

UTTARANCHAL ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS) REGULATIONS, 2004

NOTIFICATION

September 14, 2004

No. F-9(8)/RG/UERC/2004/596--In exercise of powers conferred on it by Section 181 of the Electricity Act, 2003 (36 of 2003) and Section 52 of the Uttaranchal (Uttar Pradesh Electricity Reforms Act) Adaptation & Modification Order, 2001 and all powers enabling it in that behalf, Uttaranchal Electricity Regulatory Commission hereby makes the following Regulations, namely: --

Chapter I--General

1. Short title, Commencement and Interpretation

- (1) These Regulations may be called the Uttaranchal Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- (2) These Regulations shall come into force on the date of the publication in the official Gazette.
- (3) These Regulations extend to the whole of the State of Uttaranchal.
- (4) The Uttar Pradesh General Clauses Act, 1904 (Act 1 of 1904) shall apply to the interpretation of these Regulations.

2. Definitions

- (1) In these Regulations, unless the context otherwise requires--
 - (a) 'Central Act' means the Electricity Act, 2003 (36 of 2003);
 - (b) 'Chairman' means the Chairman of the Uttaranchal Electricity Regulatory Commission;
 - (c) 'Commission' means the Uttaranchal Electricity Regulatory Commission;
 - (d) 'Officer' means officer of the Uttaranchal Electricity Regulatory Commission;
 - (e) 'Petition' includes all petitions, applications, complaints, appeals, replies, rejoinders, and supplemental pleadings, other papers and documents;
 - (f) 'Proceedings' include proceedings of all nature that the Commission may decide to initiate or hold in the discharge of its function under the Central Act or the State Act;
 - (g) 'Receiving Officer' shall mean the officer designated by the Commission for receiving the Petition;
 - (h) 'Regulations' means Uttaranchal Electricity Regulatory Commission (Conduct of Business) Regulations, 2004;
 - (i) 'Secretary' means Secretary of the Uttaranchal Electricity Regulatory Commission;
 - (j) 'State Act' means the Uttaranchal (Uttar Pradesh Electricity Reforms Act) Adaptation & Modification Order, 2001;
 - (k) 'State Government' means the Government of Uttaranchal.
- (2) Words or expressions occurring in these Regulations and not defined hereinabove shall bear the same meaning as in the Central Act. Words and expressions used in these Regulations but not defined either in these Regulations or in the Central Act but defined in the State Act shall have the meaning respectively assigned to them in the State Act.
- (3) The original regulation will be in English and it will be translated in Hindi.

3. Commission's offices, office hours and sittings

- (1) The location of the offices of the Commission may from time to time be decided by the Commission, by an order made in that behalf.
- (2) Unless otherwise directed, the headquarters and other offices of the Commission shall open daily, except on Saturdays, Sundays and holidays notified by the State Government. The headquarters and other offices of the Commission shall open at such hours as the Commission may direct from time to time.
- (3) 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.
- (4) The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time to be decided by the Commission.

4. Language of the Commission

- (1) The proceedings of the Commission shall be conducted in Hindi or English.
- (2) The Petition, documents or other matters contained in any language other than Hindi or English shall be accepted by the Commission only if the same is accompanied by a translation thereof in English.
- (3) 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, may be accepted by the Commission as a true translation.

5. Commission to have seal of its own

- (1) There shall be a separate seal indicating that it is the seal of the Commission.
- (2) Every order, decision or communication made, notice issued or certified copy granted by the Commission shall be stamped with the seal of the Commission and shall be certified by Secretary or any Officer designated for the purpose.

6. Secretary of the Commission

- (1) The Secretary shall exercise his powers and perform his duties under the control of the Chairman. In particular and without prejudice to the generality of the above provisions, the Secretary shall have the following powers and perform the following duties, viz:--
 - (a) He shall have the custody of the seal and records of the Commission and shall exercise such functions as are assigned to him by these Regulations or otherwise by the Commission or the Chairman;
 - (b) He shall receive or cause to receive all petitions, applications, submissions or references 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 discharge of its functions in this regard;
 - (d) He shall assist the Commission in the proceedings relating to the powers exercisable by the Commission;
 - (e) He shall authenticate the orders passed by the Commission;
 - (f) He shall ensure compliance of the order passed by the Commission; and
 - (g) He shall have the right to collect from the State Government, Central Government and their agencies or other offices, companies or 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 Central Act and the State Act and place the said information before the Commission.
- (2) 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 direct for the purpose.
- (3) The Secretary, with the approval of the Commission, may delegate to any officer of the Commission any function required, by these regulations or otherwise, to be exercised by the Secretary.
- (4) In the absence of the Secretary, such other Officer of the Commission, as may be nominated by the Chairman, may exercise all the functions of the Secretary.
- (5) The Commission shall have the authority, either on an application made by any interested or affected party or *suo moto*, 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.

7. Consumer's Association

- (1) It shall be open to the Commission to permit any association or other bodies corporate or any group of consumers to participate in any proceedings before the Commission on such terms and conditions, including in regard to the nature and extent of participation, as the Commission may consider appropriate.
- (2) The Commission may, as and when considered appropriate, notify a procedure for recognition of associations, groups, forums or bodies corporate as registered consumer associations for the purpose of representation before the Commission.
- (3) The Commission may appoint any officer or any other person to represent interest of the consumer(s) in general or any class or classes of consumers as the Commission may consider appropriate.
- (4) The Commission may direct payment to the person (other than the officer) appointed to represent the consumer's interest such fee, cost and expenses by such of the parties in the proceedings as the Commission may consider appropriate.

Chapter II--General Rules Concerning the Proceedings before the Commission

8. Proceedings before the Commission

- (1) The Commission may from time to time hold such proceedings, as it may consider appropriate, in the discharge of its functions under the Central Act or State Act. The Commission may appoint an Officer or any other person whom the Commission considers appropriate to represent the matter as Commission's representative in the proceedings.
- (2) (a) All matters, which the Commission is required, under the Central Act and the State Act, to undertake and discharge through hearing of the affected parties and such other matters as the Commission may consider appropriate shall be done through such proceedings and in the manner specified under the said Acts and in these Regulations.
- (b) All other matters may be decided administratively by the Chairman or by the Secretary or such other Officers to whom such powers and functions have been delegated.

9. Authority to represent

A person may authorize an advocate or a member of any statutory professional body holding a certificate of practice, as the Commission may from time to time direct, to represent him and act and plead on his behalf before the Commission. The person may also appear himself or may authorize any of his employees to appear before the Commission and to act and plead on his behalf. The Commission from time to time may lay down the terms and conditions subject to which a person may authorize any other person to act and plead on his behalf.

10. Initiation of Proceedings

- (1) The Commission may initiate any proceeding *suo moto* or on a Petition filed by any affected person.
- (2) When the Commission initiates the proceedings it shall be by a notice issued by the Office of the Commission through Secretary and the Commission may give such orders and directions as may be deemed necessary, for service of notices to the affected parties, for the filing of replies and rejoinder in opposition or in support of the Petition in such form as the Commission may direct. The Commission may, if it considers appropriate, issue orders for advertisement of the Petition inviting comments on the issue involved in the proceedings in such form as the Commission may direct.
- (3) 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.

