

**JAMMU & KASHMIR
STATE ELECTRICITY REGULATORY COMMISSION**



**CONSUMER GRIEVANCE REDRESSAL FORUM,
OMBUDSMAN AND CONSUMER ADVOCACY,
REGULATIONS 2011**

(Draft Regulations)

APPENDICES

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ABBREVIATIONS

APERC	Andhra Pradesh Electricity Regulatory Commission
APTEL	Appellate Tribunal for Electricity
ARR	Aggregate Revenue Requirement
CEO	Chief Executive Officer
CGRF	Consumer Grievance Redressal Forum
CRIS	CRISIL Risk & Infrastructure Solutions Limited
CSERC	Chattisgadh Electricity Regulatory Commission
DERC	Delhi Electricity Regulatory Commission
EHT	Extra High Tension
FOR	Forum of Regulators
GERC	Gujarat Electricity Regulatory Commission
HPERC	Himachal Pradesh Electricity Regulatory Commission
IGR	Internal Grievance Redressal
IIT	Indian Institute of Technology
MERC	Maharashtra Electricity Regulatory Commission
NEP	National Electricity Policy
NGO	Non Governmental Organization
PSERC	Punjab State Electricity Regulatory Commission
RERC	Rajasthan Electricity Regulatory Commission
SERC	State Electricity Regulatory Commission
TOR	Terms of Reference
UERC	Uttarakhand Electricity Regulatory Commission

DRAFT INVITING OBJECTIONS, SUGGESTIONS AND COMMENTS

Jammu and Kashmir State Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2011.

In exercise of the powers conferred by sub-sections (r) and (s) of Section 138 read with sub-sections (5) to (7) of Section 36 of the Jammu and Kashmir Electricity Act, 2010 (XIII of 2010) and all other powers enabling it in this behalf, the Jammu and Kashmir State Electricity Regulatory Commission hereby makes the following Regulations, (These Regulations are in substitution of;

- i) JKSERC (Guidelines for Establishment of Forum Fore Redressal of Grievances of the Consumers) Regulation 2010.
- ii) JKSERC (Electricity Ombudsman) Regulations 2010.

1. CHAPTER

SHORT TITLE, COMMENCEMENT, DEFINITIONS AND INTERPRETATIONS

Short Title and Commencement

- 1.1. These Regulations may be called the Jammu and Kashmir State Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy) Regulations, 2011.
- 1.2. These regulations shall be applicable to all distribution licensees in Jammu and Kashmir State in their respective licensed areas.
- 1.3. These Regulations shall come into force from the date of their notification in the Government Gazette.

1.4. These Regulations shall be construed harmoniously with the Distribution Performance Standards Regulation and the Electricity Supply Code specified by the Commission under the provisions of clauses (v) and (x) of sub-section (2) of Section 138 of the Act. In case of any inconsistency with these Regulations, the standards of performance of Distribution Licensees and the Electricity Supply Code shall prevail.

Definitions

1.5. In these Regulations, unless the context otherwise requires:

- a) "**Act**" means the Jammu and Kashmir State Electricity Act, 2010 (Act No. XIII of 2010) and its amendments;
- b) "**Commission**" means the Jammu and Kashmir State Electricity Regulatory Commission;
- c) "**Complainant**" means and includes the following who have a grievance as defined in these Regulations:
 - a consumer as defined under clause (11) of section 2 of the Act;
 - an applicant for a new electricity connection;
 - any registered consumer association ;
 - any unregistered association or group of consumers, where the consumers have common or similar interests; and
 - in case of death of a consumer, his legal heir(s) or representative(s).
- d) "**Grievance**" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which has been undertaken to be performed by a Distribution Licensee in pursuance of a licence, contract, agreement or under the Electricity Supply Code or in relation to standards of performance of Distribution Licensees as specified by the Commission and includes

safety of distribution system having potential of endangering of life or property.

- e) **"Forum"** means the forum for redressal of grievances of consumers required to be established by Distribution Licensees pursuant to sub-section (5) of Section 36 of the Act and these Regulations.
- f) **"Licensee"** means a distribution licensee and shall include Jammu and Kashmir Power Development Department.
- g) **"Ombudsman"** means an authority appointed or designated by the Commission, under subsection (6) of Section 36 of the Act.
- h) **"Representation"** shall mean the representation made to the Ombudsman by the complainant in person or on behalf of such complainant who is aggrieved by the outcome of Forum's proceedings in respect of his/ her grievance (including not issuing the order within specified time-limit, dissatisfaction with the order issued, partial or full dismissal of the grievance).

