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CENTRAL ELECTRICITY REGULATORY COMMISSION  
NEW DELHI

No. 8/1/99-CERC

Dated: 23<sup>rd</sup> April, 1999

**NOTIFICATION**

In exercise of the powers conferred on it by Section 55 of the Electricity Regulatory Commissions Act, 1998 (Act 14 of 1998) the Central Electricity Regulatory Commission hereby makes the following Regulations, namely:

**CHAPTER I**

**GENERAL**

**Short title, commencement, and interpretation**

1. (1) These Regulations may be called the Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.
- (2) They shall come into force on the date of their publication in the official Gazette.

- (3) They extend to the whole of India except the State of Jammu and Kashmir.

### **Definitions**

2. (1) In these Regulations, unless the context otherwise requires:
- (a) 'Act' means the Electricity Regulatory Commissions Act, 1998 (Act 14 of 1998)
  - (b) 'Commission' means the Central Commission constituted under the Act;
  - (c) 'Officer' means an officer of the Commission;
  - (d) 'Petition' means and includes all petitions, applications, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents;
  - (e) 'Proceedings' mean and include proceedings of all nature that the Commission may hold in the discharge of its function under the Act;
  - (f) 'Regulations' means these Regulations;
  - (g) 'Secretary' means the Secretary of the Commission.
- (2) Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the same meaning as in the Act.
- (3) The provisions of the General Clauses Act, 1897 as amended from time to time shall apply to these Regulations.

### **Commission's office, office hours and sittings**

3. The place of the offices of the Commission may from time to time be specified by the Commission, by an order made in that behalf.

4. Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily except on Saturdays, Sundays and Central Government holidays notified by the Central Government. The headquarters and other offices of the Commission shall be open at such times as the Commission may direct.
5. Where the last day for doing of any act falls on a day on which the office of the Commission is closed and by reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open.
6. The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time to be specified by the Commission.

#### **Language of the Commission**

[7. The proceedings of the Commission shall be conducted in English, or in Hindi, if permitted by the Commission]<sup>1</sup>

8. No Petition, documents or other material contained in any language other than English or in Hindi if permitted by the Commission, may be accepted by the Commission, unless the same is accompanied by a translation thereof in English/Hindi.
9. Any translation which is agreed to by the parties to the Proceedings or which any of the parties may furnish with an authenticity certificate of the person who had translated to English/Hindi, may be accepted by the Commission as a true translation.
10. The Commission in appropriate cases may direct translation of the petition, pleadings, documents and other material to English by an officer or person designated by the Commission for the purpose.

#### **Commission to have seal of its own**

11. There shall be a separate seal indicating that it is the seal of the Commission

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<sup>1</sup> Substituted vide Corrigendum dated 31.5.1999.

## **Officers of the Commission**

### **12.**

(1) The Commission shall have the power to appoint Secretary, officers and other employees for discharging various duties. It may also prescribe the qualifications, experience and other terms and conditions for the appointment of such officers and other employees.

(2) The Commission may appoint Consultants to assist the Commission in the discharge of its functions. The terms and conditions of appointment of Consultants shall be determined by the Commission at its meetings from time to time.

### **13.**

(1) The Secretary shall be the Principal Officer of the Commission and shall exercise his powers and perform his duties under the control of the Chairperson.

(2) The Commission in discharge of its functions under the Act, may take such assistance from the Secretary as it may deem fit and the Secretary shall be bound to assist the Commission.

[(3) In particular and without prejudice to the generality of the above provisions, the Secretary shall have the following powers and perform the following duties, namely:]<sup>2</sup>

(a) he shall have custody of the records and the seal of the Commission;

(b) he shall receive or cause to receive all petitions, applications or reference pertaining to the Commission;

(c) he shall prepare or cause to be prepared briefs and summaries of all pleadings presented by various parties in each case before the Commission in the discharge of its function in this regard;

(d) he shall assist the Commission in the proceedings relating to the powers exercisable by the Commission;

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<sup>2</sup> Substituted vide Corrigendum dated 31.5.1999.

(e) he shall authenticate the orders passed by the Commission;

(f) he shall ensure compliance of the orders passed by the Commission; and

[(g) he shall have the right to collect from the Central Government or other offices, companies and firms or any other party as may be directed by the Commission, such information as may be considered useful for the purpose of efficient discharge of the functions of the Commission under the Act and place the information before the Commission.]<sup>3</sup>

**14.** The Commission may delegate to its officers such functions including functions that may be required by these regulations to be exercised by the secretary on terms and conditions the Commission may specify for the purpose.

**15.** The Secretary may, with the approval of the Commission, delegate to any Officer of the Commission any function required by these Regulations or otherwise, to be exercised by the Secretary.

**16.** In the absence of the Secretary, such other Officer of the Commission, as may be designated by the Chairperson, may exercise all the functions of the Secretary.

**17.** The Commission shall, at all times have the authority, either on an application made by any interested or affected party or suo-motu, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Secretary or the Officers of the Commission, if the Commission considers the same to be appropriate.