11. Petitions and pleadings before the Commission

- (1) 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 numbered. The contents of the Petition shall be divided appropriately into separate paragraphs, which shall be numbered serially.
- (2) The Petition shall be filed in seven copies or such other number of copies which the Commission may direct and all such copies shall be complete in all respects. The Commission may in addition seek copies of the Petition to be filed in an electronic form, on such terms and conditions as the Commission may direct.
- (3) All Petitions shall contain a clear and concise statement of the facts with material particulars, the relief sought, the provisions of law under which the Petition is being filed and the basis for such relief.
- (4) The Petition shall be accompanied by such documents, supporting data and statements as the Commission may direct.
- (5) The fee directed by the Commission shall be paid at the time of presentation of the Petition.

12. General Headings

The general heading in all Petitions before the Commission and in all advertisements and notices shall be in the Form-1 attached to these regulations or as otherwise directed by the Commission from time to time.

13. Affidavit in support

- (1) Every Petition filed shall be verified by an affidavit and every such affidavit shall be in the Form-2 attached to these Regulations or as otherwise directed by the Commission from time to time. In case where the Petition is filed by a company, the affidavit will be sworn by the Chief Executive or a full time Director authorized by the Board to do so.

- (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 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 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.
- (5) In accordance with section 193 of Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates evidence for the purpose of being used in any of the proceedings, shall be punished with imprisonment for a term, which may extend to seven years and shall also be liable to fine.

14. Presentation and scrutiny of the pleadings, etc.

- (1) All Petitions shall be presented in person or by any duly authorized agent or representative at the headquarters or such other filing centre or 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 with acknowledgement due to the Commission at the place mentioned above. The vakalatnama in favour of the Advocate and, in the event the Petitions are presented by an authorized agent or representative the document authorizing the agent or representative shall be filed alongwith the Petition, if not already filed on the record of the case.
- (2) Upon the receipt of the Petition the Receiving Officer 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.
- (3) The presentation and the receipt of the Petition shall be duly entered in the register maintained for the purpose by the office of the Commission.
- (4) The Receiving Officer may decline to accept any Petition which does not conform to the provisions of the Central Act or the State Act, the Regulations or directions given by the Commission or is otherwise defective or which is presented otherwise than in accordance with the regulations or directions of the Commission. Provided, however, that, 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 defect within the time, which may be given for the purpose. The Receiving Officer shall advise in writing to the person filing the Petition of the defects in the Petition filed.
- (5) A party 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.
- (6) The Chairman 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.
- (7) If on scrutiny, the Petition is not refused or any order of refusal is rectified by the Secretary or by the Chairman, the Petition shall be duly registered and given a number in the manner to be directed by the Commission.
- (8) 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 scrutinized and numbered, the Petition shall be put up before the Commission for admission :
Provided, however, that in the case of complaints from individual consumers, class of consumers or any consumer organization, the same may be referred for disposal to the Forum for redressal of grievances of the consumers established for the purpose in terms of section 42(5) of the Central Act or to the Ombudsman appointed by the Commission under section 42(6) of the Central Act.
- (9) 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.
- (10) 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.

15. Service of notices and processes issued by the Commission

- (1) Any notice or process 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 party to the proceedings;
 - (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; and
 - (e) In any other manner as considered appropriate by the Commission.
- (2) The Commission shall, however, be entitled to decide in each case the person(s) who shall bear the cost of such service and publications.
- (3) 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.
- (4) 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.
- (5) Where a party serves a notice to the Proceedings either in person or through registered post, an affidavit of service shall be filed by the party with the Commission giving details of the date and manner of service of notices and processes.
- (6) Where any Petition is required to be advertised, it shall be advertised within such time as the Commission may direct and, unless otherwise directed by the Commission, in two daily newspapers having wide circulation in the area directed by the Commission.
- (7) Save as otherwise provided in the Central Act or in the State Act or in the Regulations and subject to any direction which the Commission or the Secretary or the Officer designated for the purpose may give, the person moving the Commission for hearing namely the petitioner, applicant or any other person whom the Commission makes responsible for the conduct of the Proceedings shall arrange service of all notices, summons, and other processes and for advertisement and publication of notices and processes required to be served. The Commission may also effect service or give directions for effecting service in any other manner it considers appropriate.
- (8) 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 advertisement and publication thereof, the Commission may either dismiss the Petition or give such other further directions, as the Commission may consider appropriate.
- (9) 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.

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

- (1) Each person to whom the notice of hearing of the Petition is issued (hereinafter the respondent) who intends to oppose or support the Petition shall file the reply and the documents relied upon within such period and in such number of copies as may be fixed by the Commission. 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. The respondent shall also indicate whether he wishes to participate in the proceedings and be orally heard.
- (2) The respondent shall serve a copy of the reply, alongwith the documents duly attested to be true copies, on the petitioner or his authorized representative and file proof of such service with the office of the Commission at the time of filing the reply.
- (3) 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.

- (4) Every person who intends to file objection or comments in regard to a matter pending before the Commission pursuant to the advertisement and publication issued 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 comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.
- (5) The Commission may permit such person or persons who file objection or comments as provided in sub-Regulation (4) as the Commission 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.
- (6) Unless permitted by the Commission, the person filing objection or comments shall not be entitled to participate in the Proceedings. However, the Commission shall be entitled to take into account the objections and comments filed after giving such opportunity to the parties in the Proceedings as the Commission considers appropriate to deal with the objections and comments.

17. Hearing of the matter

- (1) The Commission may determine the stages, manner, the place and the time of the hearing of the matter as the Commission considers appropriate, consistent with the provisions of the Central Act.
- (2) The Commission may decide the matter on the pleadings of the parties or may call the parties to produce evidence by way of affidavit or lead oral evidence in the matter, as the Commission may consider appropriate.
- (3) If the Commission directs evidence of a party to be led by way of affidavit, the Commission may, as and when the Commission considers it to be necessary, grant an opportunity to the other party to cross-examine the deponent of the affidavit.
- (4) 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.
- (5) The Commission may direct the parties to file written note of arguments or submissions in any matter before the Commission, as the Commission considers appropriate.

18. Power of the Commission to call for further information, evidence, etc.

- (1) The Commission may, at any time before passing orders on the 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.
- (2) 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, examinations 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 for the matter.
- (3) 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, 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 both.
- (4) In accordance with section 345 of the Criminal Procedure Code, 1974, if any person 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 a 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.

19. Reference of issues to others

- (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.
- (2) The Commission may nominate from time to time any person, including but not limited to the Officers and the 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 sub-Regulation (1) or (2) above to present their respective views on the issues or matters referred to.

- (4) The Commission shall duly take into account the report or the opinion given by the person and responses filed by the parties, if any, while deciding the matter and if considered necessary, examine, before the Commission, the person giving the report or the opinion :

Provided that the Commission shall not be bound by the report or the opinion given as conclusive.

20. Procedure to be followed where any party does not appear

- (1) Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any of the party 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 against the party in default and hear and decide the Petition.
- (2) 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.

