

HPERC (Consumer Grievances Redressal Forum and Ombudsman) (Second Amendment) Regulations, 2021

HPERC notified draft amendment to the (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2021 on 24th Nov, 2021. The key highlights of the same are mentioned below:

1. **Prosumer (Regulation 3 ((1) (ia))):** Definition of ‘Prosumer’ to be added in the prevailing Regulation.
2. **Additional Forum (Regulation 5 (2), (3)):** Provision for establishment of at least one additional forum for each of distribution licensee’ operation circles, by the distribution licensee is to be added. The jurisdiction thereof in relation to the consumers under the respective operation circles, will be as follows:
 - a) For the consumers covered under single-part retail tariff - all types of complaints, whether monetary or non-monetary.
 - b) For the consumers covered under two-part retail tariff - all types of complaints whether monetary or non-monetary, where the following conditions are met:
 - the amount of dispute / claim \leq ₹ 2 Lakh
 - the standard supply voltage \leq 22kV
3. **Headquarters of Additional Forum (Regulation 6):** The head quarter for additional forums shall be at the headquarters of the respective operation circles.
4. **Issuance of Order by the Forum (Regulation 26 (2 (a (ii)))):** The rate of simple interest (to be paid by the licensee to the complainant along with the undue charges) is to be reduced from 15 % to 12 %.
5. **Compliance of the Order of Forum (Regulation 27 (1)):** The duration for compliance of the order of forum by the distribution licensee is to be increased from 21 days to 30 days.
6. **Issuance of Order by the Ombudsman (Regulation 37 (5)):** The duration for the implementation of the decision of the Ombudsman is to be increased from 15 days to 30 days.

The draft amendment can be accessed [here](#)

CER Opinion

1. **Definition of Prosumer [Draft Regulation 3 (1) (ia)]:** The draft Regulation provides the definition of ‘Prosumer’. However, the term ‘Prosumer’ is not used further in this Regulation. So, it is suggested to append the proposed definition of Prosumer by including a statement just after its definition such that wherever there is a reference to consumer in this Regulation, it should also deem to include prosumers.

The reference to ‘Prosumer’ may increasingly appear in a variety of other Regulations and orders (for example in the case of tariffs, open access, SOPs etc.). Hence, it is suggested that this definition for Prosumer should be a part of the State’s Grid Code. The prosumer may also refer to mobile storage such as electric vehicles (EVs) especially when EVs inject power in vehicle to grid mode (V2G).

- 2. Establishment of Additional Forum [Draft Regulation 5(2), 5(3), and 7(1) (i) (b)]:** The draft Regulation has a provision for the establishment of additional Forums by the distribution licensee. It is seen that the establishment of additional Forum is to be done by the sole order of the distribution licensee without any intimation or prior approval of the Commission, although the Commission can issue directions for defining and modifying jurisdictions of these Forums under Draft Regulation 5(3). Further, as per modified Proviso added under Draft Regulation 7(1)(i)(b), the Members of additional Forums (at operation circle, divisional / sub-divisional level etc. as proposed at Draft Regulation 6) are designated on ex-officio basis from serving officers of the distribution licensee, who perform their functions in addition to their normal assigned duties. This is unlike the full-time members appointed and/or nominated for the Forum under 7(1)(i) and 7(1)(ii). Moreover, the draft Regulation has a provision for the establishment of ‘at least one additional Forum’ for each of licensees’ operation circles, by the licensees, which also appears to be forming part of the distribution licensees’ Internal Executive Disputes Resolution Mechanism (IEDRM).

Hence, the provision of establishment of ‘additional Forum’ at sub-division/division and circle levels appear akin to the IEDRM of the distribution licensee, already existing as indicated under Regulation 2(4) and Regulation 16 of the principal Regulations, and may in fact be part of their license condition. So, establishment of these ‘additional consumer grievance redressal Forums’ proposed in the Draft may create duplicity of the institutions.

It is suggested to institutionalise hierarchy structure among different levels of proposed Forums, which will help an aggrieved consumer at the sub-divisional level to approach the next level and so on rather than going directly to the Ombudsman.

Finally, we apprehend that by establishment of these **additional Forums** having part-time ex-officio Members (as proposed in the Draft) under the statutory provisions under Section 42(5) of the Electricity Act 2003, *a right may accrue to any consumer aggrieved by an order of such an additional Forum to go directly with a representation to the Electricity Ombudsman under Section 42(6) of the Electricity Act 2003.* This is likely to reduce and/or nullify the effectiveness of original Forums (having fulltime Members and an Independent Member) in addressing the Consumer Grievance first due to such bypass, before the appeals/representation there from going to the Ombudsman. This is also likely to increase the Ombudsman’s workload unnecessarily both in quantity & quality of representations, thus perhaps affecting the overall consumer grievance redressal system.

- 3. Issuance of Order (Draft Regulation 37 (5)):** The draft Regulation proposes to double the duration of compliance and implementation of the Ombudsman order by the licensee from 15 to 30 days. No justification is provided to support this. Further, it is highlighted in the current era with significant intervention of information technology with online solutions to follow up the orders, the overall compliance period should be limited. Given the various levels of redressal forums, there may be significant delay in cumulative terms to redress a consumer concern.
- 4. Compliance Monitoring:** The regulation should also provide for online monitoring of the compliance of orders at various level through the consumer redressal forum enabling the Commission to ensure that timely redressal is available to the consumers. A dedicated portal at the licensee’s website should allow one to know status of the complaint redressal, order thereof at various levels and their compliance with timely information to the consumers through SMS/app/email etc, by the licensee. The portal should also generate monthly report to be submitted to the Ombudsman and the Commission.