

Contents

CHAPTER 1: Preliminary	1
1.1. Short Title, Applicability, Commencement and Interpretation	1
1.2. Definitions:	2
CHAPTER 2: Constitution and Functions of the Forum	4
2.1. Constitution of the Forum.....	4
2.2. Qualification for appointment of Members of the Forum	4
2.3. Quorum.....	5
2.4. Term of Office and Conditions of Service	6
2.5. Disqualification/ Removal of Member	6
2.6. Infrastructure facilities.....	7
CHAPTER 3: Jurisdiction and Proceedings of the Forum.....	8
3.1. Jurisdiction of the Forum	8
3.2. Complaints at the Forum	8
3.3. Grievance Handling Procedure of the Forum	9
3.4. Submissions of Reports to the Commission.....	11
3.5. Inspection of Records and Supply of Certified Copies	11
3.6. Appeal before Ombudsman	11
3.7. Commissions power of Superintendence.....	12
CHAPTER 4: General	13
4.1. Savings	13
4.2. Powers to Remove Difficulties	13
4.3. Power to Amend.....	13

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

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Draft UERC (Guidelines for Appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2018

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In exercise of the powers conferred on it by sub-section (2) (r) of Section 181 read with sub-section (5) of Section 42 of the Electricity Act 2003, and all other powers enabling it in this behalf, and after previous publication, the Uttarakhand Electricity Regulatory Commission hereby frames the "Uttarakhand Electricity Regulatory Commission (Guidelines for Appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2018", as follows:

CHAPTER 1: Preliminary

1.1. Short Title, Applicability, Commencement and Interpretation

- (1) These Regulations may be called the Uttarakhand Electricity Regulatory Commission (Guidelines for Appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2018.
- (2) These Regulations extend to the whole of the State of Uttarakhand.
- (3) These Regulations shall be applicable to the Distribution Licensee(s) in the territory of Uttarakhand in their respective licensed areas.
- (4) These Regulations shall come into force on the date of their publication in the official Gazette replacing and repealing "Uttarakhand Electricity Regulatory Commission (Guidelines for Appointment of Members and Procedure to be followed by the Forum for Redressal of Grievances of the Consumers) Regulations, 2007".
- (5) Words and expression used and not defined in these Regulations but defined in the Electricity Act, 2003 (36 of 2003) shall have the meanings assigned to them in the said Act.

1.2. Definitions:

- (1) In these Regulations, unless the context otherwise requires: -
- (a) "Act" means the Electricity Act, 2003;
 - (b) "Commission" means the Uttarakhand Electricity Regulatory Commission.
 - (c) "Complainant" shall include—
 - (i) A consumer as defined under subsection (15) of section 2 of the Act;
 - (ii) An applicant for new connections;
 - (iii) in case of death of a consumer, his legal heir(s) or authorised representative ;
 - (iv) Any consumer association registered under the Societies Registration Act, 1860 or under any other law for the time being in force; or
 - (v) Any unregistered association of consumers, where the consumers have similar interest;
 - (d) "Complaint" means a letter or application filed with the Forum seeking redressal of grievances concerning the supply of electricity, new connection or the services rendered by the Distribution Licensee(s), including alteration in load/demand, meter related matters, bill related issues and cases where licensee(s) has charged price in excess of the price fixed by the Commission or has recovered the expenses incurred in excess of charges approved by the Commission in providing any electric line or electric plant.
 - (e) "Distribution Licensee" means a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in the concerned area of supply;

- (f) “Forum” means Forum for redressal of grievances of the consumers to be established by distribution licensee in terms of sub-section (5) of section 42 of the Act read with these Regulations;

- (g) “Officer of the licensee” means any person who is appointed by the Distribution Licensee either on full time or part time basis for managing the affairs of the Distribution Licensee and/or carrying out any function under the provisions of the Act for which the Distribution Licensee pays him salary or wages or honorarium or sitting fee or remuneration in any other form.