21. Orders of the Commission

- (1) The Commission shall pass orders on the Petition and the Chairman shall sign the orders.
- (2) The Commission may pass at any stage, in any proceeding before it, such interim orders, including interim ex-parte orders that it may consider appropriate, to, amongst other things, protect the interest of any of the parties to the proceedings or any other person including consumers or any class or classes of consumers.
- (3) The reasons given by the Commission in support of the orders shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations.
- (4) 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 Commission and bear the official seal of the Commission.
- (5) All final orders of the Commission shall be communicated to the parties in the proceeding under the signature of the Secretary or an officer empowered in this behalf by the Commission.

22. Inspection of records and supply of certified copies

- (1) All the records of the proceeding including documents, statements, photographs, recordings whether audio or video, shall be exclusive property of the Commission and cannot be copied, printed, screened, published, quoted or broadcasted without prior and written approval of the Commission.
- (2) Records of every Proceeding shall be open, to the inspection of the parties or their authorised representatives at any time either during the Proceeding or after the orders are passed, subject to payment of fees and complying with such other terms as the Commission may direct.
- (3) Records of every Proceeding, which are not confidential or privileged, shall be open to inspection by any person other than the parties to the Petition 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.
- (4) 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 subject to payment of fee and complying with other terms which the Commission may direct.

Chapter III--Settlement of Disputes

23. Arbitration

- (1) On disputes, between the licensees and the generating companies being brought before the Commission or coming to Commission's notice otherwise, the Commission may take up the same for adjudication or arbitration.
- (2) If the Commission decides to adjudicate on the dispute it may take such help from experts, specialists as is considered necessary.
- (3) If the Commission decides to refer the matter for arbitration, the same will be done in accordance with the Arbitration and Conciliation Act, 1996.

24. Nomination of Arbitrators

- (1) If the Commission decides to refer the matter to arbitration by a person or persons other than the Commission the reference shall be:
 - (a) To a sole arbitrator if the parties to the dispute agree on the name of the arbitrator; or
 - (b) if the parties are unable to agree on the name of a sole arbitrator, to a sole arbitrator to be designated by the Commission or to three persons as the Commission may direct taking into account the nature of the disputes and the value involved. If the decision is to refer to three arbitrators, one shall be nominated by each of the parties to the dispute and the third by the Commission:
 Provided that if any of the parties fails to nominate the arbitrator or if any of the arbitrator nominated by the parties or the Commission fails or neglects to act or continue as arbitrator, the Commission shall be entitled to nominate any other person in his place.
- (2) The Commission shall not nominate a person as arbitrator to whom any party to the arbitration has a reasonable objection on grounds of possible bias or similar such reasons, if the Commission considers the objection to be valid and justified.
- (3) The fees and expenses of the arbitration and proceedings before the Commission shall be borne by such parties and in such sums as the Commission may direct.

25. Procedure for adjudication, settlement and passing of award

- (1) In case the Commission decides to adjudicate the procedure for adjudication and settlement to be followed shall be as far as possible the same as in the case of hearing before the Commission provided in Chapter II above.

Chapter IV--Licence

26. Application for licence

- (1) The regulations contained herein shall apply to all persons desirous of engaging in the business of transmission, distribution or trading of electricity within the State of Uttaranchal.
- (2) The applications for any licence shall be made in accordance with the provision of the Central Act, the State Act and these regulations.
- (3) The Commission may, if considered appropriate, advertise in newspapers or otherwise notify in such other appropriate manner as the Commission may decide inviting applications for grant of licence for Transmission, Distribution or Trading of Electricity.
- (4) Every application for a licence shall be signed by the applicant and addressed to the Secretary or such officer as the Commission may designate in this behalf and it shall be accompanied by:
 - (a) Six copies, in print and one soft copy of the draft licence as proposed by the applicant with the name and address of the applicant and of his agent (if any) printed on the outside of the draft;
 - (b) Three copies, each signed by the applicant, of maps of the proposed service area and, in the case of supply of the streets or roads in which the supply of electricity is to be made, which shall be so marked or colored as to define any portion of such area and streets or roads which are under the administrative control of any local authority and shall be on a scale :
 - (i) Of not less than that of the largest scale ordinance maps available, or
 - (ii) On such other scales as may be approved by the Commission;
 - (c) A list of any local authority invested with the administration of any portion of the area of transmission or supply;

- (d) An approximate statement describing any lands which the applicant proposes to acquire for the purpose of the licence and the means of such acquisition;
 - (e) An approximate statement of the capital proposed to be expended in connection with the utility and such other particulars as the Commission may require;
 - (f) A copy of the Memorandum and Articles of Association, Annual Accounts for the last three years or other similar documents as may be required;
 - (g) Accompanying notes and certifications, if any, on the above statements, from a chartered accountant;
 - (h) A receipt for such processing fee, as the Commission may require;
 - (i) Applicant's details including technical, capital adequacy and credit worthiness;
 - (j) Detailed map(s) of the proposed area for transmission/supply. Detailed map(s) showing the area to be supplied and the configuration of the Transmission/Distribution system. The map shall clearly distinguish between the existing system and any new facilities that are or will be required for the purpose of providing transmission/supply of electricity. The map shall indicate the sub-station, distribution mains, transmission/distribution network, streets and roads on which energy is supplied to various consumers and distinguish between public and private consumers;
 - (k) Copy of letter seeking consent from local authority or consent letter;
 - (l) Copy of letter seeking consent from the Central Government as per Section 15(2)(ii) of the Central Act or the consent letter.
- (5) Any person intending to act as the Transmission Licensee shall, immediately on making the application, forward a copy of such application to the State Transmission Utility. The State Transmission Utility shall acknowledge the receipt of the application and within thirty days of the receipt of the said application send its recommendations, if any, to the Commission.

27. Copies of maps and draft licenses for public inspection

- (1) The applicant shall deposit at his own office and of his agents (if any) and at the office of every local authority invested with the administration of any portion of the proposed area of supply:
 - (a) Copies of the maps referred to in Clause (b) of sub-Regulation (4) of Regulation 26 for public inspection; and
 - (b) A sufficient number of copies of the draft licence to be furnished to all persons applying for them at a price not exceeding the normal photocopying charges.

28. Contents of draft licence

- (1) The draft licence shall contain the following particulars:
 - (a) A short title descriptive of the proposed utility together with the address and description of the applicant and if the applicant is a company, the names of all the directors of the company;
 - (b) Type of licence applied for;
 - (c) Locations of the proposed service area;
 - (d) A description of the proposed area; and
 - (e) Such other particulars as the Commission may direct.

29. Conditions of Licence

- (1) The General Conditions subject to which each of the categories of licence shall be laid down by the Commission.
- (2) The Commission may decide on the special conditions subject to which licence shall be issued to the applicant.
- (3) Any person intending to apply for licence shall duly comply with the conditions and requirements laid down by the Commission.

30. Form of draft licence

The Commission may, from time to time, state the form of licenses to be issued and this form of licenses may, with such variation as the circumstances of each case require, be used for the purposes of these Regulations.

31. Acknowledgement of application

On receipt of the application, the Receiving Officer shall note thereon the date of its receipt and shall send to the applicant an acknowledgement stating the date of receipt.

32. Calling for additional information

The Commission or the Secretary or any other officer so authorized by the Commission for this purpose, may upon scrutiny of the application, require the applicant to furnish within a period to be directed by it such additional information or particulars or documents as considered necessary for the purpose of dealing with the application.

