



14th Capacity Building Programme for Officers of Electricity Regulatory Commissions

**Regulatory Approach to Tariff Setting in the Power Sector –
Power Procurement and Renewable Energy**

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Protecting Consumer Interest: Institutional Approach and Practices

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Electricity Consumer Service in last Quarter Century

- ❖ **Statutory Provisions prior to Electricity Act, 2003**, E.g.,
 - (i) Consumer Protection Act, 1986 (*Explicitly protected under the State Reform Acts & also all subsequent Electricity Acts till now*)
 - (ii) State Electricity Reform Acts, e.g.,
 - (a) OER Act, 1995 (Notified Jan'96)
 - (b) Other State Electricity Reform Acts like DER Act, 2000, etc.
- ❖ **SERCs were directly getting into Consumer matters.**
 - E.g., DERC (Redressal of Consumer Grievance) Regulations, 2003 (Notified Jun'03) through GROs (Grievance Redressal Officers)



Distribution Unbundling & Privatisation: Issue of new Licences to DISCOMs

❖ Licence included *Conditions* on ‘Consumer Service’

(In Odisha, continuing from 1999 Licences till now, e.g., [TPCODL Licence](#) Condition 19)

- Code of Practice on Payment of Bills
- Complaint Handling Procedure
- Consumer Rights Statement



THE ELECTRICITY ACT, 2003

Section 42. (Duties of distribution licensee and open access):

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5),(6) and (7) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections.



THE ELECTRICITY ACT, 2003

Section 50. (The Electricity Supply Code):

The State Commission shall specify an electricity supply code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity; measures for preventing tampering, distress or damage to electrical plant, or electrical line or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter; entry for replacing, altering or maintaining electric lines or electrical plants or meter and such other matters.



THE ELECTRICITY ACT, 2003

Section 57. (Consumer Protection: Standards of performance of licensee):

(1) The Appropriate Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees.

(2) If a licensee fails to meet the standards specified under sub-section (1), without prejudice to any penalty which may be imposed or prosecution be initiated, he shall be liable to pay such compensation to the person affected as may be determined by the Appropriate Commission:

Provided that before determination of compensation, the concerned licensee shall be given a reasonable opportunity of being heard.

(3) The compensation determined under sub-section (2) shall be paid by the concerned licensee within ninety days of such determination.



First set of SERC (GRF & Ombudsman) Regulations: (after Electricity Act 2003 Notification)

- ❖ **New Institutions to exclusively deal with Consumer Grievance**
- ❖ **SERCs disassociated themselves from directly looking at Consumer Grievances, e.g.,**

- (a) [DERC FRG & Ombudsman Regulations 2003 \(Notified on Mar'04\)](#)
(Subsequently repealed by [DERC GRF & Ombudsman Regulations 2018](#))
- (b) [OERC GRF & Ombudsman Regulation, 2004](#) (Notified on Apr'04)
(Still continuing till now even after 17 years, except for a minor change)



The Electricity Rules, 2005

Rule 7 Consumer Redressal Forum and Ombudsman.-

(1) The distribution licensee shall establish a Forum for Redressal of Grievances of Consumers under sub- section (5) of section 42 which shall consist of officers of the licensee. The Appropriate Commission shall nominate one independent member who is familiar with the consumer affairs.

Provided that the manner of appointment and the qualification and experience of the persons to be appointed as member of the Forum and the procedure of dealing with the grievances of the consumers by the Forum and other similar matters would be as per the guidelines specified by the State Commission.

(2) The Ombudsman to be appointed or designated by the State Commission under sub- section (6) of section 42 of the Act shall be such person as the State Commission may decide from time to time.



The Electricity Rules, 2005

Rule 7 Consumer Redressal Forum and Ombudsman (Cont.)

(3) The Ombudsman shall consider the representations of the consumers consistent with the provisions of the Act, the Rules and Regulations made hereunder or general orders or directions given by the Appropriate Government or the Appropriate Commission in this regard before settling their grievances.

(4) (a) The Ombudsman shall prepare a report on a six monthly basis giving details of the nature of the grievances of the consumer dealt by the ombudsman, the response of the Licensees in the redressal of the grievances and the opinion of the ombudsman on the Licensee's compliance of the standards of performance as specified by the Commission under section 57 of the Act during the preceding six months.

(b) The report under sub-clause (a) above shall be forwarded to the State Commission and the State Government within 45 days after the end of the relevant period of six months.



“FOR Model Regulations” (after Electricity Rules 2005 Notification)

Formulated on February, 2011

‘Consumer Advocacy’ included in Regulations

To be harmoniously construed with SOP & Supply Code Regulations (Sec. 50 & 57 of EA03)

Important Definitions

“Complainant” means and includes the following who have a grievance as defined in these Regulations:

- A consumer as defined under Clause (15) of Section 2 of the Act;
- An applicant for a new electricity connection;
- Any registered consumer association;
- Any unregistered association or group of consumers, where the consumers have common or similar interests; and

In the case of the death of a consumer, his legal heir(s) or representative(s).



FOR Model Regulations (Contd.)

