

**THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION
SHIMLA**

NOTIFICATION

No. HPERC-712(1)/2012

Dated, Shimla the 30th July,2016

WHEREAS the Electricity Act, 2003, mandates inter alia for taking measures conducive to the protection of interest of consumers and supply of electricity in all areas and contains elaborate provisions, seeking to safeguard the consumers interest, in its Sections 22,42,43,56,57,60,61 (d), 62 (1), 63, 64, 81(d) and 88 (d) and as a sequel to the said provisions, the National Electricity Policy/ Tariff Policy also contains provisions for protection of consumers interest;

AND WHEREAS, the mandate given to the Commission is to protect consumers, the Commission has not only to look after the interest of only a handful high-end consumers, but also the interest of the consumers at large, the most of whom are scattered low income subsidized consumers, and have no common platform to present their views, properly well in time, due to lack of requisite information;

AND WHEREAS the Commission, while exercising regulatory power and in particularly dealing with matters concerning the ARR, of the Licensees/ Distribution Company, tariff determination and other tariff related matters in discharge of the functions and powers vested under the Electricity Act, 2003, exercises inquisitorial powers and it is not only to consider the material, which is placed before it by the parties, but is also to accord hearing to all the stakeholders and objectors, with regard to the entire material placed before it. In the process of determination of tariff, transmission and wheeling charges, alongwith surcharge/additional surcharge etc. an opportunity to consumers, have a say in the matter;

AND WHEREAS to achieve the aforesaid objective, section 94 (3) of the Act (ibid) empowers the Commission to authorize any person, as it may deem fit, to represent the interest of consumers in the proceedings before it; and the Consumer Representative plays yeoman's role in such proceedings, and vindicates views impartially to protect the consumers interest;

NOW THEREOF in exercise of the powers conferred upon it by section 181, read with section 94(3) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission (hereinafter called "the Commission") proposes to make the Himachal Pradesh Electricity Regulatory Commission (Authorised Consumer Representative) Regulations, 2016, and hereby publishes the proposed draft regulations, as required by sub-section(3) of section 181 of the said Act, read with rule 3 of the Electricity (Procedure for Previous Publication) Rules,

2005, for the information of all the persons likely to be affected hereby; and notice is hereby given that the said draft regulations will be taken into consideration after the expiry of 30 days from the date of their publication in the Rajpatra, Himachal Pradesh, together with any objections or suggestions which may, within the aforesaid period, be received in respect thereto. The draft of proposed regulations is also available on the HPERC website www.hperc.org.

The objections or suggestions in this behalf can be sent by post to the Secretary, Himachal Pradesh Electricity Regulatory Commission, Keonthal Commercial Complex, Khalini, Shimla-171002, or by e-mail to hperc@rediffmail.com or by fax to + 91-177-2627162.

1. Short Title and Commencement.-

- (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Authorized Consumer Representative) Regulations, 2016.
- (2) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Definitions.-

- (1) In these “regulations” unless the context otherwise requires,-
 - (a) “Act” means the Electricity Act, 2003 (36 of 2003);
 - (b) “Appendix” means the Appendix to these regulations;
 - (c) “Commission” means the Himachal Pradesh Electricity Regulatory Commission;
 - (d) “Consumer Representative (CR)” includes any individual, firm, body or association of persons, not in the employment of the Commission, who or which possesses or has access to knowledge, experience or skill in dealing with problems relating to the electrical engineering and is familiar with the consumer and tariff regulatory affairs and who may be authorised by the Commission to represent the interest of the consumers in the proceedings before it or to assist the Commission on any matter required to be dealt with by the Commission, under the Act;
- (2) The words or expressions used herein and not defined in these regulations but defined in the Act, shall have the meaning assigned to them in the Act.

3. Categorisation of Consumer Representatives.-

The Consumer Representatives (CRs), to be authorized under these Regulations, will be categorized into one of the following two categories:-

- (a) Institutional Consumer Representatives (CRs);
- (b) Individual Consumer Representatives (CRs);