33. Notifying the due filing of the application

If the Commission finds the application to be complete, accompanied by the requisite information, particulars and documents, and finds that the applicant has complied with all the requirements for making the application and furnishing of information, particulars and documents, the Commission or the Secretary shall certify that the application is ready for being considered for grant of licence in accordance with the applicable laws.

34. Advertisement of application and contents thereof

- (1) Unless exempted by the applicable laws/Commission, the applicant shall, within seven (7) days from the date of the admission of the application, publish notice of his application by public advertisement, and such advertisement shall contain such particulars as have been directed by the Commission in these Regulations.
- (2) The advertisement shall be headed by a short title corresponding to that given at the head of the draft licence and shall give the addresses of the offices at which copies of maps therein referred to may be inspected and the copies of draft licence perused or purchased and shall state that every local authority, utility or person, desirous of making any representation/objection with reference to the application to the Commission, may do so by letter addressed to Secretary or such Officer as the Commission may designate in this behalf, within thirty (30) days from the date of publication of the notice.
- (3) The Commission may direct that notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such other manner, as the Commission may consider appropriate. Further, in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defense purposes, the Commission shall issue a licence only after ascertaining that the Central Government has no objection to the grant of the licence.

35. Amendment of draft licence

Any person who desires to have any amendment made in the draft licence shall deliver a statement of the amendment to the applicant and to Secretary or such Officer as the Commission may designate in this behalf within a period of thirty (30) days from the date of publication of notice of the application by way of advertisement in newspapers.

36. Objections

- (1) Any person intending to object to the grant of the licence shall file objection within a period of thirty days from the date of publication of notice of application in newspapers. The objection shall be filed in the form of a reply and the provisions of Chapter II dealing with a reply shall apply to the filing of such objections.
- (2) When applicable, the applicant shall apply for and obtain the no objection required from the Central Government before the application can be placed for hearing by the Commission for grant of the licence.

37. Local Inquiries and Hearings

- (1) If the applicant has duly arranged for the publication of the notice of the intended application and the time for filing of the objection is over and after the applicant has furnished to the Commission the no objection, if required, from the Central Government, the Commission may proceed to place the application for regular hearing.
- (2) The Commission shall give the notice of inquiry or hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission considers appropriate.
- (3) The Commission shall consider the recommendations, if any, from the State Transmission Utility in regard to the grant of licence.
- (4) If any person objects to the grant of a licence applied for, the Commission shall, if either the applicant or the objector so desires, cause a local inquiry to be held of which the notice in writing shall be given to both the applicant and the objector.

Provided that, the Commission may refuse such an inquiry if in its opinion the objection is of a trifling or vexatious nature.

- (5) In case of such local inquiry a memorandum of results of the local inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.
- (6) The hearing on the application for grant of licence shall thereafter proceed as far as possible in the same manner as provided in Chapter II.

38. Approval of draft licence

- (1) After inquiry, if any, and the hearing, the Commission may decide to grant or refuse the licence and if it decides to grant the licence it may do so by approving the draft licence with such modification changes or additions and subject to such other terms and conditions as the Commission may direct.
- (2) When the Commission has approved a draft licence either in its original form or in a modified form, the Secretary or such other officer as the Commission may designate in this behalf, shall inform the applicant of such approval and of the form in which it is proposed to grant the licence and the conditions to be satisfied by the applicant including the fees to be paid by the applicant for the grant of the licence.
- (3) Before granting any licence the Commission shall publish a notice in two such daily newspapers, as the Commission may consider necessary, stating name and address of the person to whom it proposes to issue the licence.
- (4) The Commission shall immediately after issue of a licence, forward a copy of the licence to the State Government, Central Electricity Authority, local authority, and to such other persons as the Commission considers necessary.

39. Notification of grant of licence

On receiving intimation in writing from the applicant that he is willing to accept the licence in the form approved by the Commission and after the applicant satisfies the conditions imposed for the grant of the licence, the Commission shall publish the licence or such part or gist thereof as the Commission considers appropriate.

40. Date of commencement and duration of licence

The licence shall commence from the date the Commission may direct as the date of commencement of licence and shall be valid for a period of twenty five years, unless such licence is revoked.

41. Deposit of maps

When a licence has been granted, three sets of maps showing, as regards such licence, the particulars specified in Clause (b) of sub-Regulation (4) of Regulation 26 shall be signed and dated to correspond with the date of the notification of the grant of the licence by Secretary or any other officer designated by the Commission. One set of such maps shall be retained as the deposited maps by the said Officer and the other two sets given to the licensee.

42. Deposit of printed copies

- (1) Every person who is granted a licence shall within thirty days of the grant thereof:
 - (a) Have adequate number of copies of the licence printed;
 - (b) Have adequate number of maps prepared showing the area of supply stated in the licence;
 - (c) Arrange to exhibit a copy of such licence and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of supply.
- (2) Every such licensee shall, within the aforesaid period of thirty days, supply free of charge one copy of the licence and the relevant maps to every local authority within the area of supply and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same, at a price not exceeding the normal photocopying charges.

43. Preparation and submission of accounts

- (1) Every licensee shall cause the accounts of his utility to be made up to the thirty-first day of March each year.
- (2) Such licensee shall prepare and render an annual statement of his audited accounts in accordance with the provisions of the State Act, within a period of six months from the aforesaid date, or such extended period as the Commission may authorize after it is satisfied that the time allowed is insufficient owing to any cause beyond the control of the licensee and the statement shall be rendered in such numbers of copies as the Commission directs.

- (3) The accounts shall be made up in such forms as the Commission may direct from time to time. All the forms shall be signed by the licensee or his accredited and duly authorized agent or manager.
- (4) The Commission may by special or general order direct that, in addition to the submission of the annual statements of accounts in the forms directed in sub-Regulation (3), a licensee shall submit to the Commission or such other authority as it may designate in this behalf such additional information as it may require for the purpose.

44. Model Conditions of Supply

- (1) The Commission shall specify the model conditions of supply to be adopted and complied by the licensee, with such variations as the Commission may direct.
- (2) The licensee shall always keep in his office an adequate number of printed copies of the Codes formulated under Regulation 63, as amended from time to time and shall, on demand, sell such copies to any applicant at a price not exceeding normal photocopying charges and shall take steps to give suitable publicity to the document.

45. Contravention of Licence

- (1) The Commission may pass such orders, as it thinks fit, in accordance with sections 26 to 28 of the State Act read with sections 95, 128, 129, 130, 142 and 185(3) of the Electricity Act, 2003 for the contravention or the likely contravention, by a licensee, of the terms or conditions of the licence, any provisions of the applicable law or the rules or regulations made thereunder.
- (2) Subject to the provisions of sections 26 to 28 of the State Act read with sections 95, 128, 129, 130, 142 and 185(3) of the Electricity Act, 2003 and the procedure laid therein, the Commission may follow as far as possible the general procedure directed in Chapter II of these Regulations in dealing with a Proceeding arising out of a contravention or likely contravention by a licensee.