–Important **Definitions**

“**Grievance**” means 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 licence, 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 and matters related to safety of the distribution system having potential of endangering of life or property.

“**Representation**” shall mean the representation made to the Ombudsman by the complainant in person or on behalf of such a complainant who is aggrieved by the outcome of the Forum’s proceedings in respect of his/her grievance (including not issuing the order within the specified time-limit, dissatisfaction with the order issued, partial or full dismissal of the grievance).



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

–CGRF Number, Locations and Sittings specified

Appointment and Removal of Members

Each Forum shall consist of three members: Chairperson, Technical/ Finance Member, and Independent Member. The Chairperson and Technical/ Finance Member shall be appointed by the licensee; the Independent Member shall be appointed by the Commission.

The Forum shall provide details regarding appointment of the Chairperson and Technical/ Finance Member to the Commission within one week of appointing them.

The members to be selected shall meet the following criteria:

a) Chairperson: The person should be a retired Judicial Officer or a retired Deputy Collector or a retired Superintending Engineer of a Distribution Licensee, with minimum 10 years of experience.

Provided that, a Superintending Engineer of a Distribution Licensee applying for the post of Chairperson of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three (3) years prior to being appointed as Chairperson of the Forum.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

- b) Technical/ Finance Member: The person should be a serving officer of the licensee, not below the rank of an Executive Engineer or equivalent, with at least 10 years of experience in electricity supply and distribution or accounts or finance.
- c) Independent Member: The person shall be a representative of a registered society/ NGO/ consumer organization having one of its main objectives as consumer protection with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer-related matters.

Provided that, a person applying for the post of Independent Member of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three (3) years prior to being appointed Independent Member of the Forum.

Every member of the Forum shall hold office for a fixed term of three years. The tenure of a member may be extended by the licensee for a further period not exceeding two years. The age-limit for occupying the post of the Chairperson and Independent Member shall be 65 years. All three members shall work full-time.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

No person shall be appointed and/or be entitled to continue as a member if he/ she stands disqualified on account of his/ her:

- a) Having been adjudged an insolvent;
- b) Having been convicted of an offence which, in the opinion of the licensee, involves moral turpitude;
- c) Having become physically or mentally incapable of acting as such a member;
- d) Having acquired such financial or other interest as is likely to affect prejudicially his/ her functions as a member;
- e) Having so abused his/ her position as to render his/ her continuance in office prejudicial to public interest; or
- f) Having been guilty of proved misbehaviour.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Remuneration and other expenses

The sitting fees, honorarium and/ or other allowances (collectively “Remuneration”) payable to the Chairperson and the Technical/ Finance Member shall be decided by the licensee. The remuneration for the Independent Member shall be decided by the Commission.

The terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms and conditions of his/her employment with such a licensee. Thus, the Technical/ Finance Member shall continue to draw the same salary as he/ she is entitled to as a regular employee of the licensee.

The office space, secretarial support, and other facilities required for smooth functioning of the Forum shall be provided by the licensee. The licensee shall meet all the costs and expenses of the Forum including the cost of establishment and staff required to assist the Forum in the discharge of its functions under these Regulations. The expenditure on the Forum(s) will be considered in the revenue requirement of the licensee and will be allowed as a pass-through expense.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Procedural matters

The quorum for any meeting or proceedings of the Forum shall be two, and each member shall have one vote. In case of equality of votes on any issue, the Chairperson, or in his absence the person presiding, shall have the second or casting vote.

The Chairperson shall have the general powers of superintendence and control over the Forum.

All decisions of the Forum shall, as far as possible, be unanimous or on the basis of decision taken by the majority of the members present.

No act or proceeding of the Forum shall be deemed to be 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.

The names of the members of the Forum, their addresses and phone numbers shall be displayed prominently at all the offices of the licensee which has interface with consumers and shall also be duly published on the electricity bills of the consumers.

Presence of grievance-handling mechanisms preceding the Forum

For expeditious resolution of the complaints of a Complainant, any mechanism existing within the licensee, other than the Forum established under these Regulations, may be retained. The creation of the Forum shall not debar a Complainant from settling his/ her complaints through such internal mechanisms.

Provided that the Complainant shall have the right to approach the Forum directly in respect of matters falling under the jurisdiction of the Forum.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Process for submission of grievance

The Complainant can submit his/ her grievance to the appropriate Forum under whose jurisdiction his/ her connection exists or a connection has been applied for. The Complainant can also submit his/ her grievance at the nearest complaint-receiving centre, already established by the licensee. The grievance may be submitted either in person or through post, email or fax.

All complaint-receiving centres shall accept the grievances from Complainants falling within the jurisdiction of the Forum. The grievance so received along with other supporting documents shall be forwarded to the relevant Forum within the next working day.

The grievance shall be submitted as per the format specified in ANNEXURE I of APPENDIX I:

Provided that the Forum shall take cognizance of any grievance submitted based on the merit of the case and will not reject any grievance for the sole reason of it not having been submitted in the format specified.

