

KERALA STATE ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No.1/1/KERC-2005/III

Dated, Thiruvananthapuram October 6, 2005.

CONSUMER GRIEVANCE REDRESSAL FORUM AND ELECTRICITY OMBUDSMAN

STATEMENT OF OBJECTS AND REASONS

The Kerala State Electricity Regulatory Commission recognizes the urgency and need for enhancing the levels of service to the electricity consumers in the State of Kerala. It accords utmost importance to the rights of the consumers, and the need for safeguarding their interests.

Sub section (5) of Section 42 of the Electricity Act, 2003 (Central Act 36 of 2003) provides for establishment of a Forum for redressal of the grievances of the consumers in accordance with the guidelines as may be specified by the State Commission. Sub section (6) and Section 42 of the Act provides for appointment of an Ombudsman by the State Commission for dealing with the appeals on non-redressal of grievances by the Forum and Subsection (7) of Section 42 provides that the manner and time of disposal of the appeals by the Ombudsman may be specified by the State Commission.

The Regulations hereunder have been framed to meet the above objectives.

REGULATIONS

In accordance with the provisions of Subsection (1) of Section 181 and Subsection (2) (r), (s) & (zp) of Section 181 of the Electricity Act, 2003 (Central Act 36 of 2003), the Kerala State Electricity Regulatory Commission hereby makes the following Regulations, namely: -

CHAPTER I

GENERAL

1. Short title and commencement.-(1) These Regulations may be called the "Kerala State Electricity Regulatory Commission (Consumer Grievance Redressal Forum and Electricity Ombudsman) Regulations, 2005".

(2) They shall come into force on 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 Act, 2003 (Central Act 36 of 2003);
- (b) 'Area of supply' means the area within which a distribution licensee is authorized by his/her/their licence to supply electricity;
- (c) 'Chairperson' means the Chairperson of the Forum;
- (d) 'Commission' means the Kerala State Electricity Regulatory Commission;
- (e) 'Complainant' means-
 - (i) any consumer of electricity supplied by the licensee including applicants for new connections;
 - (ii) a voluntary electricity consumer association/forum or other body corporate or group of electricity consumers;
 - (iii) the Central Government or State Government - who or which makes the complaint;
 - (iv) in case of death of a consumer, his legal heirs or representatives.
- (f) 'Complaint' means any grievance made by a complainant in writing on: -
 - (i) defect or deficiency in electricity service provided by the licensee;
 - (ii) unfair or restrictive trade practices of licensee in providing electricity services;
 - (iii) charging of a price in excess of the price fixed by the Commission for supply of electricity and allied services;
 - (iv) errors in billing;
 - (v) erroneous disconnection of supply;
 - (vi) electricity services which are unsafe or hazardous to public life in contravention of the provisions of any law or rule in force; or
 - (vii) any other grievance connected with the supply of electricity by the licensee except those related to the following:
 - (1) unauthorised use of electricity as provided under Section 126 of the Act;
 - (2) offences and penalties as provided under Sections 135 to 139 of the Act and
 - (3) accident in the distribution, supply or use of electricity under Section 161 of the Act.
- (g) 'Consumer' means any person who is supplied with electricity for his own use by a licensee and includes any person whose premises are connected for the purpose of receiving electricity with the works of a licensee or a person whose electricity supply is disconnected by a licensee or the

person who has applied for connection for receiving electricity from a licensee, as the case may be;

- (h) 'Defect' means any fault, imperfection or shortcoming in the quality, quantity, purity or standard of service, equipment or material which is required to be maintained by or under any law in force or under any contract, express or implied, or as is claimed, by the distribution licensee in any manner whatsoever in relation to electricity service;
- (i) '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 in force or has been undertaken to be performed by distribution licensee in pursuance of a contract agreement or otherwise in relation to electricity service or performance standard, violations of Electricity Supply Code, contraventions of Act, Rules or Regulations made there under with regard to consumer interest;
- (j) 'Distribution system' means the system of wires and associated facilities between the delivery points on the transmission lines or the generating station terminal in the absence of transmission lines and the point of connection to the installation of the consumers;
- (k) 'Electricity Ombudsman' means an authority to be appointed or designated by the Commission, under sub-section (6) of Section 42 of the Act, with whom a representation may be made by any consumer, who is aggrieved by non-redressal of his grievances by the Forum;
- (l) 'Electricity Service' means in particular and without prejudice to the generality of the term, electricity supply, metering, billing, maintenance of supply, maintenance of distribution system and all other attendant sub service, *etc*;
- (m) 'Forum' means 'Forum for redressal of grievances of consumers' to be constituted by the distribution licensee;
- (n) 'Licensee' means a person who has been granted a licence under section 14 of the Act.

