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**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION (CONSUMER
GRIEVANCE REDRESSAL FORUM & ELECTRICITY OMBUDSMAN)
REGULATIONS, 2020**

STATEMENT OF REASONS

Dated: 21 September, 2020

Introduction

The Commission notified the MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006 [MERC CGRF & EO Regulations, 2006] on April 20, 2006. The Commission subsequently notified the first amendment to the MERC CGRF & EO Regulations, 2006 on April 2, 2007.

The Commission till date has issued two Practice Directions on the aforesaid Regulations. The first Practice Direction was issued on February 8, 2016, prohibiting the Consumer Grievance Redressal Forum (CGRF or Forum) from entertaining any application seeking review of its own Orders. The second Practice Direction was issued on July 22, 2019, specifying the interest rate (i.e., Bank Rate declared by Reserve Bank of India) on the amount to be refunded to the consumers.

As stated above, the last amendment to MERC CGRF & EO Regulations, 2006 was notified in April 2007. Since then, the sector has witnessed significant developments related to CGRF and Electricity Ombudsman. The Forum of Regulators (FOR) published the model Protection of Consumer Interest (Consumer Grievance Redressal Forum, Ombudsman and Consumer Advocacy Regulations) Regulations, in February 2011. FOR also published a Report in 2016 on the review and functioning of CGRF and Ombudsman across States and made certain recommendations. Based on the model Regulations and 2016 Report of FOR, many SERCs have amended their CGRF and EO Regulations.

The Commission has also come across various issues in the last fourteen years since the notification of these Regulations, relating to CGRF and Electricity Ombudsman, through various Petitions filed before it by consumers and Distribution Licensees. The Commission has also witnessed several Petitions on non-compliance of Orders of CGRF/EO by the Distribution Licensee, wherein the Commission had to intervene and give directions to the Licensee to adhere to such directions. The Commission has analysed the periodic reports submitted by CGRF and Electricity Ombudsman for the past 2-3 years and has arrived at certain conclusions, which it felt were required to be incorporated in the Regulations.

Considering the above developments, the Commission formulated the draft MERC (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2020 (hereinafter referred as “draft CGRF & EO Regulations, 2020”). These draft Regulations were primarily guided by Model FOR Regulations, 2011, FOR Recommendations of 2016, and Regulations notified by other SERCs in the recent past.

The Commission proposed modifications to certain clauses vis-à-vis the clauses specified in the MERC CGRF & EO Regulations, 2006 (as amended from time to time) based on the experiences 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 draft CGRF & EO Regulations, 2020 were elaborated in the Explanatory Memorandum published along with the draft CGRF & EO Regulations, 2020.

Accordingly, the draft CGRF & EO Regulations, 2020 and the associated Explanatory Memorandum were published on the Commission’s website www.merc.gov.in in downloadable format on May 17, 2020. A Public Notice was also published in daily newspapers Marathi (Maharashtra Times and Loksatta) and English (Indian Express and Times of India), inviting comments, objections and suggestions from all stakeholders to be submitted to the office of Commission on or before June 17, 2020, which was subsequently extended till June 30, 2020, after publishing the draft CGRF & EO Regulations, 2020 in Marathi also. A total of 165 stakeholders submitted their comments/suggestions on the draft CGRF & EO Regulations, 2020. The list of stakeholders who offered their comments/suggestions on the draft Regulations and Explanatory Memorandum, which have been considered by the Commission while finalising the Regulations, is placed at **Annexure-I**.

The main comments and views expressed by the stakeholders through their written submissions and the Commission’s views thereon have been summarized in the following paragraphs. It may be noted that all the suggestions given by the stakeholders have been considered, and the Commission has attempted to elaborate all the suggestions as well as the Commission’s decisions on each suggestion in the Statement of Reasons, however, in case any suggestion is not specifically elaborated, it does not mean that the same has not been considered. Further, some stakeholders have suggested changes on Syntax/phrase/addition of word(s)/rewording

related changes, cross-references, etc., which have been suitably incorporated, wherever necessary.

Wherever possible, the comments and suggestions have been summarised clause-wise, along with the Commission's analysis and ruling on the same. However, in some cases, due to overlapping of the issues/comments, two clauses have been combined in order to minimise repetition.

Some comments and suggestions were not directly related to the draft CGRF & EO Regulations, 2020, on which inputs were invited. While the Commission has summarised such comments and suggestions briefly in this Statement of Reasons (SOR), specific rulings on the same have not been provided, as the same are outside the scope of these Regulations. The Commission has also made certain suo-motu consequential changes in order to ensure consistency across clauses. Also, it may be noted that the Regulation numbers given in this Statement of Reasons are those mentioned in the draft CGRF & EO Regulations, 2020.

The SOR is organised in the following Chapters, along the same lines as the MERC CGRF & EO Regulations, 2020, summarising the main issues raised during the public consultation process, and the Commission's analysis and decisions on them which underlie the Regulations as finally notified:

Chapter 1: Definitions

Chapter 2: Basic Principles

Chapter 3: Forum for Redressal of Consumer Grievances

Chapter 4: Electricity Ombudsman

Chapter 5: Consumer Advocacy

Chapter 6: Miscellaneous

Chapter 7: Additional Points

1 Definitions

1.1 Regulation 2.1(1) (c): Definition of Grievance

1.1.1 Proposed in Draft CGRF & EO Regulations, 2020

““Grievance” means ... and includes inter alia Grievances in respect of non-compliance of any Order of the Commission or any action to be taken in pursuance thereof, which are within the jurisdiction of the Forum or Electricity Ombudsman, as the case may be;”

1.1.2 Comments Received

Several stakeholders requested to retain the clause of existing Regulations, viz., *“(a) safety of distribution system having potential of endangering of life or property”* in the definition of Grievance.

The stakeholders submitted that Section 42 (1) of the Electricity Act, 2003 (EA 2003) mandates the Licensee to develop and maintain an efficient, coordinated and economical distribution system in its area of supply. Therefore, such phrase cannot be excluded from the Regulations. Moreover, the financial loss, animal loss, agriculture loss, loss of life, etc., which occur due to accidents, should be compensated by the Licensee. In the absence of strict Regulations, the compensation is limited and received after many years after rigorous follow up. CGRF is an internal part of the Distribution Licensee and any grievance has to be raised before such internal mechanism at the first stage. The CGRF comprises an officer of rank of Executive Engineer as a ‘Technical Member’, hence, such grievances can be easily addressed by the Forum. Stakeholders submitted that if the rationale given by the Commission for removing this clause is extended, even the proposed draft CGRF and EO Regulations, 2020 are not required, as the Consumer Protection Act, 2019 is already in place. Also, the rationale of availability of alternate remedy through the Electrical Inspector is not maintainable and is bad in law.

Shri Satish Shah and others submitted that the Explanatory Memorandum does not provide reasons for not including issues such as endangering of life or property under the jurisdiction of CGRF. They submitted that it is a settled position of law that a particular act or thing may fall under the jurisdictions of different Fora established by virtue of different legal enactments. Further, any rights available to consumer, which are envisaged or created under EA 2003, are in addition to and not in derogation of other rights existing under other laws. Therefore, the proposed deletion is contrary to EA 2003 and the same is beyond the jurisdiction of the Commission.

1.1.3 Analysis and Commission’s Decision

Section 161 of the EA 2003 stipulates as under:

“(1) If any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, such person shall give notice of the occurrence and of any such loss or injury actually caused by the accident, in such form and within such time as may be prescribed, to the Electrical Inspector or such other person as aforesaid and to such other authorities as the Appropriate Government may by general or special order, direct.

(2) The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report- (a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or (b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.

(3) Every Electrical Inspector or other person holding an inquiry under subsection (2) shall have all the powers of a civil court under the Code of Civil Procedure, 1908 for the purpose of enforcing the attendance of witnesses and compelling the production of documents and material objects, and every person required by an Electrical Inspector be legally bound to do so within the meaning of section 176 of the Indian Penal Code”.

Thus, the EA 2003 provides for a separate process for filing and resolution of complaints related to loss of human or animal life or any injury to a human being or an animal. Hence, in order to prevent overlap of jurisdiction and multiplicity of cases on the same issue, the Commission deleted this clause from the above definition of grievance and provided the same justification in the Explanatory Memorandum also.

Further, the Commission is of the opinion that the reference to Consumer Protection Act, 2019 is not appropriate. The Commission had verified the clauses covered in the EA 2003 and the Consumer Protection Act, 2019 and observes that there is no overlap between the two Acts. Hence, the contention that the Consumer Protection Act, 2019 is sufficient to handle all electricity related grievances of the consumer, is incorrect.

Hence, the definition proposed in the draft CGRF & EO Regulations, 2020 has been retained.

1.2 Regulation 2.1(f): Definition of Nodal Officer

1.2.1 Proposed in Draft CGRF & EO Regulations, 2020

““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;”

1.2.2 Comments Received

Several stakeholders submitted that neither the Regulations nor the Explanatory Memorandum provide clarity regarding the Nodal Officer and his responsibility. The Commission should clarify that only an employee of the Distribution Licensee shall be eligible for the post, and requested to modify the definition of Nodal Officer as under:

“(f) “Nodal Officer” shall mean an officer in the employment of distribution utility 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;“

Rasoī Spices & Argo Processors and Others requested to modify the definition of Nodal Officer as under:

*“(f) “Nodal Officer” shall mean an officer having knowledge and experience in distribution and supply of electricity and **having knowledge of EA and Regulations made hereunder and so notified 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;“***

Further, they submitted that if the Nodal Officer is well versed with the EA 2003 and Regulations, the grievances can be resolved even before they reach the Forum and will thus, provide easier remedy to the consumers. It is observed from many Orders of CGRF that the Officer, who represented the Distribution Licensee as a Nodal Officer, had limited knowledge of Regulations resulting in displeasure being recorded either by the Forum or Electricity Ombudsman, for causing hardship to consumers over petty issues, which could have been settled with mutual consent. They added that the Distribution Licensee can provide training to Nodal Officers at their Training Centres with the help of the Commission as they have trained the Member Secretary of the Forum.

1.2.3 Analysis and Commission’s Decision

The Commission is of the view that Regulations 8.1, 8.2, and 8.3 clearly specify the role of Nodal Officer under the procedure of grievance redressal.

The Commission is of the opinion that the definition of Nodal Officer proposed in the draft CGRF & EO Regulations, 2020 is appropriate and does not require any modification. The Commission is of the opinion that it is in the interest of the Distribution Licensee to ensure that the Nodal Officer is able to represent the Licensee properly before the Forum/Electricity

Ombudsman, for which he/she should possess adequate knowledge of the EA 2003 and the Regulations notified by the Commission.

Hence, no modification has been made to this definition, and the definition proposed in the draft CGRF & EO Regulations, 2020 has been retained.

1.3 Definition of Complaint and Complainant

1.3.1 Proposed in Draft CGRF & EO Regulations, 2020

No definition of ‘Complaint’ and ‘Complainant’ was proposed in the draft CGRF & EO Regulations, 2020.

1.3.2 Comments received

Mumbai Grahak Panchayat and Others submitted that the term Complainant has been used in the draft CGRF & EO Regulations, 2020, however, the same has not been defined in the Regulations. They proposed the following definition to be added in the Regulation:

“Complainant” shall mean a person or entity which is the consumer of the electricity supply or an applicant applying for electricity supply which shall also include the occupier/actual user of the premises where such supply is provided.”

Another stakeholder submitted that the Regulation should provide for a complaint being filed by any person including in a representative capacity as many consumers are not in a position to raise their complaint and redress their grievances. Hence this provision is very much in the interest of the Consumers and also in the interest of Licensee to reduce the number of cases filed for the same cause. Accordingly, the following definition is proposed for Complainant:

“Complainant” shall mean and include (a) any person having a Grievance against the Distribution Licensee (b) any person filing a complaint in the representative category for a class of complainant. (c) Any voluntary Consumer Organization filing complaint pertaining to any”

Maharashtra State Electricity Distribution Company Ltd. (MSEDCL) has suggested to add the following definition of Complainant:

“Complainant” means any Consumer or Consumers as defined in Section 2 (15) of the Act including their legal heirs or successors and includes prospective consumers; who have applied in accordance with Standards of Performance Regulations and Supply Code Regulations, having a Complaint against a Licensee and lodging the same either directly or through their representatives;”

1.3.3 Analysis and Commission's Decision

It is clarified that the grievance has to be filed individually, and Group/representative complaints cannot be filed under these Regulations.

The Commission finds merit in the suggestion that the term 'Complainant' should be defined, as the same has been used in the Regulations. Similarly, the term 'Complaint' has also been used in the Regulations. Hence, for ample clarity, **the Commission has defined 'Complaint' and 'Complainant' in the Regulations, as under:**

"2.1 In these Regulations, unless the context otherwise requires -...

(c) "Complainant" means any Consumer as defined in Section 2 (15) of the Act and includes prospective Consumer, who files the Complaint or Grievance or Representation against the Distribution Licensee;

(d) "Complaint" means a submission made by a consumer expressing dissatisfaction with the electricity supply service provided by the Distribution Licensee;"

1.4 Definition of Cause of Action

1.4.1 Proposed in Draft CGRF & EO Regulations, 2020

No definition of 'Cause of Action' was proposed in the draft CGRF & EO Regulations, 2020.

1.4.2 Comments received

Vidarbha Industries Association suggested to add definition of 'Cause of Action' as under:

"A cause of action is the fact or combination of facts that gives a person the right to seek judicial redress of relief against another."

1.4.3 Analysis and Commission's Decision

The Commission is of the opinion that the meaning of the term 'cause of action' is clear from the context in which it is specified in the Regulations and refers to the event or action of the Distribution Licensee giving rise to the Complaint.

Hence, no definition of 'Cause of Action' has been added in the CGRF & EO Regulations, 2020.

2 Basic Principles

2.1 Remedy in the Event of Failure or Delay by Distribution Licensee in Redressing Grievances

2.1.1 Proposed in Draft CGRF & EO Regulations, 2020

“3.2 Such Fora shall follow the principles of natural justice, including, inter alia, the following:

- (a) they shall protect the interest of consumers;
- (b) they shall inform consumers of their rights;
- (c) they shall facilitate and expedite the redressal of Grievances.”

2.1.2 Comments Received

Mumbai Grahak Panchayat submitted that Regulation 3.1 (d) of existing MERC CGRF & EO Regulations, 2006 has been deleted in the draft CGRF & EO Regulations, 2020. Mumbai Grahak Panchayat requested the Commission to clarify whether the Distribution Licensee shall be resolving any grievance internally.

2.1.3 Analysis and Commission’s Decision

The Commission had deleted the clause 3.1 (d) of the MERC CGRF & EO Regulations, 2006 in the draft CGRF & EO Regulations, 2020, as the Internal Grievance Redressal Cell (IGRC) was proposed to be dismantled in the draft CGRF & EO Regulations, 2020. However, the Commission had proposed an Internal Complaint Redressal Mechanism (ICRM) to be introduced by the Licensee through a web-based portal. Hence, the Commission is of the opinion that clause 3.1 (d) of the MERC CGRF & EO Regulations, 2006 needs to be reinstated in the Regulations.

The Commission has accordingly modified Regulation 3.2 as under:

“3.2....

.... (d) they shall ensure that consumers can also have a remedy in the event of failure or delay on the part of the Distribution Licensee in redressing their complaints.”

2.2 Regulations 3.3 and 3.4: Number of Fora, their location and Merging of Fora

2.2.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

2.2.2 Comments Received

Several stakeholders requested the Commission to not merge the CGRFs, as proposed in the draft CGRF & EO Regulations, 2020 and Explanatory Memorandum. They submitted that lesser number of complaints filed before a particular CGRF does not indicate that everything is working fine in that particular area. Most consumers are unable to file their complaints as they are not aware about the existence of the Forum. Merging of CGRFs would have serious implications on the legal rights of consumers and will result in hardships to the common consumers. They added that the reference to Case No. 237 of 2019 was bad in law as it was an ex-parte proceeding without inviting representations from consumers of the affected Zone. The Petition was based on false affidavit that the issue was not decided earlier, as the Commission has already disposed of this issue vide its Order in Case No. 65 of 2010.

Shri Samir Gandhi suggested that clubbing of proposed CGRF may be permitted only if there is a firm commitment from the merged CGRF locations that they have implemented audio-

video facilities for both the applicant and respondent. If not, then the quorum shall travel to past CGRF locations frequently.

Rasoi Spices & Agro Processors and Others submitted that the Commission has proposed to reduce the expenses by clubbing the Fora, which is unjust to the consumers. Further, by making the said provision, the Commission is actually increasing the expenses of the Distribution Licensee, which is self-contradictory. Hence, the Commission should retain the existing provisions of the Regulations.

Association of Small and Medium Newspapers in India requested to not combine the CGRF of Ratnagiri and Kolhapur.

MSEDCL submitted that the Distribution Licensee should be given the freedom to decide on the number of Fora, their locations and areas of jurisdiction, considering the number of cases/grievances received at the CGRFs. The GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 has a provision wherein Members of a Forum can conduct at least one sitting in each revenue district in each month. MSEDCL submitted that other States of similar area also have very few CGRFs, mostly at headquarters of the DISCOM. For instance:

PGVCL: No. of consumers- 60.27 Lakh, CGRFs- 3;

MGVCL: No. of consumers- 33.14 Lakh, CGRFs- 1;

UGVCL: No. of consumers- 37.85 Lakh, CGRFs- 1;

DGVCL: No. of consumers- 32.37 Lakh, CGRFs- 1.

Also, number of CGRFs in other States are much lesser, i.e., in the range of 1 to 4 numbers. For instance, Madhya Pradesh – 3 no., Rajasthan – 3 no., Punjab – 1 no., Haryana -2 no., Uttarakhand – 4 no., Chhattisgarh – 3 no., Andhra Pradesh – 2 no., Telangana – 2 no.

MSEDCL submitted that considering more than 2.5 crore consumers of MSEDCL, it may have around 5 to 6 CGRFs. Further, considering the difference in number of grievances received at some of the CGRFs, it may not be worthwhile to have a separate CGRF. Even with lesser number of CGRFs, hearing can be held in all Zones. The Bench of Members can travel to distant CGRF location from a CGRF headquarters on pre-fixed dates/days as required.

Therefore, MSEDCL suggested to replace Regulation 3.3 and 3.4 as follows:

“3.3 The number of Forums, their Locations and areas of jurisdiction of each Forum may be decided by the Licensee.

“3.4 While deciding the number of Forums, location and area of jurisdiction, the Licensee shall ensure that adequate number of Forums are established such that consumers under the

jurisdiction of the respective Forum have an easy access to the Forum, Members of the Forum are able to conduct at least one sitting in each Region/Zone in a month and all Grievances are redressed within the time-limit specified under these Regulations.”.

2.2.3 Analysis and Commission’s Decision

The rationale for proposing merger of certain CGRFs has been clearly elaborated in the Explanatory Memorandum published along with the draft CGRF & EO Regulations, 2020. The Commission proposed to merge CGRFs based on the analysis of the number of cases registered in FY 2017-18, FY 2018-19 and FY 2019-20 in each of the 19 existing CGRFs of the 4 Distribution Licensees. Further, the draft CGRF & EO Regulations, 2020 specify enabling clauses for merger of CGRFs subject to certain specified criteria. Also, the Regulations specify that the CGRF shall hold hearings across their coverage area on rotational basis depending on the number of cases. Further, the Commission has also proposed for addition of one more CGRF in Kalyan Zone, depending on the number of cases. Hence, the decision to merge/create is entirely based on objective criteria. This would enable all consumers in each Zone to have access to the Forum and hence, consumer can get justice at their doorstep. The Commission for the benefit of consumers has now added a proviso specifying that the Commission, at any point of time, through an Order, may notify the creation of additional Fora in case there is an increase in number of cases reported in particular area/zone.

Further, the Electricity Act, 2003 specifies the following clause with respect to establishment of Forum.

*“(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.....
Emphasis Added”*

As stated above, the Act specifies for ‘a forum’, i.e., one Forum to be established by every Distribution Licensee for redressal of grievances. However, the Commission has created several Fora in MSEDCL Licence area, considering the geographical spread, number of consumers, and number of cases filed in different areas. The Commission has thus, kept the larger interest of consumers in mind, even when no such requirement is specified in the Act. Moreover, the decision regarding clubbing the Fora is also for the benefit of consumers so that the administrative cost borne by the Licensee, which is ultimately passed on in tariff, is reduced and more number of consumers go for web-enabled filing of cases and hearings through videoconferencing. This would ultimately result in easy access to consumers for grievance redressal and doorstep delivery of justice and also comparatively less travelling and paperwork for both the Licensee and the consumers.

As regards the reference to the Commission's Order in Case No. 65 of 2010, it is true that the Commission had rejected MSEDCL's request for exemption from creating separate CGRFs for the 3 newly created Zones. However, the proposal to merge CGRF in the draft CGRF & EO Regulations, 2020 is based on actual number of cases over the last three years. No decision can continue in perpetuity and every decision is subject to review based on prevalent ground realities and present conditions.

The Commission is of the opinion that lack of awareness among the consumers cannot be cited as the only reason for the lower number of cases, as the existing MERC CGRF & EO Regulations, 2006 have been in force for the last fourteen years, and Regulation 9 of the existing Regulations specifies regarding public awareness of IGRC and Fora.

As regards the submission that travel to nearby CGRF shall be done only if audio-video facilities are available, the Commission has already specified in proviso of Regulation 5.3 that if the Forum covers more than one Distribution Zone, the Forum shall hold at least one sitting on a rotational basis in every distribution Zone, depending on the number of pending cases. There is no relevance to the presence of audio-video facilities at the nearby CGRF.

The Commission has clarified in the Explanatory Memorandum that one of the reasons to merge the CGRFs is to reduce the Administrative and General (A&G) expenses of the Licensee. The Licensee needs to create separate facilities, appoint Chairperson, Members and staff, pay salaries and other expenses for every additional CGRF created. Reduction in the number of CGRFs would help to reduce the A&G expenses. On the other hand, the Commission has also ensured through various clauses that merging of CGRFs would not affect the redressal process of the Licensee, as it is only the office that has been merged and not the functioning of CGRF. The merged CGRF needs to ensure timely disposal of cases and sufficient sittings in each zone. Further, even after the reduction in the number of CGRFs, the number is still the highest in the country, with almost all Zones having one dedicated CGRF.

The Commission has also proposed in the draft CGRF & EO Regulations, 2020 that the grievances can be filed through web-based portal, hence, the consumer need not have to travel to the offices of CGRF for registering the grievances.

As regards MSEDCL's submission that the Licensee should be allowed to decide the number of CGRFs and their location, the number of Fora proposed in Appendix 1 of the draft CGRF & EO Regulations, 2020 is the minimum number of Fora to be established by the Licensee. However, the Licensee can propose additional Fora based on number of cases and work load. The Commission has reduced the minimum number of Fora to 11 nos. in case of MSEDCL as compared to existing 16 Fora considering the number of cases and the additional A&G cost. The Commission is of the opinion that giving a free hand to the Licensee for deciding the number of offices, its location and jurisdiction would not be in the interest of the consumers.

The Commission therefore feels that there is no need to make any modifications in the draft Regulations under Regulation 3.3. However, the Commission has slightly modified Regulation 3.4 as under:

“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, including creation of additional Fora in case of increase in number of cases, through Order, as necessary from time to time, after due public consultations.”

2.3 Regulations 3.5, 3.6 and 3.7: Rules and Procedures for Redressal of Grievances

2.3.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

2.3.2 Comments Received

Several stakeholders submitted that the rules and procedures for redressal of grievances may be issued by the Commission. Another option is that these rules may be submitted by the Licensee for the Commission’s approval. The stakeholders submitted that these rules and procedures may be finalised after publishing the draft and inviting comments from the public, as it has been observed in the past that generally, the rules issued by the Licensee are against the Regulations and Orders of the Commission. The Commission may also consider issuing Practice Directions

which shall be binding on the Licensee. The stakeholders submitted that it is not right for the Regulations, which have the status of subordinate legislation, to grant powers to the Licensee to make rules, procedures and circulars.

Another group of stakeholders submitted that the Licensee should speed up the procedure and inform each and every consumer about the existence of CGRF. Licensees should make detailed brochure available at least twice in a year containing the procedure for filing of grievance, giving information about the Standards of Performance. Details about the publicity given by the Licensee to CGRF and Standards of Performance should be filed with the Zonal CGRF with a copy to the Commission.

Further, they submitted that the Licensee cannot have powers to make rules and procedures for approaching the Forum and Electricity Ombudsman, as proposed in the draft CGRF & EO Regulations, 2020, as these powers are vested with the Commission under Section 181 read with Section 42(5) of the EA 2003. They submitted that Licensees like MSEDCL have a history of violating the EA 2003 and Commission's Orders and Regulations, resulting in huge financial losses. Even the Commission, vide its Order in Case No. 94 of 2015, has recorded MSEDCL's selective and inconsistent treatment among its consumers.

2.3.3 Analysis and Commission's Decision

The Commission is of the opinion that under the said clause, the Licensee is not allowed to make rules and procedures that are not in accordance with these Regulations. In case rules are notified by the Licensee, which are not in accordance with these Regulations, then the Licensee shall be violating these Regulations and would be liable for appropriate action under the provisions of the EA 2003. However, based on the submissions received, the Commission has decided to delete the term '*rules*' from Regulations 3.5 to 3.7. The Regulations notified by the Commission cannot cover all minute process details of grievance redressal and therefore, the Licensee has been directed to prepare the detailed internal procedures for grievance redressal, in accordance with the notified Regulations.

Further, in order to alleviate the concerns raised by the stakeholders, the Commission has decided that the Electricity Ombudsman shall review the internal procedures issued by the Distribution Licensee every quarter on a post-facto basis and report any inconsistency between the internal procedures issued by the Licensee and the corresponding Regulations to the Commission. The Commission has also added a proviso specifying that the Commission shall issue appropriate directions to the Distribution Licensee to incorporate necessary modifications to the internal procedures, in case there is any inconsistency found by the Electricity Ombudsman between the internal procedures and the Regulations. Another proviso has been specified to the effect that the Licensee shall modify the internal procedures accordingly and report the compliance to the Commission within one month of receipt of such direction.

As regards the submission regarding publicising the CGRF, Ombudsman and other Regulations of the Commission, Regulation 9 of the existing MERC CGRF & EO Regulations, 2006 provides for Public awareness of the Forums, which has been in practice since the last fourteen years. The Licensee has been giving the details of the Forum on the bills of consumers for their reference. Hence, there is no need to further direct Licensee to publicize the existence of Forum.

The Commission has modified Regulation 3.5, 3.6 and 3.7 as under:

“3.5 Every Distribution Licensee shall publish its internal procedures for redressal of Grievances in accordance with these Regulations 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 procedures.

3.6 The Electricity Ombudsman shall review the internal procedures issued by the Distribution Licensee in this regard every quarter on a post-facto basis and report any inconsistency between the internal procedures and these Regulations to the Commission:

Provided that in case of any inconsistency between the internal procedures and these Regulations, the Commission may issue appropriate directions to the Distribution Licensee to incorporate necessary modifications to the internal procedures:

Provided further that the Distribution Licensee shall accordingly modify the internal procedures and report compliance to the Commission within one month of receiving such directions.

3.7 The Distribution Licensee shall update and publish such procedures referred to in Regulation 3.5 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 procedures or circulars made or issued by the Distribution Licensee in relation to these Regulations and in accordance with the Act.”

