

## **Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004**

ELECTRICITY ACT, 2003

No MERC/Legal/111/2004/1084 In exercise of the powers conferred on it by section 181 of the Electricity Act 2003 (Act No.36 of 2003) and all powers enabling it in that behalf, the Maharashtra Electricity Regulatory Commission hereby makes the following Regulations. Save as otherwise provided in these Regulations, these Regulations supersede the "Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 1999" and the "Maharashtra Electricity Regulatory Commission (State Advisory Committee) Regulations, 2000".

### **Short Title, Object, Commencement and Extent:**

1. (a) These regulations may be called the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.
- (b) The object of these Regulations is to establish procedures for conduct of business of the Commission.
- (c) These Regulations shall come into force on the date of their notification in the Official Gazette.
- (d) These Regulations shall apply in relation to all matters falling within the jurisdiction of the Commission.

### **Definitions**

2. (a) In these Regulations, unless the context otherwise requires:-
  - (i) "Act" means the Electricity Act, 2003 (36 of 2003) as amended from time to time;
  - (ii) "Adjudication" means the process of arriving at decisions on Petitions submitted to the Commission;
  - (iii) "Chairperson" means the Chairperson of the Commission;
  - (iv) "Commission" means the Maharashtra Electricity Regulatory Commission;
  - (v) "Consultant" includes any person not in the employment of the Commission who may be appointed as such to assist the Commission on any matter required to be dealt with by the Commission under the Act;
  - (vi) "Member" means a member of the Commission;

- (vii) “Petition” means and includes all petitions, applications, appeals, replies, rejoinders, supplemental pleadings, other papers and documents;
- (viii) “Proceedings” mean and include proceedings of all nature that the Commission may conduct in the discharge of its functions under the Act;
- (ix) “Secretary” means the Secretary of the Commission;
- (x) “Officer” means an Officer of the Commission;
- (xi) “Regulations” means the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004, as amended from time to time.
- (b) Words or expressions occurring in these Regulations and not defined herein but defined in the Act shall bear the same meanings respectively assigned to them in the Act.
- (c) In construing these Regulations, the singular shall include the plural and vice versa.

**Commission's office, office hours and sittings:**

3. The head office of the Commission shall be located at Mumbai.
4. Unless otherwise directed, the head office and other offices of the Commission shall be open daily during 9.30 AM to 6 PM except on Saturdays, Sundays and holidays notified by the State Government.
5. Where the last day for doing of any act falls on a day on which the office of the Commission is closed and by reasons thereof the act cannot be done on that day, it may be done on the next working day of the Commission.
6. The Commission may conduct its proceedings at the head office or at any other place within the State of Maharashtra on days and time as directed by the Chairperson.

**Language of the Commission:**

7. The proceedings of the Commission shall be conducted in English, provided that the Commission shall allow any person to plead or represent his case in Marathi.
8. The Commission, at its sole discretion, may accept Petitions made in any language other than in English or Marathi, provided that the same is accompanied by a translation thereof in English.

Provided that such translation may be dispensed with at the discretion of the Commission.

9. Any translation which is agreed to by the parties to the proceedings or which any of the parties furnish, may be accepted by the Commission as a true translation.
10. The Commission may, in appropriate cases, direct translation of Petitions and their accompanying documents into English or Marathi.

**Commission to have seal of its own:**

11. Any document requiring authentication by the Commission shall be issued under the seal of the Commission, and shall be signed by the Secretary or other Officer authorized by the Commission in this behalf.

**Officers of the Commission:**

12. (a) The Commission shall have the power to appoint the Secretary, Officers and other employees for discharging various duties. It shall also specify the qualifications, experience and other terms and conditions for the appointment of such Officers and other employees.  
(b) The Commission may appoint or engage Consultants to assist the Commission in the discharge of its functions.
13. (a) The Secretary shall be the principal Officer of the Commission and shall exercise his powers and perform his duties under the control of the Chairperson.  
(b) The Commission, in the discharge of its functions under the Act, may take such assistance from the Secretary as it may deem fit.  
(c) In particular, and without prejudice to the generality of the provisions of sub-regulations (a) and (b) of Regulation 13 above, the Secretary shall have the following powers and perform the following duties, viz:-
  - (i) He shall have custody of the records and the seal of the Commission.
  - (ii) He shall receive or cause to receive all documents, including, *inter alia*, Petitions, appeals, applications or reference pertaining to the Commission.
  - (iii) He shall scrutinize documents, including, *inter alia*, Petitions, appeals, applications or references and shall be entitled to seek clarifications or rectifications upon the same and issue appropriate directions pertaining to the acceptance or rejection of such documents.
  - (iv) He shall prepare or cause to be prepared briefs and summaries of pleadings presented by various parties in cases filed before the Commission.
  - (v) He shall carry out such functions under the Act, as may be delegated to him by the Commission, by general or special order.