46. Deemed grant of the Distribution Licence

- (1) Until otherwise directed by the Commission, the following classes of persons engaged in the supply of electricity in the State of Uttaranchal shall be deemed to have applied for and granted the Distribution Licence for the purpose contained herein and subject to the fulfillment of the conditions contained in sub-Regulation (2) :
 - (a) Persons who supply electricity generated by themselves and/or supplied to them by an authorized person, for the purposes of an event or function not exceeding two months, and when the electricity is distributed through a system owned by them;
 - (b) Persons who supply electricity to the residential colonies as a part of their activity of maintaining such colonies for use and occupation of their employees and/or for use and occupation of persons providing facilities and services to the employees, where such person procures electricity from any Licensee or from any other source approved by the Commission and distributes the electricity within the residential colonies on no-profit motive basis;
 - (c) Such other persons as the Commission may from time to time by order notify, subject to such terms and conditions as the Commission may direct.
- (2) The Licensee under sub-Regulation (1) shall :
 - (a) Not directly or indirectly undertake trading in electricity or distribution or supply of electricity outside its area of operation and the distribution or supply of electricity shall be strictly restricted to the purpose mentioned in sub-Regulation (1) above;
 - (b) Establish the electric line or works only within the area of operation;
 - (c) If so required furnish to the Commission such information required for the purposes of the discharge of the functions of the Commission as the Commission may from time to time direct;
 - (d) Comply with the provisions of the Central Act, the State Act, the Regulations of the Commission, technical codes such as Grid Code, Distribution Code, Standards of performance and Overall Standards of Performance or any other guidelines issued by the Commission;
 - (e) Comply with all applicable rules and regulations concerning the safety and security of the operation; and
 - (f) Comply with any directions which the Commission may issue from time to time in regard to the charges which such persons may levy on the consumers taking into account the charges prevailing in the nearby area of supply of electricity supplied by a licensee.
- (3) The Commission shall be entitled to issue appropriate directions from time to time as it may consider to be necessary and take appropriate actions against a Licensee under this Regulation 46 in accordance with the provisions of the Central Act, the State Act and these Regulations for any breach or non compliance thereof.

- (4) The Commission, at any stage, if it considers to be necessary, direct the Licensee under this Regulation 46 to apply for a licence and consider the grant or refusal of licence and may by an interim or final order directs such licensee to cease to distribute or supply electricity in the area of operation or any part thereof.
- (5) If any difference or dispute arises as to whether the person is entitled to undertake supply of electricity as a Licensee under this Regulation 46, the decision of the Commission, thereon shall be final.

47. Grant of exemption from licence

An exemption from licence shall be granted in a manner that is consistent with the provisions of the applicable law.

48. Revocation of the licence

- (1) The Proceedings, for revocation of the licence or for passing of any other orders stated in section 19 of the Central Act, shall be initiated by an order passed by the Commission, which the Commission may initiate *suo motto* or on application of the licensee or on receiving any complaint or information from any person.
- (2) The procedure and the manner of revocation shall be consistent with the provisions of section 19 of the Central Act.
- (3) Subject to the provisions of the Central Act and the procedure contained therein, the inquiry by the Commission on the revocation of the licence, in so far it is applicable, shall be in the same manner as provided in Chapter II of these Regulations.
- (4) A licensee wishing to apply or give consent for revocation or part revocation of his licence may make an application to the Commission. The Commission shall pass orders on such applications, after hearing the licensee and such other persons as it thinks fit. The procedure to be followed by the Commission on such application shall be as far as possible as provided in Chapter II of these Regulations.

49. Amendment of the licence granted

- (1) Amendment of the licence shall take place in the manner and in the form given in section 18 of the Central Act. Unless otherwise directed by the Commission in writing, the procedure directed in these Regulations for grant of licence, in so far it can be applied, shall be followed while dealing with an application for amendment or alteration of the licence.
- (2) The application for amendment of the licence shall be accompanied with a statement of the proposed amendment and shall be supported by affidavit as provided in Chapter II of these Regulations.
- (3) Unless otherwise directed by the Commission in writing, each application for an amendment or alteration in the licence shall be accompanied by a receipt of such fee as the Commission may require and paid in the manner directed by the Commission.
- (4) The applicant shall, within seven days from the date of admission and numbering of the application for amendment, publish a notice of the amendment application filed giving a brief statement of the amendment proposed, the reason for the proposed amendment, the effect of the amendment proposed on the discharge of the functions of the Licensee under the Licence granted, the alternate arrangement proposed for such discharge of the functions and such other particulars as the Commission may direct. The publication shall give the addresses of the offices at which the application for amendment may be inspected and the copies of documents be purchased and shall state that every local authority, utility or person, desirous of making any representation with reference to application to the Commission, may do so by letter addressed to such Officer as the Commission may designate in this behalf, within thirty days from the date of publication.

50. Suspension of Distribution Licence

- (1) If at any time the Commission is of the opinion that it is necessary in public interest, the Commission may, for reasons to be recorded in writing, suspend the licence of the distribution licensee in the circumstances, manner and form given in section 24 of the Central Act.

51. Regulation of licensee's purchase of power

- (1) The licensee shall file with the Commission in complete form copies of all Power Purchase Agreements already entered into by the licensee.
- (2) The Commission shall be entitled to direct that the licensee shall establish to the satisfaction of the Commission that the purchase of power by the licensee is under a transparent power purchase procurement process and is economical and the power is necessary for the licensee to meet its service obligation.

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- (3) The licensee shall apply to the Commission to approve the draft Power Purchase agreement that the Licensee proposes to enter into. The Commission may pass orders:
 - (a) Approving the agreement; or
 - (b) Approving the agreement with modifications proposed to the terms of the agreement; or
 - (c) Rejecting the agreement.
- (4) Nothing contained herein shall affect the obligations of distribution licensee under the existing contract and arrangement for purchase, import or acquisition of electricity from generating companies, electricity trader and from other persons with whom the licensee has agreements or arrangements of power purchase or procurement of energy in accordance with the terms and conditions of such agreement and arrangement consented to or approved by the Commission.
- (5) The provisions of sub-Regulations (2) and (3) above or any action taken therein shall not, in any manner, prejudice the exercise of functions and powers of the Commission under any of the other provisions of the applicable law, the Regulations and orders to be issued from time to time.

52. Standards of Performance

The Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees which in its opinion, are economical and ought to be achieved by such licensees, and different standards may be determined for different licensees. The Commission may publish the standards so determined in such form and in such manner as the Commission may consider appropriate.

Chapter V--Investment Approvals

53. Requirement for Investment Approval by the Commission

- (1) Unless otherwise directed by the Commission, every licensee shall obtain prior approval of the Commission for making investment in the licensed business if such investment is above the limits laid down by the Commission in the Licence Conditions.
- (2) The limits in the Licence Conditions may be modified by the Commission from time to time by a general or special order.
- (3) In the application for investment approval, the licensee shall furnish the following information or particulars:
 - (a) A detailed project report containing examination of an economic technical system and environmental aspects of the investment together with the outline of the working to be undertaken, the salient features and particulars demonstrating the need for investment;
 - (b) The project cost together with the cost benefit analysis;
 - (c) Whether the investment is in a new project or for expansion or up-gradation of an existing system;
 - (d) Sanctions and statutory clearances required for execution of the project and status of such sanctions and statutory clearances;
 - (e) Phasing of investment over the financial years and Commissioning schedule;
 - (f) The manner in which investments will be capitalized for the purposes of inclusion in the revenue requirements of the Licensee;
 - (g) Constraints which the Licensee may face in making the investments or in the implementing the project including constraints on information available;
 - (h) Resource mobilization and financial plans for meeting the investment;
 - (i) Process for inviting and finalizing tenders for procurement of equipment, material and /or services relating to investment, in accordance with a transparent tendering procedure as may be approved by the Commission; and
 - (j) Such other particulars as the Commission may from time to time direct.

