

# **TRIPURA ELECTRICITY REGULATORY COMMISSION**

## **NOTIFICATION**

No.F.17/TERC/2004.

Dated:

In exercise of the power conferred under section-181 of the Electricity Act, 2003 (No.36 of 2003) and all powers enabling it on that behalf Tripura Electricity Regulatory Commission here by makes the following regulations:-

### **CHAPTER-I (General)**

#### **Short title, commencement and interpretation.**

1. (1) These regulations may be called the Tripura Electricity Regulatory Commission (Conduct of Business) Regulations,2004'

(2) These shall come into force on the date of the publication in the official Gazette, unless specified otherwise.

(3) These extend to the State of Tripura

(4) Tripura general clause act shall apply to the interpretation of these Regulations unless otherwise indicated in these Regulations or inconsistent with the provision of the Electricity Act 2003

### **DEFINITIONS**

2. (1) In these Regulations, unless the context otherwise requires:-

(a) '**Act**' means the Electricity Act, 2003 (No. 36 of 2003).

(b) '**Utility**' means the electric lines or electrical plant and includes all lands, buildings, works and materials attached thereto belonging to any person or entity engaged in the generation, acting as a generating company or licensee under the provisions of this Act.

(c) '**Chairman**' means the Chairperson of the Tripura Electricity Regulatory Commission;

(d) '**Commission**' means the Tripura Electricity Regulatory Commission;

(e) '**Secretary**' means Secretary of the Tripura Electricity Regulatory Commission;

(f) '**Petition**' shall mean and include all petitions, complaints, appeals, replies, rejoinders, supplemental pleadings, other papers and documents filed before the Commission;

(g) '**Proceedings**' shall include proceedings of all nature that the Commission may hold in the discharge of its function under the Act;

(h) '**Officer**' means Officers of the Tripura Electricity Regulatory Commission and includes the 'Secretary'.

(i) '**Regulation**' means Tripura Electricity Regulatory Commission (Conduct of Business) Regulation, 2004.

(2) Words or expression occurring in these Regulations and not defined herein above shall bear the same meaning as in the Act.

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

3. The headquarters of the State Commission shall be at Agartala. The other place of the offices of the Commission within Tripura 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 2<sup>nd</sup> Saturdays, Sundays and Holidays notified by the Government of Tripura. 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 can not 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 proceedings at the headquarters or at any other place in Tripura on day and time to be specified by the Commission.

### **Language of the Commission**

7. Proceedings and meetings of the Commission shall be conducted in English, Bengali or Hindi or Kokborok in phases.

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

9. (a) Any translation which is agreed to be 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.

(b)The Commission in appropriate cases may direct translation of any document relevant to the proceedings in English by an Officer or person designated by the Commission for the purpose.

### **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 the Secretary or an officer designated for the purpose.

### **Secretary of the Commission.**

12. The Secretary shall exercise his powers and perform his duties under the control of the Chairman and the Commission. He shall exercise such functions as are assigned to him by these Regulations or otherwise by the Commission or the Chairman. In particular or without prejudice to the generality of the above provisions, the Secretary shall have the following duties, viz:-

(a) He shall have the custody of the Seal and records of the Commission.

(b) He shall receive or cause to receive all petitions;

(c) He shall prepare or cause to prepare 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 order 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 Act and place the said information before the Commission.

(g) He shall authenticate the orders passed by the Commission.

(h) Annual report of the Commission shall be submitted on approval of the Commission.

(i) The Secretary, shall send copy of all order or regulation thereof, on approval of the Commission to the State Govt. and CEA within stipulated time.

(j) The Secretary shall act as the nodal officer of Accounts & Audits of the Commission receipts / expenditures etc. and budget and coordinate with CAG and others.

13. The Commission may delegate to any of its officers such functions including functions that may be required by these regulations to be exercised by the Secretary on terms and conditions which 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 or any functions of the Secretary.

16. The Commission shall have the authority, either on an application made by any interested or affected party or suo- moto, 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.

### **Advisory Committee.**

17. (1) The Advisory Committee envisaged under section 87 of the Act shall consist of such number of members not exceeding 21 representing the various interests as referred to in the Act as may be decided by the Commission and tenure of the members shall be as decided and notified by the Commission.

(2) The Commission may reimburse expenses subject to norms as may be decided by the Commission from time to time to the members of the Committee when invited to. Depending upon the nature of assignment undertaken by member, whenever required by Commission, some allowances as per specified, norms will be reimbursed by the Commission to the member. Secretary of the commission shall convene all meetings of the advisory committee

### **Consumers Association.**

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

Commission may consider appropriate.

19. 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.