(2) Words and expressions used and not defined in these Regulations but defined in the Electricity Act, 2003 (Central Act 36 of 2003) or the Consumer Protection Act, 1986 (Central Act 68 of 1986) shall have the meanings respectively assigned to them in these Acts.

CHAPTER II

CONSUMER GRIEVANCE REDRESSAL FORUM

3. *Establishment and composition of the Forum.*-(1) Every Distribution Licensee shall establish a Forum or Fora for Redressal of Grievances of the consumers in accordance with these Regulations.

(2) A licensee may establish the required number of Fora so as to ensure that any consumer in the area of supply of the licensee shall not have to travel more than about 200 Km to submit his complaint with the Forum for redressal¹. The concentration of the consumer in a particular area and the number of complaints likely to be received and the constraints of the Forum in disposing of the complaints, within the stipulated time frame may also be taken into account.

(3) The Forum shall consist of not more than three members including the chairperson.

(a) The Chairperson and members shall be persons of ability, integrity and standing who have adequate knowledge of, and have shown capacity in dealing with problems of electrical engineering, finance, law or administration in power sector.

(b) The Chairperson and members of the Forum shall be appointed by the licensee from among the employees of the licensee.

(4) The Chairman and Members of the Forum shall have working knowledge of Malayalam.

(5) In the case of licensees, other than Kerala State Electricity Board, a single member forum shall be constituted. He shall be an employee of the Licensee and shall be a person of ability, integrity and standing who has adequate knowledge of, and have shown capacity in dealing with problems of electrical engineering, finance, law or administration in power sector.

(6) The member/members shall serve full time for the hearing and disposal of the complaints filed before the Forum.

4. *Forum's office and working.*-(1) The headquarters of the Forum(s) shall be at such place(s) as the distribution licensee may specify in accordance with the provisions of Regulation 3(2).

(2) The Forum shall have sittings at the headquarters and/or at any other place in the licensees' area as may be decided by the Chairperson depending upon the number of grievances and area of operation.

(3) The forum shall meet at least once in a week.

(4) The office space, secretarial assistance and other facilities required by the Members for efficient functioning of the Forum shall be provided by the distribution licensee.

5. Expenditure of the forum.-(1) The distribution licensee shall meet all costs and expenses of the Forum including the remunerations and fees to the Members, salaries and allowances of other members of the staff, establishment charges and office expenses.

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

6. Jurisdiction of the Forum.- Subject to the other provisions of these Regulations, the Forum shall have jurisdiction to entertain the complaints within the entire area of the distribution licensee. If there is more than one Forum in the same licensee area, then the area of jurisdiction may be decided by the licensee in accordance with Regulation 3(2).

7. Kind of grievances that can be taken up by the Forum.- The Forum shall take up any kind of grievances/complaints as defined in Regulation 2(1)(f).

8. Licensee's obligations.- (1)The licensee shall notify details such as names of the Forum Members, its officials, their address, telephone numbers, e-mail address, etc. , often in the media.

(2) The Licensee shall make available copies of the procedure for lodging complaints to the complainants free of cost.

(3) The bills issued by the licensee to the consumers shall contain the address of the Consumer Grievance Redressal Forum. The statement 'Complainants whose grievance is not redressed by the official of the licensee may approach the Consumer Grievance Redressal Forum, and Ombudsman thereafter' shall be printed on the Bills.

(4) The Licensee shall necessarily obtain a Post Box Number to facilitate easy registration of grievances by Complainants.

9. Procedure for Grievance Redressal and lodging complaints.- (1) Every grievance lodged with the Forum shall be in writing in English/Malayalam

and shall be in **Form A** attached to these Regulations. The complaint can also be lodged through e-mail to the e-mail address of the Forum.

(2) The Forum, if necessary, may call for any other additional information/documents from the complainant and/or licensee so as to enable early disposal of the complaint.

(3) The Forum can pass such interim orders, pending final disposal of the case, as may appear to it to be necessary and just in the interest of justice.

(4) Subject to the foregoing regulations and the need to observe the rules of natural justice the Forum may specify its own procedures.

10. Action on admission of complaint.- (1) A copy of the complaint shall be forwarded by the Forum to the distribution licensee within three working days so as to elicit for the response of the licensee to the grievance.

(2) The licensee shall furnish para-wise comments on the grievance within fifteen(15) days of intimation from the Forum, failing which the Forum shall proceed on the basis of the material available on record.

(3) The Forum shall notify in writing the parties of the date of hearing of the grievance, giving sufficient advance notice.