### **Recognition for Consumer Associations**

**18.**

[(I) It shall be open to the Commission to permit any association/forum or other bodies corporate or any group of consumers to participate in any proceedings before the Commission.]<sup>4</sup>

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<sup>3</sup> Substituted vide Corrigendum dated 31.5.1999.

<sup>4</sup> Substituted vide Corrigendum dated 31.5.1999.

[(2) It shall be open to the Commission for the sake of timely completion of proceedings, to direct grouping of the associations/forums referred to above, so that they can make collective affidavits.]<sup>5</sup>

[(3) The Commission may, as and when considered appropriate, notify a procedure for recognition of associations, group, forum or bodies corporate as registered consumer association for purposes of representation before the Commission.]<sup>6</sup>

## **19.**

(1) The Commission may appoint any officer or any other person to represent consumers' interest if considered necessary.

(2) The Commission may direct payment to the officer or person appointed to represent the consumers interest such fees, costs and expense by such of the parties in the proceedings as the Commission may consider appropriate.

## **CHAPTER II**

### **GENERAL RULES CONCERNING THE PROCEEDINGS BEFORE THE COMMISSION**

#### **Proceedings etc. before the Commission**

**20.** The Commission may from time to time hold hearings, meetings, discussions, deliberations, inquiries, investigations and consultations as it may consider appropriate in the discharge of its functions under the Act.

#### **Quorum and Sitting in Benches**

**[21.** The Quorum for the proceedings before the Commission shall be two.]<sup>7</sup>

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<sup>5</sup> Substituted vide Corrigendum dated 31.5.1999.

<sup>6</sup> Substituted vide Corrigendum dated 31.5.1999.

<sup>7</sup> Initially corrected vide Corrigendum dated 31.5.1999 and later Substituted vide First Amendment Regulations, 2002 w.e.f. 10.12.2002

### **Attendance by Members and Voting**

[22. No Member including Ex-officio Member, shall exercise his vote on a decision unless he is present during all the substantial hearings of the Commission on such matter.]<sup>8</sup>

### **Authority to represent**

23. A person may authorise an advocate or a member of any statutory professional body holding a Certificate of Practice as the Commission may from time to time specify to represent him and act and plead on his behalf before the Commission. The person may also appear himself or may authorise any of his employees to appear before the Commission and to act and plead on his behalf. The Commission may from time to time specify the terms and conditions subject to which a person may authorise any other person to represent him and act and plead on his behalf.

### **Initiation of Proceedings**

24. The Commission may initiate any Proceedings suo-motu or on a Petition filed by any affected or interested person.

25. The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, for service of notices to the affected parties, the filing of reply and rejoinder in opposition or in support of the Petition in such form as it may direct. The Commission may, if it considers appropriate, issue orders for publication of the petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.

26. While issuing the notice of inquiry the Commission may, in appropriate cases, designate an Officer of the Commission or any other person whom the Commission considers appropriate to present the matter in the capacity of a petitioner in the case.

### **Petitions and pleadings before the Commission.**

27. All Petitions to be filed before the Commission shall be typewritten, cyclostyled or printed neatly and legibly on one side of white paper and every page shall be consecutively

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<sup>8</sup> Substituted vide Corrigendum dated 31.5.1999.

numbered. The Commission will accept petitions filed with a Computer Disk or through Electronic Media on such terms and conditions as the Commission may specify. The contents of the Petition should be divided appropriately into separate paragraphs, which shall be numbered serially. The Petition shall be accompanied by such documents supporting data and statements as the Commission may specify.

### **General headings**

**28.** The general heading in all Petitions before the Commission and in all publications and notices shall be in Form 1.

### **Affidavit in support**

**29.**

(1) The petitions shall be verified by an affidavit and every such affidavit shall be in Form 2.

(2) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the capacity in which he is signing and shall be signed and sworn before a person lawfully authorised to take and receive affidavits.

(3) Every affidavit shall clearly and separately indicate the statements which are true to the-

(a) knowledge of the deponent;

(b) information received by the deponent; and

(c) belief of the deponent.

(4) Where any statement in the affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.

**30.** In accordance with Section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence

for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

### **Presentation and scrutiny of the Petitions**

**31.** All Petitions shall be filed with [ten copies]<sup>9</sup> and each set of the Petition shall be complete in all respects. The fees as may be prescribed by the Commission shall be payable along with the petition.

**32.** All Petitions shall be presented in person or by any duly authorised agent or representative at the headquarters or such other filing centre or centres as may be notified by the Commission from time to time and during the time notified. The Petitions may also be sent by registered post acknowledgement due to the Commission at the places mentioned above. The vakalatnama in favour of the advocate and, in the event the Petitions are presented by an authorised representative, the document authorising the representative shall be filed along with the Petition, if not already filed on the record of the case.

