

**HARYANA ELECTRICITY REGULATORY COMMISSION PANCHKULA,  
HARYANA**

**NOTIFICATION**

**The 27th May, 2019**

**Regulation No. HERC/47/2019**

**CONDUCT OF BUSINESS**

In exercise of powers conferred on it by sub section 1 of Section 92 read with Section 181(2) (zl) of the Electricity Act, 2003 (Act 36 of 2003), sub-section (2) of Section 9 and Section 54 of the Haryana Electricity Reform Act, 1997 (Act 10 of 1998) and all powers enabling it in that behalf, the Haryana Electricity Regulatory Commission hereby makes the following Regulations, namely:

**CHAPTER I**

**G E N E R A L**

**Short title, commencement, and interpretation**

- 1** These Regulations may be called the Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2019.
  - 2** These regulations shall come into force on the date of their publication in the Haryana Government Gazette.
  - 3** These regulations shall extend to entire State of Haryana.
  - 4** Definitions and interpretations
- (1) In these Regulations, unless the context otherwise requires:
- (a) 'Act' means the Electricity Act, 2003 (Act 36 of 2003) as amended from time to time;
  - (b) "Applicable legal framework" means the provisions of the Haryana Electricity Reforms Act, 1997 (Act 10 of 1998) to the extent not inconsistent with the provisions of the Electricity Act, 2003 (Act 36 of 2003) read with the applicable provisions of the Electricity Act, 2003;
  - (c) 'Chairperson' means the Chairperson of the Haryana Electricity Regulatory Commission;

- (d) 'Commission' means the Haryana Electricity Regulatory Commission;
  - (e) 'Member' means a member of the Haryana Electricity Regulatory Commission;
  - (f) 'Officer' means an officer of the Commission and includes the Secretary;
  - (g) 'Pleadings' includes all petitions, applications, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents to be filed before the Commission;
  - (h) 'Proceedings' means any meetings, hearings, inquiries or investigations held for the purpose of determining whether the Commission should issue an order or decision under the applicable legal framework, or for such other purpose as the Commission may from time to time direct.
  - (i) 'Receiving Officer' means an officer designated by the Chairperson to receive pleadings;
  - (j) 'Secretary' means the Secretary of the Haryana Electricity Regulatory Commission;
  - (k) "Consultant" includes any individual, firm, body or association of persons, not in the employment of the Commission who may be appointed as such to assist the Commission on any matter required to be dealt with by the Commission under this Act;
  - (l) "Adjudication" means the process of arriving at decisions on Petitions submitted to the Commission
- (2) All other words and expressions used but not specifically defined herein but defined in the Act shall have the meaning assigned to them in the Act. Expressions used herein but not specifically defined in these regulations or in the Act but defined under the Haryana Electricity Reform Act, 1997 shall have the meaning assigned to them under the said Act, provided that such definitions in the Haryana Electricity Reform Act, 1997 are not inconsistent with the provisions of the Electricity Act, 2003.

## **5 Commission's offices, office hours, and sittings**

- (1) The place of the offices of the Commission may from time to time be specified by the Commission by an order made in that behalf. **The present location of the office shall be at Bays No. 33-36, Sector-4 Panchkula.**
- (2) Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily except on Saturdays, Sundays and government holidays notified by the Government of Haryana. The headquarters and other offices of the Commission shall open at such time as the Chairperson may direct.
- (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.

## **6 Language of the Commission**

- (1) The Proceedings of the Commission shall be conducted in English, provided that the Commission may allow any person to plead or represent the case in Hindi.
- (2) No Pleading containing material in any language other than English or Hindi, unless permitted by the Commission and accompanied by a translation thereof in English, shall be accepted by the Commission.

- (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.
- (4) The Commission in appropriate cases may direct translation of any document relevant to the proceedings in English by an officer or person designated by the Chairperson for the purpose.

#### **7 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 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 the Secretary or an Officer designated for the purpose.