Interpretations

- 1.6. Words and expressions used and not defined in these Regulations but defined in the Act shall have the meanings respectively assigned to them in the Act.

2. CHAPTER

CONSUMER GRIEVANCES REDRESSAL FORUM (CGRF)

Number, Locations and Sitings

- 2.1. In terms of subsection (5) of Section 36 of the Act, every distribution licensee shall, within six months of Appointed Date or date of grant of distribution license whichever is later, establish one or more Forum(s)

- for redressal of grievances of Complainants in accordance with these regulations.
- 2.2. The number of Forums, their locations and areas of jurisdiction may be decided by the licensee. At least one Forum may be established in each of the Cities of Jammu & Srinagar, whereas a single Forum may be established for three to four revenue districts which are rural areas. While deciding the number of Forums, the licensee shall ensure that adequate numbers of Forums are established so that Members of a Forum are able to conduct atleast one sitting in each revenue district each week and all grievances are redressed within the time-limit specified under these Regulations.
- 2.3. In order to ensure that all grievances are disposed within the specified time-limit, the Commission may, from time to time, require the licensee to increase the number of Forums.

Appointment and Removal of Members

- 2.4. Each Forum shall consist of 3 (three) members: Member 1, Member 2 and Member 3. Member 1 and Member 2 shall be identified and appointed by the licensee whereas Member 3 shall be identified and appointed by the Commission. Member 1 shall be designated as Chairperson of the Forum.
- 2.5. The Forum shall provide details about Member 1 and 2 to the Commission within one week of appointing them. The Commission shall verify satisfaction of eligibility criteria of the appointed members.
- 2.6. The members shall meet the following criteria for being eligible to be selected:
- a) Member 1: The person should be a Retired Judicial Officer with minimum 10 years of experience as a Sub divisional District Magistrate

- b) Member 2: The person should be a serving officer of the licensee not below the rank of Executive Engineer or equivalent with atleast 10 years of experience in electricity supply or distribution
 - c) Member 3: The person shall be a representative of a registered society/ NGO/ Consumer Organization having one of its main objectives as consumer protection, with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer related matters. However, the person should not have worked as employee/officer of the licensee concerned at least 3 (three) years prior to his nomination.
- 2.7. Every member of the Forum shall hold office for a fixed term of 3 (three) years. The tenure of a member may be extended by the licensee for a further period not exceeding 2 (two) years
- 2.8. The age-limit for occupying the office for Member 1 and Member 3 shall be 65 years with three years term of office.
- 2.9. The members of the Forum shall be persons of experience, ability, integrity and standing
- 2.10. Member 1 and Member 2 appointed by the licensee shall not hold any other office during their tenure in the Forum.
- 2.11. No person shall be appointed and/or be entitled to continue as a member if he/ she stands disqualified on account of his/ her:
- a) having been adjudged an insolvent;
 - b) having been convicted of an offence which, in the opinion of the licensee, involves moral turpitude;
 - c) having become physically or mentally incapable of acting as such member;

- d) having acquired such financial or other interest as is likely to affect prejudicially his/ her functions as a member;
 - e) having so abused his/ her position as to render his/ her continuance in office prejudicial to public interest; or
 - f) having been guilty of proved misbehaviour.
- 2.12. An existing member shall be liable to be removed from his office forthwith on account of any of the aforesaid disqualifications arising or being discovered.

Provided that no member shall be removed from his office on any ground specified in the aforesaid sub clauses unless the licensee, has, on an independent inquiry held by it, in accordance with such procedure as directed by the Commission, reported to the Commission that such member ought, on such ground or grounds, be removed.

- 2.13. The licensee shall ensure that no post of a member in the Forum remains vacant for a period exceeding 30 (thirty) days.

Remuneration and other expenses

- 2.14. The sitting fees, honorarium and/ or other allowances (collectively "Remuneration") payable to Member 1 and Member 2 shall be decided by the licensee. The Remuneration for Member 3 shall be decided by the Commission.

- 2.15. The terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms and conditions of his/ her employment with such licensee. Thus Member 2 shall continue to draw the same salary as he/ she is entitled to as a regular employee of the licensee.

- 2.16. The office space, secretarial support and other facilities required for smooth functioning of the Forum shall be provided by the licensee.

2.17. The licensee shall meet all the costs and expenses of the Forum including the cost of establishment and staff required to assist the Forum in the discharge of its functions under these Regulations. The expenditure on the Forum(s) will be considered in the revenue requirement of the licensee and will be allowed as a pass through expense.