**33.** Upon the receipt of the Petition the Officer of the Commission designated for the purpose of receiving the petition shall acknowledge the receipt by stamping and endorsing the date on which the Petition has been presented and shall issue an acknowledgement with stamp and date to the person filing the Petition. In case the Petition is received by registered post the date on which the Petition is actually received at the office of the Commission shall be taken as the date of the presentation of the Petition.

**34.** The presentation and receipt of the Petition shall be duly entered in the register maintained for the purpose by the office of the Commission.

**35.** The Receiving Officer may decline to accept any Petition which does not conform to the provisions of the Act or the Regulations or directions given by the Commission or otherwise defective or which is presented otherwise than in accordance with the regulations or directions of the Commission.

Provided however no Petition shall be refused for defect in the pleadings Or in the presentation, without giving an opportunity to the person filing the Petition to rectify the

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<sup>9</sup> Substituted vide First Amendment Regulations, 2000, w.e.f 28.4.2000.

defect within the time which may be given for the purpose. The Receiving Officer shall advise in writing the person filing the Petition of the defects in the Petition filed.

**36.** A person aggrieved by any order of the Receiving Officer in regard to the presentation of the Petition may request the matter to be placed before the Secretary of the Commission for appropriate orders.

**37.** The Chairperson or any Member as the Chairperson may designate for the purpose shall be entitled to call for the Petition presented by the party and give such directions regarding the presentation and acceptance of the Petition as he considers appropriate.

**38.** If on scrutiny, the Petition is not refused or any order of refusal is rectified by the Secretary or by the Chairperson or the Member of the Commission designated for the purpose, the Petition shall be duly registered and given a number in the manner to be specified by the Commission.

**39.** As soon as the Petition and all necessary documents are lodged and the defects and objections, if any, are removed, and the Petition has been scrutinised and numbered, the Petition shall be put up before the Commission for preliminary hearing and admission.

**40.** The Commission may admit the Petition for hearing without requiring the attendance of the party. The Commission shall not, pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may if it considers appropriate issue notice to such person or persons as it may desire to hear the petition for admission.

**41.** If the Commission admits the Petition, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondent(s) and other affected or interested parties; for the filing of replies and rejoinder in opposition or in support of the Petition in such form as the Commission may direct and for the petition to be placed for hearing before the Commission or a Bench, as the case may be.

#### **Service of notices and processes issued by the Commission**

**42.**

(1) Any notice, process or summons to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission:

- (a) service by any of the parties to the proceedings as may be directed by the Commission;
- (b) by hand delivery through a messenger;
- (c) by registered post with acknowledgement due;
- (d) by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc. on any person in the manner mentioned above.
- (e) in any other manner as considered appropriate by the Commission.

(2) The Commission shall be entitled to decide in each case the persons who shall bear the cost of such service / publication.

**43.** Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.

**44.** In the event any matter is pending before the Commission and the person to be served has authorised an agent or representative to appear for or represent him or her in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service on the person to be served.

**45.** Where a notice is served by a party to the Proceedings either in person or through registered post, an affidavit of service shall be filed by such party with the Commission giving details of the date and manner of service of notices and processes.

**46.** Where any Petition is required to be published it shall be published in such form in the newspapers to be specified, for such duration and within such time as the Commission may direct.

**47.** In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notices, summons or processes or the publication

thereof, the Commission may either dismiss the Petition or give such other or further directions as it thinks fit.

**48.** No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceeding shall be invalidated by reason of any defect or irregularity unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

**Filing of reply, opposition, objections, etc.**

**49.** Each person to whom the notice of inquiry or the Petition is issued (hereinafter called the 'respondent') who intends to oppose or support the Petition shall file the reply and the documents relied upon within such period with [ten copies]<sup>10</sup>. In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry or the Petition and may also state such additional facts as he considers necessary for just decision of the case. The reply shall be signed and verified and supported by affidavit in the same manner as in the case of the Petition.

**50.** The respondent shall serve a copy of the reply along with the documents duly attested to be true copies on the petitioner or his authorised representative and file proof of such service with the office of the Commission.

**51.** Where the respondent states additional facts as may be necessary for the just decision of the case, the Commission may allow the petitioner to file a rejoinder to the reply filed by the respondents. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.

**52.**

(I) Every person who intends to file objection or comments in regard to a matter pending before the Commission, pursuant to the publication made for the purpose (other than the persons to whom notices, processes, etc. have been issued calling for reply) shall deliver to an Officer designated by the Commission for the purpose the statement of the objection or

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<sup>10</sup> Substituted vide First Amendment Regulations, 2000, w.e.f 28.4.2000.

comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.

(2) The Commission may permit such person or persons including associations, forums and bodes corporate as it may consider appropriate to participate in the proceedings before the Commission if, on the report received from the Officer, the Commission considers that the participation of such person or persons will facilitate the proceedings and the decision in the matter.