2.4 Regulation 3.9: Complaint Receiving Centres and Complaint filing

2.4.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

2.4.2 Comments Received

Shri Satish Shah and Others submitted that the complaint receiving centres have not been defined in the Draft CGRF & EO Regulations, 2020. The Commission should detail the procedure for filing complaint at such centres and also the working procedure of such centres.

Shri Suhas Khandekar submitted that the complaint handling system is being contemplated only through electronic medium, which is not right. The option of making a written complaint should also be there. Further, the consumer should be informed about the name, address and contact number of the person to be contacted for filing the complaint.

Mumbai Grahak Panchayat submitted that people from remote areas will find it difficult to file an online complaint due to intermittent internet facility. Also, the consumers are not well versed with the Consumer Call Centres. In such circumstances, it is necessary to have some physical office where such consumers can file their complaint.

Shri Samir Gandhi welcomed the provision of introducing web-based portal and suggested to implement it immediately to expedite the process. He added that the Consumer Call Centres are not useful for senior citizens. Also, the consumers cannot approach the Licensee through landline and dial 16 /12-digit consumer number during power cut as the local numbers of MSEDCL are mostly unattended during such period.

Mumbai Grahak Panchayat submitted that complaints received through social media should be reflected appropriately in the Regulations, as social media is an effective medium to interact with the Distribution Licensee. The tech-savvy consumers prefer to complain on the social media platform. Such complaints should not go unnoticed and unattended. Presently, the Twitter handle of Distribution Licensees is flooded with complaints of excess billing pursuant to lockdown in the COVID-19 scenario.

2.4.3 Analysis and Commission's Decision

As regards the clarification sought regarding complaint receiving centre, the Commission is of opinion that the stakeholder has mixed up two different clauses of the Regulations. The Internal Complaint Redressal System is established under Regulation 3.9, wherein the complaint is to be filed through a web-based portal. On the other hand, in Regulation 7.2 there is a mention of complaint receiving centres as it is existing under the extant MERC CGRF & EO Regulations, 2006 for filing of complaint before the Forum. Hence, there is no need to separately define complaint receiving centre.

The Commission is of the opinion that creation of the web-based portal will save tremendous time and cost for the consumer as well as the Licensee in complaint handling. Also, the consumer can access and get updates on their complaints along with the name and contact number of the concerned person handling the complaint on behalf of Licensee, through the web-based portal.

The 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. In case the consumer does not have access to the internet facility, the consumer can raise a complaint through toll-free numbers. The Commission wishes to encourage paperless/on-line system for submission of complaints. However, for easy access to the consumer for filing complaints, **the Commission has added a proviso specifying that complaints may be submitted physically also at the nearest office of the Licensee for the time being.**

As regards redressal of complaints raised through social media platforms, the Commission is of the opinion that any complaint registered on the web-based portal has to be redressed by the Licensee under these Regulations. Social media platforms like Twitter/WhatsApp, etc., are not the correct media for registering a complaint. The consumer is free to resort to these media, however, the Distribution Licensee is not bound to address these complaints made through such social media platforms. Therefore, it is necessary that the consumer approach the Licensee for filing complaints through the correct medium as defined in the Regulations.

The Commission has specified the timeline of 6 months (same as given for web-portal for CGRF) for creation of web-based portal for ICRM.

The Commission has modified Regulation 3.9 as under:

“3.9 As part of the internal complaint redressal system of the Distribution Licensee, a web-based portal shall be created within six (6) months of notification of these Regulations, 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:

Provided that complaints submitted physically at the nearest office of the Distribution Licensee shall also continue to be accepted, for the time-being.

2.5 Regulations 3.10 and 3.11: Internal Complaint Redressal System

2.5.1 Proposed in Draft CGRF & EO Regulations, 2020

“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 the feedback/suggestion provided by the consumers.”

2.5.2 Comments Received

Several stakeholders submitted that Regulation 3.10 should include more details on the procedure of Internal Complaint Redressal System such as timeline for resolution, procedure for complaint and wait period for complainant. Also, clarity may be provided on when to approach the Forum if relief is not achieved. The existing MERC CGRF & EO Regulations, 2006 provides for IGRC. All officials of IGRC are from MSEDCL therefore, all the decisions

were in favour of the Licensee, but when the same cases were filed before the Forum, rulings were mostly in favour of the consumers. Hence, it is a welcome decision to do away with IGRC. However, the newly introduced mechanism will cause more problems to consumers if such parameters are not clarified in the Regulations.

Association of Small and Medium Newspapers in India submitted that the Commission should clarify explicitly that resorting to ICRM is optional and consumers can directly approach CGRF. Since, the CGRF is supposed to monitor the functioning of Customer Care Centres, it may be specified that every online complaint filed under ICRM may automatically be endorsed and forwarded to CGRF. The Commission has proposed ICRM instead of IGRC, however, the consumer shall have to again follow up with the officials of the Licensee to get their complaint resolved.

Shri Pratap Hogade and Vidarbha Industries Association submitted that the time period for redressal through ICRM should be specified, after which the consumer can approach the Forum. The time period for resolution may be between 7 days to 30 days depending upon the type of complaint as till the time this period is lapsed, consumer cannot file the complaint before the Forum. Hence, Regulation should clearly mention that in case complaint is not resolved within 30 days, the consumer can approach the Forum.

MSEDCL requested to retain the existing three-tier system of grievance redressal, which includes IGRC. The draft MERC CGRF & EO Regulations, 2020 provides for online ICRM where the consumer can track his complaints. It has also been made mandatory under Regulation 3.10 (f) to have one officer to specifically handle the complaints through ICRM. If the Commission intends to proceed with formation of ICRM then, it should be mandatory for the consumer to first register the complaint on ICRM and if the consumer is not satisfied with the resolution of the grievance by the Licensee or if the Licensee does not act upon his grievance registered on ICRM within say 15 days (or any specific period – say maximum 3 days in case of disconnection of supply and 15 days in all other cases), the consumer may approach the Forum. If there is no IGRC, the cases before the CGRF are increased. It should also be clarified by the Commission that the consumers who have their complaint registered in the ICRM portal need to separately file the complaint before the Forum as the same complaint will not automatically get converted as complaint before CGRF.

MSEDCL submitted that the provisions of Regulation 3.10 and Regulation 7 are unclear. Further, MSEDCL has apprehensions regarding Regulations 3.10 (h) and 3.11. MSEDCL suggested that the performance of ICRM may be kept separate from CGRF functioning. MSEDCL has its own hierarchy for escalation of complaints. Hence, Regulation 3.11 needs to be deleted.

2.5.3 Analysis and Commission's Decision

Before addressing the comments of stakeholders, the Commission would first like to address the issue relating to dismantling of IGRC and introduction of ICRM. The Commission is of the opinion that there would be several cases pending before IGRC as on date of notification of these Regulations. Also, there has to be a complaint redressal mechanism in place during the transition period when the web-based portal is being created. Hence, the Commission has introduced a saving clause to keep the IGRC functional for a period of six months till the time the web-portal for ICRM is created. The Commission has also specified that once the web-based portal is established, the existing IGRC cases would be transferred to the web-based portal and dealt with accordingly. The Commission has therefore **added the following Regulation 3.10** in the notified CGRF & EO Regulations, 2020:

“3.10 The Internal Grievance Redressal Cell created by the Distribution Licensees in accordance with the Maharashtra Electricity Regulatory Commission (Consumer Grievance Redressal Forum & Electricity Ombudsman) Regulations, 2006, shall continue to be in existence and shall function as at present till such time as the web-based portal for internal complaint redressal by the Distribution Licensee is created and fully functional:

Provided that all pending complaints before the Internal Grievance Redressal Cell after six (6) months of notification of these Regulations shall be migrated by the Distribution Licensee to the web-based portal for internal complaint redressal.”

The Commission is of the opinion that the ICRM proposed in the draft Regulations is not a replacement of the IGRC as per the existing Regulations. The Commission had already clarified in the Explanatory Memorandum that the ICRM shall be a web-based portal, which was not the case with IGRC. The Commission has also introduced clauses such as internal escalation index/matrix and review of the functioning of ICRM by the Electricity Ombudsman, which was not present in the existing Regulations for IGRC. Hence, more transparency is introduced with ICRM. As stated in the Explanatory Memorandum, IGRC was not very effective and therefore, there was a need to do away with the IGRC and introduce a more robust mechanism for redressal of complaints.

The Commission is of the opinion that the entire process of filing and redressal of the complaint through the ICRM has been specified in Regulation 3.10 of the draft CGRF & EO Regulations, 2020. The Licensee is required to have its own escalation index for resolution of these complaints. However, the point raised by the stakeholders that the ICRM cannot take indefinite time for resolution, has merit and the desired clarity is required to be specified in the Regulations. The present time limit provided to IGRC for resolution of complaints is 2 months. As overall timelines need to be reduced, the timelines for the internal grievance redressal has been specified as three days for connection, re-connection and disconnection related complaints

and fifteen days for all other types of complaints as suggested by MSEDCL. The Commission has accordingly **modified Regulation 3.11 (c) as under:**

“3.11.....

.....(c) The respective department/cell is required to provide remedy on the complaint within three (3) working days in case of complaints related to non-supply, connection, re-connection or disconnection of supply and fifteen (15) working days for all other complaints, from the date of registering the complaint;”

As stated earlier, the Commission has already clarified in the Explanatory Memorandum that the consumer can approach the CGRF directly, without having registered his complaint in the ICRM. The Commission has now clarified the same by adding Regulation 3.13. Further, the Commission has also specified that the consumer has to file the grievance before the Forum separately as the complaint under ICRM shall not automatically be taken up by the Forum. The following **Regulation 3.13 has been added:**

“3.13 The Complainant may approach the Forum constituted in accordance with Regulation 4, if the complaint is closed on the web based portal without the consent or satisfaction of the Complainant or after expiry of 3 days (for complaints related to non-supply, connection, re-connection or disconnection of supply) or 15 days (for all other complaints) from the date of registration of complaint, whichever is earlier:

Provided that the Consumer may also directly approach the Forum constituted in accordance with Regulation 4, even if no complaint has been registered on the web portal.”

The Commission agrees with the submission of MSEDCL that the Forum should not be given the mandate of evaluating the performance of the ICRM of the Licensee. Hence, the Commission has modified Regulation 3.11 (h) whereby the Licensee shall be submitting the quarterly report to the Electricity Ombudsman (instead of CGRF) on status of complaints received under ICRM. **Regulation 3.11 (h) has been modified as under:**

“3.11....

.... (h) The Distribution Licensee shall provide quarterly update to the Electricity Ombudsman 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.”

Further, **Regulation 3.12 has also been modified** in line with Regulation 3.11 (h), as under:

“3.12 The Electricity Ombudsman shall undertake a post-facto analysis of the quarterly update submitted by the Distribution Licensee and may give appropriate directions to the Distribution Licensee.”

2.6 Internal Grievance Redressal Cell

2.6.1 Comments received

Several stakeholders submitted that the removal of IGRC will weaken the grievance redressal mechanism and violate the preamble of the EA 2003. The Commission has merely changed the name from “grievance” to “complaint” and name of “cell” to “mechanism”. There is no need to remove existing IGRC and replace it with ICRM as even a complaint made to officer, or call centre is a deemed complaint before IGRC under existing Regulations. Further, the Commission has not specified the time limit in the draft CGRF & EO Regulations, 2020 for resolution of Complaint through ICRM. The draft Regulations have proposed an online grievance recording system, which is also a deemed IGRC, hence, the definition of IGRC cannot be deleted.

The existing CGRF & EO Regulations, 2006 are far more effective for protecting consumer’s interest than the draft CGRF & EO Regulations, 2020. The proposed set of Regulations will be against preamble of EA 2003 and may be misused by officials of Distribution Licensee to exploit consumers. The timeline for redressal of grievance should be in line with SoP Regulations else it will violate Section 57 of EA 2003 and Regulations made thereunder. Further, the Commission should strengthen IGRC by reducing its time period from 2 months to 15 days.

AEML and TPC requested to retain the existing three-tier grievance redressal mechanism including IGRC. The time frame for redressal of Complaint filed before IGRC may be reduced. IGRC is effective and has been in place since 2005. It acts as first tier of the three-tier Grievance Redressal System and filters the complaints, else, even minor cases will be file before CGRF.

Shri Hemant Kapadia submitted that IGRC should be abolished and consumer should be allowed to file the grievance before Forum within 15 days from the date of filing of complaint with the Licensee through written or electronic media. In the present three-tier Grievance Redressal System, the time period for redressal is above 180 days. (IGRC-60 days, CGRF-60 days, EO- 60 days + Appeal time). The Consumer Protection Act, 1986, has provision of 90 days for redressal of grievance filed by consumers about deficiency in services of @ 16-18 different services (Banks, Insurance, Electricity, Telephone etc).

MSEDCL submitted that the Commission has proposed to abolish the IGRC and proposed to establish ICRM. Combined reading of Regulation 3.9 and 7.1 and the Paragraph 3.2 of Explanatory Memorandum provides that it is not mandatory for the consumer to first approach the Licensee before approaching the Forum. In the Explanatory Memorandum, the Commission has provided the reasons for discontinuing the IGRC that majority of the decisions are given in favour of licensee but later on CGRF has revised the decisions in favour of the consumers. It is also stated that the addition of the IGRC layer delays the redressal of the grievance. Though,

the explanation may be true to some extent, no opportunity remains with the Licensee to redress the dispute before the consumer approaches the Forum. This may increase the grievances before the Forum. It has also been proposed to reduce the number of Fora.

MSEDCL's existing complaint handling system is having similar features to ICRM with appropriate complaint escalation system. The said complaint handling system works in synchronism with complaints lodged at its customer care centre. If any complaint is unaddressed or unresolved then such complaint can be raised by consumer before IGRC. Most of the grievances get resolved at IGRC level, hence, MSEDCL requested for continuing the functioning of IGRC. Hence, the present 3-tier system of grievance redressal needs to be retained.

2.6.2 Analysis and Commission's Decision

The Commission has proposed the mechanism of ICRM linked to Consumer Call Centres. The process is proposed to be done through web-based portal. Hence, it cannot be said as a replacement to IGRC. The process introduced by the Commission shall bring in more transparency in complaint resolution between the consumer and the Licensee. The Nodal Officer appointed shall be more accountable towards the complaint redressal mechanism. Further, there is no provision in the EA 2003, which mandates the existence of IGRC in the consumer redressal process. No other SERC Regulations nor FOR Model Regulations have provision for constitution of IGRC. Hence, removal of such process cannot be termed as going against the EA 2003.

The time limit for resolution of complaints under the ICRM is set for a period of 3 days and 15 days, respectively, which is lesser than the time period of IGRC (60 days). The process is still 3-tier system whereby the Internal Complaint Redressal Mechanism is proposed followed by Forum and the Ombudsman. It is necessary to have an internal system so that it becomes the first point of contact to the consumer for registering their complaints. However, the consumer can approach CGRF directly also, as clarified in the Regulations and the Statement of Reasons.

The Commission has explained the rationale for proposing to discontinue the IGRC and introduction of the Internal Complaint Redressal Mechanism whereby the consumer can file its complaint initially. Being a web-based portal, the Commission is of the view that the Licensee would be able to manage the number of complaints filed in efficient manner. Licensee shall endeavour to resolve the complaint at this level itself. However, if the complaint is not resolved within stipulated time, the consumer can approach the CGRF. The prime role of ICRM would be to ensure that the CGRF is not over-burdened. Accordingly, the Commission has already proposed to revise Regulation 3.10, 3.11 and add Regulation 3.12 in the corresponding Chapter of this Statement of Reasons.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3 Forum for Redressal of Consumer Grievances

3.1 Regulation 4.1 (a): Qualification and Appointment of Chairperson of the Forum

3.1.1 Proposed in Draft CGRF & EO Regulations, 2020

“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;”

3.1.2 Comments Received

A group of stakeholders requested to exclude the criteria of a retired Superintendent Engineer from a Government Distribution Licensee for appointment as Chairperson of the Forum. The stakeholders submitted that a person who has been employed with the Licensee for about 30 years would still remain loyal to the Licensee even after his retirement. Such a person would have a good rapport with the employees of the Licensee as he would either be a sub-ordinate or a senior of the employee of Licensee against whom the complaint is being filed.

In such a situation, two out of the three Members of the Forum would be representing the Licensee, and all the decisions of the Forum would be in favour of the Licensee. Further, appointing a retired person of the Licensee as the Chairperson would encourage corruption in the Forum and consumers will lose trust in the system.

Shri Avinash Prabhune submitted extracts of several Judgments of Hon’ble Supreme Court to justify that a retired employee of Licensee shall not be eligible for the post of Chairperson. He added that retired officers of the Licensee cannot be appointed as Chairperson of the Forum

considering their experience of working in a monopolistic organization, where they become used to exploiting the consumers. The draft CGRF & EO Regulations, 2020 specify a cooling-off period of three years for a person who acted as a Consumer Representative to be appointed as Independent Member, however, no such cooling-off period has been specified for a retired Superintendent Engineer (SE) of the Licensee to become eligible for the post of Chairperson.

Rasoi Spices & Argo Processors and Others submitted that the Chairperson requires to have judicial mindset with an ability to interpret the Act and Regulations in the right spirit so that the intention of legislature or Regulator can be implemented. Retired Superintendent Engineer of the Licensee is a person with technical background, for which Member Secretary is there to assist. The proposed change is a rehabilitation package for retired Superintendent Engineer of MSEDCL, which is evident by the additional emphasis on “Government Distribution Licensee”.

Shri Hemant Kapadia submitted that the Hon’ble Supreme Court vide its Order dated 12.04.2018 in Civil Appeal No. 14696/2015 ruled on the appointment of retired judicial officers (retired High Court and District Court Judges) on quasi-judicial bodies like Fora, Tribunal, Commission, etc. The Hon’ble Mumbai High Court also passed similar Order regarding appointment of retired Judges as Chairperson/Member on quasi-judicial bodies. The Chairperson of the Forum should be retired senior Judicial Officer or a retired civil servant not below the rank of Collector. Further, appointment of retired civil servant needs to be considered only if senior Judicial Officer is not available for appointment. If any person other than Judicial Officer is appointed as Chairperson of Tribunal/Fora, it will amount to contempt of Hon’ble Supreme Court Order. Shri Kapadia also submitted that the appointment of Chairperson and both Members of the Forum should be done by the Commission only, and the Distribution Licensee should not be allowed to play any role in the appointment of Members on the Forum.

Mumbai Grahak Panchayat and Shri Pratap Hogade submitted that a District Judge should be appointed as Chairperson and be accordingly compensated. Shri Uday Sathe submitted that retired Principal of Government Engineering Colleges from Electrical Engineering faculty should be considered for post of Chairperson. Electrical Engineering Graduates above 58 years of age who have worked in private sector Companies and are currently not employed, should also be considered.

Akhil Bhartiya Grahak Panchayat and Ms. Vrushali Pradhan requested to give preference to a Law graduate having experience of at least 15 years on matters concerning consumer grievances and with working experience of 10 years in the electricity sector, for the post of Chairperson.

Adani Electricity Mumbai Ltd. (AEML) requested to delete the word “Government” from the clause, for providing opportunity to other retired learned and experienced incumbents to apply for the post of the Chairperson.

The Tata Power Company Ltd. (TPC) submitted that the Commission may consider allowing the Distribution Licensees to nominate the Chairperson as per the current practice. However, in order to increase its administrative superintendence, the Commission may consider carrying out periodic reviews of the performance of the CGRF either through the Electricity Ombudsman or suo motu.

MSEDCL and Nidar Utilities Panvel LLP (NUPLLP) also requested to continue with the existing provisions for appointment of Chairperson of the Forum by the Licensee, and only the Independent Member should be appointed by the Commission. SERCs like GERC, JERC, APERC, TSERC, MPERC and CSERC provide for appointment of only Independent Member by the Commission. NUPLLP further submitted that the Distribution Licensee shall inform the Commission about the details of appointment of the Chairperson and Technical/Finance Member to the Commission within one week of appointing them as per the FOR-Model Regulations.

MSEDCL submitted that in exercise of powers conferred by Section 176 of the EA 2003, the Central Government has framed the Electricity Rules, 2005. As per the Electricity Rules as amended on 26 October 2006, the Distribution Licensee is required to establish a Forum for Redressal of Grievances under Section 42(5) of the EA 2003, which shall consist of officers of the Distribution Licensee.

3.1.3 Analysis and Commission's Decision

Section 42 (5) of the EA 2003 stipulates that

*“(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**”*
(emphasis added)

Thus, the EA 2003 provides for establishment of Forum in accordance with the guidelines specified by the Commission through these Regulations.

Rule 7(1) of the Electricity Rules, 2005 stipulates that

“7 (1) The distribution licensee shall establish a forum for redressal of grievances of consumers under sub-section (5) of section 42 which shall consist of officers of the licensee”

The Commission is of the opinion that the EA 2003 is the statutory framework, which provides for creation and staffing of CGRF in accordance with the Regulations framed by the Commission, while ‘Rules’ are guidelines or principles that govern the development of the sector, and cannot supersede the provisions of the EA 2003. Further, even the Rules do not stipulate that the CGRF shall comprise only the officers of the Licensee. There is also a rule of

jurisprudence that “No one can be a Judge in his own case”, hence, if the CGRF comprises only officers of the Licensee, then the purpose of establishment of CGRF may get defeated.

The Commission is of the opinion that though the formation and expenses of the Forum is the prime responsibility of the Distribution Licensee, the Forum cannot be termed as an integral part of the Licensee. It is necessary to maintain the functional and financial independence of the Forum in line with the recommendations made in FOR Report published in August 2016.

The Commission has, therefore, retained the eligibility criteria mentioned in the draft CGRF & EO Regulations, 2020 for the appointment of Chairperson. The Commission has already clarified in the Explanatory Memorandum that it shall take up the responsibility of nominating the Chairperson so as to increase its administrative superintendence over the CGRFs. The Commission has hence, retained the clause regarding appointment of Chairperson by the Commission.

Further, the Commission has included the retired Superintendent Engineer of the Licensee for the post of Chairperson, in line with the provisions of FOR Model Regulations published in February 2011. The Commission feels that the skill, knowledge and experience of a person employed with the Licensee can be used for disposing the complaints/grievances of the consumers. It is essential for the Chairperson to understand the problems of both the consumers and the Licensee for better resolution of grievances. The selection of Chairperson would be done by the Commission.

The Commission at the time of appointment of the Chairperson shall verify the integrity and background of all the applicants including the retired employees of the Licensee. The Commission disagrees with the submission that if a person has been employed with the Licensee for 30 years or more, then even after his retirement the person would always favour the Licensee. The Commission is of the view that such an experienced person would be able to do justice to both the Licensee and the consumers. Also, the Commission will be monitoring the functioning of CGRFs and will be ensuring that fair and appropriate decisions are taken by the CGRF.

The Hon’ble Supreme Court Judgment referred by the stakeholders does not bar the appointment of retired employee of the Licensee for the post of Chairperson of the Forum. However, the Commission finds merit in the submission that restricting applicants to ‘Government Distribution Licensee’ is not appropriate, and opportunity should be given to retired employees of Distribution Licensees, irrespective of whether it is Government-owned or under private ownership. **The term ‘Government’ has been deleted from the above clause.**

The Commission is of the opinion that the criteria of senior Judicial Officer already includes retired District Judge, and therefore, there is no need to specifically mention the same in the eligibility for appointment as Chairperson.

The criteria of retired Principal from reputed engineering college or a retired professor from Electrical Engineering department is already included in the above clause. Limiting the criteria to Government Engineering College may not be appropriate as this may reduce the number of eligible candidates for the post. Electrical Engineering graduates working in Government or private sector may not be appropriate candidates for the post of Chairperson as they may lack the required exposure to the electricity sector.

The Commission has decided on the criteria for appointment of Chairperson after careful consideration. The Commission has also considered the criteria specified by other SERCs before framing the draft CGRF & EO Regulations, 2020. Giving preference to a Law Graduate will limit the Applicants, which is not desirable. Further, the experience of handling consumer grievances has already been specified for the appointment of Independent Member, hence, the same criteria may not be considered for post of Chairperson.

The Commission does not find it appropriate to have a cooling off period for appointment as Chairperson. However, **the total experience required has been reduced to 25 years** from 30 years proposed in the draft CGRF & EO Regulations, 2020, to enable more eligible candidates to apply for the post.

The Commission has modified Regulation 4.1 (a) as under:

“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 Distribution Licensee not below the rank of Superintending Engineer or equivalent officer, and having at least twenty five (25) 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;”

3.2 Regulation 4.1 (b) Qualification and Appointment of Technical Member of the Forum

3.2.1 Proposed in in Draft CGRF & EO Regulations, 2020

“(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:”

3.2.2 Comments Received

Shri Avinash Prabhune submitted that the restrictive condition of appointment of staff of Licensee as Member should be deleted in view of the availability of large number of technically competent professionals in the electricity sector. The technical knowledge/experience and independent character separate from Licensee would deliver impartial justice, which will increase the confidence of consumers in the system.

Vidarbha Industries Association submitted to insert a clause stating that the Technical Member shall be from a Distribution Licensee other than the Distribution Licensee in whose area the CGRF exists. There should also be additional criteria stating that the person should have good knowledge of EA 2003 and Regulations made thereunder. The Commission should take up the responsibility of inviting applications and shortlisting candidates.

Shri Prabhune_further added that the Member Secretary, being of the rank of Executive Engineer of the Licensee, will have much higher salary than the remuneration paid to Chairperson and Member.

3.2.3 Analysis and Commission’s Decision

The Technical Member, who is also the Member Secretary, was an employee of the concerned Distribution Licensee, even as per the provisions of existing CGRF & EO Regulations, 2006. The Commission has already proposed that the Chairperson and Independent Member shall be appointed by the Commission. The Technical Member cannot be appointed from outside the Distribution Licensee. Also, the remuneration of Technical Member shall depend upon his pay scale with the Licensee, which cannot be compared with that of the Chairperson and Independent Member of the Forum.

The Technical Member shall be appointed by the Licensee and shall be governed by the service rules/regulations of the Distribution Licensee. Further, since it is the responsibility of the Distribution Licensee to appoint the Technical Member, the Distribution Licensee has to ensure that the appointed person has adequate knowledge of EA 2003 and Regulations made thereunder, apart from experience in distribution and supply of electricity. However, the same does not have to be specified in the Regulations.

The Commission has therefore, not made any modifications to the provisions proposed in the draft CGRF & EO Regulations, 2020 regarding appointment of the Member from Distribution Licensee. However, **for clarity, the Commission has referred to the Member appointed by the Distribution Licensee as the ‘Technical Member’.**

3.3 Regulation 4.1 (c): Qualification and Appointment of Independent Member of the Forum

3.3.1 Proposed in Draft CGRF & EO Regulations, 2020

“(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.”

3.3.2 Comments Received

Several stakeholders submitted that the criteria of not having provided consultancy services to electricity consumers for a minimum period of three (3) years prior to being appointed as Member of the Forum should be removed, as providing consultancy for professional need should not lead to disqualification for the post of Independent Member. District Court Judges were also lawyers who have provided consultancy services in the past. An Independent Member represents consumers at large and is expected to safeguard the interest of consumers. The

appointed person can discharge the duty of Independent Member in an efficient and effective manner even if he/she is engaged in providing consultancy services.

