) This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Establishment of Forum and Vidyut Ombudsman for redressal of grievances of the consumers) Regulation, 2004.
- (2) This Regulation shall be applicable to the licensees in the territory of Andhra Pradesh in their respective licensed areas.
- (3) This Regulation shall come into force from the date of its final publication in the Gazette.
- (4) The Andhra Pradesh General Clauses Act, shall apply to the interpretation of this Regulation.

2. DEFINITIONS:

In this Regulation, unless the context otherwise requires:-

- (a) "Act" means the Electricity Act, 2003;
- (b) "Commission" means the Andhra Pradesh Electricity Regulatory Commission
- (c) "Complainant" shall include—
 - (i) A consumer as defined under clause (15) of section 2 of the Act;

- (ii) An applicant for new connections;
 - (iii) Any registered consumer society; and
 - (iv) Any unregistered association of consumers, where the consumers have similar interest;
- (d) "Complaint" means the letter or application filed with the Forum seeking redressal of grievances concerning the supply of electricity or the services rendered by the licensee.
- (e) "Forum" means Forum for redressal of grievances of the consumers to be constituted by licensee in terms of sub-section (5) of section 42 of the Act read with this Regulation;
- (f) "Grievance" means a complaint filed by the affected consumer;
- (g) "Licensee" means a Distribution Licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in the concerned area of supply and shall include the deemed Distribution Licensee under the provisos to Section 14 of the Act;
- (h) "State" means the State of Andhra Pradesh;
- (i) "Vidyut Ombudsman" means an authority appointed or designated by the Commission, under sub-section (6) of Section 42 of the Act read with this Regulation; and
- (j) Words and expressions used and not defined in this regulation but defined in the Electricity Act, 2003 (36 of 2003) shall have the meanings assigned to them in the said Act.

CHAPTER - II

FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS

3. CONSTITUTION OF THE FORUM FOR REDRESSAL OF GRIEVANCES OF THE CONSUMERS:

- (1) Every Licensee, shall not later than the two months from the coming into force of this Regulation or six months from grant of licence, whichever is later, establish a Forum for redressal of grievances of the consumers in accordance with this regulation.
- (2) The Forum shall consist of three members including the Chairperson of the Forum. The Licensee shall appoint the Chairperson and members of the Forum with the following composition.

- (i) The members of the Forum shall be persons of ability, integrity and standing.
- (ii) Chairperson of the Forum shall be a serving officer of the licensee or a retired person possessing degree in electrical engineering and having at least 20 years of experience in the distribution of electricity and having served not below the rank of Superintending Engineer.

Provided that when the Chairperson of the Forum is unable to discharge the functions owing to absence, illness or any other cause, the member indicated in sub-clause (2) (ii) of clause 3 shall discharge the functions of the Chairperson, until the day on which the Chairperson assumes office.

- (iii) One member who is a serving officer of the licensee or a retired person having at least 10 years of experience in Accounting out of which at least 5 years in revenue matters and having served not below the rank of Senior Accounts-Officer.
 - (iv) One member who is a serving officer of the licensee or a retired person having at least 5 years of experience in legal matters and having served not below the rank of Assistant Secretary.
- (3) The members of the Forum shall hold office for a period of three years from the date of appointment and they shall not be eligible for re-appointment at any time after the expiry of their term of appointment provided that no person shall be appointed as member after he attains the age of 62 years.
 - (4) The Licensee shall associate a representative out of registered consumer organisations as a co-opted member of the Forum with access to all the Complaints and with the right to participate in the deliberations, meetings and proceedings of the Forum that may be held to deal with the Complaint.
 - (5) The Co-opted Member of the Forum under sub-clause (4) shall hold office for a period of three years from the date of his cooption.

