



MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

EXPLANATORY MEMORANDUM
ON
DRAFT MAHARASHTRA ELECTRICITY
REGULATORY COMMISSION
(CONSUMER GRIEVANCE REDRESSAL
FORUM & ELECTRICITY OMBUDSMAN)
REGULATIONS, 2020

17 May 2020

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1 Introduction

1.1 Background & Regulatory Framework

Section 42 (5) read with sub-clause (r) of Section 181 (2) of the Electricity Act, 2003 (“EA 2003” or “the Act”) mandates the State Electricity Regulatory Commissions (“SERCs” or “Commissions”) to specify guidelines in the form of Regulations for establishment of a Forum for redressal of grievances of the consumers. Section 42 (6) and 42 (7) read with sub-clause (s) of Section 181 (2) of the EA 2003 mandates the Commission to designate or appoint an Ombudsman and specify the manner for settlement of grievances by the Ombudsman in case the consumer is aggrieved by non-redressal of his grievances by the Forum formed under sub-section (5) of Section 42, within such time and manner as specified in its Regulations. The relevant provisions of the EA 2003 are reproduced below:

“42 (5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.”

In accordance with these provisions, the Maharashtra Electricity Regulatory Commission (“MERC” or “the Commission”) had notified the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 (“MERC CGRF & EO Regulations”) in April 2006. The Commission subsequently notified the First Amendment to Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 in April 2007.

The Commission till date has issued 2 Practice Directions on the aforesaid Regulations. The first Practice Direction was issued on 8 February 2016, wherein the Commission directed the Consumer Grievance Redressal Forum (“CGRF” or “Forum”) to not entertain any applications from any party seeking review of their own Orders. The Commission also directed the Electricity Ombudsman to suo-motu call for papers and give appropriate direction to CGRFs who are entertaining such applications for reviewing their own Orders.

The second Practice Direction was issued by the Commission in July 2019 wherein the Commission directed the CGRF to allow uniform interest rate on the amounts to be refunded

to the consumers. The Commission in its Practice Direction directed the Fora to allow the interest rate equivalent to the Bank Rate declared by the Reserve Bank of India prevailing during the relevant period on the amount of excess to be refunded by the Distribution Licensee.

As stated above, the amendment of the aforesaid Regulations was done in 2007. Thereafter, there have been significant changes in the sector with regard to the development of CGRF and Electricity Ombudsman. The Forum of Regulators (FOR) had notified its model Regulations on Protection of Consumer Interest (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy Regulations) in February 2011. Based on the model Regulations of FOR, many SERCs have amended their CGRF and EO Regulations. FOR also published a Report in 2016 based on study of the cases handled by CGRF across States, and made certain recommendations.

On the other hand, the Commission also came across several matters/issues, etc., relating to CGRF and Electricity Ombudsman through various Petitions filed by consumers and the Distribution Licensee over the past several years. The Commission has also analysed the periodic Reports that are submitted by CGRFs and Electricity Ombudsman for the past 2-3 years and has arrived at certain conclusions, which need to be implemented through the Regulations.

The Commission has also come across several Petitions filed by consumers before the Commission claiming that the Distribution Licensees did not follow the directions/Orders of CGRFs and Electricity Ombudsman. The Commission had to intervene in such cases and give directions to the Distribution Licensee to comply with the Orders of CGRF and Electricity Ombudsman.

Taking the above facts and developments into consideration, the Commission feels that there is a need to radically alter the existing regulatory framework of CGRF and Electricity Ombudsman and create a new set of Regulations in this regard in order to facilitate efficient and effective redressal of grievances in a timely and expeditious manner.

The Commission has hence, formulated the draft MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (hereinafter referred as “draft CGRF & EO Regulations, 2020). As stated earlier, while formulating the draft CGRF & EO Regulations, 2020, the Commission has been guided by the Model FOR Regulations, 2011, FOR Recommendations of 2016, and the Regulations notified by other SERCs in the recent past. The Commission has also addressed the conclusions arrived at based on the periodic performance reports submitted by the Fora and the Electricity Ombudsman to the Commission.

The Commission has considered the cases filed by the consumers before various Fora in the State and before the Electricity Ombudsman in FY 2017-18 and FY 2018-19 for analysis on

the type of issues raised by consumers in these Fora and has accordingly proposed certain amendments to these Regulations.

The Commission has also taken into account the nature of Petitions filed by the consumers before the CGRF and EO while proposing amendments to these Regulations.

The Commission has proposed modifications to certain clauses vis-à-vis the clauses specified in the MERC CGRF & EO Regulations (as amended from time to time) based on the experience in implementation of these Regulations over the past years, and in order to simplify/clarify/amend certain provisions as considered reasonable. **The rationale for the changes proposed in the MERC CGRF & EO Regulations have been elaborated in this Explanatory Memorandum. In clauses where no change is proposed, the same has not been explicitly mentioned. Generally, only the clauses where any addition/modification is proposed in the draft CGRF & EO Regulations, 2020 have been discussed in this Explanatory Memorandum.**

The Commission while formulating draft CGRF & EO Regulations, 2020 has endeavoured to balance the interest of consumers and the Distribution Licensees. Based on the analysis, the Commission has tried to bring out the best possible regulatory framework through the proposed amendments to these Regulations and the same have been discussed in subsequent Chapters.

The Explanatory Memorandum is organised in the following Chapters:

- Chapter 1:** Introduction
- Chapter 2:** General Provisions
- Chapter 3:** Internal Grievance Redressal Cell
- Chapter 4:** Consumer Grievance Redressal Forum
- Chapter 5:** Electricity Ombudsman

2 General Provisions

2.1 Objectives

This Chapter of the Explanatory Memorandum elaborates on various aspects of the Regulations relating to Introduction, Definitions and Basic Principles of the draft CGRF & EO Regulations, 2020.

2.2 Introduction

The existing MERC CGRF & EO Regulations provide for Introduction at the beginning of the Regulations specifying the relevant Sections of the Electricity Act, 2003 from which powers are drawn by the Commission to notify these Regulations. The Introduction part also mentions the public consultation process that was carried out by the Commission before issuance of the existing MERC CGRF & EO Regulations.

The Commission has now issued an Explanatory Memorandum (EM) along with the draft CGRF & EO Regulations, 2020 and shall be issuing a Statement of Reasons, while notifying the final CGRF & EO Regulations, 2020, hence, the Introduction part is no longer relevant. The Commission has therefore, deleted the Introduction part from the draft CGRF & EO Regulations, 2020.

2.3 Definitions

In the definition of '**Grievance**', the Commission has deleted the words "*(a) safety of distribution system having potential of endangering of life or property, and (b)*", as these are within the domain of the Electrical Inspector and Distribution Licensee, and should not come under the jurisdiction of the Forum.

The Commission has deleted the definition of '**Internal Grievance Redressal Cell**' (IGRC) in the draft CGRF & EO Regulations, 2020. The Commission has proposed to exclude IGRC from the process of redressal of grievance owing to its relative ineffectiveness to remedy the consumer grievances. The Commission has provided the detailed reasoning for excluding IGRC from the redressal process, in a separate Chapter of this Explanatory Memorandum. Since IGRC is proposed to be eliminated, the Commission has deleted the definition of IGRC from the draft CGRF & EO Regulations, 2020.

The Commission has slightly modified the Definition of '**Nodal Officer**' by deleting the phrase 'of the Board' from the existing MERC CGRF & EO Regulations. Since State Electricity

Boards (SEBs) no longer exist in Maharashtra, the phrase is no longer relevant. The definition of Nodal Officer proposed in the draft CGRF & EO Regulations, 2020 is as follows:

“(f) “Nodal Officer” shall mean an officer having knowledge and experience in distribution and supply of electricity and so designated by the Distribution Licensee to act as a nodal officer, who shall not be below the rank of an Executive Engineer or officer of equivalent rank of any Distribution Licensee; “

2.4 Basic Principles for Establishment of Forum

Regulation 3.1 provides for every Licensee to set up Fora in its Licence area within a period of six months from the Appointed date or from the date of grant of Licence. Since, the Commission has also taken on record the deemed Distribution Licensee status of Special Economic Zones (SEZs), Regulation 3.1 is proposed to be modified to include such deemed Distribution Licensees, as follows:

“3.1 Every Distribution Licensee shall, within six months from the Appointed Date or date of grant of licence or date of taking on record the Distribution Licensee status in case of Deemed Distribution Licensees, whichever is earlier, establish Fora in accordance with these Regulations”.

Regulation 3.1 (d) of the existing MERC CGRF & EO Regulations is proposed to be deleted since the clause relates to the delay in redressal of grievances by the IGRC of the Distribution Licensee.

Regulation 3.2 of the existing MERC CGRF & EO Regulations provides for establishment of at least one Forum in each distribution Zone of the licence area of the Distribution Licensee, as follows:

“3.2 A Distribution Licensee shall establish at least one (1) Forum in each distribution zone falling within its area of supply.”

Explanation – for the purpose of this Regulation 3.2, the term “distribution zone” shall mean the geographical area falling within the jurisdiction of a zonal office of the successor entities of the Board as may be vested with the functions of distributing electricity pursuant to re-organisation of the Board.

Provided that where the area of supply is the city of Greater Mumbai and adjoining areas, each Distribution Licensee shall have at least one (1) Forum for such area of supply.

Subject to any guidelines that may be issued by the Commission, from time to time, the area of jurisdiction of the Forum shall be decided by the Distribution Licensee ”

In accordance with the above provisions, the Distribution Licensees in Maharashtra have established the following Fora:

Name of Distribution Licensee	Number of Fora
MSEDCL	16
AEML-D	1
BEST	1
TPC-D	1
TOTAL	19

In addition to the above, there is one CGRF each in the licence area of the deemed Distribution Licensees, viz., MBPPL, GEPL and NUPLLP. However, there are no cases registered with the CGRFs of the deemed Distribution Licensees in FY 2017-18 and FY 2018-19.

The Commission has analysed the number of cases registered in FY 2017-18 and FY 2018-19 in each of the 19 CGRF of 4 Distribution Licensees. The higher number of cases were observed in certain CGRFs of MSEDCL, viz., Kalyan, Bhandup, Nagpur, Pune and Nashik zones. The higher number of cases could be due to higher awareness and industrialisation in these areas.

Further, the Commission observed that highest number of cases were registered in Kalyan zone in both the years. In FY 2017-18, the total number of cases registered during the year were 156 while in FY 2018-19, the number of cases increased to 306. Further, it is observed that around 77% of the cases took more than 60 days to get resolved in FY 2017-18. The performance improved in FY 2018-19, with only 21% of the cases being delayed beyond 60 days.

The Commission is aware that the Kalyan CGRF has the highest number of Distribution Circles, i.e., five (5), under its jurisdiction. This may be one of the reasons for highest number of cases in Kalyan CGRF. The total number of consumers handled by this CGRF is around 25.38 Lakh, which is one of the highest number of consumers handled by any CGRF in the State.

The Commission therefore, proposes to add one more CGRF in Kalyan Zone, which shall be located at Vasai and handle the Vasai and Palghar Circles, which includes Nala Sopara also. This will ensure that the case load on the existing single CGRF gets distributed, and the ‘justice

at doorstep' philosophy is also met, as the consumers located in these Circles will not have to travel to Kalyan to get relief.

The second highest number of cases were registered in Bhandup zone of MSEDCL during FY 2017-18 and FY 2018-19. Bhandup CGRF registered 89 cases in FY 2017-18 and 216 cases in FY 2018-19. Here, it is observed that the performance worsened from FY 2017-18 to FY 2018-19, with almost 97% of the cases requiring more than 60 days to get resolved. However, in FY 2018-19, almost 50% of the cases were filed by Public Service consumers praying for change in the Tariff categorization, which is a one-time issue. Therefore, the number of cases filed before Bhandup CGRF is not as high as that filed before Kalyan CGRF. Hence, it is not proposed to create another CGRF in Bhandup Zone.

Other CGRFs such as Nagpur, Pune, Nashik, etc., have large number of cases, due to higher number of consumers and more awareness about grievance redressal mechanism as compared to other parts of Maharashtra. However, the Commission observes that the numbers are not as high as those of Kalyan and Bhandup zones and therefore, the cases can be handled by the existing CGRF.

Further, MSEDCL in its Petition filed in Case No. 237 of 2019, had proposed reorganisation of the CGRFs based on Cases dealt by them and the geographical coverage by the CGRFs. MSEDCL submitted that it had initially constituted thirteen (13) CGRFs at its existing Zonal headquarters in line with Regulation 3.2 of the MERC CGRF & EO Regulations, 2006. MSEDCL created three (3) new Zones, viz., at Jalgaon, Nanded and Baramati, which were carved out from Circles of earlier five (5) Zones and also established CGRF in these new Zones. Requisite infrastructure such as office space, secretarial support and other facilities was provided to CGRFs. For public awareness, MSEDCL also included the information about consumer grievance redressal mechanism in the energy bills.

MSEDCL observed that the number of grievances received in Kalyan, Bhandup, Nagpur, Kolhapur and Nashik CGRFs are significantly high, whereas grievances received in Chandrapur, Nanded, Gondia, Jalgaon, Latur, Ratnagiri, Amravati and Baramati CGRFs are comparatively much lesser.

MSEDCL suggested that the CGRFs with fewer cases may be clubbed with nearby/adjoining CGRFs. After clubbing of CGRFs, the establishment costs of CGRFs will be reduced and effectiveness of CGRFs can be ensured by deputing the nearby CGRF members to such Zone where the cases dealt are fewer in number.

CGRFs Proposed for clubbing by MSEDCL

CGRF	FY 2016-17	FY 2017-18	FY 2018-19	New CGRF HQ
Ratnagiri	14	20	18	Kolhapur
Kolhapur	76	73	96	
Nashik	85	58	78	Nashik
Jalgaon	30	6	14	
Pune	73	44	63	Pune
Baramati	38	18	29	
Latur	15	16	14	Aurangabad
Nanded	8	5	10	
Aurangabad	45	49	59	
Nagpur	198	101	147	Nagpur
Chandrapur	8	1	2	
Gondia	4	10	15	
Akola	38	37	65	Amravati
Amravati	17	30	18	

MSEDCL submitted that having separate CGRFs even when less number of cases/grievances are registered, leads to increase in administrative cost. MSEDCL further submitted that after clubbing of proposed CGRFs, hearing will be held at all 16 locations as it used to be earlier, only the Bench of Members (Coram) will travel to nearby CGRF location from New CGRF headquarters on pre-fixed dates/days. The said proposal of merging of CGRFs will be implemented after completion of tenure of existing Chairperson & Member (CPO) of respective CGRFs.

MSEDCL also proposed to allow CGRF establishments to carry out proceedings by way of audio-video facility, wherever feasible.

In its Order in Case No. 237 of 2019, the Commission ruled that the Commission has already initiated the process to review/amend the existing CGRF & EO Regulations, which will include a Public Consultation Process as well. Therefore, MSEDCL may submit its say covering all the issues by filing its suggestions during the said public consultation process initiated for amending the CGRF and EO Regulations.

In this regard, the Commission is of the view that there is merit in merging the following CGRFs, based on the number of Cases filed before the respective CGRF:

1. Ratnagiri with Kolhapur
2. Jalgaon with Nashik

3. Latur and Nanded with Aurangabad
4. Chandrapur and Gondia with Nagpur

However, merging of CGRFs should not hamper the reach of CGRFs to every single consumer in MSEDCL area. Even after the merger, all consumers including the ones falling under the above CGRFs should be able to register their complaints without any hindrance. Therefore, the Commission has enabled such merger in the draft CGRF & EO Regulations, with the condition that the prevailing CGRFs shall hold sittings on a rotational basis in such a manner that at least one sitting is held every month in every Distribution Zone.

The Commission feels that the merger of these areas will increase the number of Distribution Circles which fall under these CGRFs. However, since the cases registered in these areas are quite less, the disposal of cases can be under control and within the stipulated time period as specified in the Regulations.

The Commission would like to make available the general information about the cases dealt by the CGRF's, the decisions given, the types of disputes, etc. The details are as given below:

The following graph and Table show the number of cases filed before various CGRFs of MSEDCL and Mumbai Distribution Licensees in FY 2017-18 and FY 2018-19:

Figure 1: Number of Cases before MSEDCL CGRFs in FY 2017-18 & FY 2018-19

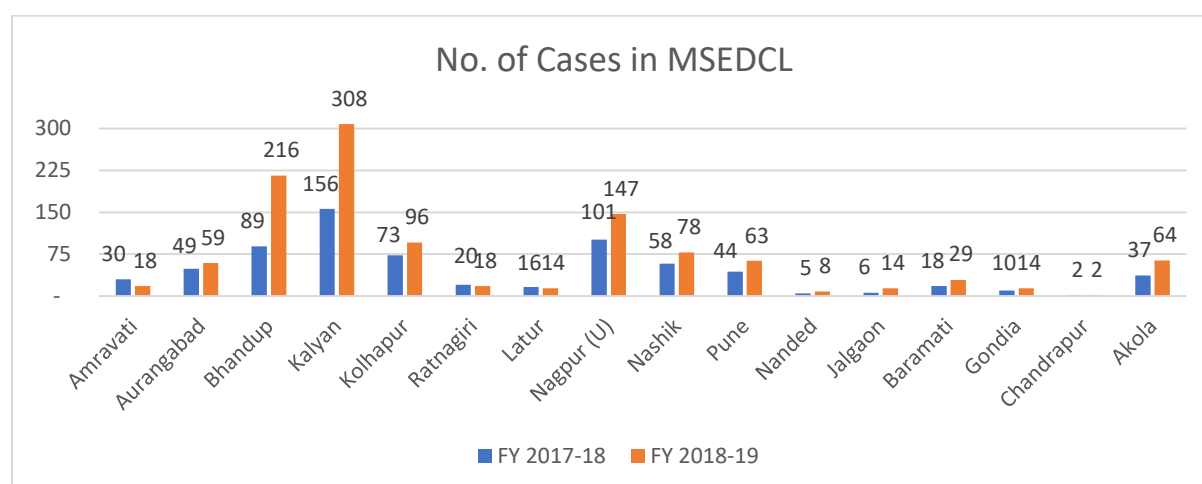


Table 1: Number of Cases before CGRFs in Maharashtra in FY 2017-18 & FY 2018-19

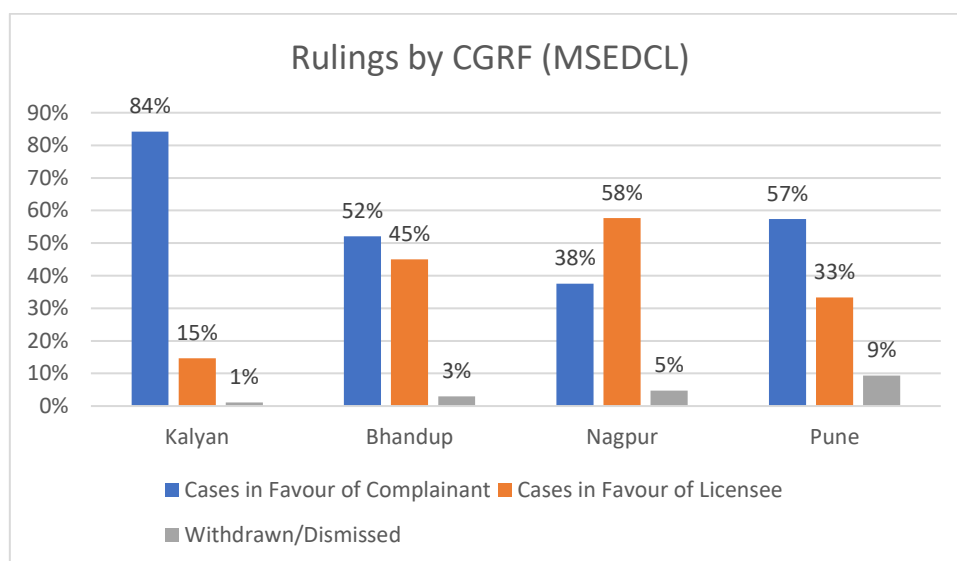
Financial Year	MSEDCL	TPC-D	AEML-D	BEST
FY 2017-18	714	1	11	34
FY 2018-19	1148	2	39	25

Financial Year	MSEDCL	TPC-D	AEML-D	BEST
TOTAL	1862	3	50	59

The Commission observes that the number of cases registered in CGRFs of Mumbai Licensees are lesser as compared to the cases handled by CGRFs of MSEDCL. AEML-D and BEST registered around 50 and 59 cases, respectively, for FY 2017-18 and FY 2018-19 combined. TPC-D only registered 3 cases in these two years. Though the number of cases are less, it is necessary to have at least one Forum for each Distribution Licensee in its Licence area. The Commission has therefore, retained the clause of at least one CGRF in Mumbai Licence area of each Distribution Licensee in the form of a proviso to Regulation 3.3 in the draft CGRF & EO Regulations, 2020.

