

# **Uttar Pradesh Electricity Regulatory Commission, Lucknow**

**No. UPERC-Secretary-2004-3135**

*Lucknow, February 6<sup>th</sup>, 2004 (Gazzete Notification on May 21, 2005)*

In exercise of powers conferred on it by sub-section (4) of Section 9 and sub-section (1) of Section 52 of the Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No. 24 of 1999), read with Section 174, 181 and 185(3) of the Electricity Act, 2003 (Act 36 of 2003) and all powers enabling it in that behalf, and in supercession of the Notification No. UPERC-489-2000 dated 6<sup>th</sup> March, 2000 and notification No. U.P.E.R.C-323/01 dated November 8, 2001, the Uttar Pradesh Electricity Regulatory Commission hereby makes the following Regulations, namely:

## **CHAPTER 1 - GENERAL**

### **1. Short title, Commencement and Interpretation:**

- (1) These regulations may be called the '**Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2004**'.
- (2) These shall come into force and apply to the State of Uttar Pradesh from the date of the publication in the official Gazette.
- (3) These extend to the State of Uttar Pradesh.
- (4) The Uttar Pradesh General Clauses Act 1904, (Act 1 of 1904) shall apply to the interpretation of these Regulations.

### **2. Definitions:**

- (1) In these Regulations, unless the context otherwise requires:
  - a. 'Applicable Legal Framework' means the provisions of Uttar Pradesh Electricity Reforms Act, 1999 to the extent not inconsistent with the provisions of the Electricity Act, 2003, read with the applicable provisions of the Electricity Act, 2003;
  - b. 'Chairman' means the Chairman of the Uttar Pradesh Electricity Regulatory Commission;
  - c. 'Commission' means the Uttar Pradesh Electricity Regulatory Commission;
  - d. 'Electricity Act, 2003' means the Central Act notified and brought into force on June 10<sup>th</sup>, 2003;
  - e. 'Member' means a member of the Uttar Pradesh Electricity Regulatory Commission;
  - f. 'Secretary' means Secretary of the Uttar Pradesh Electricity Regulatory Commission;
  - g. 'Petition' includes all petitions, applications, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents;
  - h. 'Proceedings' include proceedings of all nature that the Commission may hold in the discharge of its function under the applicable legal framework;
  - i. 'Officer' means officer of the Uttar Pradesh Electricity Regulatory Commission;
  - j. 'Regulation' means Uttar Pradesh Electricity Regulatory Commission (Conduct of Business) Regulation, 2003, as amended from time to time;
  - k. 'UP Reforms Act' means Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No. 24 of 1999).

(2) Words or expressions occurring in these Regulations and not defined herein above shall bear the same meaning as in the applicable legal framework.

(3) The original regulation will be in English and it will be translated in Hindi. In case of any dispute the English version shall prevail.

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

**3.** The location of the offices of the Commission may from time to time be specified by the Commission, by an

order made in that behalf.

4. Unless otherwise directed, the headquarters and other offices of the Commission shall open daily, except on Saturdays, Sundays and holidays notified by the Government of Uttar Pradesh. The headquarters and other offices of the Commission shall open at such hours as the Commission may direct from time to time.

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 reason thereof the act cannot be done on that day, it may be done on the next day on which the office is open.

6. The Commission may hold sittings for hearing matters at the headquarters or at any other place on day and time to be specified by the Commission.

**Language of the Commission:**

7. The proceedings of the Commission shall be conducted in Hindi or English.

8. The Petition, documents or other matters contained in any language other than Hindi or English shall be accepted by the Commission only if the same is accompanied by a translation thereof in English.

9. Any translation which is agreed to by the parties to the proceedings or which any of the parties may furnish with an authenticity certificate of the person, who had translated to English, may be accepted by the Commission as a true translation.

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

10. There shall be a separate seal indicating that it is the seal of the Commission.

11. Every order or communication made, notice issued or certified copy granted by the Commission shall be stamped with the seal of the Commission and shall be certified by Secretary or an Officer designated for the purpose.

**Secretary of the Commission:**

12. The Secretary shall exercise his powers and perform duties under the control of the Chairman. In particular and without prejudice to the generality of the above provisions, the Secretary shall have the following powers and perform the following duties, viz:-

- a) He shall have the custody of the seal and records of the Commission and shall exercise such functions as are assigned to him by these Regulations or otherwise by the Commission or the Chairman;
- b) He shall receive or cause to receive all petitions, applications or reference pertaining to the Commission;
- c) He shall prepare or cause to be prepared briefs and summaries of all pleadings presented by various parties in each case before the Commission in discharge of its functions in this regard;
- d) He shall assist the Commission in the proceedings relating to the powers exercisable by the Commission;
- e) He shall ensure compliance of the orders passed by the Commission; and
- f) He shall have the right to collect from the state government or other offices, companies or firms or any other party as may be directed by the Commission, such information as may be considered useful for the purpose of efficient discharge of the functions of the Commission under the applicable legal framework and place the said information before the Commission.

13. The Commission may delegate to its other Officers such functions including functions that may be required by these regulations to be exercised by the Secretary on terms and conditions the Commission may specify for the purpose.

14. The Secretary, with the approval of the Commission, may delegate to any officer of the Commission any function required by these regulations or otherwise, to be exercised by the Secretary.

15. In the absence of the Secretary, such other Officer of the Commission, as may be nominated by the Chairman, may exercise all the functions of the Secretary.

16. (1) The Commission shall have the authority, either on an application made by any interested or affected party

or suo motto, to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Secretary or the Officers of the Commission.

(2) The salaries and allowances payable to and terms and conditions of service of the Secretary shall be such as are specified by the Commission with the approval of the State Government.

(3). The Commission may with the approval of the State Government specify the numbers, nature and categories; the terms and conditions of service and the salaries and allowances of the Officers and the employees of the Commission.

**Consumers Association:**

17. It shall be open to the Commission to permit any association or other bodies corporate or any group of consumers to participate in any proceedings before the Commission on such terms and conditions including in regard to the nature and extent of participation as the Commission may consider appropriate.

18. The Commission may, as and when considered appropriate, notify a procedure for recognition of association, groups, forums or bodies corporate as registered consumer association for the purpose of representation before the Commission.

19. The Commission may, appoint any officer or any other person to represent interest of the consumer in general or any class or classes of consumer as the Commission may consider appropriate.

20. The Commission may direct payment to the person (other than the Officer) appointed to represent the consumers interest such fee, cost and expenses by such of the parties in the proceedings as the Commission may consider appropriate.

21. Every existing holder of a distribution licensee shall establish a forum for redressal of grievances of its consumers in accordance with the guidelines framed by the Commission.

22. Any consumer, who is aggrieved by non-redressal of his grievances by the Forum established by the distribution licensee may make a representation for the redressal of his grievance to the Ombudsman appointed or designated by the Commission. The Ombudsman shall settle the grievance of the consumer in accordance with the Guidelines issued by the Commission and in case the consumer is aggrieved by the order passed by the Ombudsman, he shall make a representation to the Commission as per process set out in the **UPERC (Consumer Grievance Forum & Ombudsman) Regulations, 2003**.

**CHAPTER 2 - GENERAL RULES CONCERNING THE PROCEEDINGS BEFORE THE COMMISSION**

**Proceedings before the Commission:**

23. The Commission may from time to time hold such proceedings, as it may consider appropriate in the discharge of its functions under the applicable legal framework. The Commission may appoint an Officer or any other person whom the Commission considers appropriate to represent the matter as Commission's representative in the proceedings.

24. (1) All matters which the Commission is required under the applicable legal framework to undertake and discharge through hearing of the affected parties and such other matters as the Commission may consider appropriate shall be done through such proceedings, in the manner specified under the applicable legal framework and in these regulations.

(2) All other matters may be decided by the Commission administratively through meetings of the Chairman and Members or by Secretary or such other Officers to whom the powers and functions have been delegated.

**Authority to represent:**

25. A person may authorise an advocate or a member of any statutory professional body holding a certificate of

practice as the Commission may from time to time specify to represent him and act and plead on his behalf before the Commission. The person may also appear himself or may authorise any of his employees to appear before the Commission and to act and plead on his behalf. The Commission from time to time may specify the terms and conditions subject to which a person may authorize any other person to act and plead on his behalf.

**Initiation of Proceedings:**

26. The Commission may initiate any proceeding suo motto or on a Petition filed by any affected person.

27. When the Commission initiates the proceedings it shall be by a notice issued by the Office of the Commission through Secretary and the Commission may give such orders and directions as may be deemed necessary, for service of notices to the affected parties, for the filing of replies and rejoinder in opposition or in support of the Petition in such form as the Commission may direct. The Commission may, if it considers appropriate, issue orders for advertisement of the Petition inviting comments on the issue involved in the proceedings in such form as the Commission may direct.

28. While issuing the notice of inquiry the Commission may, in appropriate cases, designate an Officer of the Commission or any other person whom the Commission considers appropriate to present the matter in the capacity of a petitioner in the case.

**Petitions and pleadings before the Commission:**

29. All petitions to be filed before the Commission shall be typewritten cyclostyled or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered. The contents of the Petition should be divided appropriately into separate paragraphs, which shall be numbered serially. The Petition shall be accompanied by such documents and statements as the Commission may specify. Each page of the petition and accompanying documents shall be signed by the petitioner or his authorized representative.

**General Headings:**

30. The general heading in all Petitions before the Commission and in all advertisements and notices shall be in the UPERC-Form-1 attached to these regulations (Annexure 1) or as otherwise prescribed by the Commission from time to time.

**Affidavit in support:**

31. (1) Every Petition filed shall be verified by an affidavit and every such affidavit shall be in UPERC-Form-2 attached to these regulations (Annexure 1) or as otherwise prescribed by the Commission from time to time.

