

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION MUMBAI

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Chapter I - GENERAL

Short Title, Commencement and Interpretation:

- 1 (a) These regulations may be called the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 1999.
- (b) They shall come into force on the date of their publication in the official Gazette.
- (c) They extend to the State of Maharashtra.
- (d) The Bombay General Clauses Act, 1904 shall apply for the purpose of the present Regulations.

Definition

s:

- 2 (a) In these Regulations, unless the context otherwise requires:-

'Act' means the Electricity Regulatory Commissions Act, 1998 (Act 14 of 1998).

'Commission' means the Maharashtra Electricity Regulatory Commission, a body corporate, established under Section 17(1) of the Act, consisting of its Chairperson and Members.

'Officer' means an officer of the Commission.

'Petition' means and includes all petitions, applications, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents.

'Proceedings' mean and include proceedings of all nature that the Commission may hold in the discharge of its function under the Act.

'Regulations' means these regulations.

'Chairman' means the Chairman of the Commission.

'Secretary' means the Secretary of the Commission.

(b)

Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the same meaning as in the Act. Words and expressions used in these Regulations but not defined either in the Regulations or in the Act but defined in the Indian Electricity Act, 1910 or the Electricity (Supply) Act, 1948 shall have the meanings respectively assigned to them in those Acts.

Commission's office, office hours and sittings:

3 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.

4 Unless otherwise directed, the headquarters and other offices of the Commission shall be open daily except on Saturdays, Sundays and State Government holidays notified by the State Government. The headquarters and other offices of the Commission shall be open at such times as the Commission may direct.

5 Where the last day for doing of any act falls on a day on which the office of the Commission is closed and by reasons thereof the act cannot be done on that day, it may be done on the next day on which the office is open.

6 The Commission may hold sittings for hearing matters at the headquarters or at any other place on days and time to be specified by the Commission.

Language of the Commission:

7 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 Marathi language.

8 No petition, document or other matter contained in any language other than English or in Marathi if permitted by the Commission, may be accepted by the Commission unless the same is accompanied by a translation thereof in English. Such translation may be dispensed with at the discretion of the Commission.

9 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 into English, may be accepted by the Commission as a true translation.

10 The Commission in appropriate cases may direct translation of the petition, pleadings, documents and other material in English by an officer or person designated by the Commission for the purpose.

Commission to have seal of its own:

11 There shall be a separate seal indicating that it is the seal of the Commission.

Officers of the Commission:

12 (a) The Commission shall have the power to appoint Secretary, officers and other employees for discharging various duties. It shall also prescribe the qualifications, experience and other terms and conditions for the appointment of such officers and other employees.

(b)

The Commission may appoint consultants to assist the Commission in the discharge of its functions. The terms and conditions of appointment of consultants shall be determined by

(a) the Commission at its meetings from time to time.

13

The Secretary shall be the Principal Officer of the Commission and shall exercise his powers and perform his duties under the control of the Chairperson.

(b)

(c) The Commission, in discharge of its functions under the Act, may take such assistance from the Secretary as it may deem fit.

(d) In particular, and without prejudice to the generality of the provisions of the above sub-regulations, the Secretary shall have the following powers and perform the following

(i) duties, viz:-

(ii) He shall have custody of the records and the seal of the Commission.

He shall receive or cause to receive all petitions, applications or reference pertaining to the

(iii) Commission.

(iv) He shall prepare or cause to be prepared briefs and summaries of all pleadings presented by various parties in each case before the Commission in the discharge of its function in

(v) this regard.

(vi) He shall assist the Commission in the proceedings relating to the powers exercisable by the Commission.

(vii) He shall authenticate the orders passed by the Commission.

14

He shall ensure compliance of the orders passed by the Commission.

15

He shall have the right to collect from the State Government or other offices, companies and firms or any other party as may be directed by the Commission, such information and record, report, documents, etc., as may be considered useful for the purpose of efficient

16 [REDACTED] discharge of the functions of the Commission under the Act and place the same before the Commission.

17 [REDACTED] The Commission may delegate to the officers such functions including functions that may be required by these regulations to be exercised by the Secretary on terms and conditions the Commission may specify for the purpose.

[REDACTED] 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.

[REDACTED] In the absence of the Secretary, such other officer of the Commission, as may be designated by the Chairperson, may exercise all the functions of the Secretary.

