

MEGHALAYA STATE ELECTRICITY REGULATORY COMMISSION

The Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2007

(Published in the Gazette of Meghalaya issue dated 22nd February 2007)

Notification No. MSERC/Regn 1/ 2007. In exercise of the powers conferred by section 181(2)(zl) read with section 92(1) of the Electricity Act, 2003 (Act 36 of 2003) and all powers enabling it in that behalf, the Meghalaya Electricity Regulatory Commission hereby makes the following regulations, the same having been previously published in the Gazette of Meghalaya of issue dated 3 August, 2006 and duly considered.

1. Short title and commencement

- (1) These regulations may be called the Meghalaya State Electricity Regulatory Commission (Conduct of Business) Regulations, 2006.
- (2) They shall come into force on the date of their publication in the Gazette of Meghalaya.

2. Definitions

(1) In these regulations, unless the context otherwise requires:

- (a) "Act" means the Electricity Act, 2003 (36 of 2003);
- (b) "Commission" means the Meghalaya State Electricity Regulatory Commission;
- (c) "meeting" means a meeting of the Commission convened for the purpose of considering a matter;
- (d) "Member" means a Member of the Commission;
- (e) "officer" means an officer of the Commission;
- (f) "petition" includes a representation, complaint, appeal application made by any person and the word "petitioner" shall be construed accordingly; and
- (g) "regulations" means the Meghalaya State Electricity Commission (Conduct of Business) Regulations, 2007.

(2) Words used and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Headquarters of the Commission

The headquarters of the Commission shall be in Shillong.

4. Office hours and holidays

- (1) The office of the Commission shall be open daily from 10 am. to 1.30 pm. and from 2.30 pm. to 4 pm. from Monday to Friday for transacting public business.
- (2) The Commission shall observe holidays declared by the State Government and shall not hold office on Saturdays and Sundays.
- (3) Where the last day for filing a petition or document or for doing any act by a party to a proceeding is a holiday, Saturday or Sunday the petition or document shall be filed, or the act shall be done on the next day the office of the Commission is open.

5. Sittings

The Commission will hold sittings at its headquarters or at any other place and on such days and time as it may notify.

6. Language

The proceedings of the Commission shall be in English.

7. Authentication of orders and notices

Orders or notices emanating from the Commission shall be authenticated by an officer designated for the purpose and shall bear the seal of the Commission.

8. Proceedings of the Commission

- (1) All hearings, examination, enquiries or consultations held or conducted in a meeting shall be deemed to be the proceedings of the Commission.
- (2) A matter shall be heard or considered by the Commission in a meeting:
- (3) The Commission while hearing or considering a matter may, if it considers it necessary to do so, co-opt an officer or any person possessing knowledge or adequate experience in a particular field to be present and take part in the meeting but such officer or person shall not have the right to vote.

- (4) All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure.

9. Conduct of meetings

- (1) The Chairperson shall preside over meetings of the Commission.
- (2) All questions in a meeting shall be decided by the majority of votes of the Members present and voting and in the event of equality of votes, the Chairperson, or in his absence, the person presiding, shall have a second casting vote.
- (3) Save as otherwise provided in sub-regulation (2) every Member shall have one vote.
- (4) Where a matter is required to be decided urgently, the Chairperson may, instead of convening a meeting, direct that it be circulated to the Members for their consideration and the collective decision taken shall be the decision of the Commission.

10. Quorum.

Where the Commission has also one Member or more the quorum of any meeting shall be two including the Chairperson.

11. Authority to represent

- (1) A party to a proceeding may appear personally or through a representative duly authorised by him.
- (2) In any matter affecting the general interest of consumers or group of consumers the Commission may nominate a person or persons to represent such consumers and the fees or expenses of such person or persons shall be borne by the parties to the proceedings as the Commission may direct.

12. Initiation of proceedings

- (1) Proceedings shall be initiated on a petition filed by an affected person before the Commission:

Provided that the Commission may suo moto initiate a proceeding on a matter that may come to its notice if it is satisfied that it is necessary to do so in public interest.

(2) If a petition is admitted, notices shall be issued for filing of replies by the parties concerned as the Commission may direct:

Provided that before admission of a petition the Commission may, if it considers it necessary, direct that the facts of the subject matter of the petition be examined or enquired into by an officer or any other person it deems fit.