CHAPTER 2: Constitution and Functions of the Forum

2.1. Constitution of the Forum

- (1) In terms of subsection (5) of Section 42 of the Act, the Distribution Licensee shall establish one or more Forum as may be prescribed by the Commission for redressal of grievances of the consumers in accordance with these Regulations.
- (2) Each Forum shall consist of three members to be appointed by the Distribution Licensee, through proper advertisement in the press and website, after prior approval of the Commission.
- (3) The Distribution Licensee shall from time to time give publicity of the constitution and existence of the Forum in such other manner as the Commission may from time to time lay down including in the electricity bills of the consumers. The names, designation and phone numbers of the members and the concerned officers of the Forum, the address, e-mail, facsimile and phone numbers of the office of the Forum shall be displayed at all the offices of the Distribution Licensee and shall also be duly publicised including on the bills raised on the Consumers.
- (4) The Forum shall have sittings at such Principal office and also at any other place in each district in the area of supply of the Distribution Licensee as may be decided by the Forum from time to time or as the Commission may direct from time to time considering the number of complaints received, the place from where the complaints are received and the proximity to the principal place of business of the Distribution Licensee and other relevant factors.

2.2. Qualification for appointment of Members of the Forum

- (1) Judicial member of the Forum shall be a retired district judge/additional district judge or a retired judicial officer having at least 20 years of experience in legal/judicial profession or a retired civil servant not below the rank of a district collector.
- (2) Technical member shall be a retired officer of any Distribution Licensee

company not below the rank of Superintending Engineer possessing degree in Electrical Engineering/Mechanical Engineering and having at least 15 years experience in matters relating to the distribution of electricity or a retired Professor of the Electrical Engineering Department of any Government Engineering College or a serving officer of the Distribution Licensee not below the rank of Superintending Engineer serving the area falling within the jurisdiction of the Forum where such member is required.

- (3) Consumer member shall be nominated by the Commission and shall be a person of stature and repute having sufficient exposure to and experience of issues pertaining to consumers of electricity.
- (4) Any person, who has earlier served the position as a full time member and completed his tenure in a Forum, shall be eligible to apply in the same or other Forum, established under the same Distribution Licensee, only after a gap of two years from the date of completion of his tenure.

2.3. Quorum

- (1) Any two member of the Forum appointed under regulation 2.2 of these Regulations shall form the quorum for Forum's sitting.
- (2) The Commission may direct the Distribution Licensee to substitute a member of the Forum with another person as per the composition and qualification provided in regulation 2.2 of these Regulations, if in the opinion of the Commission such substitution is necessary for the proper or effective redressal of the grievances of the Consumers.
- (3) In case where the quorum could not be achieved due to vacancy in the position of members or due to any other reason, leading to non-functioning of the Forum, the Commission may, on being informed by the Distribution Licensee, transfer the charge of such Forum to a Forum of neighboring jurisdiction for dealing with the complaints of the consumers.

2.4. Term of Office and Conditions of Service

- (1) Members of the Forum shall hold office for a term of three years which may be extendable upto two years. The upper age limit for the appointment of the member shall be 65 years and can hold the office only upto the age of 68 years.
- (2) The Distribution Licensee shall ensure that no post of a member in the Forum remains vacant for a period exceeding 30 days.
- (3) The salary, sitting fees, honorarium and/or other allowances (collectively called “Remuneration”) payable to all the members appointed under regulation 2.2 of these Regulations including their terms of appointment shall be uniform and such as may be prescribed by the Commission from time to time.
- (4) The Judicial and Consumer member shall be appointed as full time members and Judicial member shall be administrative head of the Forum.
- (5) Notwithstanding the foregoing provisions of sub-regulation (1) to (4) of regulations 2.4 of these Regulations, the terms and conditions of service of a member in the Forum who is in the employment of the Distribution Licensee shall be governed by the terms and conditions of his employment with such Distribution Licensee.

2.5. Disqualification/ Removal of Member

- (1) No person shall be appointed and/or be entitled to continue as a member if he stands disqualified on account of his:
 - (a) having been adjudged as an insolvent;
 - (b) having been convicted of an offence, involving moral turpitude;
 - (c) having become physically or mentally incapable of acting as such member;
 - (d) having acquired such financial or other interest as is likely to affect prejudicially his functions as a member;
 - (e) having so abused his position as to render his continuance in office prejudicial to the public interest; or

- (f) having been guilty of misbehaviour;
 - (g) having been guilty of action(s) inconsistent with norms of conduct expected of any judicial or quasi judicial functionary.
- (2) An existing member shall be liable to be removed from his office forthwith in the event of any of the disqualifications provided at sub-regulation (1) of regulation 2.5 of these Regulations arising or being discovered.