Mumbai Grahak Panchayat and Shri Samir Gandhi submitted that the minimum experience of Independent Member nominated by the Commission should be reduced to 7 years, from the proposed 10 years. Shri S.P. Wagh submitted that experience of at least 5 years in representing consumer related matters is desirable.

A few stakeholders submitted to exclude ex-employees of the Distribution Licensee from appointment as Independent Member to maintain its independent and impartial identity. The employees of Distribution Licensee are frequently appearing before the Forum, and in such case, the probability of conflict of interest cannot be ruled out.

Some stakeholders submitted that it is not logical to give preference to a representative of a Research Institute for appointment as Independent Member. Instead, qualification in Law or Electrical Engineering should be given preference. Shri Satish Shah and Others requested to retain the clauses for appointment of Independent Member as per existing CGRF & EO Regulations, 2006. The preference for representative from consumer organization or industrial organization or research institute is not required as the kind of research institute included under this criterion is not very clear. It is also not clear whether the research institutes mean the one working for consumer welfare and advocacy. All consumer organizations are working for the benefit of consumers and hence there is no need for specifying a particular criteria of research institute or industrial organization.

Shri Avinash Prabhune submitted that Independent Member should preferably have LLB background. Two Members having legal background and one Member from technical side will ensure proper adjudication of any dispute.

Another group of stakeholders submitted that rather than specifying a cooling-off period, there should be a bar on appointment of retired employee of the Licensee or consumer representative who are frequently appearing, as the probability of conflict of interest cannot be ruled out. If the Commission still wants to include such persons, then the cooling-off period should be of minimum five years instead of three years and the same logic must be applicable for the post of Chairperson.

3.3.3 Analysis and Commission's Decision

It is clarified that the clauses proposed in the draft CGRF & EO Regulations, 2020 do not debar either a person who has given consultancy services in the past or an ex-employee of the Distribution Licensee, from being appointed as an Independent Member of the Forum. The Commission has only introduced a cooling-off period of minimum 3 years from providing consultancy services, prior to being appointed as Member of the Forum. The Commission has

only extended the cooling off period of three years applicable to the employees of the Licensee. The Commission is of the opinion that the cooling-off period of three years is sufficient and need not be extended to five years.

Further, since the Independent Member would be acting as a Chairperson of the Forum in the absence of Chairperson, the minimum experience of 10 years in matters concerning consumer grievances is appropriate for such a Member's position.

The scope for appointment of Independent Member has been broadened in the draft Regulations. The existing criteria of representative of a registered voluntary consumer protection organization has been retained. However, in addition, preference has also been given to persons from Industrial Associations. **The Commission finds merit in the suggestion that preference may not be given to representative of Research Institute, and has hence, deleted this criterion.**

As regards the suggestion to include the criteria of LLB for Independent Member, the Commission is of the view that the criteria for Chairperson includes persons with legal background, and the expertise desired from the Independent Member is related to awareness of consumer grievances rather than having a legal background.

The Commission has therefore, not made any other modifications to the clauses proposed in the draft CGRF & EO Regulations, 2020.

3.4 Regulation 4.3: Independent Member as acting Chairperson

3.4.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.4.2 Comments Received

Several stakeholders submitted that the Regulation may be amended by excluding the clause for concurrence of Electricity Ombudsman, as the higher judiciary does not control subordinate judiciary. Further, in the event of absence, the Chairperson of CGRF can either adjourn or can direct the Member to act as Chairperson and therefore, the question of vacancy does not arise at all. The Commission is now taking control of appointment by initiating the process three months before the creation of vacancy and hence, the Commission should trust the appointment made by its own office. Any interference by the Ombudsman would be ultra-vires the EA 2003.

MSEDCL submitted that only the Technical Member should be allowed to act as Chairperson in case of absence or vacancy of the post of Chairperson. The Independent Member is a person having background in matters concerning consumer grievances. No technical requirement has

been mentioned for appointment of Independent Member. The Independent Member may hence, not have the required knowledge as well as the experience. The Technical Member on the other hand has technical expertise, field experience and knowledge of billing system. Therefore, he would be in a better position to deal with such matters.

3.4.3 Analysis and Commission's Decision

The Commission is of the opinion that the person acting as Chairperson needs to be independent, who can ensure the interest of the consumer. 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.

The Commission agrees with the submission of stakeholders that the concurrence of Electricity Ombudsman may add to the formality of process when only the Independent Member could act as Chairperson in his absence. Accordingly, **the requirement of concurrence of Ombudsman has been deleted.**

The Commission has modified Regulation 4.3 as under:

"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."

3.5 Regulation 4.4: Vacancy of the post of Member

3.5.1 Proposed in Draft CGRF & EO Regulations, 2020

"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."

3.5.2 Comments Received

Shri Samir Gandhi submitted that even if the post is vacant, the Forum should conduct normal hearings, as it is the fault of Distribution Licensee and not the consumer. Further, strict action needs to be provided in the Regulation for such delinquencies.

Mr. Suhas Khandekar submitted that the Distribution Licensee is authorised to appoint only the Member from its cadre, and the Independent Member is to be appointed by the Commission. Hence, this Regulation needs to be modified suitably.

3.5.3 Analysis and Commission's Decision

The Commission in second proviso of Regulation 4.4 has already taken care that the quorum of the Forum shall be complete at all times by giving additional charge to the Member of an adjacent Forum for meeting the quorum. Hence, there would not be a situation where hearings are not conducted if one of the posts is vacant in the Forum. The Regulations also provide that the process of appointment shall commence three months prior to superannuation/end of tenure of Member. Moreover, the appointment of the Chairperson and Independent Member is the responsibility of the Commission. The Commission shall ensure that the appointment of the two Members of each Forum is done in a timely manner.

Though the appointment of the Independent Member and the Chairperson is to be done by the Commission, it is the duty of the Licensee to keep track of the tenure of the Chairperson and Members and accordingly intimate the Commission to take up the appointment sufficiently in advance of the superannuation/end of tenure of the Member/Chairperson. Accordingly, the following proviso has been added in Regulation 4.4:

“Provided also that the Distribution Licensee shall intimate the Commission at least three months in advance before the end of tenure of the Chairperson or Independent Member “

The Commission has modified Regulation 4.4 as under:

“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:

Provided also that the Distribution Licensee shall intimate the Commission at least three months in advance before the end of tenure of the Chairperson or Independent Member “

3.6 Regulation 4.5: Tenure and Age limit of Members

3.6.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.6.2 Comments Received

Several stakeholders requested to specify the age limit for Members and Chairperson as 67 and 70 years, respectively. The stakeholders submitted that if the age limit is specified as 70 years, then the retired District Judge, if appointed, can complete a period of five years as Chairperson of the Forum. Further, by reducing the age limit for existing appointments, it appears that the Commission has ensured early retirement of existing Members, to suit the appointment of Superintendent Engineer of Government owned Distribution Licensee.

Mr. Trilok chand Sanghvi submitted that the tenure to hold office should be three years and there is no harm in giving extension for the balance period.

Akhil Bhartiya Grahak Panchayat submitted that the age limit should be retained as 67 years, as per the existing CGRF & EO Regulations, 2006. Further, there should not be any age limit for the person appointed as independent Member of CGRF, since the person has dedicated his entire life to the service of consumers.

Association of Small and Medium Newspapers in India submitted that the extension should be for a period of three years instead of two years.

Shri Avinash Prabhune submitted that every Member of the Forum should hold office for a fixed term of five (5) years. This will ensure reasonably long tenure of service and stability to

the Members of the Forum so that quality and experienced persons working in the field of consumer protection will be ready to work at Forum.

Shri Suhas Khandekar submitted that amendment is needed in Regulation 4.5 as the age limit specified cannot apply to the Member appointed by the Licensee and extension of term of independent Member is not within the jurisdiction of Licensee.

MSEDCL submitted that the extension of the term of the Chairperson or independent Member should be limited to only one term. The clause proposed in the draft CGRF & EO Regulations, 2020 provides for unlimited extensions till they reach the age of 65 years. Also, in line with Section 89 (5) of the EA 2003, following provisos may be added in Regulation 4.5:

“Any Member of the Forum, after ceasing to hold office, shall not accept any commercial employment for a period of two years from the date he ceases to hold such office;

Any Member of the Forum, after ceasing to hold office, shall not represent any person before any Forum in any manner;”

3.6.3 Analysis and Commission’s Decision

In the draft CGRF & EO Regulations, 2020, the Commission has proposed the age limit for the Members of the CGRF based on study of the provisions in the Regulations of other States. The Commission observed that 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 had proposed to modify the age limit to 65 years for retirement of Members of CGRF.

The Commission does not agree with the submission that reducing the age limit in the Regulations would result in giving preference to any particular class of people such as the employees of Distribution Licensee. The Commission is of the opinion that the District Judge also retires at the age of 60 and therefore, if he wishes to apply for the post of Chairperson, he can serve the entire period including the extension period till he reaches the age of 65.

Further, the third proviso to Regulation 4.5 as well as the Explanatory Memorandum clearly provides that the revised age limit of 65 years shall be applicable for existing appointments at the end of their fixed term or extended term, as applicable. Hence, it is not designed for early retirement of existing Members of the Forum.

Further, the Commission has already specified in Regulation 4.5 that the tenure shall be a fixed period of three years extendable once by two years subject to the overall age limit. Hence, the Member shall not continue after a maximum period of 5 years.

As regards the extension of tenure, Regulation 4.5 is clear that the appointing authority, i.e., the Commission, in the case of Chairperson and independent Member, and the Licensee, in the case

of Technical Member, shall have the power to extend the tenure, subject to the specified conditions.

As regards the suggestion of requiring a cooling-off period for Chairperson and Members in line with the clause specified in Section 89 (5) of the EA 2003 applicable to Members of Regulatory Commissions, the Commission is of the opinion that such clause for cooling-off period may not be made applicable to the Members and Chairperson of the Forum, as the EA 2003 stipulates such requirement for Members of the Regulatory Commissions, but does not stipulate such requirement to be made applicable to the Members of CGRF.

The Commission has therefore, not made any modifications to the clauses proposed in the draft CGRF & EO Regulations, 2020, in this regard.

3.7 Regulation 4.6 (e): Abuse of Position by Chairperson or Member

3.7.1 Proposed in Draft CGRF & EO Regulations, 2020

“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: ...

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

3.7.2 Comments Received

Some stakeholders submitted that Regulation 4.6 (e) is vague and would lead to discretionary action, which would be prejudicial to public interest. They requested either to remove this provision or make it clearer and elaborate keeping in view the principles of natural justice.

3.7.3 Analysis and Commission’s Decision

Regulation 4.6 (e) needs to be read with Regulation 4.7, which specifies that an independent inquiry shall be conducted before removal of the Member/Chairperson from the post.

The Commission has therefore, not made any modifications to the clauses proposed in the draft CGRF & EO Regulations, 2020.

3.8 Regulation 4.7: Removal of Members

3.8.1 Proposed in Draft CGRF & EO Regulations, 2020

“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. 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.”

3.8.2 Comments Received

Several stakeholders including MSEDCL submitted that the reference to Net Metering in Regulation 4.7 is incorrect, and the removal procedure clauses need to be separated from technical support clauses.

Vidarbha Industries Association suggested that assistance of Electrical Inspector or accredited Engineer could be taken on specific technical matters for specific period.

Shri Suhas Khandekar submitted that in case the Member appointed by the Licensee is referred to as Technical Member, then the same should be reflected in other places like Regulations 4.4, 4.5, etc. Further, this Regulation refers to utilization of services of an Independent Advisor, empanelled with Central or State Government, however, there is no clarity given in the Regulations regarding this requirement. It is requested that this clause should either be deleted, or it should be made clear that retired employees of the Licensee would not be eligible to provide this assistance.

Mumbai Grahak Panchayat submitted that Electricity Ombudsman has been given powers to conduct an inquiry on the Chairman and independent Member of the CGRF. However, Regulation 18 of the draft CGRF & EO Regulations, 2006 do not specifically grant such powers to the Electricity Ombudsman. The powers of superintendence of the Forum lies with the Commission as per Regulation 12.2 of the draft CGRF & EO Regulations, 2020. Further, in the last proviso, the power has been given to Electricity Ombudsman to consult for appointment of

Independent Advisor by Forum with respect to the complainant on issues of Renewable Energy. Also, the fees of such Advisors are not specified in the Regulations.

Shri Satish Shah and Others submitted that only the appointing authority has powers to remove the person from his post.

3.8.3 Analysis and Commission's Decision

The reference to appointment of Independent Advisor empanelled with the Central or State Government is in line with the MERC (Grid Interactive Rooftop RE) Regulations, 2019. However, the clause related to Net Metering has been incorrectly merged with the proviso to Regulation 4.7. **A new clause has now been created as Regulation 4.8 for covering the issues related to Net Metering**, as under:

“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 Commission is of the opinion that the Independent Advisor empanelled with the Central or State Government is sufficient to aid the Forum on specific technical matters. The Commission does not feel the need to include the provision for taking the assistance of Electrical Inspector or accredited Engineer on such matters.

The Commission has denoted the Member appointed by the Licensee as ‘Technical Member’ at all places in the Regulations.

The Commission has modified Regulation 18, which specifies the powers and duties of Electricity Ombudsman, to reflect the roles given in Regulation 4.7, as under:

“18 The Electricity Ombudsman shall have the following powers and duties:

... (d) to conduct independent inquiry against the Chairperson and/or independent Member of the Forum in accordance with Regulation 4.7;

(e) to consult with the Forum regarding appointment of Independent Advisor in accordance with Regulation 4.7; ...”

The Commission is of the opinion that the fees and charges of Independent Advisors proposed to be appointed cannot be specified in the Regulations. It shall be at the discretion of the Forum.

The Commission has already specified in the Regulations that the Chairperson and Independent Member can be removed only by the Commission, as the Commission is the appointing authority as per the draft CGRF & EO Regulations, 2020. However, the Technical Member shall be governed by the service rules/regulations of the Distribution Licensee. Hence, there is no confusion in the Regulations regarding removal of Chairman and Members. The appointing authority has been given the powers for removal.

The Commission has modified Regulation 4.7 and 4.8 as under:

“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.”

3.9 Regulation 4.8: Remuneration and other terms of Office of Members

3.9.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.9.2 Comments Received

Shri Pratap Hogade and Others welcomed the proposed Regulation 4.8 whereby the compensation of Chairperson and Independent Member shall be decided by the Commission.

On the other hand, MSEDCL and NUPLLP submitted that the Licensee should be allowed to decide the remuneration of the Members of the Forum. As per the provisions of the EA 2003 as well as the Electricity Rules, the Distribution Licensee is required to establish a Forum for redressal of grievances. Since, the Licensee is the employer of Members of the Forum, it is bound to pay their remuneration. Therefore, the Licensee should be allowed to decide the remuneration of the Members of the Forum. Further, the word ‘Chairman’ should be replaced by the word ‘Chairperson’ wherever applicable.

3.9.3 Analysis and Commission’s Decision

The Commission is of the opinion that the clause proposed in the draft CGRF & EO Regulations, 2020 is appropriate. The remuneration of Chairperson and Independent Member shall be decided by the Commission while the remuneration of Technical Member is governed by the terms and conditions of employment of the Licensee and hence, is to be decided by the Licensee.

The Commission has replaced the word ‘Chairman’ with ‘Chairperson’ and reference to the Member appointed by the Distribution Licensee has been changed to ‘Technical Member’.

The Commission has modified Regulation 4.9 (4.8 in the draft Regulations) as under

“4.9 The sitting fees, honorarium and/or other allowances (collectively “Remuneration”) payable to the Chairperson 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 the Technical 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.”

3.10 Regulation 4.9: Office space and other facilities of the Forum

3.10.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.10.2 Comments Received

AEML and TPC submitted that the maximum number, nature and categories of staff as required by the Forum may be specified in the Regulations, to avoid future conflict between the Forum and the Distribution Licensee. Further, the Distribution Licensee should be allowed to set-up the office of the Forum within the premises of the Licensee, as it is difficult to have different premises for Forum in a city like Mumbai. Arranging separate premises for CGRF, outside its offices, will result in additional cost burden to the Distribution Licensee, which will be borne by the consumers of the Licensee. Having CGRF office in the Licensee premises will also be helpful in managing absenteeism of any staff assigned to the Forum.

MSEDCL suggested to delete the proviso regarding separate office space for the Forum. MSEDCL submitted that it has already created various offices for the Fora and therefore, duplication of assets is not desired. Consumers generally visit their offices for redressal of various issues. Considering the availability of common facilities within the premises of the Licensee, this provision is not required as long as the office space is sufficient and not inconvenient to the consumers. Such clause may add to the financial burden, which will ultimately be passed on to the consumers.

Shri S.P. Wagh requested to add the following proviso to Regulation 4.9:

"Provided that the Commission shall separately specify by a practice direction the office space, secretarial support and other facilities, nature and categories of staff required by the Forum"

3.10.3 Analysis and Commission's Decision

The Commission has retained the clause regarding number of staff, facilities, etc., from the existing CGRF & EO Regulations, 2006. The Commission is hence, of the opinion that there should not be any dispute arising between the Licensee and Forum on this issue. However, there may be scope for reduction in staff strength considering digitization, e-hearing, etc. Accordingly, the Commission has given the responsibility to the Electricity Ombudsman to

suggest and rationalise the staff strength for CGRFs within three months from the notification of these Regulations, by including an additional proviso to Regulation 4.10 as under:

“Provided further that the Electricity Ombudsman shall suggest measures for rationalizing the staff strength for the Fora within three (3) months of notification of these Regulations, considering the changing circumstances due to digitization, e-hearings, etc.”

The corresponding clause has also been incorporated in Regulation 18, as under

“18 The Electricity Ombudsman shall have the following powers and duties:

...

(g) to suggest measures for rationalizing the staff strength for the Fora, considering the changing circumstances due to digitization, e-hearings, etc.;”

As regards having the office of the Forum within the office of the Licensee, the Commission finds merit in the suggestions given by the Distribution Licensees that having a separate office for the Forum will only increase the administrative costs. The office of the Forum can be located within the office of the Distribution Licensee considering the cost and logistics. However, the Licensee is required to ensure separate and independent access to the office of the Forum. Accordingly, the first proviso of Regulation 4.10 has been modified as under:

“Provided that unhindered access to the office of the Forum shall be provided during the office hours of the Forum, even if the Forum is located within the premises of the Distribution Licensee:”

The Commission has clearly specified in Regulation 4.9 that 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. Accordingly, the Commission does not find any need to issue Practice Directions in this regard.

The Commission has modified Regulation 4.10 (4.9 in the draft Regulations) as under

“4.10 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 unhindered access to the office of the Forum shall be provided during the office hours of the Forum, even if the Forum is located within the premises of the Distribution Licensee:

Provided further that the Electricity Ombudsman shall suggest measures for rationalizing the staff strength for the Fora within three (3) months of notification of these Regulations, considering the changing circumstances due to digitization, e-hearings, etc.”

3.11 Regulation 4.10: Separate Budget for the Forum

3.11.1 Proposed in Draft CGRF & EO Regulations, 2020

“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 foreach 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.”

3.11.2 Comments Received

MSEDCL requested to remove the proviso regarding providing separate budget for the Forum. The office space as well as other assets for the establishment of Forum are already in place and the minimum requirement is being fulfilled by MSEDCL. Further being located in MSEDCL’s premises, it does not have to incur expenditure for common facilities. Salaries and allowances are being paid by Licensee regularly to the staff of the Forum. Therefore, there is no requirement of separate budget for Forum.

3.11.3 Analysis and Commission’s Decision

The Commission is of the opinion that having a separate budget for the Forum shall ensure financial independence of the Forum and the Forum shall be able to work in a more effective and efficient manner. Though the office space and the expenses are to be borne by the Licensee, the Forum is an independent body and should be able to function independently. The Forum should not have to request the Licensee for funds for necessary facilities/activities. Hence, this clause was specifically included in the draft CGRF & EO Regulations, 2020.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.12 Regulation 5.1: Timings of the Office of the Forum

3.12.1 Proposed in Draft CGRF & EO Regulations, 2020

“5.1 The location and the timings of the office of the Forum shall be decided by the Distribution Licensee so as to provide convenient access to consumers.”

3.12.2 Comments Received

Several stakeholders requested to delete the clause whereby the Licensee is to decide the office timings of the Forum, as this provision is bad in law. The consumers are filing grievance against the Licensee and giving the powers to the Licensee to decide the timings of the Forum is unjustified.

3.12.3 Analysis and Commission’s Decision

Regulation 5.1 has been retained from the existing CGRF & EO Regulations, 2006. Further, the office of the Forum is being provided by the Licensee and hence, the timings have to be decided by the Licensee.

The Commission has however added a proviso specifying that when hearings are held at different locations, the Forum shall decide on the local office timings, as under:

“Provided that when hearings are held by the Forum at different locations, the Forum shall decide on local office timings and ensure sufficient publicity for the same.”

The Commission has modified Regulation 5.1 as under

“5.1 The location and the timings of the office of the Forum shall be decided by the Distribution Licensee so as to provide convenient access to consumers:

Provided that when hearings are held by the Forum at different locations, the Forum shall decide on local office timings and ensure sufficient publicity for the same.”

3.13 Regulation 5.2: Time period for passing the Order

3.13.1 Proposed in Draft CGRF & EO Regulations, 2020

“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 Electricity 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.”

3.13.2 Comments Received

Several stakeholders welcomed the reduction in the timelines for passing of Order related to Non-supply, connection, and disconnection within 15 days and for other grievances within 60 days.

AEML submitted that the word “connection” needs to be replaced by “reconnection”. A stringent time limit is not possible in case of “new connection” cases, as in such cases disputes arise due to non-completion of formalities or absence of required documents. In any event, as this clause is meant for urgent cases only, the word “connection” should be replaced with “reconnection” (i.e., connection following disconnection) as the word “connection” has wider import and it will include “new connection” cases also. The re-wording is required to bring clarity that this refers to only cases where consumer is already connected to the Licensee network (and not a new connection).

Vidarbha Industries Association submitted that ‘billing disputes’ should be included in priority grievances to be resolved in 15 days’ time. Also, for other grievances, the time period for disposal should be reduced to 30 days. Further, in case the Order is not passed by the Forum in the specified time, then the consumer may register grievance with the Electricity Ombudsman.

Shri Avinash Prabhune and Others suggested to reduce the time period of 60 days for passing of Order to 45 days as stated in FOR Model Regulations, as the consumer has to already go through significant amount of time to redress his grievance.

Shri Hemant Kapadia requested to reduce the time period from 15 days to 7 days for priority grievances and to 30 days from 60 days for other grievances. Necessary Practice Directions should be issued to CGRF to conduct regular hearings (Minimum 2-3 times in a week).

MSEDCL and NUPLLP requested to change the time period for disposal of priority cases from ‘15 days’ to ‘15 working days’. Further, in most of the cases, disconnection of the supply happens due to non-payment of arrears for which one of the major reasons is billing dispute. Hence, it is difficult to separate out the disconnection cases from billing dispute cases. The intent of the Regulations is not to keep any consumer in dark for a prolonged period of time. To ensure this, and to be in line with the provisions of Section 56 of the EA 2003, it is suggested that in cases of disconnection of supply due to billing issues, a specific provision be added in

the Regulations that pending the resolution of the billing dispute, the Forum can provide an interim relief (as per Regulation 9.9 of the draft CGRF & EO Regulations, 2020) to the consumer by directing the Licensee to reconnect the supply if the consumer deposits some specific percentage of the disputed amount (at least 50% of amount due) with the Licensee. At present, the Forum is providing the interim relief but there is no uniformity on such interim relief or the amount to be deposited by the consumer.

MSEDCL added that the consumer may approach the Forum, just to delay the payment of arrears. Hence, Regulation 6.8(d) of the existing CGRF & EO Regulations, 2006 should be retained.

3.13.3 Analysis and Commission's Decision

The Commission finds merit in the submission that the term 're-connection' should be added in the clause so that those cases are covered in priority grievances. However, the Commission is of the opinion that if 'new connection' cases are not justified, then the Forum can reject the same. The Commission has therefore retained the word 'connection' and added 're-connection' in the above clause.

The Commission has given priority to connection, disconnection and re-connection cases because if such complaints are not addressed in minimum time, they may lead to huge financial loss to the consumer. On the other hand, billing disputes can be settled over a period of time and do not require such priority to be addressed. Further, in case the dispute is resolved in favour of consumer, the consumer is compensated not only with the disputed principal amounts but also with the corresponding interest cost till the date of issuance of Order. Hence, there is no need to include billing disputes under priority cases.

Several stakeholders have suggested that the time frame for disposal of cases should be reduced. The Commission in the Explanatory Memorandum has detailed the reasons for retaining the period of 60 days for disposal of grievances by the Forum. The Commission has already proposed a clause for disposal of priority issues within 15 days from the date of filing of grievance. Considering the fact that the Fora were 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. Further reducing the overall time frame for non-priority issues from 60 days to 45 days along with the time frame for priority issues being 15 days, will put tremendous pressure on the Forum for disposal of grievances, which may ultimately result in giving delayed Orders in all the cases.

The Commission wants the Fora to improve their performance and take the timeline for disposal of cases seriously. Accordingly, an additional clause is also included 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. This clause is proposed so that the Fora shall strictly adhere to the time limit of 60 days for disposal of cases. Moreover, the time period of 60 days for disposal of cases is present in the Regulations of most other States. Hence, the time period is retained at 60 days for disposal of non-priority cases.

In Regulation 19.21 (d) of the draft CGRF & EO Regulations, 2020, the Commission has specified that the consumer can approach the Electricity Ombudsman if the Forum is not able to dispose of the grievance in the specified time period.

The Commission is of the opinion that it is for the Forum to decide on the number of hearings to be conducted in a week, based on the number of cases registered/pending with the Forum. Moreover, the time limit for disposal of cases has already been specified in the Regulations, therefore, the Forum is required to conduct hearings accordingly to dispose of cases within such specified time limit. Hence, the Commission does not feel the need to issue Practice Directions to the Forum to conduct regular hearings.

In accordance with Section 56 of the EA 2003, the Licensee has the right to disconnect the consumer on non-payment/default in payment of bill amounts after giving fifteen days' notice to the consumer. The disconnection can be avoided if the entire claimed amount or the average amounts calculated on the basis of last six months, whichever is lesser, is deposited by the consumer.

Considering the above clauses of the EA 2003, the Commission agrees with the submission of MSEDCL, and has accordingly added a proviso to Regulation 9.9 specifying that the consumer shall pay 50% of the disputed amount for getting an interim relief from the Forum on disconnection issue, in case the disconnection is on account of billing dispute, as under:

“Provided also that in case of disconnection related to billing dispute, the Forum may provide interim relief to the consumer by directing the Distribution Licensee to not disconnect the supply, only if the consumer deposits 50 percent of the disputed amount.”

The Commission also agrees that Regulation 6.8 (d) of the existing CGRF & EO Regulations, 2006 needs to be retained, so that cases where the recovery of arrears is evident and the bill amount is not disputed, are excluded from the jurisdiction of the Forum. The clause has been reinstated under Regulation 7.9, which deals with the rejection of grievances by the Forum, as under:

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

...

(d) In cases of recovery of arrears where the bill amount is not disputed; and...”

