

Extra No. 192

REGISTERED No. G/GNR/2



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# The Gujarat Government Gazette

## EXTRAORDINARY

PUBLISHED BY AUTHORITY

**Vol. XLV WEDNESDAY, AUGUST 25, 2004/BHADRA 3, 1926**

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

### PART IV-C

Statutory Rules and Orders (Other than those published in Part I, I-A and I-L) made by Statutory Authorities other than the Government of Gujarat including those made by the Government of India, the High Court, the Director of Municipalities, the Commissioner of Police, the Director of Prohibition and Excise, the District Magistrates and the Election Commission, Election Tribunals, Returning Officers and other authorities, under the Election Commission.

## GUJARAT ELECTRICITY REGULATORY COMMISSION (GERC)

### CONDUCT OF BUSINESS REGULATIONS

#### Notification: No. 02 of 2004

In exercise of the powers conferred under Section 181 of the Electricity Act, 2003 (Act 36 of 2003) and under Section 12 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003), and all powers enabling it in that behalf, the Gujarat Electricity Regulatory Commission hereby makes the following Regulations. These Regulations supersede the "Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 1999" published vide Notification No. GERC-99/ADM-01/197 in the Gazette dated July 6, 1999, read with all amendments thereto.

#### CHAPTER I

#### GENERAL

1. Short Title Extent and Commencement

These regulations may be called the Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 2004

These Regulations extend to the whole of the State of Gujarat.

These shall come into force on the date of their publication in the Gazette.

## CHAPTER II

### Definitions and Interpretations

#### 2 Definitions and Interpretation:

##### 2.1 In these Regulations, unless the context otherwise requires:

- (a) "Acts" refers jointly to the Electricity Act and the Gujarat Electricity Industry Act.
- (b) "Commission" means the Gujarat Electricity Regulatory Commission.
- (c) "Consultant" includes any individual, firm, body or association of persons, not in the employment of the Commission, who or which possesses or has access to any specialized knowledge, experience or skill.
- (d) "Electricity Act" means the Electricity Act, 2003 (Act 36 of 2003).
- (f) "Gujarat Electricity Industry Act" means the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003 (Gujarat Act 24 of 2003)
- (g) "Officer" means an officer of the Commission.
- (h) "Petition" means and includes all petitions and appeals and other papers and documents filed in relation thereto, and the word "Petitioner" shall be construed accordingly.
- (i) "Proceedings" means and include proceedings of all nature that the Commission may hold in the discharge of its functions under the Acts.
- (j) "Regulations" shall mean the Gujarat Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- (k) "Reply" shall include all replies, pleadings, supplemental pleadings and other papers and documents filed in reply to a Petition.
- (l) "Secretary" means the Secretary of the Gujarat Electricity Regulatory Commission.

Words and expressions used and not defined in the Regulations but defined in the Acts shall have the meanings assigned to them in the Acts. Expressions used herein but not specifically defined in the Regulations or in the Acts but defined under any law passed by a competent legislature and applicable to the electricity industry in the state shall have the meaning assigned to them in such law. Subject to the above, expressions used herein but not specifically defined in these Regulations or in the Acts or any law passed by a competent

legislature shall have the meaning as is generally assigned in the electricity industry. The Bombay General Clauses Act, 1904, shall apply for the purpose of the present Regulations.

## 2.2. Interpretation:

In the interpretation of these Regulations, unless the context otherwise requires:

- (a) words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;
- (b) the terms "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to" regardless of whether such terms are followed by such phrases or words of like import;
- (c) references herein to the "Regulation" shall be construed as a reference to these Regulations as amended or modified by the Commission from time to time in accordance with the applicable laws in force.
- (d) the headings are inserted for convenience and may not be taken into account for the purpose of interpretation of these Regulations.
- (e) references to the statutes, regulations or guidelines shall be construed as including all provisions consolidating, amending or replacing such statutes, regulations or guidelines, as the case may be, referred to

## Chapter III

### Commission's Office, Office Hours, Sittings and Language

#### Commission's Office

3. The place of the offices of the Commission may, from time to time, be specified by the Commission, by an order made in that behalf.

#### Office Hours

4. Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily, except on 2nd and 4th Saturdays of every calendar month, Sundays and State Government holidays notified by the State Government. The headquarters and other offices of the Commission shall be open at such times as the Commission may direct.
5. Where the last day for doing of any act including the filing of any Petition or Reply falls on a day on which the office of the Commission is closed and by reason thereof, such act cannot be done on that day, it may be done on the next day on which the office is open.

#### Sittings

6. The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time to be specified by the Commission.

#### Language

7. The proceedings of the Commission shall be conducted in English, provided that the Commission may allow any person to plead or represent the case in Gujarati or Hindi.
8. No Petition or Reply contained in any language other than English or in Gujarati (if permitted by the Commission) may be accepted by the Commission unless the same is accompanied by a translation thereof in English.