The following Graph shows the break-up of the rulings made by the CGRFs with highest number of cases in MSEDCL Licence area, in terms of whether the rulings were in favour of the Complainant or the Licensee:

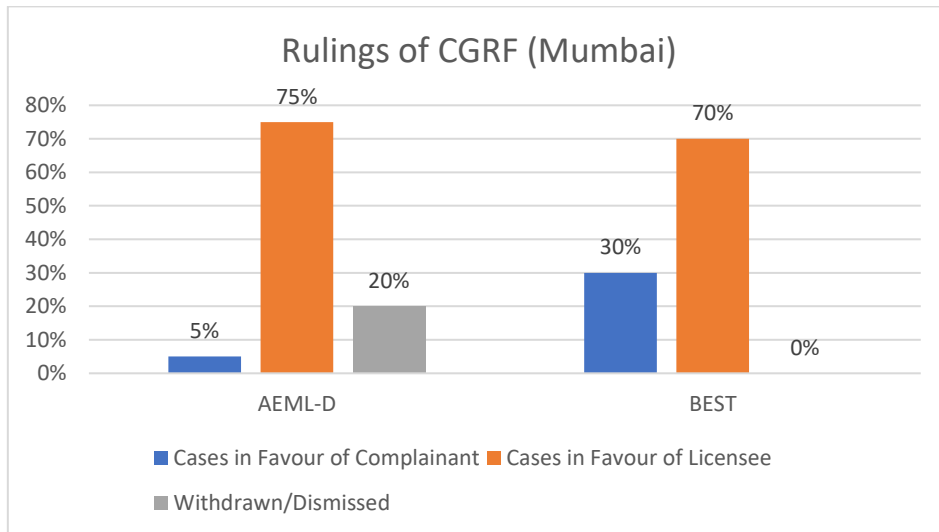
Figure 2: Percentage of Orders in favour of Complainant in Key MSEDCL CGRFs



As seen from the above Graph, majority of the Orders by CGRF in Kalyan, Bhandup and Pune zones are in favour of Complainant, while in Nagpur CGRF, higher number of Orders are in favour of the Licensee.

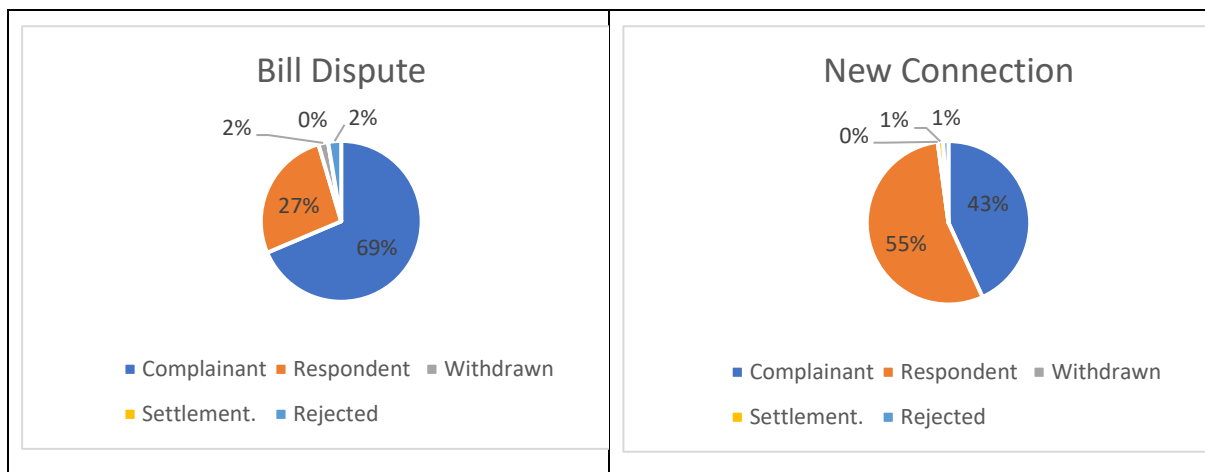
On the other hand, Orders by CGRF of Mumbai Licensees show a different trend, as majority of the Orders are in favour of the Licensee, as shown in the Figure below:

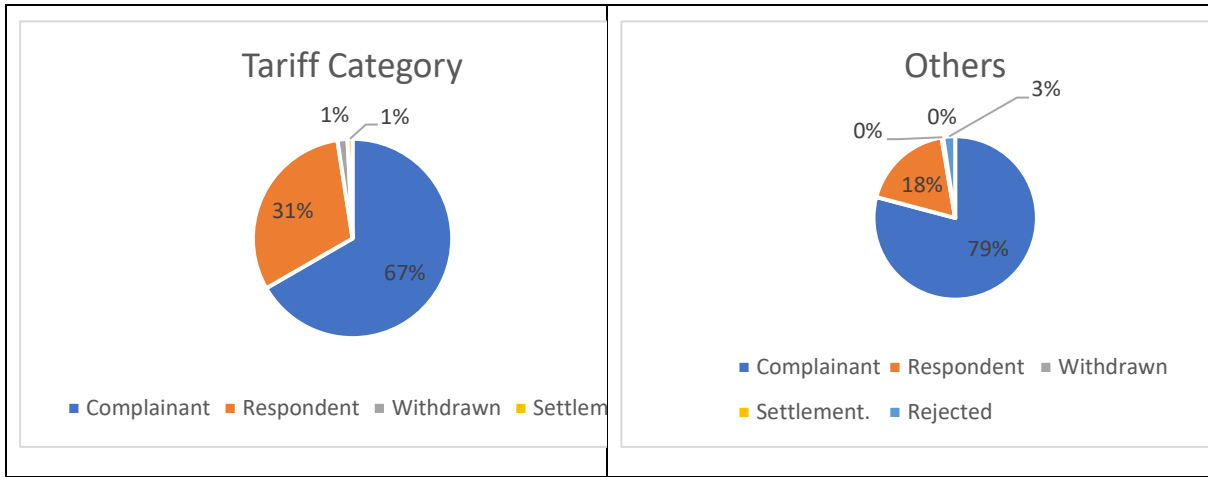
Figure 3: Percentage of Orders in favour of Complainant in AEML-D and BEST CGRF



The Commission has also analysed the Cases, to identify the nature of Cases that were ruled in favour of the Complainant and Licensee. The issue-wise Graphs of rulings made by all CGRF of MSEDCL combined are given below:

Figure 4: Issue-wise analysis of Orders given by MSEDCL CGRFs

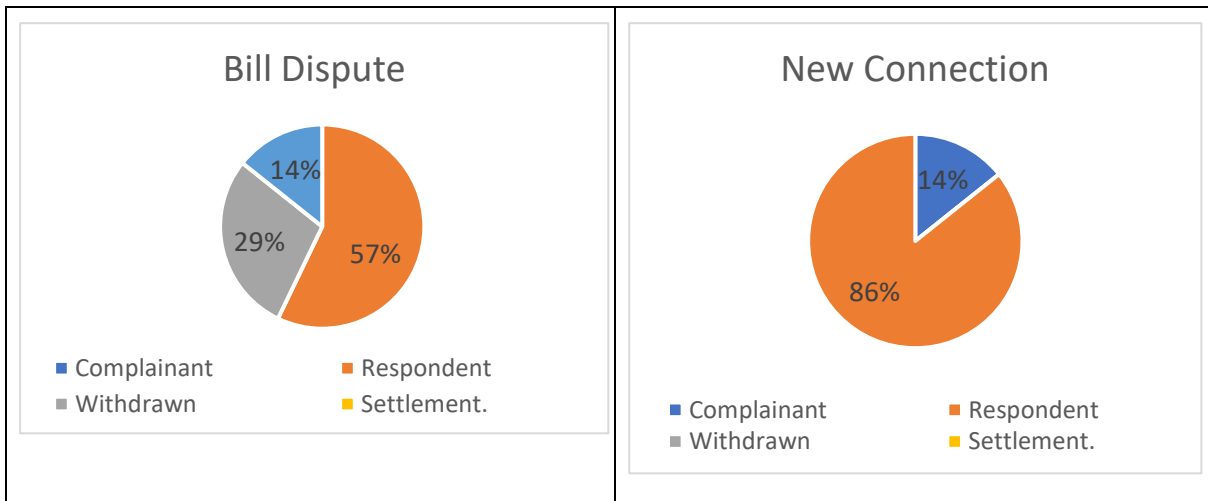




As seen from the above Graphs, majority of the cases related to Billing Disputes and Tariff Category were ruled in favour of the Complainant. Majority of rulings on ‘Other’ issues were also in favour of Complainant. Only in case of New Connection, the majority of cases went in favour of the Licensee.

The issue-wise analysis of rulings by CGRFs of Mumbai Licensees is shown in the following Figures:

Figure 5: Issue-wise analysis of Orders given by AEML-D CGRF



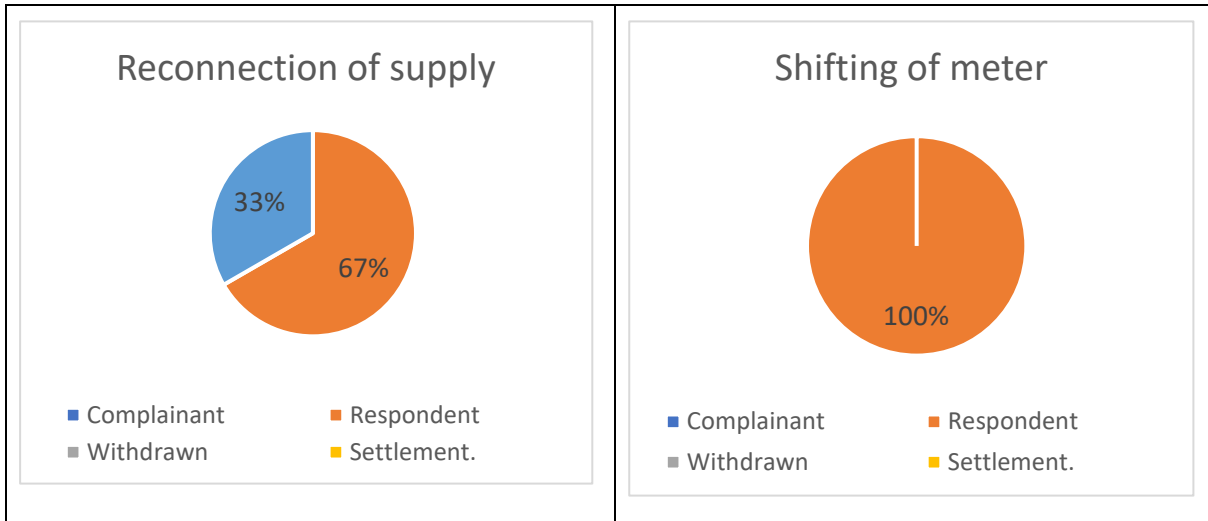
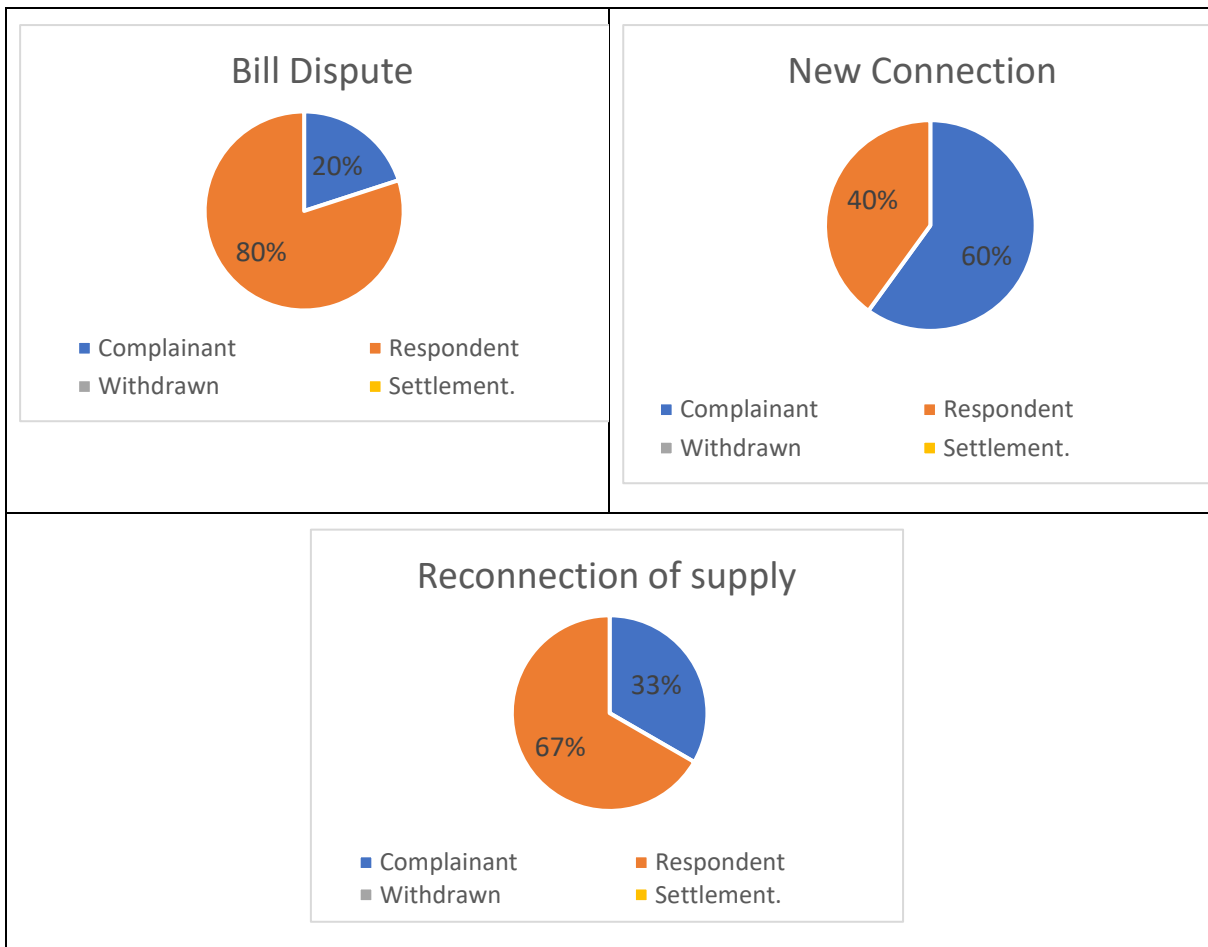


Figure 6: Issue-wise analysis of Orders given by BEST CGRF



As seen from the above Graphs, in case of AEML-D, majority of the Orders are in favour of the Licensee, irrespective of the kind of grievance raised. Whereas in BEST, except for the issue of New Connections, majority of the Orders have been in favour of the Licensee.

Certain inferences can be drawn from the above analysis, as under:

1. The proportionate number of Cases in MSEDCL's licence area are higher than the Cases in Mumbai Licence area, even after considering the higher consumer base of MSEDCL;
2. The higher number of grievances reflects certain amount of miscommunication or misinterpretation of Regulations and Orders by the field offices of MSEDCL;
3. MSEDCL needs to take steps to improve the efficacy of implementation of the Rules and Regulations and Orders issued by the Commission, in order to minimise the number of grievances, by improving the awareness amongst its field officers and minimising the ambiguity in internal communication;
4. The Distribution Licensees need to improve the checks and balances within the organisation, to minimise the grievances;
5. All CGRFs need to ensure that the Cases are disposed of within the time frame specified in the Regulations, for which, more sittings, hearings, etc., may be conducted as necessary;
6. There is a need to increase the awareness of consumers in certain Zones about their rights and the prevalent Rules, Regulations and Tariff Orders.

The Commission has also retained the proviso of the Distribution Licensee deciding the jurisdiction of the Forum, subject to the guidelines and / or directions issued by the Commission from time to time.

In order to enable merger of Fora as discussed earlier, the Commission has proposed certain modifications to Regulation 3.3 of the draft CGRF & EO Regulations, 2020, linking the coverage of each Forum to the number of cases and work load of the Forum.

Further, it is proposed to list the location of the Fora of the Distribution Licensees in the State of Maharashtra as an Appendix to the Regulations, with the proviso that the Commission may notify any change in the Appendix 1 through Order, as necessary from time to time, after due public consultations.

The proposed clauses are as follows:

“3.3 A Distribution Licensee shall generally establish one (1) Forum in each distribution Zone falling within its area of supply:

Provided that the Distribution Licensee shall be allowed to establish one (1) Forum for more than one (1) distribution Zone, depending on the number of cases and work load of the Forum:

Provided further that where the area of supply is the city of Greater Mumbai and adjoining areas, each Distribution Licensee shall have at least one (1) Forum for such area of supply:

Provided also that the area of jurisdiction of the Forum shall be decided by the Distribution Licensee subject to any guidelines or directions that may be issued by the Commission, from time to time.

Explanation – for the purpose of this Regulation 3.3, the term “distribution Zone” shall mean the geographical area falling within the jurisdiction of a zonal office of the successor entities of the Board as may be vested with the functions of distributing electricity pursuant to re-organisation of the Board.

3.4 The location of approved list of Fora of Distribution Licensees in the State of Maharashtra is given at Appendix 1:

Provided that the Commission may notify any change in the Appendix 1 through Order, as necessary from time to time, after due public consultations.”

The existing MERC CGRF & EO Regulations, 2006 provides for publishing the draft rules and procedures for redressal of Grievances for inviting comments on the draft rules and procedures and finalizing the same based on comments. However, rules and procedures have already been established and there is no need to publish such draft rules for comments. The Commission has therefore, proposed to delete the clauses relating to publishing draft rules and procedures by Distribution Licensee. However, there is a need to update the rules and procedure based on the notified Regulations and hence, the Commission has retained the clause that Distribution Licensee shall update the rules and procedures in accordance with the CGRF & EO Regulations, 2020 from time to time. The Commission has also updated the contents of the rules and procedures by excluding the clauses relating to IGRC and including the manner of representation to be filed before the Electricity Ombudsman.

The relevant Regulation of the draft CGRF & EO Regulations, 2020 is as follows:

“3.5 Every Distribution Licensee shall publish its rules and procedures for redressal of Grievances and make the same available to public in English and Marathi at all cash collection centres and offices of the Distribution Licensee, and inform consumers through the bills raised on them regarding the availability of such rules and procedures.

3.6 Such rules and procedures for redressal of Grievances published by the Distribution Licensee shall be in accordance with these Regulations.

3.7 The Distribution Licensee shall update and publish such rules and procedures referred to in Regulation 3.4 at regular intervals which shall, in particular, include—

- (i) the objects of these Regulations;*
- (ii) the assistance available from the Forum;*
- (iii) the manner of filing a representation before the Electricity Ombudsman;*
- (iv) any additional rules, procedures or circulars made or issued by the Distribution Licensee in relation to these Regulations and in accordance with the Act.*

3.8 The Distribution Licensees shall constantly endeavour to take steps in accordance with the requirements herein to provide as much information suo motu to the public at regular intervals through various means of communication, including internet, so that information is disseminated widely and in such form and manner that is easily accessible to the public”

2.5 Internal Complaint Redressal Mechanism

The Commission is of the opinion that the internal Complaint Redressal Mechanism of the Distribution Licensee should be strong enough to resolve maximum number of complaints that are registered with them. The Consumer Call Centre is the first point of contact that is approached by the consumer for redressal of his complaints. In case the consumer’s complaint does not get resolved after approaching the Consumer Call Centres, then the consumer may submit his grievance to the CGRF and subsequently the EO.