[REDACTED] 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 of the Commission, if the Commission considers the same to be appropriate.

Participation of Consumer Associations:

18 (a) It shall be open to the Commission to permit any association or other bodies corporate or any group of consumers to participate in any proceedings before the Commission.

(b) It shall be open to the Commission, for the sake of timely completion of proceedings, to direct bunching up associations/groups referred to above so that they can make collective affidavits.

(c) The Commission may, as and when considered appropriate, notify a procedure for recognition of association, group, forum or bodies corporate as registered consumer

19 (a) association for purposes of representing before the Commission.

[REDACTED] (b) The Commission may appoint any officer or any other person to represent consumers' interest, if considered necessary.

[REDACTED] The Commission may direct payment to the officer or person appointed to represent the consumers' interest such fees, costs and expenses by such of the parties in the proceedings

as the Commission may consider appropriate.

Chapter II - GENERAL RULES CONCERNING THE PROCEEDINGS BEFORE THE COMMISSION

Proceedings, etc. before the Commission:

20 The Commission may, from time to time, hold hearings, meetings, discussions, deliberations, inquiries, investigations and consultations, as it may consider appropriate in the discharge of its functions under the Act.

Quorum and Sitting in Benches:

21 The Quorum for the proceedings before Commission shall be three :

Provided that the Commission may, by majority, delegate the power to decide specified matters or issues to a bench consisting of two full time Members, but in such instances, the Chairperson or member presiding over a bench shall not exercise a second or casting vote :

Provided further that in the case of a proceeding to review any decision taken by the bench of the Commission consisting of two Members or for consideration of any issue which could not be decided on account of equality of votes in the bench in favour of or against a proposed decision or action, the matter will be considered by the Commission with a quorum of three Members.

Attendance by Members and Voting:

22 No act or decision of the Commission would be invalid on the ground that it was heard by less than the prescribed number of Members and/or that any Member of the Commission did not participate on one or more occasions of the hearing.

Authority to represent:

23 A person may authorise an advocate or a member of any statutory professional body holding a Certificate of Practice, as the Commission may from time to time specify, to represent him and act and plead on his behalf before the Commission. The person may also appear himself or may authorise any of his employees to appear before the Commission and to act and plead on his behalf. The Commission may, from time to time, specify the terms and conditions, subject to which, a person may authorise any other person to represent him and act and plead

on his behalf.

Initiation of Proceedings:

24 The Commission may initiate any proceedings suo motu or on a petition filed by any affected or interested person.

25

The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, for service of notices to the affected parties, the filing of reply and rejoinder in opposition or in support of the petition in such form as it may direct. The Commission may, if it considers appropriate, issue orders for publication of the petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.

26

While issuing the notice of inquiry or at any time thereafter, the Commission may, at its discretion designate an advocate or officer of the Commission or any other person whom the Commission considers appropriate to present the case of the Commission and act as Commission's counsel.

Petitions and pleadings before the Commission:

27 All petitions to be filed before the Commission shall be typewritten, cyclostyled or printed neatly and legibly on one side of the paper and every page shall be consecutively numbered.

The Commission may permit the petitions to be filed in a computer disk or through electronic media on such terms and conditions as the Commission may specify. The contents of the petition should be divided appropriately into separate paragraphs, which shall be numbered serially. The petition shall be accompanied by such documents, supporting data and statements as the Commission may specify.

General headings:

28 The general heading in all petitions before the Commission and in all advertisements and notices shall be in Form I.

Affidavit in support:

291 The petitions filed shall be supported by an affidavit, which shall be sworn before the Secretary or such officer of the Commission, as may be designated or notarised. Every such affidavit shall be in Form- 2.

2

Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the capacity in which he is signing.

3

Every affidavit shall clearly and separately indicate the statements which are true to the -

- (a) knowledge of the deponent;
- (b) information received by the deponent; and
- (c) belief of the deponent.

4

Where any statement in the affidavit is stated to be true to the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.

30

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

Presentation and scrutiny of the pleadings, etc.:

31 All petitions shall be filed with six copies and each set of the petition shall be complete in all respects. The fees as may be prescribed by the Commission shall be payable along with the petition.

