

# MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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## NOTIFICATION (DRAFT)

### ELECTRICITY ACT, 2003

No. MERC/Legal/- In exercise of the powers conferred by sub-section (3) of section 94 read with Section 181 of the Electricity Act, 2003 (36 of 2003), and to further the objectives enshrined in clause (a) and clause (b) of Regulation 18 of the Maharashtra Electricity Regulatory Commission (Conduct of Business) Regulations, 2004 and paragraph 5.13.4 of the National Electricity Policy, and all other powers enabling it in that behalf, the Maharashtra Electricity Regulatory Commission hereby makes the following Regulations.

#### 1. Short Title, Extent and Commencement

- 1.1 These Regulations may be called the “Maharashtra Electricity Regulatory Commission (Authorised Consumer Representatives) Regulations, 2011”.
- 1.2 These Regulations shall extend to the whole of the State of Maharashtra.
- 1.3 These Regulations shall come into force from the date of their publication in the Official Gazette.

#### 2. Definitions

2.1 In these Regulations unless the context otherwise requires:-

- (a) “**2003 Act**” means the Electricity Act, 2003 (36 of 2003);
- (b) “**Commission**” or “**MERC**” means the Maharashtra Electricity Regulatory Commission;
- (c) “**CR**” means an Institutional Consumer Representative or an Individual Consumer Representative, as the case may be, and as authorized by the Commission under these Regulations to represent the interests of the consumers in the proceedings before it;

- (d) “**Region**” means one of the five(5) Geographical Regions namely Konkan, Northern Maharashtra, Western Maharashtra, Marathwada and Vidarbha, as shown in the geographical layout at Appendix -A.

2.2. Words or expressions used herein and not defined, shall have the meanings assigned to them in the 2003 Act or the rules or regulations made thereunder.

### **3. Types of Consumer Representatives**

There shall be two types of Consumer Representatives (CRs) to be authorised under these Regulations, as follows:-

(a) Institutional CRs

(b) Individual CRs

### **4. Eligibility Criteria for selection as Institutional CR and Individual CR**

#### **4.1 Criteria for selection as Institutional CR**

- (a) The applicant organisation shall be registered under applicable laws, preferably working for three (3) years on matters concerning consumer grievances in a major part of the area it would like to represent.
- (b) The applicant shall preferably be a ‘not for profit’ kind of organisation.
- (c) The applicant organisation shall be either (1) a research and academic institution, or (2) an advocacy group, such as NGO working in public interest, or (3) association of consumers and professionals.
- (d) The applicant organisation shall furnish information as per Appendix-B to these Regulations and also adequate data/ documents as proof of its working in the interest of electricity consumers.

#### **4.2 Criteria for selection as Individual CR**

- (a) Proof of recognition and experience of an individual person shall be considered for his / her being authorized to represent the interests of consumers in the proceedings before the Commission.
- (b) Maximum age of seventy-five years.
- (c) An Individual CR shall not be a member of an Institutional CR.

(d) The applicant shall furnish information as per Appendix-C to these Regulations and also adequate data/ documents as proof of his / her working in the interest of electricity consumers.

4.3 The Commission while selecting a CR may keep the following in view, as the minimum eligibility requirement:-

(a) Suitability to make representations on behalf of the electricity consumers having regard to past experience in similar proceedings;

(b) Past experience in representing interests of certain categories of consumers / institutions/ parties, local Industry, the Chambers of Commerce and Trade Associations, etc.

(c) Before authorising a CR, the Commission shall satisfy itself that such an Institutional CR / Individual CR does not have any financial or other interest which is likely to affect prejudicially its / his/ her functions as an authorised CR.

## **5 Process for authorization of CRs**

5.1 The Commission shall invite applications for Institutional and Individual CRs by Notice/s in two (2) daily newspapers in English Language and two (2) daily newspapers in Marathi Language, having wide circulation in specific regions, as the Commission deems fit, and also upload the Notice on its website.

Provided that applications may be invited from specific regions for Institutional CRs and entire State for individual CRs.

Provided further that applications shall, as far as practicable, be invited 120 days in advance of the expiry of authorization of CRs.

5.2 An Institutional CR or Individual CR shall be authorised by the Commission under these Regulations on the recommendation of a Selection Committee for deciding the suitability and eligibility of an applicant for becoming a CR.