Such translation may be dispensed with at the discretion of the Commission.

9. Any translation which is agreed to by the parties to the Proceedings or which any of the parties may furnish with an authenticity certificate of the person who had translated into English, may be accepted by the Commission as a true translation.
10. The Commission in appropriate cases may direct translation of the Petitions and Replies into English by an officer or person designated by the Commission for the purpose.

## **Chapter IV**

### **Seal of the Commission**

#### **Seal of the Commission**

11. (1) There shall be a separate seal indicating that it is the seal of the Commission. The impression of the seal shall be certified and kept on record of the Commission.
- (2) Every order or communication made, notice issued or certified copy granted by the Commission shall be stamped with the seal of the Commission and shall be certified by a designated officer.

## **Chapter V**

### **Participation of Consumer Associations**

#### **Participation of Consumer Associations**

- 12(1) It shall be open to the Commission to permit any association or other bodies corporate or any group of consumers to participate in any proceedings before the Commission.
- (2) It shall be open to the Commission for the sake of timely completion of proceedings, to direct bunching up associations/groups referred to above, so that they can make collective and common affidavits, submissions and representation.
- 13(1) The Commission may authorize any officer or any other person, as it deems fit, to represent consumers' interests in the proceedings before it.
- (2) The Commission may also direct payment to the officer or person appointed to represent the consumers interests, such fees, costs and expense by such of the parties in proceedings as the Commission may consider appropriate.

## **Chapter-VI**

### **General Rules Concerning the Proceedings before the Commission**

#### **Proceedings, etc., before the Commission**

14. The Commission may from to time hold hearings, meetings, discussions, deliberations, inquiries, investigations and consultations as it may consider appropriate in the discharge of its functions under the Acts.

15. All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of Section 193 and 228 of the Indian Penal Code, 1860 (Act of 1968) and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

### **Quorum and Conduct of Meetings**

16. Quorum for the proceedings before the Commission shall be two.
17. The Chairperson or if he is unable to attend a meeting of the Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination, any Member chosen by the Members present from amongst themselves shall preside at the meeting.
18. All questions which come up before any meeting of the Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or in his absence, the person presiding shall have a second or casting vote.
19. Save as otherwise provided in Clause 18 above, every Member shall have one vote.
20. The Commission may decide urgent matters by the procedure of circulation subject to the following conditions:

Where a matter is required to be decided by the Commission urgently, the Chairperson may, instead of bringing the matter for discussion at a meeting of the Commission, direct that it may be circulated to the Members for opinion and if all the Members are unanimous and the Chairperson thinks that a discussion at a meeting of the Commission is not necessary, the matter shall be decided without such discussion.

If the Members are not unanimous or if the Chairperson thinks that a discussion at a meeting is necessary, the matter shall be discussed at a meeting of the Commission.

### **Attendance by Members and Voting**

21. No member shall exercise his vote on a decision unless he is present during all the substantial hearings of the Commission on such matter.

### **Authority to represent**

22. A party to the proceedings before the Commission may authorise an advocate or a member of any statutory professional body holding a certificate of practice as the Commission may from time to time specify to represent him and act and plead on his behalf before the Commission. The party may appear himself/herself or may authorise any of his/her employee to appear before the Commission and to act and plead. The Commission may, from time to time, specify the terms and conditions subject to which a party may authorise any other person to represent for such party and to act and plead.

### **Initiation of Proceedings**

23. The Commission may initiate any proceedings *suo moto* or on a Petition filed by any affected person.
24. The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, for services of notices to the affected parties, the filing of Reply in opposition or in support of the Petition in such form as it may direct.  
  
The Commission may, if it considers appropriate, issue orders for publication of the Petition and/or Reply inviting comments on the issues involved in the proceedings in such form as the Commission may direct.
25. While issuing the notice of inquiry, the Commission may, in appropriate cases, designate an officer of the Commission or any other person whom the Commission considers appropriate to present the matter in the capacity of a Petitioner in the case.

### **Petitions and Replies before the Commission**

26. (1) All Petitions and Replies to be filed before the Commission shall be typewritten, cyclostyled or printed neatly and legibly on one side of ledger paper and every page shall be consecutively numbered. Wherever possible, Petitions and Replies must also be filed with the Commission in soft copy. The contents of the Petition or Reply should be divided appropriately into separate paragraphs, which shall be numbered serially. The Petition or Reply shall be accompanied by such documents, supporting data and statements as the Commission may specify.
- (2) The Petition and/or the Reply, as far as possible, shall refer to the relevant provisions of the Central Act and the State Act.
- (3) On receiving any application or complaint other than the Petition, the Commission shall have a right either to change such application or complaint into a Petition and initiate its proceedings, or send such application or complaint to the concerned licensee/utility for appropriate action.

