

Bihar Electricity Regulatory Commission
Vidyut Bhawan-II, J.L. Nehru Marg, Patna- 800021

Notice No.09.....

Patna, Dated: ..27.07.2021

PUBLIC NOTICE

Suo-Motu Proceedings No.06..../2021

Bihar Electricity Regulatory Commission, empowered to make regulations under sub-section (r) and (s) of section 181 read with sub-sections (5) to (7) of section 42 of the Electricity Act, 2003 (36 of 2003), has initiated a Suo-Motu Proceedings No. 06/2021 to effect requisite amendments in BERC (Consumers Grievance Redressal Forum, electricity Ombudsman and Consumer Advocacy) Regulations, 2017 in consonance with recent amendments in Electricity (Rights of Consumers) Rules, 2020.

2. Copy of proposed draft in Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) (2nd Amendment) Regulations, 2021, Consultative Paper and Public Notice are available on Commission's website <https://berc.co.in>. Interested person/organization may obtain a copy of the draft of proposed regulation free of cost from the office of the Commission on any working day.

3. Commission invites written comments/suggestions/objections on the proposed draft from general public and stakeholders on or before 09.08.2021 addressed to Secretary, Bihar Electricity Regulatory Commission, Vidyut Bhawan-II, Jawahar Lal Nehru Marg, Patna 800021.

4. Interested persons/organizations/companies may also appear in the Public Hearing on 10.08.2021 at 11:00 A.M.

R.P. Das
(R.P. Das) 27/7/21
Secretary

Consultative Paper on Draft BERC (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) (2nd Amendment) Regulations, 2021

1. In exercise of the power conferred on it by sub-sections (r) and (s) of Section 181 read with sub-sections (5) to (7) section 42 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Commission has made Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) Regulations, 2017 making subsequent amendments vide Notification No. 05 dated 30.10.2019.
2. The provision related to constitution of the forum has been elaborated in regulation 2 wherein procedure for appointment of members of forum has been laid down.
3. In exercise of the powers conferred by sub-section (1) read with clause (z) of sub-section (2) of section 176 of the Electricity Act, 2003 (Act 36 of 2003), the Central Government has notified Electricity (Rights of Consumers) Rules, 2020 on 31.12.2020 wherein “Grievance redressal mechanism” has been incorporated vide Rule 15 which is cited as under for reference.

15. Grievance redressal mechanism. - (1) The distribution licensee shall establish Consumer Grievance Redressal Forum (CGRF) under sub-section (5) of section 42 of the Act at different levels to cater the needs of the sub- division, division, circle, zone, company level. The forum shall be headed by an officer of the licensee of appropriate seniority. The forum shall consist of officers of the licensee and have not more than four members as consumer and prosumer representatives. The Appropriate Commission shall nominate one independent member who is familiar with the consumer affairs. The forum may be assigned different types of grievances depending on the nature of the grievance and the level at which it can be best resolved.

Provided that the manner of appointment and the qualification and experience of the persons to be appointed as member of the forum and the procedure of dealing with the grievances of the consumers by the Forum and other similar matters would be as per the guidelines specified by the Commission.

(2) The licensee shall specify the time within which various types of grievances by the different levels of the forums are to be resolved. Normally, a grievance shall be decided within a period of thirty days and in any case not exceeding forty five days from the date of receipt of such grievance. The consumer aggrieved by the decision of sub-divisional or divisional or circle forum will have the option to approach the company level forum before making an appeal to the Ombudsman.

(3) If a consumer's grievance is not redressed by the company level forum within the specified time or the consumer is not satisfied with the disposal of his grievance, he will be free to approach the Ombudsman appointed by the Commission.

(4) The distribution licensee shall give wide publicity of the forum office, its complete address, contact details and procedure for registration of grievances through print and electronic media and notice boards of its various offices and also intimate the same to the consumers through electricity bills.

(5) The distribution licensee shall set up a mechanism for monitoring of the grievances redressal.

(6) The licensee will send quarterly reports to the Ombudsman and to the Commission, in respect of standards of performance, other performance parameters and consumer grievances related information showing the extent to which the time schedule has been followed in redressing the consumer grievances.

(7) The performance of CGRF shall be monitored by the Commission.

4. The enactment of Electricity (Rights of Consumers) Rules, 2020 making stipulations of “Grievance Redressal Mechanism” vide Rule 15 of Central Government has necessitated requisite modifications/amendments mainly in the Regulation 2 of existing BERC Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) Regulations, 2017 with its amendments, which are given hereunder for reference:-

2.2 The number of Forums, their locations and areas of jurisdiction may be decided by the licensee. However, the licensee should make an endeavor to establish at least one Forum in each Supply Circle.

2.4 The Forum shall consist of three Members including Chairperson.

(a)(i) The First Member shall be the Chairperson of the Forum. The First Member (Chairperson) should be a retired Judicial Officer not below the rank of Additional District and Sessions Judge or a retired Officer of Bihar Administrative Service not below the rank of District Magistrate/ Additional Collector or retired Superintending Engineer of the licensee or equivalent post. They should have minimum 20 years of experience. Preference shall be given to the officer having experience of Judicial/Quasi Judicial work and/or has shown capacity in dealing with problems relating to Electricity Regulatory matter and familiar with the consumers affairs service.