5.3 The Commission shall, for the purposes of selecting CRs, constitute a Selection Committee consisting of –

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|--|----------------|
| (a) Secretary of the Commission  | - Chairperson; |
| (b) Executive Director of the Commission                                       | - Member;      |
| (c) Director (Admn) of the Commission  | - Member;      |
| (d) A representative nominated by the State Government                         | - Member.      |
| (e) Maximum two (2) nos. of representatives of Utilities, as special invitees. |                |

## 6. **Publication of List of Authorised Consumer Representatives**

The Commission shall, notify the name of the CR by issuing notices in at least in the same daily English and Marathi language newspapers, through which the applications were invited and such information shall also be uploaded on the website of the Commission.

## 7. **Total Number of CRs**

- 7.1 There shall be five(5) Institutional CRs to represent each of the Regions; and one(1) Institutional CR to represent consumers in the area of Municipal Corporation of Greater Mumbai.
- 7.2 There shall be a '**Panel of Individual CRs**' comprising of a maximum of fifteen(15) Individual CRs.
- 7.3 The panel specified in Regulation 7.2 shall indicate the fields of expertise of the Individual CRs.
- 7.4 The Commission may invite a suitable number of Individual CRs from the '**Panel of Individual CRs**' on a case to case basis.

## 8. **Tenure of a CR**

- 8.1 An Institutional CR shall be authorized for a maximum period of six(6) years from the date of its authorization.
- 8.2 An Individual CR shall be authorized for a maximum period of three(3) years from the date of his/ her authorisation.
- 8.3 Only one-third of the total number of Institutional CRs shall be replaced by new Institutional CRs at a time, with the remaining two-thirds continuing to be available.
- 8.4 The following CRs who have been representing the interests of consumers in the proceedings before the Commission prior to the date of notification of these regulations shall be deemed to be Institutional CRs under these Regulations:-

<u>Area</u>	<u>Name of Organisation</u>
- Mumbai	Mumbai Grahak Panchayat,
- Konkan Region	Thane Belapur Industries Association,
- Vidarbha Region	Vidarbha Industries Association,
- Western Maharashtra Region	Prayas (Energy Group)

- 8.5 Upon the first authorization of the Institutional CRs under these Regulations, and in consultation with the Selection Committee, the Commission, may make by order such provision as it thinks fit, so that the term of office of the deemed Institutional CRs, shall cease, two at a time, in every second year thereafter, and they be replaced by other suitable Institutional CRs, in line with the provisions in the Regulations.

## **9. Nature of Proceedings before the Commission**

The Commission shall intimate such of the Institutional CRs and/ or Individual CRs, and invite them, as may be required by the Commission, keeping in view the types of proceedings including the following and the demonstrated expertise of the CR viz-a-viz the specific proceedings:-

### **(a) Tariff Functions / Licensing Functions**

- (i) Proceedings pertaining to Tariff Determination for Generation, Transmission, supply and wheeling of electricity, Regulating electricity purchase and procurement process of Distribution Licensees, and analogous proceedings;
- (ii) Proceedings pertaining to issuance of Licenses for Distribution, Transmission or Trading of electricity;
- (iii) Proceedings pertaining to promotion of cogeneration, generation from renewable energy sources, grid connectivity, purchase of electricity from such sources, and analogous proceedings;

### **(b) Penal Proceedings / Enforcement Proceedings**

- (i) Non-compliance of directions of the Commission, orders of the Forums and Electricity Ombudsman, Non-compliance of Regulations made under the 2003 Act, penalty under Sections 33, 142, 146, 149, or as the case may be;
- (ii) Enforcement of standards of performance of licensees/ Utilities.

### **(c) Adjudication Proceedings**

Adjudication of disputes between the licensees and generating companies;

Provided that the Commission may seek testimony or advice or opinion on specific issues, from the CRs in any proceedings not mentioned above.

Provided also that the Commission shall keep in view the expertise of Individual CRs while inviting them to represent in proceedings before the Commission.

Provided further that the non-attendance of a CR in any proceedings of the Commission, shall not invalidate the proceedings.

## **10. The functions and duties of the CRs**

10.1 The CRs shall:-

(a) Represent the interests of consumers in the proceedings before the Commission;

Provided that no CR shall file representation for any particular party in any proceeding before the Commission.

(b) Make suggestions to the Commission for capacity building of consumer groups and their effective representation before the Commission.

(c) Take steps that enhance the efficacy of regulatory processes before the Commission.

10.2 The Commission may also from time to time direct the CRs to take any or all of the following measures:-

(a) To educate consumers in respect of energy saving, methodology to tide over shortage situation, Demand Side Management and consumers' rights in terms of the service to be provided by the Distribution Licensees;

(b) To provide testimony or advice to the Commission for the implementation of the Commission's orders and regulations for safeguarding the interest of the consumers;

(c) To assist the Commission in improving efficiency in the consumer grievance redressal mechanism;

(d) To bring to the notice of the Commission instances of any non-implementation/non-compliance of the Commission's Orders and Regulations.

