HARYANA ELECTRICITY REGULATORY COMMISSION
BAYS NO. 33-36, SECTOR – 4, PANCHKULA – 134113, HARYANA

Procedure to be followed in Suo Motu Proceedings, Regulations, 2013

Notification

The 5th November, 2013

Statement of objects & reasons.

The Hon'ble Appellate Tribunal for Electricity (APTEL), New Delhi, at Paragraph 64 of their common Judgment dated 24th May, 2013 in Appeal Nos. 197, 198, 200, 201 & 208 of 2012 and 6 of 2013, pronounced in Chennai Circuit Bench, has issued directive / advisory to all the State Electricity Regulatory Commissions (SERCs). The operative part of the same is reproduced below:

"64. At this point of time, we deem it appropriate to give general directions to all the Commission's by invoking Section 121 of the Act, 2003 for future guidance regarding procedure to be followed in suo – moto proceedings for seeking specific suggestions and objections from the stakeholders and the public. Accordingly, we direct that all the Commissions, in order to facilitate effective participation of the stakeholders and to obtain specific and relevant comments from them on the issues under consideration of the Commission, shall ensure the circulation of the Consultative Paper clearly indicating the proposal by putting in the public domain for seeking suggestions and objections of the public. The Commissions are advised to frame suitable Regulations regarding the procedure to be followed in the suo moto proceedings as indicated above".

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As per past experience of this Commission the participation of the stakeholders in the various suo motu proceedings before the Commission has always been there though the procedure had not been finalized.

Therefore, it was felt that as advised by the Hon'ble APTEL the State Commission should take appropriate steps to frame regulations laying down procedure to be followed where suo motu proceedings are initiated by the Commission especially for eliciting wider participation for protecting/safeguarding interests of the consumers and other affected parties.

Accordingly, the Commission has finalized the Regulations laying down the procedure to be followed in suo motu proceedings.

Regulation No. HERC/ 28 /2013:

The Haryana Electricity Regulatory Commission in exercise of powers conferred on it by Section 61 and Section 181 of the Electricity Act, 2003 and all other powers enabling it in this behalf hereby makes the following Regulations for laying down the procedures to be followed where suo motu proceedings are initiated by the Commission .

1. Short title, commencement, and interpretation

(1) These Regulations may be called the Haryana Electricity Regulatory Commission (Procedure to be followed in suo motu Proceedings) Regulations, 2013.

(2) These Regulations shall come into force w.e.f the date of their publication in the Haryana Government Gazette.

(3) These Regulations shall extend to whole of the State of Haryana.

(4) These Regulations shall be applicable to matters where suo motu proceedings are initiated by the Commission.

2. Definitions

In these Regulations, unless the context otherwise requires:-

(1) **"Act"** means The Electricity Act, 2003 (Act 36 of 2003) as amended from time to time;

(2) **"Commission"** means the Haryana State Electricity Regulatory Commission;

(3) **"Suo motu Proceedings"** mean any proceedings initiated by the Commission.

Words or expressions used and not defined herein but defined in the Act or Haryana Electricity Reforms Act, 1997, shall, unless the context otherwise requires, have the meaning as assigned to them under the Act or Haryana Electricity Reforms Act, 1997 or such other Regulations notified by the Commission as the case may be.

3. Objectives of the HERC (Procedure to be followed in Suo Motu Proceedings) Regulations, 2013 :

In view of the above statement of objects, reasons and the provisions of the Act the State Commission is empowered to take suitable measures conducive to the development of electricity industry in the State. Thus, in this context it is considered appropriate by the Commission to put in place the procedure to be followed by the Commission for suo motu proceedings in the absence of application / petition filed by the power utilities or any other stakeholders for that matter, so as to ensure effectively participation of all stakeholders and exercise various powers and functions under the Act read with the Regulations and Terms of License notified by the Commission in view of the legislative functions cast upon the Commission under Section 181 of the Act.

4. Conduct of Business:

4.1 The Commission shall, in all suo motu proceedings, conduct its proceedings in accordance with the Haryana Electricity Regulatory

Commission (Conduct of Business) Regulations, 2004 as amended from time to time.

4.2 The Commission may initiate proceedings on its own motion or on the basis of feedback received in this Commission or any information available in the public domain from sources considered to be authentic or on the basis of findings of any survey carried out by accredited parties or to address any hardships faced by the stakeholders / group or class of consumers but not for a single consumer.

4.3 In all such suo motu proceedings, the Commission may permit an officer of the Commission or any other person whom the Commission considers appropriate to present the issues under consideration or may appoint an Amicus Curiae.

Provided where the Commission appoints an Amicus Curiae, he may be paid such honorarium on case specific basis as may be decided by the Commission.

5. Discussion / Consultation Paper:

5.1 In all matters where the Commission initiates suo motu proceedings, the Commission shall direct its office to prepare a discussion / consultation paper clearly spelling out the needs, issues, objectives, parameters, review of literature / practices on the matter in the electricity industry, proposed changes or introduction of new parameters / conditions and their impact on group or class of electricity consumers in the state and the expected outcome of the initiative.

5.2 The Discussion Paper / Consultation Paper shall be made available in the Public domain i.e. hosted on the official website of the Commission which can be downloaded by the stakeholders free of cost.

Provided, the Commission may, if it considers appropriate, issue advertisement in the newspapers regarding availability of the Discussions / Consultation paper on Commission's website for ensuring wide participation and inviting objections / comments / suggestions on the same.

Provided that if the circumstances so requires, the Commission, by a speaking order, may dispense with the requirement of Regulation 5.1 and 5.2.

5.3 The Commission may, by a notice issued by its office, give such orders / directives as it may deem necessary for service of notice to the affected / interested parties, for filing of replies and rejoinders in response to the suo motu proceedings in such form and within such period as the Commission may decide.

Provided that, the Commission may, at any stage of the proceedings, require the parties or any one or more of them to produce data / information, documentary records and other evidence as the Commission may consider necessary for the purpose of enabling it to pass an order.

6. Miscellaneous

6.1 Subject to the provisions of the Act and these Regulations, the Commission may, from time to time, issue orders and directions in furtherance of implementation of these Regulations and matters incidental or ancillary thereto.

6.2 If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or specific order, do or undertake things not being inconsistent with the provisions of the Act which appear to the Commission to be necessary or expedient for the purpose of removing difficulties.

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6.3 The Commission may add to or amend any of the provisions of these Regulations.

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

6.5 Nothing in these Regulations shall be deemed to bar the Commission from dealing with any matter(s) or exercise any power under the Act, and the Commission may deal with such matters or exercise such powers in such manner as it deems fit.

6.6 The Commission may pass such order(s) as it deems fit in terms of Section 96 of the Act, for collection of information, inquiry, investigation, entry and seizure without prejudice to the generality of its powers in this regard.

6.7 The Commission may direct summoning of witnesses, discovery and production of any document or other material objects which can be produced in evidence, requisitioning of any public record from any office, examination by an officer of the Commission of books of accounts or other documents or information in the custody or control of any person which the Commission considers relevant for deciding the matter for which suo motu proceedings have been initiated.

7.0 In accordance with the Section 95 of the Electricity Act, 2003 read 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 liable to be punished in accordance with Section 193 of the IPC.

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7.1 Failure to comply with any requirement of these Regulations shall not invalidate any proceedings merely by reasons of such failure unless the Commission, after due deliberations, comes to a conclusion that such failure has resulted in miscarriage of justice.

By Order of the Commission

Sd/-
Director / Tariff

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