The Commission is of the view that the Consumer Call Centres, being an internal mechanism of the Distribution Licensee for resolution of complaints, should be capable enough to resolve maximum number of grievances. The internal compliant redressal mechanism is required to be fully equipped to take up and resolve complaints at their own level, so that the CGRF are not loaded with higher number of cases.

The Commission, in order to improve the performance of Consumer Call Centres, proposes to adopt the mechanism followed by the National Consumer Helpline falling under the Ministry of Consumer Affairs, Food and Public Distribution, as elaborated below.

A web-based portal shall be created whereby consumers can register their complaints through toll free numbers, SMS, online registration, web chat facility and mobile application. The portal shall be integrated with the complaint handling system of the Consumer Call Centres. The Complainant can create their own logins wherein it can lodge multiple complaints and keep a track of all individual complaints till the complaint is resolved.

All complaints received shall be sent to the respective department/cell, for speedy redressal. The respective department/cell is required to provide remedy on the complaint within a stipulated time from the date of registering the complaint. The concerned officer is required to take necessary action on the complaint. Any action taken shall be updated on real time basis on the online portal and can be seen through the docket number.

All efforts shall be made by the Distribution Licensee to redress the complaint within the stipulated time. However, in case the consumer is not satisfied with the resolution, he/she may approach the CGRF.

The Internal Redressal Mechanism shall have an escalation index for non-resolution of complaint within stipulated time. The Licensee shall design its own escalation index depending on the time elapsed from the date of registering the complaint. The area/district/zonal officials should be two or three level depending upon area/number of complaints. If complaint is not resolved at call centres level, the consumer may approach officers in following hierarchy:

Level 1-Area Officers

Level 2 - District officers

Level 3 - Zonal officers (or Nodal officers appointed for consumer grievance redressal)

Every Licensee shall have one officer in its area/district/zone, depending on the number of complaints received, assigned for resolution of complaints, who shall be directly reporting to the Chief Engineer of the respective department. This Officer shall have powers to access the portal and give an update of their actions for easy reference to consumers.

The Internal Redressal Mechanism shall keep an update of the list of complaints registered / pending/ resolved / escalated, etc. and shall provide quarterly update to the respective CGRF. The portal shall also have a feedback mechanism wherein the consumers can register their feedback based on the service provided through this portal. The feedback given by consumers shall be appropriately summarised and submitted by the Distribution Licensee through a quarterly report to the respective CGRF and the EO.

The Chairperson of the respective CGRF can give directions to the Distribution Licensee based on the reports received on number of complaints disposed in stipulated time and feedback provided by the consumers.

The Commission has proposed the following additional clauses in the Draft MERC CGRF & EO Regulations:

“3.9 As part of the internal complaint redressal system of the Distribution Licensee, a web-based portal shall be created whereby consumers can register their complaints electronically/digitally through SMS, online registration, web-chat facility and mobile application (in person or through toll free telephone numbers), which shall be integrated with the complaint handling system through the Consumer Call Centres.

3.10 The complaints registered through the integrated portal under the internal complaint redressal system shall be addressed in the following manner:

(a) The Complainant can create their own logins wherein they can lodge multiple complaints and keep a track of all individual complaints till the complaint is resolved;

(b) All complaints received shall be automatically assigned/sent to the respective department/cell, for speedy redressal;

(c) The respective department/cell is required to provide remedy on the complaint within a stipulated time from the date of registering the complaint;

(d) The concerned officer shall take necessary action on the complaint and update and/or close the same on the portal;

(e) The Distribution Licensee shall design its own escalation index for non-resolution/non-closure of complaint depending on the time elapsed from the date of registering the complaint;

(f) Every Distribution Licensee shall have one officer in its area/district/zone, depending on the number of complaints received, assigned specifically for resolution of complaints, who shall be directly reporting to the Chief Engineer/Zonal Chief of that area;

(g) The portal shall also have a feedback mechanism with a suggestion window wherein the consumers can register their feedback based on the service provided;

(h) The Distribution Licensee shall provide quarterly update to the respective CGRF on the status of complaints, including summary of the feedback received from the consumers:

Provided that the same shall also be uploaded on the website in an easy to read format.

3.11 The Chairperson of the respective CGRF may give directions to the Distribution Licensee based on the reports received on number of complaints disposed of by the internal complaint redressal system in stipulated time and feedback/suggestion provided by the consumers.”

3 Internal Grievance Redressal Cell

3.1 Objectives

This Chapter of the Explanatory Memorandum elaborates on the role of the Internal Grievance Redressal Cell (IGRC) in the MERC CGRF & EO Regulations, 2006.

3.2 Role of IGRC

Regulation 6 of the existing MERC CGRF & EO Regulations, 2006 specifies a three-tier regulatory process to be followed by the Complainant for redressal of his grievances. The Complainant has to approach the IGRC of the Distribution Licensee as the first authority for redressal of his complaint followed by the Forum and thereafter the Electricity Ombudsman.

As per the existing MERC CGRF & EO Regulations, 2006, the IGRC formed by the Distribution Licensee shall provide remedy on the complaint within a period of two months from the date of filing of complaint by the consumer/complainant.

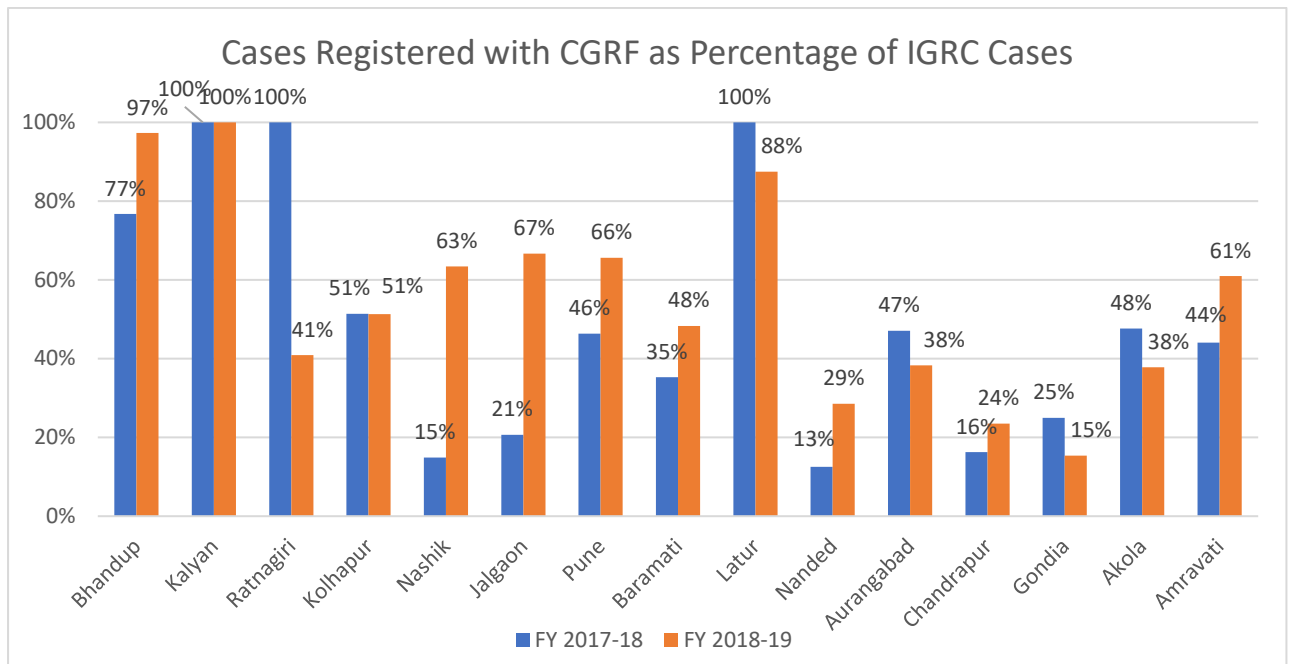
The Commission has analysed the cases filed by the consumers before the IGRC of various Distribution Licensees in FY 2017-18 and FY 2018-19.

One parameter to assess the performance of the IGRCs is to check how many Cases have been filed before the CGRF, vis-à-vis the total number of Cases filed before the IGRCs. The number of Cases filed before CGRF as a percentage of Cases filed before IGRC can be interpreted as the percentage of Cases that the IGRC could not resolve satisfactorily, though mere filing of Case before the CGRF does not mean that the IGRC has failed to do its job, as the CGRF Order may be against the Complainant. Even an adverse CGRF Order may be overturned by the Ombudsman. In case of MSEDCL, though the number of cases filed with IGRCs remained almost the same in FY 2017-18 and FY 2018-19, there was a significant jump of 61% in number of cases registered with the CGRFs from FY 2017-18 to FY 2018-19.

In case of Mumbai Licensees like AEML-D and TPC-D, it is observed that though IGRCs were able to resolve a greater number of cases, the decision was mostly in favour of Licensees. Out of the total 225 cases registered before IGRC of AEML-D during FY 2017-18 and FY 2018-19, only 1 was decided in favour of the Complainant.

The Commission has analysed the number of IGRC cases that were registered in MSEDCL area and accordingly worked out the percentage of the registered IGRC cases that went to CGRF for redressal, as shown in the Figure below:

Figure 7: Cases registered with CGRF as Percentage of IGRC Cases for MSEDCL



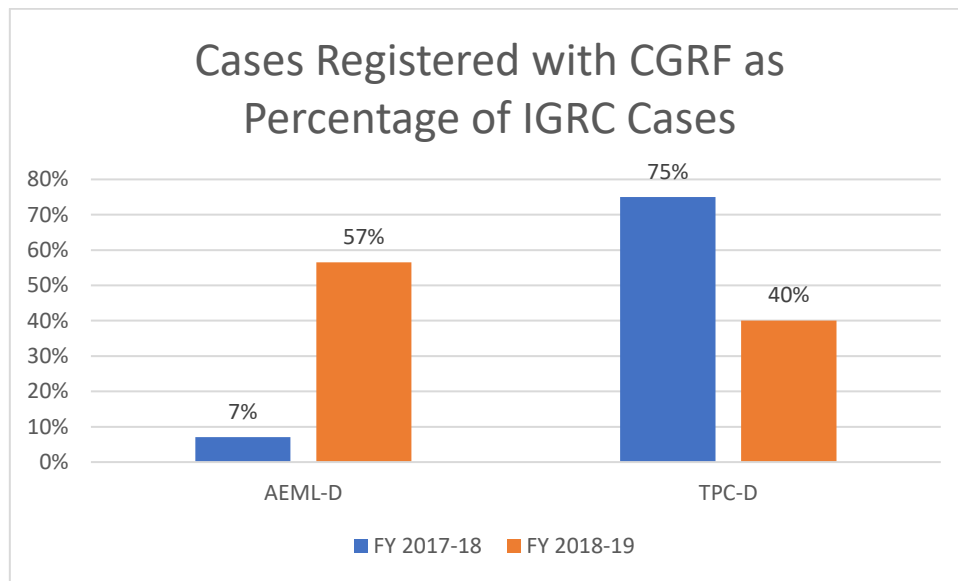
The Commission has not included Nagpur zone in this analysis since the number of IGRC cases is inflated in FY 2017-18 and FY 2018-19 due to 208 nos. of Agriculture consumer applications received by IGRC in Nov 2017.

As seen from the above Graph, in Zones such as Kalyan and Bhandup, where maximum number of cases are filed, in almost 100% of the Cases filed before IGRC, the Case has been escalated to CGRF.

Zones such as Nashik, Jalgaon, Pune, Baramati, Nanded and Amravati, which contribute for maximum number of cases after Kalyan and Bhandup Zones, saw a tremendous increase in the Cases registered with the CGRF, as a percentage of Cases filed before IGRC.

The Commission has also done similar analysis for the Mumbai Licensees, as shown in the following Graph:

Figure 8: Cases registered with CGRF as Percentage of IGRC Cases for AEML-D & TPC-D



As seen from the above Graph, in case of AEML-D, the percentage of Cases that are filed with the CGRF vis-à-vis Cases filed before IGRC has increased in FY 2018-19 as compared to the Cases filed in FY 2017-18. In case of TPC-D, the percentage of Cases filed with the CGRF vis-à-vis Cases filed before IGRC has reduced in FY 2018-19 as compared to the Cases filed in FY 2017-18, though the number of Cases in TPC-D are much lesser.

Thus, one can conclude that most grievances filed by the Complainant are not resolved at the level of IGRC and consumer has to approach the CGRF for relief.

The Commission also observes that most Cases that are filed by the Complainant before the IGRCs are ruled in favour of the Licensee, whereas when some of the cases are filed with the CGRF, the majority of the rulings are in favour of the consumer. Hence, the purpose of setting up an IGRC to provide immediate relief to the consumer is not getting achieved.

As the Grievance Redressal process is a three-tier process by design in the MERC CGRF & Ombudsman Regulations, 2006, Complainants cannot approach the CGRF directly and are required to compulsorily register their complaint with the IGRC first before registering it with the CGRF and then the Electricity Ombudsman, if required.

This process unnecessarily increases the time period for resolution of the complaint as the consumer after filing the complaint before the IGRC has to wait for two months for the IGRC to give its order/remedy on the complaint. This increases the time lag for approaching the CGRF and thereby getting relief from CGRF.

The Internal Grievance Redressal Cell was instituted by the Commission with the intention of having an internal mechanism within the Distribution Licensee for resolution of complaints, so that more and more grievances are resolved internally. However, the actual picture seems to be significantly different, after analysing the number of cases registered with the IGRC and CGRF. Moreover, there is no such requirement of having an internal mechanism for resolution of grievances stipulated in the Electricity Act, 2003.

The Commission has also made an inter-State comparison of the Regulations notified by different SERCs and observes that none of these Regulations provide for formation of Internal Grievance Redressal Cell within the Distribution Licensee. All the other Regulations have a two-tier approach wherein the CGRF is the first authority to be approached by the Complainant for redressal followed by the Electricity Ombudsman. The Model FOR Regulations provide for retaining any internal mechanism within the Distribution Licensee for redressal of grievances, however, it does not stop the consumer from directly approaching the Forum.

Further, the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014, as amended from time to time, also specifies that the consumers should approach CGRF in case of non-payment of compensation. These Regulations do not have any reference to Internal Grievance Redressal Cell. Therefore, removal of Internal Grievance Redressal Cell from the draft MERC CGRF & EO Regulations, 2020 shall not be inconsistent with the MERC (Standards of Performance of Distribution Licensees, Period for Giving Supply and Determination of Compensation) Regulations, 2014.

In view of the above, the Commission has come to the conclusion that the IGRC is not really helping redress consumer grievances, and has delayed the entire process of grievance redressal, rather than providing an avenue for quick grievance redressal. The Commission therefore, proposes to remove the IGRC from the procedure of grievance redressal. The Commission has therefore deleted all the clauses relating to IGRC in the proposed draft CGRF & EO Regulations, 2020.

The draft CGRF & EO Regulations, 2020 proposes a two-tier process of grievance redressal as mandated by the Electricity Act, 2003, wherein the Complainant shall first approach the CGRF followed by the Electricity Ombudsman.

4 Consumer Grievance Redressal Forum

4.1 Objectives

This Chapter of the Explanatory Memorandum elaborates on various aspects of the Regulations relating to the CGRF in the MERC CGRF & EO Regulations. The Commission has proposed to amend the existing clauses and has also included new clauses wherever necessary with reasoning.

4.2 Constitution of Forum for Redressal of Consumer Grievances

The existing MERC CGRF & EO Regulations, 2006 specifies that the Forum shall have three Members including the Chairperson. The appointment of the Chairperson and Other Member is to be done by the Distribution Licensee, while the Independent Member is to be nominated by the Commission.

The Commission has done the inter-State comparison of the appointment of Members to the Forum. The Commission observed that most of the Regulations specify a three-Member Forum including a Chairperson, with the Commission nominating the Chairperson and the Independent Member of the Forum, i.e., two out of the three Members of the Forum are nominated by the Commission.

The Commission has therefore, retained the existing clause of the Forum consisting of three Members including the Chairperson. The Commission has amended the clause for appointment of Members of the Forum. The Commission proposes to take up the responsibility of nomination of Chairperson as well, along with the nomination of Independent Member of the Forum. The Technical Member shall continue to be appointed by the Distribution Licensee as per the existing Regulation. The Commission has proposed to take up the responsibility of nominating the Chairperson so as to increase its administrative superintendence over the CGRFs. The Commission has also elaborated the process of selection of Chairperson and Independent Member and has also clarified that the integrity and background shall be verified.

The Commission also feels that there is a need to restate the minimum qualification and experience for appointment of the Members. The Commission has studied the qualification of Members of the Forum specified in the Regulations of other SERCs. Based on the inter-State comparison of CGRF Regulations, it is felt that there is a need to further clarify the years of experience of the Members/Chairperson, as well as experience related to distribution and supply of electricity. Further, there is an existing requirement that the independent Member who shall be a representative of a registered voluntary consumer protection organization of the area, should not have been in the employment in any capacity under, or agency of, the

Distribution Licensee. Extending the same rationale, it is proposed that the independent Member should not have provided consultancy services to electricity consumers for a minimum period of three (3) years prior to being appointed as member of the Forum.

In order to broad-base the eligible pool of persons who can qualify to become Chairperson or Members of the Forum, it is proposed to specify preferred qualifications

Accordingly, the Commission proposes to amend the existing MERC CGRF & EO Regulations by incorporating the following changes in the qualification of the appointment of the Members/Chairperson:

1. Qualification of Chairperson is modified to include a retired engineer from a government Distribution Licensee not below the rank of Superintending Engineer or equivalent officer;
2. The minimum experience of Chairperson is increased to at least 30 years, with adequate knowledge of power sector, since only retired persons can apply for this post;
3. The Chairperson shall be nominated by the Commission after inviting applications from interested persons and selecting from shortlisted candidates;
4. The minimum experience of Member appointed by the Licensee is modified to at least 15 years;
5. The minimum experience of Independent Member nominated by the Commission is increased to 10 years from 5 years in handling consumer grievances;
6. The Independent Member must not have worked as a consultant to electricity consumers, just as he should not have been an employee of the Licensee for the past 3 years;
7. Preference shall be given to a representative of a registered voluntary consumer protection organization or Industrial Association or Research Institute, residing in the same area, while selecting the independent Member;
8. The Commission shall verify the integrity and background of the applicants for the post of Chairperson and Independent Member including antecedent checks and police records;
9. The minimum experience of Member appointed by the Licensee has been increased to at least 15 years, with knowledge and experience in distribution and supply of electricity.

The relevant amended clauses in the draft MERC CGRF & EO Regulations, 2020 are reproduced below:

“4.1 Each Forum to be constituted by the Distribution Licensee shall consist of three members, who shall meet the following criteria:

(a) The Chairperson of the Forum shall be a retired senior judicial officer; or a retired civil servant not below the rank of a Collector; or a retired Principal of a reputed Engineering college; or a retired Professor of the Electrical Engineering Department of a reputed institute; or a retired senior electrical engineer of the Government; or a retired engineer from a government Distribution Licensee not below the rank of Superintending Engineer or equivalent officer and having at least thirty (30) years of experience, with adequate knowledge of power sector:

Provided that the Chairperson shall preferably have working knowledge of the vernacular language of the State of Maharashtra:

Provided further that the Chairperson shall be nominated by the Commission after inviting applications from interested persons and selecting from shortlisted candidates:

Provided also that the Commission shall verify the integrity and background of such applicants;

(b) One Member shall be a person not below the rank of Executive Engineer or a person of equivalent rank of any Distribution Licensee and having at least fifteen (15) years of experience:

Provided that the Distribution Licensee shall ensure that he/she is a person having knowledge and experience in distribution and supply of electricity and of high integrity and moral background;

(c) One independent Member shall be nominated by the Commission, who shall have experience of working for at least ten (10) years on matters concerning consumer Grievances:

Provided that such Member shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee or provided consultancy services to electricity consumers for a minimum period of three (3) years prior to being appointed as member of the Forum:

Provided further that the Commission shall invite applications from interested persons and select from shortlisted candidates:

Provided also that preference shall be given to a representative of a registered voluntary consumer protection organization or Industrial Association or Research Institute:

Provided also that preference shall be given to a person who resides in the same area:

Provided also that the Commission shall verify the integrity and background of such applicants.”