### **General headings**

27. The general headings in all Petitions and Replies before the Commission shall be made as per the format prescribed under Form-I, annexed hereto. Any notices and advertisements pertaining to such Petitions and Replies shall also be in accordance with Form-I.

### **Affidavit in support**

- 28(1) The Petition or Reply, as the case may be, shall be supported by an affidavit which will be submitted with the Secretary or such Officer of the Commission, as may be designated. Every such affidavit shall be in Form-II.
- (2) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the

capacity in which he is signing.

- (3) Every affidavit shall clearly and separately indicate the statements which are true to the (a) knowledge of the deponent; (b) information received by the deponent; and (c) belief of the deponent.
  - (4) Where any statement in the affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.
29. In accordance with Section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings, shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

**Presentation and scrutiny of the pleadings, etc.**

- 30(1) The Secretary of the Commission shall be authorized to carry out a preliminary scrutiny of the petition, application or appeal, in order to ensure that it satisfies the following requirements:-
- (a) The petition, application or appeal is couched in decorous language befitting the nature of the quasi-judicial proceedings and does not contain any references which are unbecoming in respect of any organization or agency or any person employed in government, public or private sector; is free from insinuations, imputations and allegations of a personal nature against any individual or functionary whether from government, public or private sector.  
The Secretary shall ensure that such petitions or applications or appeals are registered only after appropriate rectification. If the concerned petitioner, applicant or appellant fails to carry out the needed rectification within a period of one week from the receipt of notice from the Secretary that such modifications are required, the application, petition or appeal shall not be registered. No further correspondence or oral submission in regard to such a petition will be entertained by the Commission, provided that nothing contained herein shall operate to extinguish the right of the petitioner, applicant or appellant to approach the Commission with a fresh petition, application or appeal on the same subject matter.
  - (b) The Secretary shall ensure that the application, petition or appeal is supported by references to the provisions of the Electricity Act, 2003, the Gujarat Electricity Industry (Reorganization & Regulation) Act or any other statutes under which it is filed.
  - (c) The Secretary shall not register any application or petition or appeal which, prima facie, is totally unconnected with the Commission's jurisdiction. The Secretary shall not register an

application or petition or appeal which, prima facie, relates to matters pending before any other judicial or quasi-judicial authorities. [It is however, open to the petitioner, applicant or appellant to approach the concerned judicial authorities seeking a direction for allowing the matter, if deemed appropriate, to be dealt with by the Commission].

- (d) The Secretary shall not register an application or petition or appeal, if any judicial authority is seized of matters between the same parties relating to the same subject matter, wherein the points at issue, are substantially similar to those arising in the petition or application or appeal.
  - (e) The Secretary shall not register an application, petition or appeal, if in another proceeding before the Commission, the issues arising in such application, petition or appeal has already been adjudicated between the same parties and in respect of the same subject matter.
- (2) All Petitions and Replies shall be filed with five copies. The fees as may be prescribed by the Commission shall be payable along with the Petition or Reply, as the case may be.
  - (3) A copy of all Petitions and Replies shall be served upon all the other parties to the proceedings, simultaneously with filing of the same before the Commission.
  - (4) Each set of the Petition or Reply filed shall be complete in all respects, and no further filing of any additional information, documents or statements in support of the Petition or the Reply as the case may be, shall be done except with the prior permission of the Commission.
  - (5) The parties shall ensure that any additional information, documents or statements, as referred above in Clause 30(2), does not change the nature of the Petition or the Reply. If any such additional information, documents or statements change the nature of the Petition or the Reply, the concerned party shall be required to file an amendment to the Petition or the Reply, as the case may be.
- 31. All Petitions and Replies shall be presented in person or by any duly authorised agent or representative at the headquarters or such other filing centre of centres as may be notified by the Commission from time to time and during the time notified. The Petition or Reply, as the case may be, may also be sent by registered post acknowledgement due to the Commission at the places mentioned above. The vakalatnama in favour of the advocate, and in the event the Petitions or Replies, as the case may be, are presented by an authorised agent or representative, the document authorising the agent or representative shall be filed along with the Petition, or Reply as the case may be, if not already filed on the record of the case.
  - 32. Upon the receipt of the Petition, or Reply as the case may be, the Officer of the Commission designated for the purpose of receiving the

Petition or Reply, shall acknowledge the receipt by stamping and endorsing the date on which the Petition or Reply has been presented and shall issue an acknowledgement with stamp and date to the person filing the Petition or Reply. In case the Petition or Reply is received by registered post, the date on which the Petition or Reply is actually received at the office of the Commission shall be taken as the date of the presentation of the Petition or Reply.

