

COMMENTS ON

**Draft RERC (Consumer Grievance Redressal  
Forum, Electricity Ombudsman and  
Consumer Advocacy) Regulations, 2020**

**08 December, 2020**

**SUBMITTED BY  
CUTS INTERNATIONAL**

## To whomsoever it may concern

In response to the recent public notification released by the Rajasthan Electricity Regulatory Commission, CUTS International is pleased to submit its comments. These comments are framed on the basis of the inputs received over the past few years through the Consumer Advocacy Cells (CONASC) being operated as part of a project, “Capacity Building of Electricity Consumers in Rajasthan (CBEC<sup>1</sup>)’.

This document lists out the chapter-wise comments as well as some general suggestions for the due consideration of the Commission.

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<sup>1</sup> For Further Information, Please visit: <https://cuts-ccier.org/capacity-building-of-electricity-consumers-in-rajasthan-cbec/>

## CUTS COMMENTS

Section	Draft Provisions	CUTS Comments
<b>Chapter 2</b>		
2.1	The Distribution Licensee shall have an Internal Grievance Redressal Cell (IGRC) to record and redress Grievances in a timely manner.	<p>In the draft regulations, no timeline has been stipulated for setting up the Internal Grievance Redressal Cells (IGRC). This omission may delay the setting up of IGRC, as licensees may take a laid back approach. Thus, CUTS recommends mandating the licensees to setup IGRC within six months of notification of these regulations.</p> <p>Further, similar to clause 3.26 (3) of the draft regulation, a web-based portal should also be created, whereby consumers can register their complaints electronically/digitally through SMS, online registration, web-chat facility and mobile application.</p> <p>In addition, a time limit for addressing the issue should also be provided to the consumers, recommended 15 to 30 days. Further, the consumers should also be able to trace the status of the complaint lodged by them.</p>
2.4	<p>Grievance of Monetary nature relating to electricity bills, recovery of arrear, payment of demand raised by the licensee except the cases covered U/s 126 &amp; 135 of the Act:</p> <p>(a) Sub-divisional level - Monetary limit of Rs. 20,000/-</p> <p>(b) Divisional level - Monetary limit of Rs. 50,000/-</p> <p>(c) Circle (District) level - Monetary limit of Rs. 5,00,000/-</p>	<p>In support of the monetary limits prescribed in the jurisdiction of different levels of IGRC, a rationale should also be provided for the same. This can be done by assessment of previous grievance redressal data and should reflect the aptness, credibility and capability of the forums to deal with grievances of the given monetary value.</p> <p>This rationale can be made a part of the reporting regulations in section 2.7 to 2.9 of the chapter.</p>
2.7 to 2.9	Reporting Requirements	A provision should be added which provides for the corporate level CGRF to furnish the verified quarterly report on disposal of complaints/grievances in the public domain. This will facilitate consumer-advocacy efforts and

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		research on related subjects in electricity regulation.
<b>Chapter 3</b>		
3.5/3.6	Constitution of the Consumer Grievance Redressal Forum (CGRF) at Zonal level and Corporate level	<p>As per the draft regulations, Clause 3.5 and 3.6 states that the Licensee shall appoint members, other than the independent member, from its serving officers, subject to the qualification required by the regulation. The independent functioning of the Forum is jeopardised by appointing majority members from the employee of the Licensee.</p> <p>A CGRF so constituted is likely to increase the likelihood of matters being ruled in the favour of the utility. This will, in turn, result in most cases being appealed at further levels/ombudsman, and thus, may cause overload of pendency and ineffective operations at subsequent levels. It will also severely reduce the credibility of the Forum, in the eyes of the consumers and general public.</p> <p>Hence, CUTS recommends that only one member of the CGRF, i.e. finance member, can be a person in the employ of the Licensee. Further, it is recommended that the Chairperson of the CGRF should be a consumer representative; or 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.</p> <p>The Chairperson should have adequate knowledge of the power sector and must not have served as an employee of the licensee.</p>
3.7(d)/3.8(d)	Vacancies in the CGRF	<p>Clause 3.7(d) and 3.8 (d) of the draft regulations require that no posts remain vacant for a period exceeding thirty days. However, despite such stipulation, there have been long term vacancies in the CGRF, which substantially hinder the efficient and timely functioning of the Forum.</p> <p>In order to address these concerns, provisions</p>