(3) The Commission may, if it considers necessary, order publication of the petition or reply inviting comments from members of the public on the substantial issues involved.

13. Form of petitions and replies.

A petition or reply to be filed before the Commission shall be in typewritten or electronic format in Form I (appended to these regulations) and shall be accompanied by documents and supporting data.

14. Presentation, scrutiny and admission of petitions

- (1) Petitions are to be presented in person or by a duly authorised agent to the officer designated for the purpose at the office of the Commission.
- (2) The officer shall scrutinise the petitions and may decline to accept those found not to be in order.
- (3) In the case of petitions from individual consumers, class of consumers or consumer organisations, the Commission may, if it deems it fit to do so, refer the matter to the Forum established under sub-section (5) of section 42 of the Act for disposal.

15. Service of a notice or process

- (1) A notice or process issued by the Commission may be served by any one or more of the following modes:
 - (a) by service by any of the parties to the proceedings;
 - (b) by hand delivery through a messenger;
 - (c) by registered post with acknowledgment due;
 - (d) by advertisement in newspapers;
 - (e) by any other manner as the Commission may direct.
- (2) The Commission shall decide who shall bear the cost of such service.
- (3) A notice or process required to be served on, or delivered to, any person may be sent to the person or his agent authorised to accept service at the address furnished by him or at the place where the

person or his agent ordinarily resides or carries on business or personally works for gain.

- (4) Where a notice is served by a party to the proceedings either in person or through registered post a report shall be filed by the party that the notice has been duly served.
- (5) Where a petition or reply is required to be advertised, it shall be in such form and for such duration and within such time as the Commission may direct. The cost of the advertisement shall be borne by such parties as the Commission may determine.
- (6) No service or publication of a notice shall be deemed invalid by reason of any defect in the name or description of the person to be served, provided the Commission is satisfied that such service is in other respects sufficient.

16. Filing of replies, objections, comments etc.

- (1) A person to whom a notice is issued, if he intends to oppose the petition, shall file a reply or objection within such period and in such number of copies as the Commission may direct and shall also serve a copy of the reply on the petitioner or his authorised representative and file proof of such service at the time of filing of the reply.
- (2) When any additional facts are filed the procedure for filing of the reply shall apply *mutatis mutandis* to the filing of a rejoinder.
- (3) Pursuant to an advertisement any person, other than the person to whom the notice has been issued, may also file objections or comments in regard to the matter pending before the Commission with copies of the documents in support thereof within the time fixed.
- (4) A person filing objections or comments as referred to in sub-regulation (3) shall not be entitled to participate in the proceedings or make oral submissions unless specifically allowed by the Commission but the Commission at its discretion may take into account the objections and comments filed after giving opportunity to the parties to the proceedings to respond to the objections or comments.

17. Reference of issues to experts

- (1) In any matter pending before it the Commission, if it considers it necessary to do so, may -
 - (a) refer any issue pertaining to the matter to persons including, but not limiting to, its officers and consultants and obtain their legal or expert opinion and advice; or
 - (b) nominate any person including, but not limiting to, its officers and consultants, to inspect any plant or project and to report.

- (2) The opinion, advice or report given by the persons referred to in sub-regulation (1) shall form part of the records of the proceedings and may be taken into account by the Commission in deciding the matter.

18. Decision and orders of the Commission

- (1) On completion of a hearing or consideration of a matter the Commission shall give its decision with reasons therefor and shall pass orders, including orders with regard to costs.
- (2) The Commission may also pass interim orders as may be necessary from time to time.
- (3) All orders of the Commission shall be signed and dated by the Chairperson and Members hearing the matter and shall not be altered except to correct any apparent error.
- (4) In any proceeding the decision taken by the majority shall be the decision of the Commission and in case of dissent the dissenting Member shall give his views separately.

19. Powers to prevent contravention

- (1) Where the Commission is satisfied that a generating company or licensee is contravening or is likely to contravene any of the provisions of the Act, rules, regulations or licence conditions it shall give such directions as may be necessary to stop or prevent such contravention.
- (2) In case of non-compliance with the directions given under sub-regulation(1) the Commission may impose penalty as provided for in the Act.
- (3) Before giving any direction under sub-regulation (1) or imposing a penalty under sub-regulation (2) the Commission shall give the generating company or licensee an opportunity to be heard and to make submissions.