33. The presentation and the receipt of the Petition shall be duly entered in the register maintained for the purpose by the office of the Commission. Such register shall be maintained in form and manner as may be prescribed by the Commission, showing serial no. of Petition date of its receipt, names and address of the parties, brief subject matter of the Petition, claim/relief sought, interim relief, if any, and date of disposal with final result thereof.
34. In the event of any Petition not conforming the provisions and requirements of the Acts and regulations made by the Commission under them, the Secretary may refuse to get it registered and keep or cause to be kept such Petition in objection and objection shall be removed by the Petitioner or Person making the Reply within 10 days from date of specifying such objection or within such time that may be extended at his discretion by the Secretary. On failure to remove objections within time allowed, the Petition shall stand dismissed.
35. A person aggrieved by any order of the Secretary in regard to the presentation of the Petition may request the matter to be placed before the Chairperson of the Commission for appropriate orders.
36. The Chairperson or any Member as the Chairperson may designate for the purpose shall be entitled to call for the Petition presented by the party and give such directions regarding the presentation and acceptance of the Petition as he considers appropriate.
37. If on scrutiny, the Petition is not refused or any order of refusal is rectified by the Chairperson or a Member of the Commission designated for the purpose, the Petition shall be duly registered and given a number in the manner to be specified by the Commission, as stated in Clause 33.
38. As soon as the Petition and all necessary documents are lodged and the defects and objections, if any, are removed, and the Petition has been scrutinized and numbered, the Petition shall be put up before the Commission for preliminary hearing and admission.
39. The Commission may admit the Petition for hearing without requiring the attendance of the party. The Commission shall not pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may, if it considers appropriate, issue notice to such person or persons as it may desire to hear the Petition for admission.
40. If the Commission admits the Petition, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondent and other affected or interested parties; for the filing of

Reply in opposition or in support of the Petition in such form as the Commission may direct and for the Petition to be placed for hearing before the Commission or a Bench, as the case may be.

**Service of notices and processes issued by the Commission:**

- 41(1) Any notice or process to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission:
  - (a) service by any of the parties to the proceedings as may be directed by the Commission;
  - (b) by hand delivery through a messenger;
  - (c) by registered post with acknowledgement due;
  - (d) by advertisement in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices;
  - (e) in any other manner as considered appropriate by the Commission.
- (2) The Commission shall be entitled to decide in each case the persons who shall bear the cost of such service/publication.
42. Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.
43. In the event any matter is pending before the Commission and the person to be served has authorised an agent or representative to appear for or represent him or her in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service on the person to be served.
44. Where a notice is served by a party to the Proceedings either in person or through registered post, an affidavit of service shall be filed by the party with the Commission giving details of the date and manner of service of notices and processes.
45. Where any Petition or Reply is required to be advertised, it shall be advertised in such form in the newspapers to be specified, for such duration and within such time as the Commission may direct.
46. In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notices, summons or processes or the advertisement and publication thereof, the Commission may either order to dismiss the Petition or give such other or further directions as it thinks fit.

47. No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceedings shall be invalidated by reason of any defect or irregularity unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

**Filing of reply, opposition, objections, etc.**

48. Each person to whom the notice of inquiry or the Petitions is issued (hereinafter called the 'respondent') who intends to oppose the Petition, shall file the reply and the documents relied upon within such period and in such number of copies as may be fixed by the Commission. In the Reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry of the Petition and may also state such additional facts as he considers necessary for just decision of the case. The Reply shall be signed and verified and supported by affidavit in the same manner as in the case of the Petition.
49. The respondent shall serve a copy of the Reply along with the documents duly attested to be true copies on the Petitioner or his authorised representative and file proof of such service with the office of the Commission at the time of filing of the Reply.
50. Where the respondent states additional facts as may be necessary for the just decision of the case, the Commission may allow the Petitioner to file a rejoinder to the Reply filed by the respondents. The procedure mentioned above for filing of the Reply shall apply *mutatis mutandis* to the filing of the rejoinder.
- 51(1) Every person who intends to file objection or comments in regard to a matter pending before the Commission, pursuant to the advertisement and publication issued for the purpose (other than the persons to whom notices processes etc. have been issued calling for reply) shall deliver to an Officer designated by the Commission for the purpose the statement of the objection or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.
- (2) The Commission may permit or invite such person or persons including the associations, forums and bodies corporate holding the certificate of registration as it may consider appropriate to participate in the proceedings before the Commission if, on the report received from the Officer, the Commission considers that the participation of such person or persons will facilitate the proceedings and the decision in the matter.
- (3) Unless permitted and/or invited by the Commission, the person filing objection or comments shall not be entitled to participate in the proceedings to make oral submissions. However, the Commission shall be entitled to take into account the objections and comments filed after giving such opportunity to the parties to the proceedings as the Commission considers appropriate to deal with the objections or comments.