The Complainant shall be issued acknowledgement of the receipt of grievance by the complaint- receiving centre. In case of submission of the grievance in person, the acknowledgment shall be issued immediately. In case of receipt of grievance by post, email or fax, the acknowledgment shall be despatched latest by the next working day. In case of issuance of acknowledgment by a complaint-receiving centre, the contact details of the relevant Forum shall also be issued along with the acknowledgment.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Limitations/ pre-conditions for submission of grievance

The Forum may reject the grievance at any stage under the following circumstances:

- a) 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;
- b) In cases which fall under Sections 126, 127, 135 to 139, 152, and 161 of the [Act](#);
- c) In cases where the grievance has been submitted two years after the date on which the cause of action has arisen; and
- d) In the case of grievances which are:
 - frivolous, vexatious, malafide;
 - without any sufficient cause; or
 - where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.

Provided that no grievance shall be rejected unless the Complainant has been given an opportunity of being heard.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Process after Submission of Grievance

The Forum shall forward a copy of the grievance to the concerned officer of the licensee or the employee / employees / department named in the grievance (“respondent party”).

The respondent party shall furnish paragraph-wise comments to the Forum on the grievance within five days (grievance related to non-supply, connection or disconnection of supply) or 15 days (all other grievances) of the receipt of the grievance copy, failing which the Forum shall proceed on the basis of the material available on record.

The Forum may call for any record from the respondent party or from the Complainant as is relevant for examination and disposal of the grievance, and both the parties shall be under obligation to provide such information, document or record as the Forum may call for. Where a party fails to furnish such information, document or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.

The Forum may also 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. The Forum can also engage a third party (other than the licensee) at the instance and request of the Complainant, to undertake inspection and obtain an independent report. The Forum shall record the reasons for the need for such third-party inspection, which should generally be resorted to rarely and keeping in view the special circumstances of a case. The expenses of such third-party inspection, except expenses of inspection at the request of the Complainant, shall be borne by the licensee, and to the extent reasonable and justifiable, such expenses shall be allowed as pass through expense in the determination of tariff in accordance with the relevant Regulations of the Commission. In case inspection is taken up at the request of the Complainant, the expenses shall be deposited in advance by him, which may or may not be refunded by the Forum depending on whether the grievance is found to be of substance or not.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Process after Submission of Grievance (Cont.)

The Forum may call the concerned officer of the Licensee for discussion in suitable cases, in order to seek redressal of the grievance filed before it. **In case the matter is settled in discussion, it may be recorded as a decision** and conveyed to the Complainant and the Licensee by order of the Forum.

In case the Forum comes to the conclusion that the Complainant and the concerned officer of the Licensee are required to be heard for redressal of the grievance, the Forum shall call the Complainant and the concerned officer with the details of the case and documents, if any, as may be necessary.

A Complainant, distribution licensee or any other person who is a party to any proceedings before the Forum *may either appear in person or authorise any person other than an Advocate (within the meaning of the Advocates Act, 1961) to present his/ her case before the Forum* and to do all or any of the acts for the purpose.

Where the Complainant or the Licensee or their representative fails to appear before the Forum on the date fixed for hearing on more than two occasions, the Forum may decide the grievance ex-parte. No adjournment shall ordinarily be granted by the Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum.

The Forum shall be guided by the principles of natural justice, and subject to the other provisions of these regulations, the Forum shall have powers to regulate its own procedure.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Issue of Order

On receipt of the comments from the Licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of being heard to the parties, the Forum shall take a decision by a majority of votes of the members of the Forum present and in the event of equality of votes, the chairperson, or in his absence the person presiding, shall have a second or casting vote.

If, after the completion of the proceedings, the Forum is satisfied after voting that any of the allegations contained in the grievance are correct, it shall issue an order to the Distribution Licensee directing it to do one or more of the following things in a time-bound manner, namely:

- a) Remove the cause of grievance in question;
- b) Return to the Complainant the undue charges paid by the Complainant along with the interest. The interest rate may be fixed as the rate paid by the State Bank of India for a fixed deposit of duration nearest to the period for which the undue charges were withheld by the licensee; and
- c) Any other order deemed appropriate in the facts and circumstances of the case.

The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The order shall be a reasoned order and signed by the members conducting the proceedings. Where the members differ on any point or points, the opinion of the majority shall be the Order of the Forum. The opinion of the minority shall however, be recorded and form part of the Order.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Issue of Order (Cont.)

In case of grievances related to non-supply, connection or disconnection of supply, the Forum shall pass the order within 15 days of filing of the grievance and in case of other grievances, the order shall be passed within 45 days(60 for DERC) of filing of the grievance:

Provided also that in the event of grievance being disposed of after the maximum period specified above, the Forum should record in writing, the reasons for the same at the time of disposing the said grievance and inform the Ombudsman.

The order of the Forum shall be communicated to the Complainant and Licensee in writing within three days. A certified copy of every order passed by the Forum shall be delivered to the parties.

Licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering the nature of the case, the Forum, upon the request of the Licensee, may extend the period for compliance of its order up to a maximum of three months. Non-compliance of the order of the Forum shall be treated as violation of the Regulations of the Commission and accordingly liable for action under Section 142 of the Act.