- (vi) He shall assist the Commission in the proceedings relating to the powers exercisable by the Commission, as directed by the Commission.
  - (vii) He shall provide notice for meeting, prepare the agenda for meetings and minute the proceedings of the Commission's meetings.
  - (viii) He shall authenticate the orders passed by the Commission.
  - (ix) He shall, so far as it is possible, monitor compliance of the orders passed by the Commission and shall forthwith bring to the notice of the Commission any non-compliance thereof.
  - (x) He shall have the right to collect from the State Government or other offices, companies and firms or any other party as may be directed by the Commission, such information and record, report, documents, etc., as may be considered necessary for the purpose of efficient discharge of the functions of the Commission under the Act and place the same before the Commission.
14. In the absence of the Secretary, the Officer of the Commission designated by the Chairperson in this behalf, shall exercise the functions of the Secretary, as directed by the Commission.
15. The Commission shall, at all times, have the authority, either on an application made by any interested or affected party or suo motu, to review, revoke, revise, modify, amend, alter or otherwise change any order issued or action taken by the Secretary or any Officer of the Commission, if considered appropriate.
16. Save and except the powers exercised under sections 86 and 181 of the Act, the Commission may, by a general or special order in writing, delegate to any Member or Officers of the Commission such of its powers and functions under the Act as it may deem necessary, subject to such terms and conditions, if any, as may be stated in such order.
17. The Secretary may, with the written approval of the Commission, delegate to any Officer of the Commission any function required by these Regulations or otherwise to be exercised by the Secretary.

**Participation of Consumer Associations and Other persons:**

18. The Commission may permit any person, including any association or other bodies corporate or any group of consumers, to participate in any proceedings before the Commission. In this behalf, the Commission may if it considers necessary –
- (a) notify a procedure for recognition of associations, groups, forums or bodies corporate as registered consumer association for the purposes of representation before the Commission;

- (b) appoint any Officer or any other person to represent the consumers' interest in the proceedings before it, on such terms as to fees, costs and expenses by such parties in the proceedings as considered appropriate.

### **Proceedings of the Commission**

- 19. In discharge of its functions under the Act, the Commission may, from time to time, hold hearings, proceedings, meetings, discussions, deliberations, inquiries, investigations and consultations, as it considers appropriate.
- 20. The Chairperson may call for a meeting as and when required, or on receipt of a requisition in writing from any Member stating the issues for consideration at the Meeting.
- 21. To ensure timely and expeditious disposal of proceedings, the Commission may adopt suitable procedures for any proceeding, including but not limited to –
  - (a) joinder of cases for hearing;
  - (b) appoint a representative for a class of consumers/parties to present combined pleadings, affidavits and documents, as also to present the case of such class of consumers/parties;
  - (c) seek testimony or advice or opinion on specific issues; and/or
  - (d) appoint amicus curiae.

### **Meetings**

- 22. This section shall be applicable to the meetings of the Commission, other than the adjudicatory proceedings of the Commission.
- 23. The quorum for the meetings of the Commission shall be the full strength of the Commission unless the Commission defines in writing a smaller quorum for a specific issue/matter/meeting .
- 24. If in any meeting of the Commission duly convened, the quorum is not present, the meeting shall stand adjourned for the next day at the same time and venue.
- 25. The Chairperson shall preside over the meetings and conduct the business. If the Chairperson is unable to be present in the meetings for any reason, or where there is no Chairperson, the senior most Member present shall preside at the meeting.
- 26. (a) All questions which come up before any meetings of the Commission shall be decided by a majority of votes of the Members present and voting. In the event of an equality of votes, the Chairperson or in his absence, the Member presiding shall have a second or casting vote.

(b) Save as otherwise provided in these Regulations, every Member shall have one vote.

27. (a) The Secretary or in his absence an Officer of the Commission designated by the Chairperson, shall record the minutes of the meetings and maintain a register which will, amongst other things, contain the names and designation of Members and invitees present in the meeting, a record of proceedings and notes of dissent, if any. The draft minutes shall, as soon as practicable, be sent to the Chairperson and the attending Members.

(b) The decision taken in a meeting of the Commission shall be recorded in the minutes in a clear and concise manner, alongwith reasons. In case the minutes record any statement/submission made by an invitee, a copy of the minutes shall be sent to such invitee.

(c) The minutes of the previous meeting shall be confirmed by circulation or at the next meeting of the Commission.

### **Adjudication proceedings**

28. The following Regulations under this heading shall be applicable to the adjudication proceedings of the Commission.

29. The bench of the Commission shall consist of the full strength of the Commission, including the Chairperson, unless otherwise required under the Act.

