

[AUTHORITATIVE ENGLISH TEXT OF THE HIMACHAL PRADESH VIDYUT VINIYAMAK AYO (VIDYUT OMBUDSMAN) VINIYAM, 2004, AS REQUIRED UNDER CLAUSE (3) OF ARTICLE 348 OF THE CONSTITUTION OF INDIA]

THE HIMACHAL PRADESH ELECTRICITY REGULATORY COMMISSION, SHIMLA

No.HPERC/609(B)

Dated: Shimla, the 5th April,2004

NOTIFICATION

In exercise of the powers conferred by section 181 read with sub-section (7) of section 42 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Himachal Pradesh Electricity Regulatory Commission, after previous publication, makes the following regulations, namely :-

REGULATIONS

1. Short title, extent and commencement - (1) These regulations may be called the Himachal Pradesh Electricity Regulatory Commission (Electricity Ombudsman) Regulations, 2004.

(2) These regulations shall extend to whole of the State of Himachal Pradesh.

(3) These regulations shall come into force from the date of their publication in the Rajpatra, Himachal Pradesh.

2. Definitions - In these regulations, unless the context otherwise requires, -

- (1) "Act" means the Electricity Act, 2003 (Act No. 36 of 2003);
- (2) "award" means an award made under regulation 12 or an agreement registered as an award under regulation 11;
- (3) "Commission" means the Himachal Pradesh Electricity Regulatory Commission;
- (4) "complainant" means a person who represents by way of a complaint to the Electricity Ombudsman under regulation 8;
- (5) "Electricity Ombudsman" means an authority appointed or designated by the Commission as Ombudsman, under sub-section (6) of Section 42 of the Electricity Act, 2003;
- (6) "Form" means form appended to these regulations;
- (7) "representation" means a representation made under regulation 8;
- (8) the words and expressions used and not defined in these regulations but defined in the Electricity Act, 2003 (36 of 2003), or the Consumer

Protection Act, 1986 (68 of 1986) or the Himachal Pradesh Electricity Regulatory Commission (Guidelines for Establishment of Forum for Redressal of Grievances of the Consumers) Regulations, 2003 shall have the meanings respectively assigned to them in those Acts/Regulations or in absence thereof, the meanings as understood in the electricity industry.

3. Appointment and tenure - (1) The Commission will designate/appoint a person to be known as Electricity Ombudsman to carry out the functions entrusted to him by these regulations.

(2) The Electricity Ombudsman under this regulation shall hold office for a term of three years from the date he enters upon his office and he shall not be eligible for reappointment:

Provided that the Electricity Ombudsman shall not hold office as such after he has attained the age of 65 years.

(3) The Electricity Ombudsman appointed under Clause (1) shall devote his whole time to the affairs of his office.

(4) The Electricity Ombudsman shall be a person of ability, integrity and standing who has adequate knowledge of and has shown capacity in dealing with problems relating to engineering, electricity industry, regulations and law and has held strategic positions in the said fields at the level not below that of the Director on the Board of Directors of a Utility or equivalent position under the Government.

(5) The salary, allowances payable to and other terms and conditions of appointment of the Electricity Ombudsman will be such as may be determined by the Commission from time to time and shall be paid out of the Fund Constituted under section 103 of the Act:

Provided that till the time Fund is constituted or as may be reasonably practicable thereafter in the opinion of the Commission, the remuneration and other allowances payable to the Electricity Ombudsman shall be borne by the distribution licensees in such proportion and in such manner as may be determined by the Commission.

(6) The Electricity Ombudsman shall before entering upon his office, make and subscribe to, before the Chairperson of the Commission, an oath of office and secrecy in such manner and form as may be determined by the Commission.

(7) The Commission may, by order, remove from office the Electricity Ombudsman if he –

- (a) has been adjudicated insolvent;
- (b) has been convicted of an offence which involves moral turpitude;
- (c) has become physically or mentally incapable of acting as Electricity Ombudsman;
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as Electricity Ombudsman;

- (e) has so abused his position as to render his continuance in office prejudicial to the public interest ;
- (f) has been guilty of proved misbehaviour:

Provided that the Electricity Ombudsman shall not be removed on any ground specified in sub-clauses (d), (e) and (f) unless the Chairperson of the Commission has, on an enquiry, held that the Electricity Ombudsman ought on such ground or grounds be removed.