32

All petitions shall be presented 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 and during the time notified. The petitions may also be sent by registered post acknowledgement due to the Commission at the places mentioned above. The vakalatnama in favour of the advocate and, in the event the petitions are presented by an authorised agent or representative, the document authorising the agent or representative shall

33 be filed along with the petition, if not already filed on the record of the case.

33

Upon receipt, the officer of the Commission designated for the purpose of receiving the petition shall acknowledge the receipt by stamping and endorsing the date on which the petition has been presented and shall issue an acknowledgement with stamp and date to the person filing the petition. In case the petition is received by registered post, the date on which

34 the petition is actually received at the office of the Commission shall be taken as the date of the presentation of the petition.

34

The presentation and the receipt of the petition shall be duly entered in the register maintained for the purpose by the office of the Commission. Such register shall be maintained in the form and manner as may be prescribed by the Commission, showing serial

35 no. of petition/complaint, date of its receipt, names and address of the parties, brief subject matter of the petition, etc., claim/relief sought, interim relief, if any, and date of disposal with final result thereof.

35

In the event of the petition or pleadings not conforming to the provisions and requirements of the Act and regulations, the Secretary may refuse to get it registered and keep or cause to be

36 kept such petition in objection with the approval of the Commission and the objection shall be removed by the petitioner within 10 days from the date of specifying such objection or within such time that may be extended at his discretion by the Secretary. On failure to

37 remove objections within the time allowed, the petition, etc., shall stand dismissed.

36

37

A person aggrieved by any order of the Secretary in regard to the presentation of the petition may request the matter to be placed before the Chairperson of the Commission for

38 appropriate orders.

38

The Chairperson, or any Member as the Chairperson may designate for the purpose, shall be entitled to call for the petition presented by the party and give such directions regarding the

39 presentation and acceptance of the petition as he considers appropriate.

39

If, on scrutiny, the Petition is not refused or any order of refusal is rectified by the Chairperson or the Member of the Commission designated for the purpose, the petition shall
40 be duly registered and given a number in the manner to be specified by the Commission, as stated in Regulation 34.

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 numbered, the
41 petition shall be put up before the Commission for preliminary hearing and admission.

The Commission may admit the petition for hearing without requiring the attendance of the party. The Commission shall not pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may, if it considers appropriate, issue notice to such person or persons, as it may desire to hear the petition for admission.

If the Commission admits the petition, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondent and other affected or interested parties; for the filing of replies and rejoinder in opposition or in support of the petition in such form as the Commission may direct and for the petition to be placed for hearing before the Commission or a Bench, as the case may be.

Service of notices and processes issued by the Commission:

42 (a) Any notice or process to be issued by the Commission may be served by any one or more of the following modes as may be directed by the Commission:-

service by any of the parties to the proceedings as may be directed by the Commission;

by hand delivery through a messenger;

by registered post with acknowledgement due;

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;

in any other manner as considered appropriate by the Commission.

(b)

The Commission shall be entitled to decide in each case the persons who shall bear the

cost of such service/publication.

43

Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.

44

In the event any matter is pending before the Commission and the person to be served has authorised an advocate, agent or representative to appear for or represent him or her in the matter, such advocate, 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.

45

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 of notices and processes.

46

Where any petition is required to be published, it shall be published in such form in the newspapers to be specified, for such duration and within such time as the Commission may direct.

47

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 order to dismiss the petition or give such other or further directions as it thinks fit.

48

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 proceedings 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.

Filing of reply, opposition, objections, etc. :

49 Each person to whom the notice of inquiry or the petition is issued (hereinafter called the
`respondent') who intends to oppose or support the petition shall file the reply and the
documents relied upon within such period being not less than two weeks and in such
number of copies not less than six as may be fixed by the Commission. In the reply filed,
the respondent shall specifically admit, deny or explain the facts stated in the notice of
inquiry or the petition and may also state such additional facts as he considers necessary
for the just decision of the case. The reply shall be signed and verified and supported by
50 affidavit in the same manner as in the case of the petition.

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 file proof of such
51 service with the office of the Commission at the time of filing the reply.

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
52 (a) the respondents. The procedure mentioned above for filing of the reply shall apply mutatis
mutandis to the filing of the rejoinder.