(2) 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 and shall be signed and sworn before a person lawfully authorised to take and receive affidavits. The affidavit shall also declare that there is no case pending in any court of law with regard to the matter referred to the Commission. The affidavit shall be typed on a stamp paper of a value prescribed by the State Government for affidavits in accordance with the provisions of the Indian Stamp Act, 1899 (as amended)

(3) Every affidavit shall clearly and separately indicate statements, which are true to the-

- a. knowledge of the deponent
- b. information received by the deponent; and
- c. belief of the deponent.

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

(5) In accordance with Section 193 of Indian Penal Code, 1860, who ever intentionally gives false evidence in any of the proceedings of the Commission or fabricates evidence for the purpose of being used in any of the proceedings, shall be punished with imprisonment for a term, which may extend to seven years and shall also be liable to fine.

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

**32.** All Petitions, including those submitted by electronic mail, shall be filed in five copies and each set of the Petition shall be complete in all respects. The fees as have been prescribed by the Commission in the UPERC (Fees and Fines) Regulations, 2000 and revised from time to time shall be payable along with the petition. Further in cases where any licence or agreement is being filed before the Commission for which an approval is being sought, one soft copy in PDF / Word format shall be filed along with the petition.

**33.** All Petitions shall be presented in person or by any duly authorized agent or representative at the headquarters or such other filing centre or centers as may be notified by the Commission from time to time and during the time notified. The Petitions may also be sent by electronic mail or registered post acknowledgement due to the Commission at the place mentioned above. The vakalatnama in favour of the Advocate and in the event the Petitions are presented by an authorized agent or representative the document authorizing the agent or representative shall be filed along with the Petition, if not already filed on the record of the case.

**34.** Upon the receipt of the Petition the Petition Officer shall acknowledge the receipt by stamping and endorsing the date on which the Petition has been presented and shall issue an acknowledgement with stamp and date 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.

**35.** 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.

**36.** The Petition Officer may decline to accept any Petition which does not conform to the provisions of the applicable legal framework or the Regulations or directions given by the Commission or otherwise defective or which is presented otherwise than in accordance with the regulations or directions of the Commission.

Provided however no petition shall be refused for defect in the pleadings or in the presentation, without giving an opportunity to the person filing the Petition to rectify the defect within a period of fifteen (15) days from the date of dispatch of intimation of the defect in writing from the Petition Officer.

**37.** On receipt of the intimation of the defect from the Petition Officer, the person filing the Petition may rectify the defect within the stipulated period or in case the person is aggrieved by any order of the Petition Officer, may request the matter to be placed before the Secretary of the Commission for appropriate orders.

**38.** The Chairman or any Member as the Chairman may designate for the purpose shall be entitled to call for the Petition presented by the Party and give such directions regarding the presentation and acceptance of the Petition as he considers appropriate within a period of seven (7) days from the date of receipt of the request received from the Party.

**39.** If on scrutiny, the Petition is accepted or in case any order of refusal is rectified by the Secretary or by the Chairman or the Member of the Commission designated for the purpose, the Petition shall be duly registered and given a number in the manner as per practice followed by the Commission.

**40.** As and when the Petition and all necessary documents are lodged and the defects and objections, if any, are removed and the Petition has been scrutinized and numbered, the petition shall be within a period of ten (10) days be put up before the Commission for admission. Provided, the petitions seeking interim relief shall be within three (3) working days be put up before the Commission.

**41.** The Commission may admit the Petition for hearing without requiring the attendance of the party. The Commission shall not, pass an order refusing admission without giving the party concerned an opportunity of being heard.

**42.** If the Commission admits the petitions, it may give such orders and directions, as may be deemed necessary, for service of notices to the respondent and other affected or interested parties, for the filing of replies and rejoinder in opposition or in support of the Petition in such form as the Commission may direct. The notice to the respondent shall be issued within fifteen (15) days of the petition being admitted and the petitioner shall take steps to serve notices on all parties to the petition.

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

43. (1) Any notice or process to be issued by the Commission may be served by any one or more of the following modes as maybe directed by the Commission -

- a. service by any of the party to the proceedings;
- b. by hand delivery through a messenger;
- c. by registered post with acknowledgement due; and
- d. by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to serve the notices, processes, etc. on any person in the manner mentioned above;
- e. by fax, electronic mail, speed post, courier or pasting;
- f. in any other manner as considered appropriate by the Commission.

(2) The Commission shall, however, be entitled to decide in each case the person(s) who shall bear the cost of such service and publications.

44. 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.

45. In the event any matter is pending before the Commission and the person to be served has authorised an agent or representative to appear for or represent him or her in the matter, such 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.

46. Where a party serves a notice of the Proceedings either in person or through registered post, 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.

47. Where any Petition is required to be advertised it shall be advertised within such time as the Commission may direct and, unless otherwise directed by the Commission, in one issue each of a daily newspaper in the English Language and one daily newspaper in Hindi language having circulation in the area specified by the Commission.

48. Save as otherwise provided in the applicable legal framework or in the Regulations and subject to any direction which the Commission or the Secretary or the Officer designated for the purpose may give, the person moving the Commission for hearing namely the petitioner, applicant or any other person whom the Commission makes responsible for the conduct of the Proceedings shall arrange service of all notices, summons, and other processes and for advertisement and publication of notices and processes required to be served. The Commission may also effect service or give directions for effecting service in any other manner it considers appropriate.

49. 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 dismiss the Petition or give such other further directions, as the Commission may consider appropriate.

50. 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 proceeding 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.:**

51. Each person to whom the notice of inquiry or the Petition is issued (hereinafter the respondent) who intends to oppose or support the Petition shall file the reply and the documents relied upon within such period not exceeding four (4) weeks or such period as is specified by the Commission and in such number of copies 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 just 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. The respondent shall also indicate whether he wishes to participate in the proceedings

and be orally heard.

52. The respondent shall serve a copy of the reply along with the documents duly attested to be true copies on the petitioner or his authorised representative and file proof of such service with the office of the Commission at the time of filing the reply.

53. Where the respondent states additional facts as may be necessary for the just decision of the case, the Commission may allow the petitioner to file a rejoinder to the reply filed by the respondents within a period of four (4) weeks thereafter or such period as is specified by the Commission. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.

54. (1) Every person who intends to file objection or comments in regard to a matter pending before the Commission pursuant to the advertisement and publication issued for the purpose (other than the persons to whom notices, processes, etc. have been issued calling for reply) shall deliver to an Officer designated by the Commission for the purpose the statement of the objection or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose or in case no time has been specified, within a period of not exceeding four (4) weeks from the date of the advertisement / publication issued for the purpose or such period as is specified by the Commission .

(2) The Commission may permit such person or persons who file objection or comments as provided in clause (1) or any other person as the Commission considers appropriate to participate in the Proceedings before the Commission, in case the Commission considers that the participation of such person or persons will facilitate the Proceedings and the decision in the matter.

(3) Unless permitted by the Commission, the person filing objection or comments shall not be entitled to participate in the Proceedings. 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 in the Proceedings as the Commission consider appropriate to deal with the objections and comments.

**Public Hearing of the matter:**

55. The Commission may determine the stages, manner, the place and the time of the hearing of the matter as the Commission considers appropriate, consistent with such specific timing requirements as are set forth in the applicable legal framework or otherwise to fulfill the need for timely completion of the matters taking into account the relief prayed for.

56. (1) The Commission may decide the matter on the pleadings and documents filed by the parties and may call for the parties to produce evidence by way of affidavit or lead oral evidence in the matter, as the Commission may consider appropriate.

(2) If the Commission directs evidence of a party to be led by way of affidavit, the Commission may, as and when the Commission considers it to be necessary, grant an opportunity to the other party to cross-examine the deponent on the affidavit filed.

(3) 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

(4) The Commission may direct the parties to file written arguments or submissions in any matter heard by the Commission.

**Power of the Commission to call for further information, evidence, etc.:**

57. The Commission may, at any time before passing orders on the matter, require the parties or any one or more of them 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.

58. The Commission may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examinations by an Officer of the Commission, the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant for the matter.

**Proceedings:**

59. In accordance with the Section 228 of the Indian Penal Code, 1860, who ever intentionally offers any insult or causes any interruption in any of the proceedings, shall be punishable with simple imprisonment of six months or fine which may extend to Rs. 1000/- or both.

60. (1) All proceedings before the Commission shall be deemed to be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973.

(2) The Commission or any officer, not below the rank of a Gazetted Officer specially authorized in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies there from subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973, insofar as it may be applicable.

**Reference of issues to others:**

61. (1) 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 persons including but not limited to, the Officers and consultants of the Commission whom the Commission considers as qualified to give expert advice or opinion.

(2) The Commission may nominate from time to time any person including, but not limited to, the Officers and the consultants to visit any place or places for inspection and report on the existence or status of the place or any facilities therein.

(3) The Commission, if it thinks fit, may direct the parties to appear before the persons designated in clause (1) or (2) above to present their respective views on the issues or matters referred to.

(4) 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 file their version either in support or in opposition to the report or the opinion.

(5) The Commission shall duly take into account the report or the opinion given by the person the reply filed by the parties while deciding the matter and if considered necessary, the examination before the Commission of the person giving the report or the opinion. Provided that the Commission shall not be bound by the report or the opinion given as conclusive.

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

62. Where, on the date fixed for hearing or any other date to which such hearing may be adjourned, any of the party or his authorised agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the Petition for default (in case the petitioner or the person who moves the Commission for hearing does not appear) or proceed ex parte (in case the respondent or the person against whom the Petition is filed does not appear) and decide the Petition.