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

21. The Commission may direct payment to the person (other than the officer) appointed to represent the consumer's interest, such fee, cost and expenses by such of the parties in the proceedings as the Commission may consider appropriate.

#### **Appointment of Consultant.**

22. The Commission may appoint Consultants to assist the Commission in the discharge of its functions. The terms and conditions of appointment of Consultants shall be determined by the commission by Regulations from time to time.

### **CHAPTER-II**

(General Rules concerning the Proceedings before the Commission)

#### **Proceedings before the Commission:**

23. (1) The Commission may from time to time hold such proceedings including consultations, meetings inquiries etc. as it may consider appropriate in the discharge of its functions. 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.

(2) (i) Except where the Commission may provide otherwise for reason to be recorded in writing, all matters affecting the rights or interest of class of persons shall be undertaken and discharged through hearing in the matter specified in these Regulations.

(ii) All matters which the Commission is required to undertake and discharge under the Act through hearing, shall be done through public hearing in the manner specified in these Regulations.

(iii) The Commission may hold hearing in matters other than those specified in sub-regulations (i) and (ii) of Regulation 23 (2) if the Commission consider it appropriate to do so.

#### **Quorum**

24. All meetings including proceedings before the Commission shall be in presence of Chairman, TERC.

#### **Initiation of Proceedings.**

25. (1) The Commission may initiate any proceedings suo-motto or on a petition filed by any affected person. The petition so filed shall become a part of the proceedings.

(2) When the Commission initiate the proceedings, it shall be by a notice issued by the office of the Commission and the Commission may give such orders and directions as may be deemed necessary, for service of notice to the affected or interested parties; for the filling of replies and rejoinders 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 from the public or any class of person on the

issue involved in the proceedings in such form as the Commission may direct.

(3) While issuing the notice of inquiry the Commission may, in suo motto proceedings and other 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.

### **Petition and pleadings before the Commission**

26. All petitions to be filled before the Commission shall be type written, cyclostyled or printed neatly and legible on white paper and every page shall be consecutively numbered. The contents of the petitions shall be divided appropriately into separate paragraphs, which shall be numbered serially. The petition shall be accompanied by such documents as the Commission may specify.

### **General headings**

27. The general heading in all petitions before the Commission and all advertisements and notices shall be in Form-1 (**Annexure-I**).

### **Affidavit in support.**

28. (1) Unless specifically exempted by the Commission, petitions filed shall be verified by an affidavit, and every such affidavit shall be in Form-2 (**Annexure-II**).

(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 authorized to take and receive affidavits.

(3) Every affidavit shall clearly and separately indicate the statements, documents, supporting data etc. which are true to the:-

i) knowledge of the deponent;

(ii) information received by the deponent, and

(iii) belief of the deponent.

(4) Where any statement in the 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 reflects true position and he has no information/documents etc. which makes the information false or misleading or incomplete.

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

29. (1) All petitions shall be filed in such number of copies as the Commission may specify and all such copies shall be complete in all respects. The fees as may be prescribed by the commission shall be payable in the manner as directed by the Commission.

(2) All petitions shall be presented in person or by any duly authorized agent to an officer designated for the purpose by the Commission (hereinafter called the Receiving officer) at the headquarters or such other filing centre or centers as may be notified by the Commission from time to time during the time notified. The petitions may also be sent by registered post with acknowledgement due to the Commission at the places mentioned above. The Vakalatnama in favour of the Advocate and, in the event the petitions are presented by the authorized agent or representative, the document authorizing the agent or representative shall be filled along with the petition, if not already filed on the record of the case.

The presentation and receipt of the petition shall be duly entered in the register maintained

for the purpose by the officer of the Commission.

(4) Upon the receipt of the petition, the receiving officer shall acknowledge the receipt by stamping and endorsing the date on the petition presented and shall issue an acknowledgement with stamp and date to the person filling 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 date of the presentation of the petition.

(5) The Receiving officer may decline to accept any petition which is not in conformity with the provisions of the Act or Regulations or directions given by the Commission or is otherwise defective or which is presented otherwise than in accordance with the Regulations or directions of the Commission.

Provided, however, that no petition shall be refused for defect in the pleadings or in their presentation without giving an opportunity to the person filing the petition to rectify the defect within the time, which may be given for the purpose. The Receiving officer shall advise in writing the person filing the petition about the defects in the petition filed.

(6) A party aggrieved by any order of the Receiving officer in regard to the presentation of petition may request the matter to be placed before the Secretary of the Commission for appropriate orders.

(7) A party dissatisfied by any order of the Secretary may request the matter to be placed before the Commission for appropriate orders.