The concerned officer of the Licensee shall furnish a compliance report of the order of the Forum within seven days from the date of compliance, to the Forum and to the Complainant. The Forum shall keep a record of the compliance of its orders and review the same every month. In case of non-compliance of its orders, the Forum shall take up the matter with the higher authorities of the licensee for compliance. If even after that the order is not complied with, the Forum shall inform the Commission regarding such non-compliance.



FOR Model Regulations Cont. (CONSUMER GRIEVANCES REDRESSAL FORUM)

Special provisions: Interim Order, Escalation mechanism

Upon request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary.

Provided that the Forum shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Forum that prima facie, the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that the Forum has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

A Complainant may prefer a representation before the Ombudsman appointed/ designated by the Commission under the following two circumstances:

- a) If the Complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified, and
- b) If the Complainant is aggrieved with the order passed by the Forum.

Such a representation may be made within a period of 30 days after grant of order by the Forum or expiration of 30 days after the time limit specified for issuance of the order, whichever is applicable.

The Forum may settle any grievance in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such an order.



FOR Model Regulations Cont. (OMBUDSMAN)

Qualification, terms of appointment and removal of Ombudsman

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

The Commission may appoint or designate more than one Ombudsman for a licensee or a common Ombudsman or Ombudsmen for two or more licensees considering factors such as the number of representations received, disposal of representations within the specified time limit, ease of access for the consumer and the geographical area.

The Commission shall invite applications through public advertisement for the appointment of the Ombudsman. The Commission shall also form a Search Committee for recommending names for the appointment of the Ombudsman by the Commission.

The Ombudsman shall be a person of experience, ability, integrity and standing.

The following categories of persons shall be eligible to be appointed as Ombudsman:

- a) Retired District Judges
- b) Retired Secretaries to State Governments
- c) Any person who has held the position of a member or chairperson of any statutory quasi- judicial body at the state level for at least three years
- d) Any other person of equivalent level



FOR Model Regulations Cont. (OMBUDSMAN)

Qualification, terms of appointment and removal of Ombudsman (Cont.)

The Ombudsman shall hold office for a fixed term of three years. The tenure may be extended for a further period not exceeding two years.

The age-limit for occupying the office of Ombudsman shall be 65 years.

The pay scale and other allowances of the Ombudsman shall be as decided by the Commission.

The Commission shall have the powers to remove the Ombudsman from office only if he/ she has:

- a) Been adjudged an insolvent;
- b) Been convicted of an offence which, in the opinion of the Commission, involves moral turpitude;
- c) Become physically or mentally incapable of acting as an Ombudsman;
- d) Acquired such financial or other interest as is likely to affect prejudicially his/ her functions as an Ombudsman;
- e) Abused his/ her position so as to render his/ her continuance in office prejudicial to public interest; or
- f) Been guilty of proven misbehaviour

Provided that the Ombudsman shall not be removed from his/ her office on any ground specified in the aforesaid sub-clauses unless the Commission has, on an inquiry, concluded that the person ought, on such ground or grounds, be removed.



FOR Model Regulations Cont. (OMBUDSMAN)

Office of the Ombudsman

The Ombudsman's office/ offices shall be preferably located in the capital city of the state or any district headquarters as the case may be. However, the Ombudsman may hold hearings or proceedings at various places within the state in order to expedite the disposal of representations received before him/ her.

The post of Ombudsman shall be a full-time post.

The Commission shall provide the Ombudsman with a Secretariat. The staff strength of the said Secretariat and terms and conditions of appointment of the staff shall be determined by the Commission from time to time.

All expenses of the Ombudsman's office including that of the Secretariat shall be borne by the Commission which can recover such expenses from the licensees in proportion to their latest approved net ARR. At the start of every quarter, the Commission shall present an estimated bill of expenses to each licensee. The licensee shall make the payment to the Commission within 15 days of the receipt of such a bill. The actual expense shall be adjusted while approving the ARR of the licensee and the licensee shall be allowed to recover such actual expense as pass through in the determination of tariffs.

The name, location, email address and telephone numbers of the Ombudsmen shall be widely publicised through newspapers, and displayed on the websites and the offices of the licensees and the Commission and intimated to consumers through electricity bills. They may also be publicised through radio and television.



