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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)

ESTABLISHMENT OF FORUM FOR REDRESSAL OF GRIEVANCES OF
CONSUMERS_Regulations

Notification No. 4 of 2004

In exercise of the powers conferred under section 181 read with sub-section (5) of section 42 of the Electricity Act 2003 (36 of 2003) and all powers enabling it in that behalf, Gujarat Electricity Regulatory Commission hereby makes the following Regulations providing for Guidelines to the licensees in the State of Gujarat for setting up a Forum for redressal of grievances of consumers.

Chapter I

Preliminary

1. Short Title, Extent and Commencement

These Regulations may be called the Gujarat Electricity Regulatory Commission (Establishment of Forum for Redressal of Grievances of the Consumers) Regulations, 2004.

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

These Regulations shall be applicable to all the distribution licensees in the territory of Gujarat.

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

2. Definitions and Interpretation

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

- a) "Act" means the Electricity Act, 2003 (36 of 2003).
- b) "Commission" means the Gujarat Electricity Regulatory Commission.
- c) "Complainant" means any (a) Consumer or Consumers including their legal heirs or successors, having a Complaint against a Licensee and lodging the same either directly or through their representatives; or (b) any voluntary consumer association or associations, registered under law for the time being in force and making the Complaints in the larger interest of the Consumers; or (c) any Consumer(s)/voluntary consumer associations(s) where the Licensee does not register or fails to register the Complaint of such Consumer(s)/voluntary consumer association(s); or (d) any person whose electricity connection is disconnected; or (e) an applicant for a new connection for the supply of electricity.
- d) "Complaint" means any complaint made by a Complainant, either in writing, including e-mail and facsimile modes, or verbally over phone if such numbers are specified by a Licensee for lodging complaints, or by visiting personally such offices of the Licensee which are designated by the Licensee for registering the complaints, to a Licensee, which may, without limitation, include complaints relating to:

- i) any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by the Licensee in pursuance of a licence and/or any contract or agreement or under the Electricity Supply Code or in relation to Standards of Performance of Licensees, as may be specified by the Commission;
 - ii) any unfair trade practice or a restrictive trade practice which has been adopted by the Licensee in providing Electricity Service;
 - iii) Electricity Services which are being offered for use to the public in contravention of the provisions of any applicable law including safety code, rules and regulations, as prescribed by competent authorities under the relevant laws or established through prudent industry practices, and as a result whereof the life and safety of the human beings, livestock or property is put at risk and endangered..
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- e) “Electricity Service” includes supply, billing, metering & maintenance of electrical energy to the Consumers and all attendant sub-services and also any other service which a Licensee is required to provide pursuant to his license or under any applicable law.
 - f) “Forums” means forums for Redressal of Grievances of the Consumers to be constituted by a Licensee in terms of sub-section (5) of section 42 of the Act read with these Regulations.
 - g) “Grievance” shall mean a grievance of the Complainant arising out of the failure of the Licensee to register or redress a Complaint, and shall include any dispute between the Complainant and the Licensee with regard to any Complaint or with regard to any action taken by the Licensee in relation to or pursuant to a Complaint.
 - h) “Licensee” means a distribution licensee, as defined under the Act;
 - i) “Ombudsman” means an authority to be appointed or designated by the Commission, under sub-section (7) of Section 42 of the Act.
 - j) “Regulations” mean these Gujarat Electricity Regulatory Commission (Establishment of Forum for Redressal of Grievances of the Consumers) Regulations, 2004.
 - k) “Standards of Performance” means the Standards of Performance specified by the Commission under sub-section (1) of section 57 of the Act read with sub-section (1) (a) of section

42 of the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003.

- l) "State Act" shall mean the Gujarat Electricity Industry (Reorganisation and Regulation) Act, 2003.

Words and expressions used and not defined in this Regulation but defined in the Act or the State Act or the Rules framed thereunder shall have the meanings assigned to them in the said Act or the State Act or such Rules. Expressions used herein but not specifically defined in these Regulations or in the Act or the State Act or the Rules framed thereunder 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 the Regulations or in the Act the State Act or the Rules framed thereunder or in any other law passed by a competent legislature shall have the meaning as is generally assigned in the electricity industry.