54. Proceedings by the Commission

- (1) The Commission may at its discretion hold such inquiries and consultations as the Commission may consider appropriate while dealing with the application for approval for the investment to be made by the licensee.
- (2) The Commission may at its discretion initiate a proceeding or considers the application for investment approval as a part of the proceedings for determination of tariff or alongwith any other proceedings as the Commission may consider appropriate.

- (3) The Commission shall be entitled to appoint consultants, experts and others as the Commission may consider appropriate and authorize the Commission's staff, consultants and experts to hold discussions and deliberations with the licensees before the Commission considers the application for investment approval which shall be accompanied by such fee as may be directed.

55. Additional Information

- (1) The licensee and other applicants seeking investment approval shall furnish information, particulars, documents as may be required by the Commission staff, consultants and experts appointed by the Commission for the purpose and allow them access to the records and documents in the power, possession or custody of the licensee.
- (2) The licensee shall cooperate with the Commission's staff, consultants and experts to enable them to discharge their functions and to submit a report to the Commission on the outcome of their findings.

Chapter VI--Tariffs

56. Filing by the Licensees & Generating Companies

- (1) The Commission shall specify the terms and conditions of the determination of the licensee's/generating companies revenue and tariffs in accordance with the applicable provisions of law.
- (2) The methodologies and procedures for calculating the expected revenue from charges, and for determining the tariffs may be provided by the Commission from time to time. The Commission may at any time add, amend, alter, revise, substitute or otherwise change the methodologies and procedures, as the Commission considers appropriate.
- (3) Unless otherwise directed by the Commission, the terms and conditions of the determination of the licensee's/generating companies revenue and tariff shall include:
That the tariff allowed and the licensee's/generating companies revenue permitted in any financial year in terms of section 62 of the Central Act shall be subject to adjustments in any tariff to be fixed for the subsequent period if the Commission is satisfied for reasons to be recorded in writing that such adjustments for the excess amount or shortfall in the amount, actually realised is necessary, and the Commission is further satisfied that the same is not on account of any reason attributable to the licensee/generating company.
- (4) Subject to the provisions of the applicable Act, each year, the licensee or the generating company shall file with the Commission on or before 30th November or otherwise as may be directed by the Commission, in the format and in accordance with the guidelines and procedures issued by the Commission for this purpose, statements containing calculation for the ensuing financial year of the expected aggregate revenue from charges under its currently approved tariff and the expected cost of providing services.
- (5) The statement referred to in sub-Regulation (4) above shall be given separately for each of the separate business of the licensee/generating company and in such manner in respect of each such business as the Commission may direct.
- (6) Notwithstanding the above, the licensee/generating company shall forthwith furnish to the Commission such additional information, particulars and documents as the Commission may require from time to time prior, with or after such filing of revenue calculations and tariff proposals, in the format that may be directed by the Commission.
- (7) The Commission may, issue guidelines for filing statement of revenue calculations and tariff proposals and unless waived by the Commission, the licensee/generating company shall follow such guidelines issued by the Commission.

57. Publication of Tariff Proposals & Hearing on objections

- (1) The licensee or the generating company shall publish within three (3) days of submission of its tariff proposal, a notice in at least two (2) newspapers widely circulated in the area of generation or supply, outlining the proposed tariff and calling for objections from the interested persons and the State Government.
- (2) Unless otherwise directed by the Commission, the Commission shall hold a proceeding on the revenue calculations and tariff proposals given by the licensee/generating company and may hear such persons as the Commission may consider appropriate for making a decision of such revenue calculations and tariff proposals.
- (3) The hearing on the revenue calculations and tariff proposals of the licensee/generating company shall, as far as possible, be done in the same manner as provided in Chapter II of these regulations.

58. Order of the Commission

- (1) Subsequent to the licensee or the generating company furnishing the complete information required by the Commission, and upon hearing the applicant and other interested parties and upon making such inquiry as the Commission may consider it to be appropriate, the Commission shall make an order and notify the applicant of its decision on the revenue calculations and tariff proposals.
- (2) While making an order under sub-Regulation (1) above or at any time thereafter the Commission may notify the tariff which the licensee or generating company shall charge.
- (3) The Commission shall, within seven days of the order forward a copy of the order to State Government, the Central Electricity Authority and the concerned licensees/generating companies and to the persons concerned.

59. Publication of Tariff

- (1) The licensee or the generating company shall publish the tariff or tariffs approved by the Commission in the newspapers having circulation in the State and if necessary the Commission may also publicise the same for information of all the stakeholders. The publication shall, besides other things as the Commission may require, include a general description of the tariff amendment and its effect.

60. Revision of Tariff

- (1) The tariff determined shall not be amended or modified more than once in a financial year except in respect of any change expressly permissible under the terms of any fuel surcharge formula as may be provided by the Commission.
- (2) All applications for amendment of tariff in terms of sub-section (4) of section 62 of the Central Act shall be made in such form as the Commission may direct from time to time, and the provisions of Chapter II in so far as they are applicable shall apply to proceeding for amendment of tariffs.

61. Differential Tariffs and Cross-subsidisation

While determining the retail tariff under these Regulations, the Commission may set different tariffs to different persons according to the consumers load factor or purpose of use or power factor, voltage, consumers total consumption of energy during any period, or time during which the supply is required or geographical position of any area, the nature of supply and the purpose for which supply is required.

62. Subsidy from State Government

- (1) The State Government may, at any time as it considers to be appropriate, propose grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission and upon receiving such proposal, the Commission shall determine the amount to be paid as subsidy and the terms and conditions of such payment including the manner of payment of subsidy amounts by the State Government to the person affected by the decision of the subsidy.
- (2) While determining the tariff, the Commission shall take into account any subsidies, which the State Government had agreed to give to any class or classes of consumers.
- (3) Notwithstanding anything contained above, no direction of the State Government shall be operative if the advance payment of the subsidy amount is not made by the State Government in accordance with the provisions of section 65 of the Central Act and the tariff fixed by the Commission shall be applicable from the date of issue of orders by the Commission in this regard.
- (4) The Distribution Licensee shall be required to furnish documents to the satisfaction of the Commission that the subsidy amount received by the Distribution Licensee from the State Government is duly accounted for and utilised for the purpose for which the subsidy is given.

Chapter VII--Performance Standards, Codes, Supply Regulations Etc.**63. Formulation of Codes**

- (1) The Commission may from time to time direct the licensees and generating companies operating in the State to formulate or adopt such codes as the Commission considers appropriate for the proper and efficient conduct of the electricity sector and operation of the power systems in the State.
- (2) The Commission may hold such consultations and proceedings as the Commission considers appropriate to deliberate on the codes so formulated.
- (3) The Commission may appoint consultants or experts to advise the Commission on the codes so formulated.
- (4) The Commission may direct such modifications as it considers appropriate to the codes so formulated.