20. Inspection, investigation, enquiry, and collection of information.

- (1) The Commission may authorise an officer or any other person it considers fit to inspect, investigate, or enquire and to enter, search and seize any document or property which is related to the matter before it and to report.
- (2) The officer or person referred to in sub-regulation (1) shall submit his report within such time as may be directed.
- (3) The generating company or licensee shall produce before the officer or persons referred to in sub-regulation (1) the books of accounts,

registers and other relevant documents, statement or information as may be called for and within such time as the officer or person may fix.

- (4) The expenses and incidentals of the inspection or investigation shall be borne by the generating company or licensee as the Commission may direct.

21. Review of the decisions and orders of the Commission

- (1) A person aggrieved by a decision or order of the Commission from which no appeal is preferred, or is not allowed to be preferred, can seek a review of the order if new and important facts which, after the exercise of due diligence, were not within his knowledge or could not be produced by him at the time when the order was passed or on account of some mistake or error apparent on the face of record or for any other sufficient reason, by making an application within 60 days of the date of the order.
- (2) The procedure for filing a review application shall be the same as in case of filing of a petition.

22. Proceedings to be open to the public generally.

Proceedings before the Commission shall generally be open to the public:

Provided that the Commission may, in any particular case and for reasons to be recorded in writing, direct at any stage of the proceeding that the public in general or any person or group of persons in particular shall not be present while the proceeding is being conducted.

23. Inspection of the records of a proceeding, etc.

- (1) A party to a proceeding may be permitted to inspect the records thereof kept in the office of the Commission and may also be given certified copies at Rupees five per page.
- (2) A person, other than the party to a proceeding, may, on an application made with the purpose therein stated, be permitted to inspect the records of a proceeding after the matter has been finally decided and may be given certified copies of the orders passed and other documents, excepting those declared by the Commission to be confidential or privileged, on payment of Rupees five per page.

24. Continuation of proceeding in certain events.

- (1) In the event any of the parties to a proceeding dies or is adjudged as insolvent or in the event a company is under liquidation or is being wound up the party interested may, within a period of 60 days from the occurrence of the event or within a further period not exceeding 30 days as the Commission may allow, file an application for bringing in the successor-in-interest, executor, administrator, receiver or legal

representative, as the case may be, to substitute in the place of the party concerned.

- (2) Notwithstanding anything contained in sub-regulation (1) the Commission may for reasons to be recorded treat the proceeding as abated if it is satisfied that the subject matter has virtually ceased to exist.

25. Acts not to invalidate the proceedings

No act done by any Member, officer or person acting in good faith under these regulations shall be deemed to be invalid merely on the ground that the Member, officer or person was not qualified or that there was defect in his appointment

26. Inherent powers of the Commission and removal of difficulties.

- (1) Nothing in these regulations shall be construed as barring the Commission from exercising its power under the Act for which provisions have not been made or have been made inadequately, in order to subserve the spirit of the Act.
- (2) If the Commission is satisfied that there are genuine difficulties in the implementation of any of the provisions of these regulations it may relax the provisions to such extent and subject to such conditions as it may by reasoned orders decide.

FORM I

(Regulation 13)

**BEFORE THE MEGHALAYA STATE ELECTRICITY REGULATORY
COMMISSION**

Case No

In the matter of:

(Gist of the purpose of the Petition/Reply/Application)

AND

(Names, full addresses, phone no., fax no, and email address of the petitioners/applicants and names, full addresses, phone no., fax no., and email address of the respondents)

- 1. Narration of the case be stated in short.**
- 2. Grounds in support of the case.**
- 3. Relief sought in short and in specific terms.**

Declaration that the subject matter of the petition has not been raised by the petitioner before any other forum, and that no other forum is currently seized of the matter or has passed any orders in relation thereto.

Place

Date

(Signature of the Petitioner)

VERIFICATION

Ido hereby state that the statements made in paragraphs are matters of record which I believe to be true, those in paragraphs are true to my knowledge and those in paragraphs are my submissions before the Commission.

(Signature of Petitioner)