(ii) The Second Member shall be appointed by the licensee from amongst the serving officers in grade not below the rank of Executive Engineer or equivalent having total experience of 8 years out of which at least three years experience in Accounting and/or Revenue and/or Commercial matters.

(iii) The Third Member shall be Independent Member. The person shall be a representative of a registered society/NGO/ consumer organisation having one of its main objectives as consumer protection with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer-related matters or a person of stature and repute having at least five years exposure and experience of consumer affair and

the minimum qualification shall be graduate in any discipline from a recognized university.

Provided that, a person applying for the post of Independent Member of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three (3) years prior to being appointed Independent Member of the Forum.

(iv) The Chairperson (First Member) and the Independent Member (Third Member) shall be selected through proper advertisement in Press and on the Website & Notice Board of the Commission and the licensee.

(v) The Chairperson (First Member) of the Forum shall be nominated by the Commission and appointed by the licensee and the Independent Member (Third Member) shall be appointed by the Commission. The process of the appointment of the Chairperson (First Member) and the Independent Member (Third Member) of the Forum shall be initiated by the Commission.

2.5 The Distribution Licensee shall propose to the Commission a panel of names of at least three officers for each post of the Second Member of the Forum. Details of qualification, experience and background relating to ability, integrity and standing shall be submitted in respect of each officer. The Commission shall consider the names proposed by the licensee and after its approval, the licensee shall appoint the Second Member.

2.6 Every member of the Forum shall hold office for a fixed term of three years, from the date of appointment or till he/she attains the age of 65 years or date of superannuation in case of serving officer of the licensee appointed as Second Member, whichever is earlier. The tenure of a member may be extended by the licensee for a further period of two years or till he/she attains the age of 65 years whichever is earlier with prior approval of the Commission. The Members including Chairperson shall not be eligible for re-appointment. The Commission in case of appointment of the Chairperson (First Member) and Independent Member (Third Member) and the Licensee in case of Second Member shall initiate selection process three months before the date of expiry of tenure of present incumbents. In case of unavoidable delay in appointment of Members and Chairperson after expiry of the term of the existing Forum, the existing Forum after completion of its term, may continue to function for a period of maximum three months, or till the new Members and the Chairperson join their duties, whichever is earlier subject to the prior approval of the Commission. The Licensee shall ensure that the working of Forum is not disrupted on account of non-filling up of the posts and the new Forum is made functional within the extended period in any case.

Provided that when the Chairperson is unable to function due to ailment or any other reason the Second Member shall discharge the functions of the Chairperson in his absence.

2.8 The maximum age for appointment to the post of Chairperson and Third Member should be 62 years as on the last date of receipt of application. The minimum age for Third Member (Independent Member) shall be 35 years on the last date of receipt of the applications.

2.10 All the Members of the Forum shall be whole time members. They shall not undertake any other part time or honorary work.

Remuneration and other expenses

2.15 The sitting fees, honorarium and/or other allowance (collectively "Remuneration") payable to the Chairperson shall be decided by the licensee with the approval of the Commission.

The Independent Member shall be entitled for per sitting remuneration of Rs. 2,500/- (Rupees Two Thousand Five Hundred) only including T.A. for each day of participation in the Forum's proceedings and work.

2.16 The terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms and conditions of his/her employment with such a licensee. Thus, the Second Member (Technical/ Finance) Member shall continue to draw the same salary as he/ she is entitled to as a regular employee of the licensee.

3. In view of above imminent requirements, Commission has decided to initiate a suo-moto proceeding to bring out amendments in the existing Regulations namely BERC (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) Regulations, 2019 to make it compliant to provisions of Electricity (Rights of Consumers) Rules, 2020
4. A Public Notice is being issued through the Newspapers and official website of the Commission inviting Comments/Suggestions/ Objections from General Public and the Stakeholders latest by dated **09.08.2021** and may appear in the public hearing. Commission shall hear this matter on **10.08.2021 at 11.30 AM**. Draft Regulations alongwith Consultative Paper are being circulated among the stakeholders and uploaded on the website of the Commission for information.

Bihar Electricity Regulatory Commission

(Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) (2nd Amendment) Regulations, 2021

DRAFT REGULATION

No. BERC SMP No- /2019:-

- (i) In exercise of the power conferred on it by sub-sections (r) and (s) of Section 181 read with sub-sections (5) to (7) section 42 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it in this behalf, the Bihar Electricity Regulatory Commission hereby amends the BERC (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy) Regulation 2017 and BERC (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy)(1st Amendment) Regulation 2019. These Regulations shall supersede the earlier Regulations on the subject notified on Previous Regulations published in Bihar Gazette on 23rd October 2017 & 4th November, 2019.