Provided that the Commission may, direct that specific matters or issues be heard and decided by a bench constituted by less than the full strength of the Commission.

Provided further that the Commission may appoint any of its Members to be an adjudicating officer for holding an inquiry under the provisions of sections 143 and 144 of the Act.

### **Vacancies, etc., not to invalidate proceedings:**

30. No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

### **Authority to represent:**

31. A person who is a party to any proceedings before the Commission may either appear in person or authorise any other person to present his case before the Commission and to do all or any of the acts for the purpose.

Provided that the Commission may, from time to time, determine the terms and conditions subject to which a person may authorise any other person to represent him and act and plead on his behalf.

Provided further that the person appearing on behalf of any person in any proceeding before the Commission shall file a Memorandum of Authorisation, in Form I herein.

### **Initiation of Proceedings:**

32. The Commission may initiate any proceedings suo motu, or on a Petition filed by any affected or interested person.
33. The notice of the initiation of the proceedings may be issued by the Commission, and the Commission may give such orders and directions as may be deemed necessary, including, *inter alia*, for service of notices to the affected parties, the filing of reply and rejoinder in opposition or in support of the Petition in such form as it may direct. The Commission may, if it considers appropriate, issue orders for publication of the Petition inviting comments on the issues involved in the proceedings in such form as the Commission may direct.
34. While issuing the notice of inquiry or at any time thereafter, the Commission may, at its discretion designate an advocate or Officer of the Commission or any other person whom the Commission considers appropriate to –
  - (a) present the case of a party which cannot afford to engage its representative, or
  - (b) act as amicus curiae to assist the Commission in its proceedings.

### **Petitions and pleadings before the Commission:**

35. All Petitions to be filed before the Commission shall be typewritten, cyclostyled, printed or handwritten neatly and legibly on one side of the paper and every page shall be consecutively numbered.
36. The Commission may permit the Petitions to be filed in a computer disk or through electronic media in accordance with such terms and conditions as the Commission may determine.
37. The contents of the Petition should be divided appropriately into separate paragraphs, which shall be numbered serially.
38. The Petition shall be accompanied by such documents, supporting data and statements as the Commission may determine.
39. All Petitions shall contain a summary / synopsis of the brief facts, issues, case law referred to, and reliefs sought therein and shall mention the following particulars:
  - (a) the statutory provisions under which the Petition is being filed before the Commission;
  - (b) reasons why the Commission has jurisdiction to try, entertain and dispose of the Petition;
  - (c) whether the Petition is filed within the time limit prescribed in the Limitation Act, 1963, and if not, the period of delay and whether the Petitioner is seeking condonation of delay, and on what grounds.

**General headings:**

40. The general heading in all Petitions before the Commission shall be in Form II herein.

**Affidavit in support:**

41. (a) The statement of fact contained in a Petition filed, shall be supported by a duly notarized affidavit. Every such affidavit shall be in Form- III.

Provided that the Commission may, at its discretion, waive the requirement of affidavit in any particular case.

(b) Every affidavit shall be drawn up in the first person and shall state the full name, age, occupation and address of the deponent and the capacity in which he is signing. The deponent shall furnish information with regard to any proceeding pending in any court of law/ tribunal or arbitrator or any other authority, wherein the deponent is a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

(c) Every affidavit shall clearly and separately indicate the statements which are true to the –

(i) knowledge of the deponent; and

(ii) based on information received by the deponent which he believes to be true.

(d) Where any statement in the affidavit is stated to be true based on the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes such information to be true.

42. In accordance with section 193 of the Indian Penal Code, 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates false evidence for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