FOR Model Regulations Cont. (OMBUDSMAN)

Pre-conditions/ Limitations for entertaining Complainant's representation

The representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:

- a) It has been filed by the Complainant being the aggrieved consumer or the association representing the consumer/s. For avoidance of doubt, a licensee is not allowed to file a representation before the Ombudsman against the order of the Forum
- b) The Complainant had, before making a representation to the Ombudsman, approached the Forum constituted under Section 42(5) of the Electricity Act, 2003 for redressal of his/ her grievance
- c) The representation by the Complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority; a decree or award or a final order has not been passed by any such court, tribunal, arbitrator or authority
- d) The representation is not in respect of the same cause of action which was settled or dealt with on merits by the Ombudsman in any previous proceedings whether or not received from the same complainant or along with one or more complainants or one or more of the parties concerned with the cause of action.
- d) The Complainant is not satisfied with the redressal of his/ her grievance by the Forum or the Forum has rejected the grievance or has not passed the order within the time-limit specified



FOR Model Regulations Cont. (OMBUDSMAN)

Pre-conditions/ Limitations for entertaining Complainant's representation (Cont.)

e) The Complainant has filed the representation before the Ombudsman within 30 days from the date of receipt of the decision of the Forum or date of expiry of the period within which the Forum was required to take the decision, whichever is earlier

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

f) The Complainant has deposited with the Ombudsman, an amount equal to one-third of the amount **assessed** by the Forum, if any. [Refer Reg.29(3)(vi) of DERC Regulations_Correct]

g) The Complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.

Subject to the provisions of the Act and this Regulation, the Ombudsman's decision on whether the representation is fit and proper for being considered by it or not, shall be final.

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

- a) Frivolous, vexatious, malafide;
- b) Without any sufficient cause;
- c) There is no prima facie loss or damage or inconvenience caused to the Complainant; or

Provided that the decision of the Ombudsman in this regard shall be final and binding on the Complainant and the Distribution Licensee.

Provided further that no representation shall be rejected in respect of sub-clauses (a), (b) and (c) unless the Complainant has been given an opportunity of being heard.



FOR Model Regulations Cont. (OMBUDSMAN)

Promotion of settlement by conciliation

As soon as it may be practicable to do but not later than one week from the date of receipt of the representation, the Ombudsman shall serve a notice to the concerned officer of the Licensee named in the representation along with a copy of the representation and endeavour to promote a settlement of the representation by mutual agreement between the Complainant and the Licensee through conciliation or mediation.

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

When a representation is settled through mediation of the Ombudsman, the Ombudsman shall make a recommendation which he thinks fair in the circumstances of the case. The copies of the recommendation shall be sent to the Complainant and the Licensee.

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

The Ombudsman shall make a record of such an agreement as his/ her orders and thereafter close the case.



FOR Model Regulations Cont. (OMBUDSMAN)

Hearing of representations

After registering the representation, the Ombudsman, within seven days of registration, shall call for records relating to the representation from the concerned Forum. The concerned Forum shall send the entire records within seven days from the date of receipt of such notice, to the office of the Ombudsman.

The Ombudsman may require the Licensee or any of the officials, representatives or agents of the Licensee to furnish documents, books, information, data and details as may be required to decide the representation and the Licensee shall duly comply with such requirements of the Ombudsman.

Where the representation is not settled by agreement within a period of 30 days from the date of receipt of the representation or such extended period the Ombudsman may deem fit duly considering the overall time limit specified, the Ombudsman may determine the manner, the place, the date and the time of the hearing of the matter as the Ombudsman considers appropriate.

The Ombudsman may hear the parties and may direct the parties to submit written statements of submissions in the matter.

A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Ombudsman may either appear in person or authorise any person to present his/ her case before the Ombudsman and to do all or any of the acts for the purpose.

Where the Complainant or the Licensee or their representative fails to appear before the Ombudsman on the date fixed for hearing on more than two occasions, the Ombudsman may decide the representation ex-parte.

No adjournment shall ordinarily be granted by the Ombudsman unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Ombudsman.



FOR Model Regulations Cont. (OMBUDSMAN)

Issue of Order

The Ombudsman shall pass a written order giving reasons for all his/her findings. The order shall state the nature of the reliefs to which the Complainant is entitled as per the order. A copy of the order shall be sent to the parties and also to the concerned Forum for information.

The Ombudsman shall pass an order as early as possible, but in any case, within 60 days (90 for DERC) from the date of receipt of the representation. Where there is delay in the disposal of a representation within the said period, the Ombudsman shall record the reasons for such delay.

The order passed by the Ombudsman shall set out:

- a) Issue-wise decisions;
- b) Reasons for passing the order; and
- c) Directions, if any, to the Distribution Licensee or Complainant, or any other order, deemed appropriate in the facts and circumstances of the case.

The Licensee shall duly comply with and implement the decision of the Ombudsman on the representation filed by the Complainant within 15 days of the issue of the Order.

Non-compliance of the Ombudsman's orders shall be deemed to be a violation of these Regulations and liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.



FOR Model Regulations Cont. (OMBUDSMAN)

Issue of Order (Cont.)

No party can file an appeal before the Commission against the order passed by the Ombudsman. However, this is without prejudice to the rights of the complainant and the licensee to seek appropriate remedy against the order passed by the Ombudsman before appropriate bodies.

Upon request of the Complainant, the Ombudsman may issue such interim orders at any stage during the disposal of the representation as it may consider necessary.

Provided that the Ombudsman shall have the powers to pass such an interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Ombudsman that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that, the Ombudsman has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

The Ombudsman shall be guided by the principles of natural justice, and subject to the other provisions of these regulations, the Ombudsman shall have powers to regulate its own procedure.