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 various 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 II

Forum for Redressal of Grievances of the Consumers

3. Constitution of the Forums for Redressal of Grievances of the Consumers

- a) Every Licensee shall, as soon as may be possible establish a Forum in accordance with the Electricity Act, 2003.
- b) The Licensee shall establish as many Forums as it deems fit to ensure prompt redressal of Grievances within the timeframe specified in these Regulations and in accordance with the guidelines laid under these Regulations.
- c) In addition to Licensee's own / existing Complaint receiving Centres, the Licensee shall establish one or more consumer contact centres of the Forum(s) within a reasonable accessible distance of the consumers to submit his Complaint. While establishing the consumer contact centres of the Forums the Licensee shall take into account the concentration of the consumers in a particular area and the number of complaints expected to be received. The Licensee may designate its complaint registering offices as consumer contact centres.
- d) Each contact centre shall be manned by permanent staff of the Licensee.
- e) All consumer contact centres shall accept the Grievances from the Consumers/Complainants falling within the

jurisdiction of the Forum. The Complainants shall be issued acknowledgement of the receipt of Grievances by such consumer contact centres.

- f) The consumer contact centres shall forward the Grievances to the office of the Forum of that jurisdiction within next working day, failing which the Licensee shall be liable to a fine as found appropriate by the Forum.
- g) The Forum may consist of as many members appointed by the Licensee as the Licensee deems fit, subject to the following conditions:
 - i) The Forum shall not consist of an even number of members;

- ii) One-third of the members of the Forum shall be engineers with at least 10 years of practice in the electricity industry;
- iii) One-third of the members of the Forum shall be law graduates with ten or more years of experience in law;
- iv) One-third of the members of the Forum shall be representatives of consumer associations appointed by the Licensee;
- v) The Licensee shall appoint one member of each Forum to be the Chairperson;
- vi) The Licensee shall ensure that members' posts are not kept vacant for more than one month.
Provided that in case the Licensee is unable to fill the vacant post within a period of one month, the Commission may, at the request of the Licensee, grant such additional time, as it deems fit, to the Licensee for the purposes of filling of such vacancy
- vii) If the Licensee is unable to find a person of the background given above in spite of its best efforts, the Licensee may appoint a person with other qualifications, with the prior approval of the Commission.

- h) Every member of the Forum shall hold office for a fixed term of three years and shall not be eligible for reappointment as such.
- i) The remuneration of members shall be determined and paid by the Licensee, subject to approval by the Commission, and the Licensee shall adopt such suggestions as may be made by the Commission in this behalf
- j) The members of the Forum shall be full time members. The Forum shall be a full-time body, accessible to the Consumers during working hours on all working days.
- k) Each member of the Forum shall, in any case, be entitled to remuneration not less than the amount received by a previous member as remuneration in that position. The Licensee shall not alter the members' remuneration to their detriment during their tenure.
- l) The Chairperson of the Forum shall, in any case, be entitled to remuneration not less than the amount received by the previous Chairperson as remuneration in that position. The Licensee shall not alter the Chairperson's remuneration to his detriment during his tenure.
- m) No person shall be appointed and/or be entitled to continue as a member of the Forum if he stands disqualified on account of his:
 - i) Having been adjudged an insolvent;

- ii) Having been convicted of an offence which involves moral turpitude;
 - iii) Having become physically or mentally incapable of acting as such member;
 - iv) Having acquired such financial or other interest as is likely to affect prejudicially his functions as a member;
 - v) Having so abused his position as to render his continuance in office prejudicial to the public interest; or
 - vi) Having been guilty of proved misbehaviour.
- n) No member of the Forum shall be removed from his office on the grounds specified in sub clause (m) above, until an authority independent appointed in consultation with the Commission of the Licensee has conducted an enquiry into the matter and has forwarded a report to the Licensee recommending his removal.
- o) The Forum shall be entitled to appoint and employ the necessary staff required for its working with the consent of

the Licensee. The Licensee shall not withhold such consent unreasonably.