63. Where a Petition is dismissed in default or decided ex parte, the Person aggrieved may file an application within thirty (30) days from the date of such dismissal or being proceeded ex parte, as the case may be, for recall of the order passed, and the Commission may recall the order on such terms as it thinks fit, if the Commission is satisfied that there was sufficient cause for the non-appearance of the Party concerned, when the Petition was called for hearing.

**Orders of the Commission:**

64. (a) The Commission shall pass orders on the Petition and the Chairman and the Members of the Commission, who heard the matter shall sign the orders.

(b) The Commission may pass at any stage, in any proceeding before it, such interim orders, including interim ex-parte orders that it may consider appropriate, to, amongst other things, protect the rights and interest of any of the parties to the proceedings or any other person including consumers or any class or classes of consumers.



65. The reasons given by the Commission in support of the orders, including those by the dissenting member, if any, shall form a part of the order and shall be available for inspection and supply of copies in accordance with these Regulations.

66. 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 Commission and bear the official seal of the Commission.

67. All final orders of the Commission shall be communicated to the parties in the proceeding under the signature of the Secretary or an officer empowered in this behalf by the Commission

#### **Inspection of records and supply of certified copies:**

68. All the records of the proceeding including documents, statements, photographs, recordings whether audio or video, shall be exclusive property of the Commission and can not be copied, printed, screened, published, quoted or broadcasted without prior and written approval of the Commission.

69. Records of every Proceeding shall be open, to the inspection of the parties or their authorised representatives at any time either during the Proceeding or after the orders are passed, subject to payment of fee and complying with other terms the Commission may direct.

70. Records of every Proceeding, except those parts which for reasons specified by the Commission are confidential or privileged, shall be open to inspection by any person other than the parties to the Petition either during the Proceeding or after the orders have been passed, subject to such person complying with such terms as the Commission may direct from time to time including in regard to time, place and manner of inspection and payment of fees.

71. Any person shall be entitled to obtain certified copies of the orders, decisions, directions and reasons in support thereof given by the Commission as well as the pleadings, papers and other parts of the records of the Commission to which he is entitled subject to payment of fee and complying with other terms which the Commission may direct.

### **CHAPTER 3 - ARBITRATION OF DISPUTES**

72. The arbitration of disputes (other than those between the Licensee and Consumer,) arising between licensees and generating companies may be commenced on receipt of an application from licensees or, generating companies, as the case may be.

73. The Commission shall on receipt of any application under praying for arbitration of disputes, issue notice to the other party to show cause as to why the dispute on the matters as specified in the notice should not be adjudicated and settled through arbitration.

74. (1) The Commission may, after hearing the party / ies to whom notices have been issued and if satisfied that no reason or cause has been shown against the proposed arbitration pass an order directing that the disputes or the matter be referred for adjudication and settlement through arbitration either by the Commission or by a person or persons to be nominated by the Commission

(2) If the Commission decides to refer the matter to arbitration by a person or persons other than the Commission the reference shall be:

(a) to a sole arbitrator if the parties to the dispute agree on the name of the arbitrator; or

(b) if the parties are unable to agree on the name to a sole arbitrator, to a sole arbitrator to be designated by the Commission or to three persons as the Commission may direct taking into account the nature of the disputes and the value involved. If the decision is to refer to three arbitrators, one shall be nominated by each of the parties to the dispute and the third by the Commission:

Provided that if any of the parties fails to nominate the arbitrator or if any of the arbitrator nominated by the parties or the Commission fails or neglects to act or continue as arbitrator the Commission shall be entitled to nominate any other person in his place.

(3) The Commission shall not nominate a person as arbitrator to whom any of the licensees or the other concerned person in the arbitration has a reasonable objection on grounds of possible bias or similar reasons, if the Commission considers the objection to be valid and justified.

75. In case the Commission acts as the arbitrator the procedure for adjudication and settlement to be followed shall be as far as possible the same as in the case of hearing before the Commission provided for in Chapter 2 above.

76. The Commission shall be entitled to pass appropriate orders, as it thinks fit after giving an opportunity for hearing the parties.

77. The cost of the arbitration / proceedings before the Commission shall be borne by such parties and in such sums as the Commission may direct.

## **CHAPTER 4 - LICENCE**

### **Application for licence:**

78. The regulations contained herein shall apply to all persons desirous of engaging in the business of transmission, distribution or trading of electricity within the State of Uttar Pradesh.

79. No person shall transmit, distribute or undertake trading in electricity unless authorized to do so by a licence or by grant of an exemption under the applicable legal framework. A distribution licensee shall not require a licence to undertake trading in electricity. Further in case a distribution licensee proposes to undertake distribution of electricity for a specified area within his area of supply through another person, that person shall not be required to obtain any separate licence from the Commission and such distribution licensee shall be responsible for distribution of electricity in his area of supply

80. Where a person intends to generate and distribute electricity in a rural area as notified by the State Government, such person shall not require a licence for such activity but shall be required to comply with measures specified by the Central Electricity Authority including interalia measures for:

- (a) protecting the public (including the persons engaged in the generation, transmission or distribution or trading) from dangers arising from the generation, transmission or distribution or trading of electricity, or use of electricity supplied or installation, maintenance or use of any electric line or electrical plant;
- (b) eliminating or reducing the risks of personal injury to any person, or damage to property of any person or interference with use of such property;
- (c) prohibiting the supply or transmission of electricity except by means of a system which conforms to the specification as may be specified;
- (d) giving notice in the specified form to the Commission and the Electrical Inspector, of accidents and failures of supplies or transmissions of electricity;
- (e) keeping by a generating company or licensee the maps, plans and sections relating to supply or transmission of electricity;
- (f) inspection of maps, plans and sections by any person authorized by it or by Electrical Inspector or by any person on payment of specified fee;
- (g) specifying action to be taken in relation to any electric line or electrical plant, or any electrical appliance under the control of a consumer for the purpose of eliminating or reducing a risk of personal injury or damage to property or interference with its use.

81. Where a person is not required to obtain a licence under the applicable legal framework, the Commission may require such persons to furnish within a period specified by the Commission, such information or particulars as the Commission deems fit. Further the duties and obligations of “deemed licensees” shall be the same as that of a person awarded a licence under these Regulations, and the applicable legal framework .

82. The Commission may, through a separate notification, lay down the general or specific conditions which shall apply either to a licensee or a class of licensees including “Deemed Licensees” and such conditions shall be

deemed to conditions of such licence.

**83.** The Commission may grant a licence to two or more persons for distribution of electricity through their own distribution system within the same area, subject to the conditions that the person applying for grant of licence within the same area, without prejudice to the other conditions or requirements under this applicable legal framework, complies with the additional requirements (including the capital adequacy, credit-worthiness, or code of conduct) prescribed by the Central Government.

**84.** The Commission may, if considered appropriate, advertise in newspapers or otherwise notify in such other appropriate manner as the Commission may decide inviting applications for grant of licence for Transmission, Distribution or Trading of Electricity.

**85.** The applications for grant of licence shall be made in accordance with the provision of the applicable legal framework and these regulations.

**86.** Every application for a licence shall be signed by or on behalf of the applicant and addressed to the Secretary or such officer as the Commission may designate in this behalf and it shall be accompanied by:

- a. Six copies, in print and one soft copy, of the draft licence as proposed by the applicant with the name and address of the applicant and of his agent (if any) printed on the outside of the draft.
- b. Six copies, each signed by the applicant, of maps of the proposed service area and, in the case of supply of electricity, of the streets or roads in which the supply of electricity is to be made, which shall be so marked or colored as to define any portion of such area and six copies of the power map drawn on the geographical map of the area. Both maps shall drawn on a scale ;
  - i. of not less than 1 Centimeters to a Kilometer, or
  - ii. if no such maps are available, of not less than that of the largest scale ordinance maps available, or
  - iii. on such other scales as may be approved by the Commission.
- c. a list of any local authorities invested with the administration of any portion of the area of supply;
- d. an approximate statement describing any lands which the applicant proposes to acquire for the purpose of the licence and the means of such acquisition;
- e. an approximate statement of the capital proposed to be expended in connection with the utility and such other particulars as the Commission may require;
- f. a copy of the Memorandum and Articles of Association, Annual Accounts for the last three years or other similar documents as may be required;
- g. a receipt for such processing fee, as the Commission may require
- h. proof of compliance with the additional requirements including technical, capital adequacy and credit worthiness as have been specified by the Commission, in case the application is being made for undertaking electricity trading

**Copies of maps and draft licence for public inspection:**

**87.** The applicant shall deposit at his own office and of his agents (if any) and at the office of every local authority invested with the administration of any portion of the proposed area of supply:

- a. copies of the maps referred to in clause (b) of Regulation 86 for public inspection, and
- b. a sufficient number of copies of the draft licence to be furnished to all persons applying for them at a price not exceeding the cost of photo copy.

**Contents of draft licence:**

**88.** The draft licence shall contain the following particulars:

- a. A short title descriptive of the proposed utility together with the address and description of the

- applicant and if the applicant is a company, the names of all the directors of the company;
- b. Type of licence applied for;
  - c. Locations of the proposed service area;
  - d. A description of the proposed area; and
  - e. Such other particulars as the Commission may specify.

**Form of draft licence:**

89. The Commission may, from time to time, prescribe the form of licences to be issued and the licences may, with such variation as the circumstances of each case require, be used for the purposes of these Regulations.

90. On receipt of the application, the receiving Officer shall note thereon the date of its receipt and shall send to the applicant an acknowledgement stating the date of receipt.

**Calling for additional information:**

91. The Commission or the Secretary or any other officer, specified by the Commission for this purpose, may upon scrutiny of the application, require the applicant to furnish within a period to be specified by it such additional information or particulars or documents as considered necessary for the purpose of dealing with the application.