Provided that no full time member shall be removed from his office on any ground specified in sub-regulation (1) of regulation 2.5 of these Regulations unless the Distribution Licensee, has, on an inquiry held by it, concluded that such member ought, on such ground or grounds, be removed.

- (3) Where the Commission is dissatisfied with the functioning of any/all member(s) of a Forum and is of the opinion that such removal is necessary in the interest of consumers and effective redressal of their grievances, the Commission may, after giving an opportunity to such member(s), direct the Distribution Licensee to remove the member(s) of the Forum.

2.6. Infrastructure facilities

- (1) For efficient functioning of the Forum, the Distribution Licensee shall provide:
- (a) An office space consisting of three rooms one each for the three members, a hearing hall/room, one record room and one common room for the secretarial staff.
 - (b) Computers and other facilities required by the members/secretarial staff.

Provided that all costs prudently incurred by a Distribution Licensee on the establishment and running of the Forum, to the extent reasonable and justifiable, shall be allowed in the determination of tariff of the Distribution Licensee in accordance with the Regulations of the Commission.

CHAPTER 3: Jurisdiction and Proceedings of the Forum

3.1. Jurisdiction of the Forum

- (1) The Forum shall have the jurisdiction to entertain the grievances filed by the complainant with respect to the services provided by the Distribution Licensee and give such orders and directions as may be deemed necessary.
- (2) The Forum shall entertain only those complaints which fall under sub-regulation (1) (d) of regulation 1.2 of these Regulations.
- (3) The Forum shall not entertain a grievance if it pertains to the same subject matter for which any proceedings before any court, authority or any other Forum is pending or a decree, award or a final order has already been passed by any competent court, authority or forum.
- (4) The Forum shall not entertain grievances falling under Sections 126, 127, 135 to 140 and 161 of the Act and matter relating to recovery of arrears where bill amount is not disputed.
- (5) The Forum shall not entertain any grievances pertaining to shifting of electric lines/poles/equipments.
- (6) Subject to sub-regulation (3), (4) and (5) of regulation 3.1 of these Regulations, no grievance shall be rejected by the Forum at any stage, unless the complainant has been given an opportunity of being heard.

3.2. Complaints at the Forum

- (1) The Forum shall receive the complaints of consumers forwarded or filed with the Forum so long as such complaints are in writing and the Forum shall not insist on or prescribe any specific format for filing of complaints or for entertaining them.
- (2) The office of the Forum shall issue acknowledgment of the receipt of the Complaint to the Complainant showing clearly the date of receipt of Complaint and carrying seal of the Forum. No complaint shall be returned to the Complainant without issuing acknowledgement of its receipt and the same shall be disposed off according to the law.

- (3) The Forum shall maintain true and correct records of all Complaints received by the Forum from time to time and make available such records for inspection as the Commission may require from time to time.
- (4) In any hearing, the Distribution Licensee, shall not be represented by professional counsel, attorney or advocate, unless the Forum so permits. However, where the consumer chooses to be represented by counsel, attorney or advocate, then the Distribution Licensee shall be granted a similar privilege.

3.3. Grievance Handling Procedure of the Forum

- (1) The Forum shall decide the Complaints received expeditiously and shall communicate its decision to the Complainant within a period not exceeding 60 days of the receipt of the Complaint. The Forum shall give the reasons in support of its decisions.
- (2) If a member hearing the matter does not agree with the decision taken by other members, he may record his note of dissent with reasons but the decision taken by majority of members hearing the case will prevail.
- (3) All decisions of the Forum shall strictly be in accordance with the provisions of the Act, Rules and Regulations framed thereunder and orders and directions issued by the Commission from time to time.
- (4) Where the Forum is satisfied that any of the allegations contained in the grievance is 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) to return to the applicant the undue charges paid by it;
 - (b) to pay such amount as may be awarded by it as compensation to the applicant, provided however that in no case shall any consumer be entitled to indirect, consequential, incidental, or punitive damages, loss of profits or opportunity, whether arising in contract, tort, warranty, strict liability or any legal theory;
 - (c) to remove the cause of grievance in question;
 - (d) to comply with the order within stipulated time;