Every person who intends to file objection or comments in regard to a matter pending
before the Commission, in pursuance to the advertisement and publication issued for the
(b) purpose (other than the persons to whom notices, processes, etc., have been issued calling
for a reply) shall deliver to an officer designated by the Commission for the purpose the
statement of the objection or comments with copies of the documents and evidence in
support thereof within the time fixed for the purpose.

(c) The Commission may permit or invite such person or persons including the associations,
forums and bodies corporate holding the certificate of registration as it may consider
appropriate to participate in the proceedings before the Commission if, on the report
received from the officer, the Commission considers that the participation of such person
or persons will facilitate the proceedings and the decision in the matter.

Unless permitted and/or invited by the Commission, the person filing objection or
comments shall not be entitled to participate in the proceedings to make oral submissions.
However, the Commission shall be entitled to take into account the objections and
comments filed after giving such opportunity to the parties to the proceedings as the
Commission considers appropriate to deal with the objections or comments.

Hearing of the matter:

53 The Commission may determine the stages, manner, the place, the date and time of the hearing of the matter, as the Commission considers appropriate.

54 (a) The Commission may decide the matter on the pleadings of the parties, and affidavits in support thereof and evidence on record or may call for the parties to produce evidence by way of affidavit or direct the party to lead oral evidence in the matter.

(b)

If the Commission directs evidence of a party to be led either by way of an affidavit or orally, the Commission shall grant reasonable opportunity to the other party to cross

(c) examine the deponents.

The Commission may, if considered necessary or expedient, direct that the evidence of

(d) any of the parties be recorded by an officer or person designated for the purpose by the Commission.

The Commission may direct the parties to file written note of arguments or submissions in the matter.

Powers of the Commission to call for further information, evidence, etc. :

55 The Commission may, at any time before passing orders on any 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 considers appropriate, to produce such documentary or other evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.

56

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 Commission the books, accounts or other documents or information in the custody or control of any person which the

57

Commission considers relevant to the matter.

In accordance with section 193 of the Indian Penal Code, 1860, who ever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

58

If any party or person in proceedings before the Commission intentionally insults the Chairman or any Member or misbehaves or deliberately causes interruption of such proceedings and/or disobeys order or direction of the Commission, such party or person

shall be liable to be punished under Section 228 of the Indian Penal Code, 1860, or dealt with under the Contempt of Court Act, 1971.

Reference of issues to others:

59 (a) 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.

(b)

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

(c) existence or status of the place or any facilities therein.

The Commission, may direct any person, who in the opinion, of the Commission, is competent to express a valuable advise or opinion to appear before the persons designated

(d) in clause (1) or (2) above to present their respective views and/or make presentation on the issues or matters referred to.

The report or the opinion received from such person 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

(e) 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, as the case may be. The person from whom such opinion or advise is taken may not be permitted to be crossed examined on the subject matter to file such an opinion or appear or give evidence.

The Commission shall duly take into account the report or the opinion given by the person, the reply filed by the parties while deciding the matter and, if considered necessary, the examination before the Commission of the person giving the report or the opinion.

Procedure to be followed where any party does not appear:

60 Where the petitioner or the defendant is called or supposed to appear in person, does not appear in person nor shows sufficient cause for nonappearance, the Commission may dismiss, the application or complaint if he is the applicant or complainant or proceed exparte if he or she is the opponent or respondent.

Where neither the applicant nor the opponent appears when the application is called for hearing, the Commission may dismiss it. The dismissal of the application or complaint, however, does not bar a fresh petition or complaint in respect of the same cause of action. The applicant or complainant may also apply within 30 days from the date of the order of dismissal, for an order to set aside such dismissal. And, if the Commission is satisfied that

61 there was sufficient cause for non-appearance, it shall pass an order setting aside the
dismissal of the application or complaint and shall fix a day for proceeding with the
application or complaint.

Where the applicant or complainant appears and the opponent and the other side does not
appear, the applicant or the complainant has to prove service of summons on the opponent
or the respondent; if the service of the process of summons is proved, the Commission
may proceed ex parte against the opponent and may pass necessary orders in accordance
with law, justice and equity.

Orders of the Commission:

62 (a) On conclusion of hearing of the case before the Commission, the Commission, comprising
of Chairman and members, who heard the case, shall pronounce judgement in open court.

(b) The judgement shall be so pronounced at once after hearing or soon thereafter as may be
practical, on some future day. The Commission shall fix such day for that purpose, of
which due notice shall be given to the concerned parties.