(3) Unless permitted by the Commission, the person filing objection or comments shall not necessarily be entitled to participate in the proceedings to make oral submissions. However, the Commission shall be entitled to take into account the objections and comments filed after giving such opportunity to the parties to the proceedings as the Commission considers appropriate to deal with the objections or comments.

### **Hearing of the matter**

**53.** The Commission may determine the stages, manner, the place, the date and the time of the hearing of the matter as it considers appropriate.

**54.**

(1) The Commission may decide the matter on the pleadings of the parties or may call for the parties to produce evidence by way of affidavit or lead oral evidence in the matter.

(2) If the Commission directs evidence of a party to be led by way of oral submission, the Commission may, if considered necessary or expedient, grant an opportunity to the other party to cross-examine the persons giving evidence.

(3) The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an Officer or person designated for the purpose by the Commission.

[(4) The Commission may direct the parties to file written note of arguments or submissions in the matter.]<sup>11</sup>

**Powers of the Commission to call for further information, evidence, etc.**

**55.** The Commission may, at any time before passing orders on any matter, require the parties or any one or more of them or any other person whom the Commission considers appropriate, to produce such documentary or other evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.

**56.** The Commission may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examination by an Officer of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant to the matter.

**57.** In accordance with the Section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

**58.** In accordance with Section 228 of the Indian Penal Code, 1860, whoever intentionally offers any insult or causes any interruption in any of the proceedings of the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.1000 or with both.

**Reference of issues to others**

**59.**

(1) At any stage of the Proceedings the Commission shall be entitled to refer such issue or issues in the matter as it considers appropriate to persons including, but not limited to, the Officers and consultants of the Commission whom the Commission considers as qualified to give expert advice or opinion.

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<sup>11</sup> Substituted vide Corrigendum dated 31.5.1999.

(2) The Commission may nominate from time to time any person including, but not limited to, the Officers and consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities therein.

(3) The Commission, if it thinks fit, may direct the parties to appear before the persons designated in clause (1) or (2) above to present their respective views on the issues or matters referred to.

(4) The report or the opinion received from such person shall form a part of the record of the case and the parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties shall be entitled to file their version either in support or in opposition to the report or the opinion.

(5) The Commission shall duly take into account the report or the opinion given by the person, the reply filed by the parties while deciding the matter and if considered necessary the examination before the Commission of the person giving the report or the opinion.

#### **Procedure to be followed where any party does not appear**

**60.** Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any of the parties or his authorised agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the Petition for default when the petitioner or the person who moves the Commission for hearing is in default or proceed ex-parte.

**61.** Where a Petition is dismissed in default or decided ex-parte, the person aggrieved may file an application within 30 days from the date of such dismissal or being proceeded ex parte, as the case may be, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non appearance when the Petition was called for hearing.

#### **Orders of the Commission**

**62.** The Commission shall pass orders on the Petition and the Chairperson and the Members of the Commission who hear the matter and vote on the decision shall sign the orders.

**63.** The reasons given by the Commission in support of the orders, including those by the dissenting Member, if any, shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations.

**64.** All orders and decisions issued or communicated by the Commission shall be certified by the signature of the Secretary or an Officer empowered in this behalf by the Chairperson and bear the official seal of the Commission.

**65.** All final orders of the Commission shall be communicated to the parties to the Proceedings under the signature of the Secretary or an Officer empowered in this behalf by the Chairperson or the Secretary.

#### **Inspection of records of Proceedings and supply of certified copies**

**66.** Records of every Proceeding, except those parts which for reasons specified by the Commission are confidential or privileged or otherwise not to be disclosed to any person, shall be open to inspection either during the Proceeding or after the orders have been passed, subject to such person complying with such terms as the Commission may direct from time to time including in regard to time, place, and manner of inspection and payment of fees.

**67.** Any person shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Commission as well as the pleadings, papers and other parts of the records of the Commission to which he is entitled to inspect on payment of fee and complying with other terms which the Commission may direct.

#### **Interim Orders**

**68.** The Commission may pass such interim orders as the Commission may consider appropriate at any stage of the proceedings.

### **CHAPTER III**

#### **ARBITRATION OF DISPUTES**

**69.** The arbitration of disputes involving generating companies or transmission utilities in regard to matters connected with Clauses (a), (b) and (c) of Section 13 of the Act may be commenced by the Commission on the application of any of the persons concerned.

**70.** The Commission shall issue notice to the concerned person(s) and to such other persons as the Commission considers appropriate to show cause as to why the dispute should not be arbitrated.

**71.** The Commission may, after hearing the parties to whom notices have been issued and if satisfied that no reason or cause has been shown against the proposed arbitration, pass an order directing that the disputes or the matter be referred to arbitration.

**72.** The procedure for arbitration to be followed by the Commission shall be as far as possible the same as in the case of hearing before the Commission as provided for in Chapter II above.

**73.** The cost of arbitration and proceedings before the Commission shall be borne by such parties and in such sums as the Commission may direct.

