

# NOTIFICATION

## Regulation No. 4

May 14, 2004

**No. F-9(4)/RG/UERC/2004/255** -- In exercise of the powers conferred under Section 181 read with sub-section (6) of section 42 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in that behalf, and after previous publication, Uttaranchal Electricity Regulatory Commission hereby makes the following Regulations providing for the appointment and functioning of an Ombudsman in the State of Uttaranchal:

### Chapter I : Preliminary

#### 1. Short Title, Extent and Commencement:

- (1) These Regulations may be called the Uttaranchal Electricity Regulatory Commission (Appointment & Functioning of Ombudsman) Regulations, 2004.
- (2) These Regulations shall be applicable in the State of Uttaranchal.
- (3) These shall come into force from the date of their publication in the Gazette.

### Chapter II : Definitions and Interpretations

#### 2. Definitions and Interpretation:

- (1) In these Regulations, unless the context otherwise requires --
  - (a) "Act" means the Electricity Act, 2003 (36 of 2003);
  - (b) "Appointed Date" means 10<sup>th</sup> June 2003;
  - (c) "Award" means an award passed by the Ombudsman in accordance with the Regulations;
  - (d) "Commission" means the Uttaranchal Electricity Regulatory Commission;
  - (e) "Complainant" shall include --
    - (i) A consumer as defined under sub-section (15) of section 2 of the Act;
    - (ii) An applicant for new connections;
    - (iii) Any consumer whose supply has been disconnected;
    - (iv) Any consumer association or associations, registered under the Societies Act, 1956 (1 of 1956) or under any other law for the time being in force; or
    - (v) Any unregistered association of consumers, where the consumers have similar interest.

- (f) "Complaint" means the 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 and cases where licensee has charged price in excess of 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.
- Matters falling within the purview of any of the following provisions of the Act will not form a Complaint under these Regulations:--
- (i) Unauthorized use of electricity as provided under section 126 of the Act;
  - (ii) Offences and penalties as provided under section 135 to 139 of the Act;
  - (iii) Accident in the distribution, supply or use of electricity as provided under section 161 of the Act; and
  - (iv) Recovery of arrears where the bill amount is not disputed.
- (g) "Consumer" means a consumer as defined in section 2(15) of the Act, and includes--
- (i) Any person whose electricity connection is disconnected;
  - (ii) An applicant for a new connection for the supply of electricity; and
  - (iii) Any person who has suffered injury or whose property has been damaged, and which injury or damage is attributable to a Licensee, or the Electricity Services undertaken by it.
- (h) "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;
- (i) "Electricity Service" includes the services of supply, billing, metering & maintenance of electrical energy to the consumer and all attendant sub-services and also any other service which a Licensee is required to provide pursuant to his license or under any applicable law.
- (j) "Forum" means the forum for redressal of grievances of the consumers constituted by the Licensee in terms of sub-section (5) of section 42 of the Act and in accordance with the Guidelines issued by the Commission.
- (k) "Grievance" shall mean a grievance of the Consumer arising out of the failure of the Licensee to register or redress a Complaint, and shall include any dispute between the Consumer and the Licensee with regard to any Complaint or with regard to any action taken by the Licensee in relation to or pursuant to a Complaint.
- (l) "Licensee" means a distribution licensee.
- (m) "Ombudsman" means an authority appointed or designated by the Commission, under Regulation 3 of these Regulations pursuant to sub-section (6) of section 42 of the Act.
- (n) "Regulations" shall mean these Regulations.
- (o) "Representation" shall mean the representation made to the Ombudsman by or on behalf of a Complainant who is aggrieved by the order of the Forum (including the dismissal order), or non-redressal of his Grievances by the Forum within the specified time and in accordance with the Guidelines:
- Provided that the representation does not pertain to the same subject matter for which any proceedings before any court, tribunal, arbitrator or any other authority is pending or a decree or award or a final order has already been passed by any competent court, tribunal, arbitrator or authority.
- (p) Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings assigned to them in the Act.