Provided that the licensee may provide its employees as supporting staff on a full time basis to the Forum

- p) The terms of employment and remuneration of the staff shall be decided by the Forum.
- q) The staff of the Forums shall –
- (i) receive Grievances and Complaints;
 - (ii) receive any other documents which may be required to be filed with the Forum;
 - (iii) maintain records of proceedings;
 - (iv) circulate matters to members of the Forum for directions and proper orders;
 - (v) do all other acts and deeds in compliance with orders issued by the Forum; and
 - (vi) do all other acts and things required for the functioning and the proceedings of the Forum.
- r) The Forum shall be independent of the Licensee and none of the members shall hold an office of profit under the Licensee for the term of their membership of the Forum and for a period of three (3) years after the expiry of such term of membership.
- s) The expenses of the Forum(s) and payments to its members and staff shall be met out of a fund established by the Licensee specifically therefor. The Licensee shall be responsible to ensure that such fund shall, at all times, contain sufficient funds to meet at least six months' expenses of the Forum(s).

- t) The name, location and telephone numbers of the Forums shall be widely publicised through newspapers and also displayed on the websites and at the offices of the Licensee and shall be intimated to the Consumers through their electricity bills. The electricity bills shall also contain a statement to the effect that Complainants whose grievance is not resolved by the licensee may file an appeal before Consumer Grievance Redressal Forum. The abovementioned details may also be publicised through radio and television. Every Licensee shall publish widely the addresses of the consumer contact centres of its Forums, and the e-mail

addresses for the despatch of complaints. Every Licensee shall, as soon as is practicable but in any event within six months from the later to occur of the (i) date of issuance of the license; or (ii) the coming into force of these Regulations, establish a website at which Consumers may retrieve information such as the contact details of the Forum and the consumer contact centres, the status of Complaint upon entering of the complaint number assigned to a Complaint, the stage of its disposal, the orders and directions (if any) issued by the Forum and the dates of the next hearings.

- u) No act or 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.
- v) The office(s) of Forum shall be at a place decided and notified by the Forum, preferably within Licensee's premises. The Licensee shall be responsible for arranging all infrastructure for the office(s) of the Forum and shall also bear any capital cost incurred in this regard. The office(s) of the Forum shall remain open on all working days of the licensee during 10 a.m. and 5 p.m.

4. Jurisdiction of the Forum

- a) The Forum shall have the jurisdiction to entertain the Grievances/Complaints within the area of supply as specified in the license of the Licensee.

Provided however, in the event a Licensee establishes more than one Forum, then each of such Forum shall have the jurisdiction as specified by the Licensee out of his total area of supply. The Licensee shall ensure that no area out of his area of supply is left without being under the jurisdiction of a Forum.

- b) The Forum shall take up all the Grievances in accordance with these Regulations.

5. Quorum and other matters

- a) The Forum shall conduct its businesses and hold hearings at its offices. However, in order to expedite disposal of Grievances, the Forum(s) may also hold sittings at such places within its area of jurisdiction, as may be considered necessary and proper by the Forum(s).
- b) The quorum of the Forum(s) shall be two-thirds of the total membership.
- c) All decisions of the Forum(s) shall be on the basis of simple majority of the members present and voting.
- d) The Forum(s) shall duly comply with such directions as the Commission may issue from time to time.

Chapter III

Representation before the Forum and Grievance Redressal

6. Right of the Consumer to approach the Forum

- a) All Complaints shall be dealt with, in the first instance, by the Licensee, in the manner prescribed in the Standards of Performance.
- b) The Forum shall specify the detailed timeframes based upon the nature of the different issues which may be involved in Electricity Service, in accordance with the Standard of Performance specified by the Commission, which is to be followed by the Licensee while addressing and disposing off the Complaints made to it. Such timeframe prescribed by the Forum shall in no event exceed the corresponding timeframe prescribed by the Commission under the Standard of Performance.
- c) The Complainant can approach the Forum in the following events:
 - (i) If the Licensee fails to register the Complaint; or
 - (ii) If the Licensee fails to resolve the Complaint within the time limits specified by the Forum; or
 - (iii) If the Consumer/Complainant is not satisfied with the Redressal of the Complaint (including dismissal) even after taking up the issue at the level of division head / circle head, as provided for in the Standards of Performance.
- d) The Consumer may directly approach the Forum with a Complaint at the office of the Forum, which the Forum shall then forward to the Licensee for the necessary remedial action. The Licensee shall deal with such Complaints as if they had been

filed with the Licensee by the Consumer in the manner specified in the Standards of Performance.