1. SHORT TITLE, COMMENCEMENT, DEFINITIONS AND INTERPRETATIONS

Short Title and Commencement

- 1.1 These Regulations may be called the Bihar Electricity Regulatory Commission (Consumer Grievance Redressal Forum, Electricity Ombudsman and Consumer Advocacy)(2nd Amendment) Regulations, 2021.
- 1.2 These Regulations shall be applicable to all distribution licensees in the "State of Bihar" in their respective licensed areas.
- 1.3 These Regulations shall come into force from the date of notification in the Official Gazette.

2. Amendment of Regulation

The undernoted existing Regulations-2 shall be substituted by following:

Regulation 2.2

The distribution licensee shall establish Consumer Grievance Redressal Forum (CGRF) under sub-section (5) of section 42 of the Act at different levels to cater the needs of the sub division, division, circle, zone, company level.

The number of Forums, their locations and areas of jurisdiction may be decided by the licensee. However, the licensee should make an endeavor to establish at least one Forum in each Supply Circle.

The Forum maybe assigned different types of grievances depending on the nature of the grievance and the level at which it can be best resolved.

Regulation 2.4(a)(i)

The Forum shall be headed by an officer of licensee of appropriate seniority. The Forum shall consist of serving officers of the licensee, except Independent Member, and have not more than three Members as consumers and prosumer representatives. The senior most Member appointed by licensee shall be the Chairperson of the Forum. Preference shall be given to the officer having experience in dealing with problems relating to Electricity Regulatory matters and familiar with the consumers affairs service.

Regulation 2.4(a)(ii)

The Second Member shall be appointed by the licensee from amongst serving officers of licensee of appropriate seniority having at least three years experience in Technical/ Finance of Electricity/ Regulatory matters.

Regulation 2.4(a)(iii)

The Third Member shall be an Independent Member. The person shall be a representative of a registered society/NGO/consumer organization having one of its main objectives as consumer protection with at least 5 years of standing or alternatively the representing member should have five years of experience in consumer-related matters.

Provided that, a person applying for the post of Independent Member of the Forum shall not have been in the employment in any capacity under, or agency of, the Distribution Licensee for a minimum period of three (3) years prior to being appointed Independent Member of the Forum.

Regulation 2.4(a)(iv)

The Independent Member (Third Member) shall be selected through proper advertisement in Press and on the Website & Notice Board of the Commission and the licensee.

Regulation 2.4(a)(v)

The Independent Member (Third Member) of the Forum shall be nominated by the Commission. The process of the appointment of the Independent Member (Third Member) of the Forum shall be initiated by the Commission.

Regulation 2.5 of existing Regulations shall be substituted by following:

“2.5 The Distribution Licensee shall propose to the Commission a panel of names of at least three officers for each post of the First and Second

Member of the Forum. Details of qualification, experience and background relating to ability, integrity and standing shall be submitted in respect of each officer. The Commission shall consider the names proposed by the licensee and after its approval, the licensee shall appoint both the Members”

Regulation 2.6 of existing Regulations shall be substituted by following:

“2.6 Every member of the Forum shall hold office for a fixed term of three years, from the date of appointment or till he/she attains the age of 60 years or date of superannuation of serving officer of the licensee appointed as First and Second Member, whichever is earlier. The tenure of a member may be extended by the licensee for a further period of two years or till he/she attains the age of 62 years whichever is earlier with prior approval of the Commission. The Independent Member (Third Member) shall not be eligible for re-appointment. The Licensee in case of appointment of the Members of Forum shall initiate selection process three months before the date of expiry of tenure of present Members. In case of unavoidable delay in appointment of Members and Chairperson after expiry of the term of the existing Forum, the existing Forum after completion of its term, may continue to function for a period of maximum three months, or till the new Members and the Chairperson join their duties, whichever is earlier subject to the prior approval of the Commission. The Licensee shall ensure that the working of Forum is not disrupted on account of non-filling up of the posts and the new Forum is made functional within the extended period in any case.

Provided that when the Chairperson is unable to function due to ailment or any other reason the Second Member shall discharge the functions of the Chairperson in his absence.”

Regulation 2.8 of existing Regulations shall be substituted by following:

2.8 The maximum age for appointment to the post of Independent Member (Third Member) should be 62 years as on the last date of receipt of application. The minimum age for Independent Member (Third Member) shall be 35 years on the last date of receipt of the applications.

Regulation 2.10 of existing Regulations shall be substituted by following:

2.10 The Independent Member (Third Member) of the Forum shall be whole-time Member. He shall not undertake any other part-time or honorary work.

Regulation 2.15 of existing Regulations shall be substituted by following:

2.15 *The sitting fees, honorarium and/or other allowances (collectively “Remuneration”) payable to the Independent Member (Third Member) shall be decided time to time by the licensee with the approval of the Commission.*

Regulation 2.16 of existing Regulations shall be substituted by following:

2.16 *The terms and conditions of service of a member of the Forum who is in the employment of the licensee shall be governed by the terms and conditions of his/her employment with such a licensee. Thus, the Chairman and the Second Member (Technical/ Finance) shall continue to draw the same salary as he/ she is entitled to as a regular employee of the licensee.*

By the order of the Commission

**Sd/-
Secretary**