(c)
The judgement shall be dated and signed by the Commission, at the time of pronouncing
it, and, once signed, shall not be afterwards altered, or added to, unless and except there is
any clerical or arithmetical mistake in it or errors arising therein from any accidental slip

(d) or omission or on review of the judgement in accordance with Regulation 87.

63 The judgement shall contain facts in brief, the points or issues for determination, decision
thereon and brief reasons for such decision.

64 In case, after hearing and while giving judgement or decision, the Chairman or any
member of the Commission dissents, he may give his dissenting judgement with reasons.
The majority view of the Commission shall be final in the judgement.

65 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.

All final orders of the Commission shall be communicated to the parties in the
proceedings under the signature of the Secretary or an officer empowered in this behalf by
the Chairperson or the Secretary.

Inspection of records of Proceedings and supply of certified copies:

66 Records of every proceedings, except those parts which for reasons specified by the Commission are confidential or privileged or otherwise not to be disclosed to any person, shall be open to inspection by all the parties to the proceedings either during the proceedings 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. Inspection as above shall be
67 available to any person other than the parties to the proceedings only after final orders are passed in the matter.

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 to inspect subject to payment of fee and complying with other terms which the Commission may direct.

Interim Orders:

68 The Commission may pass such ad-interim or interim orders, as the Commission may consider appropriate at any stage of the proceedings, having regard to the facts and circumstances of the case, where such interim orders are sought.

Chapter III - INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, etc.

69 The Commission may make such order or orders as it thinks fit for collection of information, inquiry, investigation, entry, search, seizure and, without prejudice to the generality of its powers, in regard to the following :-

(a)

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

(b) Commission under the Act.

The Commission may, for the above purpose, give such other directions as it may deem fit
(c) and specify the time within which the report is to be submitted or information furnished.

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 an officer of the
(d) Commission specified in this behalf the books, accounts, etc., or to furnish information to the specified officer.

(e) The Commission may, for the purpose of collecting any information, particulars or documents which the Commission consider necessary in connection with the discharge of

its functions under the Act, issue such directions.

(f)

If any such report or information 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.

The Commission may direct such incidental, consequential and supplemental matters be attended to which may be considered relevant in connection with the above.

70 The Commission may, at any time, take the assistance of any institution, consultants, experts 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.

71

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 to the proceedings shall be given a reasonable opportunity for filing objections and making submission on the report or information.

Chapter IV - TARIFF REGULATIONS

72(a) No generating Company, except that which has entered into or otherwise has a composite scheme for generation and sale of electricity in more than one State, shall charge their customers any tariff for supply of electricity without the general or specific approval of such tariff by the Commission

No utility shall fix any tariff for intra-state transmission, distribution or supply of electricity and terms and conditions for the supply of electricity, without the general or specific

(b) approval of the Commission:

73 Provided that the existing tariff being charged by generating companies shall continue to be charged after the date of effect of these regulations for such period as may be specified by a notification, without prejudice to the powers of the Commission to take up any matter relating to tariff falling within the scope of Section 22 of the Act.

74 Any generating company proposing to enter into any agreement for supply of electricity between the generating company and any buying party shall get the approval of the Commission for the tariff before entering into such contracts.

(a) Without prejudice to the generality of the powers of the Commission in regulating the tariff of utilities, the Commission may keep in view, among others, the following factors, while

(b) determining the tariff:-

(c)

(d) the need to link tariff adjustments to increases in the productivity of capital employed and improvement in efficiency so as to safeguard the interests of the consumer;

the need to rationalise tariffs on the basis of the actual cost of generation, transmission,

(e) distribution and supply;

(f) the unbundling of costs so as to enable the rational allocation of costs;

(g) the need to provide transparently the appropriate incentives, in a non-discriminatory manner, for a continuous enhancement in the efficiency of generation, transmission,

(h) distribution and supply and upgradation in the levels of service;

(i) the simulation of competitive conditions where markets do not exist and the progressive introduction of competitive conditions;

the least cost adoption of environmental standards;

75 the provision of a level playing field for all utilities so as to promote the progressive involvement of the private sector in generation, transmission, distribution and supply, and the need for healthy growth of the industry.

76 Any other matter relevant in the opinion of the Commission.

77 The Commission shall regulate the charges payable to the transmission utility, including the charges for wheeling power in course of intra-state transmission.