4. REMOVAL OF MEMBERS

- (1) The licensee may remove from office any member of the Forum including the co-opted member who
 - i. has been adjudged as un-discharged insolvent; or
 - ii. has been convicted of an offence involving moral turpitude; or
 - iii. has become physically or mentally incapable of acting as such member; or

- iv. has without reasonable cause refused or failed to discharge his functions for a period of at least three months; or
 - v. ceases to fulfil any of the conditions of his appointment as member; or
 - vi. has acquired such financial or other interest that can affect prejudicially his functions as a member or
 - vii. has conducted himself in a manner or has so abused his position as to render his continuance in office prejudicial to the public interest or to the objects and purpose of the Act
- (2) No member of the Forum shall be removed from his office on the grounds specified in items (i), (iii), (iv), (v), (vi) and (vii) of sub-clause (1) of clause 4, until the person appointed by the licensee has carried out an enquiry and has forwarded a report to the licensee.
- (3) The licensee shall act in accordance with the recommendation made in the final report under sub-clause (2) above and the licensee shall communicate its decision to the member concerned within a period of two months of the receipt of such report.

5. FUNCTIONS OF THE FORUM

- (1) All decisions of the Forum shall be on the basis of majority of the members present and voting provided that the co-opted member shall not have any right to vote.
- (2) 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 shall have a casting vote.
- (3) The Chairperson shall have the general powers of superintendence and control over the Forum
- (4) The Forum shall duly comply with such directions as the Commission may issue from time to time.
- (5) On occurrence of any vacancy in the Forum for any reason, the licensee shall take action to fill up the vacancy within two months from the date of occurrence of the vacancy. No act of proceeding of the Forum shall be deemed invalid by reason only of some defect in the constitution of the Forum or by reason of the existence of a vacancy among its members.
- (6) The Forum shall maintain a regular office at the principal place of business of the Licensee where the Forum shall receive the Complaints. The Forum shall have sittings at such Principal Office and also at any other place in the area of supply of the Licensee as may be decided by the Forum from time to time considering the number

of complaints received, the place from where the Complaint is received and the proximity to the principal place of business of the licensees and other relevant factors:

Provided that a licensee may establish more than one Forum so as to ensure that the Forum decides every complaint within a maximum period of 45 days from the date of receipt of complaint by it. The licensee shall clearly specify the location and the jurisdiction of each Forum in case of more than one Forum.

- (7) The Forum shall receive the complaint of the consumer forwarded to or filed with the Forum so long as such complaint is in writing and the Forum shall not insist or prescribe any format for filing of the complaint or for entertaining it.
- (8) The office of the Forum shall issue due acknowledgment of the receipt of the complaint to the Complainant.
- (9) The Forum shall maintain true and correct records of all Complaints received by the Forum from time to time.
- (10) The Forum shall duly lay down the procedure to deal with the complaints with the approval of the Commission.
- (11)
 - (a) The Forum shall decide the Complaint expeditiously and shall communicate its decision to the Complainant within a period not exceeding 45 days of the receipt of the complaint. The Forum shall give the reasons in support of its decisions. The views, if any, expressed by the Co-opted Member shall also be communicated to the Complainant.
 - (b) The Forum may pass such interim orders on the request of the Complainant as the Forum considers appropriate pending the final decision on the complaint.
 - (c) The Licensee shall duly implement the decisions and orders of the Forum made in favour of the complainant.
- (12) The Licensee shall from time to time give publicity of the constitution and existence of the Forum including in the bills raised for the supply of electricity to the consumers and in such other manner as the Commission may from time to time notify. The names and designation of the Members and the concerned officers of the Forum, the address, e-mail, facsimile and phone numbers of the Forum shall be displayed at all the offices of the Licensee and shall also be duly publicised, if considered appropriate including on the bills raised on the consumers.
- (13) The licensee shall provide required supporting staff and appropriate office accommodation for functioning of the Forum.
- (14) The Licensee shall meet all the costs and expenses of the Forum including the establishment and staff required to assist the Forum in the discharge of the functions under this Regulation and also the cost and expenses of the Co-opted Member.

- (15) The salary of Serving-Officer Member shall be the same to which he is otherwise entitled and retired officials shall be treated as if on re-employment in the scale of pay applicable to them at the time of retirement.