The Commission has also accepted the requests of the Distribution Licensees and has revised the timeline for priority issues from ‘15 days’ to ‘15 working days’. Accordingly, the clause is modified as under:

“5.2 The Forum shall pass appropriate Order within fifteen (15) working days of filing of the Grievance (for Grievance related to non-supply, connection, re-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 working 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 Electricity Ombudsman:

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

3.14 Regulation 5.5: Single Member Forum

3.14.1 Proposed in Draft CGRF & EO Regulations, 2020

“5.5 The quorum of the Forum shall be two Members, except where the Forum consists of a single Member.”

3.14.2 Comments Received

Shri Suhas Khandekar submitted that the concept of a Forum with single person is incorrect. Further, it has already been specified in Regulation 4.3 that in the absence of the Chairperson, the Chairperson from nearby CGRF has to be deputed. Hence, this Regulation needs to be modified suitably.

3.14.3 Analysis and Commission’s Decision

Regulation 4.2 specifies that the single Member Forum shall be applicable to only those Licensees with less than 1,50,000 consumers, and the criteria for appointment of single Member of the Forum shall be equivalent to that of the Chairperson. Considering the limited spread of consumers in such Licence area, the Commission has retained the clause of single Member CGRF comprising the Chairperson, from the existing CGRF & EO Regulations, 2006. Also, there is no need to modify this Regulation in line with Regulation 4.3, as the clause of deputing a Member from the adjacent Forum is applicable only to MSEDCL (considering the multiple CGRFs present in MSEDCL licence area), while this clause is applicable to only those Licensees with less than 1,50,000 consumers.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.15 Regulation 6.1: Prioritization of Grievance

3.15.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.15.2 Comments Received

Shri Samir Gandhi submitted that the priority order should include complaints on Net-metering of Rooftop Renewable Energy systems, and the web-based portal for approval of Rooftop RE systems needs should be linked to the web-based portal for ICRM. All complaints regarding the same need to be entertained on priority by the Forum and Electricity Ombudsman. If sanctions / approvals are not provided within stipulated time, such violations need to be taken automatically by CGRF on priority. A separate Report regarding these complaints should be published monthly.

3.15.3 Analysis and Commission’s Decision

The Commission has already prioritized the grievances of connection/disconnection/re-connection of supply in the draft CGRF & EO Regulations, 2020 by reducing the timeframe for disposal of these cases. Other issues like Net Metering are also specifically mentioned in the proviso to Regulation 4.7 (now renumbered as Regulation 4.8). As these issues cannot be treated at the same priority as other identified issues, these issues shall be disposed of in the regular time frame of 60 days.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.16 Suo Motu Proceedings by the Forum

3.16.1 Proposed in Draft CGRF & EO Regulations, 2020

The power to take up any matter suo-motu was deleted in the draft CGRF & EO Regulations, 2020.

3.16.2 Comments Received

Shri Satish Shah and Others requested to retain Regulation 6.20 of the existing CGRF & EO Regulations, 2006, for allowing suo-motu proceedings to be initiated by the Forum, as it is helpful and essential to protect consumer rights. This provision helps poor consumers who cannot reach Forum on their own. Also, there is no reported incidence of its abuse or misuse. Just because a particular provision has not been used, the same cannot be deleted.

Mumbai Grahak Panchayat submitted that the Forum should be given power to entertain a grievance suo motu, in the wider consumer interest.

3.16.3 Analysis and Commission's Decision

As stated in the Explanatory Memorandum, the Commission is of the opinion that the institutions of CGRF and Electricity Ombudsman have been created to address consumer grievances. If the consumer has a grievance, he/she shall approach the CGRF for seeking redressal. 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, had proposed to delete this enabling clause of suo-motu action by CGRF. Further, under Regulation 8.12 of the draft CGRF & EO Regulations, 2020, the Commission can direct the Forum to take up any proceedings that falls within the jurisdiction of CGRF.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.17 Regulation 7.2: Filing of Complaint by the Complainant

3.17.1 Proposed in Draft CGRF & EO Regulations, 2020

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

3.17.2 Comments Received

Several stakeholders submitted that the clause should be amended by inserting the words ‘Consumer shall directly or by through its Authorised Representative’.

Several stakeholders requested to provide for acceptance of Group Complaints by the Forum for similar complaints. It is observed that similar complaints are filed on the same issue by a Society and therefore, the number of complaints are increased. Each individual has to unnecessarily file a separate complaint for the same issue. If Group Complaints can be filed, a combined decision can be given, which would help in saving cost and time of the Complainant and the decision would also be made in minimum time. The Consumer Protection Act also has a provision of registering similar complaints by one or more consumers, where there are numerous consumers having the same cause. The same can be filed with the permission of the District Forum on behalf of or for the benefit of all interested consumers.

3.17.3 Analysis and Commission's Decision

The Commission agrees with the suggestion that the consumer should be allowed to submit the grievance through authorised representative. The Commission has accordingly modified the Regulation 7.1 by including the phrase *'either directly or through his duly authorised representative'*.

The Commission is of the opinion that the complaint, even if similar in nature, needs to be filed individually as each consumer has to raise the grievance before the Forum on his own, and the Forum cannot admit Group Complaints.

The Commission has accordingly modified Regulation 7.1 as under:

"7.1 The Complainant, either directly or through his duly authorised representative, 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."

3.18 Regulation 7.3: Web-based portal for Grievances

3.18.1 Proposed in Draft CGRF & EO Regulations, 2020

"7.3 Each 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."

3.18.2 Comments Received

TPC submitted that in order to ensure uniformity in the web-based portal between the Distribution Licensees, the Commission may consider directing the Electricity Ombudsman or Consumer Advocacy Cell to issue Guidelines, which can be followed by the Distribution Licensees.

Mumbai Grahak Panchayat submitted that Regulation 7.3 provides for consultative powers to Electricity Ombudsman over CGRF. However, Regulation 18 does not specifically grant such powers to the Electricity Ombudsman.

NUPLLP requested the Commission to increase the time frame for setting up web portal to one year due to current COVID-19 situation.

3.18.3 Analysis and Commission's Decision

The Commission has already clarified in Regulation 7.3 that the web-based portal can be developed in consultation with the Electricity Ombudsman and Consumer Advocacy Cell. There is no need to issue separate Guidelines in this regard. However, the Commission agrees with the submission of stakeholder that the power to consult the Ombudsman and Consumer Advocacy Cell needs to also be specified in their respective clauses. The Commission has accordingly modified Regulation 18 as under:

“18 The Electricity Ombudsman shall have the following powers and duties: ...

... (f) to advise the Distribution Licensee on the creation of the web-based portal for submission of Grievances;”

Regulation 29.5 of the draft Regulation has been modified as under:

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

... (f) Advise the Distribution Licensee on the creation of the web-based portal for submission of Grievances”

The Commission feels that sufficient time period of six months has been provided to the Licensee for coming up with web-based portal. Hence, there is no need to increase the time frame to one-year.

3.19 Regulation 7.4: Means for submission of Grievance

3.19.1 Proposed in Draft CGRF & EO Regulations, 2020

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

3.19.2 Analysis and Commission's Decision

The Commission has included the option for submission of Grievance through fax, in line with the options provided in Regulation 19.3 for submission of representation before the Electricity Ombudsman.

The Commission has accordingly modified Regulation 7.4 as under:

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

3.20 Regulation 7.5: Time period for submission of supporting documents

3.20.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.20.2 Comments Received

TPC submitted that the Commission may consider providing a minimum of three working days to the Distribution Licensees to forward the grievance along with the supporting documents to the relevant Forum. Despite all efforts by the Distribution Licensees, two days may not be sufficient for forwarding the grievance.

Shri Suhas Khandekar submitted to add the following clause

“Each complaint centre shall have a notice affixed near the "Inward Cell" to the effect that they have to accept any correspondence addressed to CGRF pertaining to their area without getting any clearance from any official”

NUPLLP submitted that the phrase ‘two working days’ may be changed to “two (2) working days”.

3.20.3 Analysis and Commission’s Decision

The Commission has decided the time frame for submission of documents keeping the overall time period of grievance resolution in mind. However, giving an additional day to the Licensee for submission of documents would not make a significant difference to the time frame. The Commission has therefore, accepted the suggestion and **modified the proviso as under:**

“Provided that the Grievance so received along with other supporting documents shall be forwarded to the relevant Forum within the next three (3) working days.”

The Commission is of the opinion that the complaint receiving centres have to accept all correspondence with regard to any complaints filed by the consumer, and the same need not be specifically mentioned in the Regulations.

3.21 Regulation 7.8: Time period for filing grievance

3.21.1 Proposed in Draft CGRF & EO Regulations, 2020

“7.8 The Forum shall not admit any Grievance unless it is filed within two (2) years from the date on which the cause of action has arisen.”

3.21.2 Comments Received

Association of Small and Medium Newspapers in India requested to add a proviso that the Forum may entertain a grievance even after two years, if there is a continuous cause of action.

Some stakeholders requested to add the following proviso in the above Regulations:

“Provided that where the grievance is related to non-compliance of the order of the Commission or APTEL or any other appellate authority as the case may be, the same shall be governed by the limitation prescribed for the execution of the decree in limitation act.”

The stakeholders submitted that while limitation of two years for acceptance of grievances is justified, for the purpose of non-compliance of the Commission’s Orders, it should be twelve years, as the Commission’s Order and its implementation shall be governed by limitation applicable for execution of decree.

Vidarbha Industries Association requested to extend the period for accepting grievance to three years from the proposed two years.

Mumbai Grahak Panchayat submitted that there should be a provision for condonation of delay for genuine cases.

3.21.3 Analysis and Commission’s Decision

This clause has been retained from the existing CGRF & EO Regulations, 2006. The Commission is of the opinion that there has to be a time limit for filing of grievance after the cause of action. Hence, the Commission has retained the time period of two years, as no consumer will require more than two years to file a grievance after the cause of action. Further, in any legal proceeding, the applicant can always file for condonation of delay, which can be considered by the Forum at its discretion and considering the prevalent circumstances.

The Cases related to non-compliance of the Orders of the Commission or APTEL shall be dealt with by the Commission and such cases shall not be filed before the Forum.

The Commission is of the opinion that the provisions of Limitation Act, 1963 cannot be made applicable to these Regulations. The Commission is of the opinion that it is practically difficult

to maintain the records for the last twelve years, so as to entertain a twelve year old grievance by the Forum. Section 56 of the Electricity Act, 2003 also provides that the Licensee cannot claim for arrears which are more than two years old, unless such sum has been shown continuously as recoverable as arrear of charges. The relevant clause is as follows.

“(2) Notwithstanding anything contained in any other law for the time being in force, no sum due from any consumer, under this section shall be recoverable after the period of two years from the date when such sum became first due unless such sum has been shown continuously as recoverable as arrear of charges for electricity supplied and the licensee shall not cut off the supply of the electricity.”

Hence, the Commission does not find merit in the suggestion that the grievance can be filed within a period of twelve years from the cause of action.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.22 Regulation 7.9: Rejection of Grievance

3.22.1 Proposed in Draft CGRF & EO Regulations, 2020

“7.9 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.”

3.22.2 Comments Received

Shri Satish Shah and Others requested that cases falling under Sections 126, 127, 135 to 139, 152, and 161 of the EA 2003 should also be considered as grievance. It is observed that in a number of cases, the Licensee has misused the provisions under these Sections with a view to harass consumers and solely with the intention of depriving them of their legal right available under CGRF & EO Regulations. On many occasions, where the misuse of the provisions by the Licensee is apparent on the face of records, it was struck down by CGRF and justice was given to such consumers. The proposed barring of jurisdiction with respect to complaint with regard to above mentioned Sections of EA 2003 would result into hardship to consumers. They will have no option but to approach the Courts, which is a lengthy, time-consuming and costly affair. It is therefore very much essential to retain the earlier provisions to check the action taken by Distribution Licensee on prima facie basis.

Some stakeholders submitted that the Forum should prima facie be satisfied that the case does not fall within the meaning of Sections 126 and 135 to 139 of the EA 2003 and then entertain such cases by recording reasons for it. If the consumer is at fault, the case must be governed by Section 126 but if prima facie, the Forum feels that the case does not fall within the meaning of Section 126, the Forum must be empowered to admit such cases as per existing Regulations. The consumers got justice in many such cases, as CGRF admitted the dispute, gave opportunity of hearing and after verification, passed its order.

AEML requested to add the following sub-clause in the above Regulations since many times there is internal family dispute and/or dispute with third-party related/associated with the grievance and sometimes the dispute is civil in nature and can only be adjudicated and resolved by the competent Court:

“(d) issue is complicated in nature such that the Grievance requires consideration of elaborate documentary and oral evidence and the proceedings before the Forum are not appropriate for adjudication of such representations.”

Mumbai Grahak Panchayat submitted that the Consumer Protection Act, 2019 provides for the alternate dispute resolution like Conciliation and Mediation. Such reference needs to be made in the Regulations as the Consumer will have to inform that no cases are pending for the same cause. Further, sub clause (b), (c), (d) should be deleted.

MSEDCL submitted that from the proposed provision, because of the wording “at any stage”, it appears that the Forum will decide whether the grievance falls within the above Sections. Even as per existing provisions, the Forums are entertaining such cases. The proposed provision

does not expressly exclude the jurisdiction of the Forum. This will amount to encroaching the jurisdiction of the remedy already provided as Appellate Authority or the Court under the Act.

Further, the consumers, in order to avoid having to pay 50% of the amount before filing the dispute before the Appellate Authority u/s 127, will increasingly tend to approach the Forum as the Forum will now go in details of the case. Hence, there should be a provision to expressly exclude the jurisdiction of Forum in such matters.

3.22.3 Analysis and Commission's Decision

Section 126 of the EA 2003 deals with unauthorized use of electricity. The EA 2003 has very clear provisions that the assessment of unauthorized use of electricity shall be done by the assessing officer, which is to be designated by the State Government. Section 127 of the EA 2003 also specifies that any person aggrieved by the final order of the assessment officer shall approach and appeal to Appellate Authority. The Appellate Authority shall dispose of the appeal after hearing the parties and pass appropriate order. As there is a separate mechanism defined in the EA 2003 for dealing with unauthorized use of electricity under Section 126 and 127, therefore, the Commission has excluded it under the CGRF mechanism. The Commission has stated in the Explanatory Memorandum that all the Sections related to theft of electricity, negligence, damage of works, accidents and injuries have been excluded from these Regulations as a separate mechanism is already in place in the EA 2003 to deal with such incidents. The same exclusions are there in the existing CGRF & EO Regulations, 2006 also.

The consumer always has the right to approach the higher judiciary in case any injustice is being done under these provisions by the concerned authority. Also, the proviso of Regulation 7.9 provides for the consumer to be heard by the Forum before deciding whether the case falls under these clauses. Hence, the suggestion that the case should be heard by the Forum before deciding whether the same falls under the meaning of Section 126 and 135 to 139 of the EA 2003 is already addressed. The Regulations specify that no Grievance shall be rejected unless the Complainant has been heard, hence, the Forum will have to first entertain such cases and reject after hearing, if appropriate.

The Commission is of the opinion that the grievance cannot be rejected merely because it is complicated in nature. The Forum is competent to decide on case to case basis based on the type of dispute that has been put forth before the Forum.

The Commission has modified Regulation 7.9 by adding clause (d) as under:

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

...

(d) In cases of recovery of arrears where the bill amount is not disputed; and

...

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

3.23 Regulation 8.1: Copy of Grievance to the Nodal Officer

3.23.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.23.2 Comments Received

Shri Satish Shah and Others submitted that Regulation 8.1 does not specify the consequences of non-filing of reply by the Distribution Licensee. Distribution Licensees typically do not file the reply in time and they do not serve copy of their reply to the opposite party in time. In such cases, the matter should be proceeded as if there is no reply and any reply filed after the stipulated time frame should not be entertained or allowed to be filed on record.

3.23.3 Analysis and Commission’s Decision

The Commission in Regulation 8.3 and proviso to Regulation 8.4 of the draft CGRF & EO Regulations, 2020 has already covered the consequences of party failing to file the responses before the Forum within the stipulated time period.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.24 Regulation 8.3: Filing of reply by the Nodal Officer

3.24.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.24.2 Comments Received

Shri Pratap Hogade and Others submitted that a copy of the comments of the Nodal Officer should also be marked to the consumer, as most of the times, the Distribution Licensee's reply is received at the time of hearing and consumers cannot comment on the replies of the Licensee.

Some stakeholders requested to include a clause that the paragraph-wise comments of the Licensee should reach the consumer at least 3 days before the hearing scheduled by the Forum, so that the consumer is well aware of the reply of the Licensee and after taking into account this reply, the consumer can present himself in the hearing before the Forum.

Another group of stakeholders submitted that in case of repeated failure by the Nodal Officer of the Licensee to file the replies on time, the Forum must be empowered to report it to Zonal Chief Engineers for appropriate action as per departmental rules.

Vidarbha Industries Association submitted that the copy of the replies should be marked to the consumer and the time period for filing reply should be reduced from 15 days to 10 days.

TPC requested to allow at least 10 working days to prepare and furnish the paragraph-wise comments for grievance related to non-supply, connection or disconnection of supply as in some cases the Distribution Licensees are required to locate documents/records of consumers which is a time-consuming activity.

3.24.3 Analysis and Commission's Decision

The Commission had decided the time frame for submission of reply by the Nodal Officer keeping the overall time period of grievance resolution in mind. The Commission however, agrees that sufficient time needs to be given to the Licensee to reply to the grievance. Hence, the Commission has extended the time period to 'five (5) working days' (for Grievance related to non-supply, connection, re-connection or disconnection of supply) and 'fifteen (15) working days' (for all other Grievances) in the above Regulation.

The draft CGRF & EO Regulations, 2020 specified that the Forum may grant extension of maximum seven days to the Licensee for submission of reply on case to case basis, except in case of Grievance related to non-supply, connection, re-connection or disconnection of supply. For further clarity, a phrase has been added to the effect that no extension may be granted for submission of reply, in such urgent cases.

The Commission has also referred to the clause in Consumer Protection Act, which specifies that if the other party does not file reply within the said period, the Commission may issue directions/Orders ex-parte.

To address the concerns of stakeholders regarding the typical delay in submission of replies by the Distribution Licensee, the Commission has incorporated two additional clauses, viz., one specifying that the internal procedures which are to be published by the Licensee under Regulation 3.5 shall include the timelines for furnishing replies. Also, if the Nodal Officer fails to comply with these timelines, the Chairperson of CGRF may notify such failure to the reporting officer of Nodal Officer to initiate administrative action.

The existing Regulations already provides for consequences for not filing the reply. If the reply is not filed on time, the Forum shall proceed on the basis of the material available on record.

The Commission has modified Regulation 8.3 and added Regulation 8.4 and Regulation 8.5 as under

“8.3 The Nodal Officer shall furnish paragraph-wise comments to the Forum on the Grievance within five (5) working days (for Grievance related to non-supply, connection, re-connection or disconnection of supply) or fifteen (15) working 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, re-connection or disconnection of supply, wherein no extension may be granted for submission of reply.

8.4 The internal procedures published by the Distribution Licensee in accordance with Regulation 3.5 of these Regulations, shall specifically prescribe the above-specified timelines for furnishing of replies.

8.5 In case the Nodal Officer repeatedly fails to submit the reply within the prescribed time limit, the Chairperson of the CGRF may bring such failure to the notice of the concerned reporting officer of the Nodal Officer for initiating appropriate administrative action.”

3.25 Regulation 8.5: Inspection by the Licensee

3.25.1 Proposed in Draft CGRF & EO Regulations, 2020

“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...”

3.25.2 Comments Received

Vidarbha Industries Association submitted that the Licensee should not be directed to take up any inspection by the Forum.

3.25.3 Analysis and Commission's Decision

The Commission is of the opinion that the Forum can direct the Licensee to take up inspection either on its own or through a third-party.

The Commission has not made any modifications in the draft Regulations in this regard.

3.26 Regulation 8.6: Cost of Inspection conducted by the Forum

3.26.1 Proposed in Draft CGRF & EO Regulations, 2020

“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, and the Forum also feels that the inspection is needed in such case, 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.”

3.26.2 Comments Received

Several stakeholders welcomed the provision of the Forum engaging a third-party inspection, if required.

Another group of stakeholders submitted that the cost of third-party inspection should not be recovered from the consumer. The Forum orders for such inspection when there is preliminary cause. Further, it is the prerogative of the Forum to impose cost on the consumer if it is satisfied that it has misled the Forum.

3.26.3 Analysis and Commission's Decision

The Commission is of the opinion that inspection is not a default requirement and may be required only in rare cases. However, if the Forum considers it necessary, it may direct the Licensee to take up inspection either on its own or through third-party.

If the Forum feels that an inspection is needed, then in such cases the cost of the inspection is to be borne by the Licensee. On the other hand, if the consumer requests for a third-party inspection and the Forum agrees to the request, the cost has to be recovered from consumer. However, in such case, if the results of the inspection are in favour of the Complainant, the Licensee shall reimburse the cost to the Complainant.

3.27 Regulation 8.7: Hearing through video conferencing

3.27.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.27.2 Comments Received

Shri Samir Gandhi submitted that the Licensee should not have choice to decline audio-video conferencing mode. It is very much essential in the current COVID-19 scenario to conduct hearings through video conferencing. The physical presence has to be discouraged and audio-video-conferencing or similar arrangements should be encouraged. Whenever consumer has such facilities or consumer insists on audio-video conferencing, it should be made compulsory for the Licensee.

Several stakeholders submitted that the date of hearing should be communicated at least seven days in advance.

3.27.3 Analysis and Commission's Decision

The Commission finds merit in the suggestion that the Licensee should not have the option regarding hearing through audio-video conferencing facilities, as the Licensee being a corporate, would have access to these facilities. The Commission has therefore, modified the proviso of Regulation 8.7 of the draft Regulations as follows:

“Provided further that the hearing may also be held through video-conferencing or similar arrangements, as appropriate, provided the Complainant has access to such facilities”

As regards the intimation of notice of hearing, it has been a regular practice to notify the date of hearing in advance. The Commission is of the opinion that there is no need to specify any additional clause in this regard as the regular practice of intimating both the parties before hearing shall continue as before.

3.28 Regulation 8.8: Representation before the Forum

3.28.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.28.2 Comments Received

Shri Samir Gandhi submitted that details should be provided on how one can become a consumer group and what type of groups shall be allowed under this clause to represent the Complainant, as many people are still not aware of such Voluntary Consumer Organization or Consumer Representatives or Consumer Advocacy Groups. The Commission need to educate consumers regarding the usefulness of these intermediaries.

Shri Satish Shah and Others submitted the Commission should allow consumer organizations or any public spirited person to file complaint with respect to issues that are identical in nature or which have generic importance or which affects large number of consumers and also on issues such as non-compliance of statutory provisions of Regulations, etc.

Several stakeholders submitted that the bar on advocates to not represent before the Forum should be removed, as such bar on Advocates is not provided anywhere in the EA 2003. It is objectionable and legally impermissible under subordinate legislation to bar Advocates from practicing law before the Forum/Electricity Ombudsman, in matters of quasi-judicial nature with unlimited pecuniary jurisdiction. It is matter of record that Advocates are professionals having requisite qualification and expertise in the field of Law, therefore, the condition of barring such professionals and solely allowing other person to represent is unconstitutional and impermissible under any law.

The Commission has not considered that in majority of cases, misconduct or malpractice is being done by Licensee representatives. Persons other than advocates also may be permitted but only after due certification regarding expertise/experience in electricity sector by the Commission, Electricity Ombudsman and /or Forum, as may be decided. The Law Officer appearing on behalf of the Licensee is also holding the degree of law, hence, he should also be debarred from appearing before the Forum.

Shri Suhas Khandekar submitted that the debarment of any authorised person for malpractice or misconduct cannot be done arbitrarily. There has to be a fair enquiry and the person has to be given a chance to defend himself, which needs to be specified in the Regulations.

Mumbai Grahak Panchayat submitted that it would be ultra-vires to the Constitution for such Consumer Bodies to represent the Licensee, hence, the words ‘any party’ in the Regulations may be replaced with ‘consumer’. Moreover, the Licensee should be represented by their Executive Engineer and the Nodal Officer as authorised herein. The Commission should issue Guidelines for appointment of Consumer Representatives including basis of qualification, experience in dispute resolution, knowledge of the subject, disqualification and they should submit a declaration to the Forum along with the application format provided in Schedule A or B hereto that he/she is not an Advocate and he possesses the required knowledge of the subject and expertise to represent the consumer.

MSEDCL submitted that if the consumer authorizes any person before Forum or Ombudsman, the consumer should also remain present during the hearing. The consumer should not remain absent for the hearing without prior approval of Forum/ Ombudsman. The Forum/ Ombudsman should also allow the consumer to be absent, only during emergency or exceptional cases.

MSEDCL submitted that the clause regarding misconduct and malpractice is open-ended, and it is necessary to explicitly provide for the Authority who will debar such person, whether Electricity Ombudsman or Forum itself. Further, whoever intentionally gives false evidence/representation in any of the proceedings of the Forum or Electricity Ombudsman or fabricates false evidence for the purpose of being used in any of the proceedings should be debarred from appearing before a Forum or Electricity Ombudsman, and the Forum or Electricity Ombudsman may file criminal proceedings for such offence.

MSEDCL submitted that for clarity, it is necessary to elaborate the acts/misconduct, which will lead to debarment. MSEDCL submitted the following list for illustration:

- (i) intentionally giving false evidence/representation;
- (ii) Misrepresentation of facts of the case;
- (iii) Moving application without informing that a similar application has been rejected by another statutory authority (like Consumer Forum or any Court);

- (iv) Misleading the consumers before Forum or E.O;
- (v) Improper behaviour before Forum or E.O;
- (vi) Unlawful behaviour: Threatening Licensee Officer to settle Grievances

Shri S.P. Wagh requested to add a proviso that the Licensee shall appoint either the Nodal Officer to appear in person or authorize a person not below the rank of Deputy Executive Engineer in case of unavoidable circumstances.

3.28.3 Analysis and Commission's Decision

In the draft CGRF & EO Regulations, the Commission had introduced an enabling clause to authorise Voluntary Consumer Organisations or Consumer Representatives or Consumer Advocacy Groups to appear before the Forum, and there was a corresponding clause regarding debarment of such authorised persons in case found guilty of misconduct or any other malpractice.

However, after considering the comments received on the proposed clauses, the Commission is of the opinion that authorising selected entities for representing the Complainant may have undesirable consequences, as the Commission would be required to authorise only a limited number entities for the same and that certain entities would be qualified and other entities may not get qualified only due to the requirement of restricting the number for the same.. **The Commission has hence, deleted these provisos related to authorisation and debarment of such organisations/entities.** The Commission has however, allowed both the parties to be represented by an authorised representative before the Forum. For this purpose, the Commission has considered the provisions of Regulation 3 of Consumer Protection (Procedure for regulation of allowing appearance of Agents or representatives or Non-Advocates or Voluntary Organisations before the Consumer Forum), Regulations, 2014 notified by the National Consumer Dispute Redressal Commission on 13th February 2014, while framing rules/guidelines for non-advocates appearing without accreditation before the Forum.

The conditions imposed on such representative are as under:

- (a) should appear on an individual case basis;
- (b) should have a pre-existing relationship with the Complainant (such as a relative, neighbour, business associate or personal friend);
- (c) should not receive any form of direct or indirect remuneration for appearing before the Forum and should file a written declaration to that effect;
- (d) should demonstrate to the Forum that he is competent to represent the party.

The Commission is concerned about the cost of litigation to the consumer and that such cost of litigation should not discourage the consumer to pursue his genuine grievance. Thus, the objective is to ensure that the consumer himself or a non-professional representative shall

appear in such consumer grievance matters before the Forum, without drawing any remuneration/compensation for their appearance. This is necessary to ensure that the cost of litigation is at minimum level.