#### **8 Procedure for holding meetings/ hearings/ proceedings**

- (1) The Commission shall meet at the head office or any other place at such time as the Chairperson may direct, and shall observe such rules of procedure in this regard to the transaction of business at its meetings as the Commission may specify.
- (2) The Chairperson shall determine the stages, manner, the place, the date and the time of the meetings/ hearings/ proceedings of the matter as the Chairperson may consider appropriate,
- (3) The meetings/ hearings/ proceedings once scheduled shall ordinarily not be rescheduled except by the Chairperson in accordance with regulation 8(2) after recording the reasons in writing.
- (4) The Chairperson, or if he is unable to attend a meeting of the Commission, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.
- (5) Every Member of the Commission shall have one vote. All questions which come up before the Commission shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes the Chairperson or in his/her absence the member presiding shall have a second or casting vote
- (6) The Commission may decide any urgent issue by circulation provided the decision is unanimous and the issue does not require further discussion. Where the decision is not unanimous, or if any member or the Chairperson is of the opinion that the matter requires further discussion, the matter shall be decided by the Commission in a meeting to be convened and conducted in accordance with regulation 8(2).
- (7) Decisions taken in a meeting of the Commission shall be recorded in the minutes in a clear and concise manner along with reasons. In case the minutes record any statement/submission made by an invitee, a copy of the minutes shall be sent to such invitee;
- (8) The minutes of the meeting shall be confirmed by circulation after the meeting or at the next meeting of the Commission;
- (9) All orders and decisions of the Appropriate Commission shall be authenticated by its Secretary or any other officer of the Commission duly authorized by the Chairperson in this behalf.
- (10) The Secretary or in his/her absence any Officer designated as such in accordance

with regulation 11, shall record the minutes of the meetings and maintain a register which will, amongst other things, contain the names and designation of Members and invitees present in the meeting, a record of proceedings and notes of dissent, if any. The draft minutes shall, as soon as practicable, be sent to the Chairperson and/or the attending Member(s) for their approval.

## **9 QUORUM**

- (1) There shall be no quorum for conduct of any proceedings before the Commission except that for the Commission meetings the quorum shall be 50% of the strength of the Commission. For example, if the strength of the Commission is 3(Three), the quorum shall be 2(two) and if the strength of the Commission is two or less than two, then the quorum shall be 1(one).
- (2) The meetings/ hearings/ proceedings shall be scheduled in accordance with regulation 8 only after giving appropriate notice not less than 7 working days, unless the Commission waives the requirement for such notice in writing.

## **10 Officers of the Commission**

- (1) The Secretary shall be the Principal Officer of the Commission and shall exercise his/her powers and perform his/her duties under the supervision and control of the Chairperson. The Secretary shall exercise such functions as are assigned to him by these regulations or otherwise by the Chairperson or by the Commission. The members individually shall not issue directions/ instructions to the Secretary/ officers of the Commission except in accordance with the orders of the Commission.
- (2) The Secretary shall have the custody of the seal and records of the Commission.
- (3) The Commission may appoint or engage Consultants to assist the Commission in the discharge of its functions.

## **11 Delegation of Power**

- (1) The Commission may, by general or special order in writing, delegate to any Member, Secretary, officer of the Commission or any other person subject to such conditions, if any, as may be specified in the order, such of its powers and functions under the Act (except the power to adjudicate disputes under Section 86 and the powers to make regulations under Section 181) as it may deem necessary.
- (2) The Chairperson may, by an order in writing, delegate his/her functions to Secretary/Officers on terms and conditions as specified for the purpose in such order. In case the Chairperson is unable to attend his office for a period exceeding 21 calendar days at a stretch, he shall nominate a member to exercise his/ her powers during such period of absence and in the absence of such nomination, the senior most member shall exercise such powers.
- (3) In the absence of the Secretary, such other Officer of the Commission, as may be designated by the Chairperson by order in writing, may exercise the functions of the Secretary.
- (4) The Commission may delegate to its officers such functions that may be required by these regulations to be exercised by the Secretary on terms and conditions the Commission may specify for this purpose.