Regulation 4.2 of the existing MERC CGRF & EO Regulations provides that the Distribution Licensee shall not keep the post of Member of the Forum vacant for more than three months.

The Consumer Advocacy Cell of the Commission has observed that many posts of Members are vacant for more than 3 months. The Commission is of the view that when the post of the Member remains vacant for three months, it severely affects the functioning of the Forum. Hence, the Commission has proposed to add a proviso specifying the timelines for initiating the process of appointment or nomination of a Member.

The Commission also feels it necessary to provide an alternative framework during the period of vacancy so that quorum of the forum is complete at all times and disposal of cases is not affected due to absence of the Members. The Commission has therefore, proposed to add a proviso stating that during the period of vacancy, additional charge may be given to the Member of the adjacent Forum for meeting the quorum. This will ensure that the Forum is kept functional on continuous basis.

Further, the 4th proviso to Regulation 4.1 of the MERC CGRF & EO Regulations, 2006 specifies that where the Chairperson is absent from a sitting of the Forum, the Technical Member shall be the Chairperson for such sitting. In this regard, the Commission is of the view that the Regulations also need to address the situation where the Chairperson’s post is vacant. Further, the Commission is of the view that in view of the probable conflict of interest and pressures that may be there, it is not appropriate for the Technical Member, who is a current employee of the Distribution Licensee, to become the acting Chairperson of the Forum, in case of absence of Chairperson or vacancy in Chairperson’s post. Hence, it has been proposed that the independent Member shall hold additional charge as Chairperson in case of absence of Chairperson or vacancy in Chairperson’s post. Further, it is proposed that such additional charge as Chairperson shall be subject to the concurrence of the Ombudsman.

Another clause is proposed in Regulation 5.9 in relation to the aforesaid clause to the effect that any activity carried out by one such Forum, even when there is a vacancy in the Forum, shall not be considered as invalid. The Commission has considered this clause is in line with the FOR Model Regulations. The relevant clauses proposed in the draft MERC CGRF & EO Regulations are reproduced below:

“4.3 Where the Chairperson is absent or the post of Chairperson is vacant, the independent Member, who fulfils the eligibility criteria of sub-clause (c) of Regulation 4.1 above, shall act as the Chairperson, subject to concurrence of the Electricity Ombudsman.

4.4 The Distribution Licensee shall ensure that the post of a Member in the Forum is not kept vacant for a period exceeding three (3) months:

Provided that the process of appointment or nomination of a Member shall commence within a period of three months before the superannuation or end of tenure of the Chairperson or Member:

Provided further that if the Forum is short of quorum during the period of vacancy, then the Distribution Licensee shall give additional charge to a Member of an adjacent Forum for meeting the quorum.”

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

The existing Regulations provides that the Distribution Licensee has powers to extend the tenure of the Member appointed by the Licensee. The Commission has proposed to clarify that such extension shall be done only once, and added a proviso in the existing clause specifying that the extension of tenure of the Members that are appointed by the Distribution Licensee shall be done only in consultation with the Commission. The Commission has proposed to include such proviso so as to increase its administrative superintendence over the CGRFs.

The Commission has studied the provisions in the Regulations of other States with regard to age limit prescribed for retirement of Members of CGRF, as summarised below:

State	Age for Retirement	State	Age for Retirement
Gujarat	65	Delhi	67
Bihar	65	Andhra Pradesh	67
Punjab	65	FOR	65
Jharkhand	65	Madhya Pradesh	65

As seen from the above clause, most States including FOR Model Regulations have adopted an age limit of 65 years for retirement of Members of CGRF. In view of the above, the

Commission has also proposed to modify the age limit to 65 years for retirement of Members of CGRF. It has also been clarified that the revised age limit of 65 years shall be applicable for existing appointments also at the end of their fixed term or extended term, as applicable.

The relevant clauses proposed in the draft MERC CGRF & EO Regulations are reproduced below:

“4.5 Every Member of the Forum shall hold office for a fixed term of three (3) years provided that the tenure of a Member referred to in Regulation 4.1 (b) may be extended once by the Distribution Licensee or in case of the Member referred to in Regulations 4.1 (a) or (c) by the Commission for a further period not exceeding two (2) years subject to an overall age limit of sixty-five (65) years:

Provided that a Member of the Forum who is in the employment of the Distribution Licensee shall cease to be member of the Forum upon his transfer, and the Distribution Licensee shall designate another officer as Member of the Forum who shall comply with the eligibility criteria set out in sub-clause (b) of Regulation 4.1:

Provided further that the extension of tenure of the Members by the Distribution Licensee shall be done only in consultation with the Commission:

Provided also that the age limit of 65 years shall be applicable for existing appointments also at the end of their fixed term or extended term, as applicable.”

Regulation 4.4 (1) of the existing Regulations specifies the grounds on which the Members of the Forum can be disqualified or removed. It is proposed to add a sub-clause to the effect that a Member can be removed if he/she is found to have failed to deliver the functions assigned to them or exceeded their brief. The proposed Regulation 4.6 is as under:

“4.6 No person shall be appointed and/or be entitled to continue as a Chairperson or Member if he/she stands disqualified on account of his/her:

- (a) having been adjudged an insolvent;
- (b) having been convicted of an offence which, in the opinion of the Electricity Ombudsman, involves moral turpitude;
- (c) having become physically or mentally incapable of acting as such Chairperson or Member;
- (d) having acquired such financial or other interest as is likely to affect prejudicially his/her functions as a Chairperson or Member;

- (e) having so abused his/her position as to render his/her continuance in office prejudicial to public interest; or
- (f) having been guilty of proved misbehaviour;
- (g) having been found to have failed to deliver the functions assigned to them or exceeding their brief.”

Proviso to Regulation 4.4 (2) specifies that no Member shall be removed from his office by the Licensee unless it has conducted an independent inquiry in accordance with such procedure as directed by the Commission. The Commission proposes to add clauses, to reflect that the independent inquiry shall be done by the Electricity Ombudsman rather than the Distribution Licensee in case of Chairperson and independent Member, who shall be appointed by the Commission.

Further, in the MERC (Grid Interactive Rooftop Renewable Energy Generating Systems) Regulations, 2019 notified recently, the Commission has specified as under:

“11.8 The Eligible Consumer shall have recourse, in case of any dispute with the Distribution Licensee regarding billing, to the mechanism specified by the Commission under Sections (5) to (7) of the Act for the redressal of grievances:

Provided that in case of any dispute with the Distribution Licensee with regard to implementation of Regulation 5.2 of these Regulations, the concerned Consumer Grievance Redressal Forum may take assistance on technical matters from any Independent Advisor empanelled with the Maharashtra Energy Development Agency (MEDA).”

In line with the above clause, a mirror clause is proposed to be incorporated in the draft MERC CGRF & EO Regulations, along with a general clause enabling the Forum to take assistance on specific technical matters for specific period from any Independent Advisor empanelled with the Central or State Government, in consultation with the Electricity Ombudsman. The requirement for consultation with the Electricity Ombudsman is intended to increase the overall superintendence of the Ombudsman over the Fora. Also, as the Technical Member is appointed by the Distribution Licensee and is a current employee of the Distribution Licensee, such Member shall be governed by the service rules/regulations of the Distribution Licensee, and hence, the clauses related to removal of Member shall not be applicable to the Technical Member.

The relevant clauses proposed in the draft MERC CGRF & EO Regulations, 2020 is stated below:

“4.7 An existing Chairperson or independent Member or Technical Member shall be liable to be removed from his/her office forthwith on account of any of the aforesaid disqualifications arising or being discovered:

Provided that no Chairperson or independent Member shall be removed by the Commission from his/her office on any ground specified in the aforesaid clauses of Regulation 4.6 unless the Electricity Ombudsman, has, on an independent inquiry held by him/her, in accordance with such procedure as directed by the Commission, reported to the Commission that such Chairperson or independent Member ought, on such ground or grounds, to be removed:

Provided further that the provisions of Regulation 4.6 shall not be applicable to the Technical Member, who shall be governed by the service rules/regulations of the Distribution Licensee.

4.8 In case of any Grievance filed by a Complainant with regard to implementation of Regulation 5.2 of the Maharashtra Electricity Regulatory Commission (Grid Interactive Rooftop Renewable Energy Generating Systems) Regulations, 2019, the concerned Forum may take assistance on technical matters from any Independent Advisor empanelled with the Maharashtra Energy Development Agency (MEDA):

Provided that a Forum may take assistance on specific technical matters for specific period from any Independent Advisor empanelled with the Central or State Government, in consultation with the Electricity Ombudsman.”

The existing CGRF & EO Regulations, 2006 specify that the sitting fees, honorarium and/or other allowances payable to the Chairman and Members shall be decided by the Distribution Licensee. The inter-State comparison of Regulations shows that BERC, GERC, DERC and PSERC have specified that SERC will decide these aspects, but the funding shall be done by the Distribution Licensee, and recovered through the ARR. The Commission is of the view that this approach is more appropriate, as the sitting fees, honorarium and/or other allowances payable to the Chairman and Members shall be uniformly stipulated by the Commission. Further, this cost is being recovered from the ARR, hence, it is appropriate that the Commission decides the same.

The existing CGRF & EO Regulations, 2006 specify that the office space, secretarial support and other facilities required by the CGRF shall be provided by the Distribution Licensee. The FOR Meeting in 2016 recommended that the office space of CGRF shall be separate from the

premises of the Distribution Licensee to the extent possible. Hence, it is proposed to include a proviso to this effect in the draft MERC CGRF & EO Regulations.

The existing CGRF & EO Regulations, 2006 specify that the salaries and allowances payable to the staff required to assist the Forum in the discharge of its functions shall be on the terms and conditions as may be determined by the Distribution Licensee. The FOR Meeting in 2016 recommended that the Regulations shall ensure financial independence of CGRFs. Hence, it is proposed to include a proviso to this effect in the draft MERC CGRF & EO Regulations.

The relevant clauses proposed in the draft MERC CGRF & EO Regulations, 2020 is stated below:

“4.8 The sitting fees, honorarium and/or other allowances (collectively “Remuneration”) payable to the Chairman and Members shall be such as may be decided by the Commission:

Provided that the Remuneration and the other terms of office of the Members shall not be changed/varied to the disadvantage of the Member after his/her appointment:

Provided further that the terms and conditions of service of a member of the Forum who is in the employment of the Distribution Licensee shall be governed by the terms and conditions of his employment with such Distribution Licensee.

4.9 The office space, secretarial support and other facilities required by Members of the Forum shall be provided by the Distribution Licensee including the numbers, nature and categories of staff as may be intimated by the Forum to the Distribution Licensee, for the efficient functioning of the Forum:

Provided that the office space of the Forum shall be separate from the premises of the Distribution Licensee, to the extent possible.

4.10 The salaries and allowances payable to, and other terms and conditions of service of the staff required to assist the Forum in the discharge of its functions shall be on the terms and conditions as may be determined by the Distribution Licensee:

Provided that the Distribution Licensee shall ensure that the Fora are financially independent, by providing the appropriate annual budget and necessary quarterly funds for each Financial Year, which shall be managed by the Fora, without having to request the Distribution Licensee for funds and without having to obtain the Distribution Licensee’s approval for the appropriate expenditure incurred using the available funds.”

4.3 Quorum and Procedural Matters

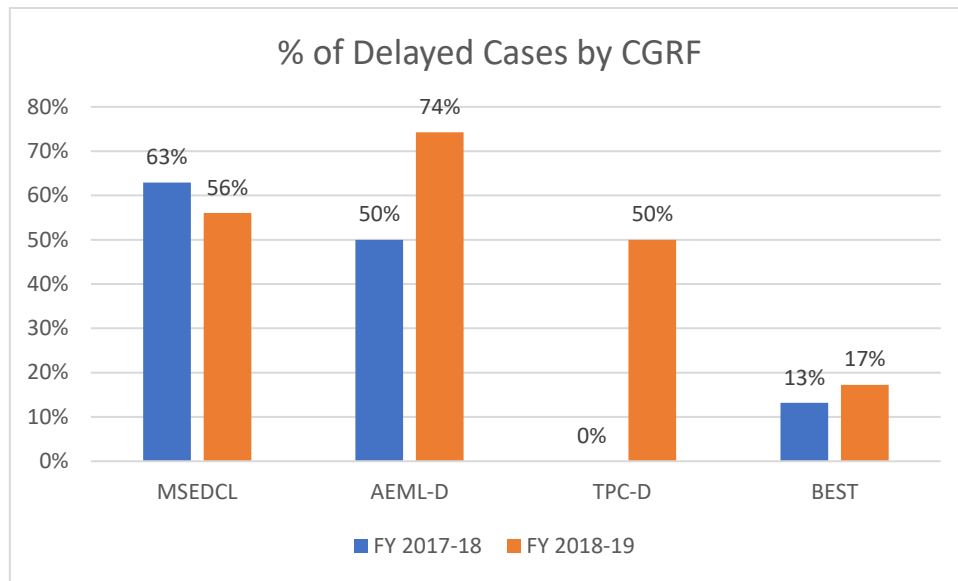
The Commission has made an inter-State comparison of the time period provided to the Forum for resolution of grievances by other SERCs in the respective Regulations.

The Commission based on its analysis and inter-State comparison observes that the specified time period for issuance of Order by the CGRF has been in the range of 15 days to 45 days from the date of receipt of Grievance, depending on the type of grievance. The FOR Model Regulations specifies that the Orders related to non-supply and connection/disconnection of supply, which severely affect the consumer, are to be passed by the Forum within a period of 15 days from the date of filing of grievance and for other grievances, the Orders are to be issued within a period of 45 days from the date of filing of grievance.

The existing MERC CGRF & EO Regulations, 2006 specifies a timeline of 60 days for disposal of grievances. However, it is observed from the Annual Reports that almost every year there have been cases that have taken more than 60 days for disposal. The Commission is of the opinion that the Forum should understand the seriousness of timely disposal of grievances and treat the matter at topmost priority. The Commission is of the view that in some CGRFs the cases have been on the higher side, but this cannot be the reason for delay in the disposal of grievances. It is the duty of the Forum to take all necessary steps depending on the number of cases in order to dispose the grievance within the specified time period. On the other hand, delays were also found in CGRFs like Jalgaon, Baramati, Latur, Aurangabad where comparatively lower number of cases are registered. Even in Mumbai Licensees, though the number of cases are very less, it was observed that AEML-D has the most number of cases that have been delayed for disposal in FY 2017-18 and FY 2018-19.

The following Graphs shows the number of cases that are delayed by the CGRFs of each Licensee in FY 2017-18 and FY 2018-19, beyond the specified period of 60 days:

Figure 9: Cases Delayed by various CGRFs



As seen from the above Graph, significant number of cases have been delayed beyond the specified period of 60 days by CGRFs of MSEDCL and AEML-D during FY 2017-18 and FY 2018-19. MSEDCL CGRFs has shown some improvement in FY 2018-19 as compared to FY 2017-18. However, AEML-D performance has declined in FY 2018-19. BEST CGRF has managed to keep the delayed number of cases on the lower side in both the years.

Considering the fact that the Fora are finding it difficult to issue Orders within the existing time limit of 60 days itself, the Commission has not proposed to reduce the overall time frame of resolution of grievance from 60 days to 45 days, as recommended in the FOR Model Regulations. Based on the analysis, the Commission has come to the conclusion that the time period specified for disposal of Cases is not being taken seriously by the Fora. The Commission has therefore, included an additional clause stating that the Forum shall record the reasons for delay in disposal of grievance in writing at the time of disposal and inform the Ombudsman regarding such delays, and also highlight such delays in its periodic Reports.

The relevant clauses proposed in the draft MERC CGRF & EO Regulations are reproduced below:

“5.2 In case of Grievances related to non-supply, connection or disconnection of supply, the Forum shall pass appropriate Order within fifteen (15) days of filing of the Grievance (for Grievance related to non-supply, connection or disconnection of supply) and within sixty (60) days of filing of the Grievance (for all other Grievances):

Provided that if the Order of the Forum is passed after the completion of the said period of 15 days or 60 days, as the case maybe, the Forum shall record the reasons for the same in writing at the time of disposing of the said Grievance and inform the Ombudsman:

Provided further that all cases where the Forum has passed the Order after the completion of the said period of 15 days or 60 days shall be highlighted by the Forum in the Quarterly Report to be submitted to the Commission under Regulation 26.2.”

To address the issue of when CGRFs are merged, the Commission has included an additional proviso to Regulation 5.3 in the draft MERC CGRF & EO Regulations, 2020, as under:

“5.3 In order to expedite disposal of Grievances, the Forum may also hold sittings at such places within its area of jurisdiction as may be considered necessary and proper by the Forum:

Provided that if the area of jurisdiction of the Forum covers more than one (1) distribution Zone, then the Forum shall hold sittings on a rotational basis in such a manner that at least one sitting is held every month in every distribution Zone.”

In order to expedite the disposal of issues by the CGRFs as stated in Regulation 5.2 above, and to create awareness among the consumers about the Forum, the Commission has proposed an additional clause specifying that the Forum shall hold at least one sitting every month, unless there are no pending cases. The Commission has also proposed that the Forum may hold sittings on a rotational basis in every District Headquarter.

Further, in view of the prioritisation of cases required to be done, and the differential time frame for disposal of priority cases and other cases, the Commission has also addressed the situation wherein if there are priority cases at more than one District Headquarter within the jurisdiction of any Forum, the Forum shall hear the cases at a common location convenient for all District Headquarters, for disposing such priority cases within the specified timelines.

The proposed clauses are as under:

“5.4 The Forum shall hold such number of sittings in a month so as to complete the enquiry as expeditiously as possible and to pass appropriate order within the maximum period specified in Regulation 5.2:

Provided that the Forum shall hold at least one sitting every month, unless there are no pending cases:

Provided further that in case of more pending grievances from a particular district, the Forum may hold sittings on a rotational basis the Forum may hold sittings on a rotational basis in such District Headquarter:

Provided also that in case there are priority cases as defined in Regulation 6.1 at more than one District Headquarter within the jurisdiction of any Forum, the Forum shall hear the cases at a common location convenient for all District Headquarters, for disposing such priority cases within the timelines specified in Regulation 5.2.”

The existing Regulations provide for decision of the Forum to be taken by a majority of votes of the Members and in case of equality of votes, the Chairperson shall have the second and casting vote. For greater clarity, the Commission has included an additional proviso in the draft CGRF & EO Regulations specifying that the acting Chairperson shall have the rights for second and the casting vote in case the Chairperson is absent, or the post is vacant. The relevant clause in the draft CGRF & EO Regulations, is as follows:

“5.7 On completion of the proceedings conducted under Regulation 8, except where the Forum consists of a single member, the Forum shall take a decision by a majority of votes of the members of the Forum and in the event of equality of votes, the Chairperson shall have the second and casting vote:

Provided that the acting Chairperson under Regulation 4.3 shall have the second and casting vote, in case the Chairperson is absent or the Chairperson’s post is vacant.”