The Commission has also added a clause specifying that the Forum at its discretion may decide on the misconduct or failure to provide assistance to the Forum by the authorised representative and accordingly disallow such representative to appear before the Forum.

The authorisation of the representative is to be bound by the existing Acts/laws already in place. The Commission has added a proviso stating that the representative is not allowed to withdraw the grievance or claim any part thereof on behalf of the party without producing written consent from the party.

A separate clause has been included in the Regulations that the party shall not be bound by the acts of the representative, where the Forum is satisfied that such act adversely affects the interest of the party.

The Commission is of the opinion that the formation of the Forum and the Electricity Ombudsman is mandated under the EA 2003 in order for the consumers to get their grievances redressed in an easy and effective manner. Further, the Act has mandated the process to be formulated by the Commission through subordinate Regulations. Therefore, the Forum or the Ombudsman can only initiate a proceeding if the Complainant files a complaint before the respective authority for redressal of his/her grievance. The Forum and Ombudsman cannot entertain a Public Interest Litigation (PIL) filed by any consumer organization with respect to issues, which are identical in nature or which have generic importance. The rulings of the Forum/Ombudsman shall be specific and applicable to the particular case or the parties involved. The rulings of the Forum/Ombudsman cannot be generalized and made applicable to all stakeholders in the sector.

The intent of the formation of Forum and EO as mentioned above will be best served if the process, formalities, presentation and the dispensation are carried out in a simple manner without forcing the consumer to follow stringent stipulated legal process. The cost of litigation is also an important factor to encourage the consumers to pursue their grievance before the forum. It needs to be appreciated that the Fora are not regular Courts, where points of law and legal interpretation of clauses are required to be debated and argued by Advocates. The Fora are a platform for consumers to get speedy redressal for their grievances. Other SERCs like GERC have also barred Advocates from appearing before the Fora. Also, the individual consumer's interest needs to be protected by ensuring minimum cost for resolution of the grievance and the consumer needs to be insulated to the extent possible from the high litigation costs. Hence, the erstwhile condition regarding advocates not appearing before the Forum, present in the existing CGRF & EO Regulations, 2006, has been retained in the CGRF & EO Regulations, 2020.

As regards the suggestion that the Complainant has to also be present, even though he may have appointed someone else to represent him before the Forum, the Commission is of the opinion that the same does not have merit. The Complainant shall be responsible for all acts of omission and commission of his authorised representative.

As regards the suggestion that the Licensee has to necessarily depute either the Nodal Officer or a certain minimum level of employee, the Commission is of the opinion that such restriction may not be appropriate, and it is up to the Licensee to depute the appropriate person to put forth the submission of the Licensee.

The Commission has modified Regulation 8.8 (8.10 in final Regulations) and added Regulation 8.11, 8.12 and 8.13 as under:

“8.10 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 representative 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, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

- (a) is appearing on an individual case basis;*
- (b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);*
- (c) is not receiving any form of, direct or indirect, remuneration for appearing before the Forum and files a written declaration to that effect;*
- (d) demonstrates to the Forum that he is competent to represent the party.*

8.11 The Forum may within its discretion disallow any representative to appear before it in any case, for reasons to be recorded in writing, on account of breach of the terms of the undertaking or misconduct or failure in providing proper assistance to the Forum

8.12 Any party appearing through a representative, shall be bound by the acts or omissions of such representative:

Provided that such representative shall not be permitted to withdraw any complaint or claim or any part thereof on behalf of the party without producing written consent from the party allowing him for withdrawal of the complaint or claim or part thereof.

8.13 Any party shall not be bound by an act of any representative where it is shown to the satisfaction of the Forum that the representative committed any act of fraud, which adversely affected interest of the party concerned.”

3.29 Regulation 8.9: Ex-Parte decision of the Forum

3.29.1 Proposed in Draft CGRF & EO Regulations, 2020

“8.9 Where the Complainant or the Licensee or their representative fails to appear before the Forum on the date fixed for hearing, the Forum may decide the Grievance ex-parte:

Provided that no adjournment shall ordinarily be granted by the Forum unless sufficient cause is shown and the reasons for the grant of adjournment have been recorded in writing by the Forum.”

3.29.2 Comments Received

Several stakeholders requested to delete Regulation 8.9 wherein the Forum may decide the matter ex-parte in case any party fails to appear on the date of hearing. They submitted that the proposed provisions are against the judicial proceedings and hamper the fundamental rights of the consumers, and should hence, be deleted.

Shri Avinash Prabhune submitted that the adjournment if sought by the Licensee and granted by Forum, then cost of minimum Rs 2000/- or more per adjournment as deemed fit in the circumstances of each matter in the opinion of the Forum, should be paid to consumer by Licensee. On the other hand, if adjournment is sought by the consumer, he shall be liable to pay Rs. 500 per adjournment.

MSEDCL suggested to modify the clause such that where the Licensee appears and the Complainant does not appear at the time of hearing, then the Complaint needs to be dismissed.

3.29.3 Analysis and Commission's Decision

The clause is present in the existing CGRF & EO Regulations, 2006 also, and is not a new clause proposed in the draft CGRF & EO Regulations, 2020. Further, the intent of such clause is to prevent undue delays on account of adjournments due to non-appearance of either party, without genuine cause.

Granting adjournment is a discretionary power to the Forum. The proviso also clearly specifies that adjournment shall ordinarily not be granted. Also, the suggestion that the complaint should be rejected in case the Complainant fails to appear for the hearing, is not appropriate.

The Commission observes that the clause of ex-parte decision in such cases is present in the Consumer Protection Act, 2019 also. The relevant extracts of Section 38 (3) (b) and (c) are as below:

“(b) if the opposite party, on receipt of a copy of the complaint, referred to him under clause (a) denies or disputes the allegations contained in the complaint, or omits or fails to

take any action to represent his case within the time given by the District Commission, it shall proceed to settle the consumer dispute—

- (i) on the basis of evidence brought to its notice by the complainant and the opposite party, if the opposite party denies or disputes the allegations contained in the complaint, or*
- (ii) ex parte on the basis of evidence brought to its notice by the complainant, where the opposite party omits or fails to take any action to represent this case within the time given by the Commission;*

(c) decide the complaint on merits if the complainant fails to appear on the date of hearing.”

The Commission therefore is of the opinion that the provision to decide ex-parte is consistent with other Acts and is therefore, not against the principles of natural justice. Consumer Fora for timely redressal of complaints/grievances can resort to ex-parte decision as these Fora cannot wait for unlimited period for the party to respond to the Forum. Hence, the existing clause has been retained.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.30 Regulation 8.13: Forum to designate any person as appropriate

3.30.1 Proposed in Draft CGRF & EO Regulations, 2020

“8.13 The Forum may, at its discretion, designate any person whom the Forum considers appropriate to, -

- (i) present the case of a party which cannot afford to engage its representative, or*
- (ii) act as amicus curiae to assist the Forum in its proceedings.”*

3.30.2 Comments Received

Shri Suhas Khandekar submitted that any person whose services are utilized for this purpose should not be a present or past employee of the Distribution Licensee.

Mumbai Grahak Panchayat submitted that the Forum should direct the Distribution Licensee to pay the fees or honorarium to such representative or amicus curiae as decided by the Forum. Further, the Forum/Licensee should empanel such representatives who are willing to act as amicus curiae and represent the consumers ex-gratis.

3.30.3 Analysis and Commission's Decision

The Forum has the discretion to designate any appropriate person under this clause, including ex-employee of Licensee, which is intended to help the Forum by acting as amicus curiae or

assist the party who cannot afford to engage representative. There is no need to restrict this clause by excluding ex-employees of the Licensee.

The Regulation clearly specifies that the Forum can designate the person at its discretion, for the party who cannot afford to engage its representative. Hence, there is no question of recovery of the cost of such representative from the Complainant. The cost of appointment of such representative is to be borne by the Licensee and recovered from the consumers through tariff.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.31 Regulation 9.1: Inquiry by the Forum

3.31.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.31.2 Comments Received

Mumbai Grahak Panchayat submitted that reference to term ‘inquiry’ needs to be deleted, as the CGRF is a quasi-judicial entity to redress the grievance of the consumers of Licensee and has to pass an Order on the basis of the facts placed before it, whereas inquiry is an internal process.

3.31.3 Analysis and Commission’s Decision

The existing CGRF & EO Regulations, 2006 used the word 'enquiry', which was replaced by ‘inquiry’ in the draft CGRF & EO Regulations, 2020, given the formal nature of the process. However, to avoid any confusion, the Commission has now used the term ‘proceedings’ in the above Regulations. Accordingly, the clause is modified.

The Commission has modified Regulation 9.1 as under

“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 proceedings and pass appropriate order for redressal of the Grievance within the time specified in Regulation 5.2”

3.32 Regulation 9.2: Issuance of Order by the Forum

3.32.1 Proposed in Draft CGRF & EO Regulations, 2020

“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-

(a) remove the cause of Grievance in question;

(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;

(c) pay such amount as may be awarded by it as compensation to the Complainant as specified by the Commission in the standards of performance of Distribution Licensees:

Provided that in no case shall any Complainant be entitled to indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity;

(d) any other order, deemed appropriate in the facts and circumstances of the case:

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

3.32.2 Comments Received

Several stakeholders submitted to add a provision to sub-clause (b) that the interest rates shall be notified by the Commission on the 1st day of each financial year. Section 62 (6) of EA 2003 prescribes interest at Bank Rate. The Hon’ble APTEL has ruled that Bank Rate means the rate at which the Licensee borrows money.

TPC submitted that it is not just and proper to pay interest along with the undue charges, as the Distribution Licensees do not intentionally withhold any amount/charges of the consumers. Therefore, the Forum should decide on a case to case basis whether the Distribution Licensees have intentionally or wrongfully withheld any monies and accordingly direct payment with interest.

Shri Suhas Khandekar submitted that the interest should be compounded annually. He also submitted that the compensation cannot be restricted to whatever is provided in the MERC Standards of Performance Regulations. If the CGRF or Electricity Ombudsman concludes that there has been unnecessary harassment, they have to be authorised to award costs/compensation accordingly.

3.32.3 Analysis and Commission's Decision

The Commission is of the opinion that when a case is disputed for undue charges between consumer and Licensee and if the Order is against the Licensee then in such case the refund of charges shall be not just the principal amount but also the corresponding interest amount as on the date of Order. Further, the EA 2003 and MERC MYT Regulations, 2019 also provide for carrying cost to be paid along with the principal amount in case the Licensee recovers any amount in excess of that determined by the Commission.

The Commission is of the opinion that the refund of the amount has to be at the interest rate (i.e. Reserve Bank of India Bank Rate) as defined in the EA 2003. Also, the interest rate for excess recovery notified in MERC MYT Regulations 2019 is equal to the Bank Rate of RBI, in accordance with EA 2003. Hence, the interest rate has been modified to the Bank Rate, as under:

“(b) return to the Complainant the undue charges paid by the Complainant along with interest, at the rate equal to Bank Rate declared by the Reserve Bank of India prevailing during the relevant period;”

The Complainant is entitled to carrying cost on the amount unduly retained by the Licensee. However, the Commission allows only Simple Interest to the Licensee on amounts due to it, hence, it would not be appropriate to provide compound interest on the undue charges payable to the consumer.

The Commission has notified the Standards of Performance (SoP) Regulations for payment of compensation to the consumer for non-performance. Hence, the compensation cannot go beyond the SOP Regulations. Regulation 9.4 states that all Orders of the Forum shall be consistent with the Commission's Regulations and Orders and therefore, separate compensation need not be defined by the Forum.

3.33 Regulation 9.3: Language of the Order of the Forum

3.33.1 Proposed in Draft CGRF & EO Regulations, 2020

“9.3 Every Order made by the Forum shall be a reasoned Order either in Marathi or English and signed by the Members conducting the proceedings:

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.”

3.33.2 Comments Received

Shri Suhas Khandekar submitted that the clause needs to be modified to the effect that where the application is in Marathi, the Order shall be in Marathi, and where it is in English, the same shall be in English. Further, the English translation of the Order should be provided free of cost to the applicant or Licensee on their request.

3.33.3 Analysis and Commission's Decision

The Regulations provide for issuance of Order in either of the Languages. Accordingly, the Forum may decide on the language of the Order. If an Order is issued in Marathi, then there is no compulsion for the Forum to translate such Order into English.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

3.34 Regulation 9.4: Consistency of Orders by the Forum

3.34.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.34.2 Comments Received

MSEDCL submitted that the Orders of the Forum should be consistent not only with the Commission's Regulations and Orders but also with the provisions of the EA 2003, and Orders of Appellate Tribunal of Electricity and other Judicial Bodies such as CERC, High Court, and Supreme Court, etc., dealing with matters related to distribution and supply of electricity.

Several stakeholders submitted that the proposed Regulation 9.4, which binds the CGRF and EO to follow the Regulations and Orders of the Commission, should be deleted. They submitted that any Order passed by the Commission is not final in nature and is appealable before APTEL, High Court and Supreme Court. It is also important to note that interpretation of any judicial or quasi-judicial order is the soul and essence of every judicial or quasi-judicial proceedings, hence, it cannot be said that the Commission's Orders or Regulations are not open to interpretation. Such provisions amount to taking judicial control under the garb of administrative discipline, which is not desirable, and is detrimental to speedy disposal.

3.34.3 Analysis and Commission's Decision

The Forum draws its powers from the EA 2003 and Regulations notified by the Commission from time to time. Hence, it is necessary that the Forum's Orders are in line with such Regulations and Orders issued by the Commission. The Forum has to ensure that the consumer gets relief in case of any grievance due to incorrect interpretation of Regulations and Orders by Licensee. Therefore, any decision of the Forum and Ombudsman cannot go against the Regulations or the Orders of the Commission.

The Commission has therefore, not made any modifications in the draft Regulations in this regard, except for correcting the formatting in the draft Regulations, as the second proviso of Regulation 9.4 was incorrectly combined with Regulation 9.5. Accordingly, the second proviso of Regulation 9.4 has been separated from Regulation 9.5, as under:

The Commission has modified Regulation 9.4 as under:

“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.”

3.35 Regulation 9.5: Interpretation of Regulations

3.35.1 Proposed in Draft CGRF & EO Regulations, 2020

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

3.35.2 Comments Received

Several stakeholders suggested that the proposed requirement to refer issues to the Commission may be deleted, as this may stall the proceedings and delay the matter. The time frame for the Commission to dispose of such reference is not specified in the draft CGRF & EO Regulations, 2020. Such provisions amount to taking judicial control under the garb of administrative discipline, which is not desirable, and is detrimental to speedy disposal.

Some stakeholders submitted that the proposed clause may be retained if the consumer, Licensee and Forum all agree to consult the Commission as Licensee may ask the Forum to take guidance of the Commission, which will unnecessarily delay in issuing the Order. It is also not correct for the Licensee to challenge the interpretation of Regulations.

3.35.3 Analysis and Commission's Decision

The Forum draws its powers from the EA 2003 and Regulations notified by the Commission from time to time. Hence, it is necessary that the Forum's Orders are in line with such Regulations and Orders issued by the Commission. However, there could be issues, where the Regulations and/or Orders of the Commission may not be completely clear and may need to be interpreted. The draft CGRF & EO Regulations, 2020 proposed that the Forum has to seek the Commission's guidance only when any issue is not fully covered in the Regulations or Orders of the Commission, as the Forum cannot take any decision on such matters. Such guidance of the Commission is necessary in order to avoid any conflict with the existing Regulations/Orders of the Commission.

The Commission has therefore, not made any modifications in the draft Regulations in this regard, except for correcting the formatting in the draft Regulations, as the second proviso of Regulation 9.4 was incorrectly combined with Regulation 9.5. Accordingly, the Regulation 9.5 has been separated, as under:

The Commission has modified Regulation 9.5 as under:

“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”

3.36 Regulation 9.7: Issuance of Order

3.36.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.36.2 Comments Received

NUPLLP requested to change the phrase 'within seven days' to 'within seven (7) working days'

TPC requested the Commission to consider 10 days' time to intimate the compliance of the Order and for updating the web portal.

3.36.3 Analysis and Commission's Decision

The Commission has considered the request and modified the clause to 'seven working days' in the Regulations.

The Commission has modified Regulation 9.7 as under:

"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 (7) working days from the date of compliance."

3.37 Regulation 9.8: Non-compliance of Order of the Forum

3.37.1 Proposed in Draft CGRF & EO Regulations, 2020

"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."

3.37.2 Comments Received

MSEDCL suggested to delete Regulation 9.8 as this Regulation is a declarative provision and clearly specifies penal action under Section 142 of the EA 2003. MSEDCL submitted that Section 142 of the EA 2003 stipulates punishment for non-compliance of directions by Appropriate Commission that too after any complaint is filed before the Appropriate Commission by any person. There is no provision for non-compliance of Orders of Forum. Further, MSEDCL submitted that Forum is an integral organ of Licensee and is not a statutory body. Therefore, Section 142 should not be made applicable for the Orders of Forum.

Other stakeholders submitted that violation of Orders of the Forum or Electricity Ombudsman should attract action under Sections 142, 146 and 149 of the EA 2003. These rights as per the Act cannot be taken away from the consumers. Hence, it may not be necessarily mentioned in the Regulation. In case such clause is retained then the same may include Section 146 and 149 as well in the Regulations. Other SERCs have effectively implemented Section 142 and 149 for non-compliance, which has resulted in fewer grievances and faster compliances.

Shri Hemant Kapadia and Others suggested that power to issue Orders for non-compliance should also be provided to the Forum. This will reduce the litigation at the Commission level and the consumers expenses shall be saved and justice will prevail.

Shri Samir Gandhi submitted that there should be financial fine for such delinquencies. Remarks need to be put in the service record/book of concerned person of the Licensee disobeying the orders of the Forum.

Shri Avinash Prabhune submitted that the concerned authority should verify and confirm non-compliance by giving opportunity to both parties, and if the final order/report regarding confirmation of non-compliance is sent by the concerned Authority to the Commission, then the Commission will not have to verify non-compliance. The Commission can then decide only on the issue of punishment under Sections 142 and 146 of the EA 2003. It is not feasible for the Complainant to pursue the matter at Mumbai for remedy for non-compliance for small claims of Rs 5000/- to Rs 10000/-.

Several stakeholders submitted that the Distribution Licensee has the right to file Writ Petition against the Order of the Forum. Licensee has been getting stay Order of the High Court on the Order of the Forum to avoid compliance of the Orders. Hence, Regulation 9 should include an additional clause specifying that wherever there is no stay Order of the High Court, the Licensee should comply with the Orders of the Forum within the stipulated time.

3.37.3 Analysis and Commission's Decision

The Commission is of the view that Section 142 of the EA 2003 refers to non-compliance of any directions by the Commission. The Commission has notified the Regulations wherein all Parties shall comply with the Orders of the Forum/Ombudsman. Therefore, non-compliance of Orders of the Forum/Ombudsman will lead to non-compliance of these Regulations, which in turn will lead to non-compliance of the directions of the Commission. The Commission has accordingly incorporated the clause in the Regulation that such violation will lead to invoking of Section 142. The Commission is of the opinion that Section 146 also refers to punishment for non-compliance of Orders or directions, which is applicable in this case, hence, specific reference to Section.146 of the EA 2003 has been added along with Section 142 of EA 2003.

Section 149 of the EA 2003 speaks about Offences by Companies, which is not directly applicable in this case and hence, this Section has not been incorporated in the Regulations.

The Regulation clearly specifies that non-compliance will lead to violation of Regulations of the Commission and hence, action under Sections 142 and 146. The proceedings in this regard cannot be held by the Forum and only Commission can act against the Licensee. As regards the suggestion that the non-compliance may be decided by the Forum, the Commission has to verify whether non-compliance of the Order of the Forum has taken place or not and this task cannot be delegated to the Forum.

As specified above, non-compliance of the Order of the Forum will be liable for penal action under Sections 142 and 146 of the EA 2003. Hence, the Licensee is bound to follow the Orders of the Forum. The Commission is of the opinion that merely filing a case in the Higher Court

against the Order of the Forum is not sufficient. Unless the Higher Court has stayed the Order of the Forum, the concerned party will have to comply with and implement the directions of the Orders of the Forum. This is settled position of law and need not be specifically mentioned in the Regulations.

The Commission has modified Regulation 9.8 as under:

“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 Sections 142 and 146 of the Act.”

3.38 Regulation 9.9: Interim Orders

3.38.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.38.2 Comments Received

Shri Satish Shah and Others submitted that the word ex- parte is required to be included in the provision to enable speedy disposal of grievances.

Shri Suhas Khandekar requested to include the phrase "or has already disconnected" in the Regulations.

3.38.3 Analysis and Commission's Decision

The Regulation provides for Interim Orders to be issued by the Forum in order to safeguard the interest of the consumer. The proviso also says that such Orders cannot be given unless the opposite party has been given an opportunity of being heard, as ex-parte relief would be against the principles of natural justice.

The clause only deals with the cases where Interim Order is to be issued by the Forum to stop the Licensee from disconnecting the consumer. If the consumer is already disconnected, then the Interim Order shall not serve any purpose. Hence, there is no purpose to include the phrase ‘or has already disconnected’ in the Regulation.

As stated in the earlier paragraphs, the Commission has added a proviso specifying that the consumer shall pay 50 percent of the disputed amount for getting interim relief from the Forum on disconnection issue, in case the disconnection is on account of billing dispute.

The Commission has modified Regulation 9.9 as under

“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 in case of disconnection related to billing dispute, the Forum may provide interim relief to the consumer by directing the Distribution Licensee to not disconnect the supply, only if the consumer deposits 50 percent of the disputed amount:

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.”

3.39 Regulation 10.1: Review of Orders of the Forum

3.39.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.39.2 Comments Received

Several stakeholders submitted that Regulation 10.1 should be amended and Distribution Licensee should not be allowed to file Review Petition against the Forum's Order. The Forum is for the benefit of the consumer and not for the benefit of the Distribution Licensee. By allowing such provision, the Distribution Licensee may take undue advantage and there would be a delay in giving relief to the consumer, which is against the intent of the Regulation. Sections 42 (5) and 42 (8) of the EA 2003 are only for the benefit of the consumers and the Licensee shall not take advantage of these provisions.

Shri Avinash Prabhune suggested that it is a welcome step to permit review of the Orders of the Forum. However, the term 'Appeal' should be replaced with 'Representation' in view of the non-availability of the 'Appeal' provisions.

Shri Dilipkumar Bhandari submitted that the time period for filing review should be at least 5 years, as the time period of 30 days is very less for the consumer. The consumer is not aware of all the rules and Regulations and therefore may take time for assessment.

MSEDCL requested to delete Regulation 10 as the Forum is an integral Organ of the Licensee and is not a statutory body. Remedy is available for consumer to file representation before Ombudsman, in case he is not satisfied with the Order of the Forum. Therefore, consumer should take legal course available in the event he is not satisfied with the remedy provided by the Forum.

Shri Tilokchand Sanghvi submitted that review should be allowed and accepted only if the application filed by the Licensee has sufficient proof for filing of Review.

3.39.3 Analysis and Commission's Decision

The Commission, while introducing the clause of review of the Forum's Order in the draft CGRF & EO Regulations, 2020 has clearly defined the grounds on which review can be allowed/filed, viz., error apparent on the face of record and /or discovery of new important matter or evidence, which could not be produced before the passing of the Order.

The Commission is of the opinion that the grounds for review are very specific and limited and therefore, there is no question of any party taking undue advantage by filing the review and delaying the process. The Commission has clearly stated in the Explanatory Memorandum that the intent of allowing a review is to sort out issues like error apparent and discovery of new information, 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.

The Commission is of the view that keeping an option of filing a review before the Forum is ultimately for the benefit of the consumers as well as the Licensee. Both parties can save expenditure and time in approaching the higher Courts. While the Licensee can recover the cost of filing case before the Hon'ble High Court through ARR and tariff, the consumer has to pay for amount of security deposit specified in sub-clause (h) of Regulation 19.22 for approaching the Ombudsman, from his own pocket. Hence, maintaining the clause of Review is more beneficial to the consumer than the Licensee. Such clause would definitely save time and money of the consumers, if the Order is rectified based on the grounds specified in the Review.

As far as allowing Distribution Licensee to file a review is concerned, the Commission is of the view that justice has to be fair to all parties. If an Order is passed, which can be rectified on the grounds of review, then the Licensee should have the right to file a review on the Order of CGRF. The Commission cannot allow the right of Review only to the consumers and not to the Licensee. Licensee being an affected party has the right to request for review, if the issue qualifies for review.

The Commission has also made an inter-State comparison and observed that in States where review is allowed, the option for review has been given to both the Licensee and the Complainant. Hence, the existing provisions are retained.

The legal recourse and the option of approaching the Ombudsman is always available with the consumer even after getting review of the Order of the Forum.

The Commission agrees with the submission of stakeholder and has included the word 'representation' along with the word 'appeal' as the Regulations provide for filing Representation before the Electricity Ombudsman and appeal can be filed before the High Court.

“(a) Where no appeal or Representation has been preferred...”

The stakeholder is confusing the time limit for filing a review with time limit for filing of grievance, which is specified as two years from the cause of action. The time period for filing Review has been specified as 30 days, keeping in view the need to keep overall timelines short. The Commission has therefore, retained the time period of 30 days for filing of review before the Forum.

3.40 Regulation 10.5: Permission of Ombudsman for Review

3.40.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.40.2 Comments Received

Several stakeholders submitted to exclude the requirement of permission of Ombudsman for granting the Review, as such requirement restricts the powers of the Forum. Also, this clause shows that the Forum cannot be trusted to take such decision on its own, which questions the capacity of the Forum. As per law, the review is the prerogative of the authority where review application is submitted, and there is no provision of taking the permission of the higher court or authority for allowing review

3.40.3 Analysis and Commission's Decision

The Commission agrees that it is for the same Forum to grant the review, considering the merits of the case, and approval of higher Court is not required for review of own Orders, except in the Maharashtra Land Revenue Code, 1966, wherein the Collector needs permission from Commissioner for review, only if the Order was not passed by himself, whereas his junior officers require his permission, irrespective of whether he/someone else has passed the Order. The relevant extract of the Maharashtra Land Revenue Code, 1966 is reproduced below for reference:

“258. Review of orders. - (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; ...”

The commission therefore feels that there is no need to take permission of the higher authority if the same bench is sitting for review of Order. However, in case of a different bench, the permission may be sought. Accordingly, Regulation 10.4 has been modified.

The Commission has modified Regulation 10.4 as under:

“10.4 The review shall be heard by the same bench that has issued the original Order that is subject to review:

Provided that in case the review has to be heard by a different bench, on account of retirement/demission of office of Member/s who passed the original Order, the review application shall be processed only after obtaining the permission of the Electricity Ombudsman.”

3.41 Regulation 11.1: Inspection of records

3.41.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.41.2 Comments Received

Some stakeholders submitted that once the decision is given, the related documents are public documents as per law, and hence, requested to amend the draft proviso by inserting the clause:

“The applicant shall be provided all the papers of the case along with reply submitted by both sides and as demanded or desired by the applicant in relation to the case.”