- (5) The Secretary may, with the approval of the Commission, delegate to any officer of the Commission, any function required by these regulations or otherwise, to be exercised by the Secretary.
- 12** The Commission shall, at all times, have the authority, either on an application made by any interested or affected party or suo motu, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Secretary or the Officers if the Commission thinks fit.

## **CHAPTER II**

### **GENERAL REGULATIONS CONCERNING ADMINISTRATION AND PROCEEDINGS BEFORE THE COMMISSION**

#### **Administration of Proceedings of the Commission**

- 13** Chairperson shall be the Chief Executive of the Commission as well as the Controlling Officer. He shall also exercise the powers of Head of the Department.
- 14** Chairperson shall exercise all administrative and financial powers of the Commission, in accordance with Haryana Electricity Regulatory Commission Fund Rules, 2014 read with the memo no. 2/7/017-1 Power dated 03.10.2017 of the Govt. of Haryana, Power Department.
- 15** The Commission may from time to time hold hearings, meetings, discussions, deliberations, inquiries, investigations and consultations, as the Commission may consider appropriate in the discharge of its functions under the applicable legal framework. The Commission may appoint an Officer or any other person whom the Commission considers appropriate to participate and assist the Commission.
- 16** All matters which the Commission is required under the applicable legal framework to undertake and discharge through hearings shall be done through hearing in the manner specified under the Act and in these Regulations.
- 17** Except where the Commission may provide otherwise for reasons to be recorded in writing, all matters affecting the rights or interests of the licensee or any other person or class of person shall be undertaken and discharged through hearing in the manner specified in these Regulations.
- 18** The Commission may hold hearing in matters other than those specified in regulations (16) and (17) if the Commission considers it appropriate to do so.
- 19** The Commission's Proceedings shall be open to the public, provided that the Commission may, if it thinks fit in any particular case, order at any stage in the Proceedings 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 where the Proceedings are being held.
- 20** All matter having an impact on the retail supply tariff, including but not limited to ARR and PPA, shall be discharged through public hearing to be heard also, if required, at divisional headquarters as may be so determined.
- 21 Participation of Consumers Association or Other Petitioners**
  - (1) The Commission may permit any persons/ group of persons including 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 empanelment of associations, groups, forums or bodies corporate as empanelled consumer association for the purpose of representation before the Commission.

- (3) The Commission may appoint any officer or any other person to represent consumers' interest if considered necessary.
- (4) The Commission may direct payment to the person appointed to represent the consumers' interest, not being an officer, such fees, costs and expense by such of the parties in the proceedings as the Commission may consider appropriate.

## **22 Initiation of Proceedings before the Commission**

- (1) The Commission may initiate Proceedings suo mottu under Section 86 and Section 181 of the Electricity Act, 2003 or on a petition or application filed by any person having an interest in the subject matter of the Proceedings.
- (2) The Commission shall issue a notice initiating the Proceedings, and may give such orders and directions as it thinks fit for service of the notice on affected parties for the filing of replies and rejoinder in opposition or in support of the petition and for other matters relating to the conduct of the Proceedings.
- (3) The Commission may, if it thinks fit, order that the petition shall be advertised in such form as the Commission may direct for the purpose of inviting comments on the issues involved in the proceedings.
- (4) While issuing the notice under regulation 21, the Commission may, in appropriate cases, designate an Officer or any other person whom the Commission considers appropriate to present the matter in the capacity of a petitioner in the case.