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		<p>like monetary penalisation for the Licensee should be put in place to ensure that the Licensee adheres to the process stated in the regulations so as to prevent any vacancies for more than thirty days.</p> <p>Also alternatively there should be a subordinate authority which should be given charge of the vacant post in the meanwhile new appointment is made so as to the functioning of the forum would not stop because of the vacant position.</p>
3.22	<p>The name, address, e-mail and telephone numbers of the Zonal/ Corporate Forums and the IGR Cells shall be widely publicised through newspapers and also displayed on the websites and at all the offices of the Licensee and shall be intimated to the Consumers through their Electricity Bills</p>	<p>In order to save paper and avoid its unnecessary use, wide dissemination of the details of CGRF and IGRC should be done mostly through digital means by using websites, SMS campaigns, email and SMS electricity bills, Common Service Centres in remote areas, amongst others.</p> <p>However, where such means cannot be effectively used due to reasons of lack of digital access, printed manuals and dissemination techniques can be deployed. Thus, the first step should be to map the requirement of such printed dissemination of the information regarding forums and then chalk out an efficient strategy for the same.</p> <p>This would also require support from local institutions and other government bodies, which the Commission should facilitate.</p> <p>Additionally, such a demand requirement for minimalising the carbon footprint of operations of the forums, licensee or even the Commission can be outsourced to a research organisation.</p>
3.26 (3)	<p>Licensee shall provide a link on his web portal for registration of complaints in CGRF and institute an online tracking system of complaints.</p>	<p>Ensuring that the CGRF is accessible to consumers is a crucial aspect of the Licensee's duty, and the Licensee must take steps to ensure that consumers can avail the facility of grievance redressal when required. The addition of Clause 3.26(3), which introduces the provisions of a web-based CGRF portal, is a step in the right direction towards this.</p> <p>These online functions find added significance in light of the Covid-19 pandemic and the</p>

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		<p>lockdowns as imposed have increased the need for virtual access to such provisions.</p> <p>However, enabling web-access does not ensure access to all consumers, owing to technological and geographical resource constraints and language barriers. To increase access, CGRFs can have online hearings and the Licensee should enable online/virtual hearings for individuals who do not have such facility at their disposal by conducting such hearings in remote locations through any existing institutional facility, like the gram panchayat's office or other such government institutions.</p> <p>It is also recommended that the regulation mandates the CGRF to organise awareness camps, with support from local consumer organisations, to increase capacity, awareness and effectiveness of the online hearings.</p>
3.46/3.47	Submission of Compliance Report and Follow-up	<p>As per Clause 3.46 of the draft regulations, the Licensee is responsible for compliance to the order of the CGRF within the stipulated time, failing which the licensee is liable for appropriate action by the commission under Section 142 and 146 of the Act. Further, as per clause 3.46, the Licensee (or the officer concerned) is required to furnish a compliance report to the CGRF and the complainant, within seven days from the date of compliance.</p> <p>Unlike the case of compliance to the orders, a lapse in submission of such compliance report is not met with any action. The preparation and submission of such reports play an integral part in holding the Licensee accountable toward addressing consumer grievances and improving supply and service conditions, and such regulations must be strictly upheld.</p> <p>Toward this end, in such a case that the compliance report is not submitted within the stipulated time, CGRF should be enabled to take up suo-moto process to seek an explanation from the Licensee and penalise it, if needed.</p>
Miscellaneous related to Chapter 3		There are many instances of repeated non-

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		<p>compliance by Licensees of Standards of Performance (SoP) and other regulations specified by the RERC. As per Section 42 (6) of the Electricity Act 2003, and as per the draft regulations, individual consumers can approach the CGRF seeking compensation for non-compliance. This is limited in its scope.</p> <p>To increase accountability of Licensee, the regulation should mandate that a group of say, more than fifty consumers can approach the State Commission directly to ensure compliance with SoP regulations and seek compensation on behalf of a group of consumers for repeated non-compliance.</p> <p>Further, a group of consumers being served by the same Licensee, with similar complaints should also be allowed to approach the CGRF to represent their views together.</p>
<b>Chapter 4</b>		
4.3	<p>The Commission shall invite applications through public advertisement for appointment of the Ombudsman. The Commission shall form a selection committee for selection of the Ombudsman.</p>	<p>The draft provisions do not mention about the nature and structure of the selection committee. Given the appointment of Ombudsman is a matter of utmost importance and to ensure seamless and transparent process, it is advisable to mention the structure, nature and number of members in the selection committee.</p> <p>CUTS also recommends that the selection committee shall comprise following members – Chairman, RERC, MD/Chairman of all the respective discoms, a representative from CERC, representatives from Ministry of Power, a representative from Consumer Groups (can be nominated by RERC), Subject Expert, a senior advocate of High Court, amongst others.</p>
4.4	<p>The retired engineers of State Power distribution companies or RERC having retired not below the rank of Chief Engineer/ Director or a person retired not below the rank of DJ shall be eligible for appointment as</p>	<p>As the draft provision suggests that the ombudsman vacancy is limited to the employees of the state power distribution companies.</p> <p>However, it is not clear whether it is limited to Rajasthan State Power Distribution companies or any state power distribution companies. Therefore, it is recommended that the draft</p>