TPC submitted that the Commission should not allow any person to obtain a certified copy of the Forum’s Order unless such person is able to prove his locus standi in obtaining the Order from the Forum. Orders of the Forum will contain details of consumers’ data, which can also be termed as personal data. Such information could be highly confidential for the Distribution Licensee and/or the Consumer and therefore, should not be made available to any person unless legitimate reasons and locus standi is established.

3.41.3 Analysis and Commission's Decision

This Clause has been retained verbatim from Regulation 7.1 of the existing CGRF & EO Regulations, 2006. The Commission has already specified in Regulation 9.3 that the Order of the Forum shall be a reasoned Order. Hence, the Order shall include all the replies and counter-replies filed by various parties affected by the case. The copy of the Order of the Forum is thus, sufficient for the consumer to understand the case.

The Orders of the Forum need to be publicly available so that the consumers can be aware of the type of Orders/rulings issued by the Forum for deriving reference to similar cases. Also, the Order can be used by the general public for reference purposes. Hence, it is not necessary to make available copies of the Orders of the Forum to only those who can prove their locus standi in obtaining the Order from the Forum. The Commission feels that making the Orders public will not compromise on the confidential information. In any case, the copies of the documents can be obtained by any interested parties under the RTI Act.

3.42 Regulation 11.2: Investigation Process

3.42.1 Proposed in Draft CGRF & EO Regulations, 2020

“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.”

3.42.2 Comments Received

Mumbai Grahak Panchayat requested to amend the term used in Regulation 11.2(b), i.e., “process of investigation or apprehension or prosecution of offenders”, as the Forum is a quasi-judicial Forum working on the principles of natural justice and has not been granted any power of investigation or prosecuting the offenders.

3.42.3 Analysis and Commission's Decision

This clause has been retained verbatim from the existing CGRF & EO Regulations, 2006. The referred word of investigation and prosecution is with respect to any other investigation parallelly running in any court of law, which may be influenced by the present decision.

The Commission has therefore, not modified the draft Regulations in this regard.

3.43 Regulation 28: Expenses of the Forum

3.43.1 Proposed in Draft CGRF & EO Regulations, 2020

“All reasonable costs incurred by a Distribution Licensee on the establishment and running of the Forum, to the extent reasonable and justifiable, shall be allowed in the determination of tariff of the Distribution Licensee in accordance with the terms and conditions of tariff specified by the Commission.”

3.43.2 Comments Received

Mr. Hemant Kapadia submitted that if the working of Forum is made independent, there will be savings in establishment cost, which will help to reduce the tariff of consumers.

3.43.3 Analysis and Commission’s Decision

Regulation 28 provides for reasonable costs to be allowed on the establishment and running of the Forum, in the determination of tariff of the Distribution Licensee. The expenses of the Forum need to be recovered from consumers. Keeping the Forum independent and not allowing the Licensee to incur the cost of the Forum does not mean that there would be a saving in tariff. Reasonable costs on the establishment and running of the Forum shall be allowed as part of A&G expenses as per the provisions of the MYT Regulations, modified from time to time. The Commission has however, already specified in Regulation 17 that the expenses of Ombudsman are to be made from the Fund constituted under Section 103 of the EA 2003. Therefore, such expenses are saved and will not be passed on to the consumers.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4. Electricity Ombudsman

4.1 Regulation 13.1: Constitution of Electricity Ombudsman

4.1.1 Proposed in draft CGRF & EO Regulations, 2020

“13.1 The Commission shall designate or appoint one or more persons to be the Electricity Ombudsman to exercise such powers and discharge such functions entrusted by or under the provisions of the Act and/or under these Regulations.”

4.1.2 Comments received

Some stakeholders submitted that the clause should say “two or more persons”. MSEDCL, on the other hand, suggested to appoint only one Electricity Ombudsman (EO). MSEDCL submitted that considering the number of cases and urgency of the matter, the EO may take hearings at multiple places including the CGRF location where the hearing facilities are already in place and optimum utilisation of such facilities can be achieved. Further, in cases of urgency, the Ombudsman can take help of video-conferencing or similar arrangements. Such arrangement will not only save time and cost, but also will bring consistency in the Orders since, single person will be hearing all the matters.

4.1.3 Analysis and Commission’s Decision

The clause says ‘one or more persons’ can be appointed as EO by the Commission. The Commission is of the opinion that the clause is appropriate as the Commission has the discretion to appoint one or more than one Ombudsman in the State.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.2 Regulation 13.2: Age Limit of Electricity Ombudsman

4.2.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.2.2 Comments received

Several stakeholders submitted to retain the age limit for EO as 70 years as in existing CGRF & EO Regulations, 2006. If the age limit is retained at 70 years, then retired High Court Judge and/or retired Secretary of State shall be available to complete entire tenure of 5 years. The retirement age of High Court Judge is 62 years and if he desires to apply for the post of the Ombudsman, which may not be immediately after his retirement, he will have sufficient period to remain appointed on the post, if the age limit is retained at 70. On the other hand, the retirement age of the Executive Director of the Distribution Licensee is 58 years. Therefore, even if he applies after one year, he can stay in the post for entire duration considering the age limit provided in the Regulations. Such clause hence, raises questions whether it is specifically designed to accommodate the retiring officer of the Licensee.

4.2.3 Analysis and Commission's Decision

The Commission has already provided the rationale for reducing the age limit to 65 years in the Explanatory Memorandum. The Commission has made an inter-State comparison and also referred to FOR Model Regulations before revising the age limit to 65 years.

Further, the second proviso to Regulation 13.2 as well as the Explanatory Memorandum clearly provides that the revised age limit of 65 years shall be applicable for existing appointments at the end of their fixed term or extended term, as applicable. Hence, it is not designed for early retirement of existing appointees.

The Commission has therefore, not made any modifications to the clauses proposed in the draft CGRF & EO Regulations, 2020, in this regard.

4.3 Regulation 14: Vacancy of Electricity Ombudsman

4.3.1 Proposed in draft CGRF & EO Regulations, 2020

“The territorial jurisdiction of the Electricity Ombudsman shall extend to the whole or part of the State of Maharashtra:

Provided that the Commission may appoint or designate more than one Electricity Ombudsman with defined territorial jurisdiction:

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.”

4.3.2 Comments received

Shri Samir Gandhi submitted that there should be a panel of three EOs in Maharashtra, so that the third EO can take over the vacancy immediately, if required.

4.3.3 Analysis and Commission's Decision

The Commission does not find any merit in the submission of the stakeholder. In case the office of Electricity Ombudsman is vacant, then the other Electricity Ombudsman can take charge of the office where the post is vacant, in accordance with the second proviso.

The Commission has therefore, not modified the draft Regulations in this regard.

4.4 Regulation 15.2: Multiple Offices of Ombudsman

4.4.1 Proposed in draft CGRF & EO Regulations, 2020

"15.2 In order to expedite disposal of Grievances, the Electricity Ombudsman may hold sittings at such places within his/her area of jurisdiction as may be considered necessary and proper by him/her in respect of a representation before him/her."

4.4.2 Comments received

Mumbai Grahak Panchayat submitted that in order to enable the consumers to file appeals, the Commission may set up circular offices of Ombudsman for a short period in places other than the existing offices situated at Mumbai and Nagpur. The Commission should provide for the mechanism to redress the disputes online as the filing of complaints is also online. The benefits of Online Dispute Resolution (ODR) should be made applicable.

4.4.3 Analysis and Commission's Decision

Regulation 19.3 of the draft Regulations specifies the various ways of filing a representation, i.e., either in person or through post, email or fax. The second proviso to Regulation 19.17 of the draft Regulations specifies regarding conducting hearings through video-conferencing or similar arrangements by the Ombudsman. Therefore, sufficient flexibility has been provided to the Complainant for filing his representation before the Ombudsman and for attending the hearing. The Complainant does not have to travel to existing offices situated at Mumbai or Nagpur for redressal of his grievance. Therefore, there is no need to set up circular offices of Ombudsman for a short period in other places.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.5 Regulation 15.3: Secretarial Staff of Ombudsman

4.5.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.5.2 Comments received

Shri Suhas Khandekar submitted that details of posts and qualifications of secretarial staff should be specified in the Regulations. Further, any person who has been employed with the Licensee should be disqualified from being employed as secretarial staff in any capacity.

4.5.3 Analysis and Commission’s Decision

The clause clearly specifies that the Secretariat and the staff strength of the Secretariat shall be determined by the Commission from time to time. Hence, there is no need to further clarify on the details of posts and qualifications of secretariat or staff of the secretariat.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.6 Regulation 16.1: Qualification of Electricity Ombudsman

4.6.1 Proposed in draft CGRF & EO Regulations, 2020

“16.1 The Electricity Ombudsman shall be constituted from amongst a retired judge of a District Court or High Court, or 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..”

4.6.2 Comments received

Several stakeholders submitted that persons who have been employed with the Distribution Licensee should not be eligible for the post of Electricity Ombudsman, as a retired Officer of the rank of Executive Director or equivalent or above of an electricity sector utility will be loyal to the previous Company. Such clauses would not be in favour of consumers and therefore, need to be modified.

Shri Avinash Prabhune submitted extracts of Supreme Court Judgments to justify that retired employee of Licensee shall not be eligible for the post of Ombudsman. For the post of Ombudsman, the criteria should be restricted to the legal fraternity. The provision of Executive Director or equivalent proposed in the said clause is bad in law as grievances will be against

the Company where the Executive Director has completed his long service and there is possibility of injustice being done due to the long history of association with Licensee.

The FOR Report of August 2016 also observed that out of the ten States, only Delhi, Gujarat, Uttarakhand and Madhya Pradesh have tried to ensure independence of the Ombudsman from the Distribution Licensee by framing eligibility criteria, which disallows the appointment of existing or recently retired employees of the Distribution Licensee, as Electricity Ombudsman.

Shri Pratap Hogade and Others submitted that the qualification criteria for Electricity Ombudsman should include retired High Court Judge and /or retired Secretary. The appointed person should be able to provide the desired relief to consumers and should be of the required stature.

Mr. Tilokchand Sanghvi requested to exclude retired Judge from the qualification criteria for Ombudsman.

MSEDCL suggested to use term Distribution Licensee instead of electricity sector utility, as the term “electricity sector utility” is very comprehensive and can include professionals in power sector who have not dealt with consumers related issues or who have nil or very little consumer contact. MSEDCL therefore suggested that the experience should be from a Distribution Utility. A person from Distribution Utility background will have the experience and knowledge of various consumer complaints and shall be able to redress them effectively. Further, the Ombudsman must have the knowledge of vernacular language of the State of Maharashtra so as to have better understanding of the matters.

4.6.3 Analysis and Commission’s Decision

The proposed criteria of a retired Officer of Utility has been included in the qualification for appointment of Ombudsman so that the skill, knowledge and experience of a person employed with the Utility can be used for disposing the complaints of the consumers. To broaden the eligibility criteria, the minimum post he should have held is that of the rank of Executive Director or equivalent or above and the experience shall be of minimum three years on the required post so as to ensure adequate experience. This narrows down the selection to only those people who are capable of holding the post of Ombudsman. Moreover, the existing Regulation already covered the criteria of “*or retired Chief Executive Officer of an electricity sector utility*”. The Commission in the draft Regulation has only modified this criterion by allowing Executive Director of the Electricity Sector Utility to be eligible for the post.

As far as the integrity of the person is concerned, the Commission has made it very clear in the proviso of Regulation 16.3, that at the time of appointment of the Ombudsman it shall verify the integrity and background of all the applicants including the ones coming from Licensee.

The Commission, even after selection of Ombudsman, will continue to monitor its functioning. A separate clause on quarterly reporting is also proposed by the Commission in the Regulations.

The Commission has already included the qualification of retired High Court Judge and retired Secretary in the Regulation for appointment of Electricity Ombudsman. Hence, there is no need to modify the clause.

The Commission finds no reason to exclude retired Judges from the qualification criteria. The stakeholder has also not provided any rationale for the same. On the other hand, other stakeholders have supported this criterion.

The word 'Utility' is clearly defined in the Electricity Act as *“utility” means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of this Act;”*

The term "Utility" is present in the existing CGRF & EO Regulations, 2006 also. The appointment of the Electricity Ombudsman is being done by the Commission. The Commission at the time of appointment, shall ensure that the person who is being appointed for the post is of the required experience, ability, integrity and standing. Hence, there is no need to replace the word 'electricity sector utility' with 'Distribution Utility'.

However, for greater clarity, the Commission has modified the term “retired judge of a District Court or High Court” to “retired judge of a High Court or District Court”.

4.7 Regulation 17: Remuneration of Electricity Ombudsman

4.7.1 Proposed in draft CGRF & EO Regulations, 2020

“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:”

4.7.2 Comments received

Shri Pratap Hogade and Others requested the Commission to decide the remuneration in such a way that retired High Court Judge and retired Secretary can be appointed as Electricity Ombudsman.

4.7.3 Analysis and Commission's Decision

The Commission shall determine the remuneration and other allowances payable to the Electricity Ombudsman. Hence, if a retired High Court Judge or retired Secretary is appointed as Electricity Ombudsman, then the compensation would be decided accordingly by the Commission keeping the appointed persons in mind and all other relevant factors.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.8 Regulation 18.1: Powers and Duties of the Electricity Ombudsman

4.8.1 Proposed in draft CGRF & EO Regulations, 2020

“18.1 The Electricity Ombudsman shall have the following powers and duties:

(a) to receive from Complainants, representations against Orders of the Forum and consider such representations and facilitate their satisfaction or settlement by agreement, through conciliation and mediation between the Distribution Licensee and the Complainant or by passing an Order in accordance with these Regulations;

(b) to exercise general powers of superintendence and administrative control over his Secretariat/office, and be responsible for the conduct of business thereat;

(c) to incur expenditure on behalf of the office:

Provided that in order to exercise such power, the Electricity Ombudsman will draw up an annual budget for his office in consultation with the Commission and shall exercise the powers of expenditure within the approved budget;

(d) to discharge such functions as the Commission, may by order, direct or assign, from time to time.”

4.8.2 Comments received

Stakeholders have proposed to include functions and duties of Electricity Ombudsman, which are reflecting in different clauses of these Regulations.

4.8.3 Analysis and Commission's Decision

As discussed earlier, **the Commission has modified Regulation 18 as under:**

“18 The Electricity Ombudsman shall have the following powers and duties:

(a) to receive from Complainants, representations against Orders of the Forum and consider such representations and facilitate their satisfaction or settlement by agreement, through

conciliation and mediation between the Distribution Licensee and the Complainant or by passing an Order in accordance with these Regulations;

(b) to exercise general powers of superintendence and administrative control over his Secretariat/office, and be responsible for the conduct of business thereat;

(c) to incur expenditure on behalf of the office:

Provided that in order to exercise such power, the Electricity Ombudsman will draw up an annual budget for his office in consultation with the Commission and shall exercise the powers of expenditure within the approved budget;

(d) to conduct independent inquiry against the Chairperson and/or independent Member of the Forum in accordance with Regulation 4.7;

(e) to consult with the Forum regarding appointment of Independent Advisor in accordance with Regulation 4.7;

(f) to advise the Distribution Licensee on the creation of the web-based portal for submission of Grievances;

(g) to suggest measures for rationalizing the staff strength for the Fora, considering the changing circumstances due to digitization, e-hearings, etc.;

(h) to discharge such functions as the Commission, may by order, direct or assign, from time to time ”

4.9 Regulation 19.1 and 19.21 (a): Proceedings before Electricity Ombudsman

4.9.1 Proposed in draft CGRF & EO Regulations, 2020

“19.1 Any Complainant, who is aggrieved by the non-redressal of his Grievance by the Forum, may make a representation for redressal of his Grievance to the Electricity Ombudsman within sixty (60) days from the date of the Order of the Forum.”

“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 Electricity Ombudsman against the order of the Forum.”

4.9.2 Comments received

Several stakeholders suggested to amend the draft proviso by inserting the words “*Consumer shall directly or by through its Authorised Representative*”

Vidarbha Industries Association requested to add a phrase stating that the Complainant can approach the Ombudsman if no Order is issued after lapse of time period provided for issuance of Order by the Forum.

MSEDCL urged the Commission to enlarge the ambit of the Regulations and also permit the Licensee to make representation before Electricity Ombudsman against the Order of Forum. The Complainant has the option to appeal before Electricity Ombudsman, but the Licensee will have to approach Hon’ble High Court in writ jurisdiction. This facility hence, needs to be given to the Distribution Licensee also to avoid the expenses to file the suit before the High Court. Further, the outcome/decision/order of Electricity Ombudsman is faster as compared to High Court. In order to avoid unnecessary legal expenses and delay in issuing Orders and in the larger benefit of Licensee and consumers, it is suggested to modify the Regulations.

Several stakeholders submitted that Regulation 19 should provide for acceptance of Group Complaint by the Electricity Ombudsman for similar complaints. This would help in saving cost and time of Complainant and the decision would also be made in minimum time.

Shri Avinash Prabhune submitted that the Consumer Protection Act also has a provision of registering similar complaints, where there are numerous consumers having the same interest, with the permission of the District Forum. Accordingly, the same can be incorporated in the Regulations.

4.9.3 Analysis and Commission’s Decision

The Commission has provided flexibility in Regulation 19.3 of draft Regulations for submission of representation either in person or through post, email or fax. The Commission has also modified the Regulations to allow the Complainant to submit representation through authorised representative.

Regulation 19.21 (d) already specifies that the Electricity Ombudsman may entertain a representation in case of delay beyond specified timelines for issuance of Order by the Forum. Hence, there is no need to additionally include such phrase in the Regulation.

The Commission is of the opinion that allowing the Licensee to file a representation before the Electricity Ombudsman shall go against the intent of the Electricity Act, 2003, as elaborated in the Explanatory Memorandum.

The Commission has already covered the issue of filing group complaints in the previous Chapter. The Commission is of the opinion that quasi-judicial bodies like the Ombudsman are set up to give relief to individual consumers of the State. Hence, the representation needs to be filed individually before the Ombudsman, even if the complaints are similar in nature. The concept of filing group complaint has not been accepted by the Commission.

The proviso of Regulation 19.1 is incorrectly formatted as Regulation 19.2 in the draft CGRF & EO Regulations, 2020, which has been modified.

The Commission has modified Regulation 19.1 as under:

“19.1 Any Complainant, who is aggrieved by the non-redressal of his Grievance by the Forum, may, either directly or through his duly authorised representative, make a representation for redressal of his Grievance to the Electricity Ombudsman within sixty (60) days from the date of the Order of the Forum:

Provided that the Electricity Ombudsman may entertain a representation after the expiry of the said period of sixty (60) days if he/she is satisfied that there was sufficient cause for not filing it within the said period:

Provided further that the Complainant shall be responsible for all acts of omission and commission of his authorised representative”

The Commission has modified Regulation 19.18 (a) as under

“19.22 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 either directly or through his duly authorised representative or the Association representing the consumer/s;

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

4.10 Regulation 19.2 Submission of Representation to EO through web-based portal

4.10.1 Analysis and Commission’s Decision

The Commission is of the opinion that the Regulations should also provide for representation to be submitted before the Electricity Ombudsman through web-based portal in line with the provisions specified for submission of grievance before CGRF. Introducing a web-based portal would allow consumers to have easy access to information/updates regarding their representation filed before the Ombudsman. Accordingly, the Commission has included an

additional clause specifying that the option of web-based portal shall be allowed for filing representation before the Ombudsman.

The Commission has added Regulation 19.2 and modified Regulation 19.3 as under:

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

19.3 The representation may be submitted either in person or through post, email or fax or on the web-based portal of the Electricity Ombudsman”

4.11 Regulation 19.6: Fees payable by the consumer

4.11.1 Proposed in draft CGRF & EO Regulations, 2020

“19.6 The fees as may be directed by the Commission from time to time, shall be payable along with such representation for redressal of Grievance.:”

4.11.2 Comments received

Shri Suhas Khandekar submitted that on page 76 of the Explanatory Memorandum, the Commission has proposed to delete Regulation 17.9(g) of the CGRF & EO Regulations, 2006 regarding payment of fees. However, it is still appearing under this clause, and needs to be deleted.

4.11.3 Analysis and Commission’s Decision

The Commission agrees that Regulation 19.6 of the draft CGRF & EO Regulations, 2020 is inconsistent with the stated approach of the Commission to not levy fees for filing representation before the Electricity Ombudsman. Hence, this Regulation has been deleted.

4.12 Regulation 19.7: Call for records by Electricity Ombudsman

4.12.1 Proposed in draft CGRF & EO Regulations, 2020

“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.:”

4.12.2 Comments received

MSEDCL submitted that there should not be a mandatory provision to call for records from the Forum. Rather, it should be left to the EO to decide whether the records from Forum are to be

called or otherwise. Also, many times for convenience of the consumers, the EO may hold hearings at the CGRF location and hence, the records will be available at those locations itself.

4.12.3 Analysis and Commission's Decision

The Commission is of the opinion that the Forum should provide the necessary documents to the EO in a timely manner. The time period for providing the records has been specified keeping in mind the overall time taken for disposal of representation by the Ombudsman.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.13 Regulation 19.9: Time period for furnishing details

4.13.1 Proposed in draft CGRF & EO Regulations, 2020

“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.:”

4.13.2 Comments received

Vidarbha Industries Association submitted that the time period of 10 days should be specified to furnish the documents along with a copy to the consumer.

4.13.3 Analysis and Commission's Decision

The Commission is of the opinion that the EO should have the right to decide the time frame for the Licensee to furnish the documents, which may vary on case to case basis.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.14 Regulation 19.10: Mediation Process

4.14.1 Proposed in draft CGRF & EO Regulations, 2020

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

4.14.2 Comments received

Several stakeholders proposed that the new mediation process proposed in the draft CGRF & EO Regulations, 2020 at EO level is very complex in nature. This process will create pressure

on consumer to settle his dispute and accept the settlement lower than the actual receivable. The existing provision is perfect and needs no interference.

4.14.3 Analysis and Commission's Decision

The mediation and conciliation process were present in the existing Regulations but was never implemented due to lack of clarity and understanding. The Commission in the proposed draft CGRF & EO Regulations, 2020 has detailed the process of mediation and conciliation so that a greater number of cases can be resolved through this process and the time for grievance resolution is saved by all the parties involved. Therefore, the proposed clauses need to be included in the Regulations.

The Commission is of the view that the timeline for disposal of representation, irrespective of whether the case is resolved by mediation and conciliation or not, still remains the same. Hence there is no question of dragging the redressal process by introducing this mechanism.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.15 Regulation 19.17: Hearing through video conferencing mode

4.15.1 Proposed in draft CGRF & EO Regulations, 2020

“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:”

4.15.2 Comments received

Shri Samir Gandhi submitted that audio-video conferencing should be permitted at EO hearings immediately if requested by the consumer.

4.15.3 Analysis and Commission's Decision

The Commission finds merit in the suggestion that the Licensee should not have the option regarding hearing through audio-video conferencing facilities, as the Licensee being a corporate, would have access to these facilities. The Commission has therefore, modified the second proviso to Regulation 19.16 (Regulation 19.17 of draft Regulations) to that extent.

The Commission has modified Regulation 19.16 (19.17 of draft Regulations) as under:

“19.16 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 also that the hearing may also be held through video-conferencing or similar arrangements, as appropriate, provided the Complainant has access to such facilities:”

4.16 Regulation 19.18: Representation before Electricity Ombudsman

4.16.1 Proposed in draft CGRF & EO Regulations, 2020

“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 person may be debarred from appearing before the Electricity Ombudsman if he is found guilty of misconduct or any other malpractice at any time:”

4.16.2 Comments received

Some stakeholders submitted that the definition of misconduct/malpractice is necessary or otherwise the clause could have wrong effect. There should also be a provision for appeal in such case as it will be against the principles of natural justice and also the person providing the authorization should be held responsible.

Several stakeholders submitted that the bar on advocates to not represent before the EO should be removed, as such bar on Advocates is not provided anywhere in the EA 2003. It is objectionable and legally impermissible under subordinate legislation to bar Advocates from practicing law before the Forum/Electricity Ombudsman, in matters of quasi-judicial nature with unlimited pecuniary jurisdiction. It is matter of record that Advocates are professionals having requisite qualification and expertise in the field of Law, therefore, the condition of

barring such professionals and solely allowing other person to represent is unconstitutional and impermissible under any law.

The Commission has not considered that in majority of cases, misconduct or malpractice is being done by Licensee representatives. Persons other than advocates also may be permitted but only after due certification regarding expertise/experience in electricity sector by the Commission, Electricity Ombudsman and /or Forum, as may be decided. The Law Officer appearing on behalf of the Licensee is also holding the degree of law, hence, he should also be debarred from appearing before the EO.

Shri Suhas Khandekar submitted that the debarment of any authorised person for malpractice or misconduct cannot be done arbitrarily. There has to be a fair enquiry and the person has to be given a chance to defend himself, which needs to be specified in the Regulations.

Mumbai Grahak Panchayat submitted that it would be ultra-vires to the Constitution for such Consumer Bodies to represent the Licensee, hence, the words ‘any party’ in the Regulations may be replaced with ‘consumer’. Moreover, the Licensee should be represented by their Executive Engineer and the Nodal Officer as authorised herein. The Commission should issue Guidelines for appointment of Consumer Representatives including basis of qualification, experience in dispute resolution, knowledge of the subject, disqualification and they should submit a declaration to the Forum along with the application format provided in Schedule A or B hereto that he/she is not an Advocate and he possesses the required knowledge of the subject and expertise to represent the consumer.

4.16.3 Analysis and Commission’s Decision

In the draft CGRF & EO Regulations, the Commission had introduced an enabling clause to authorise Voluntary Consumer Organisations or Consumer Representatives or Consumer Advocacy Groups to appear before the EO, and there was a corresponding clause regarding debarment of such authorised persons in case found guilty of misconduct or any other malpractice.

However, after considering the comments received on the proposed clauses, the Commission is of the opinion that authorising selected entities for representing the Complainant may have undesirable consequences, as certain entities would be qualified and other entities may not be qualified. **The Commission has hence, deleted these provisos related to authorisation and debarment of such representatives.**

The Commission however in line with the clauses specified for representation before CGRF section has allowed both the parties to be represented by an authorised representative before the Electricity Ombudsman. The Commission has considered the provisions of Regulation 3 of Consumer Protection (Procedure for regulation of allowing appearance of Agents or

representatives or Non-Advocates or Voluntary Organisations before the Consumer Forum), Regulations, 2014 notified by the National Consumer Dispute Redressal Commission on 13th February 2014, while framing rules/guidelines for non-advocates appearing without accreditation before the Forum.

The conditions imposed on such representative are as under:

- (a) should appear on an individual case basis;
- (b) should have a pre-existing relationship with the Complainant (such as a relative, neighbour, business associate or personal friend);
- (c) should not receive any form of direct or indirect remuneration for appearing before the EO and should file a written declaration to that effect;
- (d) should demonstrate to the EO that he is competent to represent the party.

The Commission is concerned about the cost of litigation to the consumer and that such cost of litigation should not discourage the consumer to pursue his genuine grievance. Thus, the objective is to ensure that the consumer himself or a non-professional representative shall appear in such consumer grievance matters before the EO, without drawing any remuneration/compensation for their appearance. This is necessary to ensure that the cost of litigation is at minimum level.

The Commission has also added a clause specifying that the Electricity Ombudsman at his discretion may decide on the misconduct or failure to provide assistance to the Electricity Ombudsman by the authorised representative and accordingly disallow such representative to appear before the Ombudsman.