## **23 Petitions and pleadings before the Commission.**

- (1) All Pleadings shall be typewritten, cyclostyled or printed neatly and legibly on white paper and every page shall be consecutively numbered.
- (2) Their contents should be divided appropriately into separate paragraphs, which shall be numbered serially.
- (3) Ten copies of each pleading complete in all respects, along with a soft copy, shall be filed subject to any other requirement, which the Commission may specify from time to time. 3 copies of the pleadings shall be printed on one side of paper and the remaining copies can be printed on both sides of paper.
- (4) All Pleadings shall set out clearly and concisely:
  - (a) Statement of the relief sought from the Commission; and
  - (b) The reasons/ grounds why the Commission should grant the requested relief.
- (5) Any pleading filed by a company registered under the Companies Act shall be with the approval of its Managing Director except that a pleading filed regarding ARR/Tariff Petition shall be accompanied by a resolution of its Whole Time Directors authorizing such filing.
- (6) The general heading in all Pleadings before the Commission and in all advertisements and notices shall be in Form 1.
- (7) All pleadings shall be verified by an affidavit and every such affidavit shall be in Form 2.
- (8) 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 authorized to take and receive affidavits. The affidavit shall also declare that there is no case pending in any Court of Law with regard to the matter referred to the Commission.

#### **24 Presentation and scrutiny of the pleadings, etc.**

- (1) Pleadings shall be filed in such number of copies as specified in Regulation 22, and each copy shall be complete in all respects. In case of Annual Revenue Requirement (ARR) and tariff applications or where any agreement or license is being filed before the Commission for which an approval is being sought, one soft copy of each application in word format shall also be filed alongwith the petition.
- (2) Pleadings shall be presented during working hours of the Commission in person or by any duly authorised agent or representative, at the headquarters or such other filing centre or centres as may be notified by the Commission from time to time. Pleadings may also be sent by registered post with acknowledgement due to the Commission at the places mentioned above. The vakalatnama in favour of the advocate and, in the event the Pleadings are presented by an authorised agent or representative, the agent's or representative's authority shall be filed along with the relevant Pleading, if not already filed on the record of the case.
- (3) Upon the receipt of a Pleading the Receiving Officer shall acknowledge the receipt by stamping and endorsing the date on which the Pleading has been presented and shall issue an acknowledgement with stamp and date to the person filing the Pleading. In case the Pleading is received by registered post the date on which the Pleading is actually received at the office of the Commission shall be taken as the date of the presentation of the Pleading. The presentation and the receipt of the Pleading shall be duly entered in the register maintained for the purpose by the relevant filing Centre of the Commission.
- (4) The Receiving Officer will review Pleadings for completeness and may decline to accept any Pleading that does not conform to the provisions of the Act or 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.
  - (a) No Pleading shall be refused for defect in its form or content, without giving an opportunity to the person filing it to rectify the defect.
  - (b) The Receiving Officer shall advise in writing the person filing the Pleading of any defects and the time allowed to rectify them.
- (5) A party aggrieved by any order of the Receiving Officer in regard to the presentation of a Pleading may request the matter to be placed before the Secretary of the Commission for appropriate orders.
- (6) The Chairperson or any Member as the Chairperson may designate for the purpose shall be entitled to, either on an application made by any person or suo mottu, call for the Pleading presented by the party and give such directions regarding the presentation and acceptance of the Pleading as he considers appropriate.

#### **25 Admission and registration of a case**

- (1) If on scrutiny, a petition is not refused or any order of refusal is rectified by the Secretary or by the Chairperson or the Member of the Commission designated for the purpose, the case shall be duly registered and given a number in the manner to be specified by the Commission.

- (2) 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 scrutinised and the case is numbered, the case shall be put up before the Commission for preliminary hearing and admission.
- (3) The Commission may admit the case 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 to show cause why the case should not be refused. The Commission may require the petition to be served on a licensee or other respondent named in it or any other person as the Commission may consider appropriate and hold a preliminary hearing to decide on the admission of the case.

## **26 Service of notices and processes issued by the Commission**

- (1) Every notice, order or documents, by or under these regulations or applicable legal framework required or authorized to be addressed to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt thereof or by registered post or such means of delivery as may be prescribed:
  - (a) Where the State Government is the addressee, at the office of such officer as the Appropriate Government may prescribe in this behalf;
  - (b) Where the Commission is the addressee, at the office of the Commission;
  - (c) Where a company is the addressee, at the registered office of the Company or, in the event of the registered office of the Company not being in India, at the head office of the Company in India;
  - (d) Where any other person is the addressee, at the usual or last known place of abode or business of the person.
  - (e) 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.
- (2) Every notice, order or document by or under these regulations or applicable legal framework required or authorized to be addressed to the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises (naming the premises), and may be served by delivering it, or a true copy thereof, to some person on the premises, or if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.
- (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 the applicant or petitioner for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.
- (4) Every notice, order or document by or under the Act or these regulations required, or authorized to be addressed to any person may, in addition to the means provided above, may also be delivered by any of the following means:
  - (a) through special messenger and obtaining signed acknowledgement; or
  - (b) by telegraphic message; or
  - (c) by fax; or
  - (d) by email