4. **Eligibility Criteria for selection as Consumer Representative (CR)-**

- (1) Criteria for selection as Institutional Consumer Representative (CR)-
 - (a) The applicant organization shall be registered under applicable laws, preferably working for three (3) years on matters concerning consumer grievances/tariff regulatory affairs.
 - (b) The applicant shall preferably be a 'not for profit' kind of organization.
 - (c) The applicant organization shall be either:
 - (i) a research and academic institution, or
 - (ii) and advocacy group, such as NGO working in public interest, or
 - (iii) associations of consumers and professionals.
 - (d) The applicant organization shall furnish information as per Appendix-A to these Regulations alongwith adequate data/documents as proof of its working in the interest of electricity consumers.
- (2) Criteria for selection as Individuals Consumer Representative (CR)-
 - (a) An individual applicant shall be a person of experiences, ability integrity and standing, who has adequate knowledge of and has shown capacity in dealing with problems relating to the electrical engineering, finance, commerce, economics, law, administration and management etc. and has held strategic positions in the said fields under the Government or its undertaking, and is familiar with consumer affairs or regulatory affairs; or had been the representative of the registered voluntary consumer protection organizations NGOS or consumer activists with experience of at least three years in dealing with the matters concerning "consumer grievances"/tariff regulatory matters:

Provided that a person to be authorised to as a Consumer Representative shall not have been in the employment in any capacity or agency of, the licensee for a minimum period of one year prior to his being engaged as the Consumer Representative (CR) under these regulations.
 - (b) Proof of recognition and experience of an individual person, shall be considered for his/her being authorized to represent the interest of consumers in the proceedings before the Commission.
 - (c) An Individual Consumer Representative (CR) shall not be a member of an Institutional Consumer Representative (CR).
 - (d) The applicant shall furnish information as per Appendix-B to these Regulations alongwith adequate data/documents as proof of his/her working in the interest of Electricity Consumers.

- (e) Knowledge of spoken and written Hindi Language apart from English would be preferable.
- (3) The Commission, while selecting a Consumer Representative (CR), may keep the following in view, as the minimum eligibility requirement:-
- (a) Suitability to make representations on behalf of the electricity consumers having regard to past experience in similar proceedings;
 - (b) Past experience in representing the interests of certain categories of consumers/institutions/parties, local industry, Chambers of Commerce and Trade Associations, etc.
 - (c) Before authorizing a Consumer Representative (CR), the Commission shall satisfy itself that the applicant organization/ Individual does not have any financial or other interest which is likely to affect prejudicially its/his/her functions as an authorized Consumer Representative (CR).

5. Process for authorization of Consumer Representatives (CRs).—

- (1) The Commission shall invite applications for enlistment of Consumer Representatives (CRs) through public advertisement in two (2) daily newspapers one in English Language and one in Hindi Language having wide circulation in the State, as the Commission deems fit, and shall also upload the Notice on its website:
- Provided that applications shall, as far as practicable, be invited 30 days in advance of the expiry of authorization of Consumer Representatives (CRs).
- (2) An organization(s) or an individual person shall be authorized by the Commission as Institutional Consumer Representative (CR) or Individual Consumer Representative (CR) under these regulations on the recommendations of a Selection Committee.
- (3) The Commission shall, subject to the terms and conditions as it may determine, form a Selection Committee for recommending the names for enlisting eligible persons to be authorised to represent the interests of the consumers in the proceedings before the Commission or to assist the Commission an any specific matter required to be dealt with under the Act;
- (4) The Selection Committee shall submit its recommendations to the Commission on the suitability and eligibility of an applicant for becoming a Consumer Representative (CR) and the Commission may, on the recommendations of the Selection Committee, authorize the selected organization or individual person as Institutional Consumer Representative (CR) or Individual Consumer Representative (CR) under these regulations;

6 **Publication of List of Authorized Consumer Representatives.-**

The Commission shall notify the name of the authorized CR by issuing notices in at least the same daily English and Hindi language newspapers through which the applications were invited and such information shall also be uploaded on the website of the Commission.

7. **Total Number of CRs and areas to be represented.-**

- (1) There shall be a **‘Panel of Consumer Representatives (CRs)** comprising of a maximum of two (2) Institutional Consumer Representatives (CRs) and three (3) Individual Consumer Representatives (CRs).
- (2) The Panel specified in sub-regulation (1) of Regulation 7.1 shall indicate the fields of expertise of the Individual Consumer Representatives (CRs).
- (3) The Commission may invite a suitable number of CRs from the **‘Panel of Consumer Representatives (CRs)** on case to case basis:

Provided that the Commission will keep in view the expertise of the Consumer Representative (CR) and relevant to the proceedings, while issuing notice to the Consumer Representatives (CRs).