**Notifying the due filing of the application:**

92. If the Commission finds the application to be complete, accompanied by the requisite information, particulars and documents, and finds that the applicant has complied with all the requirements for making the application and furnishing of information, particulars and documents, the Commission or the Secretary shall certify that the application is ready for being considered for grant of licence in accordance with the procedure provided in the applicable legal framework. The Commission shall, as far as practicable either issue a licence within ninety days of receipt of any such application in line with the applicable legal framework and these Regulations or reject the application for reasons to be recorded in writing, in case the application does not conform to the applicable legal framework and the Regulations. Provided that no application shall be rejected unless the applicant has been given an opportunity of being heard.

**Acknowledgement of application:**

**Advertisement of application and contents thereof:**

93. (1) Unless exempted by the applicable legal framework / Commission, the applicant shall, within seven (7) days from the date of the application being found complete and ready for being considered for grant of the licence, publish notice of his application by public advertisement, in at least two (2) daily newspapers (one English and one Hindi), and such advertisement shall contain such particulars as have been specified by the Commission in these Regulations.

(2) The advertisement shall be headed by a short title corresponding to that given at the head of the draft licence and shall give the addresses of the offices at which copies of maps therein referred to may be inspected and the copies of draft licence perused or purchased and shall state that every local authority, utility or person, desirous of making any representation /objection with reference to the application to the Commission, may do so by letter addressed to Secretary or such Officer as the Commission may designate in this behalf, within thirty (30) days from the date of publication of the notice.

94. The Commission may direct that notice of the application be served on the Central Government, the State Government, the local authority or any other authority or person or body as the Commission may direct in such other manner, as the Commission may consider appropriate. Further in the case of an application for a licence for an area including the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defence purposes, the Commission shall issue a licence only after ascertaining that the Central Government has no objection to the grant of the licence.

95. A person intending to act as a transmission licensee shall, immediately on making the application,

forward a copy of such application to the State Transmission Utility (STU), as the case may be. The STU shall as the case as the case may be shall within thirty (30) days of receipt of the application send its recommendations, if any to the Commission. The Commission shall consider all suggestion or objections and the recommendations, if any of the STU. Provided that the recommendations shall not be binding on the Commission.

**Amendment of draft licence:**

96. Any person who desires to have any amendment made in the draft licence shall deliver a statement of the amendment to the applicant and to Secretary or such Officer as the Commission may designate in this behalf within a period of thirty (30) days from the date of publication of notice of the application by way of advertisement in newspapers.

**Objections**

97. Any person intending to object to the grant of the licence shall file objection within a period of thirty (30) days from the date of publication of notice of application by way of advertisement in newspapers. The objection shall be filed in the form of a reply and the provisions of Chapter 2 dealing with a reply shall apply to the filing of such objections.

98. When applicable, the applicant shall apply for and obtain the no objection required from the Central Government before the application can be placed for hearing by the Commission for grant of the licence.

**Local Inquiries and Hearings:**

99. If the applicant has duly arranged for the publication of the notice of the intended application and the time for filing of the objection is over and after the applicant has furnished to the Commission the no objection, (if required, from the Central Government), the Commission may proceed to place the application for regular hearing.

100. The Commission shall give the notice of inquiry or hearing to the applicant, the persons who had filed objections, the Central Government, the State Government and such other authority, person or body as the Commission considers appropriate.

101. (1) If any person objects to the grant of a licence applied for under the applicable legal framework the Commission shall, if either the applicant or the objector so desires, cause a local inquiry to be held of which the notice in writing shall be given to both the applicant and the objector:

Provided that, the Commission may refuse such an inquiry if in its opinion the objection is of a trifling or vexatious nature.

(2) In case of such local inquiry a memorandum of results of the local inquiry made shall be prepared and shall be signed by the applicant, the Officer or person designated for the purpose and such other person as the Commission may direct.

102. The hearing on the application for grant of licence shall thereafter proceed as far as possible in the same manner as provided in Chapter 2.

**Approval of draft licence:**

103. After inquiry if any and the hearing, the Commission may decide to grant or refuse the licence and if it decides to grant the licence it may do so by approving the draft licence with such modification changes or additions and subject to such other terms and conditions as the Commission may direct. Before granting any licence the Commission shall publish a notice in two such daily newspapers, as the Commission may consider necessary, stating name and address of the person whom it proposes to issue the licence.

104. When the Commission has approved a draft licence either in its original form or in a modified form, Secretary or any other officer specified by the Commission, shall inform the applicant of such approval and of the form in which it is proposed to grant the licence and the conditions to be satisfied by the applicant including the fees to be paid for the grant of the licence.

**Notification of grant of licence:**

105. On receiving an intimation in writing from the applicant that he is willing to accept a licence in the form approved by the Commission and after the applicant satisfies the conditions specified for the grant of the licence, the Commission shall publish the licence or such part or gist thereof as the Commission considers appropriate.

**Date of commencement and duration of licence:**

106. The licence shall commence from the date, and be valid for a period of twenty five (25) years, unless such licence is revoked. Licensees issued prior to June 10<sup>th</sup>, 2003 shall be valid for a period specified in the existing licenses.

**Deposit of maps:**

107. When a licence has been granted, three sets of maps showing, as regards such licence, the particulars specified in Regulation 86 shall be signed and dated to correspond with the date of the notification of the grant of the licence by Secretary or any other officer designated by the Commission. One set of such maps shall be retained as the deposited maps by the said Officer and the other two sets given to the licensee.

**Deposit of printed copies:**

108 (1) Every person who is granted a licence shall within thirty days of the grant thereof:

- a. have adequate number of copies of the licence printed;
- b. have adequate number of maps prepared showing the area of supply specified in the licence;
- c. arrange to exhibit a copy of such licence and maps for public inspection at all reasonable times at his head office, at his local offices (if any) and at the office of every local authority within the area of supply.

(2) Every such licensee shall, within the aforesaid period of thirty days supply free of charge one copy of the licence and the relevant maps to every local authority within the area of supply and shall also make necessary arrangements for the sale of printed copies of the licence to all persons applying for the same, at a price not exceeding the cost of photocopy.

**Preparation and submission of accounts:**

109. (1) Every licensee shall cause the accounts of his utility to be made up to the thirty-first day of March each year.

(2) Such licensee shall prepare and render an annual statement of his audited accounts in accordance with the provisions of the applicable legal framework, within a period of six months from the aforesaid date, or such extended period as the Commission may authorise after it is satisfied that the time allowed is insufficient owing to any cause beyond the control of the licensee and the statement shall be rendered in such numbers of copies as the Commission directs.

(3) The accounts shall be made up in such forms as the Commission may direct from time to time. All the forms shall be signed by the licensee or his accredited and duly authorised agent or manager.

(4) The Commission may by special or general order direct that, in addition to the submission of the annual statements of accounts in the forms prescribed in sub-rule (3), a licensee shall submit to the Commission or such other authority as it may designate in this behalf such additional information as it may require for the purpose.

**Miscellaneous:**

110. A Transmission Licensee may with prior intimation to the Commission engage in any other business for optimum utilization of its assets except Trading. In case the transmission licensee engages in any business for optimum utilization of its assets it shall maintain separate accounts for each such business undertaking to ensure that transmission business neither subsidises in any way such business undertaking nor encumbers its transmission assets in any way to support such business.

111. A Distribution Licensee may with prior intimation to the Commission engage in any other business for

optimum utilization of its assets. In case the distribution licensee engages in any business for optimum utilization of its assets, it shall maintain separate accounts for each such business undertaking to ensure that distribution business neither subsidizes in any way such business undertaking nor encumbers its distribution assets in any way to support such business.

**112.** (a) No licensee shall, without prior approval of the Commission undertake any transaction to acquire by purchase or takeover or otherwise, the utility of any other licensee or merge his utility with the utility of any other licensee. Provided that nothing contained in these Regulations shall apply if the utility of the licensee is situated in a State other than the State of Uttar Pradesh.

(b) Every licensee shall, before obtaining the approval under sub-clause (a) give not less than one month's notice to every other licensee who transmits or distributes, electricity in the area of such licensee who applies for such approval.

(c) No licensee shall at any time assign his licence or transfer his utility, or any part thereof, by sale, lease, exchange or otherwise without the prior approval of the Commission.

(d) Any agreement relating to any transaction specified in sub-clause (a) or sub-clause (b), unless made with, the prior approval of the Commission, shall be void.

**113.** (a) The Commission shall be empowered to regulate the supply, distribution, consumption or use of electricity for maintaining the efficient supply, securing equitable distribution and promoting competition. The licensee shall be bound by all such directions.

(b) Every Transmission Licensee shall comply with technical standards of operation and maintenance of transmission lines in accordance with Grid Standards specified by the Central Electricity Authority.

(c) The Commission may on application by any licensee require any other licensee owning or operating intervening transmission facilities to provide use of such facilities to the extent of surplus capacity available with such licensee.

(d) All licensees holding any licence or issued any licence under these regulations shall discharge the duties set out in the applicable legal framework.

#### **Model Conditions of Supply:**

**114.** (1) The Commission shall specify an Electricity Supply Code to provide for recovery of electricity charges, intervals for billing of electricity charges, disconnection of supply of electricity for non-payment thereof, restoration of supply of electricity, tampering, distress or damage to electrical plant, electric lines or meter, entry of distribution licensee or any person acting on his behalf for disconnecting supply and removing the meter, entry for replacing, altering or maintaining electric lines or electrical plant or meter.

(2) The licensee shall always keep in his office an adequate number of printed copies of the Electricity Supply Code as amended from time to time and shall, on demand, sell such copies to any applicant at a price not exceeding normal photocopying charges and shall take steps to give suitable publicity to the document.