**Hearing of the matter:**

52. The Commission may determine the stages, manner, the place, the date and time of the hearing of the matter as the Commission considers appropriate.
- 53(1) The Commission may decide the matter on the pleadings of the parties, and affidavits in support thereof and evidence on record.
- (2) The Commission may direct the parties to file written note of arguments or submissions in the matter.

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

54. The Commission shall, for the purposes of any inquiry or proceedings under these Regulations, have the powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 for the following matters namely:
- (a) summoning and enforcing the attendance of any person and examining him on oath;
  - (b) requiring the discovery and production of any document or other material object producible as evidence;
  - (c) receiving evidence on affidavits;
  - (d) requisitioning of any public record or a copy thereof from any court or office;
  - (e) issuing commission for the examination of witnesses or documents;
  - (f) reviewing its decisions, directions and orders;
  - (g) any other matter which may be prescribed;
  - (h) any other matter which may be specified by the Commission by regulations or otherwise.
55. The Commission or any officer, not below the rank of a gazetted officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973.

The Commission may also exercise the aforesaid power if it has a reason to believe that any document relevant to the inquiry or the proceedings pending before it may be destroyed, mutilated, altered, falsified or secreted.

**Reference of issues to others**

- 56(1) At any stage of the Proceedings, the Commission shall be entitled to refer such issue or issues in the matter as it considers appropriate to persons including, but not limited to, the Officers and consultants of the Commission whom the Commission considers as qualified to give expert advice or opinion.
- (2) The Commission may nominate from time to time any person including, but not limited to, the Officers and consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities therein.
- (3) The Commission, if it thinks fit, may direct the parties to appear before the persons designated in Clause (1) or (2) above to present their respective views and/or make presentation on the issues or matters referred to.
- (4) The report or the opinion received from such person shall form a part of the record of the case and the parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties shall be entitled to file their version either in support or in opposition to the report or the opinion, as the case may be.
- (5) The Commission shall duly take into account the report or the opinion given by the person, the reply filed by the parties while deciding the matter and if considered necessary, the examination before the Commission of the person giving the report or the opinion.
- (6) The Commission may, if deems appropriate, refer matters to other agencies and bodies dealing with consumer disputes, restrictive and unfair trade practices and management and administration of the affairs of the licensees.

**Procedure to be followed where any party does not appear:**

57. Where the Petitioner or the respondent is called or supposed to appear in person and does not appear in person nor shows sufficient cause for non-appearance, the Commission may:

- (a) dismiss the application or complaint if he is the applicant or complainant; or
- (b) proceed *ex parte* if he is the opponent or respondent

and may pass necessary order(s) in accordance with law, justice and equity.

Provided however, the Commission may not proceed *ex parte* against the opponent or respondent unless the applicant or complainant proves the service of summons to such opponent or respondent.

**Orders of the Commission:**

58(1) On conclusion of hearing of the case before the Commission, the Commission, comprising of Chairperson and/or Member(s), who heard the case, shall pronounce judgement.

- (2) The judgement shall be so pronounced at once after hearing or soon thereafter as may be practical, on some future day.
- (3) The judgement shall be dated and signed by the Commission, at the time of pronouncing it, and once signed shall not be afterwards altered, or added to, unless and except there is any clerical or arithmetical mistake in it or errors arising therein from any accidental slip or omission or on review of the judgement in accordance with Clause 72.
- (4) The judgement shall contain a brief statement of the facts, the points or issues for determination, decision thereon and the reasons for such decision.
59. In case, after hearing and while giving judgement or decision, the Chairman or any member of the Commission dissents, he shall give his dissenting judgement with reasons. Majority view of the Commission shall be final in the judgement.
60. All orders and decisions issued or communicated by the Commission shall be certified by the signature of the Secretary or an Officer empowered in this behalf by the Chairperson and bear the official seal of the Commission.

**Interim Orders:**

61. The Commission shall have the powers to pass such interim order in any proceeding, hearing or matter before the Commission, as the Commission may consider appropriate, having regard to the facts and circumstances of the case.

**Special Provisions for Contravention of License, Regulations or Terms of the Acts:**

62. Where the Commission, on the basis of material in its possession, is satisfied that:
  - (a) a licensee is contravening, or is likely to contravene:
    - (i) any of the conditions mentioned in his license; or
    - (ii) any of the conditions for grant of exemption

or

  - (b) a licensee or a generating company has contravened or is likely to contravene any of the provisions of the Acts or rules or regulations made thereunder

the Commission shall, by an order, give such directions as may be necessary for the purpose of securing compliance with that condition or provision. While giving such directions, the Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention.