8. **Tenure of a Consumer Representative (CR).-**

- (1) An Institutional Consumer Representative (CR) shall be authorized for a maximum period of six (6) years from the date of its authorization.
- (2) An Individual Consumer Representative (CR) shall be authorized for a maximum period of three (3) years from the date of his/her authorization.
- (3) The Commission may consider re-appointing an Institutional Consumer Representative (CR)/Individual Consumer Representative (CR) keeping in view the following factors:-
 - (a) Number of appearances made against the notices issued by the Commission inviting the said Consumer Representative (CR) to represent the interest of the Consumers in the proceedings before the Commission;
 - (b) The functions and duties performed by the said Consumer Representative (CR) assigned to him under regulation 10.
- (4) In the event any Consumer Representative (CR) wishes to have the authority vested on it withdrawn, such Consumer Representative (CR) shall make an appropriate application to the Commission.

9. **Nature of Proceedings before the Commission.-**

(1) The Commission shall intimate such of the Institutional Consumer Representatives (CRs) and /or Individual Consumer Representatives (CRs) and invite them, as may be required by the Commission, keeping in view the types of proceedings including the following and the demonstrated expertise of the Consumer Representative (CR) viz-a-viz the specific proceedings:-

(a) **Tariff Functions/Licensing Functions.-**

- (i) Proceedings pertaining to Tariff Determination for Generation, Transmission, Supply and Wheeling of Electricity, Regulating Electricity Purchase and Procurement Process of Distribution Licensees, and analogous proceedings;
- (ii) Proceedings pertaining to issuance of Licenses for Distribution, Transmission or Trading of electricity;
- (iii) Proceedings pertaining to promotion of co-generation, generation from renewable energy sources, grid connectivity, purchase electricity from such sources, and analogous proceedings;

(b) **Penal Proceedings/Enforcement Proceedings.-**

- (i) Non-compliance of directions of the Commission, orders of the Forums and Electricity Ombudsman, Non-compliance of Regulations made under the Act, penalty under Sections 33, 142,146,149 as the case may be;
- (ii) Enforcement of standards of performance of licensees/Utilities.

(c) **Adjudication Proceedings.-**

Adjudication of disputes between the licensees and generating companies.

- (2) The Commission may seek testimony or advice or opinion on specific issues, from the Consumer Representatives (CRs) in any proceedings not mentioned in sub-regulation (1).
- (3) The non-attendance of a Consumer Representative (CR) in any proceedings of the Commission, shall not invalidate the proceedings.

10. **The functions and duties of the CRs.-**

(1) The CRs shall.-

- (a) represent the interests of consumers in the proceedings before the Commission;

Provided that a Consumer Representative (CR) shall not file representation for any particular party in any proceedings before the Commission.

- (b) make suggestions to the Commission for capacity building of consumer groups and their effective representation before the Commission;
 - (c) take steps that enhance the efficiency of regulatory processes before the Commission.
- (2) The Commission may also from time to time direct the Consumer Representatives (CRs) to take any all of the following measures:-
- (a) to educate consumers in respect of energy saving, methodology to tide over shortage situation, Demand Side Management and Consumer's Rights in terms of the service to be provided by the Distribution Licensees;
 - (b) to provide testimony or advice to the Commission for the implementation of the Commission's orders and regulations for safeguarding the interests of the Consumers;
 - (c) to assist the Commission in improving efficiency and efficacy in the consumer grievance redressal mechanism;
 - (d) to bring to the notice of the Commission instances of any non-implementation/.non-compliance of the Commission's Orders and regulations:

Provided that unless specifically authorized by the Commission, in writing, the Consumer Representative (CR) while performing the functions as specified in these regulations, shall not make any direct communication with any Utility or the Forum or the Electricity Ombudsman, asking for any information:

Provided further that the aforesaid restriction is without prejudice to the right which a Consumer Representative (CR) may have under any law for the time being in force.

11. Withdrawal of authorization of a Consumer Representative (CR).-

- (1) The Commission may review the performance of the Consumer Representative (CRs).

Provided that when the Commission deems fit, it may formulate a suitable mechanism to review/evaluate quality, level of participation of the Consumer Representative (CRs), from time to time:

Provided further that the Commission may seek recommendations of the Selection Committee on the performance of the Consumer Representative (CRs).

- (2) The Commission may, after consulting the Selection Committee, withdraw the authority given to a Consumer Representative (CR) if the Commission finds that its performance or quality of its representations are not in the interest of electricity consumers or electricity industry or if frivolous interventions have been made in the past or for any other sufficient and just reasons:

Provided that the Commission shall seek representations either in writing or orally from the concerned Consumer Representative (CR) before the authority given to the Consumer Representative (CR) is withdrawn.