(8) If on scrutiny, the petition is not refused or any order of refusal is issued by the Secretary or by the Commission, the petition shall be duly registered and given a number.

(9) As soon as the petition and all necessary documents are lodge and the defects and objections, if any, are removed and the petition has been numbered, the petition shall be put up before the Commission for admission.

(10) The Commission may admit the petition for hearing without requiring the attendance of the party filing the petition. The Commission shall not pass an order refusing admission without giving the party concerned an opportunity of being heard. The Commission may, if it considers appropriate, issue notice to such person or persons as it may desire to hear the petition for admission.

(11) If the Commission admits the petition, it may give such orders, directions as may be deemed necessary, for notices to the respondent or other affected or interested parties for filing of replies and rejoined in opposition or in support of the petition in such form as the Commission may direct.

### **Service of notices.**

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

(a) service by any of the parties as may be directed by the Commission.

(b) by hand delivery through a messenger.

(c) by registered post with acknowledgement due;

(d) by publication in newspaper in cases where the Commission is satisfied that it is not reasonably practicable to service the notices, processes etc. in the manner mentioned above.

(e) In any other manner as considered appropriate by the Commission.

(2) 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.

(3) In the event any matter is pending before the Commission and the person to be served has authorized an agent or representative to appear for and represent him or her in the matter, such agent or representative shall be deemed to be duly empowered to take service of the notice 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.

(4) Where a notice is served by a party to 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.

(5) Where any petition is required to be published it shall be published in such form in the newspaper(s) to be specified, for such duration and such time as the Commission may direct.

(6) The Commission may also effect service or give directions for effecting service in any other manner it considers appropriate. The Commission shall be entitled to decide in each case the person(s) who shall bear the cost of such service and publication.

(7) In default of compliance with the requirements of the Regulations or directions of the Commission as regards the service of notice, summons or process or the advertisement and publication thereof, the Commission may either dismiss the petition or give such other or further directions, as the Commission considers appropriate.

(8) No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person provided that the Commission is satisfied that such service is in other respects sufficient, and no proceedings shall be invalidated by reason of any defect or irregularity in the service or publication unless the Commission, on an objection taken, is of the opinion that substantial injustice has been caused by any such defect or irregularity or there are otherwise sufficient reason for doing so.

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

31. (1) Each person to whom the notice of inquiry or the petition is issued (hereinafter called the respondent) who intends to oppose or support the petition shall file reply and the documents relied upon within such period in five copies. In the reply the respondent shall state the facts stated in the notice of inquiry or the petition and may also state such additional facts as he considers necessary for a 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 in the reply whether he wishes to participate in the proceedings and be orally heard.

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

(3) 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. The procedure mentioned above for filling of the reply shall apply mutatis mutandis to the filing of the rejoinder.

(4) (i) Every person who intends to file objections 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 in five copies to the 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.

(ii) The Commission may permit such person or persons including associations, forums as it

may consider appropriate, to participate in the proceedings before the Commission, if on the report received From the officer or otherwise, the Commission considers that the participation of such person or persons will facilitate the proceedings and the decision in the matter.

(iii) Unless permitted by the Commission, the person filing objections or comments shall not be entitled to participate in the proceedings. However, the Commission shall be at liberty to take into account the objections and comments filed after giving such opportunity to the parties in the proceedings as the Commission considers appropriate to deal with the objections and comments.

### **Hearing of the matter.**

32(1) The Commission may determine the stage, the manner, the place, the date 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 Act or otherwise the need to expeditiously decide the matter.

2 (i)The Commission may decide the matter on the pleadings of the parties or may call for the parties to produce evidence by way of affidavit or lead oral evidence in the matter. The Commission may provide or direct the party to provide translator for oral evidence, pleadings as may be considered necessary by the Commission.

(ii) 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 of the affidavit.

(iii) The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an officer or the person designated for the purpose by the Commission.

(iv) The Commission may direct the parties to file written note of arguments or submission in the matter.

(v) A person who is party to any proceedings before the Commission may appear in person or may authorize any of his employees to appear before the Commission and to act plead on his behalf. The person may also authorize 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 Commission may also allow, subject to terms and conditions to be specified from time to time, a person to authorize any other person to represent him and act plead on his behalf.

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

33. (1) The Commission may, at any time before passing order 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 foe the purpose of enabling it to pass orders.

2) The Commission may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisitioning any public record from any office, examination by an officer of the Commission or consultant appointed by the Commission, the books, accounts or other documents or information in the custody or control of a person which the Commission considers relevant for the matter.

3) In accordance with the section 193 of the Indian Penal Code 1860, whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricate false evidence for the purpose of being used in any of the proceedings shall be punishable with imprisonment of either description for a term which may be extended to seven years and



shall also be liable to be fined.