- (5) 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.
- (6) Where a notice is served by a party 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.
- (7) Where any case is required to be advertised it shall be advertised in such publications, and in such form and manner as the Commission may direct.
- (8) Save as otherwise provided in the applicable legal framework 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 petitioner, applicant or any other person whom the Commission makes responsible for the conduct of the Proceedings shall arrange for 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. The Commission shall, however, be entitled to decide in each case the person(s) who shall bear the cost of such service and publications.
- (9) 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 case or give such other or further directions as it thinks fit.
- (10) 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.

## **27 Filing of reply, opposition, objections, etc.**

- (1) Each person to whom a notice initiating Proceedings is issued (hereinafter the respondent) who intends to respond to the notice, whether in support of or in opposition to the petitioner or applicant, shall file its reply and the documents relied upon within such period and in such number of copies as specified by the Commission in Regulation 26. In its reply, the respondent shall specifically admit, deny or explain the facts stated in the notice initiating the Proceedings 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 person in the Proceedings and be heard.
- (2) The respondent shall serve a copy of the reply along with the documents duly attested to be true copies on the petitioner or his authorised representative and such other person as the Commission may specify, 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 an 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 a 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 as it may consider appropriate to participate in the Proceedings before the Commission (hereafter, an intervenor) 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. The Commission shall determine the extent to which intervenors shall be entitled to receive copies of pleadings.
- (6) Unless permitted by the Commission, the person filing a reply, objection or comments under this Regulation 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 consider appropriate to respond to the reply, objections, and comments.

## **28 Hearing of the matter**

- (1) On admittance, the matter shall be heard by the Commission if so required under the applicable legal framework and for this purpose the Commission shall meet at the head office or any other place at such time as the Chairperson may direct. The proceedings shall be conducted in a manner that is consistent with such specific timing requirements as are set forth in the applicable legal framework or otherwise to fulfill the need for timely completion of the matters taking into account the relief prayed for.
- (2) The Commission may decide the matter on the pleadings of the parties or may call for the parties to produce evidence by way of affidavit or hear oral evidence in the matter.
- (3) If the Commission directs evidence of a party to be laid by way of affidavit, the Commission may, if considered necessary or expedient, grant an opportunity to the other party to cross-examine the deponent on the affidavit filed.
- (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 or arguments or submissions in the matter.
- (6) The parties to the proceedings have to intimate the Commission in a timely manner, not less than one day in advance, before seeking adjournment of the scheduled hearing.

## **29 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, examination by an Officer of the books, accounts or other documents or information in the custody or control of any person, which the Commission considers relevant for the matter.

### **30 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 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-regulations (1) or (2) above to present their respective views on the issues or matters referred to.
- (4) The report or the opinion received from such persons shall form a part of the record of the case and the parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties shall be entitled to file their version either in support or in opposition to the report or the opinion.
- (5) The Commission shall duly take into account while deciding the matter the report or the opinion given by the person, the reply filed by the parties, and if considered necessary direct the examination before the Commission of the person giving the report or the opinion. The Commission shall not be bound to accept any report or the opinion given by the persons designated in sub-regulations (1) or (2) as conclusive.

### **31 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 party does not appear, either in person or by an authorised agent, when the matter is called for hearing, the Commission may, in its discretion, either dismiss the case for default if it is the petitioner or the person moving the Commission for hearing who has failed to appear, or proceed ex parte against the respondent(s) failing to appear, if it is proved that the notice, process or summons had been duly served on the respondent(s) and hear and decide the case.
- (2) Where a case 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 case was called for hearing.