(8) The Electricity Ombudsman may, by giving three month's written notice or paying three month's consolidated emoluments in lieu of the notice period, resign from his office.

4. Territorial jurisdiction - The territorial limits of Electricity Ombudsman shall extend to the whole of the State of Himachal Pradesh.

5. Location of office and temporary headquarters - The office of the Electricity Ombudsman will be located at the same station where the office of the Commission is located. In order to expedite disposal of representations, the Electricity Ombudsman may hold sittings at such places within his area of territorial jurisdiction as may be considered necessary and proper by him in respect of a representation or as the case may be of reference, before him.

6. Secretariat – (1) The Electricity Ombudsman shall be provided with a Secretariat.

(2) The expenses of the Secretariat shall be paid out of the Fund constituted under section 103 of the Act:

Provided that till the time Fund is constituted or as soon as may be reasonably practicable thereafter in the opinion of the Commission, the expenses of the Secretariat shall be borne by the Distribution Licensee in such proportion and in such manner as may be determined by the Commission.

7. Powers and duties of the Electricity Ombudsman – (1) The Electricity Ombudsman shall have the power to receive the representations for the non-redressal of grievances by the Forum or against the order of the Forum and consider such representations and facilitate their satisfaction or settlement by agreement, through conciliation and mediation between a distribution licensee and the aggrieved party or by passing an award in accordance with the Act and the Rules or the Regulations made thereunder.

(2) The Electricity Ombudsman shall exercise general powers of superintendence and control over his office and shall be responsible for the conduct of business thereat.

(3) The Electricity Ombudsman shall have the powers to incur expenditure on behalf of his office. In order to exercise such powers, the Electricity Ombudsman will draw up an annual budget for his office after approval of the Commission and shall exercise the powers of expenditure within the approved budget.

8. Procedure for filling a complaint/representation – (1) Any person, who is aggrieved-

- (a) by an order of the Forum made on a complaint, may represent in Form-1 against such order to the Electricity Ombudsman within a period of 45 days from the date of such order;
- (b) by non-redressal of his grievance by the Forum, after a period of three months from the date of his filing of the complaint with the Forum, may represent in Form-1 to the Electricity Ombudsman.

Provided that the Electricity Ombudsman may, after the expiry of the period fixed under this sub-regulation, entertain a representation, if he is satisfied that there was sufficient cause for not filing it within that period.

(2) The representation in para (a) of clause (1) and the complaint in para (b) of clause (1), shall be in writing duly signed by the person making it or his authorised representative and shall state clearly-

- (a) the name and address of the aggrieved person;
- (b) his service connection account number and category;
- (c) the name and location of office, division, circle and zone of the distribution licensee against whom representation is sought to be made;
- (d) the facts giving rise in representation supported by documents, if any; and
- (e) relief sought from the Electricity Ombudsman.

(3) On complying with the requirements as laid down in Clause (2) the representation under this regulation can also be made through e-mail to the Electricity Ombudsman's E-mail ID, in the text format in Form-I.

(4) No representation under this regulation shall lie, unless-

- (a) it is made within a period of 45 days from the date of the order of the Forum or within such extended time as may be allowed by the Electricity Ombudsman on his satisfaction of the reasons for delay shown by the aggrieved person;
- (b) it has not been made earlier for the same relief by the same aggrieved person;
- (c) it does not pertain to the same subject matter for which any proceedings before any court are pending or a decree or award or final order has been passed by any competent court;
- (d) the aggrieved person, if required to pay amount in terms of an order of the Forum, has deposited fifty percent of that amount.

9. Rejection of the complaint/representation – (1) The Electricity Ombudsman may reject the representation at any stage if it appears to him that it is –

- (a) frivolous, vexatious, malafide; or
- (b) without any sufficient cause; or
- (c) not pursued by the aggrieved person with reasonable diligence; or

- (d) prima facie, there is no loss or inconvenience caused to the person making it.