12. Intimation of Change.-

The Institutional Consumer Representative (CR) shall intimate and notify the Commission promptly in the event there is any change in the information supplied by him at the time of making application for being authorized as a Consumer Representative (CR):

Provided that the authorization accorded to a Consumer Representative (CR) shall become liable to be withdrawn if any material information or change in information is not disclosed to the Commission.

13. Fee or honorarium and other allowances.-

- (1) The fee or honorarium, TA/DA and other allowances payable, and other terms and conditions for performing the functions and discharging the duties under regulation 10, shall be such as may be determined by the Commission:

Provided that where the experience, expertise, qualifications and credentials are paramount requirements and the persons of requisite qualifications and experience are rarely available, a consolidated amount may be negotiated and decided by the Commission depending on the merits of individuals and the nature of the proceedings.

- (2) The Secretary of the Commission shall be the Controlling Authority in respect of such traveling and other allowances.

14. Saving of inherent powers of the Commission.-

Nothing in these Regulations shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters

and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure prescribed in these Regulations.

15. **General power to amend:-**

The Commission may at any time and on such terms as it may think fit amend any provision of these Regulations for the purpose of achieving the objectives for which these Regulations have been made.

16. **Power to remove difficulties:-**

If any difficulty arises in giving effect to any of the provisions of these Regulations the Commission may, by general or special order, make such provisions, not being inconsistent with the provisions of the Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Sd/-
(Kameshwar Singh Dhaulta)
Secretary,
HPERC, Khalini, Shimla-02

APPENDIX-A

Information to be submitted by the Applicant desirous of being authorized as Institutional Consumer Representative

The applicant Institution/ Organization shall furnish the following information to the Commission along with the documentary proofs, as may be applicable:-

- Name of the Institution/ Organization and address,
- Correspondence address and contact details (telephone, mobile, email, etc.),
- Type of Organization, date of registration (along with photocopy of registration),
- Full details and experience of executives/ persons working for the organization, with the period of working with the organization- full time as well as on part time basis, Voluntary/ honorary, or on payment of compensation,
- Full details of the working members of the organization, who hold assignments of profits, in any way, connected with the electricity distribution system of the area, or anywhere within the State,
- Details of Branches, their Locations, strengths, Overall budget, Annual expenses, Sources for its funding,
- Balance sheets, Income and Expenditure details, for the past 3 years,
- Whether and particular school or thought, specialization, or interest in scientific research/study etc., with reports, if any, has been followed, preferably concerned with electricity sector/ consumers,
- Brief details of the matters handled in the past (by various branches) concerning electricity consumers in the State, related with the Electricity Act, Rules and Regulations, procedures, etc.,
- Desire to represent all type of electricity consumers or only any particular, Domestic, Commercial, and Industries (Specialty/experience based),
Desire to represent the electricity consumers of entire State or from a particular area only,
- Full particulars of all available individual members of the organization, who will generally be representing the consumers in various types of proceedings before the Commission, alongwith their field/s of interest expertise. The list of persons may also define as the 'main' and 'alternate' persons.

- *Declaration of contribution received by the Institutions/organization:-*
 - (a) the contribution in excess of twenty thousand rupees received from a political party, in a year, in the three financial years preceding the year of making application before the Commission;
 - (b) the contribution in excess of twenty thousand rupees received from companies other than Government companies, in a year, in the three financial years preceding the year of making application before the Commission.

APPENDIX-B

Information to be submitted by the Applicant desirous of being authorized as Individual Consumer Representative.

- Personal details– Name; residential address; postal address; contact details (telephone, mobile, email, etc.); nationality/domicile.
- Curriculum Vitae with full details of assignments in electricity distribution system in its area of residence, or anywhere within the State of Himachal,
- IT Returns for the past 3 years, if any,
- Whether any particular school of thought, specialization, or interest in scientific research/study etc. with reports, if any, has been followed, preferably concerned with electricity sector,
- Brief details of the matters handled in the past concerning electricity consumers in the State, related with the Electricity Act, Rules and Regulations, procedures, etc.,
- Desire to represent all types of electricity consumers or only any particular type(s)/segments of the electricity consumers, for example, Agriculture, Domestic, Commercial, and Industries (Specialty/Experience based).
- Desire to represent the electricity consumers of entire state or from a particular area only.

- *Declaration of contribution received:-*
 - (a) The contribution in excess of twenty thousand rupees received by such CR from a political party in the three financial years preceding the year of making application before the Commission;
 - (b) The contribution in excess of twenty thousand rupees received by such CR from companies other than Government companies in the three financial years preceding the year of making application before the Commission.