#### **CHAPTER IV**

##### **INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, ETC.**

**74.** The Commission may make such order or orders as it thinks fit for collection of information, inquiry, investigation, entry, search, seizure, and without prejudice to the generality of its powers in regard to the following:

(a) The Commission may, at any time, direct the Secretary or any one or more Officers or consultants or any other person as the Commission considers appropriate to study, investigate or furnish information with respect to any matter within the purview of the Commission under the Act.

(b) The Commission may for the above purpose give such other directions as it may deem fit and specify the time within which the report is to be submitted or information furnished.

(c) The Commission may issue or authorise the Secretary or an Officer to issue directions to any person to produce before it and allow to be examined and kept by an Officer of the Commission specified in this behalf the books, accounts, etc. or to furnish information to the specified officer.

(d) The Commission may, for the purpose of collecting any information, particulars or documents which the Commission considers necessary in connection with the discharge of its functions under the Act, issue such directions as may be considered necessary.

(e) If any such report or information obtained appears to the Commission to be insufficient or inadequate, the Commission, or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information.

(f) The Commission may direct such incidental, consequential and supplemental matters be attended to which may be considered relevant in connection with the above.

**75.** In connection with the discharge of the functions under Regulation 74, the Commission may, if it thinks fit, direct a notice of inquiry to be issued and proceed with the matter in a manner provided under Chapter II of these Regulations.

**76.** The Commission may, at any time, take the assistance of any institution, consultants, experts and such other technical and professional persons, as it may consider necessary, and ask them to study, investigate, inquire into any matter or issue and submit report or reports or furnish any information. The Commission may determine the terms and conditions for engagement of such professionals.

**77.** If the report or information obtained in terms of the above Regulations or any part thereof is proposed to be relied upon by the Commission for forming its opinion or view in any Proceedings, the parties to the Proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information.

## CHAPTER V

### TARIFF REGULATIONS

**78.** In pursuance of Section 28 read with Section 55 of the Act, the following regulations relate to the terms and conditions for fixation of tariff. In addition, the Commission shall,

after considering the views of all concerned, notify detailed terms and conditions including the manner in which charges for energy may be determined.

**79.**

(1) No generating Company, owned or controlled by the Central Government and no generating Company other than those owned or controlled by the Central Government, which has entered into or otherwise has a composite scheme for generation and sale of electricity in more than one State shall charge their customers any tariff for supply of electricity without the general or specific approval of such tariff by the Commission.

(2) No utility shall charge any tariff for the inter-state transmission of energy without the general or specific approval of the Commission.

Provided that the above regulation shall apply to the generating companies owned or controlled by the Central Government with effect from the date the above regulation will be notified for operation by the Commission.

Provided further that the existing tariff being charged by generating companies owned or controlled by the Central Government shall continue to be charged after the date of the notification as referred to in the above regulation for such period as may be specified in the notification without prejudice to the powers of the Commission to take up any matter relating to Tariff falling within the scope of Section 13 of the Act.

[**80.** Any generating company as specified in clause 79(I) proposing to enter into any agreement for supply of electricity between the generating company and any buying party shall get the approval of the Commission for the Tariff before entering into such contracts.]<sup>12</sup>

[**81.** The Commission shall frame from time to time guidelines in matters relating to electricity Tariff in terms of Section 13(g) of the Act which shall be notified.]<sup>13</sup>

**82.** Without prejudice to the generality of the powers of the Commission in regulating the tariff of generation and transmission utilities, the Commission may keep in view while determining the Tariff factors such as:

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<sup>12</sup> Substituted vide Corrigendum dated 31.5.1999.

<sup>13</sup> Substituted vide Corrigendum dated 31.5.1999.

- (a) the need to link tariff adjustments to increases in the productivity of capital employed and improvements in efficiency so as to safeguard the interests of the consumer;
- (b) the need to rationalise tariffs on the basis of the actual cost of generation and transmission;
- (c) the unbundling of costs so as to enable the rational allocation of costs;
- (d) the need to transparently provide the appropriate incentives, in a non discriminatory manner, for a continuous enhancement in the efficiency of generation and transmission and upgradation in the levels of service;
- (e) the simulation of competitive conditions where markets do not exist and the progressive introduction of competitive conditions;
- (f) the least cost adoption of environmental standards;
- (g) the provision of a level playing field for all utilities so as to promote the progressive involvement of the private sector in generation and transmission: and
- (h) the need for healthy growth of the industry.

**83.** The Commission, besides regulating the charges payable to the Central Transmission Utility, shall also regulate the charges payable to other transmission utilities for wheeling inter-state power. It shall also regulate the charges payable to the Central Transmission Utility for wheeling power though not for inter-state transmission.

[**84.** The Commission may work out appropriate incentive schemes for generating and transmission utilities for better performance, which may be notified from time to time.]<sup>14</sup>

[**85.** The Commission may, if considered appropriate, approve differential tariffs linked to factors like time of day Metering (TOD) and payment terms with built in incentives for timely payment of bills.]<sup>15</sup>

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<sup>14</sup> Substituted vide Corrigendum dated 31.5.1999.