### **Presentation and scrutiny of the pleadings, etc.**

43. All Petitions shall be filed with six identical copies and each set of the Petition shall be complete in all respects. The fees as may be specified by the Commission or prescribed by the State Government, as the case may be, from time to time, shall be payable along with the Petition.
44. All Petitions shall be presented in person or by any representative at the headoffice or such other filing centre or centers during its working hours, as may be notified by the Commission from time to time. The Petitions may also be sent by registered post or speed post or courier with acknowledgement due to the Commission at such places.
45. Upon receipt, the Secretary or Officer of the Commission designated for the purpose of receiving the Petition shall acknowledge the receipt by stamping and endorsing the date on which the Petition has been presented and shall issue a duly stamped and dated acknowledgement to the person filing the Petition. In case the Petition is received by registered post, the date on which the Petition is actually received at the office of the Commission shall be taken as the date of the presentation of the Petition and the post or courier acknowledgement shall be considered as acknowledgement of receipt.
46. The presentation and the receipt of the Petition shall be duly entered in the register maintained for the purpose by the office of the Commission. Such register shall be maintained in the form and manner as may be determined by the Commission, from time to time, showing serial no. of Petition, date of its receipt, names and addresses of the parties, brief subject matter of the Petition, etc., claim/relief sought, interim relief sought, if any, approximate number of pages and date of disposal with final result thereof.
47. If on scrutiny, any Petition is found to be defective, the defects shall be notified to the party concerned as far as possible within a period of ten (10) working days, advising him to rectify the defects within a specified time. A standard letter for notifying the defects shall be in Form IV herein. On failure to remove defects within the time allowed, the Petition shall stand dismissed.
48. A person aggrieved by any order of the Secretary in regard to the presentation of the Petition may request the matter to be placed before the Chairperson of the Commission for appropriate orders.
49. The Chairperson, or any Member as the Chairperson may designate for the purpose, shall be entitled to call for the Petition presented by the party, which was found defective on scrutiny, and give such directions regarding the presentation and acceptance of the Petition as he considers appropriate within a period of fifteen (15) days from the date of receipt of the representation from the Party.
50. If, on scrutiny, the Petition is accepted or in case any order of refusal is rectified by the Chairperson or the Member of the Commission designated for the purpose, the Petition shall be duly registered and given a number in the manner to be determined by the Commission.

51. As and when the Petition and all necessary documents are lodged and the defects and objections, if any, are removed by the party concerned, and the Petition has been scrutinised and numbered, the Petition shall, as far as possible, within a period of fourteen (14) working days be put up before the Commission for hearing and admission.
52. The Commission may admit the Petition for hearing without requiring the attendance of the party. Provided that the Commission shall not pass an order refusing admission without giving the party concerned an opportunity of being heard.
53. At any time After the Petition is registered the Commission may, issue such time-bound orders and directions as may be deemed necessary, for –
  - (a) service of notices to the respondents and other affected or interested parties regarding filing of the Petition;
  - (b) directing the parties concerned to file replies, rejoinder affidavits, and documents (in opposition or in support of the Petition); and
  - (c) the Petition to be placed for hearing before the Commission or a bench, as the case may be.

#### **Service of notices and processes issued by the Commission**

54. Any notice or process to be issued by the Commission to any person may be served on him by delivering the same after obtaining signed acknowledgement receipt thereof or by registered post or such other means of delivery as may be prescribed by the State Government under section 171 and clause (n) of sub-section (2) of section 180 of the Act.
55. The Commission shall be entitled to decide in each case the persons, if any, who shall bear the cost of such service/publication.
56. Every notice or process required to be served on or delivered to any person may be sent to the person or his agent empowered to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.
57. In the event any matter is pending before the Commission and the person to be served has authorised an advocate, agent or representative to appear for or represent him or her in the matter, such advocate, agent or representative shall be deemed to be duly empowered to take service of the notices and processes on behalf of the party concerned in all matters and the service on such agent or representative shall be taken as due service on the person to be served.
58. Where a notice is served by a party to the proceedings, an affidavit of service shall be filed by the party with the Commission giving details of the date and manner of service of notices and processes.

59. In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notices, summons or processes or the advertisement and publication thereof, the Commission may either order to dismiss the Petition or give such order or further directions as it thinks fit.
60. No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceedings shall be invalidated by reason of any defect or irregularity unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

**Filing of reply, opposition, objections, etc. :**

61. Each person to whom the notice of inquiry or the Petition is issued (hereinafter called the `respondent') and who intends to oppose or support the Petition shall file a reply and documents relied upon within such period, being normally not less than two weeks or such period as the Commission may direct, and in such number of copies not less than six as may be fixed by the Commission. In the reply filed, the respondent shall specifically admit, deny or explain the facts stated in the notice of inquiry or the Petition and may also state such additional facts as he considers necessary for the decision of the case. The reply shall be signed and verified and supported by affidavit in the same manner as in the case of the Petition.
62. The respondent shall serve a copy of the reply, along with the documents in support thereof, on the petitioner or his authorised representative and on all other parties concerned and file proof of such service with the office of the Commission at the time of filing the reply.
63. Where the respondent states additional facts as may be necessary for the decision of the case, the Commission may at its discretion allow the petitioner to file a rejoinder to the reply filed by the respondents within such period as may be directed by the Commission. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.
64. (a) Every person who intends to file objection or comments with regard to a matter pending before the Commission, (and who is not a party to the pending proceedings) shall deliver to an Officer designated by the Commission, the statement of the objection or comments to the matter with copies of the documents and evidence in support thereof within the time period fixed by the Commission, which shall not normally be less than three (3) weeks from the date when objections or comments are invited.  
  
(b) In case the Commission is satisfied that any Person is interested in any matter pending before the Commission, it may in public interest allow or permit or invite such Person to present his opinion or views on that matter, and participate in the proceedings before the Commission on such terms as the Commission deems fit.  
  