#### **Contravention By Generating Company or Licensee:**

**115.** (1) The Commission may pass such orders, as it thinks fit in accordance with Sections 26 to 28 of the UP Reforms Act read with Sections 95, 128, 129, 130, 142 and 185(3) of the Electricity Act, 2003 for the contravention or the likely contravention, by a generating company or a licensee, of the terms or conditions of the licence, any provisions of the applicable legal framework or the rules or regulations made thereunder.

(2) Subject to the provisions of Sections 26 to 28 of the UP Reforms Act read with Section 95, 128, 129, 130, 142 and 185(3) of the Electricity Act, 2003 and the procedure prescribed therein the Commission may follow as far as possible the general procedure prescribed in Chapter 2 of these Regulations in dealing with a Proceeding arising out of a contravention or likely contravention by a licensee or a generating company

### **Grant of exemption from licence:**

**116.** An exemption from licence shall be granted consistent with the provisions of the applicable legal framework on recommendations of the State Government in public interest (as directed by notification) and in accordance with a National Policy formulated by the Central Government for rural electrification and for bulk purchase of power and management of local distribution in rural areas through Panchayat Institutions, users' associations, co-operative societies, non-Governmental organisations or franchisees.

**117.** The Commission shall direct by notification that subject to such conditions and restrictions, if any, and for such period or periods, as may be specified in the notification, the requirements of holding a licence for transmitting electricity, or distributing electricity or undertaking trading in electricity shall not apply to any local authority, Panchayat Institution, users' association, co-operative societies, nongovernmental organizations, or franchisees.

### **Revocation of the licence:**

**118.** The Proceedings for revocation of the licence or for passing of any other orders specified in Section 18 of the UP Reforms Act read with Section 19 of the Electricity Act, 2003 shall be initiated by an order passed by the Commission which the Commission may initiate suo motto or on application of the licensee or on receiving any complaint or information from any person in accordance with procedure set out herein.

### **119.**

- (a) If the Commission, after making an enquiry is satisfied that public interest so requires, it may revoke a licence in any of the following cases, namely: -
  - (i) where the licensee makes willful and prolonged default in doing anything required of him by or under this applicable legal framework or the rules or regulations made thereunder;
  - (ii) where the licensee breaks any of the terms or conditions of his licence the breach of which is expressly declared by such licence to render it liable to revocation;
  - (iii) where the licensee fails, within the period fixed in this behalf by his licence, or any longer period which the Commission may have granted therefore to show, to the satisfaction of the Commission, that he is in a position fully and efficiently to discharge the duties and obligations imposed on him by his licence; or to make the deposit or furnish the security, or pay the fees or other charges required by his licence or where in the opinion of the Commission the financial position of the licensee is such that he is unable fully and efficiently to discharge the duties and obligations imposed on him by his licence.
- (b) Where in its opinion the public interest so requires, the Commission may, on application, or with the consent of the licensee, revoke his licence as to the whole or any part of his area of distribution or transmission or trading upon such terms and conditions as it thinks fit.
- (c) No licence shall be revoked under sub-section (a) unless the Commission has given to the licensee not less than three (3) months notice, in writing, stating the grounds on which it is proposed to revoke the licence, and has considered any cause shown by the licensee within the period of that notice, against the proposed revocation.
- (d) The Commission may, instead of revoking a licence under sub-section (a), permit it to remain in force subject to such further terms and conditions as it thinks fit to impose, and any further terms or conditions so imposed shall be binding upon and be observed by the licensee and shall be of like force and effect as if they were contained in the licence.
- (e) Where the Commission revokes a licence under this section, it shall serve a notice of revocation upon the licensee and fix a date on which the revocation shall take effect.
- (f) Where the Commission has given notice for revocation of licence under sub-section (c), without prejudice to any penalty which may be imposed or prosecution proceeding which may be initiated under this applicable legal framework, the licensee may, after prior approval of that Commission, sell his utility to any person who is found eligible by that Commission for grant of licence.



**120.** (a) Where the Commission revokes the licence of any licensee, the following provisions shall apply, namely:-

- (i) the Commission shall invite applications for acquiring the utility of the licensee whose licence has been revoked and determine which of such applications should be accepted, primarily on the basis of the highest and best price offered for the utility;
  - (ii) the Commission may, by notice in writing, require the licensee to sell his utility and thereupon the licensee shall sell his utility to the person (hereafter in this section referred to as the “purchaser”) whose application has been accepted by that Commission;
  - (iii) all the rights, duties, obligations and liabilities of the licensee, on and from the date of revocation of licence or on and from the date, if earlier, on which the utility of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date;
  - (iv) the Commission may make such interim arrangements in regard to the operation of the utility as may be considered appropriate including the appointment of Administrators;
  - (v) The Administrator appointed under clause (iv) shall exercise such powers and discharge such functions as the Commission may direct.
- (b) Where a utility is sold, the purchaser shall pay to the licensee the purchase price of the utility in such manner as may be agreed upon.
- (c) Where the Commission issues any notice requiring the licensee to sell the utility, it may, by such notice, require the licensee to deliver the utility, and thereupon the licensee shall deliver on a date specified in the notice, the utility to the designated purchaser on payment of the purchase price thereof.
- (d) Where the licensee has delivered the utility to the purchaser but its sale has not been completed by the date fixed in the notice issued the Commission may, if it deems fit, permit the intending purchaser to operate and maintain the utility system pending the completion of the sale

#### **Suspension of Distribution License:**

**121.**

- (a) If at any time the Commission is of the opinion that a distribution licensee has persistently failed to maintain uninterrupted supply of electricity conforming to standards regarding quality of electricity to the consumers, is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this applicable legal framework or has persistently defaulted in complying with any direction given by the Commission under this applicable legal framework or has broken the terms and conditions of licence, and circumstances exist which render it necessary for it in public interest so to do, the Commission may, for reasons to be recorded in writing, suspend, for a period not exceeding one (1) year, the licence of the distribution licensee and appoint an Administrator to discharge the functions of the distribution licensee in accordance with the terms and conditions of licence:

Provided that before suspending a licence under this section, the Commission shall give a reasonable opportunity to the distribution licensee to make representations against the proposed suspension of licence and shall consider the representations, if any, of the distribution licensee.

- (b) Upon suspension of licence under sub-section (a) the utilities of the distribution licensee shall vest in the Administrator for a period not exceeding one (1) year or up to the date on which such utility is sold in accordance with the Section 20 of the Electricity Act, 2003, whichever is later.
- (c) The Commission shall, within one year of appointment of the Administrator under sub-section (a) either revoke the licence or revoke suspension of the licence and restore the utility to the distribution licensee whose licence had been suspended, as the case may be.
- (d) In a case where the Commission revokes the licence, the utility of the distribution licensee shall be sold within a period of one (1) year from the date of revocation of the licence in accordance with the provisions of Section 20 of the Electricity Act, 2003 and the price after deducting the administrative and other expenses

on sale of utilities be remitted to the distribution licensee.

**Amendment of the licence granted:**

- 122.** Application by the licensee for alteration or an amendment to the terms and conditions of the licence granted, shall be made in such form as may be directed for the purpose by the Commission. The application shall be supported by affidavit as provided in Chapter 2 of the Regulations.
- 123.** Unless otherwise specified in writing by the Commission each application for an amendment or alteration in the licence shall be accompanied by a receipt of such fee as the Commission may require, paid in the manner directed by the Commission.
- 124.** Unless otherwise specified in writing by the Commission, the procedure prescribed in these Regulations for grant of licence, in so far it can be applied, shall be followed while dealing with an application for amendment or alteration of the licence.

**125.**

- (a) The Commission may, where public interest permits, on an application of the licensee or otherwise, make such alterations and amendments in the terms and conditions of a licence as it thinks fit. Provided that no such alterations or amendments shall be made except with the consent of the licensee unless such consent has, in the opinion of the Commission, been unreasonably withheld.
- (b) Before any alterations or amendments in the licence are made, the following provisions shall be complied with:-
- (i) the licensee proposing any alteration or modifications in his licence, shall publish a notice of such application by publishing an advertisement in newspapers, setting out details of the proposed amendments; as may be specified by the Commission;
  - (ii) in the case any application proposes alterations or modifications in the area of supply comprising the whole or any part of any cantonment, aerodrome, fortress, arsenal, dockyard or camp or of any building or place in the occupation of the Government for defense purposes, the Commission shall not make any alterations or modifications except with the consent of the Central Government;
  - (iii) where any alterations or modifications in a licence are proposed to be made otherwise than on the application of the licensee, the Commission shall publish the proposed alterations or modifications by way of an advertisement in newspapers;
  - (iv) The Commission shall consider the suggestions or objections received within thirty (30) days from the date of the first publication of the notice before making any alterations or modification.

**Regulation of purchase of power:**

- 126.** (1) The licensee shall file with the Commission in complete form copies of all Power Purchase Agreements already entered into by the licensee. Provided that for purchase agreements signed with generating companies (not extending beyond a year), the licensee shall procure power in terms of the Guidelines for Load Forecast, Resources, Plans and Power Procurement issued by the Commission and the minimum and maximum ceiling of tariff for sale and purchase of electricity fixed by the Commission.
- (2) The Commission shall be entitled to direct that the licensees shall establish to the satisfaction of the Commission that the purchase of power by the licensees is under a transparent power purchase procurement process and is economical and the power is necessary for the licensee to meet its service obligation.
- (3) The licensee shall apply to the Commission to approve the draft Power Purchase agreement that the Licensee proposes to enter into. The Commission may pass orders:
- a. approving the agreement; or
  - b. approving the agreement with modifications proposed to the terms of the agreement including modifying the terms of tariff and power purchase; or

c. rejecting the agreement.

(4) The provision of clauses (2) and (3) above or any action taken therein shall not, in any manner, prejudice the exercise of functions and powers of the Commission under the applicable legal framework and the Regulations and orders to be issued from time to time.