63. The Commission, before passing orders under Clause 62 above, shall give such licensee or the generating company, as the case may be, an opportunity to make his submissions with respect to any such contravention or likelihood of such contravention. On hearing such submissions, the Commission may pass necessary orders, however, before issuing any such orders, the Commission shall:
- a. Serve notice to the concerned licensee or the generating company in the manner specified in these Regulations;
  - b. Publish the notice in one widely read English language newspaper and one widely read Gujarati language newspaper, in addition to posting it on a designated area in the premises of the Commission, for the purpose of bringing the matter to the attention of persons affected or likely to be affected;
  - c. Consider suggestions or objections from the concerned licensee or generating company and the persons, likely to be affected, or affected.

**Non compliance of orders and directions:**

64. In case any complaint is filed before the Commission by any person or if the Commission is satisfied that any person has contravened any provisions of the Acts or rules or regulations made thereunder, or any direction issued by the Commission, the Commission may after giving such person an opportunity of being heard in the matter, by order in writing, direct that, without prejudice to any other penalty to which he may be liable under the Acts, such person shall pay, by way of penalty, which shall not exceed one lakh rupees for each contravention and in case of a continuing failure with an additional penalty which may extend to six thousand rupees for every day during which the failure continues after contravention of the first such direction.
65. Any amount payable under Clause 64 above, if not paid, may be recovered as if it were an arrear of land revenue.

**Chapter-VII**

**Investigation, Inquiry, Collection of Information, etc.**

**Investigation, Inquiry, Collection of Information, etc.**

66. The Commission may make such order or orders as it thinks fit for collection of information, inquiry, investigation, entry, search, and seizure and without prejudice to the generality of its powers in regard to the following:
- (a) The Commission may, at any time, by order in writing, direct the Secretary or any one or more Officers or Consultants or any other person as the Commission considers appropriate (hereinafter referred to as "Investigating Authority") to study, investigate or to inspect any matter within the purview of the Commission under the Acts and to report to the Commission on

any investigation made by such Investigating Authority.

**Provided that** the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation or inspection.

- (b) The Commission may for the above purpose give such other directions as it may deem fit and specify the time within which the report is to be submitted or information furnished.
  - (c) Any Investigating Authority, directed to make an investigation or inspection, may examine on oath any manager, managing director or other officer of the licensee or generating company, as the case may be, in relation to his business and may administer oaths accordingly. The oath shall be administered in the manner as specified under Schedule I, annexed hereto.
  - (d) It shall be the duty of every manager, managing director or other officer of the licensee or generating company, as the case may be, to produce before the Investigating Authority directed to make the study, investigation or inspection under this Regulation, all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the said Investigating Authority may require of him within such time as the said Investigating Authority may specify.
  - (e) The Commission may issue such directions for the purpose of collecting any information, particulars or documents which the Commission consider necessary in connection with the discharge of its functions under the Acts.
  - (f) If any such report or information obtained appears to the Commission to be insufficient or inadequate, the Commission or the Investigating Authority may give directions for further inquiry, report and furnishing of information.
  - (g) The Commission may direct such incidental, consequential and supplemental matters, be attended to which may be considered relevant in connection with the above.
67. The Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority or such portion as may appear to it to be necessary.
68. The Commission may, at any time, take the assistance of any institution, consultants, experts and such other technical and professional persons, as it may consider necessary, and ask them to study, investigate, inquire into any matter or issue and submit report or reports or furnish any information. The Commission may determine the terms and conditions for engagement of such professionals.
69. If the report or information obtained in terms of the above Clauses or

any part thereof is proposed to be relied upon by the Commission for forming its opinion or view in any Proceedings, the parties to the Proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information. The Commission may order the following in writing:-

- (a) require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Appropriate Commission may think fit; or
  - (b) cancel the license; or
  - (c) direct the generation company to cease to carry on the business of generation of electricity.
70. All expenses of, and incidental to, any investigation made shall be defrayed by the licensee or generating company, as the case may be, and shall have priority over that debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue.

## Chapter VIII

### Miscellaneous

#### **Advisory Committee**

- 71(1) There shall be a Committee known as the State Advisory Committee which shall come into existence from the date of the notification of these Regulations.

The State Advisory Committee existing and functioning immediately before the notification of these Regulations shall be deemed to be the State Advisory Committee constituted under these Regulations.

- (2) The Advisory Committee envisaged under the Acts shall consist of such number of members not exceeding 21 representing the various interests as referred to in the Acts, as may be decided by the Commission.

**Provided that** the Chairperson of the Commission shall be the ex-officio Chairperson, and the Members of the Commission shall be the ex-officio Members of the State Advisory Committee.