(4) In the event of absence of the parties in the hearing, the Forum shall pass an order on the basis of the material available on record.

(5) The Forum shall be entitled to call for any information, call for any particulars or take evidence either oral or documentary from the licensee or the consumer.

(6) The decision of the Forum shall be recorded in writing and communicated to the complainant and the licensee for compliance within a period of **sixty days** from the date of admission.

11. Proceedings of the Forum.- (1) The Proceedings of the Forum shall be conducted in public.

(2) The Proceedings of the Forum shall be conducted by the Chairperson of the Forum in the presence of the Members, the quorum being Two. In the absence of the Chairperson for any reason, the Member representing the distribution licensee shall preside over the Forum

(3) Every order made by the Forum shall be signed by its Chairperson and the Members conducting the proceedings. Provided that in case of difference of opinion among the Members on any point or points, the decision of the

majority shall prevail. In the event of equality of votes, the Chairperson/presiding Member shall have a second or casting vote.

12. Findings of the Forum.-(1) On completion of the proceedings, if the Forum is satisfied that any of the allegations contained in the complaint is true, it shall issue an order to the licensee directing it:

(a) to redress the grievance of the complainant; and

(b) to pay such amount as may be awarded as costs to the consumer.

(2) A certified copy of every order rendered by the Forum shall be delivered to the parties.

(3) Any Complainant aggrieved by the order made by the Forum may make a representation against such order to the 'Ombudsman', within a period of **thirty days from the date of receipt of the order.**

13. Monitoring by the Forum.-(1) The Forum shall maintain a record of complaints grievances reported to it and the results thereof.

(2) The Forum shall furnish a quarterly report on the number of complaints received, redressed and pending, to the distribution licensee within one month at the end of the quarter. A copy of the report shall be forwarded to the Ombudsman and the Commission.

(3) The Commission may publish the report in such form and manner as it may deem fit.

CHAPTER III

ELECTRICITY OMBUDSMAN

14. Establishment of the Office of Ombudsman.- The Commission shall establish an authority to be called Electricity Ombudsman for the whole of the State of Kerala in the manner prescribed under these Regulations.

15. Qualifications and tenure of appointment.-(1) The Ombudsman shall be an electrical engineer of ability, integrity and standing who has experience of not less than 20 years in power sector. Knowledge in management, finance or law is an additional qualification. The person shall have working knowledge of Malayalam.

(2) The appointment of Ombudsman shall be made for a period not exceeding three (3) years. Provided that the tenure of the Ombudsman may be

extended by the Commission for a further period not exceeding two (2) years subject to an overall age limit of Sixty five (65) years

16. Location of Office and Jurisdiction.-(1) The Head Quarters of the Ombudsman shall be at Thiruvananthapuram.

(2) The jurisdiction of the Ombudsman shall extend to the whole of the State of Kerala.

(3) The Ombudsman may hold sittings at places other than headquarters wherever necessary.

17. Remuneration.- (1) The remuneration and other allowances payable to the Ombudsman will be determined by the Commission from time to time and shall be paid out of the fund constituted under Section 103 of the Act. Provided however, till the time such Fund is constituted, the remuneration and other allowances payable to the Ombudsman shall be borne by the Commission.

18. Secretariat.- (1) The Ombudsman shall be provided with a Secretariat.

(2) The expenses of such secretariat shall be paid out of the Fund constituted under Section 103 of the Act. Provided however, till the time such Fund is constituted, the expenses of the secretariat shall be borne by the Commission.

19. Powers and Duties of the Ombudsman.- The ombudsman shall have the following powers and duties:

- (a) to receive the representations against the order of the Forum and consider such representation and facilitate their satisfaction or settlement by agreement through conciliation and mediation between the licensee and complainant or by passing an award in accordance with these Regulations;
- (b) to exercise general powers of superintendence and control over his office and assume responsibility for the conduct of business thereat;
- (c) to incur expenditure on behalf of the office, provided however, in order to exercise such power, the Ombudsman will draw up an annual budget for his office in consultation of the Commission and shall exercise the powers of expenditure within the approved budget.

20. Removal of Ombudsman.- No person shall be appointed and/or be entitled to continue as Ombudsman if he stands disqualified on account of his:

- (i) having been adjudged an insolvent;
- (ii) having been convicted of an offence involving moral turpitude;

- (iii) having become physically or mentally or otherwise incapable of acting as an Ombudsman;
- (iv) having acquired such financial or other interest as is likely to affect prejudicially his function as an Ombudsman;
- (v) having abused his position as to render his continuance in office prejudicial to the public interest;
- (vi) having been guilty of proved misbehaviour;
- (vii) having become a member of a political party.