The coopted member shall be entitled for a per diem fee of Rs.500/- for each day of participation in the Forum's proceedings.

- (16) The office expenditure of the Forum will be considered in the revenue requirement of the licensee and will be allowed as a pass-through expense.

6. Non Redressal of Grievance

If the complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified, he may make a representation to the Vidyut Ombudsman appointed or designated by the Commission as specified in Clause 9 of this Regulation.

CHAPTER - III

VIDYUT OMBUDSMAN

7. APPOINTMENT OF VIDYUT OMBUDSMAN:

- (1) The Commission may from time to time appoint or otherwise designate such person or persons as the Commission may consider appropriate as the Vidyut Ombudsman to discharge the functions under sub-section (7) of section 42 of the Act.
- (2) The Commission may appoint or designate more than one Ombudsmen for a licensee or a common Vidyut Ombudsman or Ombudsmen for two or more Distribution Licensees.
- (3) The Vidyut Ombudsman shall be selected by the Commission from amongst persons who have experience and have exposure in the legal affairs, engineering, education, industry, civil service, administrative service, consumer affairs or amongst persons of eminence.
- (4) The mode of appointment and terms and conditions of service of the Vidyut Ombudsman and the staff shall be as specified by the Commission by separate regulation.

8. FUNCTIONS OF VIDYUT OMBUDSMAN:

- (1) The Vidyut Ombudsman shall discharge the following functions:

- (a) The Vidyut Ombudsman may receive and consider all representations filed by the Complainant for non-redressal of the grievance by the Forum under Sub-Section (5) of Section 42 of the Act. Notwithstanding the above the Vidyut Ombudsman shall not entertain any representation in regard to matter which are subject matters of existing or proposed proceedings before the Commission or before any other authority including under part X, XI, XII, XIV and XV of the Act.
 - (b) The Vidyut Ombudsman may pass such interim orders as may be considered appropriate pending the decision and settlement of the representation.
 - (c) The Vidyut Ombudsman shall in the first instance act as counsellor and mediator in matters which are the subject matter of the representation filed.
 - (d) The Vidyut Ombudsman shall prepare an annual budget for his office in consultation with the Commission and shall exercise the powers of expenditure within the approved budget. The Commission will indicate the respective share of expenditure, to be borne by each licensee and to be released quarterly in advance.
 - (e) Such other functions prescribed by the Commission
- (2) The Vidyut Ombudsman shall exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business of the office.

9. REPRESENTATION TO VIDYUT OMBUDSMAN:

- (1) Any Complainant if aggrieved by the non-redressal of the grievance by the Forum, may make a representation to the Vidyut Ombudsman within thirty days from the date of the receipt of the decision of the Forum or within thirty days from the date of the expiry of the period within which the Forum was required to take decision and communicate the same to the Complainant.

Provided that the Vidyut Ombudsman may entertain an appeal after the expiry of the said period of thirty days if the Vidyut Ombudsman is satisfied that there is sufficient cause for not filing it within that period.

- (2) Subject to the provisions of the Act and this Regulation the Vidyut Ombudsman's decision whether the complaint is fit and proper for being considered by it or not, shall be final.
- (3) The Vidyut Ombudsman shall decide on the representation, after providing the Complainant and the licensee an opportunity of being heard.
- (4) For the purpose of carrying out the functions, the Vidyut Ombudsman may require the licensee or any of the officials, representatives or agents of the licensee to furnish documents, books, information, data and details as may be required to decide the

representation and the licensee shall duly comply with such requirements of the Vidyut Ombudsman.

- (5) The Vidyut Ombudsman shall decide the representation finally within three months from the date of the receipt of the Representation of the Complainant and in the event the Representation is not decided within three months the Vidyut Ombudsman shall record the reasons there for including the cost to be paid by the licensee in case the reasons for the delay is attributable to the licensee. In case the delay is for reasons attributable to the Complainant the Vidyut Ombudsman may reject the Representation;

Provided that the Vidyut Ombudsman may pass such interim orders as the Vidyut Ombudsman may consider appropriate pending the final decision on the representation:

- (6) The licensee shall duly comply with and implement the decision of the Vidyut Ombudsman on the representation filed by the Complainant

10. VIDYUT OMBUDSMAN TO ACT FAIRLY AND EQUITABLY;

- (1) The Vidyut Ombudsman may, adopt a procedure ensuring transparency and due compliance of the principles of natural justice and due process of law.
- (2) The Vidyut Ombudsman shall dispose of a complaint fairly and equitably.