(c) Unless permitted and/or invited by the Commission, the person filing objection or comments shall not be entitled to participate in the proceedings to make

oral submissions. However, the Commission shall be entitled to take into account the objections and comments filed by the person(s) after giving such opportunity to the parties to the proceedings as the Commission considers appropriate to deal with the objections or comments.

**Hearing of the matter :**

65. The Commission may determine the stages, manner, place, date and time of the hearing of the matter, as considered appropriate for expeditious disposal.
66. (a) If the Commission directs evidence of a party to be led by way of an affidavit, the Commission shall provide a reasonable opportunity for the other parties to counter the same by way of affidavit.  
  
(b) If the Commission directs evidence of a party to be led orally the Commission shall provide a reasonable opportunity to the other parties to the proceedings to cross-examine the person adducing such oral evidence.  
  
(c) The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an Officer or person designated for the purpose by the Commission.  
  
(d) The Commission may direct the parties concerned to file written notes of arguments and/or submissions in any matter before the Commission.

**Further information, evidence, etc :**

67. The Commission may, at any time before passing orders on any matter, require any one or more of the parties or any other person whom the Commission considers appropriate, to produce such documentary or other evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.
68. The Commission may direct the summoning of witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examination by an Officer or nominee of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant to the matter.

**Reference of issues to others:**

69. (a) At any stage of the proceedings, the Commission shall be entitled to refer such issue or issues in the matter as it considers appropriate to any persons including, but not limited to, the Officers of the Commission, whom the Commission considers as qualified to give advice or opinion.  
  
(b) The Commission may nominate from time to time any person including, but not limited to, the Officers to visit any place or places for inspection and provide a report on the existence or status of the place or any facilities therein.

(c) The Commission, may direct any person, who in the opinion of the Commission is competent to provide informed advice or opinion to appear before the persons designated above, and to present their respective views and/or make presentation on the issues or matters referred to.

(d) The report or the opinion received from such person shall form a part of the record of the case and the parties shall be given the copies of the report or opinion given by the person designated by the Commission. The parties shall be entitled to make their submissions, written or oral, either in support or in opposition to the report or the opinion, as the case may be. The person from whom such opinion or advise is taken may not be permitted to be crossed examined on the subject matter to file such an opinion or appear or give evidence.

**Procedure to be followed where any party does not appear:**

70. Where any party is required by the Commission to appear in person, and does not so appear in person nor shows sufficient cause for non-appearance, the Commission may:
- (a) dismiss the application if he is the applicant , or
  - (b) proceed ex-parte against such party if he is the opponent, respondent or any other party.
71. (a) Where neither the applicant nor the opponent appears when the application is called for hearing, the Commission may dismiss it for default.
- (b) Such dismissal of the application , however, shall not bar a fresh Petition in respect of the same cause of action.
- (c) The applicant may also apply within thirty (30) days from the date of the order of dismissal, for an order to set aside such dismissal.
- (d) If the Commission is satisfied that there was sufficient cause for non-appearance, it may set aside the dismissal of the application and fix a day for proceeding with the application .
72. Where the applicant appears before the Commission and any opponent or other party does not so appear, the Commission may proceed with the matter ex-parte against such opponent/other party upon being satisfied that notice has been duly served upon such absent party.

### **Orders of the Commission:**

73. The Commission comprising of the Members hearing a proceeding shall pass orders in such proceedings, and such orders shall be signed by the Members of the Commission hearing such proceeding.
74. Every order made by the Commission shall be a reasoned order.
75. (a) If the Members of a bench of the Commission consisting of two Members (including the Chairperson) differ in opinion on any point, they shall state the point or points on which they differ, and refer the case on such point or points of difference by the third Member of the Commission.  
  
(b) In the cases so referred, the third Member after perusing the records and the Orders written by the two Members, shall write his own judgement. In such cases, the decision of the majority shall prevail. Provided that the final order shall record the dissenting findings arrived at by any Member.  
  
(c) The Member or Members deciding the reference may, at his/their discretion, require the parties to the matter to make additional submissions before him/them before arriving at a decision.  
  
(d) No appeal shall lie from an order referring a matter to the Chairperson or for reference to another/other Member or Members.
76. All orders and decisions issued or communicated by the Commission shall be certified by the signature of the Secretary or an Officer empowered in this behalf by the Chairperson and shall bear the official seal of the Commission.
77. All orders of the Commission shall be communicated as expeditiously as possible from the date of passing thereof to all parties in the proceeding under the signature of the Secretary or an Officer empowered in this behalf by the Chairperson or the Secretary.