Provided that unless specifically authorized by the Commission, in writing, the CR while performing the functions as specified in these Regulations, shall not make any direct communication with any Utility or the Forums or the Electricity Ombudsman, asking for any information.

## **11. Withdrawal of authorisation of a CR**

11.1 The Commission may review the performance of the CRs.

Provided that when the Commission thinks fit, it may formulate a suitable mechanism to review/ evaluate quality, level of participation of the CRs, from time to time.

11.2 The Commission may withdraw the authority given to a CR if the Commission finds that its performance or quality of its representations are not in the interest of electricity consumers or electricity industry or if frivolous interventions have been made in the past or for any other sufficient and just reasons.

## **12. Non-availability of a suitable Institutional CR to represent a particular Region**

In the event a suitable Institutional CR is not available to represent the interests of consumers of a particular region, the Commission may authorize the Institutional CR of a region adjacent to such region to represent the interests of consumers of that particular region.

## **13. Intimation of Change**

The Institutional CR shall intimate and notify the Commission promptly in the event there is any change in any aspect pertaining to the CR from the information supplied at the time of applying for being authorised as a CR.

Provided that the authorization accorded to a CR shall become liable to be withdrawn if any material information is not disclosed to the Commission.

## **14. Travelling allowance and other allowances**

14.1 A CR shall be entitled to travel allowances and other allowances for hearing, meeting, TVS etc., when invited by the Commission, as per eligibility, as may be notified from time to time.

14.2 The Secretary of the Commission shall be the controlling authority in respect of such travelling and other allowances.

## **15. Saving of inherent powers of the Commission**

Nothing in these Regulations shall bar the Commission from adopting a procedure which is at variance with any of the provisions of these Regulations if the Commission, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient to depart from the procedure prescribed in these Regulations.

## **16. General power to amend**

The Commission may at any time and on such terms as it may think fit amend any provision of these Regulations for the purpose of achieving the objectives for which these Regulations have been framed.