Reporting Requirements (CGRF and Ombudsman)

CGRF shall submit a quarterly report on disposal of grievances to the licensee, Commission and Ombudsman. The report should be submitted within 15 days of the close of the quarter to which it relates. The quarterly report should be submitted in accordance with specified format.

The Forum shall also furnish a yearly report containing a general review of the activities of the Forum during the financial year to the licensee, Commission and Ombudsman. The report should be submitted within 45 days of the close of the financial year to which it relates.

The **Ombudsman** shall submit to the Commission a half-yearly report on all the representations filed before it during the period. The report should be submitted within 30 days of the close of the period to which it relates.

The report shall cover:

- a) Facts of the representation
- b) Responses of parties in brief
- c) Opinion of the Ombudsman on the compliance of standards of performance by the licensee
- d) Key directions issued to licensee and/ or consumer in the order
- e) Compliance of order by licensee and/ or consumer

The Ombudsman shall also furnish a yearly report containing a general review of the activities of the Ombudsman's office during the financial year to the State Commission and the State Government. The report should be submitted within 45 days of the close of the financial year to which it relates.



FOR Model Regulations Cont. (CONSUMER ADVOCACY)

A Consumer Advocacy Cell may be instituted by the Commission to provide the required legal advice, support, and assistance to Complainants for representing their case before the Ombudsman.

Such a Cell shall be funded by the Commission.

The Cell may also perform additional functions as specified below:

- a) Half-yearly review of grievances, representations and reports submitted by the Forum and the Ombudsman in order to advise the Commission on improvements to be made in the Regulations.
- b) Analysis of reports submitted by the licensee with regards to levels of performance achieved on performance standards specified under Section 57 (Consumer Protection: Standards of performance of licensee) of the Act.
- c) Facilitate capacity building of consumer groups and ensure their effective representation for enhancing the efficacy of regulatory processes.



FOR Model Regulations: Analysis of Issues

- ❖ Usage of **assessed** term at Clause 3.19(f), conflicts with meaning assigned at Section 126 of [Electricity Act, 2003](#), when interpreted in terms of Clause 1.6 of the Model Regulations.
- ❖ Comparison of Non-compliance of CGRF Order (Clause-2.50) with that of Non-compliance of Ombudsman Order (Clause-3.39). [Also, refer similar provisions at Reg 27 versus Reg.37(6) of [JERC \(GRF & Ombudsman\) Regulations, 2019](#)]
- ❖ Additional “Consumer Advocacy” institution (at Chapter-4) is created FOR Model Regulations, which is not mandatory, either under the Electricity Act,2003 or under the Electricity Rules, 2005.
- ❖ The Chairperson of GRF (Clause 2.7) has been stipulated to be *somewhat independent*, by stipulating *retired* persons to be appointed, who were not with DISCOM employment for 3 years prior to appointment at GRF. This requirement is in addition to the *Independent Member* being appointed by the Commission.

(N.B. The provision under [OERC Regulations 2004](#) appear inferior, whereas the [DERC Regulations 2018](#) appear superior to the FOR Model Regulations, as shall be shown later.)



FOR Model Regulations: Analysis of Issues (Cont.)

❖ *Person other than Advocate* can be authorised by the Complainant to present his/her case before the CGRF (Clause 2.41), whereas no such restriction is apparently there for a Complainant's presentation at the proceedings before the Ombudsman (Clause 3.32). (Why?)

[N.B. Similar provisions are also specified at [JERC Regulations 2019](#) (Reg.24), as discussed later.]

❖ There is apparently no *Power of Review* of own orders, either by the CGRF or by the Ombudsman, even on limited grounds like clerical errors etc. ([DERC Regulations 2018](#) has rectified this deficiency by their Reg. 19 and Reg. 33, as discussed later.)

❖ “Complainant” at Clause 1.5 (c) includes *registered or unregistered group of consumers*, [whether *aggrieved/affected* by DISCOM Service(?), which is the qualifying requirement as per Sec. 42(6) of the Electricity Act, 2003]

[N.B. Similar provisions are also specified at [JERC Regulations 2019](#) Reg. 3(1)(d) and [OERC Regulations 2004](#) Reg. 2(c), whereas [DERC Regulations 2018](#) at Reg. 3(4) has amended the previous such provisions existing in [DERC Regulations 2004](#) at Reg. 3(e)]



Comparing Regulations & Practices: Over Time & Across SERCs

DERC:

- [The Delhi Electricity Regulatory Commission \(Forum for Redressal of Grievances of the Consumers and Ombudsman\) Regulations, 2018](#)
- [The Delhi Electricity Regulatory Commission \(Guidelines for establishment of Forum for redressal of grievances of the consumers and Ombudsman\) Regulations 2003 \(Notified in Mar'04\)](#)
- [The Delhi Electricity Regulatory Commission \(Redressal of Consumers' Grievances\) Regulations, 2003 \(Notified in Jun'03\)](#)

JERC:

- [The Joint Electricity Regulatory Commission \(Consumer Grievances Redressal Forum and Ombudsman\) Regulations, 2019](#)
- The Joint Electricity Regulatory Commission (Guidelines for establishment of Forum for redressal of Grievances of the Consumers) Regulations, 2009 and Appointment and Functioning of Ombudsman Regulations, 2009