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- (5) The licensees and generating companies shall implement the codes approved by the Commission consistent with the directions and orders made by the Commission from time to time.
- (6) Without prejudice to the generality of the powers of the Commission in regard to the enforcement of standards of performance in operation of the power system, the codes to be formulated and implemented may include :
 - (a) Grid Code;
 - (b) Distribution Code;
 - (c) Electricity Supply Code and Conditions of Supply;
 - (d) Consumer related codes including code of practice on Payment of Bills; code on disconnection for non-payment, standards and quality of service and fines and penalties for failure, consumer rights, statement and consumer complaint handling procedures;
 - (e) Safety and security codes;
 - (f) Transmission system planning and Security Standards;
 - (g) Distribution system planning and Security Standards;
 - (h) Operating standards; and
 - (i) Codes on utilization of electricity and demand side management.
- (7) The Licensees and generating companies shall follow the existing standards, codes and conditions of supply till the codes, standards and conditions of supply are formulated and implemented in accordance with this regulation.

Chapter VIII--Investigation, Inquiry, Collection of Information etc.

64. Collection of Information

- (1) The Commission may make such order or orders as it thinks fit in terms of the applicable provisions of the Central Act or the State Act for collection of information, inquiry, investigation, entry, search, and seizure and without prejudice to the generality of its powers in regard to the following:
 - (a) The Commission may specially authorize any officer, on behalf of the Commission, to enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry or adjudication under the Central Act and the State Act, may be found and may seize any such document or take extracts or copies therefrom;
 - (b) In the exercise of powers conferred on it by section 128 of the Central Act, the Commission may, on being satisfied that a licensee or a generating company has failed to comply with any of the conditions of the licence or the provisions of the Central Act or the State Act or the rules or regulations made thereunder, at any time, by order in writing, direct an Investigating Authority directed in the order to investigate the affairs of the licensee or generating company and report to the Commission. For this, the Commission may direct the minimum information to be maintained by the licensees and generating companies in their books and also direct the manner in which such information shall be maintained and the checks and verifications to be adopted;
 - (c) 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;
 - (d) 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;
 - (e) The Commission may issue or authorize 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, designated in this behalf the books, accounts, etc. or to furnish to an Officer information, etc. as provided in the Central Act or the State Act;
 - (f) The Commission may, for the purpose of collecting any information, particulars or documents which the Commission consider necessary in connection with the discharge of its functions, issue such directions and follow any one or more of the methods provided for in the Central Act or the State Act;
 - (g) If any such report or information obtained as stated in the Central Act or the State Act or in these Regulations appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer authorized for the purpose may give directions for further inquiry report and furnishing of information;
 - (h) The Commission may direct such incidental, consequential and supplemental matters be attended to which may be considered relevant in connection with the above.

- (2) In connection with the discharge of the functions under the Central Act, the State Act and the Regulations, 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.
- (3) The Commission may, at any time, take the assistance of any institution, consultants, experts, engineers, chartered accountants, advocates, surveyors 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.

Chapter IX—Fines and Charges

65. Imposition of Fines and Charges

- (1) The Commission may initiate a proceeding for imposition of fines and charges and award of compensation upon receiving from the person affected a complaint or on its own if the Commission is of the view that the facts made known *prima-facie* constitute non-compliance or violation by a generating company, a licensee or other person of any provision or requirement of the Central Act or the State Act or of any of the rules or regulations framed thereunder or of directions or orders of the Commission.
- (2) If the Commission decides on the basis of the information received that there is a *prima-facie* cause to proceed in the matter, a case shall be registered and notice shall be issued to the person who is responsible for non compliance or violation under sub-Regulation (1) above to show cause within a reasonable time as to why the Commission should not impose the fines or charges on him. The notice shall state the substance of the allegation against such person with specific reference to the alleged non-compliance or violation.
- (3) On the date fixed in the notice for appearance, the Commission shall explain to the person who is responsible for non compliance or violation or his authorised representative, the non-compliance or violation alleged to have been committed by such person.
- (4) Where the person who is responsible for non compliance or violation appears in response to the notice and admits the truth of the allegation by a memorandum in writing, the Commission shall record the response and may impose fines or charges at its discretion in accordance with the provisions of the Central Act, the State Act and the Regulations framed by the Commission for the purpose and may also award compensation to the affected person.
- (5) Where the person who is responsible for non compliance or violation on appearance does not admit the alleged violation or non-compliance and demands a hearing, the Commission shall proceed to hear the case in accordance with the provisions of the Central Act and State Act and the Regulations.
- (6) If any person to whom a notice has been issued fails without reasonable cause to appear before the Commission on the date fixed for hearing or any subsequent date to which the proceeding may have been adjourned, the Commission may at its discretion proceed with the case *ex parte* in the absence of such person.
- (7) The Commission shall proceed to hear the complainant and take all such evidence, oral or documentary, or by way of affidavit, as may be produced in support of the case and take all such evidence as may be produced by the person who is responsible for non compliance or violation in his defence. Where the proceeding has been initiated upon information received by the Commission, it may direct any of its officers to act as complainant in the matter and present the evidence in the case.
- (8) The Commission, at any stage of the proceeding, shall have the power to summon and enforce the attendance of any person who appears to be acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the Commission appears to be material or relevant to the subject matter of the proceeding.

66. Process for levy and recovery of Fines and Charges

- (1) If on the conclusion of any proceeding, the Commission is satisfied that any person is liable to fines or charges, it may by order in writing impose such fines or charges in accordance with the provisions of the Central Act or the State Act and the Regulations specified for the purpose and may also award compensation.
- (2) While determining the quantum of fines or charges, the Commission shall, amongst other, consider the following factors:
 - (a) The nature and extent of non-compliance or violation;
 - (b) Wrongful gain or unfair advantage derived as a result of the non-compliance or violation;

- (c) Loss or degree of harassment caused to any person(s) as a result of the non-compliance or violation; and
- (d) The repetitive nature of the non-compliance or violation.
- (3) While passing an order under this regulation, the Commission may award compensation to the complainant or affected party to be paid by the person found to have committed the non-compliance or violation.
- (4) The Commission may direct the time within which the fines, charges or compensation should be paid by the concerned person.
- (5) The Commission may designate an Officer to collect the fines and charges pursuant to the provisions of the Central Act and the State Act.

67. Withdrawal and Disposal of Complaint

- (1) If a complainant, at any time before a final order is passed in any proceeding satisfies the Commission that there are sufficient grounds for permitting him to withdraw his complaint against the respondent named in the complaint, or if there be more than one respondent, against all or any of them, the Commission may permit the complainant to withdraw the same.
- (2) If the Commission is of the opinion that it will not be appropriate to allow the withdrawal of the complaint, the Commission may make orders for the complaint being continued by such other person in the place of the complainant and in such manner as the Commission may consider appropriate.
- (3) Where the Commission is of the opinion that the continuance of the proceeding under this regulation is unnecessary or is an abuse of the process, it may at any stage, terminate the proceeding for reasons to be recorded in writing.