<sup>15</sup> Substituted vide Corrigendum dated 31.5.1999.

**86.** Utilities engaged in generating or transmitting electricity who are required to get their tariff approved by the Commission, shall evolve tariff proposals based on the terms and conditions notified by the Commission and shall submit the same for approval as per procedure to be prescribed by the Commission.

[**87.** (1) All petitions for approval of generating or transmission tariff or for revision of tariff shall be made strictly in accordance with the regulations specified by the Commission and shall also be in conformity with the requirements relating to filing of petitions specified in Chapter II of these Regulations.

(2) The Secretariat of the Commission shall, on receipt of the petition, carry out preliminary scrutiny of the petitions and convey the defects, if any, for rectification and call for additional information, if any required for determination of tariff, as far as possible, within 15 days of receipt of the petition.

(3) The petitioner shall rectify the defects and submit the additional information called for, in accordance with the procedure specified in these regulations within 20 days from the date of communication by the Secretariat.

(4) If the petitioner fails to rectify the defects or submit the additional information within the time specified above, the Commission may, at its discretion, dismiss the petition without any further notice to the petitioner or/and on an application made by the petitioner, on being satisfied that the petitioner was prevented from rectifying the defects or providing additional information for sufficient reason, extend time for rectification of defects or for providing additional information, as the case may be:

Provided that the dismissal of the petition under this clause shall not preclude the petitioner from making a fresh petition for determination of tariff:

Provided further that for the purpose of filing fee, the petition dismissed under this clause shall be considered as an interlocutory application, and fee shall be payable accordingly.

(5) On rectification of the defects or providing additional information by the petitioner, the petition shall be processed by the Secretariat for hearing by the Commission, as far as possible, within 10 days thereof.]<sup>16</sup>

**88.** The Commission may approve the proposed tariff on such stipulations as may be considered appropriate and as may be specified in the Order. One of the conditions of approval shall always be that in case of any dispute involving generating companies or transmission utilities, in regard to matters connected with tariff the same shall be subject to arbitration by the Commission.

**89.** The Commission may get the books and records of the utilities concerned examined by its officers and/or by Consultants at any point of time during the pendency of the petition or otherwise. The report of the officers/consultants shall be made available to the parties concerned and they shall be given opportunity to react on the reports in the manner as prescribed in Regulation 59.

**90.** The utilities concerned shall publish the tariff as approved by the Commission in the manner as may be prescribed. The tariff so published shall be in force until any amendment is approved by the Commission and published.

[**91.** Any utility found to be charging a tariff different from the one approved by the Commission shall be deemed to have not complied with the directions of the Commission and shall be liable to penalties under Section 45 of the Act, without prejudice to any other proceedings and penalty to which it may be liable under any other Act. Any excess charge of tariff by any utility in any year shall be dealt with as per the directions of the Commission.]<sup>17</sup>

**92.** The Commission on its own on being satisfied that there is need to review the tariff of any utility shall initiate the process of revision in accordance with the procedure as may be prescribed. The proceedings for suo-moto review of the tariff shall be the same as set out in Chapter II of these Regulations.

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<sup>16</sup> Substituted vide Amendment Regulations, 2009, w.e.f 2.06.2009 .

<sup>17</sup> Substituted vide Corrigendum dated 31.5.1999.

**93.** Review of orders of the Commission on tariff will be entertained strictly in accordance with the relevant regulations governing review as contained in the relevant regulation herein.

**94.** The utilities shall submit periodic returns as may be prescribed containing operational and cost data to enable the Commission to monitor the implementation of its order and reassess the bases on which Tariff was approved.

## **CHAPTER VI**

### **GENERAL RULES CONCERNING PLANNING, DEVELOPMENT AND INTEGRATED OPERATION OF POWER SYSTEM AND GRANT OF TRANSMISSION LICENCE**

[**95.** The Commission may require any utility to prepare and the Commission may approve the code concerning planning, development, connection/use of Inter-State Transmission System and integrated operation and grant of transmission licence which shall be notified as Indian Electricity Grid Code (IEGC).]<sup>18</sup>

**96.** Any person proposing to obtain Transmission Licence under Section 27(C) of the Electricity Supply Act, 1948 (as amended) shall follow the guidelines as indicated in Indian Electricity Grid Code (IEGC).

**97.** Any party, who is aggrieved by a decision of the Central Transmission Utility or who complains of inordinate delay on the part of Central Transmission Utility, on an application for approval under Section 27(C)(4) of the Electricity Supply Act, 1948 may file an appeal before the Commission within thirty days of such denial of approval or within sixty days of lodging an application, as the case may be.

**98.** Appeal referred to in the above Regulation shall be filed in the same manner as a petition under Chapter II of these Regulations and shall be disposed off by the Commission in the same manner as any petition in accordance with the provision contained in Chapter II of these Regulations.