OERC:

- [The Orissa Electricity Regulatory Commission \(Grievances Redressal Forum and Ombudsman\) Regulations, 2004](#)



DERC FRG & Ombudsman Regulations 2018: Analysis of Issues

- ❖ Chairperson of the Forum is the Independent Member as per Reg.5(4) to be nominated by the Commission in accordance with Rule 7(1) of the Electricity Rules, 2005.(This appears to be an improvement over the [FOR Model Regulations](#) (and Regulations of many other SERCs, especially when Private DISCOMs are in operation, and more privatisations are in the offing)
- ❖ Chairperson of GRF has to be Engineer (and not retired Judicial officer or Administrator), and 2nd Member has to be from Law, while the 3rd Member can be any graduate.
- ❖ Age limit for Chairperson & Members is up to 67 years (compared to 65 years suggested in FOR Model Regulations), while they can be appointed for second term. Similar age limit is available for Ombudsman also.
- ❖ The Commission has a “Selection Committee” for the CGRF Chairperson as well as Members, although Invitation of Application & Scrutiny thereof have to be done by DISCOMs. Chairman & Members of CGRF have to make & subscribe to an OATH(Reg.9(3), similar to the practice for the Ombudsman at Reg.25(3) (These practices are likely to have positive impact.)



DERC FRG & Ombudsman Regulations 2018: Analysis Cont.

- ❖ More stringent and elaborate requirement for Secretary & Staff of CGRF as per Reg.11,. Similarly, more elaborate & broad-based range of Secretary/Advisors/Staff to the Ombudsman as per Reg.27 (with Selection Committee), giving more flexibility & institutional memory to the office of Ombudsman. (Ombudsman being a singular final authority for grievances under the Electricity Act,2003, the Advisors (being experts in their respective fields of Law or Engineering) are likely to augment & help the Ombudsman in delivering quick & just orders without further challenges.)
- ❖ Complainant must have *exhausted* Complaint Handling Procedure (SOP Regulations), and must be filed within 3 months thereof as per Reg 12(2), and this is likely to discourage frivolous and non-serious complaints.
- ❖ GRF Orders have to be passed as per Reg. 15(9) within 60 days of filing, and Ombudsman has to pass Orders within 3 months as per Reg.30(12), against suggested timeline of 45 days & 60 days under the [FOR Model Regulations](#).
- ❖ GRF has explicit 'Power of Review' under Reg.19, similar to the 'Power to Review' available to the Ombudsman at Reg.33. [Similar Provision are there in JERC Reg. 22(7) & 37(8)]. But these are not available in [FOR Model Regulations](#) and many other SERC Regulations, though such power has sometimes been granted later through Circulars/Practice Direction etc. It may be preferable to grant these powers by specifying through Regulations.



DERC FRG & Ombudsman Regulations 2018: Analysis Cont.

- ❖ For appointment as Ombudsman, no person in service of DISCOM during past 2 years of vacancy shall be eligible as per Reg.22(3). Selection Committee is as per Reg.25(1).
- ❖ As per Reg.28(4), Ombudsman “may also hear Forum” and issue order/instructions to them for performance of functions under the Regulations (GRF being a statutory body itself, does it require to appear before the Ombudsman?). As per Reg.32, Ombudsman can remand matters to CGRFs.
- ❖ As regards filing of *representation* before Ombudsman, Reg.29(3)(ii) proviso allows a complainant to “directly” approach Ombudsman in cases where the DERC has directed him to do so. (This appears to be in conflict with provisions of the [Electricity Act, 2003](#), especially Sec.42(6) that the Complainant must have been ‘aggrieved’ by non-redressal of his grievance under Sec.42(5), before he can make representation to the Ombudsman.)
- ❖ CGRF & Ombudsman have to mandatorily develop WEBSITES for e-filing of complaints/representation. Cause-list and Orders have to be updated there. (These are Consumer friendly provisions, and need to be emulated at other SERCs not having such provisions.)



JERC GRF & Ombudsman Regulations 2019: Analysis of Issues

- ❖ JERC appears to have mostly adopted the provisions of the FOR Model Regulations.
- ❖ The *Definitions* at Reg.3 are not in alphabetical order.[E.g., Reg3(1)(e)]. “**representation**” has been properly defined at Reg.3(1)(k) as “*representation* made to the Ombudsman by a complainant, who is aggrieved by the order of the Forum”, but *usage* appears to be occasionally inappropriate when used for grievances/complaints before the CGRF(E.g., Regulations 5(1)(Page-23), 23(Page-28), Annexure-I(Pg.36). Similarly, usage of the word “assessed” at ANNEXURE-IV (Page-42) appears inappropriate, since it is interpreted differently under Sec. 126 of the [Electricity Act, 2003](#), and interpretation thereof should prevail in case of inconsistency.
- ❖ Chairperson and one Member can be **Retired** or *Serving* officer of the Power Utilities/ Distribution Licensee (Reg.7), whereas ‘Independent Member’ should not have served under the Licensee in last one year. However in the above context, 1st proviso to Reg. 10.1 about Tenure appears conflicting/inconsistent for **Retired** persons appointed as Chairperson or Member as per Reg. 7(1)(i) or 7(1)(ii), since he may not be at the service of the Licensee, and hence may not be applicable to him.
- ❖ Limitations for submission of Grievance at Reg. 19(c), as per which CGRF may reject grievances submitted 2 years after the date on which the cause of action had arisen.
(N.B. Similar provision has been provided at Reg. 157 of the [OERC Supply Code Regulations, 2019](#))
- ❖ Conciliation & Settlement provision is available for CGRF (Reg. 22) in addition to the Ombudsman(Reg. 34)