Procedural matters

2.18. The quorum for any meeting of the Forum shall be two and each member shall have one vote. In case of equality of votes on any issue, Member 1 (Chairperson) shall have a casting vote.

2.19. Member 1 (Chairperson) shall have the general powers of superintendence and control over the Forum

2.20. All decisions of the Forum shall, as far as possible, be unanimous or be on the basis of decision by majority of the members present.

2.21. No act or proceeding of the Forum shall be deemed to be invalid by reason only of some defect in the constitution of the Forum or by reason of the existence of a vacancy among its members.

2.22. The Forum shall comply with such general directions as the Commission may issue from time to time in the interest of more efficient and effective redressal of grievances.

2.23. The licensee shall from time to time give due publicity about the Forum and its charter through advertisement in widely circulated local newspapers and in such other manner as it considers appropriate and as the Commission may direct, from time to time. The names of the members of the Forum, their addresses and phone numbers shall be displayed prominently at all the offices of the licensee which has interface with consumers and shall also be duly published, including on the electricity bills raised on the consumers

Reporting Requirements

- 2.24. The Forum shall submit a quarterly report on disposal of grievances to the licensee, Commission and Ombudsman. The report should be submitted within 15 days of close of the quarter to which it relates.
- 2.25. The quarterly report should be submitted in accordance with the format as specified in ANNEXURE III of APPENDIX I
- 2.26. The Forum shall also furnish a yearly report containing a general review of activities of the Forum during the financial year to the licensee, Commission and Ombudsman. The report should be submitted within 45 days of close of the financial year to which it relates.

Presence of grievance handling mechanisms preceding the Forum

- 2.27. For expeditious resolution of problems of a Complainant, any mechanisms existing within the licensee, other than the Forum established under these Regulations, may be retained: Provided that the Complainant shall have the right to approach the Forum directly in respect of matters falling under jurisdiction of the Forum.

Classification/ prioritization of grievances

- 2.28. As far as is possible and practical, the grievances shall be prioritized for redressal based on the following priority order.
- a) Disconnection of supply
 - b) Meter related issues
 - c) Billing related issues
 - d) Other issues

Provided, it should be ensured that all grievances are disposed within the time limit specified under these Regulations

Process for submission of grievance

- 2.29. The Complainant can submit his/ her grievance to the appropriate Forum under whose jurisdiction his/ her connection exists. The Complainant can also register submit his/ her grievance at the complaint receiving centres, already established by the licensee, nearest to his/ her connection already established by the Licensee. The grievance may be submitted either in person or through post, email or fax.
- 2.30. All complaint receiving centres shall accept the grievances from Complainants falling within the jurisdiction of the Forum. The grievance so received along with other supporting documents shall be forwarded to the relevant Forum within the next working day.
- 2.31. The grievance shall be submitted as per the format specified in ANNEXURE I of APPENDIX I
- 2.32. The Complainant shall be issued acknowledgement of the receipt of grievance by the complaint receiving centre. In case of registering registration of the grievance in person, the acknowledgment shall be issued immediately. In case of receipt of grievance by post, email or fax, the acknowledgement shall be despatched latest by next working day. In case of issuance of acknowledgment by a complaint receiving centre, the contact details of the relevant Forum shall also be issued along with the acknowledgement

Limitations/ pre-conditions for submission of grievance

- 2.33. The Complainant shall not be entitled to approach the Forum in the following cases:
- a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee, are pending before any court, tribunal, arbitrator or any other authority, or a

decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority; and

- b) In cases which fall under the Sections 86, 87, 95 to 100, 114 and 123 of the Act.
- c) In cases where the grievance has been registered two years after the date on which the cause of action has arisen
- d) Grievances which are:
 - frivolous, vexatious, malafide;
 - without any sufficient cause;
 - there is no prima facie loss or damage or inconvenience caused to the Complainant;

Provided that no grievance shall be rejected unless the Complainant has been given a opportunity of being heard.

Investigation Process

2.34. The Forum shall forward a copy of the grievance to the concerned officer of the Licensee or the employee / employees / department named in the grievance ("respondent party")

2.35. The respondent party shall furnish parawise comments to the Forum on the grievance within 15 days of receipt of the grievance copy, failing which the Forum shall proceed on the basis of the material available on record.

2.36. The Forum may call for any record from the respondent party or from the Complainant, as is relevant for examination and disposal of the grievance and both the parties shall be under obligation to provide such information, document or record as the Forum may call for. Where a party fails to furnish such information, document or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.

