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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

WEST BENGAL ELECTRICITY REGULATORY COMMISSION

NOTIFICATION

No. 68/WBERC

Kolkata, the 19th May, 2020

In exercise of the powers conferred by sub-section (1) and clauses (r), (s) and (zp) of subsection (2) of section 181 read with sub-sections (5), (6) & (7) of section 42, sub-section (3) of section 43, sub-section (2) of section 57 and section 97 of the Electricity Act, 2003 (36 of 2003) and all powers enabling it on that behalf, the West Bengal Electricity Regulatory Commission hereby makes the following regulations to amend the West Bengal Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers and Time and Manner of Dealing with such Grievances by the Ombudsman) Regulations, 2013 published under notification No. 56/WBERC dated 26th August, 2013 (hereinafter referred to as the "Principal Regulations").

1. Short Title, Commencement and Interpretation:

- (i) These Regulations shall be called the West Bengal Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of Consumers and Time and Manner of Dealing with such Grievances by the Ombudsman) (First Amendment), Regulations, 2020.
- (ii) These Regulations shall come into force on the date of the publication in the official Gazette and shall have concurrent jurisdiction with that of West Bengal Electricity Regulatory Commission.
- (iii) The Bengal General Clauses Act, 1899 (Ben. Act I of 1899) shall apply to the interpretation of these Regulations unless otherwise indicated in these Regulations or is found to be inconsistent with the provisions of the Electricity Act, 2003."

2. For clause (iii) in regulation 2 of the Principal Regulations following shall be substituted:

- "iii) 'Consumer Grievance or complaint' means a grievance in an appropriate written form in accordance with regulation 9.3 of these Regulations by a consumer against a distribution licensee under the provisions of the Electricity Act, 2003 regarding any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a distribution licensee in pursuance of a license, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of distribution licensees as specified by the Commission and includes billing disputes of any nature."

3. Regulation 10 along with its sub-regulations of the Principal Regulations shall be substituted as follows:

"10. OMBUDSMAN

In terms of sub-section (6) of Section 42 of the Act, the Commission may, from time to time, appoint or designate a person as Ombudsman to discharge the functions in accordance with sub-section (7) of Section 42 of the Act.

Provided that any Ombudsman functioning as such immediately before this Regulation coming into force shall be deemed to have been functioning under this Regulation and shall continue till their term of appointment.

10.1 Qualifications, terms of appointment of Ombudsman.

10.1.1 The Commission may from time to time appoint or designate more than one Ombudsman for a Licensee or a common Ombudsman or Ombudsmen for two or more licensees as may be considered necessary and expedient. The Commission may specify their respective territorial jurisdictions during the appointment of the Ombudsman or through subsequent order. The Commission may change or alter the territorial jurisdiction of any Ombudsman through written order.

10.1.2 An Ombudsman shall be appointed by the Commission after inviting applications through open advertisement by a notification in the website of the Commission and also by publication in leading Newspapers having wide circulation in the State of West Bengal.

Provided that whenever any post of Ombudsman falls vacant or an Ombudsman is restrained from acting as such, the Commission may place an Advisor of the Commission or a Chief Engineer of a Transmission Licensee in the State of West Bengal whose services are placed at the disposal of the Commission by such Licensee, in Full Additional Charge of such post till a regular appointment is made or the restraint is removed.

10.1.3 The Ombudsman shall be a person of ability, integrity and good understanding with a graduate degree in any discipline with a minimum experience of 25 years of service in the public administration, (i) especially in the Government departments holding the position not below the rank of Special Secretary / Additional Secretary or (ii) Director / Executive Director in any PSU or (iii) Secretary / Advisor / Director or equivalent in any regulatory body.

The Ombudsman shall have the following Desirable Experiences:

- a) Discharging quasi-judicial functions in the Government departments / Public administration.
- b) Exposure in the power sector and its allied activities.
- c) Experience of holding hearing of consumer / public grievances against specific complaints filed under different provisions of law and passing reasoned orders.

10.1.4 The Ombudsman shall hold office for a term not exceeding 3 (three) years from the date he enters upon his office:

Provided that the tenure of the Ombudsman may be extended by the Commission for a further period not exceeding 2 (two) years subject to an overall age limit of 65 (sixty five) years.

10.1.5 No person shall be appointed or continued as an Ombudsman if he stands disqualified on account of his:

- a) having been adjudged an insolvent;
- b) having been convicted of an offence involving moral turpitude;
- c) having become physically or mentally incapable of acting as an Ombudsman;
- d) having acquired such financial or other interest as is likely to affect prejudicially his functions as an Ombudsman;
- e) having so abused his position as to render his continuance in office prejudicial to public interest;

- f) having been guilty of proven misconduct;
- g) having been otherwise ineligible for such appointment under this Regulation.

10.1.6 An Ombudsman shall be liable to be removed from his office forthwith on account of any of the aforesaid disqualifications arising or being discovered:

Provided that no Ombudsman shall be removed from his office on any of the aforesaid grounds (a) to (f) of 10.1.5 above unless the Commission has, on an inquiry, concluded that the Ombudsman ought, on such ground or grounds, to be removed.

Provided that where an inquiry is contemplated or is pending against an Ombudsman on any of the aforesaid grounds, the Commission may restrain him from acting as such Ombudsman till conclusion of the proceedings.