The authorisation of the representative is to be bound by the existing Acts/laws already in place. The Commission added a proviso stating that the representative is not allowed to withdraw the representation or claim any part thereof on behalf of the party without producing written consent from the party.

Separate clause has also been included in the Regulations that the party shall not be bound by the acts of the representative, where the Electricity Ombudsman is satisfied that such act adversely affects the interest of the party.

The condition of bar on advocates appearing before the EO is present in the existing CGRF & EO Regulations, 2006, and has not been newly proposed in the draft CGRF & EO Regulations, 2020.. Further, in view of the considered approach on representation by Advocates before the CGRF, the Commission feels that the same logic is squarely applicable for representation before the EO also.

The Commission has modified Regulation 19.17 (19.18 of draft Regulation) and added Regulation 19.18, 19.19 and 19.20 as under:

“19.17 Any party to any proceedings before the Electricity Ombudsman may either appear in person or authorise any representative 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, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

- (a) is appearing on an individual case basis;*
- (b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);*
- (c) is not receiving any form of, direct or indirect, remuneration for appearing before the Electricity Ombudsman and files a written declaration to that effect;*
- (d) demonstrates to the Electricity Ombudsman that he is competent to represent the party.*

19.18 The Electricity Ombudsman may within his discretion disallow any representative to appear before him in any case, for reasons to be recorded in writing, on account of breach of the terms of the undertaking or misconduct or failure in providing proper assistance to the Electricity Ombudsman.

19.19 Any party appearing through a representative, shall be bound by the acts or omissions of such representative:

Provided that such representative shall not be permitted to withdraw any complaint or claim or any part thereof on behalf of the party without producing written consent from the party allowing him for withdrawal of the complaint or claim or part thereof.

19.20 Any party shall not be bound by an act of any representative where it is shown to the satisfaction of the Electricity Ombudsman that the representative committed any act of fraud, which adversely affected interest of the party concerned.”

4.17 Regulation 19.19: Ex-parte Decision

4.17.1 Proposed in draft CGRF & EO Regulations, 2020

“19.19 Where any person who is a party to the proceedings before the Electricity Ombudsman fails to appear on the date of hearing as may be fixed in this behalf, the Electricity Ombudsman may decide the representation ex-parte:

Provided that no adjournment shall ordinarily be granted by the Electricity Ombudsman unless sufficient cause is shown and the reasons for the grant of adjournment have been recorded in writing by the Electricity Ombudsman.”

4.17.2 Comments received

Many stakeholders requested to delete Regulation 19.19 wherein the EO may decide the matter ex-parte in case any party fails to appear before the EO and the case is decided without hearing, as the proposed provisions hamper the fundamental rights of the consumers.

Shri Avinash Prabhune welcomed the provision for ex-parte decision. He added that if adjournment is sought by the Licensee and granted by EO, then costs of minimum Rs 2000/- or more per adjournment as deemed fit in the circumstances of each matter in the opinion of the EO, shall be paid to consumer by the Licensee. On the other hand, if such adjournment is sought by consumer, he shall be liable to pay Rs. 500 per adjournment.

4.17.3 Analysis and Commission's Decision

The clause is present in the existing CGRF & EO Regulations, 2006 also, and is not a new clause proposed in the draft CGRF & EO Regulations, 2020. Further, the intent of such clause is to prevent undue delays on account of adjournments due to non-appearance of either party, without genuine cause.

Granting adjournment is a discretionary power to the EO. The proviso also clearly specifies that adjournment shall ordinarily not be granted.

The Commission is of the opinion that allowing the defaulting party an additional opportunity to appear for hearing will directly affect the time period for disposal of the cases as specified in the Regulations. The Commission feels that it is the obligation of both parties to appear before the Ombudsman on the desired date.

As stated earlier, the provision to take ex-parte is prevalent in other Acts and is not against the principles of natural justice. Consumer Forums for timely redressal of complaints/grievances can resort to ex-parte decision as these Forums cannot wait for unlimited period for the party to respond to the Forum. Hence, the existing clause is retained.

The Commission has modified Regulation 19.21 (19.19 of draft Regulation) as under:

“19.21 Where any person who is a party to the proceedings before the Electricity Ombudsman fails to appear on the date of hearing as may be fixed in this behalf, the Electricity Ombudsman may decide the representation ex-parte:

Provided further that no adjournment shall ordinarily be granted by the Electricity Ombudsman unless sufficient cause is shown and the reasons for the grant of adjournment have been recorded in writing by the Electricity Ombudsman.”

4.18 Regulation 19.20: Representation before the Ombudsman

4.18.1 Proposed in draft CGRF & EO Regulations, 2020

“19.20 A Complainant, Distribution Licensee or any other person who is a 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.”

4.18.2 Comments received

MSEDCL and AEML submitted that Regulation 19.20 is a repetition of Regulation 19.18.

4.18.3 Analysis and Commission’s Decision

This clause is a repetition of Regulation 19.18. The Commission has hence, deleted this clause.

4.19 Regulation 19.21(h): Security Deposit Amount

4.19.1 Proposed in draft CGRF & EO Regulations, 2020

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

.... (h) 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.”

4.19.2 Comments received

Shri Dilipkumar Bhandari submitted that it is illegal to recover the amount of security deposit from consumers especially without giving chance of review. Also, the refund cheque should be in the name of Complainant and not in the name of the person who is registered with the Licensee.

4.19.3 Analysis and Commission’s Decision

The Commission is of the opinion that the Complainant can exercise the option of filing the Representation before the EO, irrespective of whether review has been allowed or filed. The scope for review is in any case, very limited. In case the Complainant files representation before the Ombudsman, he has to pay the security deposit amount. Incidentally, this requirement exists even in the existing CGRF & EO Regulations, 2006, even though there is no provision for review of the Forum’s Order. This requirement of depositing fifty percent of the amount that is required to be paid by him in terms of the order of the Forum or twenty-five thousand rupees, whichever is less, is specified, in order to discourage frivolous representations, filed with the intention of delaying the payment of due amount. If the EO rules in favour of the Complainant,

then the amount will be refunded, and if the EO rules against the Complainant, then the full amount is payable.

Regulation 20.4 specifies about the refund of the amount along with the applicable interest, in the name of the Complainant.

The Commission has, therefore, not made any modifications in the draft Regulations in this regard.

4.20 Regulation 19.24: Rejection of Representation

4.20.1 Proposed in draft CGRF & EO Regulations, 2020

“19.24 The Electricity Ombudsman may reject the representation at any stage, if it appears to him that the representation is:

(a) frivolous, vexatious, malafide;

(b) without any sufficient cause;

(c) there is no prima facie loss or damage or inconvenience caused to the Complainant:

Provided that the decision of the Electricity Ombudsman in this regard shall be final and binding on the consumer and the Distribution Licensee:

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

4.20.2 Comments received

AEML requested to add following sub-clause in the Regulation:

“(d) issue is complicated in nature such that the Grievance requires consideration of elaborate documentary and oral evidence and the proceedings before the Forum are not appropriate for adjudication of such representations.”

The above sub-clause is proposed to maintain consistency with the changes proposed in Regulation 7.9.

4.20.3 Analysis and Commission’s Decision

The Commission has already rejected the request to incorporate this clause in Regulation 7.9, as any issue cannot be rejected merely because it is complicated, or which requires elaborate documentary and oral evidence.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.21 Regulation 20.1: Time period for Redressal of Grievance

4.21.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.21.2 Comments received

Shri Avinash Prabhune and Others requested to reduce the time period for redressal to 45 days as per FOR Model Regulations, as the consumer has to already gone through a significant amount of time for resolution of complaint.

Vidarbha Industries Association suggested to include billing disputes under priority issues and reduce the time period for disposal of non-priority issues to 30 days.

NUPLLP requested to modify the time frame for disposal of priority issues to ‘15 working days’.

4.21.3 Analysis and Commission’s Decision

The Commission has detailed the reasons for retaining the time period for disposal of Order to 60 days in the Explanatory Memorandum. The Commission has proposed differential time period for priority issues and non-priority issues in the draft CGRF & EO Regulations, 2020 for issuance of Order by the EO in line with the differential time period provided to the Forum, and in line with the FOR recommendations. The Commission therefore, does not find it appropriate to reduce the time period for disposal of non-priority issues. The time period of 60 days is required by the EO to pass Orders. Further, as explained in the previous Chapter, billing disputes can be settled over a period of time and are compensated with interest, therefore, there is no need to categorize billing disputes as priority issues.

The Commission has slightly modified the timeline for priority issues from ‘15 days’ to 15 working days’, in line with the time period given to the Forum. Further, the Commission has

also included the word ‘re-connection’ in the above clause in accordance with the changes made in Regulation 5.2. Accordingly, **the Commission has modified Regulation 20.1 as under:**

“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) working days of receipt of the representation (for representation related to non-supply, connection, re-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 working days or 60 days, as applicable, the Electricity Ombudsman shall record, in writing, the reasons for the same.”

4.22 Regulation 20.4: Passing of Order by Ombudsman

4.22.1 Proposed in draft CGRF & EO Regulations, 2020

“20.4 The order passed by the Electricity Ombudsman shall set out -

(a) issue-wise decisions;

(b) reasons for passing the order; and

(c) directions, if any, to the Distribution Licensee or Complainant or any other order, deemed appropriate in the facts and circumstances of the case; and / or

(d) directions for adjustment or refund of amount or fees deposited in terms of Regulation 19.21(h); and/or

(e) directions to pay such amount as may be awarded by it as compensation to the Complainant for any loss or damage suffered by the consumer:

Provided, however, that in no case shall any Complainant be entitled to indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity.

(f) directions to pay such amount as compensation as specified by the Commission in the Standards of Performance of Distribution Licensees.”

4.22.2 Comments received

Mumbai Grahak Panchayat submitted that the process of grievance redressal is time consuming and if this amount is adjusted in future bills, the consumer needs to be compensated in terms of interest.

4.22.3 Analysis and Commission's Decision

The Commission agrees with the submission that the Complainant should be compensated with interest along with the principal amount due to the Complainant. In line with the dispensation for compensation to be awarded by the Forum, the Commission has added the clause that interest shall be paid at RBI Bank Rate on the amount of refund payable to the Complainant.

The Commission has modified Regulation 20.4 as under

“20.4 The order passed by the Electricity Ombudsman shall set out -

(a) issue-wise decisions;

(b) reasons for passing the order; and

(c) directions, if any, to the Distribution Licensee or Complainant or any other order, deemed appropriate in the facts and circumstances of the case; and / or

(d) directions for adjustment or refund of amount or fees deposited in terms of Regulation 19.21(h) along with interest, at the Bank Rate declared by the Reserve Bank of India prevailing during the relevant period; and/or.

(e) directions to pay such amount as may be awarded by it as compensation to the Complainant for any loss or damage suffered by the consumer:

Provided, however, that in no case shall any Complainant be entitled to indirect, consequential, incidental, punitive, or exemplary damages, loss of profits or opportunity.

(f) directions to pay such amount as compensation as specified by the Commission in the Standards of Performance of Distribution Licensees.”

4.23 Regulation 20.5: Orders issued by Ombudsman

4.23.1 Proposed in draft CGRF & EO Regulations, 2020

“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 Electricity Ombudsman shall be a reasoned and speaking Order and specifically mention the Regulations and Orders based on which its Order has been passed.”

4.23.2 Comments received

MSEDCL submitted that the Orders of the EO should be consistent not only with the Commission's Regulations and Orders but also with the provisions of the EA 2003, and Orders of Appellate Tribunal of Electricity and other Judicial Bodies such as CERC, High Court, and Supreme Court, etc., dealing with matters related to distribution and supply of electricity.

Several stakeholders submitted that the proposed Regulation 20.5, which binds the EO to follow the Regulations and Orders of the Commission, should be deleted. They submitted that any Order passed by the Commission is not final in nature and is appealable before APTEL, High Court and Supreme Court. It is also important to note that interpretation of any judicial or quasi-judicial order is the soul and essence of every judicial or quasi-judicial proceedings, hence, it cannot be said that the Commission's Orders or Regulations are not open to interpretation. Such provisions amount to taking judicial control under the garb of administrative discipline, which is not desirable, and is detrimental to speedy disposal.

4.23.3 Analysis and Commission's Decision

The EO draws its powers from the EA 2003 and Regulations notified by the Commission from time to time. Hence, it is necessary that the EO's Orders are in line with such Regulations and Orders issued by the Commission. The EO has to ensure that the consumer gets relief in case of any grievance due to incorrect interpretation of Regulations and Orders by Licensee. Therefore, any decision of the EO cannot go against the Regulations or the Orders of the Commission.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.24 Regulation 20.6: Guidance of the Commission

4.24.1 Proposed in draft CGRF & EO Regulations, 2020

"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."

4.24.2 Comments received

Several stakeholders suggested that the proposed requirement to refer issues to the Commission may be deleted, as this may stall the proceedings and delay the matter. The time frame for the Commission to dispose of such reference is not specified in the draft CGRF & EO Regulations, 2020. Such provisions amount to taking judicial control under the garb of administrative discipline, which is not desirable, and is detrimental to speedy disposal. The qualification of EO includes retired High Court Judge and the Members of the Commission are retired executive or judicial persons. It will not appropriate for a retired High Court Judge to seek consultation.

Some stakeholders submitted that the proposed clause may be retained if the consumer, Licensee and EO all agree to consult the Commission.

4.24.3 Analysis and Commission's Decision

The EO draws its powers from the EA 2003 and Regulations notified by the Commission from time to time. Hence, it is necessary that the EO's Orders are in line with such Regulations and Orders issued by the Commission. However, there could be issues, where the Regulations and/or Orders of the Commission may not be completely clear and may need to be interpreted. The draft CGRF & EO Regulations, 2020 proposed that the EO has to seek the Commission's guidance only when any issue is not fully covered in the Regulations or Orders of the Commission, as the EO cannot take any decision on such matters. Such guidance of the Commission is necessary in order to avoid any conflict with the existing Regulations/Orders of the Commission.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.25 Regulation 20.9: Compliance of Order of Electricity Ombudsman

4.25.1 Proposed in draft CGRF & EO Regulations, 2020

“20.9 An order passed or direction issued by the Electricity Ombudsman shall be binding on the parties so named in the order or direction and such order or direction shall be implemented or complied with by the Distribution Licensee or the person required by the order or direction to do so and within the time frame stipulated therein:

Provided that intimation of such compliance shall be made to the Electricity Ombudsman within the time frame stipulated in that regard therein.”

4.25.2 Comments received

Several stakeholders submitted that Regulation 20 should include additional clause stating that wherever there is no stay Order of the High Court, the Licensee should comply with the Orders of the Electricity Ombudsman within stipulated time.

4.25.3 Analysis and Commission's Decision

The Licensee is bound to follow the Orders of the EO. The Commission is of the opinion that merely filing a case in the Higher Court against the Order of the EO is not sufficient. Unless the Higher Court has stayed the Order of the EO, the concerned party will have to comply with and implement the directions of the Orders of the EO. This is settled position of law and need not be specifically mentioned in the Regulations.

The Commission has therefore, not made any modifications in the draft Regulations, in this regard.

4.26 Regulation 20.10: Non-compliance of the Order of the EO

4.26.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.26.2 Comments received

Shri Avinash Prabhune submitted that the concerned authority should verify and confirm non-compliance by giving opportunity to both parties, and if the final order/report regarding confirmation of non-compliance is sent by the concerned Authority to the Commission, then the Commission will not have to verify non-compliance. The Commission can then decide only on the issue of punishment under Sections 142 and 146 of the EA 2003. It is not feasible for the Complainant to pursue the matter at Mumbai for remedy for non-compliance for small claims of Rs 5000/- to Rs 10000/-.

4.26.3 Analysis and Commission’s Decision

The Commission is of the view that Section 142 of the EA 2003 refers to non-compliance of any directions by the Commission. The Commission is of the opinion that Section 146 also refers to punishment for non-compliance of Orders or directions, which is applicable in this case, hence, specific reference to Section 146 of the EA 2003 has been added along with Section 142 of EA 2003.

The Regulation clearly specifies that non-compliance will lead to violation of Regulations of the Commission and hence, action under Sections 142 and 146. The proceedings in this regard cannot be held by the EO and only the Commission can act against the Licensee. As regards the suggestion that the non-compliance may be decided by the EO, the Commission has to verify whether non-compliance of the Order of the EO has taken place or not and this task cannot be delegated to the EO.

The Commission has modified Regulation 20.10 as under

“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 Sections 142 and 146 of the Electricity Act, 2003.”

4.27 Regulation 20.11: Enforcement of the Order of the EO

4.27.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.27.2 Comments received

Shri Pratap Hogade, Maharashtra Textile Federation and Others submitted that Regulation 20.11 should be made applicable to Orders of the Forum. Also, the time period for filing should be increased to 90 days and the proviso should be deleted.

Another group of stakeholders submitted that the time period of 30 days to file for non-compliance is against the law, as no such time frame is provided in the EA 2003. In the event of execution of orders, the timeframe shall be governed by Limitation Act, being not inconsistent with EA 2003 and thus the order passed by CGRF or EO shall be governed by the decree of execution suit, which has time limit of 12 years in Limitation act. Consumer Protection Act has overriding effect and the Regulations should not be framed to the disadvantage of consumers.

Shri Suhas Khandekar suggested that the time period for approaching the Commission is too short, and no justification or reasoning is provided in the Explanatory Memorandum in this regard. This period should be six months.

4.27.3 Analysis and Commission's Decision

Regulation 20.11 provides for the event of non-compliance / non-implementation by the Distribution Licensee of any Order passed by the EO. The consumer has been given the right to approach the Commission 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 EO, whichever is later. The time period has been specified as 30 days, so that the Complainant can get early relief in case the Licensee does not comply with the Order of the Ombudsman. Hence, there is no reason for extending the time frame to 90 days or six months as such modification would adversely affecting the Complainant itself.

Also, the proviso in the Regulation is for the benefit of the consumer so that Licensee can be penalized with fines and penalties as the Commission may feel appropriate in cases of non-compliance. There is no justification for deleting this proviso.

The Commission has framed the Regulations in accordance with the provisions of the EA 2003. The Commission has termed non-compliance of Orders of the EO as non-compliance of the Regulations and specified to impose penalties under Section 142 (and now Section 146 also) of the Act. In case it is not complied within 30 days then consumer can approach the Commission filing a case against the Licensee for non-compliance. The Commission is of the opinion that the Limitation Act is not applicable in this case.

As regards the request to extend the same provisos to the Forum also, it is clarified that the treatment of non-compliance with the Forum's Orders are clearly specified in the Regulations. The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.28 Regulation 21: Power to remand matters to the Forum

4.28.1 Proposed in draft CGRF & EO Regulations, 2020

“21.1 Where the Forum has disposed of the Grievance and the order of the Forum is reversed or set aside in the proceedings before the Electricity Ombudsman, the Electricity Ombudsman may, if it thinks fit and necessary, by order remand the Grievance to the Forum.

21.2 The Electricity Ombudsman may further direct what issue or issues shall be decided in the Grievance so remanded, and shall send a copy of its order to the Forum from whose order the representation has been preferred to Electricity Ombudsman, with such directions as may be necessary to consider the Grievance and pass orders accordingly..”

4.28.2 Comments received

Vidarbha Industries Association requested to delete this clause.

4.28.3 Analysis and Commission's Decision

This clause is present in CGRF & EO Regulations, 2006. The Commission is of the opinion that in some cases the EO may have to remand the matter to the Forum, like in any court of law, where the higher court remands the matter back to the lower court with specific directions, if it feels necessary. Hence, the Commission is of the opinion that such enabling clause needs to be retained in the Regulations.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.29 Regulation 22.1: Review of Order of Electricity Ombudsman

4.29.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.29.2 Comments received

Several stakeholders submitted that Regulation 22.1 should be amended by not allowing the Distribution Licensee to file Review Petition, as the EO is for the benefit of the consumer and not for the benefit of the Distribution Licensee. By allowing such provision, the Distribution Licensee may take undue advantage and hence, there would be a delay in giving relief to the consumer.

Shri Avinash Prabhune welcomed the step to review the Orders of the EO. He suggested that the term ‘Appeal’ should be replaced with ‘Representation’ in view of the non-availability of the ‘Appeal’ provisions.

Some stakeholders submitted that the opportunity for review should be subject to 50% deposit of money. The time for implementation of Order shall be curtailed under such circumstances, as the process of review should not result in delaying the implementation of the Order.

Mumbai Grahak Panchayat submitted to include alternative dispute resolution by way of Mediation in this clause as provided in the Consumer Protection Act, 2019.

4.29.3 Analysis and Commission’s Decision

The option for review of the EO Order is present in the existing CGRF & EO Regulations, 2006 also. The Commission has clearly defined the specific and limited grounds on which review can be allowed/filed, hence, there is no question of any party taking undue advantage by filing the review and delaying the process. The Commission has clearly stated in the Explanatory Memorandum that the intent of allowing a review is to sort out issues like error apparent and discovery of new information, etc., to get resolved at the EO level itself rather than escalating to higher courts.

The Commission is of the view that giving an option of filing a review before the Ombudsman is ultimately for the benefit of the consumers as well as the Licensee. Both parties can save expenditure for approaching the Hon'ble High Court. While the Licensee can recover the cost of filing case before the Hon'ble High Court through ARR and tariff, the consumer has to pay the expenses for filing a case before the Hon'ble High Court from his own pocket. Hence, maintaining the clause of Review is more beneficial to the consumer than the Licensee. Such clause would definitely save time and money of the consumers if the Order is modified based on the grounds specified in the Review.

As far as allowing Distribution Licensee to file a review is concerned, the Commission is of the view that justice has to be fair to all parties. If an Order is passed, which is unfair to the Licensee but can be rectified on the grounds of review, then the Licensee should have the right to file a review on the Order of Ombudsman. The existing Regulation also allowed the Licensee to file a review before the Ombudsman. Hence, this clause is not additionally proposed in the draft Regulations.

The Commission has also made an inter-State comparison and observed that in the States where review is allowed, the option for review has been given to both the Licensee and the Complainant. Hence, the existing provisions are retained.

The 'Appeal' word has been correctly mentioned in the clause and refers to any appeal filed in any higher court of law by the consumer against the Order of the EO.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.30 Regulation 26.2: Necessary steps for implementation of Online Dispute Resolution (ODR)

4.30.1 Proposed in draft CGRF & EO Regulations, 2020

"26.2 The For a 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.”

4.30.2 Comments received

Mumbai Grahak Panchayat submitted that the above clause should also include number of matters disposed of through video conferencing and other means of Online Dispute Resolution (ODR). The stakeholder submitted that it is necessary to gather the data on ODR and to understand its popularity so as to initiate necessary steps to make it more user friendly and popular.

4.30.3 Analysis and Commission's Decision

The Commission in Regulation 19.2 has introduced the option of filing representation before the Ombudsman through web-based portal.

FOR has recently published a report on Consumer Protection in Electricity Sector in India at its 72nd meeting held through video conferencing. The FOR Report provides for some suggestions/best practises to be implemented with regards to consumer advocacy. The Commission has considered some of the suggestions made in the report and incorporated them in the Regulations. Accordingly, the Forum and the Ombudsman shall submit additional details at the time of submission of quarterly reports namely:

1. Consumer category-wise distribution of complaints
2. Consumer category-wise compensation awarded
3. Case-wise reasons for delay in disposal with respect to specified time

The above details shall be included with the details already specified in the draft Regulations. Providing the detailing of such information may lead to the further analysis on factors such as types of complaints, performance of the Licensee, performance of the Forum and the Ombudsman etc. so as the Commission may issue appropriate directions to appropriate bodies so as to rectify any failures observed in these reports,

The Commission has modified Regulation 26.2 as under:

“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) Consumer category-wise distribution of complaints;*
- (b) Number of Cases disposed within specified time;*
- (c) Consumer category-wise compensation awarded;*
- (d) Case-wise reasons for delay in disposal with respect to specified time;*
- (e) Compliance with requirement of number of sittings in each area;*
- (f) Vacancies and duration of vacancies;*
- (g) Number of Orders appealed against;*
- (h) Number of Orders set aside by the Electricity Ombudsman;*
- (i) Number of Cases where compliance of Order has been recorded;*
- (j) Consumer advocacy workshops conducted by the Forum;*
- (k) New local initiatives.”*

4.31 Regulation 26.6: Non-performance of CGRF

4.31.1 Proposed in draft CGRF & EO Regulations, 2020

“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.”

4.31.2 Comments received

Mumbai Grahak Panchayat submitted that Consumer Advocacy Cell (CAC) has been constituted for the purpose of capacity building. The performance assessment of the Forum should be left to the EO rather than the CAC.

4.31.3 Analysis and Commission’s Decision

The Commission is of the opinion that the performance of the Forum should be assessed by the CAC, which is directly under the control of the Commission. There is no need to replace the

same by Ombudsman. Also, performance assessment of the Forum has been specified under the functions of CAC, under Regulation 29.5.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

4.32 Regulation 26.8: Consumer Satisfaction Survey

4.32.1 Analysis and Commission's Decision

As stated earlier, the Commission has included few of the suggestions made by the FOR in its Report published during the 72nd meeting. Accordingly, the Commission has added the clause for conducting consumer satisfaction survey by the Licensee, through an independent third party. The survey shall include objections/suggestions/recommendations of consumers related to power quality, service, billing and payment, information availability, and complaint handling.

The Commission has included a proviso stating that the questionnaire for the survey shall be finalized in consultation with the Consumer Advocacy Cell established within the Commission.

The Commission has added Regulation 26.8 as under:

“26.8 Each Distribution Licensee shall undertake a consumer satisfaction survey, once in every two (2) years, through an independent third-party agency:

Provided that the first such survey shall be undertaken within one (1) year of notification of these Regulations:

Provided further that such survey shall cover the entire licence area and inter-alia address parameters related to power quality, service, billing and payment, information availability, and complaint handling:

Provided also that the survey sample and questionnaire shall be finalised in consultation with the Consumer Advocacy Cell established within the Commission.”

5 Consumer Advocacy

5.1 Regulation 29: Consumer Advocacy Cell and Consumer Representative

5.1.1 Proposed in Draft CGRF & EO Regulations, 2020

“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 Fora 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.”

5.1.2 Comments Received

Some stakeholders submitted that Regulation 29 should specify complete details of the formation of the Consumer Advocacy Cell (CAC) and its duties, functions and powers including selection criteria, procedure of selection, tenure, supervision, working, jurisdiction, remuneration, powers of superintendence and making suggestions, funding, accounts, etc. Details regarding formation of Cell, its relationship with the Forum and EO, its control over the Forum, its rights and services should be specified in the Regulations. Presently there is no CAC in the Commission. As per Section 94.3 of the EA 2003, any consumer or association cannot be a representative before the Commission. In such case, the Commission should clarify the manner in which the CAC can be established at EO level.

Shri Samir Gandhi submitted that CAC should be very transparent and the procedure to get registered as CAC should be made public through advertisement. Also, funds and accounts of CAC should be published.

MSEDCL suggested that Regulations should be modified by inserting the words consumers/consumer representatives instead of Authorized Consumer Representative, which are not defined in the Draft Regulations.

5.1.3 Analysis and Commission's Decision

The Commission is of view that the details provided in the Regulations regarding CAC are sufficient. If required, the Commission shall issue a separate Order / Practice Direction at a later stage, giving the details of CAC, including selection of Members of CAC, etc.