- 2.37. The Forum may also direct the Licensee to undertake an inspection or engage a third party to undertake such inspection with regard to the Grievance, as may be required for expeditious redressal of the Grievance. The Forum can also engage a third party (other than the Licensee) at the instance and request of the Complainant, to undertake inspection and obtain an independent report. The Forum shall record the reasons for the need for such third party inspection, which should generally be resorted to rarely and keeping in view the special circumstances of a case. The expenses of such third party inspection, except expenses of inspection at the request of the Complainant, shall be borne by the Licensee, and to the extent reasonable and justifiable such expenses shall be allowed in the determination of tariff in accordance with the relevant Regulations of the Commission. In case, inspection is taken up at the request of the Complainant, the expenses shall be deposited in advance by him, which may or may not be refunded by the Forum depending on the complaint being found to be of substance or not.
- 2.38. The Forum can call the officer concerned of the Licensee for discussion in suitable cases, in order to seek redressal of the grievance filed before it. In case the matter is settled in discussion, it may be recorded as a decision and conveyed to the Complainant and the Licensee.
- 2.39. In case the Forum comes to the conclusion that the Complainant and the concerned officer of the Licensee are required to be heard for redressal of the grievance, the Forum shall call the Complainant and the concerned officer with the details of the case and documents, if any, as may be necessary.
- 2.40. A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Forum may either appear in person or authorise any person to present his/ her case before the

Forum and to do all or any of the acts for the purpose. However, any party may not be represented by a professional counsel.

- 2.41. Where the Complainant or the Licensee or their representative fails to appear before the Forum on the date fixed for hearing on more than two occasions, the Forum may decide the grievance ex-parte.
- 2.42. No adjournment shall ordinarily be granted by the Forum unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Forum; provided further that the Forum shall make such orders as to the cost occasioned by the adjournment to be paid by the defaulting party to the non-defaulting party and/ or to the Forum
- 2.43. The Forum shall not be bound to follow the procedure prescribed in the Civil Procedure Code, Svt 1977 (Act No. X of 1977) (1920 AD) or the Indian Evidence Act, Svt 1977 (1920 AD) (Act No. XIII of 1977) in its proceedings. Subject to these Regulations the Forum may evolve procedures conforming to the principles of fair play and justice for efficient discharge of its functions.

Issue of Order

- 2.44. On receipt of the comments from the Licensee or otherwise and after conducting or having such inquiry or local inspection conducted as the Forum may consider necessary, and after affording reasonable opportunity of hearing to the parties, the Forum shall take a decision by a majority of votes of the members of the Forum present and in the event of equality of votes, the Chairperson shall have the second and casting vote
- 2.45. If, after the completion of the proceedings, the Forum is satisfied after voting that any of the allegations contained in the grievance are correct, it shall issue an order to the Distribution Licensee directing it

to do one or more of the following things in a time bound manner, namely

- a) to remove the cause of grievance in question;
- b) to return to the Complainant the undue charges paid by the Complainant along with the interest;
- c) any other order, deemed appropriate in the facts and circumstances of the case.

2.46. The proceedings and decisions of the Forum shall be recorded and shall be supported by reasons. The order shall be a Reasoned Order and signed by the members conducting the proceedings. Where the members differ on any point or points, the opinion of the majority shall be the Order of the Forum. The opinion of the minority shall however, be recorded and form part of the Order.

2.47. In case of grievances related to disconnection of supply, the Forum shall pass the order within 15 days of filling of the grievance and in case of other grievances, the order shall be passed within 45 days of filling of the grievance:

Provided also that in the event of grievance being disposed of after the maximum period specified above, the Forum should record in writing, the reasons for the same at the time of disposing of the said grievance and inform the Ombudsman

2.48. The order of the Forum shall be communicated to the Complainant and Licensee in writing within 7 days. A certified copy of every order passed by the Forum shall be delivered to the parties

2.49. Subject to the right of the representation before the Ombudsman specified in these Regulations, the Orders of the Forum shall be binding on the Complainant and the Licensee.

- 2.50. The Licensee shall comply with the order of the Forum within 21 days from the date of receipt of the order. In appropriate cases, considering nature of the case, the Forum, on the request of the Licensee, may extend the period for compliance of its order up to a maximum period of 3 months. Non-compliance of the order of the Forum shall be treated as violation of Regulations of the Commission and shall be liable for action under section 102 of the Act.
- 2.51. The concerned officer of the Licensee shall furnish compliance report of the order of the Forum within seven days from the date of compliance, to the Forum and to the Complainant. The Forum shall keep record of the compliance of its orders and review the same every month. In case of non-compliance of its orders the Forum shall take up matter with the higher authorities of the licensee for compliance. If even after that the order is not complied with, the Forum shall inform the Commission regarding such non-compliance.