JERC GRF & Ombudsman Regulations 2019: Analysis Cont.

- ❖ All CGRF Orders are to be uploaded to Website as per Reg. 26(6)
- ❖ Non-compliance of CGRF Order will attract Sec. 142 of Electricity Act, 2003, although the Complainant has got one more round of remedy/resolution is available by representing to the Ombudsman as per Reg. 28(1)(c). (These may result in more number of petitions and/or litigation, especially before the JERC and other SERCs having similar Regulations)
- ❖ Non-compliance of Ombudsman Order, as per Reg. 37(6) shall be deemed to be a violation of these Regulations and shall be liable for appropriate action by the Commission under the provisions of the Act. (N.B. since non-compliance of Ombudsman's Orders shall be in violation of these Regulations, these may perhaps be liable for appropriate action by the Commission under sections 142 and 146 read with section 149 of the Act.)
- ❖ Reg. 37(7) rightly reiterates Clause 3.40 of the [FOR Model Regulations](#) that " No party can file an appeal before the Commission against the order passed by the Ombudsman. However, this is without prejudice to the rights of the complainant and the licensee to seek appropriate remedy against the order passed by the Ombudsman before appropriate bodies." (N.B. Challenges to Orders of the Ombudsman is generally to the High Court (by writ petition under section 226)



OERC GRF & Ombudsman Regulations 2004: Analysis of Issues

- ❖ The OERC Regulations were specified before the [Electricity Rules, 2005](#) were prescribed, and the [FOR Model Regulations](#) were framed.
- ❖ The word “Co-opting Member” is used in constitution of GRF, who is to be chosen from the State Advisory Committee or the District Committee as per Reg. 3(6), whose powers appear to be inferior [Appears to be not one among equals, refer Reg 3(6) and 4(7), where his views shall **also** be communicated to the Complainant.] compared the powers of the Independent Member as per the 2005 Rules and subsequent Regulations specified by various SERCs (i.e., especially compared to the powers of Independent Member under the [DERC 2018 Regulations](#) where different private DISCOMs are operating, or even the [JERC 2019 Regulations](#).)
- ❖ Senior-most Member (Engineer) is designated as “President” of the GRF [Reg. 3(3)(b)], from amongst the officers appointed by the Licensee, who are either serving officers of the Licensee or retired persons.
- ❖ Number of Ombudsman initially one for each Licensee (Total 4 nos), which was later brought down to one for CESCO (Now TPCODL) and another for balance three DISCOMs.
- ❖ Ombudsman can be appointed for a **single term** up to 65 years and *can not accept commercial employment for 2 years after he ceases to hold the office of Ombudsman.*



OERC GRF & Ombudsman Regulations 2004: Analysis Cont.

- ❖ Staff of Ombudsman, as per Reg. 5(9) read with APPENDIX appears rudimentary compared to compared to provisions under other SERC Regulations, including the [DERC 2018 Regulations](#) or the [JERC 2019 Regulations](#). This institution may perhaps need further strengthening & support, especially in view of the ongoing privatization.
- ❖ The Ombudsman is to attempt Conciliation/Mediation first [Reg. 6(1)(c) and Reg. 9]
- ❖ GRF has to decide within 45 days, and the Ombudsman has to decide within 2 months. [Reg. 7(4)]
- ❖ Consumer has to give acceptance of Ombudsman's award, and Licensee's obligation for implementation of Ombudsman Order only starts thereafter. [Reg. 10(6), 10(7), and 10(8)]
- ❖ Regulation 15 grants power to the OERC to issue Orders and Circulars for implementation of the Regulations. In fact, some of the changes in functioning of the GRF and Ombudsman (E.g., Power of Review by the Ombudsman, representation before Ombudsman in case of non-implementation of GRF Order etc.) brought out through Order/Circular/Practice Direction/Procedure. issued by the OERC, unlike the [DERC 2018 Regulations](#) (Reg. 19 & 33 and/or the [JERC 2019 Regulations](#) [Reg. 22(7) , 37(8), 28(1)(c)]).
- ❖ Non-implementation of Ombudsman Orders/Awards/Direction by Licensee shall amount to contravention of these Regulations for the purpose of Section 142 of the Act. (Reg. 17), but not for the GRF Order.

[N.B. Effect of the Electricity (Rights of Consumers) Rules, 2020 notified 2 months back is not considered here]



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