### Chapter III : Appointment, Tenure and Jurisdiction of the Ombudsman

#### 3. Appointment of Ombudsman:

- (1) The Commission may from time to time appoint or otherwise designate one or more persons as it may consider appropriate to be known as Ombudsman to discharge the functions entrusted to him under sub-section (7) of section 42 of the Act and under these Regulations.
- (2) The Commission may appoint or designate:--
  - (i) An Ombudsman separately for the area of supply of each licensee; or
  - (ii) A common Ombudsman for two or more areas of supply of licensees; or
  - (iii) More than one Ombudsman for the area of supply of any licensee.
- (3) The Ombudsman shall be deemed to be Public Servant within the meaning of Section 21 of the Indian Penal Code, 1860 (No. 45 of 1860).
- (4) The territorial jurisdiction of the Ombudsman shall extend to the whole or part of the State of Uttaranchal as may be decided by the Commission:

Provided that where the Commission, by order appoints or designates more than one Ombudsman under sub-Regulation (2) above, it shall define the jurisdiction of each Ombudsman in such order.

- (5) The Ombudsman shall be a person of ability, impeccable integrity and standing and shall either be a retired Judge; or a person who has served at least as a Member for full term in any regulatory body or a retired civil servant not below the rank of Secretary to the Government or a person who has worked for at least three (3) years as Chief Executive or functional Director of any electricity utility.
- (6) The appointment or designation of the person(s) as the Ombudsman shall be made for a period not exceeding three (3) years. Provided that the tenure of the Ombudsman may be extended by the Commission for such further period as the Commission may decide.
- (7) The remuneration and other allowances payable to the Ombudsman will be determined by the Commission from time to time.
- (8) The office(s) of the Ombudsman(s) will be located at such place(s) as may be determined by the Commission. In order to expedite disposal of representations, the Ombudsman may hold sittings at such places within his area of jurisdiction as may be considered necessary and proper by him.
- (9) The Ombudsman shall be provided with a reasonable staff by the Commission to facilitate the functioning of the Ombudsman and the expenses of such staff shall be borne by the Commission.
- (10) The Ombudsman may relinquish his office by giving in writing to the Commission a notice of not less than three months. Where the Commission is satisfied that in the public interest or for the reason of incapacity of the Ombudsman, it is necessary so to do, it may for reasons to be recorded in writing and by giving him one month's notice or one months consolidated emoluments in lieu of the notice period, remove any Ombudsman from discharging his duties.

### Chapter IV : Powers and Functions of the Ombudsman

#### 4. Powers and Functions of the Ombudsman:

- (1) The Ombudsman shall have the following powers and duties:--
  - (a) To receive the representations against any order of the Forum or non-redressal of Grievance by the Forum and consider such representation and pass appropriate awards in accordance with the Act and Rules or Regulations made thereunder;
  - (b) To exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business thereat;
  - (c) To incur expenditure on behalf of the office including payments to Ombudsman, provided however, in order to exercise such power, the Ombudsman will draw up an annual budget for his office

after approval of the same by the Commission and he shall exercise the powers of expenditure but only within the approved budget. The expenditure so incurred by the Ombudsman shall be met in the manner determined by the Commission from time to time;

- (d) To maintain proper accounts of all the receipts and expenditure incurred by the Ombudsman in the manner as approved by the Commission from time to time;
- (e) To have an annual audit of all the receipts and expenditure incurred by the Ombudsman and submit the details of the same alongwith the report of the auditor to the Commission or to such other authority as the Commission may decide, within three (3) months of the close of the financial year;
- (f) Such other functions which the Commission may assign.

## **Chapter V : Procedures for Grievance Redressal by the Ombudsman**

### **5. Representation to Ombudsman:**

- (1) Any complainant who is aggrieved by the order of the Forum or non-redressal of his Grievance within the specified time by the Forum, may himself or through his authorised representative make a representation to the Ombudsman within thirty days from the date of the receipt of the decision of the Forum or within thirty days from the date of the expiry of the period within which the Forum was required to take decision, whichever is earlier:

Provided further that the Ombudsman may entertain an appeal after the expiry of the said period of thirty days if the Ombudsman is satisfied that there was sufficient cause for not filing it within this period.

- (2) The representation shall be in writing, duly signed by the complainant or his authorised representative submitted either personally or through post / courier including facsimile, and shall clearly state the name and address of the complainant, details of grievance alongwith the details of complaint made to any other authority/court of law supported by documents, if any, that are desired to be relied upon by the complainant and the relief sought from the Ombudsman.
- (3) The office of the Ombudsman shall acknowledge the receipt of the Representation to the complainant within three (3) working days of receipt of such representation.
- (4) As soon as it may be practicable to do so but not later than one week from the date of receipt of the Representation, the Ombudsman shall cause a notice of the receipt of any representation alongwith a copy of the representation to the concerned licensee.
- (5) Subject to the provisions of the Act and these Regulations, the Ombudsman's decision whether the representation is fit and proper for being considered by it or not, shall be final and binding upon the complainant and the Distribution Licensee.
- (6) The detailed procedure for hearing and consideration of such representations will be drawn up by the Ombudsman and approved by the Commission.