Special provisions: Interim Order, Review of Order, Escalation mechanism

- 2.52. On request of the Complainant, the Forum may issue such interim orders pending final disposal of the grievance as it may consider necessary.

Provided that the Forum shall have the powers to pass such interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Forum that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that, the Forum has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

2.53. The Forum may review its order either on its motion, at any time, on the application of any of the parties to the original proceedings within 30 days of the order on the following grounds:

- a) Discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time the order was made; or
- b) Mistake or error apparent on the face of the record; or
- c) Any other sufficient reason.

2.54. Any Complainant may prefer a representation before the Ombudsman appointed/ designated by the Commission under the following circumstances:

- a) If the Complainant is aggrieved by the non-redressal of the grievance by the Forum within the period specified
- b) If the Complainant is aggrieved with the order passed by the Forum

2.55. Such a representation may be made within a period of 30 days after grant of order by Forum or expiration of 30 days after deadline specified for grant of the order, whichever is earlier

2.56. The Forum may settle any grievance in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such order.

3. CHAPTER OMBUDSMAN

Qualification, terms of appointment and removal of Ombudsman

- 3.1. In accordance with subsection (6) of Section 36 of the Act, the Commission may, from time to time, appoint or designate a person as the Ombudsman to discharge the functions in accordance with subsection (7) of Section 36 of the Act.
- 3.2. The Commission may appoint or designate more than one Ombudsman for a licensee or a common Ombudsman or Ombudsmen for two or more licensees considering factors such as number of representations received, disposal of representations within the specified time limit, ease of access for the consumer, etc.
- 3.3. The Commission shall invite applications through public advertisement for appointment of the Ombudsman. The Commission shall form a selection committee consisting of Chairperson and members of the Commission for selecting the Ombudsman from all the applications received. The Chairperson of the Commission shall be the Chairperson of the selection committee. The Ombudsman shall be selected by a simple majority and the Chairperson shall have a casting vote.
- 3.4. The Ombudsman shall be a person of experience, ability, integrity and standing
- 3.5. The following category of persons shall be eligible to be appointed as Ombudsman:
 - a) A retired District Judge; or
 - b) Retired Secretary to State Government; or
 - c) Any person who has held the position of Member or Chairperson of any statutory quasijudicial body at the state level for atleast 3 years

- 3.6. No person shall be eligible to be appointed as Ombudsman if he/she has been an employee of any of the licensee under his/ her jurisdiction during the period of 2 (two) years prior to appointment
- 3.7. The Ombudsman shall hold office for a fixed term of 3 (three) years. The tenure may be extended for a further period not exceeding 2 (two) years
- 3.8. The age-limit for occupying the office of Ombudsman shall be 65 years
- 3.9. The pay scale and other allowances of the Ombudsman shall be as applicable for any member of the Commission
- 3.10. The Commission shall have the powers to remove the Ombudsman from office only if he/ she:
- a) has been adjudged an insolvent;
 - b) has been convicted of an offence which, in the opinion of the Commission, involves moral turpitude;
 - c) has become physically or mentally incapable of acting as an Ombudsman;
 - d) has acquired such financial or other interest as is likely to affect prejudicially his/ her functions as an Ombudsman;
 - e) has abused his/ her position so as to render his/ her continuance in office prejudicial to public interest; or
 - f) has been guilty of proven misbehaviour

Provided that the Ombudsman shall not be removed from his/ her office on any ground specified in the aforesaid sub clauses unless an inquiry held in accordance with such procedures as may be prescribed by the Commission, has reported that the Ombudsman ought to be removed on such ground or grounds.

Office of the Ombudsman

- 3.11. The Ombudsman's office/ offices shall be preferably located at the capital city of the state or any district headquarters as the case may be. However, the Ombudsman may hold hearings or proceedings at various places within the state in order to expedite disposal of representations received before him/ her
- 3.12. The post of Ombudsman shall be a full-time post.
- 3.13. The Commission shall provide the Ombudsman with a Secretariat. The staff strength of the said Secretariat and terms and conditions of appointment of the staff shall be determined by the Commission from time to time
- 3.14. All expenses of the Ombudsman's office including that of the Secretariat shall be borne by the licensees in proportion of their latest approved net ARR. At the start of every quarter, the Commission shall present an estimated bill of expenses to each licensee. The licensee shall make the payment to the Commission within 15 (fifteen) days of receipt of such bill. The actual expense shall be adjusted while approving the ARR of the licensee and the licensee shall be allowed to recover such actual expense from the consumers
- 3.15. The name, location, email address and telephone numbers of the Ombudsmen shall be widely publicised through newspapers, and displayed on the websites and the offices of the licensees and the Commission and shall be intimated to the consumers through the electricity bills. They may also be publicised through radio and television.