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	<p>Ombudsman subject to the condition that the retired engineer who has not completed two (2) years of retirement shall not be eligible for appointment in the same distribution company. Besides this, retired district judge shall also be eligible for appointment.</p>	<p>provision should open the appointment for employees of other state power distribution companies as well.</p> <p>Furthermore, given that there are so many private distribution companies working in the sector, which comprises human resources with exceptional techno-commercial and legal expertise, it is recommended that the application for the appointment of ombudsman should be open to private power distribution companies' employee equivalent to the rank of Chief Engineer &amp; above.</p> <p>While it is agreed that the private sector employees has limited experience of working with the government setup, however, the private distribution companies are governed by the same rules and regulations as any state power distribution companies are governed, thus, it is reasonable to assume that the employees of the private sector are also well versed with electricity rules &amp; regulations.</p>
4.6	<p>The Ombudsman shall not hold office after attaining the age of sixty-five (65) years. For appointment of Ombudsman minimum and maximum age limit would be 59 and 62 years on the date of advertisement.</p>	<p>The retirement age in the state of Rajasthan for a government employee is 60 years. However, as mentioned in the draft Rule 4.6, the person retired from the power distribution companies cannot join the same distribution companies for a period of 2 years from his retirement.</p> <p>This rule appears to be restrictive in nature. For instance, a person, in general, retires at the age of 60 years and he cannot join as Ombudsman in the same companies for 2 years. Thus, his eligible age for the same distribution company becomes 62 years which is also equal to the maximum age limit for the applicant.</p> <p>It seems to restrict the applicant, which is against article 16 of Indian Constitution which mandates equal opportunity in matters of public employment.</p> <p>Therefore, it is recommended that the maximum age limit could be extended to 63 years. In this way, the applicant, if selected, would be able to complete its tenure of 2 years at the age of 65</p>



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		years, which is the maximum age for holding the office of ombudsman.
4.11	An existing Ombudsman shall be removed by the Commission from his office forthwith on account of any of the aforesaid disqualifications arising or being discovered. Provided that the Ombudsman shall not be removed from his/her office on any ground specified in the aforesaid sub-clauses unless the Commission has, on an inquiry, concluded that the person ought, on such ground or grounds, be removed.	<p>As the selection of the ombudsman is done by the committee, it is advised that the selection committee should be conferred with the power to recommend the removal of the ombudsman.</p> <p>Upon the recommendation of the committee, the commission may terminate the services of ombudsman, should he/she found guilty.</p> <p>The similar practice is followed by the Insurance Regulatory and Development Authority for removal of an Ombudsman from the office.</p>
4.17 (e)	Ombudsman may also entertain an appeal after the expiry of the prescribed period of 30 days, if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period.	<p>While this is a welcome step to further enhance the trust of consumers on legal and administrative process and would benefit the even laymen consumers. However, it appears that there is a scope for inclusion of few provisions such as:</p> <p>Before lodging the complaints,</p> <ul style="list-style-type: none"> <li>- The complainant should have made a representation to the concerned discom and the discom either should have rejected the complaint or the complaint have not received any reply within a period of one month of the complaint and/or the complainant is not satisfied with the reply of the discom. However, the complaint should be made to the concerned ombudsman within one year of the reply received from Discom on the complaint. Also, the complaint made to the ombudsman on the subject should not be pending with before any court, consumer forum, or arbitrator.</li> </ul>

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<b>Chapter 5</b>		
5	Consumer Advocacy Cell	<p>Given the meagre awareness in consumer about their rights and duties, and insignificant consumer participation in the regulatory and rulemaking process, such advocacy cell would not only sensitise and aware consumers but also capacitate them which might lead to increase their participation in rulemaking processes.</p> <p>CUTS have vast experiences in successfully setting up of consumers advocacy cell in the rural, and semi-urban areas. The past work of CUTS could be accessed here - <a href="https://cuts-ccier.org/capacity-building-of-electricity-consumers-in-rajasthan-cbec/">https://cuts-ccier.org/capacity-building-of-electricity-consumers-in-rajasthan-cbec/</a></p> <p><a href="https://cuts-crc.org/consumer-assistance-cell-at-grassroots-conasc/">https://cuts-crc.org/consumer-assistance-cell-at-grassroots-conasc/</a></p> <p>Given the experience of CUTS working with consumer and setting up of consumer assistance cell, CUTS would be more than happy to assist the commission in formulating and setting up of these cells.</p> <p>In addition, based on the experience drawn from our past projects, it is also recommended that such consumer assistance cell should be set up at least in each district headquarter if not at the block or village level. After setting up of these cells, the sustainability and affectivity of cells should be ensured by way of appointing some nodal agency, which could monitor these CAC.</p>

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