## **Orders of the Commission**

- 32** (1) The Commission shall pass orders determining Proceedings on their merits and the Chairperson and the Members of the Commission who hear the matter 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, amongst other things, to protect the rights and interest of any of the parties to the proceedings or any other person including consumers or any class or classes of consumers.
- 33** The reasons given by the Commission in support of the orders, including those by the dissenting Member, if any, shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations.
- 34** 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 Chairperson and bear the official seal of the Commission.
- 35** 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 Chairperson or the Secretary.
- 36** In accordance with Section 193 of the Indian Penal Code, 1860, who ever intentionally gives false evidence in any stage of a judicial proceeding or fabricates false evidence for the purpose of being used in any of the proceedings before the Commission, the Commission may, if it is satisfied that the person concerned should be punished with a sentence more than what is provided in Section 345 Cr. P.C., it shall take recourse to the procedure as provided under Section 346(1) Cr. P.C. and send the case to the concerned Magistrate for further necessary action
- 37** In accordance with the Section 228 of the Indian Penal Code, 1860, whoever intentionally offers any insult or causes interruption in any of the proceedings of the Commission, the Commission may, if it is satisfied that the person concerned should be punished with a sentence more than what is provided in Section 345 Cr. P.C., it shall take recourse to the procedure as provided under Section 346(1) Cr.P.C. and send the case to the concerned Magistrate for further necessary action.
- 38** In accordance with Section 345 of the Criminal Procedure Code, 1974, whoever 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 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.
- 39** If the Commission, in any case as referred to in the above Regulation, considers that a person accused of any of the offences referred to there under and committed in its view or presence should be imprisoned otherwise than in default of payment of fine or a fine exceeding Rs. 200/- should be imposed on him or if the Commission is, for any other reason, of opinion that the case should not be disposed off by it under Regulation 30(2) and 30(3) as above, it may forward the case to a Magistrate having jurisdiction to try the

same and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall forward such person in custody to such Magistrate.

#### **40 Inspection of records and supply of certified copies**

- (1) Records of every Proceeding shall be open, as a matter of right, to the inspection of the parties or their authorised representatives at any time either during the pendency of the Proceeding or after the orders are passed, subject to payment of prescribed fee and complying with other terms the Commission may direct.
- (2) Records of every Proceeding, except those parts which for reasons specified by the Commission are confidential or privileged, shall be open to inspection by any person other than the parties to the case 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.
- (3) 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

### ARBITRATION AND ADJUDICATION OF DISPUTES

#### Arbitration of Disputes

**42** Where any matter is, by or as per the legal framework, directed to be determined by arbitration, the matter shall, unless it is otherwise expressly provided in the license of a licensee, be determined by such person or persons as the Commission may nominate in that behalf on the application of either party; but in all other respects the arbitration shall be subject to the provisions of the Arbitration and Conciliation Act 1996 (26 of 1996).

#### Adjudication of Disputes

**43** Where any matter is required to be adjudicated upon by the Commission as per the applicable legal framework, any party to such a dispute in respect of matters provided under the Act may apply to the Commission for the dispute to be adjudged. Upon receiving an application for adjudication of disputes, the Commission shall issue a notice to the other parties to the dispute and such other persons, as the Commission considers appropriate to show cause as to why the dispute should not be settled through adjudication.

**44** (1) The Commission may, after hearing the parties to whom notices have been issued under regulation 52 and if satisfied that no reason or cause has been shown against the proposed adjudication, pass an order directing that the dispute or the matter be referred for adjudication by a member to be appointed by the Commission.

(2) 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 for in Chapter II above and as provided under Section 143 and 144 of the Act.

**45** (1) While holding an enquiry, the adjudicating officer shall have the power to summon and enforce attendance of any person acquainted with the facts and circumstances of the case to give evidence or produce any documents which in the opinion of the adjudicating officer may be useful for or relevant to the subject matter of the enquiry.