The Commission, for better clarity and avoidance of any dispute within the Forum, has included the clause stating that the Chairperson shall have the general powers of superintendence and control over the Forum. Additional powers are proposed to be given to the Commission to direct the Forum on various issues from time to time in the interest of efficient and effective redressal of grievances in a timely and expeditious manner. The Commission through such clause can increase the superintendence powers over the Forum.

The Commission has retained the existing provisions relating to Public awareness of the Fora by giving information on bills, websites etc. The relevant clauses proposed in the draft CGRF & EO Regulations, are as follows:

“5.8 The Chairperson shall have the general powers of superintendence and control over the Forum....

...5.10 The Forum shall comply with such general directions as the Commission may issue from time to time in the interest of efficient and effective redressal of Grievances in a timely and expeditious manner.

5.11 The Distribution Licensee shall give publicity regarding the existence of the Forum through statements in the bills raised for the supply of electricity to the consumers and the website of the Distribution Licensee, and in doing so, shall be guided by, any directions that the Commission may issue from time to time.

5.12 It shall be a constant endeavour of the Distribution Licensee to take steps in accordance with the requirements herein to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that information is disseminated widely and in such form and manner which is easily accessible to the public.

5.13 The address, email and phone numbers of the Fora shall be displayed at all cash collection centres and offices of the Distribution Licensee that have interface with the consumers, and shall also be duly publicized, including in the bills raised on the consumers, and the website of the Distribution Licensee”

4.4 Prioritization of Grievances

The existing MERC CGRF & EO Regulations, 2006 does not specify any prioritization in redressing the type of Grievances received by the Forum. As discussed in the previous section, the Commission has analysed the type of grievances filed by the consumer in various CGRF's in FY 2017-18 and FY 2018-19. The Commission observed that Cases were typically filed on the following issues:

1. New Connection
2. Billing Dispute
3. Refund of Cost of Infrastructure
4. Tariff Categorization
5. Refund of Security Deposit and Refund of Interest on Security Deposit
6. Disconnection of Supply
7. Change of Name
8. Restoration of Supply
9. Reconnection of Supply

10. Permanent Disconnection Notice

On further analysis, it is observed that out of the above list of disputes, maximum cases have been filed on the following issues as listed in the descending order of the number of cases:

1. Billing Dispute
2. New Connections
3. Tariff Categorization
4. Refund of Cost of Infrastructure
5. Refund of Security Deposit and Refund of Interest on Security Deposit
6. Disconnection/Restoration of Supply

In some CGRFs, Industrial consumers have filed cases for refund of Infrastructure cost from the Licensee, while Public Service consumers in Bhandup zone have filed significant number of cases for tariff categorization.

Out of the total cases filed in FY 2017-18 and FY 2018-19, around 47% cases were on billing disputes. Most of the billing dispute cases have been ruled in favour of the Complainant, while in a few of the CGRF zones such as Nagpur, Bhandup, Mumbai Suburbs and Island Mumbai, most billing disputes were in favour of Respondents.

The following Graphs show the issue-wise grievances filed before CGRFs of MSEDCL, AEML-D and BEST for FY 2017-18 and FY 2018-19:

Figure 10: Break-up of Cases before MSEDCL CGRFs in FY 2017-18

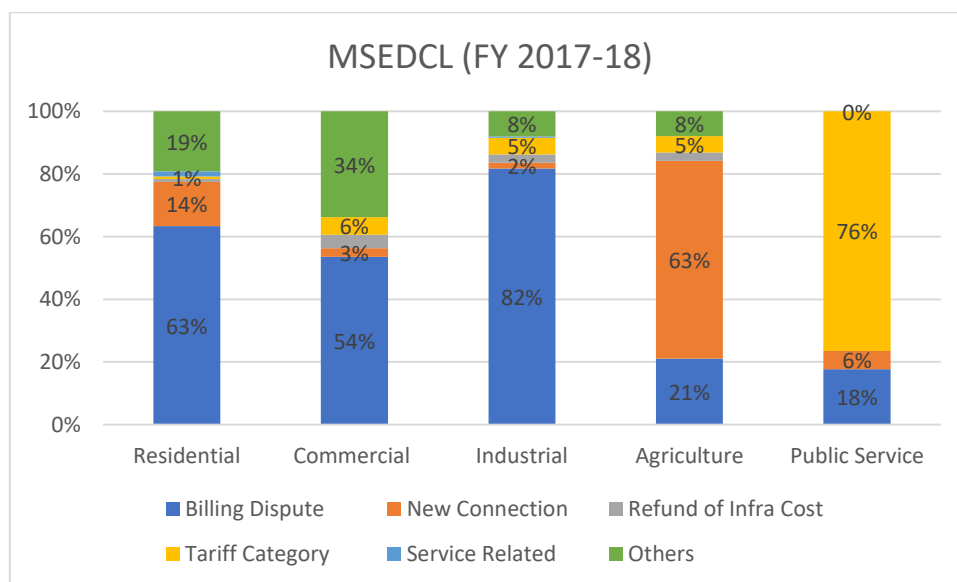


Figure 11: Break-up of Cases before MSEDCL CGRFs in FY 2018-19

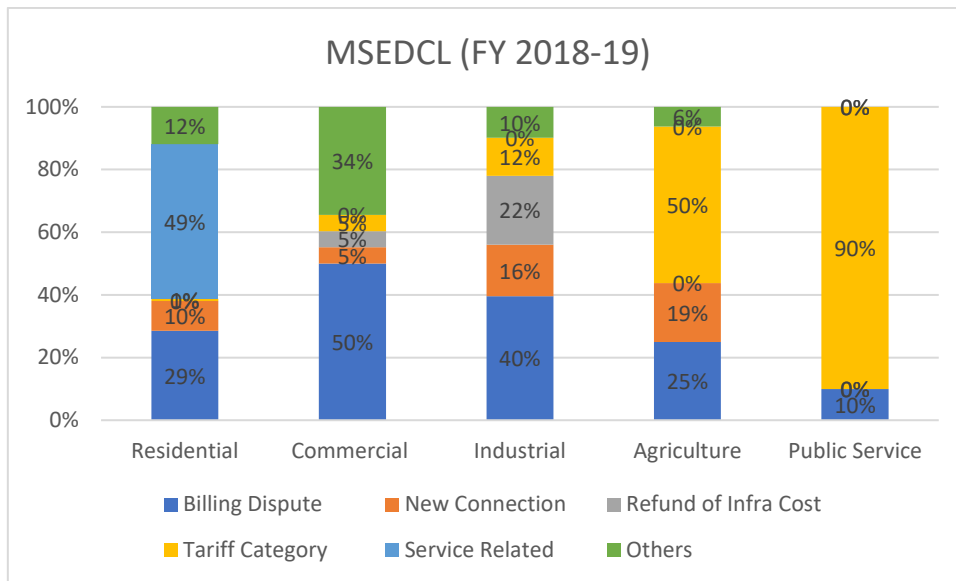


Figure 12: Break-up of Cases before AEML-D CGRF

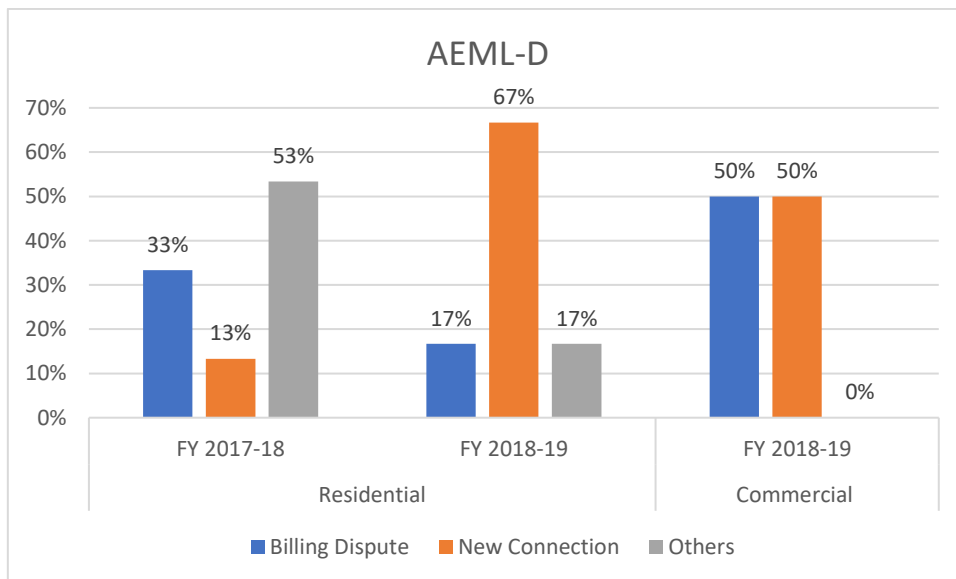
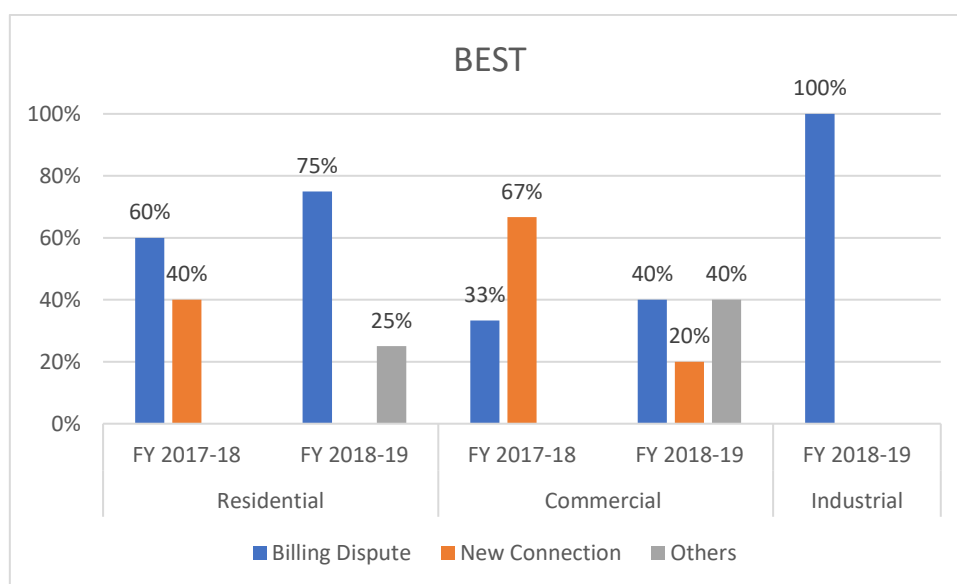


Figure 13: Break-up of Cases before BEST CGRF



As seen from the above Graphs, maximum cases are filed for billing disputes, followed by New Connection and Tariff Category related.

The inter-State comparison of the Regulations shows that most of the States have not prioritized the issues in their Regulations. Prioritization of issues has been done by GERC in its Regulations notified in 2019 and by BERC in its Regulations notified in 2017. FOR Model Regulations have also proposed prioritization of the issues.

The Commission is of the view that prioritizing the issues will help as urgent issues will be treated on priority basis and thereby it will reduce the impact of delay in issuance of Orders on the consumers by the Fora. The CGRF can also manage the number of grievances in a better way, and reduce the delays in disposal of Orders by the Forum.

The Commission therefore feels that there is a need to prioritize the issues/grievance/complaints raised in the Forum. In Regulation 5.2, the Commission has already considered the grievance of Non-supply / Connection / Dis-connection as top priority and has accordingly proposed to modify the Regulations by disposing such issues within a period of 15 days from the date of the receipt of such grievances. However, for other issues the standard time for issuance of Order by the Forum is proposed to be 45 days. The prioritization has been proposed considering the severity of the issue, and the need for urgency in redressal. Accordingly, the Commission has proposed the following prioritization of Cases in line with the approach adopted in FOR Model Regulations:

1. Non-Supply

2. Disconnection of Supply
3. New Connection
4. Meter related issues
5. Billing related issues
6. Other issues

The Commission has accordingly proposed the following clauses in the draft CGRF & EO Regulations on prioritizing of Complaints/Grievance for Redressal by the Fora. The relevant clause is as follows.

“6.1 As far as is possible and practical, the Grievances shall be prioritized for redressal based on the following priority order:

(a) Non-Supply;

(b) Disconnection of supply;

(c) New Connection;

(d) Meter-related issues;

(e) Billing-related issues;

(f) Other issues:

Provided that all Grievances are disposed of within the time limit specified under these Regulations.”

4.5 Procedure for Submission and Acceptance of Grievance

The Commission has proposed to delete all the clauses relating to IGRC from the existing Regulations, as discussed in the previous Chapter. The Forum shall be the first authority to be approached by any Complainant to register his/her complaint. The Regulations are modified accordingly whereby the Forum is the first step for redressal of grievances.

The Commission has redrafted the entire Section detailing the procedure to be followed for registering the Complaint with the Forum. The Complaints can be directly given to the Forum or the complaint receiving centre established by the Distribution Licensee. The Commission is of the view that along with the different modes of communication available to the consumer for registering a Complaint, the consumer shall also be given facility to submit his/her grievances on a web-based portal to be created by the Distribution Licensee within a period of six months from the notification of these Regulations. In order to ensure uniformity in the web-portal, it has been proposed that the web-portal shall be created in consultation with the Electricity Ombudsman and the Consumer Advocacy Cell established within the Commission.

In order to facilitate quicker disposal of cases, it is necessary that the grievance is received by the Forum in minimum time interval from the date of filing of grievance by the Complainant. Hence, the Commission has included an additional proviso stating that the complaint receiving centres shall forward the grievance to the respective Forum within the next working day.

The existing MERC CGRF & EO Regulations provides for submission of acknowledgement to the Complainant within a period of 5 working days from the date of receipt of grievance. The Commission is of the opinion that the time period for providing acknowledgement of receipt to the consumer in the existing Regulation is high. The Commission has therefore, proposed to adopt the clause specified in Model FOR Regulations wherein after the receipt of grievance by post, or email, the acknowledgement shall be dispatched latest by the next working day. For submission of grievance in person, the acknowledgement shall be issued immediately. The Commission has proposed to introduce a web-based portal for submission of grievance as discussed in the above paragraphs. In case of submission through such web-based portal, acknowledgement of the receipt of the Grievance shall be auto-generated with serial number and date at the time of submission, and the complaint shall be automatically forwarded to the concerned Forum. All the above clauses are proposed for easy accessibility of the Forum to the consumer. The relevant clauses in draft CGRF & EO Regulations are as below:

“7.1 The Complainant can submit his/her Grievance on the web portal or to the appropriate Forum under whose jurisdiction his/her connection exists or a connection has been applied for.

7.2 The Complainant can also submit his/her Grievance at the nearest complaint-receiving centre, already established by the Distribution Licensee.

7.3 The Distribution Licensee shall create a web-based portal for submission of Grievances, within six (6) months of notification of these Regulations, in consultation with the Electricity Ombudsman and the Consumer Advocacy Cell established within the Commission.

7.4 The Grievance may be submitted either in person or through post, email or through the web-based portal.

7.5 All complaint-receiving centres shall accept the Grievances from Complainants falling within the jurisdiction of the Forum:

Provided that the Grievance so received along with other supporting documents shall be forwarded to the relevant Forum within the next two working days.

7.6 The Grievance submitted through the web-based portal along with other supporting documents shall be automatically forwarded to the concerned Forum, and the contact details of the relevant Forum shall be intimated to the Complainant along with the acknowledgement of the receipt of the Grievance that shall be auto-generated with serial number and date at the time of submission.

7.7 The Complainant shall be issued acknowledgement of the receipt of Grievance by the complaint receiving centre bearing a serial number and date:

Provided that in case of submission of the Grievance in person, the acknowledgment shall be issued immediately:

Provided further that in case of receipt of Grievance by post, or email, the acknowledgment shall be despatched latest by the next working day:

Provided also that where the Grievance is submitted by email to the Forum, acknowledgement of the receipt of the Grievance shall be by return email as promptly as possible but not later than two (2) working days:

Provided also that in case of issuance of acknowledgment by a complaint-receiving centre, the contact details of the relevant Forum shall also be issued along with the acknowledgment.

The Commission has made some slight modifications to the conditions under which the Forum may reject the grievance. The Commission has removed the clauses relating to IGRC, as discussed in the previous Chapter. The Commission has covered all the Sections related to theft of electricity, negligence, damage of works, accidents and injuries under various Sections of EA 2003, which shall not be entertained by the Forum. The relevant clauses in draft CGRF & EO Regulations are as below:

“7.8 The Forum shall reject the Grievance at any stage under the following circumstances:

(a) In cases where proceedings in respect of the same matter and between the same Complainant and the Licensee are pending before any court, tribunal, arbitrator or any other authority, or a decree or award or a final order has already been passed by any such court, tribunal, arbitrator or authority;

(b) In cases which fall under Sections 126, 127, 135 to 139, 152, and 161 of the Act;

(c) In cases where the Grievance has been submitted two years after the date on which the cause of action has arisen; and

(d) In the case of Grievances, which are:

(i) frivolous, vexatious, malafide;

(ii) without any sufficient cause; or

(iii) where there is no prima facie loss or damage or inconvenience caused to the Complainant or the consumers who are represented by an association or group of consumers.

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

7.9 The Grievance shall be submitted as per the format specified in Schedule A of these Regulations:

Provided that the Forum shall take cognizance of any Grievance submitted based on the merit of the case and will not reject any Grievance for the sole reason of it not having been submitted in the format specified:

Provided further that the Distribution Licensee shall, in its website, upload the format set out in Schedule A to these Regulations in word form so as to enable consumers, at their option, to submit their Grievance in electronic form:

Provided also that all enclosures to such Grievance submitted in electronic form shall be submitted in scanned form:

Provided also that submission of Grievance in electronic form shall be as per the rules and procedures of the Distribution Licensee as in force from time to time.”

4.6 Procedure for Grievance Redressal

The Commission has proposed a timeline for forwarding of grievance by the Forum to the Nodal Officer of the Licensee. The Commission is of the view that specific timelines need to be specified for the internal processes of redressal also, so that the overall timelines can be met.

The Commission has also proposed to revise the timelines for submission of paragraph-wise comments on the queries by the Nodal Office to the Forum. Keeping in mind the time lines for disposal of cases by the Forum, the Commission proposes to keep the time lines for submission of comments by the Licensee to 5 days from the date of receipt of grievance, in case of issues relating to non-supply, connection or disconnection of supply and maintain the time period of

15 days for all other grievances. The Commission has retained the clause stating that the Forum shall proceed with the information available on record if the comments/replies of the Licensees are not received within the specified timelines. Additional proviso has been included so that the Forum can extend the timeline for submission of comments/replies by the Licensee by 7 days on case-to-case basis. The Commission is of the opinion that the Licensee in some cases may require additional time to reply to such grievances and therefore such proviso is introduced. However, it shall not be applicable to grievances related to non-supply, connection or disconnection of supply, where the relief sought is of urgent nature. The relevant clauses in draft CGRF & EO Regulations are as below:

“8.1 The Forum shall forward a copy of the Grievance to the Nodal Officer designated by the Distribution Licensee, within 3 working days of receipt of the Grievance, for redressal or to file its reply to the Grievance....

.....8.3 The Nodal Officer shall furnish paragraph-wise comments to the Forum on the Grievance within five (5) days (for Grievance related to non-supply, connection or disconnection of supply) or fifteen (15) days (all other Grievances) of receipt of the copy of Grievance from the Forum or within such other time as it may direct, failing which the Forum shall proceed on the basis of the material available on record:

Provided that the Forum may grant extension of maximum seven (7) days to the Licensee for submission of reply on case to case basis, except in case of Grievance related to non-supply, connection or disconnection of supply.”

The Commission has proposed to add a clause specifying that the Forum may call for any records from any of the parties, and if the party fails to submit such information and the Forum is convinced that the party in possession of the record is withholding it deliberately, adverse inference may be drawn by the Forum. This clause is as per the provisions of FOR Model Regulations. The Commission through this clause has given additional powers to the Forum to call for any reports/records/information as it deems fit so that the Fora can take informed decisions on the matters.