### **Commission's records –documentation, inspection, confidentiality and accessibility:**

78. The Commission shall, as soon as may be practicable, maintain an indexed database of its records including, *inter alia*, Petitions filed, details of hearings conducted, orders / documents issued from time to time.
79. (a) Subject to sub-regulation (c) herein, records of the Commission shall be open to inspection by all, subject to the payment of the fee and complying with the terms as the Commission may direct.  
  
(b) The Commission shall, on such terms and conditions as the Commission considers appropriate, provide for supply of certified copies of documents and papers available with the Commission to any person subject to the payment of fee and complying with the terms as the Commission may direct. The Commission shall designate an Officer for ensuring timely response to requests received for supply of certified copies of documents. Such Officer

shall maintain a register of such requests made in Form V herein and shall endeavour to dispatch the certified copies of documents requested for within a period of fourteen (14) working days from the date of receipt of request.

- (c) The Commission may, by order, direct that any information, documents and papers / materials maintained by the Commission, shall be confidential or privileged and shall not be available for inspection or supply of certified copies, and the Commission may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Commission.

80. The Commission shall endeavour to make information involving public interest accessible and available to the public, including, *inter alia*, through its website and endeavour to facilitate meaningful public participation in matters involving public interest.

**Interim Orders, investigation, inquiry, collection of information, etc:**

81. The Commission may pass such ad-interim or interim orders, as the Commission may consider appropriate at any stage of any proceedings, having regard to the facts and circumstances of the case.

82. The Commission may make such direction or order as it thinks fit for collection of information, inquiry, investigation, entry, search, seizure and, without prejudice to the generality of its powers, including, *inter alia*, the following :-

- (a) The Commission may, at any time, direct the Secretary or any one or more Officers or any other person as the Commission considers appropriate to study, investigate or furnish information with respect to any matter within the jurisdiction of the Commission under the Act.

- (b) The Commission may, for the above purpose, give such other directions as it may deem fit and state the time within which the report is to be submitted or information furnished.

- (c) The Commission may issue or authorise the Secretary or an Officer to issue directions to any person to produce before it and allow to be examined and kept by an Officer of the Commission directed in this behalf the books, accounts, etc., or to furnish any information to the designated Officer.

- (d) The Commission may issue such directions, for the purpose of collection of any information, particulars or documents that the Commission considers necessary in connection with the discharge of its functions under the Act.

- (e) If any such report or information obtained appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information.

(f) The Commission may direct such incidental, consequential and supplemental matters to be attended to which may be considered relevant in connection with the above.

83. If the report or information obtained in accordance with Regulation 82 above or any part thereof is proposed to be relied upon by the Commission for forming its opinion or view in any proceedings, the parties to the proceedings shall be given a reasonable opportunity for filing objections and making submissions on such report or information.

**Confidentiality:**

84. (a) The Commission shall appraise and determine whether any document or evidence provided to it by any party and claimed by that party to be of a confidential nature merits being withheld from disclosure to other parties as being confidential and shall provide brief reasons in writing for arriving at its conclusion.

(b) If the Commission is of the view that the claim for confidentiality is justified the Commission may direct that the same be not provided to such parties as the Commission may deem fit. However, the party claiming the confidentiality shall provide a brief non-confidential summary of the substance of the documents found to be confidential and the import of the same.

(c) Notwithstanding the above, it shall be open to the Commission to take into consideration the contents of the documents found to be confidential in arriving at its decision.

**Review of decisions, directions, and orders:**

85. (a) Any person aggrieved by a direction, decision or order of the Commission, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, 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 direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Commission.

(b) An application for such review shall be filed in the same manner as a Petition under these Regulations.

(c) The Commission, shall for the purposes of any proceedings for review of its decisions, directions and orders be vested with the same powers as are vested in a civil court under the Code of Civil Procedure, 1908.

(d) When it appears to the Commission that there is no sufficient ground for review, the Commission shall reject such review application.

(e) When the Commission is of the opinion that the review application should be granted, it shall grant the same provided 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 decision or order, the review of which is applied for.

**Continuance of Proceedings after death, etc:**

86. (a) Where in a proceeding, any of the parties to the proceeding dies or is adjudicated as an insolvent or in the case of a company under liquidation / winding up, the proceeding shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned, as the case may be:

(b) The Commission may, for reasons to be recorded, treat the proceedings as abated in case the Commission so directs and dispense with the need to bring the successors-in-interest on the record of the case.

(c) In case any person wishes to bring on record the successors-in-interest, etc., the application for the purpose shall be filed within ninety (90) days from the event requiring the successors-in-interest to be brought on record. The Commission may condone the delay, if any, for sufficient reasons.

**Proceedings to be open to public:**

87. The proceedings before the Commission shall be open to the public.

Provided that admission to the place of hearing shall be subject to availability of sitting accommodation.