10.2 Conditions of service of the Ombudsman

- 10.2.1 a) The Ombudsman shall be appointed on contractual basis and his remuneration shall be fixed in the manner as is done for the reemployed pension earning Govt. Officers subject to a ceiling of Rs 100000/- (One Lakh) per month. However, Commission may from time to time suitably enhance the limit with passing reasoned order in this regard.
- b) Ombudsman shall be entitled to leave and other benefits as are entitled to the Secretary of the Commission.
- 10.2.2 The office(s) of Ombudsman shall be open during working hours on all working days of the Commission.
- 10.2.3 The Ombudsman may hold his / her sittings or hearings at his /her office or at any other place within territorial jurisdiction of the Commission as the exigencies of hearing of the representation(s) may require.
- 10.2.4 The Commission shall provide necessary infrastructure and human resource facilities for the efficient functioning of the Ombudsman.
- 10.2.5. The Ombudsman shall make all requisite arrangements for receiving all / any representation from the consumers.
- 10.2.6 The name, location, postal and e-mail address and office telephone and fax number of the Ombudsman shall be displayed prominently on the websites of the Commission and the Licensees and at all the offices of the Licensees.

10.3 Reporting requirements

- 10.3.1 The Ombudsman shall submit a monthly / quarterly report in the Format as per ANNEXURE - II on the settlement of grievance representations / complaint to the Commission with a copy to the Licensee within 15 (Fifteen) days from the end of month / quarter.
- 10.3.2 The Ombudsman shall submit to the Commission with a copy to the Licensee(s), a half-yearly report giving details of the nature of the grievances of the consumers 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. Such report shall be submitted within one month from the end of each half yearly period in the financial year.
- 10.3.3 The Ombudsman shall also furnish an annual report on the activities of the Ombudsman during the financial year to the Commission within 30 days from the end of the financial year.

10.4 Working Procedure of the Ombudsman:

- 10.4.1 In terms of sub section (7) of section 42 of the Act, the Ombudsman shall settle the grievances of the consumer within the time and in such manner as specified in these regulations. The ombudsman shall not take cognizance of any complaint revealing circumstances not covered by the regulations and not specific and where alternative remedy is provided in the Act.

- 10.4.2 A representation in duplicate to the Ombudsman should normally be filed by the aggrieved consumer within 20 (twenty) working days:
- i) from the date of receiving an order from a GRO or a CGRO where the consumer is not satisfied with the order; or
 - ii) from the date of expiry of the time limit where no order is received from the GRO or CGRO within the time limit stipulated in regulations 7.2.1 and 7.3.1 respectively; or
 - iii) after completion of 100 (one hundred) working days from the date of lodging of a complaint / grievance to a GRO / CGRO where the licensee does not comply with the order of the GRO or CGRO.

Provided that the Ombudsman may entertain a representation after the expiry of the said period of 20 days if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period.

- 10.4.3 On receipt of a grievance representation / complaint in duplicate either directly from an aggrieved consumer or from the Commission, the Ombudsman shall acknowledge receipt of the same to the aggrieved consumer within 10 (ten) working days from the date of receipt of the grievance representation / complaint.
- 10.4.4 The Ombudsman shall call for a report with all the relevant details from the concerned distribution licensee on sending to the latter, a copy of the grievance representation / complaint, under intimation to the aggrieved consumer. The Ombudsman shall fix a time limit, to be decided upon by the Ombudsman, not beyond 90 days subject to further extension not beyond six months, by which time, the distribution licensee shall submit the report and the distribution licensee shall be asked to send a copy of the report to the aggrieved consumer / complainant simultaneously.
- 10.4.5 After perusal of the available records in the form of the grievance petition along with its enclosures, if any, and the report of the distribution licensee with its enclosures, if any, the Ombudsman shall after giving a reasonable opportunity of hearing to both parties, prepare a draft settlement order in details and in writing in connection with only the disputed part of the grievance, on which the GRO's or CGRO's order and / or award of compensation and / or penalty, if any has been challenged by the aggrieved consumer, within a reasonable time with direction to submit the views of both the parties on the draft order within a period of time to be fixed by the Ombudsman.
- 10.4.6 On receiving the views on the draft order as referred to in regulation 10.4.5, if submitted within the time limit by the parties or any of the parties, the Ombudsman shall fix up a date giving opportunity of further hearing to both the parties following which he / she shall pass a reasoned and speaking final order analysing the grievance that has been redressed and compensation and / or penalty, if any, awarded within a reasonable time. In case of having received no views on the draft order as referred to in regulation 10.4.5, the Ombudsman, based on the draft order and without any further hearing, shall pass the reasoned and speaking final order analysing the grievance that has been redressed and compensation and / or penalty, if any, awarded within a reasonable time.
- 10.4.7 Copies of the order / settlement order of the Ombudsman, certified to be true copies shall be supplied to the aggrieved consumer / complainant and the licensee free of cost. A copy of the final order / settlement order shall be forwarded to the Commission for records."

4. After Annexure-I of the Principal Regulations the following Annexure shall be inserted.

By order of the Commission,

Place: Kolkata
Date: 19.05.2020

T. K. MUKHERJEE
Secretary of the Commission

Office of the Ombudsman
West Bengal
(Address)

Representation for Redressal of Grievances
Monthly Report for the month of _____

Sl. No	Name of Distribution Licensee	Pending cases as on closing day of last month	New filing during the month under report	No of Cases heard	No of interim Order / Draft Settlement Order / order issued	Disposal during the month under report	Pending cases as on closing date of the month
1							
2							
3							
4							
	TOTAL						