11. PROMOTION OF SETTLEMENT BY AGREEMENT:

- (1) As soon as it may be practicable to do but not later than one week from the date of receipt of representation, the Vidyut Ombudsman shall serve a notice to the concerned officer of the licensee named in the representation along with a copy of the representation and endeavour to promote a settlement of the complaint by mutual agreement between the complainant and the licensee through conciliation or mediation.
- (2) For the purpose of facilitating settlement of the representation, the Vidyut Ombudsman may follow such procedures, as he may consider appropriate.
- (3) When a complaint is settled, through mediation of the Vidyut Ombudsman, the Vidyut Ombudsman shall make a recommendation which he thinks fair in the circumstances of the case. The copies of the recommendation shall be sent to the Complainant and the licensee.

- (4) If the Complainant and the licensee accept the recommendation of the Vidyut-Ombudsman, they will send a communication in writing within 15 days of the date of receipt of the recommendation. They will confirm their acceptance to Vidyut Ombudsman and state clearly that the settlement communicated is acceptable to them, in totality, in terms of recommendations made by the Vidyut Ombudsman and are in full and final settlement of complaint.

12. AWARD:

- (1) Where the representation is not settled by agreement within a period of 30 days from the date of receipt of complaint or such extended period the Vidyut Ombudsman may deem fit duly considering the overall time limit specified, the Vidyut Ombudsman may determine the place, the date and the time of the hearing of the matter as the Vidyut Ombudsman considers appropriate.
- (2) Where the complaint is not settled by agreement, the Vidyut Ombudsman shall pass an award giving reasons for the decision made.
- (3) The Vidyut Ombudsman shall decide the matter on the pleadings of the parties, after providing them an opportunity of being heard.
- (4) An Award shall be in writing and shall state nature of the reliefs including monetary compensation, if any, the Complainant is entitled to as per the award.
- (5) A copy of the award shall be sent to the complainant and the licensee concerned.
- (6) The Complainant may furnish to the licensee within a period of one month from the date of receipt of the award or within such period the Vidyut Ombudsman may allow for reasons to be recorded, a letter of acceptance that the award is in full and final settlement of his claim.
- (7) The licensee shall comply with the award within 15 days of the receipt of the acceptance letter under sub Clause (6) and it shall intimate the compliance to the Vidyut Ombudsman.
- (8) If the complainant does not intimate the acceptance under sub clause (6), the award shall not be required to be implemented by the licensee.

CHAPTER - IV**GENERAL****13. SAVINGS:**

Nothing contained in this regulation shall affect the rights and privileges of the consumer under any other law for the time being in force, including the Consumer Protection Act, 1986 (68 of 1986).

14. POWERS TO REMOVE DIFFICULTIES:

If any difficulty arises in giving effect to any of the provisions of this regulation, the Commission may by general or special order, direct the licensee, the Forum and the Vidyut Ombudsman to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

15. POWER TO AMEND:

The Commission may, at any time vary, alter, modify or amend any provision of this regulation.

16. SUBMISSIONS OF REPORTS TO THE COMMISSION:

- (1) The Forum and the Vidyut Ombudsman shall submit a quarterly report on the number of complaints received, redressed and pending within 15 days of the end of the quarter, to the Commission. The Forum shall supply copies of these reports to the respective Licensees also.
- (2) The Forum and the Vidyut Ombudsman shall also furnish to the Commission, by 31st May every year, a report containing a general review of the activities of their offices during the preceding financial year and shall also furnish such information as the Commission may require.

(By order of the Commission)

S. SURYA PRAKASA RAO,
Secretary.