Provided further that the Commission may, if it thinks fit, and for reasons to be recorded in writing, order that the proceedings of any particular case shall not be open to the public or any particular person or group of persons.

88. (a) In accordance with Section 228 of the Indian Penal Code, 1860, who ever intentionally offers any insult or causes any interruption in any of the proceedings of the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/-, or with both.

(b) In accordance with Section 345 of the Code of Criminal Procedure, 1973, where any one intentionally offers insult or causes any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may, at any time before the raising of the bench on the same day take cognisance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, sentence the offender to fine not exceeding Rs.200/- and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine is sooner paid.

89. If the Commission, in any case as referred to it, considers that a person accused of any of the offences referred to these Regulations, should be imprisoned on account of default of payment of fine, it may forward the case to a Magistrate having

jurisdiction to try the same and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall send such person in custody to such Magistrate.

**Publication of Petition:**

90. (a) Where any application, Petition, or other matter is required to be published under the Act or these Regulations as per the directions of the Commission, it shall, unless the Commission otherwise orders or directs or the Act or Regulations otherwise provides, be advertised normally atleast three (3) weeks before the date fixed for hearing in not less than two (2) daily newspapers in the English Language and two (2) daily newspapers in the Marathi language having circulation in the area, in such form as directed by the Commission.

(b) Except as otherwise provided, such advertisements shall give a heading describing the subject matter in brief.

**Issue of orders and directions:**

91. Subject to the provisions of the Act and these Regulations, the Commission may, from time to time issue orders and directions including practice directions in regard to the implementation of the Regulations and procedure to be followed.

**Saving of inherent power of the Commission:**

92. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Commission.

93. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Commission, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.

94. Nothing in these Regulations shall bar the Commission to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

**General power to amend/rectify:**

95. The Commission may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceedings before it (including any clerical or arithmetical error in any order passed by the Commission), and all necessary amendments, rectifications shall be made for the purpose of determining the real question or issue arising in the proceedings.

Provided that if the Commission desires to make amendments or rectifications in order to determine the real question or issue arising the Commission shall provide an opportunity to the parties affected by such amendment or rectification touching the real question or issue to make representations and submissions with respect to the proposed amendment or rectification.

**Power to remove difficulties:**

96. If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act, which appears to be necessary or expedient for the purpose of removing the difficulties.

**Extension or abridgement of time prescribed:**

97. Subject to the provisions of the Act, the time prescribed by these Regulations or by order of the Commission for doing any act may be extended (whether it has already expired or not) or abridged for sufficient reason by an order of the Commission.

**Effect of non-compliance:**

98. Failure to comply with any requirement of these Regulations shall not invalidate any proceeding merely by reason of such failure unless the Commission is of the view that such failure has resulted in miscarriage of justice.

**Costs:**

99. (a) Subject to such condition and limitation as may be directed by the Commission, the costs of and incidental to, all proceedings shall be awarded at the discretion of the Commission and the Commission shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.
- (b) The costs shall be paid within thirty (30) days from the date of the order or within such time as the Commission may, by order, direct. If a party fails to comply with an order for costs within the permitted period, the order of the Commission awarding costs shall be executed forthwith in the same manner as a decree/order of a Civil Court.

**State Advisory Committee**

100. The Commission may, in accordance with section 87 of the Act, establish with effect from such date as it may specify by notification, a State Advisory Committee.
101. Upon establishment of the State Advisory Committee the same shall meet at least thrice in every year.

102. Travelling allowance and daily allowance to the Members of the Committee:

- (i) A member of the Committee other than a Government Servant shall be entitled to travelling allowance and daily allowance for attending the meeting payable at the scale and according to the rule applicable to a Grade-I Officer of the Government of Maharashtra.
- (ii) A member of the Committee who is Government servant shall draw travelling allowance and daily allowance from his department.
- (iii) The Secretary of the Commission shall be the controlling authority in respect of such travelling / daily allowance bills.

A.M. Khan,  
Secretary,  
Maharashtra Electricity Regulatory Commission,  
Mumbai.

Mumbai, 10<sup>th</sup> June, 2004

**Form I**  
[see Regulation 31]

**BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,  
MUMBAI**

Petition No. /

In the matter of

..... Petitioner

V/s

..... Respondent(s)

Memo of Authorisation

I/We, ..... the petitioner/respondent abovenamed do hereby nominate, appoint and constitute ....., to act, plead and appear on my/our behalf in the aforesaid matter.

IN WITNESS WHEREOF I/We have set and subscribed my/our hands to this writing on this ..... day of .....

Place : \_\_\_\_\_

Signature

[Petitioner/Respondent]

Date : \_\_\_\_\_

Address for Correspondence

I/We accept

.....