Reporting Requirements

- 3.16. The Ombudsman shall submit to the Commission a half-yearly report on all the representations filed before it during the period. The report

should be submitted within 30 days of close of the period to which it relates.

3.17. The report shall cover:

- a) Facts of the representation
- b) Responses of parties in brief
- c) Opinion of Ombudsman on compliance of standards of performance by the licensee
- d) Key Directions issued to licensee and/ or consumer in the order
- e) Compliance of order by licensee and/ or consumer

3.18. The Ombudsman shall also furnish a yearly report containing a general review of activities of the Ombudsman's office during the financial year to the Commission. The report should be submitted within 45 days of close of the financial year to which it relates.

Pre-conditions/ Limitations for entertaining Complainant's representation

3.19. The representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:

- a) It has been filed by the Complainant (aggrieved consumer). For avoidance of doubt, a Licensee is not allowed to file a representation before the Ombudsman against the order of the Forum
- b) The Complainant had, before making a representation to the Ombudsman approached the Forum constituted under Section 36(5) of the Jammu and Kashmir Electricity Act, 2010 for redressal of his/ her grievance
- c) The representation by the Complainant, in respect of the same grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or

award or a final order has not been passed by any such court, tribunal, arbitrator or authority

- d) The Complainant is not satisfied with the redressal of his/ her grievance by the Forum or the Forum has rejected the grievance or has not passed the order within the time-limit specified;
- e) The Complainant has filed the representation before the Ombudsman within 30 days from the date of receipt of the decision of the Forum or date of expiry of the period within which the Forum was required to take the decision, whichever is earlier

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

- f) The Complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.

3.20. Subject to the provisions of the Act and this Regulation, the Ombudsman's decision on whether the representation is fit and proper for being considered by it or not, shall be final.

3.21. The Ombudsman may reject the representation at any stage if it appears to him that the representation is:

- a) frivolous, vexatious, malafide;
- b) without any sufficient cause;
- c) there is no prima facie loss or damage or inconvenience caused to the Complainant; or
- d) complicated in nature such that the representation requires consideration of elaborate documentary and oral evidence and the proceedings before the Ombudsman are not appropriate for adjudication of such representations.

Provided that the decision of the Ombudsman in this regard shall be final and binding on the Complainant and the Distribution Licensee.

Provided further that no representation shall be rejected in respect of sub clauses (a), (b), (c) and (d) unless the Complainant has been given an opportunity of being heard.

Format for submission of representation

3.22. The Complainant can submit his/ her representation as per the format specified in ANNEXURE II of APPENDIX I

Promotion of settlement by conciliation

3.23. As soon as it may be practicable to do but not later than one week from the date of receipt of representation, the Ombudsman shall serve a notice to the concerned officer of the Licensee named in the representation along with a copy of the representation and endeavour to promote a settlement of the complaint by mutual agreement between the Complainant and the Licensee through conciliation or mediation.

3.24. For the purpose of facilitating settlement of the representation, the Ombudsman may follow such procedures, as he may consider appropriate.

3.25. When a Complaint is settled through mediation of the Ombudsman, the Ombudsman shall make a recommendation which he thinks fair in the circumstances of the case. The copies of the recommendation shall be sent to the Complainant and the Licensee.

3.26. If the Complainant and the Licensee accept the recommendation of the Ombudsman, they will send a communication in writing within 15 days of the date of receipt of the recommendation. They will confirm their acceptance to Ombudsman and state clearly that the settlement communicated is acceptable to them, in totality, in terms of

recommendations made by the Ombudsman and are in full and final settlement of complaint.

- 3.27. The Ombudsman shall make a record of such agreement in the case as his/ her orders and thereafter close the case

Hearing of representations

- 3.28. After registering the representation, the Ombudsman, within seven days of registration, shall call for records relating to the representation from the concerned Forum. The concerned Forum shall send the entire records within 7 days from the date of receipt of such notice to the office of the Ombudsman.