The Commission is of the opinion that in certain cases, it may be necessary to conduct a third-party inspection to come to the facts and conclusions of the case. Hence, the Commission has proposed to add an enabling clause for third-party inspection on its own or at Complainant's request. This clause is as per the provisions of FOR Model Regulations. This would help the Forum to come to conclusions based on proper records and documents. The recovery of cost for such inspection shall be from the Licensee. However, if the inspection is on request of the

Complainant, the Complainant shall deposit the amount, and the same may or may not be reimbursed by the Licensee depending on whether the inspection is found to be of substance or not. The cost of inspection may be allowed in determination of tariff to the extent reasonable and justified by the Licensee. The relevant clauses in draft CGRF & EO Regulations, are as below:

“8.4 The Forum may call for any record from the respondent party or from the Complainant as is relevant for examination and disposal of the Grievance, and both the parties shall be under obligation to provide such information, document or record as the Forum may call for:

Provided that where a party fails to furnish such information, document or record and the Forum is satisfied that the party in possession of the record is withholding it deliberately, it may draw an adverse inference.

8.5 The Forum may also direct the Distribution Licensee to undertake an inspection or engage a third-party to undertake such inspection with regard to the Grievance, as may be required for the expeditious redressal of the Grievance.

8.6 The Forum can also engage a third-party (other than the Licensee) at the instance and request of the Complainant, to undertake inspection and obtain an independent report:

Provided that the Forum shall record the reasons for the need for such third-party inspection, which should generally be resorted to rarely and keeping in view the special circumstances of a case:

Provided further that the expenses of such third-party inspection, except expenses of inspection at the request of the Complainant, shall be borne by the Licensee, and to the extent reasonable and justifiable, such expenses shall be allowed as pass through expense in the determination of tariff in accordance with the relevant Regulations of the Commission:

Provided also that in case inspection is taken up at the request of the Complainant, the expenses shall be deposited in advance by him, which may or may not be refunded by the Licensee depending on whether the Grievance is found to be of substance or not.”

The Commission has included a proviso stating that the hearings can be held through video-conferencing or similar arrangements, provided both parties have access to such facilities. This would also help consumers save their time in travelling to a particular location. The Commission has introduced such clause keeping in mind the current situation such as

lockdown/bands/strike/curfews, etc. Conducting hearings through such means will also facilitate quick and timely disposal of issues. The relevant clauses in draft CGRF & EO Regulations, are as below:

“8.7 The Forum shall communicate the date of hearing of the Grievance in writing to the Distribution Licensee and the Complainant:

Provided that the hearing may also be held through video-conferencing or similar arrangements, as appropriate, provided both parties have access to such facilities.”

4.7 Consumer Advocacy Groups

The Commission is of the view that Consumer Advocacy Groups should be working at the field level for giving necessary assistance to consumers. The assistance can be in terms of filing of case before the CGRF and representation before the CGRF/EO. The Consumer Advocacy Groups shall make all consumers aware of the structure of redressal mechanism that is in place as per the Regulations so that maximum number of consumers can benefit.

The Consumer Protection Regulations, 2005 which were formed under the provisions of Consumer Protection Act, 1986 provides for voluntary consumer organizations to appear before the Consumer Forum. The relevant extract is as follows:

“16. Appearance of Voluntary Consumer Organisations.-(1) Recognised Consumer Organisations have a right of audience before the Consumer Forum

(2) An authorisation of a Voluntary Consumer Organisation may be by way of special power of attorney executed on a non-judicial paper or even on plain paper duly attested by a Gazetted Officer or a Notary Public.

(3) The Power of Attorney holder shall be entitled to engage a counsel, if authorised to do so.

(4) A Voluntary Consumer Organisation can engage a counsel or an advocate of its choice or it can itself represent through one of its office bearers as per the rules governing it.

(5) In case of a complaint where the Voluntary Consumer Organisation is a complainant along with the consumer himself and the dispute affects the complainant individually, he can withdraw the complaint:

Provided that if the issue involves unfair trade practice or restrictive trade practice a Voluntary Consumer Organisation may continue to proceed with the complaint even if the complainant wishes to withdraw the same.

(6) A Consumer Forum has to guard itself from touts and busybodies in the garb of power of attorney holders or authorised agents in the proceedings before it.

(7) While a Consumer Forum may permit an authorised agent to appear before it, but authorised agent shall not be one who has used this as a profession:

Provided that this sub-regulation shall not apply in case of advocates.

(8) An authorised agent may be debarred from appearing before a Consumer Forum if he is found guilty of misconduct or any other malpractice at any time.”

As seen from the above provisions, it is proposed that the Consumer Advocacy Groups or Consumer Representatives shall be allowed to appear before the CGRF. The above provisions have been appropriately modified and incorporated in the Draft CGRF & EO Regulations, as proposed below:

“8.8 A Complainant, Distribution Licensee or any other person who is a party to any proceedings before the Forum may either appear in person or authorise any person other than an Advocate (within the meaning of the Advocates Act, 1961) to present his case before the Forum and to do all or any of the acts for the purpose:

Provided that Voluntary Consumer Organisations or Consumer Representatives or Consumer Advocacy Groups may be authorised to appear before the Forum on behalf of any party to the proceedings:

Provided further that such authorised persons may be debarred from appearing before a Forum if he is found guilty of misconduct or any other malpractice at any time.”

4.8 Suo-motu Proceedings by Forum

The existing MERC CGRF & EO Regulations provides for initiation of suo-motu proceedings by the Forum. The Commission is of the view that the institutions of CGRF and Electricity Ombudsman have been created to address consumer grievances. If the consumer has a grievance, he will approach the CGRF. There does not appear to be any merit in retaining this enabling clause for suo-motu action by CGRF, when the consumer has not filed a grievance.

Inter-State comparison shows that most of the States including Model FOR Regulations have not provided for such clause in their Regulations. The Commission therefore, proposes to delete this enabling clause of suo-motu action by CGRF.

However, there could be instances/issues, where the Commission may want the CGRF to take up a particular issue that falls within the jurisdiction of CGRF, viz., excess billing, etc. The existing Regulations do not have such an enabling provision. It is hence, proposed to introduce a clause to this effect, as reproduced below:

"8.12 The Commission may direct the concerned Forum, in writing and with reasons, to take up any matter suo-motu, provided that the same falls within the jurisdiction of the Forum."

4.9 Findings of the Forum

The Commission has proposed to add a clause regarding completion of proceedings by the Forum and passing of Order within the specified timeline. The relevant clause in draft CGRF & EO Regulations, is as below:

"9.1 After considering the Grievance submitted by the Complainant, issue-wise comments on the Grievance submitted by the Distribution Licensee and all other records available, and after affording reasonable opportunity of being heard to the parties, the Forum shall complete the inquiry and pass appropriate order for redressal of the Grievance within the time specified in Regulation 5.2"

The Commission has proposed to include a clause stating that in case the Forum is satisfied that the allegations in the grievance are correct then the Licensee shall return the amount of the Complainant that is unlawfully retained by Licensee and shall be liable to pay interest on that amount. FOR Model Regulations provides for payment of interest on the compensation to Complainant. The Commission is of the opinion that the Complainant is entitled to carrying cost on the amount unduly retained by the Licensee. The Commission in the draft CGRF & EO Regulations, has proposed the rate of interest to be paid by the Licensee equal to 1-year Marginal Cost of Lending Rate of State Bank of India prevailing as on 1st of April of that year.

A new provision is proposed to be introduced for CGRF to order partial relief to the Complainant under appropriate circumstances, duly recorded with proper justification, in order to address such situations, as the present Regulations imply that the Complainant will either get no relief or full relief.

The relevant clauses in draft CGRF & EO Regulations, are as below:

“9.2 If, after the completion of the proceedings, the Forum is satisfied after voting that any of the allegations contained in the Grievance is correct, it shall issue an order to the Distribution Licensee directing it to do one or more of the following things in a time bound manner, namely-.....

.....

...(b) return to the Complainant the undue charges paid by the Complainant along with interest, at the rate equal to 1-year Marginal Cost of Lending Rate of State Bank of India prevailing as on 1st of April of that year; ...:

Provided that the Forum may order partial relief to the Complainant under appropriate circumstances, duly recorded with proper justification.”

The existing MERC CGRF & EO Regulations, 2006 specify that where the Members differ on any point or points, the opinion of the majority shall be the order of the Forum, however, the opinion of the minority shall however be recorded and shall form part of the order. It is proposed to further clarify that the opinion of the minority Member in the above situation shall be issued along with the Order passed by the majority, in order to ensure against situations where the majority decision is first announced and the minority view is issued later. The relevant clause in the draft CGRF & EO Regulations, is as below:

“9.3:

Provided that where the Members differ on any point or points, the opinion of the majority shall be the Order of the Forum:

Provided further that the opinion of the minority shall however, be recorded and form part of the Order, and shall be issued along with the Order passed by the majority.”

The Commission has included an additional clause specifying that all Orders of the Forum shall be consistent with the Commission’s Regulations and Orders issued from time to time. It is essential that there is no ambiguity in the Orders of the Forum vis-à-vis the Regulations or Orders of the Commission. No Order of the Forum shall lead to contradiction vis-à-vis the Regulations or Orders of the Commission. Further, the Forum Order should specifically mention the Regulations and Orders based on which its Order has been passed. As the CGRF does not have discretionary powers of interpreting the Regulations/Orders of the Commission, in case any issue is not fully covered in the Commission’s Regulations or Orders, the issue

shall necessarily be referred to the Commission for its guidance. Even the Distribution Licensee may refer such an issue under “Powers to remove Difficulties”.

The proposed clauses are as below:

“9.4 The Forum shall ensure that all Orders are consistent with the Commission’s Regulations and Orders:

Provided that the Order issued by the Forum shall specifically mention the applicable Regulations and Orders based on which its Order has been passed:

Provided further that the Forum on its own shall not interpret and rule beyond the applicable Regulations and Orders.

9.5 In case any issue is not fully covered in the Commission’s Regulations or Orders, the issue shall necessarily be referred to the Commission for its guidance:

Provided that the Distribution Licensee may also refer such an issue to the Commission under Regulation 31 of these Regulations.”

The Commission has modified the clause with respect to delivery of certified Order passed by the Forum. The Commission has proposed to communicate such Orders to the related parties within a period of three days from the date of issuance of Order. It is necessary that all parties are aware of the passing of Order as early as possible. The relevant clause is as follows

“9.6 A certified copy of the Order passed by the Forum shall be communicated to the parties within three days of such Order.”

The Commission has proposed to add proviso to the clause specifying that the Licensee shall intimate the Forum and the Complainant on the compliance done by it on the Order of the Forum, within a period of seven days from the date of compliance. This would enable the Forum to keep a record of the compliances made by the Licensee.

The existing MERC CGRF & EO Regulations, 2006 specify that non-compliance of any order passed or direction issued by the Forum shall be deemed to be a contravention of the provisions of these Regulations and the Commission may initiate proceedings suo motu or on a complaint filed by any person to impose penalty or prosecution proceeding under Sections 142 and 149 of the Act. The clause is proposed to be simplified.

The relevant clauses proposed are as follows:

“9.7 The Order passed or direction issued by the Forum shall be implemented or complied with by the Distribution Licensee or the person required by the order or direction to do so within the time frame stipulated in the Order/directions:

Provided that intimation of such compliance shall be made to the Forum and the Complainant and shall also be updated on the web portal within seven days from the date of compliance.

9.8 Non-compliance of the Order of the Forum shall be treated as violation of the Regulations of the Commission and accordingly liable for action under Section 142 of the Act.”

The Commission has retained the clause of passing Interim Orders by the Forum wherever necessary with slight modifications. The Commission has proposed to pass such Interim Orders by the Forum within a time frame of 10 days from the receipt of grievance. The relevant clause proposed in the draft MERC CGRF & EO Regulations, 2020 is as below.

“9.9 Notwithstanding the provisions of Regulation 9.2, the Forum may pass such interim Orders, pending the final decision on the Grievance, on the request of the Complainant:

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

Provided further that such interim Order shall be issued within 10 days of receipt of Grievance:

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

4.10 Review of Order by the Forum

While there is a specific provision for review of Order by the Electricity Ombudsman, the existing Regulations do not empower the CGRF to review their own Orders. In February 2016,

the Commission issued a Practice Direction in this regard. The Commission directed CGRFs to not entertain the applications from any party seeking review of their own Orders. The Commission also stated that the Electricity Ombudsman can give appropriate directions in case it finds any CGRF entertaining such review applications.

In view of the above Practice Directions, the Fora have no right to review their Orders under the present Regulations. The Commission made an inter-State comparison on the issue of filing review on the Orders of the Forum. The Commission observed that most of the Regulations do not provide for review of Orders by the CGRFs. However, the Regulations notified by GERC in 2019 and DERC in 2018 provides for application of review before the Forum on certain conditions and within a specific time frame from the date of issuance of Order by the Forum.

The Commission is of the view that review of Order issued by the CGRF is an opportunity for issues like error apparent on the face of record and /or discovery of new important matter or evidence, etc., to get resolved at the CGRF level itself and such issues can be avoided to be raised before the Electricity Ombudsman. By doing so, the Electricity Ombudsman can focus on more complex issues related to the consumer grievances.

In the context of Review of Orders by the CGRF, the Commission has studied the provisions of Maharashtra Land Revenue Code. The relevant sections are as follows.

“258.(1)The State Government and every revenue or survey officer may, either on its or his own motion or on the application of any party interested, review any order passed by itself or himself or any of its or his predecessors in office and pass such orders in reference thereto as it or he thinks fit :Provided that,—(i)if the Collector or Settlement Officer thinks it necessary to review any order which he has not himself passed, on the ground other than that of clerical mistake, he shall first obtain the sanction of the Commissioner or the Settlement Commissioner, as the case may be, and if an officer subordinate to a Collector or Settlement Officer proposes to review any order on the ground other than that of clerical mistake, whether such order is passed by himself or his predecessor, he shall first obtain the sanction of the authority to whom he is immediately subordinate ;(ii)no order shall be varied or reversed unless notice has been given to the parties interested to appear and be heard in support of such order ;(iii)no order from which an appeal has been made, or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending be reviewed;(iv)no order affecting any question of right between private persons shall be reviewed except on an application of a party to the proceedings, and no such application of review of such

order shall be entertained unless it is made within ninety days from the passing of the order.

(2) No order shall be reviewed except on the following grounds, namely:—(i) discovery of new and important matter or evidence;

(ii) some mistake or error apparent on the face of the record;

(iii) any other sufficient reason.

(3) For the purposes of this section the Collector shall be deemed to be the successor in office of any revenue or survey officer who has left the district or who has ceased to exercise powers as a revenue or survey officer and to whom there is no successor in the district.

(4) An order which has been dealt with in appeal or on revision shall not be reviewed by any revenue or survey officer subordinate to the appellate or revisional authority.

(5) Orders passed in review shall on no account be reviewed”

As seen from the above provisions of Maharashtra Land Revenue Code, review of the Order shall not be permitted in case an appeal has been filed against the same Order. Also, review is allowed on the following grounds:

1. discovery of new and important matter or evidence;
2. (ii) some mistake or error apparent on the face of the record;
3. (iii) any other sufficient reason

Further, the sanction/approval of the immediate superior authority is required, for undertaking the Review. In the present instance, the Forum will have to obtain the approval of the Electricity Ombudsman, before taking up any Review Petition.

Hence, the Commission feels that review can be introduced for Orders of CGRF with certain conditions under which review can be filed by the consumer or the Licensee. The Commission has adopted the approach specified in GERC Regulations. The Commission proposes to amend its Regulations by specifying option for review of their own Order by the CGRFs but only on the grounds such as discovery of new and important matter or evidence, which was not within the knowledge of the consumer/Licensee or could not be produced at the time when the Order was passed or on account of some mistake or error apparent on the face of the record, and on which no appeal has been preferred. The review application is proposed to be filed within thirty days from the date of issuance of Order by the Forum. The Forum shall not entertain any such application of review which are not on the grounds of review specified under this clause or are

filed after the time frame of thirty days. Further, the consent of the Ombudsman has been made mandatory, before the CGRF can take up the Review. It has also been amply clarified that even the Distribution Licensee may file for Review of the CGRF Order.

The relevant clause proposed to be incorporated in the draft CGRF & EO Regulations, is as follows:

“10.1 Any person aggrieved by an order of the Forum, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the same Forum, under the following circumstances:

(a) Where no appeal has been preferred;

(b) on account of some mistake or error apparent from the face of the record;

(c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.

10.2 An application for such review shall clearly state the matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or the mistake or error apparent from the face of the record.

10.3 The review application shall be accompanied by such documents, supporting data and statements as the Forum may determine.

10.4 When it appears to the Forum that there is no sufficient ground for review, the Forum shall reject such review application:

Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

10.5 When the Forum is of the opinion that the review application should be granted, it shall grant the same:

Provided that the review shall be granted only after obtaining the permission of the Electricity Ombudsman:

Provided further that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the order, the review of which is applied for.”

4.11 Inspection of records of the forum and supply of certified copies

The Commission has proposed to include an additional clause whereby any person on his request shall be entitled to get a copy of the Orders of the Forum, without specifying any reason for asking such information. The individual shall only have to pay for the cost specified in the Regulations. The clauses have been proposed based on FOR Model Regulations, as under:

“11.1 Any Person shall be entitled to a copy of the orders of the Forum or take extracts therefrom, subject to payment of a cost, which shall not be more than the cost of photocopying and complying with other terms, which the Forum may direct:

Provided that an applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

11.2 Notwithstanding anything contained in Regulation 11.1, there shall be no obligation to give to any Person,—

(a) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the Forum is satisfied that larger public interest warrants the disclosure of such information; or

(b) information which would impede the process of investigation or apprehension or prosecution of offenders”

4.12 General Superintendence over the Forum

The existing Regulations do not provide for any specific provisions for giving directions to the Forum apart from general provision for Practice Directions. The Commission is of the view that the Commission should have the right to issue directions to the Forum from time to time. The directions can be general directions to all the Fora or specific directions to a particular Forum relating to a particular case.

The Commission in the past has observed that there have been instances where the Fora have not been adhering to the relevant clauses of the MERC CGRF & EO Regulations, 2006. One such case being the delay in disposal of Orders by the CGRFs. The Commission feels that it should have the powers to issue directions to the Fora for effective and efficient disposal of grievances and in timely manner. In order to issue such directions, the Commission should have the general powers of Superintendence over the Fora. The Commission made an inter-State comparison and observed that such clause of having general powers over the Fora is present in most of the Regulations notified in Other States. BERC has incorporated a specific clause to the effect that the Commission shall have the general powers of superintendence over

the Forum and the Forum shall duly comply with such directions as the Commission may issue from time to time. The Commission has therefore, proposed to add such clause in the draft CGRF & EO Regulations, as under:

“12.1 The Forum shall comply with such general directions as the Commission may issue from time to time in the interest of efficient and effective redressal of grievances in a timely and expeditious manner.

12.2 The Commission shall have the general powers of superintendence over the Forum and the Forum shall duly comply with such directions as the Commission may issue from time to time.”

5 Electricity Ombudsman

5.1 Objectives

This Chapter of the Explanatory Memorandum elaborates on various aspects of the Regulations relating to the Electricity Ombudsman in the draft CGRF & EO Regulations.

5.2 Constitution of Electricity Ombudsman

The Commission has proposed to slightly modify the clause relating to the tenure for appointment of Electricity Ombudsman. The Commission has proposed to change the clause to a 'fixed term of three years' from the existing clause of 'period not exceeding three years'. The Commission is of the view that the existing clause implies that the appointment can be for a shorter duration than three years, which does not impart certainty to the appointment to any Applicant for the post.