**Form II**  
[See Regulation 40]

**BEFORE THE MAHARASHTRA ELECTRICITY REGULATORY COMMISSION,  
MUMBAI**

Filing No.  
Case No.  
(To be filled by the  
Office)

IN THE MATTER OF

(gist of the purpose of the Petition or application)

AND

IN THE MATTER OF

(Name and full address of the petitioner/applicant and name and full address of the respondent)

Fact of the case/Petition be stated in short

Submission/Ground in support of the case.

Relief clause: Relief prayer made in the Petition be stated shortly and specifically.

Place:

Date :

Signature of the Petitioner

**Form III**  
[See Regulation 41(a)]

**BEFORE THE MAHARASHTRA REGULATORY COMMISSION, MUMBAI.**

Filing No.  
Case No.  
(To be filled by the  
Office)

IN THE MATTER OF

(Gist of the purpose of the Petition or application)

AND

IN THE MATTER OF

(Name and full address of the petitioner/applicant and name and full address of the respondent)

*Affidavit* verifying the Petition/ reply/application

I, ..... son of .....aged.....residing at  
..... do solemnly affirm and say as follows:

1. I am the petitioner/applicant/respondent etc., or I am a Director/Secretary/Partner/authorised representative of ..... the petitioner/applicant/respondent in the above matter and am duly authorised and competent to make this affidavit.
2. The statements made in paragraphs .....of the petition/application/reply are true to my knowledge and belief and statements made in paragraphs ..... to ..... are based on information and I believe them to be true.
3. I say that there are no proceedings pending in any court of law/ tribunal or arbitrator or any other authority, wherein the Petitioners are a party and where issues arising and/or reliefs sought are identical or similar to the issues arising in the matter pending before the Commission.

Solemnly affirm at ..... on this ....day of .....that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

( )  
Identified before me

(Signature)

Mumbai  
Dated .

Secretary

**Form IV**  
[See Regulation 47]

**MAHARASHTRA ELECTRICITY REGULATORY COMMISSION, MUMBAI**

No.

**Subject:**

**In the matter of:**

Dear Sir/Madam,

I am directed to refer to your Petition/application dated [     ] filed on [     ] on the above subject and to inform you that on scrutiny, the following defects have been found:

1. The Petition is not in Form II of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004.

(2) The Petition does not mention:

(a) the statutory provisions under which the Petition is being filed before the Commission;

(b) reasons why the Commission has jurisdiction to try, entertain and dispose of the Petition;

(c) whether the Petition is filed within the time limit prescribed in the Limitation Act, 1963, and if not, the period of delay and whether the Petitioner is seeking condonation of delay;

(d) ..... (any other reasons)

3. The name, description and address of the parties have not been furnished in the cause title.

4. The following necessary parties have not been impleaded:

(i)

(ii)

5. The Petition has not been duly signed.

6. The Petition has not been verified through an affidavit.

7. The affidavit is not in Form III of the Maharashtra Electricity Regulatory Commission (Conduct of Business Regulations), 2004.

8. The affidavit has not been signed and sworn before the competent authority.
9. Six identical copies of the Petition have not been filed.
10. The copies of the Petition are not complete in all respects.
11. The copies of the documents are not legible.
12. English translation of the documents and other material contained in a language other than English/Marathi, has not been filed.
13. The letter of authorisation has not been filed/ not properly executed.
14. The prescribed fee for the Petition/application has not paid.
15. The index of documents has not been filed.
16. The pagination of the documents has not been done properly.

You are requested to rectify the defects within two (2) weeks of issue of this letter, failing which the Petition shall be deemed to have been rejected.

Yours faithfully,  
(Secretary)

**Form V**  
[See Regulation 79(b)]

**BEFORE THE MAHARASHTRA REGULATORY COMMISSION, MUMBAI.**

Application for inspection / obtaining copies of documents/records

I hereby apply for grant of permission to inspect / obtain copies of the following documents / records in the above case. The details are as follows:

1. Name & Address of the person seeking permission to inspect / obtain copies of the documents / records.
2. Whether he is party to the case or he is the authorised representative of any party. [*Furnish necessary particulars*]
3. Details of papers/documents sought to be inspected / copies required
4. Date and duration of the inspection sought
5. The amount of fee payable (as per relevant Regulations) and the mode of payment

Place:

Date :

Signature

Office Use

Granted inspection on \_\_\_\_\_ / Rejected

Granted copies of documents on \_\_\_\_\_ / Rejected

Secretary / Officer/ Nominee of the Commission

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A.M. Khan,  
Secretary,  
Maharashtra Electricity Regulatory Commission,  
Mumbai.

Mumbai, 10<sup>th</sup> June, 2004