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<sup>18</sup> Substituted vide Corrigendum dated 31.5.1999.

**99.** The Commission may issue appropriate directives from time to time to Central Transmission Utility for the introduction of competitive conditions, continuous enhancement of efficiency and to enable smooth integrated grid operations.

**100.**

(1) The Central Transmission Utility and other constituents as well as others concerned in the Grid Management shall follow the Regulations and directions of the Commission in the discharge of its function of regulating the Inter-State Transmission System.

(2) Subject to the provisions of the Act the Commission shall be entitled to enforce with or without modification as the Commission may consider appropriate the decisions, directions and orders which the Regional Load Despatch Centres or the State Load Despatch Centres or the Authority may issue from time to time in terms of the power conferred on them under Section 55 of the Electricity (Supply) Act, 1948 in so far it relates to the operation of the power system or otherwise has a bearing on the interstate grid operation.

(3) The Commission may initiate a proceeding in regard to matters referred to in clauses (1) and (2) above either on its own motion or on an application or complaint by any person.

Provided that in regard to matters covered by sub-section (9) of Section 55 of the Electricity (Supply) Act, 1948 the Commission may not generally entertain any application or complaint or hold any proceeding till the decision of Authority on the issues referred to it or till the expiry of a period of three months after the reference is made to the Authority, whichever is earlier.

## **CHAPTER VII**

### **MISCELLANEOUS**

#### **Time limit for disposal of petitions [other than review Petitions]**

[101. Save as otherwise provided in the Electricity Act, 2003 with regard to tariff petitions and applications for grant of license or in the Procedure for holding Inquiry by Adjudicating officer Rules, 2004 in respect of the proceedings under Section 143 of the Electricity Act,

2003 or in Regulation 103 of these regulations in respect of review petitions, the Commission shall dispose of the petitions finally within a period of six months from the date of admission.

Provided that where the petitions are not disposed of within six months, the Commission shall record the reasons for the time taken for disposal of the petitions.]<sup>19</sup>

**Advisory Committee:**

**[102.**

(1) The Advisory Committee shall meet at least once in six months or at such intervals and at such places as may be decided by the Commission.

(2) The quorum at the meeting shall be 1/3<sup>rd</sup> of the total membership of the Advisory Committee.

Provided that attendance by proxy shall not be permitted at the meeting of the Advisory Committee.

Provided further that the Chairperson may invite any person who is not a member of the Advisory Committee as a special invitee to aide and assist the members of the Advisory Committee on any matter on the agenda of its meeting.

(3) The Secretary of the Commission shall be the Secretary of the Advisory Committee.

(4) The members shall be appointed for a minimum term of one year, which may be further extended at the discretion of the Commission.

(5) While attending the meetings of the Advisory Committee members shall be entitled to Travelling Allowance and Daily Allowance as admissible to the Secretary to the Government of India.

Provided that a member not in the employment of the Central/State Government or Public Sector entity will be entitled to an honorarium of Rs. 3000/- for attending each meeting in addition to TA/DA.

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<sup>19</sup>Substituted vide Amendment Regulations, 2013 w.e.f 14.11.2013.

- (6) The notice and the agenda for the meeting of the Advisory Committee shall be sent to the members at least seven days before the date of the meeting.
- (7) The Secretary shall prepare or cause to be prepared the record of proceedings of the meeting and shall maintain the record of proceedings after approval of the Chairperson.
- (8) The record of proceedings shall be open for inspection to the members of the Advisory Committee.
- (9) Any person, other than the members may be supplied with a copy of the record of proceedings of the meeting of the Advisory Committee on payment of fee prescribed by the Commission for obtaining the certified copies of the record of the Commission.]<sup>20</sup>

**[Review of Decisions, Directions and orders**

**103.** (1) The Commission may, on an application of any of the persons or parties concerned made within 45 days of making such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission deems fit.

(2) An application for such review shall be filed in the same manner as a Petition under Chapter II of these Regulations.

(3) An application for review shall be listed before the Commission within a period of 15 days from the date of filing such application.

(4) The Review applications shall be disposed of within 15 days from the date of hearing if the review is not admitted and within a period of two months from the date of admission if the application is admitted.

Provided that where the review applications cannot be disposed of within the period as stipulated, the Commission shall record the reasons for the additional time taken for disposal of the review applications.]<sup>21</sup>

**[Amendment of orders**

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<sup>20</sup> Substituted vide Amendment Regulations 2000 w.e.f. 10.5.2000.

<sup>21</sup> Initially Regulation 103 (1) was substituted vide Amendment Regulations, 2009 and later the entire Regulations 103 was Substituted vide Amendment Regulations, 2013 w.e.f. 14.11.2013.

**103A.** Clerical or arithmetical mistakes in the orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Commission either of its own motion or on the application of any of the parties.]<sup>22</sup>

**Continuance of Proceeding after death, etc.**

**104.**

(1) Where in any proceeding any of the parties to the Proceedings dies or is adjudicated as an insolvent or in the case of a Company under liquidation/ winding up the Proceedings shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned.