### **6. Award:**

- (1) After considering the representations and hearing the parties to the representation, the Ombudsman shall pass a speaking order giving the award with detailed reasoning that he thinks fair in the facts and circumstances of a case. While making an award, the Ombudsman shall be guided by the evidence placed before it by the parties, the principles of applicable law and practice, directions, instructions, guidelines and regulations issued by the Commission from time to time, and such other factors which in its opinion are necessary in the interest of justice.
- (2) The award passed by the Ombudsman shall set out:--
  - (a) Summary of the facts and circumstances of the case;
  - (b) Issue-wise decision;
  - (c) Reasons for passing the award; and
  - (d) Directions, if any, to the Licensee or complainant or any other person.

- (3) As far as possible, the Ombudsman shall pass an award within a period of three months from the date of receipt of the complaint. In case of any delay beyond this period, the Ombudsman shall give the reasons for the same in the award.
- (4) A copy of the award shall be sent to the complainant and the licensee named in the complaint or to any person as may be deemed fit by the Ombudsman for compliance in accordance with the directions contained therein.

#### 7. Powers to Call Information:

- (1) The Ombudsman shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any document, which may be useful for or relevant to the subject matter of the complaint before the Ombudsman.
- (2) For the purpose of carrying out his duties, an Ombudsman may require the licensee named in the complaint to furnish certified copy of any document related to the subject matter of the complaint, which is or is alleged to be in its possession, within 15 days. Provided that in the event of failure of a licensee to comply with the requisition without any sufficient cause, the Ombudsman may, draw such inference, as he deems fit and proceed to settle the case on that basis.
- (3) The Ombudsman shall maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and shall not disclose such information or document to any person except with the consent of the person furnishing such information or document. Provided that nothing in this Sub-regulation shall prevent the Ombudsman from disclosing information or document furnished by a party in a complaint to other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings.

### Chapter VI : Miscellaneous

#### 8. Inspection of Records and Supply of Certified Copies:

- (1) The Complainant, the Licensee or any other affected person shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Ombudsman in respect of the Representation.
- (2) Any person/consumer shall be entitled to a copy of the orders of the Ombudsman subject to the payment of reasonable cost and compliance with other terms, as the Ombudsman may direct.

#### 9. Licensee's Duty to Publicise these Regulations :

- (1) The licensee shall ensure that these Regulations and the name and address of the Ombudsman to whom the complaints are to be made by the aggrieved party are displayed in all his office/premises in such a manner and at such place, so that it is put to the notice of common public visiting the respective offices/premises.
- (2) The licensee shall ensure that a copy of the Regulation is made available with the designated officer of the Power Corporation for perusal in his office premises if anyone desires to do so and common notice to such effect about the availability of the Regulation with such designated officer is displayed along with the notice to be displayed by him as per Sub-regulation (1) above.

#### 10. Report of Ombudsman :

- (1) The Ombudsman shall submit a quarterly report on the number of complaints received, redressed and pending within 15 days of the end of the quarter to the Commission.
- (2) The Ombudsman shall also furnish to the Commission, by 31<sup>st</sup> May every year, a report containing a general review of the activities of his office during the preceding financial year and shall furnish such information as the Commission may direct.

#### 11. Savings:

- (1) Nothing contained in these regulations shall affect the rights and privileges of the consumers under any other law for the time being in force, including the Consumer Protection Act, 1986 (68 of 1986).
- (2) Nothing in these Regulations shall be deemed to limit or otherwise affect the powers of the Commission to make such orders as may be necessary to meet the ends of justice.

**12. 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 Ombudsman, the licensee or any other person to take suitable action, not being inconsistent with the Act, which appears to it to be necessary or expedient for the purpose of removing difficulties.

**13. Power to Amend:**

The Commission may, at any time, add, modify, delete or amend any provision of these Regulations subject to the provisions of the Electricity Act, 2003.

Bu Order of the Commission

**ANAND KUMAR,**

*Secretary,*

Uttaranchal Electricity Regulatory Commission.