- (e) to give a compliance report within the time limit specified in these regulations;
 - (f) to apprise the aggrieved person of the things he is required to do along with time limits, for compliance of the order;
 - (g) any other order deemed appropriate in the facts and circumstances of the case.
- (5) The Forum, after considering all submissions written or oral made before it by complainant or Distribution Licensee, shall pass speaking orders giving the reasons in support of its decisions. Every order passed by the Forum shall be signed by all the members deciding the case.
- (6) Certified copies of every order passed by the Forum shall be delivered to the parties within 3 days of the order.
- (7) The order of the Forum shall be binding on the aggrieved person and the Distribution Licensee.
- (8) The Forum shall specify the period for compliance by Distribution Licensee or the consumer as the case may be. Normally this period should be 30 days. In case, compliance of the order involves major work/scope to be done, this period of 30 days may be extended with the reasons to be recorded in writing.
- (9) The Distribution Licensee and the applicant shall comply with the order diligently and within the timeframe as specified in the order and report compliance to Forum within 7 days of the implementation of the order.
- (10) In case of delay in compliance beyond the time limit stipulated by the Forum in its order, the applicant or the Distribution Licensee as the case may be, shall file the reasons for delay on its part within 7 days of the stipulated date and give the likely date by which compliance shall be made.
- (11) The Forum may take appropriate action, if deemed fit, for any delay in implementation of its order or in filing of the compliance report by the Distribution Licensee.

- (12) Non-compliance of Forum's order by either party shall be in violation of these Regulations and shall be liable for appropriate remedial action against it under Section 142 and 146 read with Section 149 of the Electricity Act, 2003.
- (13) All orders issued by the Forum shall be forwarded to the Distribution Licensee who shall, on receiving these orders, upload the same on its official website.

3.4. Submissions of Reports to the Commission

- (1) The Forum shall submit a quarterly report to the Commission on the number of complaints received, redressed and pending, within 15 days of the end of the quarter, along with reasons for their pendency.
- (2) The Forum shall also furnish to the commission, by 31st March every year, a report containing a general review of the activities of their offices during the preceding financial year and shall furnish such information as the Commission may require.

3.5. Inspection of Records and Supply of Certified Copies

- (1) The aggrieved person and the Distribution Licensee shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Forum in respect of the grievance.
- (2) Any person shall be entitled to a copy of the documents or orders of the Forum subject to payment of fee and complying with other terms, which the Forum may direct.

3.6. Appeal before Ombudsman

Any consumer aggrieved by the order of the Forum or non-disposal of his complaint by the Forum within the specified time limit may prefer an appeal to the Ombudsman appointed by the Commission under the Act, in such form and manner, as may be laid down in the Regulations of the Commission.

3.7. Commissions power of Superintendence

- (1) The Commission shall have the general powers of superintendence and control over the Forum and for this purpose may call for any record from the Forum/Distribution Licensee and pass appropriate orders thereupon. The Forum/Distribution Licensee shall duly comply with such directions as the Commission may issue from time to time.

- (2) Subject to the provisions of the Act, the Commission may from time to time issue orders and practice directions in regard to the implementation of these Regulations.

CHAPTER 4: General

4.1. Savings

Nothing contained in these regulations shall affect the rights and privileges of the consumer under any other law for the time being in force, including under the Consumer Protection Act, 1986 (68 of 1986) and amendments issued from time to time.

4.2. Powers 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, direct the Distribution Licensee, the Forum to take suitable action, not being inconsistent with the Electricity Act, 2003, which appears to the Commission to be necessary or expedient for the purpose of removing difficulties.

4.3. Power to Amend

The Commission may, at any time add, vary, alter, modify or amend any provision of these Regulations.

By order of the Commission

(Neeraj Sati)
Secretary
Uttarakhand Electricity Regulatory Commission