(5) The Commission shall regulate the supply of electricity by generating companies to any licensee or any consumer or group of consumers from time to time in line with the provisions of the applicable legal framework.

127. (1). Every generating company shall be under a duty to submit such details regarding its generating stations to the Commission on demand.

(2). Every licensee or a generating company shall furnish separate details, as may be specified in respect of generation, transmission and distribution for determination of tariff to the Commission on demand.

**Purchase from Renewable Sources:**

128. The Commission shall promote cogeneration and generation of electricity from renewable sources of energy by providing suitable measures for connectivity with the grid and sale of electricity to any person, and shall specify a minimum limit for purchase of electricity from such sources out of the total consumption of electricity in the area of any distribution licensee. The Commission shall from time to time set out a transparent process for procurement of power from such sources, thereby ensuring competition among such generating agencies.

**Standards of Performance:**

129. The Commission may, after consultation with the licensees and persons likely to be affected, specify standards of performance of a licensee or a class of licensees which in its opinion, are economical and ought to be achieved by such licensees, and different standards may be determined for different licensees. The Commission may publish the standards so determined in such form and in such manner as the Commission may consider appropriate.

**CHAPTER 5 - APPEALS UNDER SECTION 35**

130. The Commission shall (if directed by a general or special order of the State Government) hear the appeal from the decision of the Electrical Inspector in the same manner as applicable in the case of hearing before the Commission provided for in Chapter 2 above, and if the Commission considers that the appeal has no merit, the Commission shall be entitled to dismiss the appeal at the preliminary admission stage as provided in Regulation 41 above, after giving opportunity to the appellant concerned.

131. (a) Any person aggrieved by a final order made by an Assessing Officer may, within thirty (30) days of the said order, prefer an appeal in such form, verified in such manner and accompanied by such fee as may be specified by the Commission, to an appellate authority prescribed by the State Government.

(b) No appeal against an order of assessment shall be entertained unless an amount equal to one third of the assessed amount is deposited in cash or by way of bank draft with the licensee and documentary evidence of such deposit has been enclosed along with the appeal.

(c) The order of the appellate authority shall be final and no appeal shall lie to the Appellate Authority against the final order made with the consent of the parties in sub-section (a).

## CHAPTER 6 - TARIFFS

**132.** The methodologies and procedures for calculating the expected revenue from charges / tariff which a licensee or a generating company would be permitted to recover, may be provided by the Commission for any financial year commencing from April 1<sup>st</sup> and ending March 31<sup>st</sup>, from time to time. The Commission shall notify the methodology and procedure for calculating the expected revenue from charges / tariff which a Licensee shall be permitted to recover in line with the National Electricity Policy and Tariff Policy issued by the Central Government and the provisions of the applicable legal framework.

Provided that the terms and conditions for determination of tariff under the Electricity (Supply) Act, 1948 and the UP Reforms Act, 1999 shall continue to apply for a period of one (1) year from the date of notification of Electricity Act, 2003 or until such terms and conditions for tariff are specified, whichever is earlier.

- 133.** (1) (a) The Commission shall also set out the methodology for computation of surcharge for cross-subsidy compensation in terms of Section 42(2) of the Electricity Act, 2003.
- (b) No generating company which has entered into or otherwise has a scheme for generation and sale of electricity within the State in pursuance of a long-term purchase agreement, shall charge a distribution licensee any tariff for supply of electricity without the general or specific approval of the Commission. A long term purchase agreement shall mean an agreement between a generating company and a distribution licensee extending beyond an year, whether cumulatively through multiple agreements of duration less than an year, or otherwise; and whether directly with the generating company or through intermediaries;
  - (c) The Commission may, in case of shortage of supply of electricity, fix the minimum and maximum ceiling of tariff for sale or purchase of electricity in pursuance of an agreement, entered into between a generating company and a licensee or between licensees, for a period not exceeding one (1) year to ensure reasonable prices of electricity.
  - (d) In case of distribution of electricity in the same area by two or more distribution licensees, the Commission may fix only maximum ceiling of tariff for retail sale of electricity to promote competition.
  - (e) No distribution licensee within the State shall purchase electricity from a generating company or a licensee under a long-term supply agreement, without the general or specific approval of the Commission.
  - (f) No distribution licensee within the State shall charge consumers any tariff for supply of electricity without the general or specific approval of the Commission. While fixing charges, a distribution licensee shall not show undue preference to any person or class of persons or discrimination against any person or class of persons.
  - (g) Notwithstanding anything contained in sub-clause (b) to (f) above, the Commission, shall adopt the tariff if such tariff has been determined through transparent process of bidding in accordance with the Guidelines issued by the Central Government. Such licensee or generating company shall not be required to approach the Commission for Tariff Order. However, the Commission may call for such information from these utilities as it may require from time to time
- (2) Unless otherwise specified by the Commission, the terms and conditions of the determination of the licensees' revenue and tariff shall include:
- (a) that the tariff allowed and the licensee's revenue permitted in any financial year in terms of Section 62 of the Electricity Act, 2003 shall be subject to adjustments in any tariff to be fixed for the subsequent tariff period if the Commission is satisfied for reasons to be recorded in writing that such adjustments for the excess amount or shortfall in the amount, actually realised is necessary, and the Commission is further satisfied that the same is not on account of any reason attributable to the licensee.
- (3) The Commission shall through separate notification issue order giving details of the manner in which the matter relating to phasing of open access and elimination of cross-subsidy shall be dealt consistent with the provisions of the applicable legal framework

**134.** (a) The Commission may issue orders from time to time giving details of the manner in which the licensee's revenue and tariff will be determined consistent with the provisions of the applicable legal framework . These regulations shall, interalia, define a period for which the approved tariffs shall be applicable in a multi-year framework for submission of detailed tariff filing by a licensee or a generating company and annual submission of information in a manner as specified by the Commission in the regulation.

(b) The Commission shall within a year of the notification of the Electricity Act, 2003 specify the terms and conditions for the determination of tariff for generation, transmission, wheeling, supply and trading of electricity (wholesale, bulk or retail) in line with the applicable legal framework and in doing so shall be guided by the following -

- (i) the principles and methodologies specified by the Central Commission for determination of the tariff applicable to generating companies and transmission licensees;
- (ii) the generation, transmission, distribution and supply of electricity are conducted on commercial principles;
- (iii) the factors which would encourage competition, efficiency, economical use of the resources, good performance and optimum investments;
- (iv) safeguarding consumers' interest and ensuring recovery of the cost of electricity in a reasonable manner;
- (v) the principles which reward efficiency in performance;
- (vi) multi year tariff principles;
- (vi) that the tariff progressively reflects the cost of supply of electricity, and reduces and eliminates cross-subsidies within a specified period;
- (vii) co-generation and generation of electricity from renewable sources of energy is promoted;
- (viii) the National Electricity Policy and tariff policy.

Provided that the existing terms and conditions for determination of tariff under the UP Reforms Act shall continue to apply for a period of one year from the date of notification of the Electricity Act, 2003 or until the terms and conditions for tariff are specified by the Commission, whichever is earlier.

**135.**

(1) Subject to the provisions of the applicable legal framework, each application for determination of tariffs, whether filed by a licensee or a generating company shall be filed on or before 120 days of the proposed implementation of tariffs. The application shall be in accordance with guidelines and procedures issued by the Commission for this purpose and the licensee/person filing such application shall pay such fee as has been determined and fixed under regulations framed by the Commission.

(2) The application referred to in (1) above shall give separate details for each of the separate business of the licensee viz. transmission, wheeling or retail sale and in such manner in respect of each such business as is required by Guidelines notified by the Commission for this purpose. If the licensee has other businesses, requisite information shall be filed for the same as required by the Commission. Generation capacity owned by licensees, if any, shall be subject to tariff regulation as applicable to generating companies. The statement referred to in (1) above shall be accompanied by a calculation of the cost of providing the service during the same period by the licensee for each consumer category, and further sub-divided into various voltage levels, and in such other detail as required by the guidelines and procedures separately notified by the Commission. The statement shall also contain the following details -

- (a) the licensee's demand forecast by customer or consumer category for the ensuing period and the derivation of the forecast;
- (b) a calculation of expected aggregate revenue that would result from the above demand during the same period under the currently approved tariff by customer or consumer category;
- (c) a calculation of the licensee's estimated costs of providing the service required by the level of demand

indicated in subparagraph (a) above for each customer or consumer category during the same period calculated in accordance with the financial principles that the Commission may prescribe from time to time;

(d) The licensee's proposal to deal with the difference between the expected aggregate revenue and the expected cost of services for each category of consumers including proposal, if any, for revised commercial tariff to be charged in the ensuing year, the proposed scheme for reduction in losses and improvement in efficiencies, changes in the tariff structure for any specific category of consumer; and

(e) Such other information as the Commission may direct from time to time.

(3) Notwithstanding the above, the licensee shall forthwith furnish to the Commission such additional information, particulars and documents as the Commission may require from time to time prior, with or after such filing of revenue calculations and tariff proposals, in the format that may be prescribed by the Commission.

(4) The Commission may, from time to time issue guidelines for filing statement of revenue calculations and tariff proposals and unless waived by the Commission, the licensee or the generating company shall follow such guidelines issued by the Commission from time to time.

**136.** The licensee or the generating company shall publish within three (3) days of submission of its application, a notice in at least two (2) daily newspapers widely circulated in the area of generation or supply, outlining the proposed tariff and calling for objections from the interested persons and the State Government.

**137.**

(1) Unless otherwise directed by the Commission, the Commission shall hold a proceeding on the revenue calculations and tariff proposals given by the licensee and may hear such persons as the Commission may consider appropriate.