(2) The Adjudicating Officer after hearing the parties shall pass a speaking award giving reasons for the decision on all issues arising for adjudication and impose the penalty as provided in the Act.

(3) The cost of the adjudication and proceedings before the Adjudicating Officer shall be borne by such parties and in such sums as the Adjudicating Officer may direct.

(4) The Adjudicating Officer may pass such interim orders in the matter as the he may consider appropriate at any time before or during the pendency of the proceedings before the Adjudicating Officer.

**CHAPTER IV**  
**LICENCES**

**Application for license**

- 46** Every application for a license under Section 14 of the Act shall be dealt within the framework of these regulations and the licensing regulations.

## **CHAPTER V**

### **INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, ETC.**

- 47** The Commission may make such orders as it thinks fit in terms of the Act and under the legal framework for collection of information, inquiry, investigation, entry, search, seizure and, without prejudice to the generality of its powers in regard to the following:
- 48** 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 under the applicable legal framework.
- 49** 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.
- 50** The Commission may issue or authorise the Secretary or an Officer to issue directions to any person to produce before it and allow to be examined and kept by a specified Officer the books, accounts, and other documents specified in the directions or to furnish to an Officer specified information in his possession for the purpose of examination by the Commission as provided under the applicable legal framework.
- 51** The Commission may, for the purpose of collecting any information, particulars or documents which it considers necessary in connection with the discharge of its functions under the applicable legal framework, issue such directions and follow any one or more of the methods provided for under the applicable legal framework.
- 52** If any such report or information so obtained appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information.
- 53** The Commission may direct such incidental, consequential and supplemental matters be attended to which may be considered relevant in connection with the above.
- 54** In connection with the discharge of its functions under the applicable legal framework and Regulation 74, 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.
- 55** The Commission may, at any time, take the assistance of any institution, consultants, experts, engineers, chartered/cost 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.
- 56** If the report or information obtained in terms of the above Regulations or any part thereof is proposed to be relied upon by the Commission for forming its opinion or view in any Proceedings, the parties in the Proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information.

**CHAPTER VI**  
**MISCELLANEOUS**

**Review of the decisions, directions, and orders**

**57** (1) All relevant provisions relating to review of the decisions, directions and orders as provided in the Code of Civil Procedure 1908, as amended from time to time, shall apply *mutatis mutandi* for review of the decisions, directions and order of the Commission.

Provided that the Commission may on the application of any party or person concerned, filed within a period of 45 days of the receipt of such decision, directions or order, review such decision, directions or orders and pass such appropriate orders as the Commission may deem fit

(2) No application for review shall be considered unless an undertaking has been given by the applicant that he has not preferred appeal against the decision, direction, or order, sought to be reviewed, in any Court of Law.

(3) No application for review shall be admitted/ considered unless an undertaking has been given by the applicant that in case he files an appeal of the decision, direction or order of which review is pending adjudication, he shall immediately inform the Commission regarding the fact of filing the appeal.

**58** The Commission may on its own motion or on the application of any party correct any clerical or arithmetical errors in any order passed by the Commission.

**59** An application for such review shall be filed and dealt with in accordance with Chapter II of these Regulations.

**Continuance of Proceeding after death, etc.**

**60** (1) Where in any Proceeding any of the parties to Proceedings dies or is adjudicated as an insolvent or, in the case of a Company, is liquidated or wound 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 by the circumstances above and dispense with the need to make the successor-in-interest a party to the Proceedings.

(3)In case any person wishes to make a successor-in-interest a party to Proceedings, it shall file an application for the purpose within 90 days from the date of acquiring knowledge of the predecessor's death, insolvency, liquidation, or winding up.

**Publication of case**

**61** (1) Where any application, petition, or other matter is required to be published under the applicable legal framework or these Regulations or as per the directions of the

Commission, it shall, unless the Commission otherwise orders or the Act or 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 briefly describing the subject matter.

(3) Advertisements required by this Regulation shall be approved by the Officer designated for the purpose before publication.