78 The Commission may work out appropriate incentive schemes for utilities for better performance, which shall be notified from time to time.

79 The Commission may approve differential tariffs linked to factors like the quantum of power consumed, time of day (ToD) metering, power factor, and payment terms with built in incentives for timely payment of bills.

80 Utilities, who are required to get their tariff approved by the Commission, shall evolve tariff proposals based on the terms and conditions as may be notified by the Commission and shall submit the same for approval, in accordance with the procedure prescribed by the Commission.

81 All petitions for approval of tariff (generation, transmission, distribution and supply) and terms and conditions of supply shall be made strictly in accordance with regulations and procedures as may be prescribed by the Commission and shall also be in conformity with the requirements relating to petitions as prescribed in Chapter II of these Regulations.

82 The Commission may approve the proposed tariff on such stipulations as may be considered appropriate and as may be specified in the Order.

83 The Commission may get the books and records (or true certified/zerox copies thereof) of the utilities concerned examined by its officers and/or by Consultants at any point of time during the pendency of the petition or otherwise. The report of the officers/consultants shall be made available to the parties concerned and they shall be given opportunity to react on the report in the manner as prescribed in regulation 59.


84 The utilities concerned shall publish the tariff as approved by the Commission in the manner as may be prescribed. The tariff so published shall be in force from the date specified in the said publication not being earlier than the date of such publication and shall be in force until any amendment is approved by the Commission and published.

85 Any utility found to be charging a tariff different from the one approved by the Commission shall be deemed to have not complied with the directions of the Commission and shall be liable to penalties under Section 45 of the Act, without prejudice to any other penalty to which it may be liable under any other Act. Any excess charge of tariff by any utility in any year shall be dealt with as per the directions of the Commission.

The Commission, on being satisfied that there is need to review the tariff and terms and conditions of any utility, shall, on its own, initiate the process of revision in accordance with the procedure as may be prescribed. The proceedings for suo motu review of the tariff

shall be the same as set out in Chapter II of these Regulations.

The utilities shall submit periodic returns as may be prescribed, containing operational and cost data to enable the Commission to monitor the implementation of its order and reassess the bases on which tariff was approved.



Inspection of Commission's records and confidentiality:

93 (a) Records of the Commission, except those parts which, for reasons specified by the Commission, are confidential or privileged, shall be open to inspection by all, subject to the payment of the fee and complying with the terms as the Commission may direct.

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

(c)

The Commission may, by order, direct that any information, documents and other papers and materials produced before the Commission or any of its Officers, consultants, representatives or otherwise which may be, or come into, their possession or custody, shall be confidential or privileged and shall not be available for inspection or supply of copies, and the Commission may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Commission.

Issue of orders and directions:

94 Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and 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:

95 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.

96 Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstance 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.

97 Nothing in these Regulations shall, expressly or impliedly, bar the Commission to deal with any matter or exercise any power under the Act for which no resolutions have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

General power to amend:

98 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:

99 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 difficulties.

Extension or abridgement of time prescribed:

100 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:

101 Failure to comply with any requirement of these regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

Costs:

102(a) Subject to such conditions and limitation as may be directed by the Commission, the costs 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.

(b) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree/order of a Civil Court.

Enforcement of orders passed by the Commission:

103 The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the Act and regulations and, if necessary, may seek the orders of the Commission for directions.

(Click here for printing Form I)

Form I

(See Regulation 28)

Before the Maharashtra Electricity Regulatory Commission, Mumbai.

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 petitioner's/applicants and names and full addresses of the respondent)

Fact of the case/petition be stated in short

Submission/Ground in support of the case.

Relief clause : Relief prayer made in the petition be stated shortly and specifically.

Place:

Date:

Signature of the Petitioner

(Click here for printing Form II)

Form II

(See Regulation 29)

Before the Maharashtra Electricity Regulatory Commission, Mumbai.

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 petitioner's/applicants and names and full addresses of the respondent)

Affidavit verifying the Petition reply/application

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

1. 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.

2. The statements made in paragraphs of the petitioner/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 and I believe them to be true.

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 therefrom.

Identified before me.

..... AMITABH RAJAN, I.A.S.
Mumbai, Secretary.
Dated 27th December 1999.
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