21. Procedure for Redressal of Grievance.- (1) The Ombudsman shall settle the complaint of the Complainant within such time and in such manner as specified in these Regulations.

(2) Any Complainant, who is aggrieved by the non-redressal of his grievances by the Forum may himself or through his representative make a representation to the Ombudsman within Thirty (30) days from the date of the receipt of the order of the Forum. Provided that the Ombudsman may entertain a representation after the expiry of the said period of Thirty (30) days if he is satisfied that there was sufficient cause for not filing it within the said period.

(3) The representation shall be in writing duly signed by the complainant, as per **Form- B** attached to these Regulations.

22. Maintainability of the Complaint.- (1) No representation to the Ombudsman shall lie:

- (a) unless the Complainant has made a written representation in the prescribed form, to the Forum;
- (b) unless the Complainant is aggrieved on account of his complaint being not redressed by the Forum within the period and manner specified in these Regulations;
- (c) unless the representation against an order of the Forum was made within the period specified in these Regulations and is not in respect of the same subject matter that has been settled by the Ombudsman in any previous proceedings;
- (d) in cases where a representation for the same grievance by the Complainant is pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority.

(2) The Ombudsman may reject the representation at any stage if it appears to him that the representation is:

- (i) frivolous, vexatious, malafide;
- (ii) without any sufficient cause;

- (iii) not being pursued by the Complainant with reasonable diligence;
- (iv) there is no *prima facie* loss or damage or inconvenience caused to the Complainant

23. Disposal of Representation by Ombudsman.- (1) The representation admitted by the Ombudsman shall be disposed of within a period of **three months** from the date of receipt of the representation. Provided that in the event of the representation being disposed of after the completion of the said period of three 3 months, the Ombudsman shall record, in writing, the reasons for the same;

(2) The representation shall be disposed of either through settlement by agreement or through proceedings held by the Ombudsman to hear the parties;

(3) The Ombudsman shall be guided by such factors, which in the opinion of the Ombudsman are necessary in the interest of justice, and shall ensure transparency while exercising its powers and discharging its functions;

(4) Subject to the foregoing provisions and the need to observe the rules of natural justice, the Ombudsman may specify its own procedures.

24. Power to call for information.-(1) For the purpose of carrying out his duties, the Ombudsman may require the licensee named in the complaint or any of his officers to furnish certified copies of any document relating to the subject matter of the complaint, which is or is alleged to be in his possession, within 15 days. Provided that in the event of failure of a licensee to comply with the requisition without any sufficient cause, the Electricity Ombudsman may, if he deems fit, draw the inference that the information, if provided or copies if furnished, would be unfavourable to the licensee and proceed to settle the case on the basis of material available on record.

(2) The Electricity Ombudsman shall maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and shall not disclose such information or document to any person except with the consent of the person furnishing such information or document. Provided that nothing in this clause shall prevent the Electricity Ombudsman from disclosing information or document furnished by a party in a complaint to other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings.

25. Settlement of representation by agreement.- (1) As soon as it may be practicable to do, the Electricity Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to the concerned office of the licensee named in the complaint and endeavour to promote a settlement of the

complaint by agreement between the complainant and the licensee named in the complaint through conciliation or mediation.

(2) For the purpose of facilitating settlement of the representation, the Electricity Ombudsman may follow such procedures, as he may consider appropriate.

(3) When a complaint is settled through mediation of the Electricity Ombudsman undertaken by him in pursuance of request made in writing by complainant and licensee through mutual agreement, the Electricity 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 concerned. Such recommendation shall be made not later than one month from the date of the receipt of the complaint.

(4) The Electricity Ombudsman shall send to the licensee a copy of the recommendation along with the acceptance letter received from the complainant. The licensee thereupon comply with the terms of the recommendations immediately not later than 21 days of the receipt of such recommendation and the licensee shall inform the Electricity Ombudsman of its compliance.

26. *Proceedings to hear the parties.*-(1) Where the representation is not settled by agreement under Regulation 25, the Electricity Ombudsman may determine the stage, the manner, the place, the date and the time of the hearing of the matter as he considers appropriate.

(2) The Electricity Ombudsman may decide the matter on the pleadings of the parties and direct the parties to furnish written note of arguments or submission in the matter.

27. *Award.*- (1) Where the representation is not settled by agreement under Regulation 25, the Electricity Ombudsman shall pass a speaking order with detailed reasoning that he thinks fair under the facts and circumstances of the representation.

(2) The order shall be in writing and shall state the full details of the award to the complainant and licensee.