(2) The Commission may, for reasons to be recorded, treat the Proceedings as abated in case the Commission so directs and dispense with the need to bring the successors-in-interest, etc. on the record of the case.

(3) In case any person wishes to bring on record the successors-in-interest, etc. the application for the purpose shall be filed within 90 days from the event requiring the successors-in-interest to come on record.

**Proceedings to be open to public**

**105.** The Proceedings before the Commission shall be open to the public

Provided that the Commission may, if it thinks fit, and for reason to be recorded in writing, order at any stage of the Proceedings of any particular case that the public generally or any particular person or group of persons shall have restricted access.

**106.**

(1) In accordance with Section 228 of the Indian Penal Code, 1860, who ever intentionally offers any insult or causes any interruption in any of the proceedings of the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1,000 or with both.

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<sup>22</sup> Inserted vide Amendment Regulations, 2013 w.e.f 14.11.2013.

(2) In accordance with Section 345 of the Criminal Procedure Code, 1974, whoever intentionally offers any insult or causes any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may at any time before the rising of the Bench on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding Rs. 200 and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine be sooner paid.

**107.** If the Commission in any case as referred to in the above Regulation considers that a person accused of any of the offences referred to thereunder and committed in its view or presence should be imprisoned otherwise than in default of payment of fine or with a fine exceeding Rs. 200/- should be. imposed on him or the Commission is for any other reason of opinion that the case should not be disposed of by it under Regulation 106 may forward the case to a Magistrate having jurisdiction to try the same and may require security be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall forward such person in custody to such Magistrate.

### **Publication of petition**

**108.**

(1) Where any application, petition, or other matter is required to be published under the Act or these Regulations or as per the directions of the Commission, it shall, unless the Commission otherwise orders or the Act or Regulations otherwise provide, be published not less than 7 days before the date fixed for hearing.

(2) Except as otherwise provided, such publication shall give a heading describing the subject matter in brief.

(3) Such publication to be published shall be approved by the Officer of the Commission designated for the purpose.

### **Inspection of Commission's Records and Confidentiality**

**109.**

(1) Records of the Commission, except those parts which for reasons specified by the Commission are confidential or privileged, shall be open to inspection by all, subject to the payment of fee and complying with the terms as the Commission may direct.

(2) The Commission may, on such terms and conditions as the Commission considers appropriate, provide for the supply of the certified copies of the documents and papers available with the Commission to any person.

(3) The Commission may, by order, direct that any information, documents and other papers and materials produced before the Commission or any of its Officers, consultants, representatives or otherwise which may be, or come into, their possession or custody, shall be confidential or privileged and shall not be available for inspection or supply of copies, and the Commission may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Commission.

#### **Issue of orders and directions on procedures**

**110.** Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of the Regulations and procedure to be followed and various matters which the Commission has been empowered by these Regulations to specify or direct.

#### **Saving of inherent power of the Commission**

**111.** Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for ends of justice or to prevent the abuse of the process of the Commission.

**112.** Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act. 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 for dealing with such a matter or class of matters.

**113.** Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Act for which no Regulations have been

framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

### **General power to amend**

**114.** The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any Proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings.

### **Power to remove difficulties**

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

### **Extension or abridgement of time prescribed**

**116.** Subject to the provisions of the Act, the time prescribed by these Regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by order of the Commission.

### **Effect of non-compliance**

**117.** Failure to comply with any requirement of these Regulations shall not invalidate any Proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

### **Costs**

**118.**

(1) Subject to such conditions and limitation as may be directed by the Commission the cost of, and incidental to, all Proceedings shall be awarded at the discretion of the Commission and the Commission shall have full power to determine by whom or out of what

funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.

(2) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of Civil Court.

### **Enforcement of orders passed by the Commission**

**119.** The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the Act and Regulations and if necessary, may seek the orders of the Commission for directions.

#### **Note:**

Central Electricity Regulatory Commission (Conduct of Business) Regulations, 1999 were published in Part III, Section 4, No. 27 of the Gazette of India (Extraordinary) dated 26.4.1999 and amended vide -

- (a) Corrigendum published in Part III, Section 4, No. 48 of the Gazette of India (Extraordinary) dated 31.05.1999.
- (b) First Amendment Regulations, 2000 published in Part III, Section 4, No. 55 of the Gazette of India (Extraordinary) dated 10.05.2000 coming into force with immediate effect.
- (c) First Amendment Regulations, 2002 published in Part III, Section 4, No. 255 of the Gazette of India (Extraordinary) dated 10.12.2002.
- (d) Amendment Regulations, 2009 published in Part III, Section 4, No. 93 of the Gazette of India (Extraordinary) dated 02.06.2009.
- (e) Amendment Regulations, 2013 published in Part III, Section 4, No. 291 of the Gazette of India (Extraordinary) dated 14.11.2013.