7. Procedure for Complaint/Grievance Redressal

- a) The Forums shall receive the Grievance in writing including through email and facsimile mode, and shall not insist on or prescribe any format for filing of the Grievance or for entertaining it. Any Complaint made to the Forum shall also be in writing including email and facsimile modes.
- b) The Forums shall issue due acknowledgment of the receipt of the Grievance/Complaint to the Consumer/Complainant with an acknowledged copy of the Complaint/Grievance in the following manner:
 - i) shall issue and deliver forthwith upon submission if the Grievance/Complaint is delivered personally;
 - ii) shall despatch/email/fax within two working days of receipt of the Grievance/Complaint if sent by post or courier or through email or fax; or
 - iii) shall despatch within two working days of receipt of the Grievance if received by the consumer contact centres.
- c) The Forums shall maintain true and correct records of all Complaints/Grievances received by them from time to time.
- d) In the event a Complaint is filed with the Forum, a copy of the same shall be forwarded to the Licensee so as to enable the Licensee to act upon the Complaint in the manner provided for in the Standards of Performance.
- e) A copy of any Grievance filed with the Forum shall be forwarded to the concerned officer of the relevant department of the Licensee directing for the filing of the response to such Grievance. The Forum shall, at the time of forwarding every Grievance, specify the time within which the response(s) should be given by the Licensee.
- f) The Licensee shall take all measures to ensure that it responds to the Grievance of the Complainant within the time frame specified by the Forums under sub-clause (e) above. If the Licensee believes that the Grievance is frivolous or vexatious, it shall make a written representation to the Forum to that effect within the time frame specified by the Forum under sub-clause (e) above.
- g) Where the Licensee makes a representation under sub-clause (f) above or fails to respond to the Grievance within the time frame specified by the Forum under sub-clause (e) above, the Forum shall have the power to pass an order requiring the

Licensee to take appropriate action as specified in the order, in order to redress the Grievance.

- h) The Forums shall have the power to direct the Licensee to do all or any of the following:
 - i) to remove the cause of Grievance in question;
 - ii) to return to the Consumer(s) the undue charges paid by the Consumer(s);
 - iii) to pay such amount as may be awarded by it as compensation to the Consumer(s) for any loss or damage suffered by the Consumer(s);
 - iv) to remove the defects/deficiencies in the services in question;
 - v) to discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;
 - vi) not to offer and/or to withdraw hazardous electricity services.

Provided that nothing contained in this sub-clause shall be deemed to limit the power of the Forums to pass any other order, as they deem appropriate in the facts and circumstances of the case.

- i) The Forum(s) shall be entitled to call for any record while redressing the Grievance. The Forum(s) shall also be entitled to direct the Licensee to undertake an inspection or engage a third party to undertake such inspection with regard to the Grievance, as may be required for expeditious redressal of the Grievance.
- j) The Forum(s) shall not be bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872) in its proceedings.
- k) The Forum(s) shall decide Grievances expeditiously and shall pass a reasoned decision and communicate such reasoned decision to the Consumer(s)/Complainant(s) and the Licensee. The Forum shall prescribe the detailed timeframes for Grievance redressal based upon the nature of the different issues which may be involved in the Grievances relating to

Electricity Service, provided, however, in no matter such timeframe shall exceed a period exceeding forty five (45) days from the date of receipt of a Grievance, or such other maximum period as may be specified by the Commission in this regard, by publication.

- l) An order passed by the Forum(s) under sub-clause (k) above shall be binding on the Licensee.
- m) A certified copy of every order passed by the Forum shall be delivered to the parties.