- 3.29. The Ombudsman may require the Licensee or any of the officials, representatives or agents of the Licensee to furnish documents, books, information, data and details as may be required to decide the representation and the Licensee shall duly comply with such requirements of the Ombudsman

- 3.30. Where the representation is not settled by agreement within a period of 30 days from the date of receipt of complaint or such extended period the Ombudsman may deem fit duly considering the overall time limit specified, the Ombudsman may determine the manner, the place, the date and the time of the hearing of the matter as the Ombudsman considers appropriate.

- 3.31. The Ombudsman may hear the parties and may direct the parties to submit written statements of submissions in the matter.

- 3.32. A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Ombudsman may either appear in person or authorise any person to present his/ her case before the Ombudsman and to do all or any of the acts for the purpose.

- 3.33. Where the Complainant or the Licensee or their representative fails to appear before the Ombudsman on the date fixed for hearing on more than two occasions, the Ombudsman may decide the representation ex-parte.
- 3.34. No adjournment shall ordinarily be granted by the Ombudsman unless sufficient cause is shown and the reasons for grant of adjournment have been recorded in writing by the Ombudsman; provided further that the Ombudsman shall make such orders as to the cost occasioned by the adjournment to be paid by the defaulting party to the non-defaulting party and/ or to the Ombudsman

Issue of Order

- 3.35. The Ombudsman shall pass a written order giving reasons for all his/her findings. The order shall state nature of the reliefs the Complainant is entitled to as per the order. A copy of the order shall be sent to the parties and also to the concerned Forum for information.
- 3.36. The Ombudsman shall pass an order as early as possible but in any case, within 60 days from the date of receipt of the representation. Where there is delay in disposal of a representation within the said period, the Ombudsman shall record reasons of such delay.
- 3.37. The order passed by the Ombudsman shall set out -
- a) issue-wise decision;
 - b) reasons for passing the order; and
 - c) directions, if any, to the Distribution Licensee or Complainant or any other order, deemed appropriate in the facts and circumstances of the case; and/ or
- 3.38. The Licensee shall duly comply with and implement the decision of the Ombudsman on the representation filed by the Complainant within 15 days of issue of the Order.

- 3.39. Non-compliance of Ombudsman's Orders shall be in violation of these Regulations and shall be liable for appropriate action by the Commission under section 100 and 105 read with section 149 of the Jammu and Kashmir Electricity Act, 2010.
- 3.40. The orders of the Ombudsman shall be final and binding on the parties. No party can file an appeal before the Commission against the order. However, the rights of complainant and licensee to file an appeal in front of other judicial bodies
- 3.41. On request of the Complainant, the Ombudsman may issue such interim orders at any stage during disposal of the representation as it may consider necessary.

Provided that the Ombudsman shall have the powers to pass such interim order in any proceeding, hearing or matter before it, as it may consider appropriate if the Complainant satisfies the Ombudsman that prima facie the Distribution Licensee has threatened or is likely to remove or disconnect the electricity connection, and has or is likely to contravene any of the provisions of the Act or any rules and regulations made thereunder or any order of the Commission, provided that, the Ombudsman has jurisdiction on such matters.

Provided further that, except where it appears that the object of passing the interim order would be defeated by delay, no such interim order shall be passed unless the opposite party has been given an opportunity of being heard.

- 3.42. The Ombudsman may review its order either on its motion, at any time, on the application of any of the parties to the original proceedings within 30 days of the order on the following grounds:
- a) Discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of

the person seeking the review or could not be produced by him at the time the order was made; or

- b) Mistake or error apparent on the face of the record; or
 - c) Any other sufficient reason.
- 3.43. The Ombudsman shall be guided by such factors which in the opinion of the Ombudsman are necessary in the interest of justice and shall ensure transparency while exercising its powers and discharging its functions in compliance with the principles of natural justice.

Provided that the Ombudsman shall not be bound by the Code of Civil Procedure, Svt 1977 (1920 AD) or the Indian Evidence Act, Svt 1977 (1920 AD) as in force from time to time.

4. CHAPTER CONSUMER ADVOCACY

- 4.1. A Consumer Advocacy Cell may be instituted by the Commission to provide required legal advice, support, and assistance to Complainants for representing their case before the Ombudsman.
- 4.2. Such a Cell shall be funded by the Commission.
- 4.3. The Cell may also perform additional functions as provided below:
- a) Half yearly review of grievances, representations and reports submitted by Forum and Ombudsman in order to advise Commission on improvements to be made in the Regulations.
 - b) Analysis of reports submitted by licensee with regards to levels of performance achieved on performance standards specified under Section 51 (Consumer Protection:

APPENDICES

APPENDIX I: FORMATS

ANNEXURE I: GRIEVANCE SUBMISSION BEFORE FORUM

APPLICATION TO FORUM FOR REDRESSAL OF GRIEVANCE

Note: * indicates compulsory fields

Date*: _____

1. Name of the Complainant: _____

2. Full address of the Complainant *: _____

Pin Code*: _____

Phone no.*: _____

Fax no.: _____

Email id: _____

3. Nature of Connection and Consumer no.* (in case of having applied for a connection, state the application number): _____

4. Distribution Licensee*: _____

5. Complaint receiving centre number*: _____

6. Category of grievance (please tick the relevant box/ boxes):

a. Wrong billing ___ b. Recovery of arrears ___ c. Faulty Meter ___ d. Burnt meter ___

d. Supply interruption ___ e. Harmonics in supply ___ f. Supply voltage related ___

g. Deficient service ___ h. Delay in providing new connection ___ i. Reconnection ___

j. Change in connected load ___ k. Transfer of connection ___

l. Others (please specify) _____

7. Name of the employee / employees (*specify employee ID or department*) or department against whom grievance has been filed (*if any*):

8. Details of the grievance, facts giving rise to the grievance* (*If space is not sufficient please enclose separate sheet*)

9. Nature of relief sought from the Forum

10. List of documents enclosed (*Please enclose copies of any relevant documents which support the facts giving rise to the grievance*)

11. Declaration

(a) I/ We, the Complainant /s herein declare that:

(i) the information furnished herein above is true and correct; and

(ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith.

(b) The subject matter of the present Grievance has never been submitted to the Forum 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 Grievance has not been settled through the Forum in any previous proceedings

(d) The subject matter of my / our Grievance has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.

Yours faithfully

(Signature)

(Complainant's name in block letters)

NOMINATION – (If the Complainant wants to nominate his representative to appear and make submissions on his behalf before the Forum, the following declaration should be submitted.)

I/We the above named consumer hereby nominate Shri/Smt.
..... , 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 Complainant)

ANNEXURE II: SUBMISSION OF REPRESENTATION BEFORE OMBUDSMAN

REPRESENTATION BEFORE THE OMBUDSMAN

Note: * indicates compulsory fields

Date*: _____

To

The Ombudsman

(specify full address)

Dear Sir / Madam

SUB: (please make a mention of the order of the Forum from which a representation to the Ombudsman is being made)

Details of the grievance are as under:

1. Name of the Complainant: _____

2. Full address of the Complainant *: _____

Pin Code*: _____

Phone no.*: _____

Fax no.: _____

Email id: _____

3. Nature of Connection and Consumer no.* (in case of having applied for a connection, state the application number): _____

4. Distribution Licensee*: _____

5. Name and Address of the Forum*: _____

6. Date of submission of grievance by the Complainant to the Forum* (please enclose 3 copies of the grievance): _____

7. Details of the representation, facts giving rise to 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 Ombudsman

10. List of documents enclosed (Please enclose three copies of all relevant documents which support the facts giving rise to the representation)

11. Declaration

(a) I/ We, the Complainant /s herein declare that:

(i) the information furnished herein above is true and correct; and

(ii) I/ We have not concealed or misrepresented any fact stated hereinabove and the documents submitted herewith.

(b) The subject matter of the present representation has never been brought before the Office of the 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 Ombudsman in any previous proceedings.

(e) The subject matter of the present representation has not been decided by any competent authority/court/arbitrator, and is not pending before any such authority / court / arbitrator.

Yours faithfully

(Signature)

(Complainant's name in block letters)

NOMINATION – (If the Complainant wants to nominate his representative to appear and make submissions on his behalf before the Ombudsman, the following declaration should be submitted.) I/We the above named consumer hereby nominate Shri/Smt. , and address isas 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 Complainant)

ANNEXURE III: QUARTERLY REPORTING BY FORUM

Quarter: ____ Financial Year: ____

1. Status of grievance redressal

S.No.	Parameters	Delay in restoring supply	Quality of supply	Meter problems	Billing problems	Quality of service	Others	Total
1	Grievances pending at end of previous quarter							
2	Grievances received during this quarter							
3	Total grievances (1+2)							
4	Grievances attended during this quarter							
5	Balance grievances to be attended (3-4)							
6	Grievances successfully redressed during this quarter							
7	Grievances in the process of redressal							
8	Grievances escalated to Ombudsman							

Note: Sum of rows 6, 7 & 8 should be equal to row 4

2. Status of compliance by licensee

a. Of the number of grievances successfully redressed during the quarter, state number of grievances in which the order specified directions for the licensee: ____

b. Describe the status of licensee's compliance against each such grievance: _____