(2) The Electricity Ombudsman may reject a representation made to it at any stage, if after its consideration and evidence produced before him the Electricity Ombudsman is of the opinion that the complicated nature of the representation requires consideration of elaborate documentary and oral evidence and the proceedings before the Electricity Ombudsman are not appropriate for its adjudication. The decision of the Electricity Ombudsman in this regard shall be final and binding on the complainant and the distribution licensee.

10. Powers to call information -(1) After registering the representation made to it by the aggrieved person, the Electricity Ombudsman, within seven days of registration, shall call for record relating to it, from the concerned Forum. The concerned Forum shall send to the office of the Electricity Ombudsman the entire records within 15 days from the date of receipt of such notice.

(2) For the purpose of carrying out his duties, the Electricity Ombudsman may require the distribution licensee named in the complaint, or any of his officers, to furnish certified copies of any document relating to the subject matter of the complaint, which is or is alleged to be in its possession, within 15 days:

Provided that in the event of failure of a distribution licensee to comply with the direction made under this Clause without any sufficient cause, the Electricity Ombudsman may, if he deems fit, draw the inference that the information, if provided or copies if furnished, would be unfavourable to the distribution licensee and proceed to settle the case on the basis of material available on record.

(3) The Electricity Ombudsman shall maintain secrecy of any confidential information or document coming into his knowledge or possession in the course of discharging his duties and shall not disclose such information or document to any person except with the consent of the person furnishing such information or document:

Provided that nothing in this clause shall prevent the Electricity Ombudsman from disclosing information or document furnished by a party in a representation made to it, to other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play and transparency in the proceedings.

11. Settlement of grievance by agreement – (1) As soon as it may be practicable to do so, but not later than one week from the date of receipt of record under regulation 10, the Electricity Ombudsman shall serve a notice to the concerned officer of the distribution licensee named in the complaint, alongwith a copy of the complaint, and endeavour to promote a settlement of the grievance by agreement between the aggrieved party and the distribution licensee through conciliation or mediation.

(2) For the purpose of facilitating settlement of the grievance, the Electricity Ombudsman may follow such procedures, as he may consider appropriate.

(3) When a grievance is reported settled, through mutual agreement and reported to the Electricity Ombudsman by both parties in writing, the Electricity Ombudsman shall make an order, in terms of agreement. The copies of such order shall be sent to the aggrieved person and the distribution licensee concerned within 7 days from the date of recording of the mutual agreement.

(4) The distribution licensee shall comply with the agreement mutually settled within 30 days of receipt of order of the Electricity Ombudsman and report the date of compliance.

12. Hearing of the matter and award -(1) Where the grievance is not settled by agreement under regulation 11, the Electricity Ombudsman shall;

- (a) determine the manner, the place, the date and the time of the hearing of the matter;
- (b) hear the pleadings of the parties or direct the parties to submit written statements of submissions in the matter.
- (c) pass a written and speaking order with reasons which he thinks fair in the facts and circumstances of the case; and
- (d) on the basis of said order, shall make, with full details, an award

(2) The Electricity Ombudsman shall make an award under clause (1) as early as possible but not later than three months from the date of receipt of the complaint and send a copy of the award to the aggrieved person, distribution licensee and the Commission.

(3) The award shall be binding on both the parties and the licensee shall comply with the award within 30 days of receipt of award and report the date of compliance to Electricity Ombudsman and also to the Commission.

13. Enforcement of award or agreement - (1) In case of non-compliance of mutual agreement made under regulation 11 or the award made under regulation 12 the aggrieved person, or the Electricity Ombudsman, may file an application for enforcement of award, with the Commission.

(2) On such reference under Clause (1) the Commission shall take appropriate action to enforce the award.

14. Periodical Statements – Within a month after each quarter of the financial year, the Electricity Ombudsman shall furnish in Form-2 to the Commission a quarterly statement specifying the number of representations in each category received by the Electricity Ombudsman and settled in relation to each distribution licensee during the period covered by the statement.

15. Report of Electricity Ombudsman – (1) The Electricity Ombudsman shall also send to the Commission, by 31st May every year, a report containing a general review of the activities of his office during the preceding financial year and furnish such other information as the Commission may direct.

(2) The Commission may, if it considers necessary in the public interest to do so, publish the report and the information received from the Electricity Ombudsman in such consolidated form or otherwise as it deems fit.