**Provided further that** the Secretary to the Government of Gujarat in charge of the Commission and the Secretary to the Government of Gujarat in charge of the Department of Food, Civil Supplies and Consumer Affairs shall be the ex-officio Members of the Committee.

- (3) Tenure of a member of the Advisory Committee shall be as per the provisions of the Acts. On death of the member or on his resigning as the member, and on acceptance of such resignation by the Commission, such member shall cease to be the member of the

Committee.

- (4) In event of the member of the Committee being convicted by competent court of law for an offence involving moral turpitude, such member shall be liable to be removed as the member of the Advisory Committee.
- (5) To attend the meeting of the Committee, the members shall be paid the allowances as under:
  - (i) Members staying outside Ahmedabad city shall be paid to & fro 1<sup>st</sup> Class Railway fare for the respective place and Ahmedabad. These members shall also be paid Daily Allowance and Conveyance Allowance at the rate payable to Grade-I Officer of the State Government.
  - (ii) Members staying within the Municipal Corporation limit of Ahmedabad city shall be paid actual costs incurred or Rs.250/-, whichever is more, as Conveyance Allowance.
- (6) The objectives of the Committee shall be to advise the Commission on the following matters:
  - i. Major questions of policy
  - ii. Matters relating to quality, continuity and extent of service provided by the licensees
  - iii. Compliance by the licensees with the conditions and requirements of the licence
  - iv. Protection of consumer interest
  - v. Electricity supply and overall standards of performance by utilities

### **Review of the decisions, directions, and orders**

- 72(1) Any person aggrieved by a decision or order of the Commission, from which no appeal is preferred or allowed, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decision/order was passed by the Commission or on account of some mistake or error apparent from the face of record, or for any other sufficient reason, may apply for review of such order within 60 days of the date of decision/order to the Commission.
- (2) The provision as to the forms and procedure with regard to such review application shall apply *mutatis mutandis* as in case of filing the petition.
- (3) When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.
- (4) When the Commission is of the opinion that the review application

should be granted, it shall grant the same, provided that no such application shall be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of decision or order, the review of which is applied for.

#### **Continuance of proceedings after death, etc.**

- 73(1) Where in any proceeding any of the parties to the proceedings dies or is adjudicated as an insolvent or in the case of a company, is under liquidation or being wound up, the proceedings shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned, as the case may be.
- (2) The Commission may, for reasons to be recorded, treat the proceedings as abated in case the Commission so directs and dispense with the need to bring the successors-in-interest, etc. on the record of the case.
- (3) In case any person wishes to bring on record the successors-in-interest, etc, the application for the purpose shall be filed within 90 days from the event requiring the successors-in-interest to come on record. The Commission may condone delay for sufficient reasons.

#### **Proceedings to be open to public**

74. The Commission may, if it thinks fit, and for reasons to be recorded in writing, order at any stage of the Proceedings of any particular case that the public generally or any particular person or group of persons shall not have access to or be or remain in, the room or building used by the Commission.
- 75(1) If any party or person in proceedings before the Commission intentionally insults the Chairperson or any Member or misbehaves or deliberately cause interruption of such proceedings and/or disobeys order or direction of the Commission, such party or person, in accordance with the Section 228 of the Indian Penal Code, 1860, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/- or with both, or dealt with under the Contempt of Courts Act.
- (2) In accordance with Section 345 of the Criminal Procedure Code, 1973, who ever intentionally offers any insult or causes any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may at any time before the close of the business day of the Commission's office on the same day, take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding Rs.200/- and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine be sooner paid.
76. If the Commission in any case as referred to in the above Clause

considers that a person accused of any of the offences referred to thereunder and committed in its view or presence should be imprisoned otherwise than in default of payment of fine or with a fine exceeding Rs.200/- should be imposed on him may forward the case to a Magistrate having jurisdiction to try the same and may require security be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall forward such person in custody to such Magistrate.

#### **Publication of Petition and/or Reply**

- 77(1) Where any Petition and/or Reply is required to be published under the Acts or these Regulations or as per the directions of the Commission, it shall, unless the Commission otherwise orders or the Acts or Regulations otherwise provide, be advertised not less than 7 days before the date fixed for hearing.
- (2) Except or otherwise provided, such advertisements shall give a heading describing the subject matter in brief.
- (3) Such advertisement to be published shall be approved by the Officer of the Commission designated for the purpose.