(3) A copy of the award shall be sent to the complainant and the licensee named in the representation.

(4) The distribution licensee shall comply with the orders of the Ombudsman.

28. Report of Electricity Ombudsman.-(1) The Electricity Ombudsman shall prepare a report on a six monthly basis giving details of the nature of the grievances of the consumer dealt by the Ombudsman, the response of the licensees in the redressal of the grievances, and the opinion of the Ombudsman on the licensee's compliance of the standards of performance as specified by the Commission under Section 57 of the Act during the preceding six months.

(2) The Commission may, if it considers necessary in the public interest so to do, publish the report and the intimation from the Electricity Ombudsman in such consolidated form or otherwise as it deems fit.

29. Appeal.-The Commission may look into the grievances of the consumer if such grievances are not settled within the specified time frame or such grievances remains even after the consumer has exhausted remedies provided by the Act *viz.*, the Forum and the Ombudsman. While doing so, the State Commission is required to give similar treatment to similar cases as the Section 86 (3) of the Act mandates that the State Commission shall ensure transparency while exercising its powers and discharging its functions.

30. The Commission shall dispose the appeal petition as per the Kerala State Electricity Regulatory Commission (Conduct of Business) Regulations, 2003.

CHAPTER IV

MISCELLANEOUS

31. Savings.- 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 (Central Act 68 of 1986).

32. Powers 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, direct the licensee to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to it to be necessary or expedient for the purpose of removing difficulties.

33. Power to amend.- The Commission may, at any time add, modify, delete or amend any provision of these Regulations subject to the provision of the Electricity Act, 2003.

34. Regulations to be available to the Consumers.- The licensee shall ensure that copies of these Regulations are made available to the consumers on payment of a sum which shall not exceed the cost of printing or taking photocopies.

FORM-A

APPLICATION FOR FILING COMPLAINT
WITH THE CONSUMER GRIEVANCE REDRESSAL FORUM
[See Regulation 9(1)]

Name of the complainant
Full address of the complainant
Consumer Number
Name of the Licensee
Office of the licensee to which the complaint pertains
Details of complaint/grievance
Details of intimation of grievance by the consumer to the Licensee
Whether any reply has been received from the Licensee
(If yes, a copy of the reply to be attached)
Nature of relief sought
List of documents enclosed

Declaration

I/We, the complainant/s herein declare that:

- (a) the information furnished herein above is true to the best of my/our knowledge, information and belief.
- (a) I/We have not concealed or misrepresented any fact stated above and the documents submitted herewith
- (c) I/We have not brought the subject matter of the present complaint before this Forum earlier
- (d) the subject matter of the present complaint has not been decided by any Forum/Court/Arbitrator or any other authority.

Signature of the complainant

Place:

Date :

NOMINATION

(If the Consumer wants to nominate his/her representative to appear and make submissions on his/her behalf before the Forum, the following declaration should be submitted)

I/We the above named Consumer hereby nominate Shri./Smt.....and whose address is.....as my/our representative in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

(Signature of Representative)

Signature of Consumer

FORM – B

APPLICATION FOR FILING COMPLAINT WITH THE OMBUDSMAN
[See Regulation 21(3)]

Sir,

Sub: Representation on

Being aggrieved, the complainant named herein had submitted a complaint with the Consumer Grievance Redressal Forum established by (Name of the Licensee)The details of the complaint are as under:

Name of the complainant

Full address of the complainant

Details of complaint submitted to the Consumer Grievance Redressal Forum

(A copy of the complaint and the Order should be attached)

Whether any order has been received from the CGRF?

(If yes, a copy of the order to be attached)

Nature of relief sought from the Ombudsman

(Documentary evidence to be attached)

Declaration:

I/We, the complainant/s herein declare that:

- (a) the information furnished herein above is true and correct and
- (b) I/We have not concealed or misrepresented any fact stated in aforesaid columns and the documents submitted herewith

The undersigned or any of us or any of the parties concerned has not brought the subject matter of the present complaint before the Ombudsman to the best of my/our knowledge and belief

The subject matter of the present complaint is not in respect of the same, which was settled by the Ombudsman in any previous proceedings

The subject matter of the present complaint has not been pending/decided by any Forum/Court/Arbitrator/any other authority

Yours Sincerely,

(Name and Signature of the Complainant)

NOMINATION OF REPRESENTATIVE

If the complainant wants to nominate his representative to appear and make submissions on his behalf before the Ombudsman the following declaration should be submitted.

I/We the above named complainant/s hereby nominate Shri/Smt.....whose address is.....as my/our representative in all proceedings of this complaint and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

Signature of representative

Signature of complainant