16. Powers to Remove Difficulties - If any difficulty arises in giving effect to any provision of these regulations, the Commission may, by general or special order, direct the distribution licensee, the Forum or the Electricity Ombudsman to take suitable action, not being inconsistent with the Act, which appears to the Commission to be necessary or expedient for the purpose of removing the difficulties.

17. Savings - Nothing contained in these regulations shall affect the rights and privileges of the consumers under any other law, for the time being in force, including under the Consumer Protection Act, 1986 (68 of 1986)

By the Order of the Commission

**Sd/-
Secretary**

Form-I
(see regulation 8)

REPRESENTATION BEFORE ELECTRICITY OMBUDSMAN

NO. of year

Date
(To be filled up by office)

To
The Electricity Ombudsman
(Address) _____

Dear Sir,

Sub:- Grievance Against
(Name of the Distribution Licensee)

Being aggrieved the consumer named herein had submitted a representation to the Forum. Details of the Grievance are as under:-

1. Name of the Consumer
2. Full Address of the Consumer
Pin Code
Phone No./Fax No.
3. Name and Full Address of the Distribution Licensee,
Pin Code, Phone No./Fax No.
4. Particulars of connection and Consumer Account No.
(Please state nature of connection)
.....
5. Date of representation by the Consumer to the Distribution Licensee
.....
(Please enclose three copies of the representation)
6. Subject matter of the representation
.....
7. Details of the representation
(If space is not sufficient, please enclose separate sheet)
.....
.....
.....
.....

8. Whether the Consumer has received the final decision of the Forum?

(If yes, please enclose 'three copies' of the Forum's order conveying its final decision)

9. Nature of relief sought from the Electricity Ombudsman

.....
(Please enclose 'three copies' of documentary proof, if any, in support of your claim)

10. Nature and extent of monetary loss, if any, claimed by the consumer (if any) by way of compensation Rs.

(Please enclose documentary proof, if any, to show that such loss is actual loss caused as a direct consequence of alleged act, omission or commission of the Distribution Licensee)

11. List of Documents enclosed.

(Please enclose 'three copies' of all the documents)

12. Declaration –

(a) I/We, the Consumer/s herein declare that -

- (1) the information furnished herein above is true and correct; and
- (2) I/We have not concealed or misrepresented any fact stated in aforesaid columns and the documents submitted herewith.

(b) The subject matter of my/our representation has never been brought before the office of the Electricity Ombudsman by me/or by any one of us or by any of the parties concerned with the subject matter to the best of my/our knowledge.

(c) The subject matter of my/our representation has not been settled through the office of the Electricity Ombudsman in any previous proceedings.

(d) The subject matter of the present representation has not been decided by any authority/court/arbitrator.

OR

The subject matter of the present representation is pending since (Please mention the date when the matter was filed) Before (Please mention

the name of the authority/court/arbitrator before whom the matter is pending) and the proceedings are likely to take time for being finally adjudicated.

Yours faithfully,

(Signature)

(Consumer's name in block letter)

Nomination - If the Consumer wants to nominate his representative to appear and make submissions on his behalf before the Electricity Ombudsman or to the office of the Electricity Ombudsman, the following declaration should be submitted:-

I/We the above named Consumer hereby nominate Sh/Smt....., who is not an Advocate and whose address is..... as my/our representative in the proceedings and confirm that any statement, acceptance or rejection made by him/her shall be binding on me/us. He/She has signed below in my presence.

Accepted.

(Signature of Representative).

(Signature of Consumer)

Form-2
(See regulation –14)

MONITORING REPORT FOR THE QUARTER ENDING _____

NAME OF DISTRIBUTION LICENSEE _____

Sr.No	Status of representations received	Nature of representations received							
		Delay in giving supply of electricity	Quality of voltage	Interruptions in supply	Metering problems	Billing problems	Tariff problems	Others (specify)	Total
1	2	3	4	5	6	7	8	9	10
1	Representations pending at end of the last quarter								
2	Representations received during the quarter								
3	Total representations (1+2)								
4	Representations attended during the quarter								
5	Balance representations to be attended (3-4)								
6	Representations pending for more than 3 months								

Note: The present status for each representations pending for more than three months may be furnished separately.