(2) The hearing on the revenue calculations and tariff proposals shall, as far as possible, be done in the same manner as provided in Chapter 2 of these regulations.

**138.**

(1) Subsequent to the licensee furnishing the complete information required by the Commission, and upon hearing the licensee and other interested parties, the Commission shall make an order and notify the applicant of its decision on the revenue calculations and tariff proposals.

(2) While making an order under (1) above or at any time thereafter the Commission may notify the tariff which the licensee or generating company shall charge different categories of consumer in the ensuing financial year. Any Order issued by the Commission shall be published by the Licensee in the prescribed manner, unless an appeal or review is preferred by the Licensee against the Order.

**139.**

(1) The licensee or the generating company shall publish the tariff or tariffs approved by the Commission in at least two daily newspapers (one English and one Hindi) having circulation in the area of supply as provided in subsection (7) of Section 24 of the UP Reforms Act. The publication shall, besides other things as the Commission may require, include a general description of the tariff amendment and its effect on the clauses of the consumer.

(2) The tariffs so published under (1) above shall become the notified tariffs applicable in the area of supply and shall come into force after seven days from the last date of such publication of the tariffs, and shall be in force until any amendment to the tariff is approved by the Commission and published. The Commission shall, within seven days of making the order, send a copy of the order to the State Government, the Authority, the concerned licensees and to the person concerned.

**140.** All applications for amendment of tariff in terms of sub-section (8) of Section 24 of the UP Reforms Act shall be made in such form as the Commission may direct from time to time, and the provisions of Chapter 2 in so far as they are applicable shall apply to proceeding for amendment of tariffs.

**141.** The tariff determined shall not be amended or modified more than once in a financial year except in respect

of any change expressly permissible under the terms of any fuel surcharge formula as provided by the Commission. Provided that orders which the Commission may issue to give effect to the subsidy that the State Government is obliged to provide under the applicable legal framework shall not be construed as amendment of tariff notified. However in extraordinary circumstances, a licensee or a generating company may file for revision of tariffs more than once a year. The Commission may, after satisfying itself for reasons to be recorded in writing for considering the circumstances to be extraordinary and not on account of any reason attributable to the licensee, may allow for revision of tariff. The procedure followed for such tariff application shall be the same as provided in these regulations for a tariff application filed in a regular manner

**142.**

(1) Unless otherwise agreed or prescribed by the Commission, Fuel Surcharge adjustment formula shall be in the following form:

$$A_i = PPC_{i-1} - OF_{i-1} - EPR_{i-1} + B_i$$

Where,  $A_i$  is the amount by which the licensee's revenues under the relevant tariff are to be increased or decreased during adjustment period  $i$  (a negative number representing a reduction and a positive number representing an increase in revenues).

$PPC_{i-1}$  is the licensee's purchased power cost for the actual level of sales and the allowed level of loss in the most recent adjustment period ending before adjustment period  $i$ , calculated as,

$$P_{i-1} * Q_{i-1}^{ACT} * (1 + L)$$

Where,  $P_{i-1}$  is the actual average cost of purchased power incurred by the licensee in the most recent adjustment period ending before adjustment period  $i$ ,

$Q_{i-1}^{ACT}$  is the actual quantity of sales experienced by the licensee in the most recent adjustment period ending before adjustment period  $i$ ,

$L$  is the average level of energy losses allowed by the Commission in the cost of service and reflected in the licensee's tariffs,

$OF_{i-1}$  are any purchased power costs actually incurred by the licensee in the most recent adjustment period ending before adjustment period  $i$  that are disallowed by the Commission as having been incurred in breach of its economic purchasing obligation.

$EPR_{i-1}$  is the aggregate amount of the charges that the licensee is deemed to have recovered from its tariffs in the adjustment period before adjustment period  $i$ , which is given by the formula,

$$EP_{i-1} * Q_{i-1} * (1 + L)$$

Where,  $EP_{i-1}$  is the average charge for purchased power as determined by the Commission in the licensee's tariffs for the most recent adjustment period ending before adjustment period  $i$ ,

$Q_{i-1}$  is the quantity of power deemed to have been sold by the licensee in the most recent adjustment period ending before adjustment period  $i$ , as determined by the Commission in the licensee's tariffs,

$B_i$  is a balancing factor reflecting the extent to which the licensee has under-adjusted or over-adjusted its tariffs through previous fuel surcharge adjustments and is calculated as follows,

$$B_i = B_{i-1} + A_{i-1} - R_{i-1}$$

Where,  $R_{i-1}$  is the total amount of fuel surcharges accruing due to the licensee from its sales to consumers in the adjustment period immediately preceding adjustment period  $i$

(2) The licensee shall allocate the Fuel Surcharge Adjustment Formula to each class of customers or consumers using the energy cost allocation factors for each class contained in the currently approved tariff or as may be otherwise directed by the Commission.

(3) The licensee shall provide the Commission with its calculation of each fuel surcharge adjustment required to be made pursuant to its tariff before it is implemented and shall provide the Commission with such documentation and other information as it may require for the purpose of verifying the correctness of the

adjustment.

### **Differential Tariffs and Cross-subsidisation:**

**143.** While determining tariff under Regulation, the Commission may prescribe different tariffs to different persons according to the consumers load factor or purpose of use or power factor, voltage, consumers total consumption of energy during any specified period, or time during which the supply is required or the geographical position of any area, the nature of supply and the purpose for which the supply is required.

### **Subsidy from Government:**

**144. (a)** If the State Government requires the grant of any subsidy to any consumer or class of consumers in the tariff determined by the Commission, the State Government shall pay in advance the amount to compensate the licensee/person affected by the grant of subsidy in the following manner:

- (i) The State Government shall provide details of the category/class of consumers to whom it wants the licensee to charge a subsidized tariff, 120 days before the start of a financial year;
- (ii) While determining the tariff for a distribution licensee under the applicable legal framework, the Commission shall separately take into account any subsidies, which the State Government has agreed to give to any category of consumers.
- (iii) The manner of payment of subsidy in advance, whether monthly or otherwise, along with the parameters of determination of such amount shall be specified by the Commission in the relevant order.
- (iv) The tariff determined by the Commission shall be published both with and without taking into account such subsidy offered by the State Government, along with such other conditions regarding applicability of subsidized tariffs to the affected consumers as may be specified in the Order.
- (v) In case of a failure of payment of subsidy to the requisite level by the Government, the tariffs determined by the Commission without accounting for the subsidy shall be applicable in the area of the Licensee.
- (vi) The Distribution Licensee shall be under obligation to supply energy to the subsidized categories only upto the time provided for in the order for calculating the amount of Government subsidy provision. Any significant deviation anticipated by the licensee in excess of the budgeted quantity for factors beyond its control should be brought to the notice of the Commission for its consideration.

The Licensee / person likely to be affected by charging a subsidized tariff shall based on its estimation and taking into account the tariff determined by the Commission for the said category of consumers, calculate the approximate amounts for each quarter viz. three month period, which would be adequate to compensate it for charging a subsidized tariff and convey the same to the State Government by November 15<sup>th</sup> of each year, with intimation to this Commission.

- (i) The State Government shall on receipt of the details of the amount from the Licensee, inform the Licensee by November 30<sup>th</sup> of each year, the quantum of subsidy which would be available for the next financial year
- (ii) The Licensee shall take the subsidy offered by the State Government into account while preparing and filing its Annual Revenue Requirements and Application for Tariff before the Commission.
- (iii) The State Government shall pay the assured amount of subsidy for each quarter viz. three month period in advance to the Licensee/person likely to be affected.
- (iv) The Licensee / person receiving the amounts from the State Government shall at the end of each quarter, calculate and ascertain the “actual amount” of subsidy payable by the State Government for supply of electricity at subsidized rates to any class / category of consumers in the said period and forward the details to the State Government, with intimation to this Commission
- (vi) The Licensee / person shall thereafter make appropriate adjustments with regard to the “actual amount” received from the State Government in the beginning of the said quarter and depending on whether there is a deficit in the amount received or surplus amounts received, the licensee/person shall make



appropriate adjustments in accordance with a true-up mechanism to be implemented at the end of each quarter.

## **CHAPTER 7 - INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, ETC.**

**145.** The Commission may make such order or orders as it thinks fit in terms of the applicable legal framework and Regulations made by the Commission, for collection of information, inquiry, investigation, entry, search, and seizure and without prejudice to the generality of its powers in regard to the following:

- a. The Commission may, at any time, direct the Secretary or any one or more Officers or consultants or any other person as the Commission considers appropriate to study, investigate or furnish information with respect to any matter within the purview of the Commission under the applicable legal framework.
- b. The Commission may for the above purpose give such other directions as it may deem fit and specify the time within which the report is to be submitted or information furnished.
- c. The Commission may issue or authorize 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 specified in this behalf the books, accounts, etc. or to furnish to an Officer information, etc. as provided in the applicable legal framework and regulations made by the Commission,.
- d. The Commission may, for the purpose of collecting any information, particulars or documents which the Commission consider necessary in connection with the discharge of its functions under the applicable legal framework, issue such directions and follow any one or more of the methods provided for in the applicable legal framework.
- e. If any such report or information obtained as specified in the applicable legal framework or in these Regulations appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer authorized 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 be attended to which may be considered relevant in connection with the above.

**146.** In connection with the discharge of the functions under the applicable legal framework and Regulation 148, the Commission may, if it thinks fit, direct a notice of inquiry to be issued and proceed with the matter in a manner provided under Chapter 2 of these Regulations.

**147.** The Commission may, at any time, take the assistance of any institution, consultants, experts, engineers, chartered accountants, advocates, surveyors and such other technical and professional persons, as it may consider necessary, and ask them to study, investigate, inquire into any matter or issue and submit report or reports or furnish any information. The Commission may determine the terms and conditions for engagement of such professionals.