The Commission has studied the provisions in the Regulations of other States with regard to age limit prescribed for retirement of EO, as summarised below:

State	Age for Retirement	State	Age for Retirement
Gujarat	65	Delhi	67
Bihar	65	Andhra Pradesh	68
Punjab	70	FOR	65
Jharkhand	65	Kerala	65

As seen from the above comparison, most States including FOR Model Regulations have adopted an age limit of 65 years for retirement of Ombudsman. In view of the above, the Commission has also proposed to modify the age limit to 65 years for retirement of EO, with the proviso that the revised age limit shall be applicable for existing appointments also at the end of their fixed term or extended term, as applicable.

The relevant clause in the draft CGRF & EO Regulations, is as follows:

“13.2 The appointment or designation of the person(s) as the Electricity Ombudsman shall be made for a fixed term of three (3) years:

Provided that the tenure of the Electricity Ombudsman may be extended by the Commission for a further period not exceeding two (2) years subject to an overall age limit of sixty-five (65) years:

Provided further that the age limit of 65 years shall be applicable for existing appointments also at the end of their fixed term or extended term, as applicable.”

The Commission proposes to delete the requirement stating that the Ombudsman shall be given three months’ notice or shall be paid three months consolidated emoluments in lieu of the notice period when the Commission finds that the Ombudsman needs to be removed. The Commission is of the view that when the Ombudsman is required to be removed from his position on the grounds specified in the Regulations, under such circumstances, the removal has to be immediate and there is no need to serve a notice of three months as stated in the existing Regulations. The modified clause of the draft CGRF & EO Regulations, is as below:

“13.3 Where the Commission is satisfied that in the public interest and for the reasons set out below, it is necessary to remove the person discharging the duties of an Electricity Ombudsman, the Commission may for reasons to be recorded in writing, remove the person discharging the duties of Electricity Ombudsman, if such person:

(a) has been adjudged an insolvent;

(b) has been convicted of an offence which, in the opinion of the Commission, involves moral turpitude;

(c) has become physically or mentally incapable of acting as Electricity Ombudsman;

(d) has acquired such financial or other interest as is likely to affect prejudicially his/her functions as Electricity Ombudsman;

(e) has abused his/her position so as to render his/her continuance in office prejudicial to the public interest; or

(f) has been guilty of proved misbehaviour;

(g) has been found to have failed to deliver the functions assigned to him/her or exceeded his/her brief.

Provided that the Electricity Ombudsman shall not be removed from his/her office on any ground specified in the aforesaid clauses (d), (e), (f) and (g) unless the

Commission, has, on an inquiry, concluded that the person ought, on such ground or grounds, to be removed”

5.3 Jurisdiction of the Electricity Ombudsman

The Commission has proposed to add a proviso under the Clause of jurisdiction of the Electricity Ombudsman. The State of Maharashtra presently has the post of two Ombudsmen, viz., one at Mumbai and other at Nagpur. The Commission has proposed a clause specifying that in an event where the Electricity Ombudsman is unable to discharge his functions for reasons beyond his control, or the post is vacant, then in such cases the Commission may give additional charge to the other Electricity Ombudsman for addressing the representations pending before that Electricity Ombudsman. The Commission has proposed to add such proviso so that the functioning of the Electricity Ombudsman is not affected due to absence of one Electricity Ombudsman for various reasons. The relevant clause of the draft CGRF & EO Regulations, is as below:

“Provided that if any Electricity Ombudsman post is vacant or if the Electricity Ombudsman is unable to discharge his/her duties, then the Commission may give additional charge to the other Electricity Ombudsman for addressing the representations pending before that Electricity Ombudsman.”

5.4 Office of Electricity Ombudsman

The Commission has proposed to add certain clauses relating to the Office of Electricity Ombudsman. The Commission has proposed that the staff strength of the Secretariat and terms and conditions of appointment of the staff shall be determined by the Commission from time to time. The existing Regulation had a proviso stating that the Commission may permit the Electricity Ombudsman to take up part-time honorary work provided it does not interfere with his duties under these Regulations. The Commission is of the view that the Electricity Ombudsman holds a very important position in the consumer redressal mechanism and therefore it is necessary that the person appointed to this post gives full justice to this post. Hence, it is proposed that the Electricity Ombudsman appointment shall be a full-time post and no part-time work shall be taken up by the person holding the post of Electricity Ombudsman. The Commission has also proposed a clause stating that details of Electricity Ombudsman shall be widely publicised through other means along with the bills issued and shall be available on website of Licensee and Commission. The relevant clauses of the draft CGRF & EO Regulations, are as below:

“15.3 The Commission shall provide the Electricity Ombudsman with a Secretariat, with the staff strength of the Secretariat and terms and conditions of appointment of the staff being determined by the Commission from time to time.

15.4 All expenses of the Electricity Ombudsman’s office including that of the Secretariat shall be paid out of the Fund constituted under Section 103 of the Act.

15.5 The post of Electricity Ombudsman shall be a full-time post.

15.6 The name, location, email address and telephone numbers of the Electricity Ombudsman shall be widely publicised through newspapers, radio and television, and displayed on the websites and the offices of the Licensees and the Commission and intimated to consumers through electricity bills”

5.5 Qualification

The Commission, based on the inter-State comparison, has modified the clause specifying the qualifications of Electricity Ombudsman. The Commission is of the view that the existing criteria is very limited and therefore it is necessary to broaden the criteria. The Commission has proposed to include the retired judge of District Court or above in the qualification of the Electricity Ombudsman. The Commission has also proposed to include the rank of Executive Director or equivalent or above of an electricity sector Utility. The Commission along with such qualifications has also proposed to add a minimum experience criterion of not less than 3 years in the above-specified positions, rather than specifying the overall years of experience. The Commission is of the view that these changes will facilitate individuals of higher ability, integrity and standing become eligible for the post of Electricity Ombudsman.

Presently, the Commission is advertising for the post of Ombudsman, as and when required, though the same has not been explicitly specified in the Regulations. The Commission has proposed to add a clause whereby the application for the post of Electricity Ombudsman shall be invited through public advertisements. It is further proposed that the Commission shall verify the integrity and background of the applicants for the post of EO including antecedent checks and police records.

The relevant clauses of the draft CGRF & EO Regulations, are as below:

“16.1 The Electricity Ombudsman shall be constituted from amongst a retired judge of a District Court or High Court, a retired Secretary to the Government or equivalent officer, or retired Officer of the rank of Executive Director or equivalent or above of an electricity sector utility, or any other person of equivalent level, and having at least three (3) years of experience in the above-specified positions.

16.2 The Commission shall invite applications through public advertisement for the appointment of the Electricity Ombudsman.

16.3 The Electricity Ombudsman shall be a person of experience, ability, integrity and standing:

Provided that the Commission shall verify the integrity and background of the applicants for the post of Electricity Ombudsman.”

5.6 Remuneration of EO

The Commission has studied the provisions in the Regulations of other States with regard to payment to be given to the EO. Most of the Regulations provided for remuneration to be decided by the Commission for the position of EO, which is in line with the provisions of existing Regulations. The proviso in the existing Regulations also specifies that the remuneration shall not be varied to the disadvantage of EO. The existing clause is in line with the clause stated in GERC Regulations, 2019. The Commission has made a slight change by adding the phrase ‘or reappointment’ at the end of the proviso. The proposed clause is as follows:

“17.1 The remuneration and other allowances payable to the Electricity Ombudsman will be determined by the Commission from time to time and shall be paid out of the Fund constituted under Section 103 of the Act:

Provided that the remuneration and the other terms of office of the Electricity Ombudsman shall not be changed/varied to the disadvantage of the Electricity Ombudsman after his/her appointment or re-appointment.”

5.7 Proceedings before the Electricity Ombudsman

The Commission proposed to add a separate clause stating that the representation may be submitted either in person or through post, email or fax, which was not explicitly mentioned in the existing Regulations. The relevant clause is as below:

“19.3 The representation may be submitted either in person or through post, email or fax. “

The Commission has modified the clause with respect to providing the acknowledgement on receipt of representation by the electricity Ombudsman. The existing Regulation provides for acknowledgement to be provided bearing a serial number within five working days from the date of receipt of a representation. The Commission is of the opinion that the time period of

providing the acknowledgement is on the higher side. The Commission is of the opinion that wherever possible, the acknowledgement should be provided to the Complainant on immediate basis. The Commission has accordingly modified the clause and provided for acknowledgement by the Electricity Ombudsman received from different modes of communication. The relevant clauses of the draft CGRF & EO Regulations, are as below:

“19.5 The Electricity Ombudsman shall send an acknowledgement of receipt of the representation to the consumer bearing a serial number and date:

Provided that in case of submission of the representation in person, the acknowledgment shall be issued immediately:

Provided further that in case of receipt of representation by post, email or fax, the acknowledgment shall be despatched latest by the next working day:

Provided also that where the representation is submitted by email to the Electricity Ombudsman, acknowledgement of the receipt of the representation shall be by return email as promptly as possible.”

The Commission has proposed to delete the clause specifying the requirement of submission of separate hard copies to Ombudsman in case of email submission.

The Commission has redrafted the entire process of redressal by the Electricity Ombudsman based on the inter-State Comparison. The Commission has proposed various timelines in this process so that the redressal of the complaint is done in a timely manner, based on the recommendations of the FOR Model Regulations. Further, the Commission has proposed differential timelines for disposal of representations by the Ombudsman, on the same lines as that proposed for the Fora, depending on the urgency of the relief desired.

The Commission has proposed to include a clause stating that the Electricity Ombudsman shall call for records from the concerned Forum within a period of three days from the registration of representation. The concerned Forum shall send the records in five working days. The Licensee shall also provide such information that may be needed by the Electricity Ombudsman for deciding on the representation filed by the Complainant.

The proposed clauses are as under:

“19.7 After registering the representation, the Electricity Ombudsman, within three (3) days of registration, shall call for records relating to the representation from the concerned Forum.

19.8 The concerned Forum shall send the entire records within five (5) days from the date of receipt of such notice, to the office of the Electricity Ombudsman.

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

The existing Regulation provides for settlement of representation through conciliation or mediation of the Electricity Ombudsman. The existing clause is proposed to be further clarified and strengthened.

For providing clarity on the process of mediation and conciliation to be followed, the Commission has referred to Section 89 of the Civil Code, which provides for settlement of disputes outside the Court. The Civil Code allows for arbitration and conciliation in accordance with the Arbitration and Conciliation Act, 1996. Sections 61 to 81 of the Arbitration and Conciliation Act, 1996 provides for detailed procedure to be followed for conciliation. These Sections detail the conciliation proceedings, appointment of conciliator, settlement agreement, costs, deposits, etc.

The Civil Code also provides for mediation which is to be undertaken in accordance with the Alternative Dispute Resolution and Mediation Rules, 2003 (Mediation Rules, 2003). Rule 1 to Rule 28 of the Mediation Rules, 2003 provides for procedure of appointment of mediator, duties of mediator, procedure of mediation, role of mediator, time limit for completion of mediation, settlement agreement fee and cost for mediator, etc.

It is observed that there are similarities in provisions of conciliation defined in Arbitration and Conciliation Act, 1996 and provisions for mediation specified in Mediation Rules, 2003.

The Commission has also studied the Consumer Protection Act, 2019. Sections 74 to 81 of the Act provide for dispute resolution through mediation. The clauses define the formation of mediation cell, empanelment/replacement of mediators, procedure for mediation and settlement through mediation. Though some of these clauses are similar to that of Arbitration and Conciliation Act, 1996 and Mediation Rules, 2003, these provisions are not as exhaustive as provided in the aforesaid Act/Rules.

The salient features of the Arbitration and Conciliation Act, 1996 and Mediation Rules, 2003 have been reproduced below:

“62 Commencement of conciliation proceedings.—(1) The party initiating conciliation shall send to the other party a written invitation to conciliate under this Part, briefly identifying the subject of the dispute.(2) Conciliation proceedings shall commence when the other party accepts in writing the invitation to conciliate.(3) If the other party rejects the invitation, there will be no conciliation proceedings.(4) If the party initiating conciliation does not receive a reply within thirty days from the date on which he sends the invitation, or within such other period of time as specified in the invitation, he may elect to treat this as a rejection of the invitation to conciliate and if he so elects, he shall inform in writing the other party accordingly.

63 Number of conciliators. — (1) There shall be one conciliator unless the parties agree that there shall be two or three conciliators. (2) Where there is more than one conciliator, they ought, as a general rule, to act jointly.

64 Appointment of conciliators.—(1) Subject to sub-section (2)—(a) in conciliation proceedings, with one conciliator, the parties may agree on the name of a sole conciliator;(b) in conciliation proceedings with two conciliator, each party may appoint one conciliator;(c) in conciliator proceedings with three conciliators, each party may appoint one conciliator and the parties may agree on the name of the third conciliator who shall act as the presiding conciliator.(2) Parties may enlist the assistance of a suitable institution or person in connection with the appointment of conciliator, and in particular,—(a) a party may request such an institution or person to recommend the names of suitable individuals to act as conciliator; or (b) the parties may agree that the appointment of one or more conciliator be made directly by such an institution or person:

Provided that in recommending or appointing individuals to act as conciliator, the institution or person shall have regard to such considerations as are likely to secure the appointment of an independent and impartial conciliator and, with respect to a sole or third conciliator, shall take into account the advisability of appointing a conciliator of a nationality other than the nationalities of the parties.

65 Submission of statements to mediator. — (1) The conciliator, upon his appointment, may request each party to submit to him a brief written statement describing the general nature of the dispute and the points at issue. Each party shall send a copy of such statement to the other party. (2) The conciliator may request each party to submit to him a further written statement of his position and the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate. The party shall send a copy of such statement, documents and other

evidence to the other party. (3) At any stage of the conciliation proceedings, the conciliator may request a party to submit to him such additional information as he deems appropriate. *Explanation.* —In this section and all the following sections of this Part, the term "conciliator" applies to a sole conciliator, two or three conciliators, as the case may be.

Conciliator not bound by certain enactments.—The conciliator is not bound by the Code of Civil Procedure, 1908 (5 of 1908) or the Indian Evidence Act, 1872 (1 of 1872).

Role of conciliator.—(1) The conciliator shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.(2) The conciliator shall be guided by principles of objectivity, fairness and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous business practices between the parties.(3) The conciliator may conduct the conciliation proceedings in such a manner as he considers appropriate, taking into account the circumstances of the case, the wishes the parties may express, including any request by a party that the conciliator hear oral statements, and the need for a speedy settlement of the dispute. (4) The conciliator may, at any stage of the conciliation proceedings, make proposals for a settlement of the dispute. Such proposals need not be in writing and need not be accompanied by a statement of the reasons therefor.

Administrative assistance. —In order to facilitate the conduct of the conciliator proceedings, the parties, or the conciliator with the consent of the parties, may arrange for administrative assistance by a suitable institution or person.

Communication between conciliator and parties. — (1) The conciliator may invite the parties to meet him or may communicate with them orally or in writing. He may meet or communicate with the parties together or with each of them separately.(2) Unless the parties have agreed upon the place where meetings with the conciliator are to be held, such place shall be determined by the conciliator, after consultation with the parties, having regard to the circumstances of the conciliation proceedings.

“Rule 10 Procedure of mediation:(a) The parties may agree on the procedure to be followed by the mediator in the conduct of the mediation proceedings. (b) Where the parties do not agree on any particular procedure to be followed by the mediator, the mediator shall follow the procedure hereinafter mentioned, namely: (i) he shall fix, in consultation with the parties, a time schedule, the dates and the time of each

mediation session, where all parties have to be present; (ii) he shall hold the mediation at any convenient location agreeable to him and the parties, as he may determine; (iii) he may conduct joint or separate meetings with the parties; (iv) each party shall, ten days before a session, provide to the mediator a brief memorandum setting forth the issues, which according to it, need to be resolved, and its position in respect to those issues and all information reasonably required for the mediator to understand the issue; such memoranda shall also be mutually exchanged between the parties; (v) each party shall furnish to the mediator such other information as may be required by him in connection with the issues to be resolved. (c) Where there is more than one mediator, the mediator nominated by each party shall first confer with the party that nominated him and shall thereafter interact with the other mediators, with a view to resolving the disputes.

Rule 15 Role of mediator: The mediator shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which effect them; he shall not impose any terms of settlement on the parties.

70 Disclosure of information. —When the conciliator receives factual information concerning the dispute from a party, he shall disclose the substance of that information to the other party in order that the other party may have the opportunity to present any explanation which he considers appropriate:

Provided that when a party gives any information to the conciliator subject to a specific condition that it be kept confidential, the mediator shall not disclose that information to the other party.

71 Co-operation of parties with conciliator —The parties shall in good faith co-operate with the conciliator and, in particular, shall endeavour to comply with requests by the conciliator to submit written materials, provide evidence and attend meetings.

72 Suggestions by parties for settlement of dispute.— Each party may, on his own initiative or at the invitation of the conciliator, submit to the conciliator suggestions for the settlement of the dispute.

73 Settlement agreement. —(1) When it appears to the conciliator that there exist elements of a settlement which may be acceptable to the parties, he shall formulate the terms of a possible settlement and submit them to the parties for their observations. After receiving the observations of the parties, the mediator may

reformulate the terms of a possible settlement in the light of such observations. (2) If the parties reach agreement on a settlement of the dispute, they may draw up and sign a written settlement agreement. If requested by the parties, the conciliator may draw up, or assist the parties in drawing up, the settlement agreement.(3) When the parties sign the settlement agreement, it shall be final and binding on the parties and persons claiming under them respectively.(4) The conciliator shall authenticate the settlement agreement and furnish a copy thereof to each of the parties.

74 Status and effect of settlement agreement.— The settlement agreement shall have the same status and effect as if it is an arbitral award on agreed terms on the substance of the dispute rendered by an arbitral tribunal under section 30.

75 Confidentiality. —Notwithstanding anything contained in any other law for the time being in force, the conciliator and the parties shall keep confidential all matters relating to the conciliation proceedings. Confidentiality shall extend also to the settlement agreement, except where its disclosure is necessary for purposes of implementation and enforcement.

76 Termination of conciliation proceedings.—The conciliation proceedings shall be terminated—(a) by the signing of the settlement agreement by the parties, on the date of the agreement; or(b) by a written declaration of the conciliator, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration; or(c) by a written declaration of the parties addressed to the conciliator to the effect that the mediation proceedings are terminated, on the date of the declaration; or(d) by a written declaration of a party to the other party and the conciliator, if appointed, to the effect that the conciliation proceedings are terminated, on the date of the declaration.

78 Costs.—(1) Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties.(2) For the purpose of sub-section (1), “costs” means reasonable costs relating to—(a) the fee and expenses of the conciliator and witnesses requested by the conciliator with the consent of the parties;(b) any expert advice requested by the conciliator with the consent of the parties;.(c) any other expenses incurred in connection with the conciliation proceedings and the settlement agreement.(3) The costs shall be borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

Rule 18 Time limit for completion of mediation: On the expiry of sixty days from the date fixed for the first appearance of the parties before the mediator, the

mediation shall stand terminated, unless the Court, which referred the matter, either suo motu, or upon request by any of the parties, and upon hearing all the parties, is of the view that extension of time is necessary or may be useful; but such extension shall not be beyond a further period of thirty days.

Rule 22 Immunity: No mediator shall be held liable for anything bona fide done or omitted to be done by him during the mediation proceedings for civil or criminal action nor shall he be summoned by any party to the suit to appear in a Court of law to testify in regard to information received by him or action taken by him or in respect of drafts or records prepared by him or shown to him during the mediation proceedings.”

The Commission is of the considered opinion that mediation and conciliation are best done by the Electricity Ombudsman, and would not be appropriate to be introduced at the CGRF level, which is the first Forum for redressal of the grievances.

The Commission has proposed settlement of representation by the Electricity Ombudsman in the first instance through conciliation or mediation within a period of 15 days from the date of receipt of the representation. The Commission is of the view that by focussing on settlement through this mechanism, the Electricity Ombudsman shall reduce the number of cases on which it has to conduct a hearing and issue an Order. The Electricity Ombudsman shall give recommendations based on the circumstances of the case and shall submit the same to both the parties. If both parties agree, then they can submit their acceptance to the recommendations made by the Electricity Ombudsman. In case the recommendations are not agreeable to any party, then the Electricity Ombudsman shall provide a date for conducting a hearing for both parties to be heard. The Commission has added a proviso stating that the hearing can be conducted through video conferencing or any other such means for time saving.