#### **Inspection of Commission's records and confidentiality**

- 78(1) Records of every proceeding, except those parts which for reasons specified by the Commission are declared by the Commission to be confidential or privileged or otherwise not to be disclosed to any person, shall be open to inspection by all the parties to the proceedings either during the proceedings or after any order has been passed in the proceedings, subject to such party complying with such terms as the Commission may direct from time to time including terms in regard to time, place, and manner of inspection and payment of such fees as the Commission may specify.
- (2) Any person shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Commission as well as the pleadings, papers and other parts of the records of the Commission to which he is entitled to inspect, subject to payment of such fee and compliance with such other terms as the Commission may direct.
- (3) A person other than the parties to the proceedings shall be permitted to inspect the records or obtain copies thereof only after final orders are passed in the matter. If such a person wishes to inspect and/or obtain copies of the records and the proceedings, such a person shall file an affidavit, mentioning the purpose of such inspection / copies. Such a person shall be allowed to inspect the records or obtain copies only upon approval by the Commission.
- (4) The Commission may, by order, direct that any information, documents and other papers and materials produced before the Commission or any of its Officers, consultants, representatives or otherwise which may be, or come into, their possession or custody, shall be confidential or privileged and shall not be available for inspection or supply of copies,

and the Commission may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Commission.

#### **Issue of orders and directions**

79. Subject to the provisions of the Acts and these Regulations, the Commission may, from to time, issue orders and directions in regard to the implementation of the Regulations and procedure to be followed and various matters which the Commission has been empowered by these Regulations to specify or direct.

#### **Saving of inherent power of the Commission**

80. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.
81. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Acts, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
82. Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Acts for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

#### **General Power to rectify defects**

83. The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, rectify any defect or error in any Proceeding before it, and all acts shall be done for the purpose of determining the real question or issue arising in the Proceedings.

#### **Power to remove difficulties**

84. 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 being inconsistent with the provisions of the Acts, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

#### **Extension or abridgement of time prescribed**

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

### **Effect of non-compliance**

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

### **Costs**

- 87(1) Subject to such conditions and limitation as may be directed by the Commission, the cost of, and incidental to, all Proceedings shall be awarded at the discretion of the Commission and the Commission shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.
- (2) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of a Civil Court.

### **Enforcement of orders passed by the Commission**

88. The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the Acts and Regulations and if necessary, may seek the orders of the commission for directions.

### **Vacancies etc. not to invalidate the proceedings**

89. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.
90. No act done by any person acting in good faith as a Member shall be deemed to be invalid merely on the ground that he was disqualified to be a Member or that there was any other defect in his appointment.

### **Delegation**

91. The Commission may, by general or special order in writing, delegate to any Member, Secretary, officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and powers and functions under the Acts (except the power to adjudicate disputes under the Acts and the powers to make regulations under the Acts) as it may deem necessary.

### **Regulations to be in addition to and not in derogation of other laws**

92. These Regulations are in addition to and not in derogation of any provision laid under the Acts, rules or regulations framed thereunder or under any other laws.

**FORM I**

**(See Clause 27)**

**General Heading for Proceedings**

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION**

**AHMEDABAD**

**FILING NO.**

**CASE NO.**

**(To be filled by the office)**

**IN THE MATTER OF:**

**(Gist of the purpose of the Petition/Reply or application)**

**AND**

**(Names, full addresses, phone no., fax no, and email address of the petitioners/applicants and names, full addresses, phone no., fax no., and email address of the respondents)**

**Fact of the case/petition be stated in short**

**Submission/Ground in support of the case.**

**Relief clause: Relief prayer made in the Petition/Reply be stated shortly and specifically**

**Declaration that the subject matter of the petition has not been raised by the petitioner before any other competent forum, and that no other competent forum is currently seized of the matter or has passed any orders in relation thereto.**

**Place**

**Date**

-----

**Signature of the Petitioner/Respondent**

**FORM II**

**(See Clause 28(1))**

**General Heading for Proceedings**

**BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION**

**AHMEDABAD**

**FILING NO.**

**CASE NO.**

**(To be filled by the office)**

**IN THE MATTER OF:**

**(Gist of the purpose of the Petition or application)**

**AND**

**(Names, full addresses, phone no., fax no, and email address of the petitioners/applicants and names, full addresses, phone no., fax no., and email address of the respondents)**

**Affidavit verifying the Petition reply/application**

I, \_\_\_\_\_, son of \_\_\_\_\_ aged \_\_\_\_\_ residing at \_\_\_\_\_ do solemnly affirm and say as

**follows:**

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

**2. The statements made in paragraphs ..... of the petitioner/applicant/reply herein now shown to me and marked with the letter "A" are true to my knowledge and the statements made in paragraphs ..... are based on information and I believe them to be true.**

**Solemnly affirm at ..... on this day of ..... that the contents of the above affidavit are**

**true to my knowledge, no part of it is false and nothing material has been concealed therefrom.**

**Identified before me**

**Ahmedabad**

**25<sup>th</sup> August, 2004**

**G.D.VYAS**

**SECRETARY**