Chapter X--Miscellaneous

68. Review of the decisions, directions and orders

- (1) The Commission may on its own or on the application of any of the persons or parties concerned, within 90 days of the making of any decision, direction or order, review such decisions, directions or orders and pass such appropriate orders as the Commission thinks fit.
- (2) An application for such review shall be filed in the same manner as a Petition under Chapter II of these regulations.

69. Continuance of Proceeding after death, etc.

- (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.

70. Proceedings to be open to public

- (1) The Proceedings before the Commission shall be open to the public. However, admission to the hearing room shall be subject to availability of sitting accommodation:
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 not have access to or be or remain in the room or building used by the Commission.

71. Publication of petition

- (1) Where any application, petition, or other matter is required to be published under the Central Act or the State Act or these Regulations or as per the directions of the Commission, it shall unless the Commission otherwise orders or the Central Act or the State Act or the Regulations otherwise provide, be advertised not less than 5 days before the date fixed for hearing.
- (2) Except as otherwise provided, such advertisements shall give a heading describing the subject matter in brief.

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

72. Confidentiality

- (1) Records of the Commission, except those parts which for reasons laid 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 authorized by the Commission.

73. Issue of orders and practice directions

- (1) Subject to the provisions of the Central Act or State 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.

74. Inherent power of the Commission

- (1) 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.
- (2) Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Central Act or State 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.
- (3) Nothing in these Regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the Central Act or State Act, for which no Regulations have been framed, and the Commission may deal with such matters or exercise such powers and functions in a manner it thinks fit.

75. General power to amend

The Commission may, at any time and on such terms as to costs or otherwise wise, 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.

76. Power to remove difficulties

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

77. Power to dispense with the requirement of the Regulations

The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be directed.

78. Extension / abridgment of time directed

Subject to the provisions of the Central Act or the State Act, the time directed 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.

79. Effect of non-compliance

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.

80. Costs

- (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 a Civil Court.

81. Enforcement of orders passed by the Commission

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 Central Act or the State Act and the Regulations and if necessary, may seek the orders of the Commission for directions.

82. Repeal and Savings

- (1) The provisions of the Uttaranchal Electricity Regulatory Commission (Conduct of Business) Regulations, 2002, as amended from time to time shall stand repealed with the coming into force of these Regulations.
- (2) Notwithstanding such repeal anything done or any action taken or purported to have been done or taken including any order or notice made or issued or any instrument executed or direction given under the repealed regulations shall be valid and shall be deemed to have been done or taken under the corresponding provisions of these Regulations.

Form-I

(See Regulation 12)

General Heading for Proceedings

**BEFORE THE UTTARANCHAL ELECTRICITY REGULATORY
COMMISSION, DEHRADUN**

File No.

Case No.

(To be filled by the Office of the Commission)

In the matter of:

(Gist of purpose of petition and legal provision)

And in the matter of:

(Name and full address of the petitioner/applicants)

.....Petitioner(s)

Versus

(Name and full addresses of respondents, on which the services of notice is to be effected. The details of each respondent are to be given)

.....Respondent(s)

1. Specific Legal Provision under which Petition is being filed

(The petitioner shall state under which of the provisions of law the petition is being filed. He declares that the subject matter of the fact, direction, decision or order against which he wants redressal is within the jurisdiction of the Commission.)

2. Limitation

(The petitioner(s) further declares that the present petition is within the period specified.)

3. Facts of the case

That fact of the case are given below :

(Give here a concise statement of facts in chronological order, each paragraph containing as nearly as possible a separate issue, fact or otherwise.)

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4. **Cause of action.**5. **Ground of relief.**6. **Detail of remedies exhausted**

The petitioner(s) declares that he has availed all the remedies available to him under the relevant provisions of applicable law and rules/regulations framed thereunder.

7. **Matter not previously filed for pending with any other court**

(The petitioner(s) further declares that he has not previously filed any petition or writ petition or suit regarding the matter in respect of which this petition has been made, before the Commission, or any court or any other authority, nor any such writ petition or suit is pending before any of them. In case, the petitioner previously has filed any petition, writ petition or suit, the stage at which it is pending and, if decided, the gist of decision should be given with the reference to the number of the annexure given in support thereof.)

8. **Relief sought**

In view of the facts mentioned above, the petitioner(s) prays for the following relief (s):

(Specify here the relief (s) sought explaining the ground for such relief(s) and the legal provisions, if any, relied upon.)

9. **Interim Order, if any, prayed for**

Pending final decision on the application the petitioner(s) seeks issue of the following interim order--

(Give here the nature of the interim order prayed for with reasons.)

10. **Details of Index**

(An index containing the details of the documents to be relied upon to be enclosed and marked as Annexure.)

11. **Particulars of fee remitted.**12. **List of enclosures**

1.

2.

3.

4.

(Signature of Petitioner)

Verification

I, _____, (In case the Petitioner is a company- Name of the Director / Managing Director who is authorized by resolution of the company), (S/o, W/o, D/o) _____ (Indicate any one, as the case may be) age _____ years working as _____ resident of _____ do hereby verify that the contents of the Paras 1 to _____ are true to my personal knowledge and para _____ to para _____ are derived from official records, which are true from record, and Para _____ to _____ believed to be true on legal advice and that I have not suppressed any material fact.

(Signature of Petitioner(s))

Notes:

1. The petition has to be signed, and verified only by the Managing Director or Director, along with resolution of the company for specific petition.
2. The petition has to accompany with the affidavit of the petitioner, duly authenticated by Notary Public, as provided under the Notaries Act, 1952 (Act no. LIII of 1952).

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Form-2

(See Regulation 13)

BEFORE UTTARANCHAL ELECTRICITY REGULATORY
COMMISSION, DEHRADUN

FILE NO.

CASE NO. (To be filled by the Office)

In the matter of

(Gist of purpose of petition and legal provision.)

And In the matter of:

(Name and full address of the Petitioners/ applicant and names and full address of the respondents.)

Affidavit

I, Sh./Smt. _____, (S/o, W/o, D/o) Sh. _____ (aged _____ years), (occupation) _____, residing at _____, the deponent named above do hereby solemnly affirm and state on oath as under:--

1. That the deponent is the Managing Director / Director who is authorized as per the resolution of the company dated _____ (In case the Petitioner is a Company) and is acquainted with the facts deposed to below.
2. I, the deponent named above do hereby verify that the contents of the Paragraph Nos. 1 of the affidavit and those of the Paragraph No. _____ of the accompanying petition are true to my personal knowledge and those of the Paragraph Nos. _____ of the accompanying petition are based on the perusal of records and those of the Paragraph Nos. _____ of the accompanying petition are based on information received and those of the Paragraph Nos. _____ of the accompanying petition are based on the legal advice which I believe to be true and verify that no part of this affidavit is false and nothing material has been concealed.

(Deponent)

I, _____ Advocate, _____, do hereby declare that the person making this affidavit is known to me through the perusal of records and I am satisfied that he is the same person alleging to be deponent himself.

Advocate

Solemnly affirmed before me on this _____ day of _____ 200 at _____ a.m. / p.m. by the deponent who has been identified by the aforesaid Advocate.

I have satisfied myself by examining the deponent that he understood the contents of the affidavit which has been read over and explained to him. He has also been explained about section 193 of Indian Penal Code that whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates evidence for purpose of being used in any of the proceedings shall be liable for punishment as per law.

(Notary Public)