Based on the above clauses and detailed procedure for mediation and conciliation, the Commission has proposed the revised framework for mediation and conciliation to be undertaken by the Electricity Ombudsman in the draft CGRF & EO Regulations, as under:

“19.10 The Electricity Ombudsman may, in the first instance, endeavour to promote a settlement of the representation received through conciliation or mediation, within fifteen (15) days from the date of receipt of the representation.

19.11 If both parties provide their consent to settle the representation through conciliation or mediation, the Electricity Ombudsman shall direct each party to submit to him a brief written statement describing the general nature of the dispute, the points at issue, the facts and grounds in support thereof, supplemented by any documents and other evidence that such party deems appropriate, with a copy to the other party.

19.12 *The Electricity Ombudsman shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.*

19.13 *The Electricity Ombudsman shall attempt to facilitate voluntary resolution of the dispute by the parties, and communicate the view of each party to the other, assist them in identifying issues, reducing misunderstandings, clarifying priorities, exploring areas of compromise and generating options in an attempt to solve the dispute, emphasizing that it is the responsibility of the parties to take decision which affect them.*

19.14 *When a representation is settled through conciliation or mediation of the Electricity Ombudsman, the Electricity Ombudsman shall send the copies of the recommendation, which he thinks fair in the circumstances of the case, to the Complainant and the Licensee:*

Provided that the parties may submit their observations on the recommendation for the consideration of the Electricity Ombudsman, and the Electricity Ombudsman may reformulate the terms of a possible settlement in the light of such observations.

19.15 *If the Complainant and the Licensee accept the recommendation of the Electricity Ombudsman, they will send a communication in writing within fifteen (15) days of the date of receipt of the recommendation:*

Provided that the Complainant and the Licensee will confirm their acceptance to the Electricity Ombudsman and state clearly that the settlement communicated is acceptable to them, in totality, in terms of the recommendations made by the Electricity Ombudsman, and are in full and final settlement of the representation.

19.16 *The Electricity Ombudsman shall make a record of such an agreement as his/her orders and thereafter close the case.*

19.17 *If either party does not give consent to settle the representation through conciliation or mediation or the representation is not settled by agreement, the Electricity Ombudsman may give an Order after affording the parties reasonable opportunity to present their case:*

Provided that the Electricity Ombudsman shall notify the Distribution Licensee and the Complainant who has submitted the representation, regarding the date of hearing in writing, giving sufficient advance notice:

Provided further that the hearing may also be held through video-conferencing or similar arrangements, as appropriate, provided both parties have access to such facilities.”

Further, in line with the approach adopted for CGRF, it is proposed that the Consumer Advocacy Groups or Consumer Representatives shall be allowed to appear before the Ombudsman. The proposed clauses are as under:

“19.18 Any party to any proceedings before the Electricity Ombudsman may either appear in person or authorise any person other than an Advocate (within the meaning of the Advocates Act, 1961) to present his case before the Electricity Ombudsman and to do all or any of the acts for the purpose:

Provided that Voluntary Consumer Organisations or Consumer Representatives or Consumer Advocacy Groups may be authorised to appear before the Electricity Ombudsman on behalf of any party to the proceedings:

Provided further that such authorised persons may be debarred from appearing before the Electricity Ombudsman if he is found guilty of misconduct or any other malpractice at any time.”

The Commission has elaborated the clause specifying the conditions under which the Electricity Ombudsman shall entertain a representation. The Commission has included an Explanatory note clarifying that the representation can only be filed by the Complainant and not by the Licensee against the Order of the Forum. Another clause specifies that the Complainant shall, have first filed the case before the Forum for redressal of his grievance. The clause is necessary so that the redressal procedure set in these Regulations are followed by the complainant and no one shall approach the Electricity Ombudsman directly as the first authority for redressal. The clause is also modified to the extent that the Complainant can approach the Electricity Ombudsman even in cases where the Forum has not disposed the grievance within a period of 45 days from the date of filing the grievance. The relevant clause of the draft CGRF & EO Regulations, is as below:

19.21 The Electricity Ombudsman shall entertain a representation only if all the following conditions are satisfied:

(a) It has been filed by the Complainant being the aggrieved consumer or the Association representing the consumer/s;

Explanation: A Distribution Licensee is not allowed to file a representation before the Ombudsman against the order of the Forum.

(b) The Complainant had, before making a representation to the Electricity Ombudsman, approached the Forum constituted under Section 42(5) of the Electricity Act, 2003 for redressal of his/her grievance;

(c) The Complainant has submitted a written representation in the specified form, to the Electricity Ombudsman;

(d) It has been shown to the Electricity Ombudsman that (i) the Forum has rejected the Grievance, or (ii) the Forum has not passed an order on the Grievance for its redressal within a maximum period of sixty (60) days from the date of receipt of the Grievance by the Forum, or (iii) there has been undue delay in the disposal of the Grievance by the Forum even after the period stated above;... ”

5.8 Fees for filing Representation before the Ombudsman

The existing Regulations provides that Electricity Ombudsman shall not entertain a representation unless the consumer has deposited fifty percent of the amount which is to be paid by him or twenty-five thousand, whichever is lesser, and fees as prescribed by the Commission. The relevant clauses are as below:

“(f) unless the consumer has deposited in the stipulated manner, fifty percent of the amount, if any, that is required to be paid by him in terms of the order of the Forum or twenty-five thousand rupees whichever is less; and

(g) unless the person who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.”

As seen from the above clause, the consumer has to deposit not only 50% of the amount or Rs. 25,000, whichever is lesser, but also court fees for processing his representation before the Ombudsman. In view of the above, the Commission has studied the provisions in the Regulations of other States and observes that most Regulations provides for consumers to deposit one-third of the total claim amount. Most Regulations do not provide for payment of separate fees by the consumer for filing before the Ombudsman. Even in Maharashtra, though such clause is present in the Regulations, the Electricity Ombudsman is not charging any separate fees from the consumers.

The Commission is of the opinion that the mechanism of Electricity Ombudsman is introduced by the Electricity Act for easy redressal of grievances and not to create any financial hardships to consumers by imposing additional fees. The Commission is of the opinion that the

administrative cost for conducting hearings and other processes by the EO can be met through the fund created under Section 103 of the Electricity Act and need not be recovered from the consumers.

In view of the above, the Commission has decided to delete the clause (g) of Regulation 17.9 as mandatory clause for entertaining a representation before the EO.

5.9 Matters to be taken up by the Ombudsman based on Commission's directions

The Ombudsman cannot take up any matter suo-motu. However, there could be cases where patently incorrect Orders have been passed by the Forum. To address such situations, the Commission proposes to include an enabling clause to the effect that the Commission may direct the Electricity Ombudsman, in writing and with reasons, to take up any matter, provided that the same falls within his jurisdiction.

The Commission has also proposed to insert an additional clause specifying that subject to provisions of the Act and these Regulations, the decision of the Electricity Ombudsman for consideration of representation shall be final.

The relevant clauses are as proposed below:

“19.22 The Commission may direct the Electricity Ombudsman, in writing and with reasons, to take up any matter, provided that the same falls within the jurisdiction of the Electricity Ombudsman.

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

The existing Regulations provided for rejecting the representation if it is found to be complicated in nature and requires elaborate documentary and oral evidence. The Commission is of the view that such a condition for rejection of the representation is not appropriate. The Electricity Ombudsman can always call for records/information/reports from respective parties for in depth analysis of the case. Therefore, the Commission has proposed to delete the aforesaid clause.

5.10 Issue of Order by the Electricity Ombudsman

The Commission has proposed to specify differential time period for disposal of representations by the Electricity Ombudsman, similar to that specified for the Forum. The Commission has proposed to insert an additional clause for passing a written Order giving reasons for all findings, which shall state the nature of the reliefs to the Complainant. The relevant clause is as below.

“20.1 The Electricity Ombudsman shall complete the enquiry as expeditiously as possible and every endeavour shall be made to decide the representation within a period of fifteen (15) days of receipt of the representation (for representation related to non-supply, connection or disconnection of supply) and within sixty (60) days of receipt of the representation (for all other representations):

Provided that in the event of the representation being disposed of after the completion of the time period of 15 days or 60 days, as applicable, the Electricity Ombudsman shall record, in writing, the reasons for the same.

20.2 The Electricity Ombudsman shall pass a written Order giving reasons for all his/her findings, which shall state the nature of the reliefs to which the Complainant is entitled as per the Order”

The Commission has proposed to insert additional clauses in line with the clauses incorporated in the Chapter of CGRF, to the effect that all the Orders of the Electricity Ombudsman shall be a reasoned and speaking Order and consistent with the Regulations and Orders of the Commission. The relevant clause is as below:

“20.5 The Electricity Ombudsman shall ensure that all Orders are consistent with the Commission’s Regulations and Orders:

Provided that the Order issued by the Ombudsman shall be a reasoned and speaking Order and specifically mention the Regulations and Orders based on which its Order has been passed.

20.6 In case any issue is not fully covered in the Commission’s Regulations or Orders, the issue shall necessarily be referred to the Commission for its guidance.”

The Commission observed that many of the Petitions were filed before the Commission by the consumers asking the Commission to direct the Licensee to comply with the Orders of the

Electricity Ombudsman. The Commission has accordingly disposed such Petitions giving appropriate directions to parties. The Commission is of the view that under all circumstances, the parties are required to comply with the directions of the Electricity Ombudsman as specified in its Order. The Commission has proposed an additional clause stating that in an event of non-compliance of the Order of Electricity Ombudsman, the Complainant can approach the Commission within a period of 30 days of passing the Order or expiry of time granted for implementation of Order. The Commission has proposed this clause so as to provide a pathway to the Complainant to approach the Commission in case of non-compliance of Order by the Licensee. The Commission shall view such matters seriously and issue directions wherever appropriate. The Commission shall impose fines and penalties if necessary, for enforcement. The relevant clause of the draft CGRF & EO Regulations, is as below:

“20.10 Non-compliance of the Electricity Ombudsman’s orders shall be deemed to be a violation of these Regulations and liable for appropriate action by the Commission under the provisions of the Electricity Act, 2003.

20.11 In the event of non-compliance / non-implementation by the Distribution Licensee of any Order passed by the Electricity Ombudsman, the Complainant may approach the Commission for the enforcement of the order within a period of 30 days of the passing of the order or from the expiry of the time granted for the implementation of the order by the Electricity Ombudsman, whichever is later:

Provided that the Commission may issue any order (including an order imposing fines and penalties on the Distribution Licensee, as provided for under the Act) or take any other steps, as it deems appropriate for the enforcement of the Order.”

The Commission observed that several cases are filed before the Commission appealing against the Order of the Electricity Ombudsman. The Commission has rejected such Petitions. The Commission is of the view that the Forum and Electricity Ombudsman are the authorities established under the Act and Regulations for redressal of grievance of the consumers. The Electricity Ombudsman is the highest level of hierarchy in the redressal process and therefore the Order of Electricity Ombudsman is final and binding on all parties. The Commission cannot sit in appeal against the Order of the Electricity Ombudsman. Hence, for better clarity, the Commission has proposed to incorporate the clause in the draft CGRF & EO Regulations. However, this does not stop the Complainant or the Licensee to seek appropriate remedy against the Order of the Electricity Ombudsman from appropriate bodies. The relevant clause is as follows.

“20.12 No party can file an appeal before the Commission against the order passed by the Electricity Ombudsman:

Provided that the Complainant and the Distribution Licensee are entitled to seek appropriate remedy against the order passed by the Electricity Ombudsman before appropriate bodies.”

5.11 Review of Order of Electricity Ombudsman

The Commission has proposed to slightly modify the clause specifying the grounds for filing of Review against the Ombudsman’s Orders, for greater clarity. It is also proposed to clarify that the Distribution Licensee can also file a Review against the Ombudsman’s order. The proposed clauses are as follows:

“22.1 Any person aggrieved by an order of the Electricity Ombudsman, including the Distribution Licensee, may apply for a review of such order within thirty (30) days of the date of the order to the Electricity Ombudsman, under the following circumstances:

(a) Where no appeal has been preferred;

(b) on account of some mistake or error apparent from the face of the record;

(c) upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed.”

5.12 Inspection of Records of the Electricity Ombudsman and supply of certified copies

The Commission has proposed to include an additional clause in line with the clause proposed in the Chapter of CGRF, whereby any person on his request shall be entitled to get a copy of the Orders of the Electricity Ombudsman, without specifying any reason for asking such information. The relevant clause is as follows.

“24.1 Any Person shall be entitled to a copy of the orders of the Electricity Ombudsman or take extracts therefrom, subject to payment of a cost, which shall not be more than the cost of photocopying and complying with other terms, which the Electricity Ombudsman may direct:

Provided that an applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him”

5.13 Submission of Report

The Commission has made an inter-State comparison on the periodicity of the reports to be submitted by the Forum and the Electricity Ombudsman. The Commission observed that most States are following the practice of submission of quarterly reports to the Commission. The Commission therefore proposes to introduce a quarterly reporting system to be submitted by the Forum and Electricity Ombudsman within a period of 15 days from the end of each quarter, as compared to the existing half-yearly reporting system. It is also proposed that these Reports shall be uploaded on the web-portal to be created by the Distribution Licensee, at the same time the Reports are submitted to the Commission. The features of the web portal shall be got approved from the Commission and shall be updated periodically as may be directed by the Commission. It is also proposed to specify the basic details to be submitted in the Report, in the Regulations itself, which can form the matrix for periodic evaluation of the performance of the Fora and Ombudsman. The details include the number of consumer advocacy workshops conducted, number of Orders set aside by the higher authority, new local initiatives, etc., which are equally important as issuance of Order within the specified timelines.

The Commission has also proposed that the Forum shall submit yearly reports along with the quarterly reports containing a general review of the activities of the Forum during the financial year. The Forum shall submit the Report to the Licensee, Commission and Ombudsman within 45 days from the end of each financial year. The proposed clauses are as follows:

“26.2 The Fora and Electricity Ombudsman shall submit to the Commission, in the form as may be stipulated by the Commission, quarterly reports in respect of Grievances and representations filed, redressed and pending, within fifteen (15) days of the end of each quarterly period, with the following details:

- (a) Number of Cases disposed within specified time;*
- (b) Compliance with requirement of number of sittings in each area;*
- (c) Vacancies and duration of vacancies;*
- (d) Number of Orders appealed against;*
- (e) Number of Orders set aside by the Electricity Ombudsman;*

(f) Number of Cases where compliance of Order has been recorded;

(g) Consumer advocacy workshops conducted by the Forum;

(h) New local initiatives

26.3 The quarterly Reports shall also be uploaded on the web-portal to be created by the Distribution Licensee, at the same time, the Reports are submitted to the Commission:

Provided that the features of the web portal shall be got approved from the Commission and shall be updated periodically as may be directed by the Commission.

26.4 The Forum shall also furnish a yearly report containing a general review of the activities of the Forum during the financial year to the Distribution Licensee, Commission and Ombudsman, within 45 days of the close of the financial year to which it relates.”

The Commission is of the view that mere submission of Report and its evaluation is not sufficient, and the Regulations should also provide for actions to be taken by the Commission against the CGRF, based on its performance. If there is continuous default, then the actions that can be taken by the Commission against the CGRF/Ombudsman and its Members/Chairperson need to be specified. There can be stages of action to be taken against the CGRF/Ombudsman based on the severity of default. Non-submission of Reports on time also needs to be viewed very seriously.

The following clauses have been proposed in the draft MERC CGRF & EO Regulations:

“26.6 The Commission may take appropriate action against the CGRF including debarring the Members/Chairperson from their duty, in case of continued non-performance as assessed by the Consumer Advocacy Cell in accordance with clause (a) of Regulation 29.5:

Provided that non-submission of quarterly Reports on time and disposal of grievances beyond the time limit shall be viewed equally adversely, unless there are any extenuating circumstances, and the Commission may take appropriate action as specified above in such cases.

26.7 The Commission may take appropriate action against the Electricity Ombudsman including debarring the Electricity Ombudsman from his/her duty, in case

of continued non-performance as assessed by the Commission in accordance with Regulation 29.6:

Provided that non-submission of quarterly Reports on time and disposal of grievances beyond the time limit shall be viewed equally adversely, unless there are any extenuating circumstances, and the Commission may take appropriate action as specified above in such cases.”

5.14 Treatment of Expenses incurred on Ombudsman’s office

The Commission has excluded the cost of Electricity Ombudsman from the clause relating to treatment of expenses. According to the proposed clause, only the expenses on establishment and running of the Forum shall be allowed in the determination of tariff of the Distribution Licensee, as the expenses of Electricity Ombudsman are to be met by the Fund created under Section 103 of the EA 2003.

5.15 Consumer Advocacy Cell

The Commission has proposed clauses related to institution of a Consumer Advocacy Cell (CAC), based on the provisions of FOR Model Regulations, which shall be funded by the Commission, for capacity building of authorised Consumer Representatives and CGRF in conducting workshops, training, seminars and issue of quarterly magazines for enhancing consumer awareness. It is proposed that there shall be one CAC at each Ombudsman office, which shall function under the supervision of the respective Electricity Ombudsman and overall supervision of the existing Consumer Advocacy Cell established within the Commission.

It is also proposed that the Commission shall allocate an appropriate Budget for the CAC at each Electricity Ombudsman’s office in March month of each Year for the Financial Year commencing from April of that year. Each Electricity Ombudsman shall provide the appropriate funds from within the allocated budget to each Forum within his jurisdiction for improving consumer awareness by inter-alia, conducting workshops, training, Seminars and issue of quarterly magazines.

The Commission in the proposed clause has also provided for additional functions to be performed by the Consumer Advocacy Cell. The Consumer Advocacy Cell shall conduct half-year reviews of Reports submitted by the Forum and Electricity Ombudsman and advise the Commission on improvements to be made in the Regulations, if any. The Consumer Advocacy Cell shall analysis reports submitted by Licensee and facilitate capacity building for consumer

groups, and also take feedback of the consumers on the performance of the respective Forum. The relevant clauses proposed in the draft CGRF & EO Regulations, are as below:

“29.1 A Consumer Advocacy Cell may be instituted and funded by the Commission at each Electricity Ombudsman’s office for capacity building of authorised Consumer Representatives and CGRF in conducting workshops, training, seminars and issue of quarterly magazines for enhancing consumer awareness.

29.2 The Consumer Advocacy Cell at each Electricity Ombudsman’s office shall function under the supervision of the respective Electricity Ombudsman and overall supervision of the existing Consumer Advocacy Cell established within the Commission.

29.3 The Commission shall allocate an appropriate Budget for the Consumer Advocacy Cell at each Electricity Ombudsman’s office in March month of each Year for the Financial Year commencing from April of that year.

29.4 Each Electricity Ombudsman shall provide the appropriate funds from within the allocated budget to each Forum within his jurisdiction for improving consumer awareness by inter-alia, conducting workshops, training, Seminars and issue of quarterly magazines.

29.5 The Consumer Advocacy Cell shall also perform the following additional functions:

(a) Evaluate the performance of the various Fora on quarterly basis, in terms of details submitted in the quarterly Reports in accordance with Regulation 26.2;

(b) Half-yearly review of grievances, representations and reports submitted by the Forum and the Electricity Ombudsman in order to advise the Commission on improvements to be made in the Regulations;

(c) Analysis of reports submitted by the Distribution Licensee with regard to levels of performance achieved with respect to standards of performance of Distribution Licensees;

(d) Taking feedback of the consumers on the performance of the respective Forum.

29.6 The existing Consumer Advocacy Cell established within the Commission shall evaluate the performance of the Electricity Ombudsman on quarterly basis, in terms of details submitted in the quarterly Reports in accordance with Regulation 26.2.”