The Commission clarifies that the CAC shall be created at two different levels of the redressal mechanism. The Tier-1 CAC will be attached to the office of the Ombudsman while the Tier-2 CAC will be attached to the office of the Commission:

1. Tier-1 CAC – Office of the Electricity Ombudsman (2 offices, viz., Nagpur and Mumbai)
2. Tier-2 CAC – Office of the Commission (One office in Mumbai)

The functions of the CAC specified in Regulation 29.5 of the draft CGRF & EO Regulations, 2020 are for the Tier-2 CAC, which shall not have supervisory powers over the CGRFs.

Tier-2 CAC is the one existing within the Office of the Commission, comprising officers of the Commission. The names and contact details of the officers of the Commission who are part of the CAC shall be provided on the Commission's website.

The Tier-2 CAC shall be functioning in advisory role to the Commission. The Tier-2 CAC will be analysing the data/information submitted by the CGRF and Electricity Ombudsman and accordingly will be advising the Commission to take appropriate necessary action whenever

required.

The draft CGRF & EO Regulations clearly specify that the Commission shall budget the funds for CAC and the EO shall allocate the funds from the Budget. So, there is sufficient accountability for funds.

The term "*Authorised Consumer Representative*" has not been used anywhere else in the Regulations, hence, the Commission has replaced the term "*Authorised Consumer Representative*" with "*Consumer Representative*" in the Regulations. Accordingly, the clause has been modified as under:

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

The Commission has modified the sub-clause (c) of Regulation 29.5 stating that the improvements in the Regulations shall be suggested by the CAC based on the reports submitted by the Fora and the Ombudsman and the consumer satisfaction survey conducted by the Licensee. The modified sub-clause is as below:

(c) Advise the Commission on improvements to be made in the Regulations based on review of reports submitted by the Fora and Electricity Ombudsman and the results of the consumer satisfaction survey conducted periodically by the Distribution Licensees;

Further, as stated earlier, the Commission has added the following sub-clause to Regulation 29.5, for ensuring consistency with the role envisaged for the CAC in relation to creation of the web-based portal:

"(f) Advise the Distribution Licensee on the creation of the web-based portal for submission of Grievances"

The Commission has included an additional sub-clause (g) in Regulation 29.5 to be consistent with the Regulation 26.8, which specifies that the CAC shall advise/consult the Licensee while conducting the consumer satisfaction survey once in every two years. The sub-clause added is as below.

"(g) Advise the Distribution Licensee on the consumer satisfaction survey to be undertaken once in every two (2) years."

The Commission has modified Regulation 29.1 to 29.6 as under:

"29.1 A Consumer Advocacy Cell may be instituted and funded by the Commission at each Electricity Ombudsman's office for capacity building of 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 established within the Commission shall also perform the following additional functions:

(a) Evaluate the performance of the various Fora and Electricity Ombudsman 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 Fora and the Electricity Ombudsman

(c) Advise the Commission on improvements to be made in the Regulations based on review of reports submitted by the Fora and Electricity Ombudsman and the results of the consumer satisfaction survey conducted periodically by the Distribution Licensees;

(d) Analysis of reports submitted by the Distribution Licensee with regard to levels of performance achieved with respect to Standards of Performance of Distribution Licensees;

(e) Taking feedback of the consumers on the performance of the respective Forum

(f) Advise the Distribution Licensee on the creation of the web-based portal for submission of Grievances;

(g) Advise the Distribution Licensee on the consumer satisfaction survey to be undertaken once in every two (2) years”

6 Miscellaneous

6.1 Regulation 33: Power to amend

6.1.1 Proposed in draft CGRF & EO Regulations, 2020

“The Commission may, at any time vary, alter, modify or amend by notification any provision of these Regulations.”

6.1.2 Comments received

Mumbai Grahak Panchayat submitted that the Commission should invite comments from the Consumers and Industry Experts before implementing any alteration, amendments or modification.

6.1.3 Analysis and Commission’s Decision

The Commission is of the opinion that the Regulations are subordinate legislations and have the power of law. Any amendment to the Regulations can only be undertaken after following the due process of prior publication and inviting comments from stakeholders. Hence, it is not required to specify the same.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7 Additional Points

7.1 Appeal against the Order of the Ombudsman

7.1.1 Comments received

Shri Sunil Jacob submitted that if the Order of EO is challenged by the Distribution Licensee in the High Court, then EO should represent the consumers in the High Court. Consumers do not have the experience of arguing in the High Court and cannot bear the expenses for fighting the case. On the other hand, Distribution Licensee can fight the case and bear the expenses for filing before High Court.

7.1.2 Analysis and Commission's Decision

The Commission is of the opinion that the EO is a separate quasi-judicial body, and therefore, cannot represent the consumers before the High Court. Lower Court Judges do not represent the applicant before the higher Court.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.2 Language of Proceeding

7.2.1 Comments received

Shri Dilipkumar Bhandari suggested that the entire process should be carried out in Marathi if the consumer has filed the case in Marathi. Sometimes, on purpose, the cases are dealt in English, which is not understandable to the consumer and hence, justice is denied to the consumers.

7.2.2 Analysis and Commission's Decision

The Regulation specifies that the Order of the Forum shall be either in English or Marathi as decided by the Forum.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.3 Separate format to be notified for filing Review

7.3.1 Comments received

Shri Dilipkumar Bhandari suggested that the Regulations should provide clarity on the filing of review and hence, the format for filing review before the Forum/EO may be specified.

7.3.2 Analysis and Commission's Decision

The Commission is of the view that the Regulations clearly specify the grounds of review and there is no requirement for providing the format for filing review before the Forum and EO.

7.4 Time Period for filing Objections

7.4.1 Comments received

Shri Dilipkumar Bhandari submitted that time period for filing objections and suggestions on the draft CGRF & EO Regulations, 2020 should be at least four months. Some other stakeholders submitted that the time period for giving comments should be extended beyond 17 June, 2020.

Shri Arun Waghmare submitted that the Regulations should not have been published during the lockdown period as consumers did not have access to newspapers. The Commission should separately call for comments after lifting of all the restrictions in the country as most people were not able to register their comments due to lockdown.

7.4.2 Analysis and Commission's Decision

The draft CGRF & EO Regulations, 2020 were published on 17 May 2020. The Commission had initially provided a time period of 30 days for inviting comments/suggestions/objections on the draft CGRF & EO Regulations, 2020. Hence, the original last date for submission of comments was 17 June 2020. Based on the request made by several objectors, the Commission extended the time period till 30 June 2020. The Commission has therefore, extended the time period to almost 45 days considering the pandemic situation, which is more than sufficient.

The Commission does not agree that consumers were not able to register their objections/suggestions due to lockdown in the Country. The Commission has notified the draft CGRF & EO Regulations, 2020 on its website and the consumers were allowed to file their objections online through e-mail. Such options were exercised by the consumers for filing of objections even during the lockdown. Comments and suggestions have been received from 165 stakeholders.

7.5 To wait till finalisation of the amendments to the EA 2003

7.5.1 Comments received

Shri Hemant Kapadia submitted that the Central Government has recently published the Draft Amendment to the EA 2003. One of the amendments proposed relates to selection of Members on quasi-judicial body. In such circumstances, it is advisable to await till the finalization of EA 2003 as the Regulations need to be in accordance with the provision of Electricity Act.

7.5.2 Analysis and Commission's Decision

The Commission is of view that the amendment to EA 2003 is an ongoing process and it would not be appropriate to wait for amending the CGRF & EO Regulations. The existing Regulations have been in force since the last 14 years and it is necessary to amend it based on the developments in the sector.

7.6 Suo-Motu powers to the Commission

7.6.1 Comments received

MSEDCL submitted that Regulation 32 of the MERC (Conduct of Business) Regulations, 2004 empowers the Commission to initiate suo-motu proceedings. In order to prevent irregularities in the Orders of the Forum or EO and to give complete justice on any given matter, it is necessary to incorporate suitable provisions in the Regulations. The Commission should have powers to issue appropriate Orders in the interest of justice in case if there is violation of legal provisions, public representations/agitation or inordinate delay in delivering justice. Therefore, the Commission should introduce new clause after Regulation 29 to specify the inherent power of the Commission, as follows:

“Suo Motu Powers of the Commission:

- i) The Commission shall have the power to take suo motu cognizance of any matter that is pending before or has been disposed of by the Ombudsman, where it deems fit to do so. The Commission may, where it exercises its powers under this Regulation, pass orders reversing the orders of the Ombudsman:*

Provided that the Commission shall not reverse the orders of the Ombudsman or take cognizance of a dispute pending before the Ombudsman unless it makes a reasoned order in writing to that effect:

- ii) Where the Commission takes cognizance of a dispute pending before the Ombudsman under clause (i) above, the Ombudsman shall not pass any further orders in regard to the matter, and the matter shall be decided finally by the Commission:*
- iii) The Commission shall have the same powers and functions as the Ombudsman under these Regulations in relation to any matter over which it takes suo motu cognizance. Provided, however, that the Commission may by order confer upon itself additional powers as may be necessary for it to effectively decide any matter of which it has taken suo motu cognizance under this Regulation.”*

7.6.2 Analysis and Commission's Decision

The Commission has specified in Regulations 8.12 and 19.22 of the draft Regulations that the Commission may direct the Forum and EO, respectively, to take up any matter within their respective jurisdictions, as under:

“8.17 The Commission may direct the concerned Forum, in writing and with reasons, to take up any matter, provided that the same falls within the jurisdiction of the Forum.”

“19.23 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.”

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.7 Distinction between Complaint and Grievance

7.7.1 Comments received

MSEDCL submitted that the complaint handling system and grievance handling system are different and distinct. Complaint means a statement that something is wrong or not satisfactory. In service industry, the customers complain whenever there is any shortfall of service. MSEDCL has its own complaint handling system. Any unaddressed complaint or sustained lack of service leads to grievance. A grievance is the formal dispute between two parties on certain conditions, any dissatisfaction or feeling of injustice. Grievances are complaints that have been formally registered in accordance with the grievance procedure. Hence, each complaint cannot be considered as grievance.

7.7.2 Analysis and Commission's Decision

The Commission has referred to the term 'complaint' while introducing the clause of ICRM of the Distribution Licensee. Hence, there is no confusion in the said word. While referring to the Forum, the term 'grievance' is used and for EO, the term 'representation' is used.

The Commission has also clarified in this Statement of Reasons that even if the complaint is registered in the ICRM, the same complaint cannot be forwarded to the Forum and the complainant has to be registered as grievance separately before the Forum.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.8 Explanatory Memorandum in Marathi

7.8.1 Comments received

Shri Balu Madne and others submitted that the Explanatory Memorandum needs to be published in Marathi and after that, a time period of 30 days should be given to the consumers to give their comments.

7.8.2 Analysis and Commission's Decision

The Commission is of the opinion that the Explanatory Memorandum and Statement of Reasons are published by the Commission for better understanding of the draft and final Regulations, respectively. Hence, these documents are optional and not mandated to be published by the Commission under any Act or Regulations. Therefore, there is no compulsion on the Commission to publish it in Marathi. Also, as per Conduct of Business Regulations, the official language of the Commission is English and therefore, these documents are published in English language. The Commission for the larger benefit of the consumers has already published the draft Regulations in Marathi.

7.9 Inspection and financial audit of Forum and Commission

7.9.1 Comments received

Several stakeholders submitted that inspection and financial audit of the Forum should be done every year.

7.9.2 Analysis and Commission's Decision

The Commission has proposed in the draft CGRF & EO Regulations, 2020 that the Forum shall be continuously monitored by the EO and the Commission through quarterly reports. Further, the Forum has been made financially independent of the Licensee by allocating a standard budget. Remuneration of the Members shall also be decided by the Commission. Since, the Commission has increased the overall superintendence, there is no need to conduct an audit of the Forum.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.10 Review of implementation of Regulations

7.10.1 Comments received

Prayas submitted that the Commission should undertake review of implementation of these Regulations once in every six months period, at least for first couple of years. This will ensure

that many pro-consumer provisions in the Regulation are implemented smoothly and without delay.

7.10.2 Analysis and Commission's Decision

The Commission has already included the clauses of submitting quarterly reports to the Commission by the Forum and the EO in Regulation 26 of draft CGRF & EO Regulations, 2020. Based on these reports, the Commission shall ensure the efficient and effective working of the Forum and EO. The relevant extract of the Regulation is as under:

“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) Consumer category-wise distribution of complaints;*
- (b) Number of Cases disposed within specified time;*
- (c) Consumer category-wise compensation awarded;*
- (d) Case-wise reasons for delay in disposal with respect to specified time;*
- (e) Compliance with requirement of number of sittings in each area;*
- (f) Vacancies and duration of vacancies;*
- (g) Number of Orders appealed against;*
- (h) Number of Orders set aside by the Electricity Ombudsman;*
- (i) Number of Cases where compliance of Order has been recorded;*
- (j) Consumer advocacy workshops conducted by the Forum;*
- (k) New local initiatives. “*

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.11 Regulations in Marathi

7.11.1 Comments received

Grahak Panchayat Maharashtra and others submitted that the Commission has published Draft Regulations in English and asked for inviting comments in Marathi. All the documents related

to the Commission should be published in Marathi. Also, additional time should be given to the public for giving comments once published.

7.11.2 Analysis and Commission's Decision

The Commission has already provided the draft CGRF & EO Regulations, 2020 in Marathi on its website for inviting comments, and also extended the time period for submission of comments and suggestions.

7.12 Schedule A and B

7.12.1 Comments received

Mumbai Grahak Panchayat submitted that the Consumer Protection Act, 2019 provides for alternative dispute resolution by way of Mediation. Electricity Consumers can file a complaint before the Consumer Commissions under the said Act. Hence, the Commission is requested to add the following clause:

“The subject matter of my/our Grievance has not been decided by any competent authority/court/arbitrator/conciliator/ mediator and is not pending before any such authority / court / arbitrator/conciliator /mediator.”

7.12.2 Analysis and Commission's Decision

The existing clause covers all the disputes under any court of law where the matter is sub-judice. Hence, there is no need to mention mediation and conciliation, which is a process allowed under Consumer Protection Act, 2019 separately for resolution of disputes.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.13 Online Dispute Resolution (ODR) system

7.13.1 Comments received

Mumbai Grahak Panchayat submitted that Online Dispute Resolution system should be provided, and Guidelines should be framed in this regard. Presently, Pen Circle has been removed from the Kalyan Zone and is included in Bhandup Zone, while Ratnagiri Zone has been merged with Kolhapur Zone. It may be difficult for the consumers from Sindhudurg and Ratnagiri to travel up to Kolhapur for seeking redressal. In such cases, Online Dispute Resolution is the best solution.

7.13.2 Analysis and Commission's Decision

The Commission has proposed clubbing of CGRF based on the number of cases filed before some of the CGRFs. However, merging of CGRFs shall not hamper the reach of CGRFs to every single consumer in the licence area of the Distribution Licensee. Also, the Commission has enabled such merger in the CGRF & EO Regulations, with the condition that the prevailing CGRFs shall hold at least one sitting on a rotational basis in each distribution zone.

Further, Regulation 8.7 of draft CGRF & EO Regulations, 2020 provides for online hearing through video conferencing. Hence, the consumer may not have to necessarily travel to CGRF Office for redressal of grievance.

The Commission has therefore, not made any modifications in the draft Regulations in this regard.

7.14 Defending before the Forum/Ombudsman

7.14.1 Comments received

Shri Dilipkumar Bhandari submitted that the consumer should be allowed to represent his case through an authorised representative having knowledge of Regulations, as the consumers are not familiar with all the facts/Rules/Regulations to represent their own case before the Authority.

7.14.2 Analysis and Commission's Decision

Regulations 8.10 and 19.17 of the final Regulations specify that the Complainant can authorise any person to appear before the Forum and EO, respectively. Hence, the Complainant can authorise a person who is familiar with the facts/Rules/Regulations to represent his case, in case the Complainant feels that he is not competent to appear before the Forum/EO or he has any difficulty in appearing before the Forum/EO.

The relevant clauses of Regulation 8.10 and 19.17 is modified as under:

“8.10 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 representative 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, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

(a) is appearing on an individual case basis;

(b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);

(c) is not receiving any form of, direct or indirect, remuneration for appearing before the Forum and files a written declaration to that effect;

(d) demonstrates to the Forum that he is competent to represent the party..”

“19.17 Any party to any proceedings before the Electricity Ombudsman may either appear in person or authorise any representative 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, subject to production of duly authenticated authorisation made by the party in favour of such representative, and subject to the condition that he, -

(a) is appearing on an individual case basis;

(b) has a pre-existing relationship with the Complainant (such as: a relative, neighbour, business associate or personal friend);

(c) is not receiving any form of, direct or indirect, remuneration for appearing before the Electricity Ombudsman and files a written declaration to that effect;

(d) demonstrates to the Electricity Ombudsman that he is competent to represent the party.”

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I.M. Bohari)
Member**

**Sd/-
(Anand Kulkarni)
Chairperson**

Annexure I

Sl. No.	Name of Stakeholder
1.	Shri Bhanudas Murkute, Ex. MLA
2.	Adv. Gouri Chandrayan (Akhil Bhartiya Grahak Panchayat)
3.	Shri Pratap Hogade (Maharashtra Veej Grahak Sanghatana)
4.	Shri Nitin Subhash Tarlekar (Greige Cloth Manufacturer and Supplier)
5.	Shri Dhairsheel Bhosale, Surindar Ambardar (Manufacturers Association Of Satara)
6.	Shri Vikrant Bhagwat
7.	Shri Abhishek Khandagale
8.	Shri Appasaheb Dushing
9.	Shri Sanjay Morge
10.	Shri Vijaykumar Marlecha
11.	Shri Vijay Yashwant Bhamburkar
12.	Shri Mandar Purnpatre
13.	Shri Vipul Patil
14.	Shri Pramod Khandagale
15.	Shri Anil Mahajan
16.	Shri Pradeep Saggam
17.	Shri Vishnu Kamalapurkar
18.	Shri Appasaheb Dushing (Lokseva Vikas Aaghadi)
19.	Shri J S Rajpoot
20.	Shri Amarnath Patil (M/s.P.R.Electricals)
21.	Shri Ambadas Pawar (Maharashtra Veej Grahak Sanghatana, Shegaon)
22.	Shri Ashok Ganpat Nirgulkar
23.	Shri Hari Jumde
24.	Shri Vilas Prataprao Shinde
25.	Shri Pradeep Yadav
26.	Shri Shamsunder Mandhana
27.	Shri Pramod Karande
28.	Adv. Pirthviraj Chavan (Jagran Manch, Shrirampur)
29.	Shri Shrikant Daithankar
30.	Shri Rajendra Gadade
31.	Shri Surana Solar Solution
32.	Shri Samir R. Gandhi
33.	Shri Santosh Kadu
34.	Shri Sachin More
35.	Shri Shashikant Wakade (Bhargav Enterprises, Honeywell Automation India Ltd)
36.	Shri Amit Patani (Heera Solar Power, Aurangabad)
37.	Dr. Anant Fadake
38.	Shri Love Shankarrao Shinde (Ashok Sahakari Sakhar Karkhana, Shrirampur)
39.	Shri Santoshkumar Pujari
40.	Shri Santosh Singh Pujari (M/s Ultra Power Solutions)
41.	Shri Sudhakar Narayan Kulkarni
42.	Shri N.D.Patil (Maharashtra Rajya Irrigation Federation Kolhapur)
43.	Shri S.M. Ingalkar
44.	Shri Samir Gandhi
45.	Shri Balu Madne

Sl. No.	Name of Stakeholder
46.	Shri Aparna Karmarkar
47.	Shri Mahesh Dudhalkar
48.	Shri Deepak Balkrushna Tade (Maharashtra Veej Grahak Sanghatana, Sangrampur)
49.	Shri B.V. Betal
50.	Shri Uday Sathe
51.	Shri Sunil Jacob
52.	Shri Pradeep Pathak
53.	Shri Narendra Shindekar
54.	Shri Suhas Pansare (M/s Rely on Solar Pvt. Ltd.)
55.	Shri Gaurav Salvi (M/s Omnipresent Energy Solutions Pvt. Ltd)
56.	Shri Prakash Soman
57.	Shri Nilesh Pathak
58.	Shri Shuklendra Soman
59.	Shri Sandeep Uttarde
60.	Shri Yatish Devadiga
61.	Shri Arun Waghmare (Grahak Panchyayat Maharashtra, Nanded)
62.	Shri Pavan Polsani
63.	Shri Nainesh Dolas
64.	Shri Sudhakar Narayan Kulkarni
65.	Shri B.Madne
66.	Shri Ravindra Patil
67.	Shri Abhijeet Baravkar
68.	Shri Sagar Jadhav
69.	Shri Pratap Hogade (Maharashtra Veej Grahak Sanghatana)
70.	Shri Chandrashekar Yadav
71.	Shri R.K. Patil (Karvir Taluka Irrigation Federation)
72.	Shri Vikrant Patil- Kinikar (Kolhapur Jilha Irrigation Federation)
73.	Shri Bhagwant Bhagat
74.	Shri Tilokchand Singhavi
75.	Shri K.C. Karkar
76.	Shri Uddhav Jadhav
77.	Shri Sarjerao Jadhav (Grahak Panchyayat Maharashtra, Indapur)
78.	Adv. Nishant Patil
79.	Shri Madhav Vinayak Vaidya
80.	Shri Tushar Zende
81.	Shri Vishnu Gaikwad
82.	Adv. Dilip Bhawe (Grahak Panchyayat Maharashtra, Ratnagiri)
83.	Shri Jugal Rathi
84.	Shri Dhananjay Gaikwad (Akhil Bhartiya Grahak Panchyayat Pune)
85.	Shri Madhusudansingh Chouhan (Chairperson CGRF Gondia)
86.	Shri Milind Deshpande
87.	Shri Shushant Kalekar
88.	Sandip Nalage
89.	Shri Babasaheb Shivajirao Jagtap
90.	Shri Rajendra Suryvanshi (Akhil Bhartiya Grahak Panchyayat Sangli)
91.	Shri Prasad Bole (HPCL)
92.	Ms. Pushpa Patil

Sl. No.	Name of Stakeholder
93.	Shri Deepak Bandgar
94.	Shri Malhari Kulkarni
95.	Shri Sandeep Jangam
96.	Shri Ravikant Kulkarni
97.	Shri Kiran Kulkarni
98.	Shri Suhas Gurav
99.	Shri Kundlik Shisekar (Akhil Bhartiya Grahak Panchayat, Bhudargad)
100.	Shri Hemant Thakade (Akhil Bhartiya Grahak Panchayat, Bhudargad)
101.	Shri Vishvanath Potdar (Akhil Bhartiya Grahak Panchayat, Gaganbawda)
102.	Shri Laxmidsas Joshi (Akhil Bhartiya Grahak Panchayat, Kolhapur)
103.	Shri Ashok Swami & Ramchandra Marathe (Maharashtra State Textile Federation, Mumbai)
104.	Adv. Vijay Kulkarni (Akhil Bhartiya Grahak Panchayat, Barshi)
105.	Shri Ajay Bhosarekar (Akhil Bhartiya Grahak Panchayat, Latur)
106.	Shri Pandurang Dhondpude (Kolhapur Jilha Sahakar Powerloom Association)
107.	Shri Keshav Bhat
108.	Shri Ramesh Takalkar (Grahak Panchayat, Pune)
109.	Shri Amogh Pendharkar
110.	Shri Mansing Ganpati Yadav
111.	Shri Bhimrao Kamble (Grahak Panchayat, Karmala)
112.	Shri Sharadchandra P Banait
113.	Shri A. V. Padhye (Akhil Bharatiya Grahak Panchayat, Sangameshwar)
114.	Shri Dilip Patil (Grahak Panchayat, Satara)
115.	Shri T.N. Agrawal (M/s.T. N. Agrawal & Co.)
116.	Shri Ajim Gulam Khan
117.	Shri Satish Shah (Chartered Engineer (India), FIE)
118.	Shri Rajendra Gadage (Grahak Panchayat, Mohol)
119.	Shri Sudesh Shetye (Association of Small & Medium Newspapers of India)
120.	Shri Tanaji Patil (Grahak Panchayat, Kagal)
121.	Shri Shashikant Haridas (Grahak Panchayat, Solapur)
122.	Shri Rohit Bandgar
123.	Shri Ramesh Rajaram Patil (Grahak Panchayat, Radhanagari, Bhudargad, Kagal)
124.	Shri Dayanand Sutar (Grahak Panchayat, Bhudargad)
125.	Shri Avinash Vinayak Prabhune (Ex. Authorised Consumer Representative)
126.	Shri Fulaji Khaire
127.	Shri Arun Yadav (Grahak Panchayat, Kolhapur)
128.	Ms. Damayanti Jamadar (Grahak Panchayat, Karvir)
129.	Shri Shantanu Dixit (Prayas (Energy Gorup))
130.	Shri Ravindra Deshmukh (M/s Nirmal Textile, Kondhali)
131.	Ms. Manali Madan Smarth (Grahak Panchayat, Bhudargad)
132.	Ms Sanjivani Sutar (Grahak Panchayat, Bhudargad)
133.	Shri Jagannath Joshi
134.	Shri Sagar Pawar (Grahak Panchayat, Bhudargad)
135.	Shri Arun Bhargave, Shri Sudhir Katkar, Shri Dattaji Shelake and Adv. Surendra Sonawane (Grahak Panchayat Maharashtra, Nashik Mahanagar)
136.	Adv. Vrushali Pradhan
137.	Shri Arun Bhargave (Grahak Panchayat Maharashtra, Nashik Division)

Sl. No.	Name of Stakeholder
138.	Shri Sudhakar Narayan Kulkarni
139.	Adv. Surendra Sonawane (Grahak Panchayat Maharashtra, Nashik Mahanagar)
140.	Shri Dilipkumar Bhandari
141.	Shri Manish Bhadang
142.	Shri Ashish Chanarana and Shri Bharat Agrawal (Ex. Authorised Consumer Representative)
143.	Shri Shirish Deshpande (Mumbai Grahak Panchayat)
144.	Shri Balu Madne
145.	Shri Suhas Khandekar
146.	Shri Naveen Varma (Nidar Utilities Panvel LLP)
147.	Shri Peyush Tandon (The Tata Power Company Limited)
148.	Shri Kishor Patil (Adani Electricity Mumbai Limited)
149.	Shri R B Goenka (Vidarbha Industries Association)
150.	Shri Sachin Chordiya (Jalgaon Industries Association)
151.	Shri Bharat Agrawal (Khandesh Industrial Development Association)
152.	Shri Vijay Kumbhar (Surajya Sangharsh Samiti)
153.	Shri Hemant Agrawal (Sheshnaag Enterprises)
154.	Adv. Mrs. Smita Deshpande (Akhil Bharatiya Grahak Panchayat , Vidarbh Prant)
155.	Shri Nitin Agrawal (Shirhari Sopinath Dadaji Power Products)
156.	Shri Vishnurasad Agrawal (Manohar Chitra Mandir)
157.	Shri H. Agrawal (Bijeram Dedraj Oil Mills Pvt.Ltd.)
158.	Shri Aniket Bhosale (Akhil Bhartiya Grahak Panchayat)
159.	Shri Shubham Burande
160.	Shri Pravin Burande
161.	Adv. Supriya Dalavi (Akhil Bhartiya Grahak Panchayat, Kolhapur)
162.	Shri Ulhas Choudhari
163.	Adv. Siddharth Varma (Veej Grahak Samiti, Nashik)
164.	M/s The Powerloom Charitable Association
165.	Shri Sushil Pawar