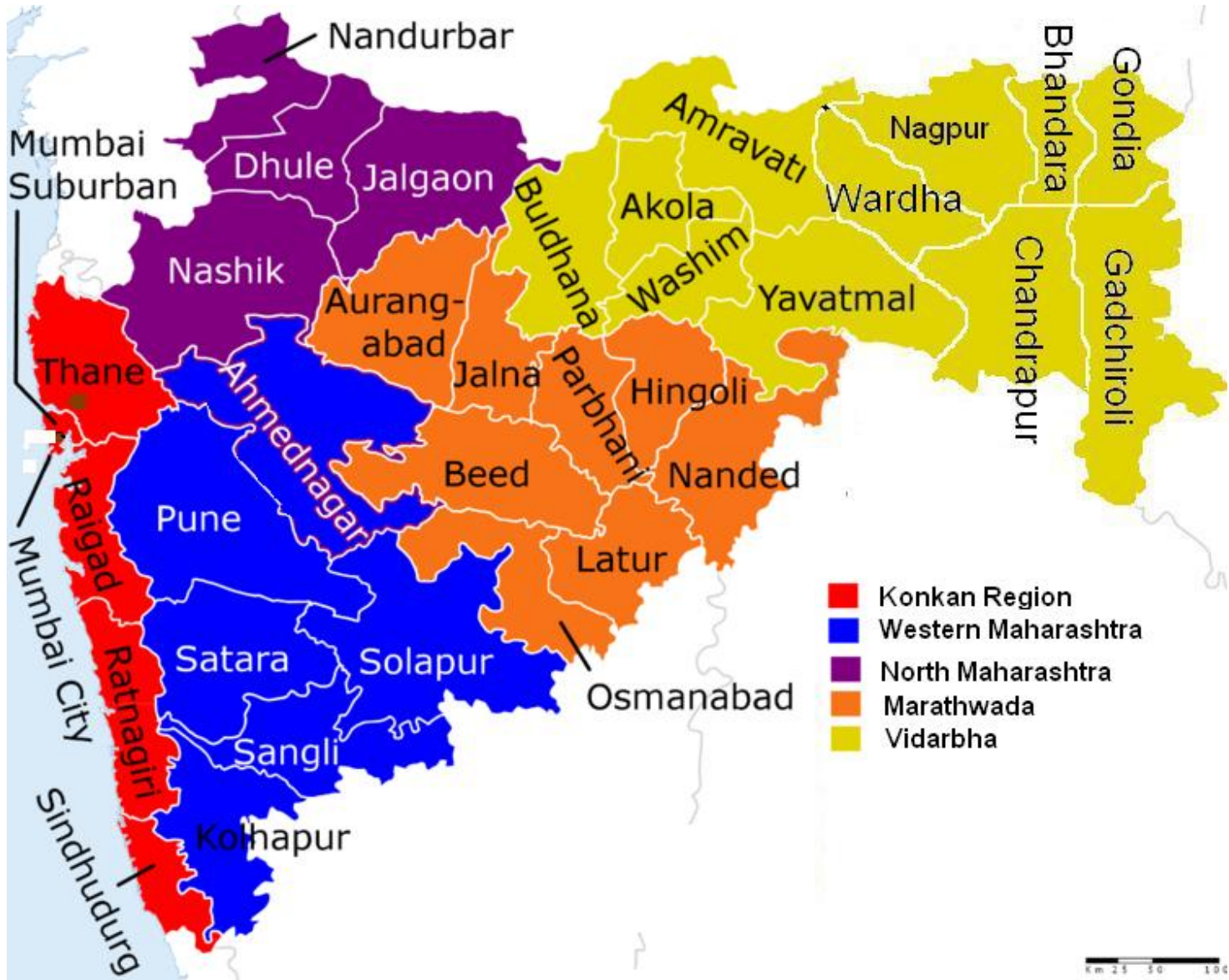
## **17. Power to remove difficulties**

If any difficulty arises in giving effect to any of the provisions of these Regulations the Commission may, by general or special order, make such provisions, not being inconsistent with the provisions of the 2003 Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

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Appendix-A

Geographical Map of Maharashtra



\*\* The Geographical Regions (in different colours) and the Districts (by name)

## Appendix-B

### Information to be submitted by the Applicant desirous of being authorised as Institutional Consumer Representative

The applicant Institution/ Organisation shall furnish the following information to the Commission alongwith the documentary proofs, as may be applicable:-.

- Type of Organisation, date of registration (alongwith photocopy of registration),
- Full details and experience of executives/ persons working for the organization, with the period of working with the organization – full time as well as on part time basis, Voluntary/ honorary, or on payment of compensation,
- Full details of the working members of the organization, who hold assignments of profits, in any way, connected with the electricity distribution system of the area, or anywhere within the State,
- Details of Branches, their Locations, strengths,
- Overall budget, Annual expenses, Sources for its funding,
- Balance sheets, Income and Expenditure details, for the past 3 years,
- Whether any particular school of thought, specialization, or interest in scientific research/ study etc., with reports, if any, as a continuous process in line of its operations, preferably concerned with electricity sector/ consumers,
- Brief details of the matters handled in the past (by various branches) concerning electricity consumers in the State, related with the Electricity Act, Rules and Regulations, procedures, etc
- Desire to represent all types of electricity consumers or only any particular type(s)/ segments of the electricity consumers, for example, Agriculture, Domestic, Commercial, and Industries (Specialty/ Experience based),
- Desire to represent the electricity consumers of entire State or from a particular area only.
- Full particulars of all available individual members of the organization, who will generally be representing the consumers in various types of proceedings before the Commission, along-with their field/s of interest/ expertise. The list of persons may also define as the ‘main’ and ‘alternate’ persons.
- **Declaration of donation received by the Institution/ Organisation from political parties:**
  - (a) the contribution in excess of twenty thousand rupees received from a political party, in a year, in the three financial years preceding the year of making application before the Commission;
  - (b) the contribution in excess of twenty thousand rupees received from companies other than Government companies, in a year, in the three financial years preceding the year of making application before the Commission.

## Appendix-C

### Information to be submitted by the Applicant desirous of being authorised as Individual Consumer Representative

- Personal details - Name; residential address; postal address; nationality / domicile.
- Curriculum Vitae with full details of assignments in electricity distribution system in its area of residence, or anywhere within the State of Maharashtra,
- IT Returns for the past 3 years,
- Whether any particular school of thought, specialization, or interest in scientific research/ study etc., with reports, if any, as a continuous process in line of his/ her operations, preferably concerned with electricity sector/ consumers,
- Brief details of the matters handled in the past concerning electricity consumers in the State, related with the Electricity Act, Rules and Regulations, procedures, etc.,
- Desire to represent all types of electricity consumers or only any particular type(s)/ segments of the electricity consumers, for example, Agriculture, Domestic, Commercial, and Industries (Specialty/ Experience based),
- Desire to represent the electricity consumers of entire State or from a particular area only.
- **Declaration of donation received from political parties:-**
  - (a) the contribution in excess of twenty thousand rupees received by such CR from a political party in the three financial years preceding the year of making application before the Commission;
  - (b) the contribution in excess of twenty thousand rupees received by such CR from companies other than Government companies the three financial years preceding the year of making application before the Commission.