**62** Where any matter is to be decided through a public hearing, a notice for the same shall also be published in a vernacular newspaper having wide circulation in the area.

### **Confidentiality**

**63** (1) Records of the Commission, except those parts which are confidential or privileged, shall be open to inspection by the general public, subject to the payment of fee and complying with such other terms as the Commission may direct.

(2) The Commission may, on such terms and conditions as the Commission considers appropriate, provide for certified copies of documents and papers available with the Commission to be supplied to any person.

(3) The Commission may by order direct that any information, documents and other papers and materials in the possession of the Commission or any of its Officers, consultants, or representatives, which are required by law or for other reasons to be specified by the Commission to be kept confidential, shall not be available for inspection or copying. The Commission may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Commission.

### **Issue of orders and practice directions**

**64** Subject to the provisions of the 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.

### **Saving of inherent power of the Commission**

**65** 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.

**66** Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act a procedure 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.

**67** Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which

no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

### **General power to amend**

**68** The Commission may, at any time and on such terms as to costs or otherwise as it may think fit, amend any defect or error in any Proceedings before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings.

### **Power to remove difficulties**

**69** 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 Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

**70** In case of any difficulty in interpretation of these Regulations the same shall be done by the Commission in accordance with the provisions of the Electricity Act, 2003. In case of any conflict between the provisions of these regulations and the provisions of the Electricity Act, 2003, the provisions of the Act shall prevail in all case.

### **Power to dispense with the requirement of the Regulations**

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

### **Extension or abridgement of time prescribed**

**72** Subject to the provisions of the Act, the time prescribed 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.

### **Effect of non-compliance**

**73** Failure to comply with any requirement of these Regulations, practice directions or guidelines shall not invalidate any Proceedings merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

## **Costs**

**74** (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 an order of a Civil Court.

## **Enforcement of orders passed by the Commission**

**75** The Secretary shall be responsible for enforcing the orders of the Commission in accordance with the provisions of the Act and Regulations. If necessary, the Secretary may seek further directions and orders of the Commission. The Secretary shall report any non compliance of the order to the Commission for further action if required.

## **Repeal**

**76** The Haryana Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 is hereby repealed.

By order of the Commission.

(Sd.)...,

Secretary,

Haryana Electricity Regulatory Commission.

Place: Panchkula  
The 30th April, 2019.

**FORM 1**

(See Regulation 23)

**General Heading for Proceedings**

**BEFORE THE HARYANA ELECTRICITY REGULATORY  
COMMISSION**

**PANCHKULA, HARYANA**

FILING NO.

CASE NO.

(To be filled by the  
Office)

**IN THE MATTER OF:**

(Gist of the purpose of the Petition or application)

AND

**IN THE MATTER OF:**

(Names and full address of the petitioners/applicants and names and full  
addresses of the respondent)

**FORM 2**

(See Regulation 23)

**(Affidavit on non judicial stamp paper of appropriate value)**

**BEFORE THE HARYANA ELECTRICITY REGULATORY COMMISSION**

**PANCHKULA HARYANA**

FILING NO.  
CASE NO.

(To be filled by the Office)

**IN THE MATTER OF:**

(Gist of the purpose of the Petition or application)

AND

**IN THE MATTER OF:**

(Names and full address of the petitioners/applicants and names and full addresses of the respondent)

Affidavit verifying the Petition/reply/application

I, AB, son of ..... aged..... residing at .....do solemnly affirm and say as follows:

I am the petitioner/applicant/respondent etc. or I am a Director/ Secretary/ partner ..... of..... the petitioner/applicant/respondent in the above matter and am duly authorised by the said petitioner/applicant/respondent to make this affidavit .

There is no case pending in any court of law with regard to the matter referred to the Commission.

The statements made in paragraphs ..... of the Petition/applicant/reply herein now shown to

me and marked with the letter `A` are true to my knowledge and the statements made in paragraphs..... are based on information received by me from .....and I believe them to be true

I solemnly affirm at ..... On this day of ..... that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed there from

Place:

Date:

Deponent

**Identified before me by**