**148.** If the report or information obtained in terms of the above Regulations or any part thereof is proposed to be relied upon by the Commission forming its opinion or view in any Proceedings, the parties in the Proceedings shall be given a reasonable opportunity for filing objections and making submissions on the report or information.

**149.**

**(1)** The Commission may, on being satisfied that a licensee has failed to comply with any of the conditions of licence or a generating company or a licensee has failed to comply with any of the provisions of this applicable legal framework or rules or regulations made there under, at any time, by order in writing, direct any person to investigate the affairs of any generating company or licensee and report to the Commission on any investigation made by such Investigating Authority. Provided that the Investigating Authority may, wherever necessary, employ any auditor or any other person for the purpose of assisting him in any investigation under this section.

**(2)** The licensee or generating company shall be under a duty to produce before the Investigating Authority all such books of account, registers and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the licensee or generating company, as the case may be, as the

said Investigating Authority may require of him within such time as the said Investigating Authority may specify.

(3) The Investigating Authority would be empowered to examine on oath any manager, managing director or other officer of the licensee or generating company, as the case may be, in relation to his business and may administer oaths accordingly. The Investigating Authority, shall, if directed by the Commission to cause an inspection to be made.

(4) On receipt of any report and after giving such opportunity to the licensee or generating company, as the case may be, to make a representation in connection with the report as the Commission seems reasonable, it may by order in writing -

- (a) require the licensee or the generating company to take such action in respect of any matter arising out of the report as the Commission may think fit; or
- (b) cancel the licence; or
- (c) direct the generating company to cease to carry on the business of generation of electricity.

(5) The Commission may, after giving reasonable notice to the licensee or the generating company, as the case may be, publish the report submitted by the Investigating Authority or such portion thereof as may appear to it to be necessary.

(6) The Commission may specify the minimum information to be maintained by the licensee or the generating company in their books, the manner in which such information shall be maintained, the checks and other verifications to be adopted by licensee or the generating company in that connection and all other matters incidental thereto as are, in its opinion, necessary to enable the Investigating Authority to discharge satisfactorily its functions. For the purposes of this Regulations, the expression "licensee or the generating company" shall include in the case of a licensee incorporated in India -

- (a) all its subsidiaries formed for the purpose of carrying on the business of generation or transmission or distribution or trading of electricity exclusively outside India; and
- (b) all its branches whether situated in India or outside India.
- (c) All expenses of, and incidental to, any investigation made under this provision shall be defrayed by the licensee or generating company, as the case may be, and shall have priority over that debts due from the licensee or the generating company and shall be recoverable as an arrear of land revenue.

(7) Where the Commission, on the basis of material in its possession, is satisfied that a licensee is contravening, or is likely to contravene, any of the conditions mentioned in his licence or conditions for grant of exemption or the licensee or the generating company has contravened or is likely to contravene any of the provisions of this applicable legal framework, it shall, by an order, give such directions as may be necessary for the purpose of securing compliance with that condition or provision. While giving such directions, the Commission shall have due regard to the extent to which any person is likely to sustain loss or damage due to such contravention.

(8) The Commission, before issuing any direction for the purpose of securing compliance with that condition or provision., shall -

- (a) serve notice in the manner as may be specified to the concerned licensee or the generating company;
- (b) publish the notice in the manner as may be specified for the purpose of bringing the matters to the attention of persons, likely to be affected, or affected;
- (c) Consider suggestions and objections from the concerned licensee or generating company and the persons, likely to be affected, or affected.

## **CHAPTER 8 - MISCELLANEOUS**

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

150. (1) The Commission may on its own or on the application of any of the persons or parties concerned, within

90 days of the making of any decision direction or order, review such decision, directions or orders and pass such appropriate orders as the Commission thinks fit.

(2) An application for such review shall be filed in the same manner as a Petition under Chapter 2 of these regulations.

**Continuance of Proceeding after death, etc.:**

**151.** (1) Where in any Proceeding any of the parties to the Proceedings dies or is adjudicated as an insolvent or in the case of a Company under liquidation / winding up, the proceedings shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned.

(2) 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 etc., on the record of the case.

(3) In case any person wishes to bring on record the successors-in-interest etc., the application for the purpose shall be filed within 90 days from the event requiring the successors-in-interest to come on record.

**Proceedings to be open to public:**

**152.** The Proceedings before the Commission shall be open to the public. However admission to the hearing room shall be subject to availability of sitting accommodation:

Provided that the Commission may, if it thinks fit, and for reason to be recorded in writing, order at any stage of the Proceedings of any particular case that the public generally or any particular person or group of persons shall not have access to or be or remain in the room or building used by the Commission.

**Publication of petition:**

**153.** (1) Where any application, petition, or other matter is required to be published under the applicable legal framework or these Regulations or as per the directions of the Commission, it shall unless the Commission otherwise orders or the applicable legal framework or Regulation otherwise provide, be advertised not less than 5 days before the date fixed for hearing.

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

(3) Such advertisement to be published shall be approved by the Officer Of the Commission designated for the purpose.

**Confidentiality:**

**154.** (1) Records of the Commission, except those parts which for reasons specified by the Commission are confidential or privileged, shall be open to inspection by all, subject to the payment of fee and complying with the terms as the Commission may direct.

(2) The Commission may, on such terms and conditions as the Commission considers appropriate, provide for the supply of the certified copies of the documents and papers available with the Commission to any person.

(3) The Commission may, by order, direct that any information, documents and other papers and materials produced before the Commission or any of its Officers, consultants, representatives or otherwise which may be, or come into, their possession or custody, shall be confidential or privileged and shall not be available for inspection or supply of copies, and the Commission may also direct that such document, papers or materials shall not be used in any manner except as specifically authorized by the Commission,

**Issue of orders and practice directions:**

**155.** Subject to the provisions of the applicable legal framework and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of the Regulations and procedure to be followed and various matters, which the Commission has been empowered by these Regulations to specify or direct.

**Inherent power of the Commission:**

**156.** 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 ends of justice or to prevent the abuse of the process of

the Commission.

**157.** Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the applicable legal framework, 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 for dealing with such a matter or class of matters.

**158.** Nothing in these Regulations shall, expressly or impliedly bar the Commission to deal with any matter or exercise any power under the applicable legal framework for which no regulation have been framed, and the Commission may deal with such matters powers and functions in a manner it thinks fit.

**General power to amend:**

**159.** The Commission may, at any time and on such terms as to costs or otherwise wise, as it may think fit, amend any defect or error in any Proceeding before it, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the Proceedings.

**Power to remove difficulties:**

**160.** 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 applicable legal framework, which appears to it to be necessary or expedient for the purpose of removing the difficulties.

**Power to dispense with the requirement of the Regulations:**

**161.** The Commission shall have the power, for reasons to be recorded in writing and with notice to the affected parties, dispense with the requirements of any of the Regulations in a specific case or cases subject to such terms and conditions as may be specified.

**Extension abridgment of time prescribed:**

**162.** Subject to the provisions of the applicable legal framework, 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 order of the Commission.

**Effect of non-compliance:**

**163.** 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:**

**164.** (1) Subject to such conditions and limitation as may be directed by the Commission, the cost 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.

(2) The costs shall be paid within 30 days from the date of the order or within such time as the Commission may, by order, direct. The order of the Commission awarding costs shall be executed in the same manner as the decree / order of a Civil Court.

**Enforcement of orders passed by the Commission:**

**165.** The Secretary shall ensure enforcement and compliance of the orders passed by the Commission, by the persons concerned in accordance with the provisions of the applicable legal framework and Regulations and if necessary, may seek the orders of the Commission for directions.

**166.** These Regulations including any amendments thereof shall be subject to condition of previous publication and shall be laid before the State Legislature in accordance with applicable law.

By order of the Commission

Secretary to Commission

**FORM-1**  
(See Regulation 30)

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY  
COMMISSION, LUCKNOW**

Receipt Register No.: \_\_\_\_\_

Petition No.: \_\_\_\_\_

(To be filled by the office)

In the Matter of:

(Gist of the purpose of the petition or application, which would include the section(s) of an Act(s) or Code etc. under which the petition is being filed)

AND

In the Matter of:

(Names and full addresses of the petitioner(s) / applicant(s))

Vs.

(Names and full addresses of the respondent(s))

**FORM-2**  
(See Regulation 31)

**BEFORE THE UTTAR PRADESH ELECTRICITY REGULATORY  
COMMISSION, LUCKNOW**

Receipt Register No.: \_\_\_\_\_

Petition No.: \_\_\_\_\_

(To be filled by the office)

In the Matter of:

(Gist of the purpose of the petition or application, which would include the section(s) of an Act(s) or Code etc. under which the petition is being filed)

AND

In the Matter of:

(Names and full addresses of the petitioner(s) / applicant(s))

Vs.

(Names and full addresses of the respondent(s))

**Affidavit verifying the petition / reply / application**

I, \_\_\_\_\_, son of \_\_\_\_\_ aged \_\_\_\_\_  
residing at \_\_\_\_\_ do hereby solemnly affirm and declare as  
under that:

1. That I am a Director / Secretary / \_\_\_\_\_ of  
\_\_\_\_\_ Ltd., the petitioner in the above matter and am  
duly empowered and authorized by the said petitioner vide the Power of Attorney dated  
\_\_\_\_\_ to make this affidavit on its behalf. (Note: This paragraph is to be  
included in cases where the petitioner is a Company.)
- 2.

3.

Deponent

**Verification:**

Verified this \_\_\_\_\_ day of \_\_\_\_\_ of 2005 that the contents of paragraphs \_\_\_\_\_ are true on facts and those of paragraphs \_\_\_\_\_ are believed to be true and correct upon information received and believed to be true to the best of my knowledge and belief.

Deponent