- n) In case of any Complaints, which are not resolved by the Licensee within the timeframe specified by the Forum for disposing off such Complaints, the Forum, if deems fit, at the request of the Licensee, may request the Commission for additional time.
- o) The Forum may also refer Complaints/Grievances to the Ombudsman in case it is of the opinion that it is not competent to redress such Complaints/Grievances of the Consumers/Complainants as have been submitted before it.
- p) The Forum shall not grant any adjournment unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum. Provided that the Forum may make such orders as to the cost occasioned by the adjournment to be paid by the defaulting party to the non-defaulting party and/or to the Forum.
- q) The Consumer shall not be entitled to approach the Forum in the following cases:
 - i) in cases where proceedings in respect of the same matter and between the same Complainant and the Licensee, are pending before any court, tribunal, 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; and
 - ii) in cases which fall under the Sections 126, 127, 135 to 139, 152 and 161 of the Act.

Chapter IV

8. Temporary injunctions:

Cases in which temporary injunctions may be granted:- where in respect of any complaint it is affirmed on affidavit or otherwise on prima facie plausible grounds –

- (a) that if the temporary injunction is not granted, the purpose for which complaint is filed would be defeated for delay, or
- (b) that the licensee threatens or intends to remove or disconnect the electricity connection, or
- (c) that the licensee is not following the provisions of the Electricity Act, 2003, the State Act or any applicable Rules and Regulations

the Forum may by order grant a temporary injunction to stay or prevent or restrain such act, or make such other order, as the forum thinks fit, until the disposal of Complaint application or until further orders. The Forum may grant such relief at any stage during the disposal of a complaint.

9. Before granting injunction, Forum to give notice:-

the Forum shall except where it appears that the object of granting the injunction would be defeated by the delay, before granting an injunction, direct notice for the same to be given to the opposite party.

Provided that, where it is proposed to grant an injunction without giving notice of the Complaint and any application to the opposite party, the Forum shall record the reasons for its opinion that the object of granting the injunction would be defeated by delay, and require the applicant –

- (a) to deliver to the opposite party, or to send him by registered post, immediately after the order granting the injunction has been made, a copy of the application for injunction together with –
 - (i) a copy of the affidavit filed in support of the application;

- (ii) a copy of the application; and
 - (iii) copies of documents on which the Complainant relies,
and
- (b) to file, on the day on which such injunction is granted or on the day immediately following that day, an affidavit stating that the copies aforesaid have been so delivered or sent.

10. Forum to dispose of application for injunction within 30 days:-

where an injunction has been granted without giving notice to the opposite party, the Forum shall make an endeavour to finally dispose of the application within 30 days from the date on which the injunction was granted; and where it is unable so to do, it shall record reasons for such inability.

11. Order for injunction may be discharged, varied or set aside:-

any order for an injunction may be discharged, varied or set aside by the Forum, on an application made by any party dissatisfied with such order:

Provided that if in an application for temporary injunction or in any affidavit supporting such application, a party has knowingly made a false or misleading statement in relation to a material particular and the injunction was granted

without giving notice to the opposite party, the Forum shall vacate the injunction unless for reasons to be recorded, it considers that it is not necessary so to do in the interests of justice:

Provided further that where an order for injunction has been passed after giving to a party an opportunity of being heard, the order shall not be discharged, varied or set aside on the application of that party except where such discharge, variation or setting aside has been necessitated by the change in the circumstances, or unless the Forum is satisfied that the order has caused undue hardship to that party.

12. Injunction to corporation binding on its officers:-

an injunction directed to a corporation is binding not only on the corporation itself, but also on all members and officers of the corporation whose actions it seeks to restrain.

Chapter V

Representation to Ombudsman

13. Representation to Ombudsman

If the Consumer/Complainant is aggrieved by the order or non-redressal of the Grievance by the Forum(s) within the period specified, such aggrieved Consumer/Complainant may make a representation to the Ombudsman within a period of thirty (30) days from the date of the final order of the Forum; or the expiry of the period specified pursuant to sub-clause (k) of Clause 7 above, in the event no final order has been passed.

Chapter VI

Monitoring Report

14. Monitoring Report

The Forum(s) shall submit a report to the Ombudsman with a copy to the Commission on the category-wise number of Complaints and Grievances received, redressed and pending for every quarter of calendar year in such format as may be prescribed for them by the Commission.

Ahmedabad

25th August, 2004

G.D.VYAS

SECRETARY