4) In accordance with the Section 228 of the Indian penal code, 1860 whoever intentionally offers any insult or causes and interruption in any of the proceedings of the Commission shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs. 1,000/- or with both.

### **Reference of issues to others**

34. (1) At any stage of the proceedings, the Commission shall be entitled to refer such issue or issues in the matter as in considers appropriate to persons including, but not limited to, the officers and consultants of the Commission whom the commission considers as qualified to verify the documents, statements, data, etc. and to give expert or specialized advice or opinion on such issue or issues.

(2) The Commission may nominate from time to time any person including, but not limited to, the officers and consultants to visit any place or places for inspection and report on the matters to be specified by the Commission.

(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(s) shall form a part of the records of the case and the parties can request and obtain a copy of the above report received, in accordance with the provisions of Regulation no 37 read with Regulation no 51. 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 and reply filed by the parties while deciding the matter and if considered necessary, examine the person giving the report or the opinion.

Provided, however, that the Commission shall not be bound by the report or the opinion given.

### **Procedure to be followed where any party does not appear.**

35.(1) When, on the date fixed for hearing or any other date to which such hearing may be adjourned, if any party or his authorized agent or representative does not appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the petitioner or the person who moves the Commission for hearing is absent or proceed expert to hear and decide the petition.

(2) Where a petition is dismissed in default or decided ex-party, the person aggrieved may file an application within 30 days from the date of such dismissal or being proceeded ex-party, 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 when the petition was called for hearing.

### **Orders of the Commission**

36.(1) The Commission shall pass orders on the petition and the Chairman and the Members of the Commission, who heard the matter, will sign the orders.

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

(3) 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 Chairman shall bear the official seal of the Commission.

(4) 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 Chairman.

### **Inspection of Records and supply of certified copies.**

37. (1) Records of every proceeding shall be open to inspection of the parties or their authorized representatives at any time either during the proceeding or after the orders are passed, subject to payment of fees and compliance with such other terms as the Commission may direct.

(2) Records of every proceeding except those parts which for reasons specified by the Commission are confidential or privileged, shall be opened to inspection by any person other than the parties to the petition either during the proceeding or after 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.

(3) Any person shall be entitled to obtain certified copies of the orders, decision directions and reasons in support thereof given by the Commission as well as the pleadings and papers and other parts of the records of the Commission to which he is entitled, subject to payment of fees and compliance with such other terms as the Commission may direct.

## **CHAPTER-III**

(Investigation, Inquiry, Collection of Information, etc.)

### **Collection of Information**

38. (1) The Commission may make such order or orders as it may consider appropriate for collection of information, inquire, 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 Act.

(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 of accounts etc. or to furnish information.

(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 Act, issue such directions and follow any one or more of the methods.

(e) If any such report or information obtained appears to the Commission to be insufficient or inadequate, the Commission or the Secretary or an Officer 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 which may be considered relevant in connection with the above, be attended to.

(2) In connection with the discharge of the functions under the Act and Regulations, 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-II of these Regulations.

### **Assistance of Experts.**

39. (1) 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 reports or report or furnish any information. The Commission may determine the terms and conditions for the engagement of such professionals.

(2) 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 in forming its opinion or view in any proceedings, the parties in the proceedings shall be given a reasonable opportunity for filing objections and making submission on the report or information.

## **CHAPTER-IV** **Tariff**

40. The methodologies and procedures for calculating the expected revenue from charges and for calculating estimated costs for determining the tariffs may be provided by the Commission from time to time. The Commission may at any time add, amend, alter, revise, substitute or otherwise change the methodologies and procedures, as the Commission considers appropriate.

41. The Commission may at any time, frame separate Regulations to prescribe the terms and conditions of the determination of the costs, revenue and tariffs in accordance with the provisions the Act.

42. Without prejudice to the generality of the powers of the Commission following aspects will be focused while determining the tariff:-

a. the need to link tariff adjustment to increase the productivity of capital employed, economical use of resources, good performance, improvement in efficiency of supply and consumption of Electricity to safeguard the interest of the consumers.

b. the need to rationalise tariffs on the basis of the actual cost of generation, transmission and distribution.

c. The unbundling of costs which would inform both consumers and potential investors of the cost and revenue stream attributable to each functional entity.

d. The need to transparently provide the appropriate incentives in a non-discriminatory manner, for continuous enhancement in efficiency of generation, transmission and distribution and up-gradation in the level of services.

e. The simulation of competitive conditions where markets do not exist and progressive introduction of competitive conditions.

f. The least cost adoption of environmental standards.

g. The need for healthy growth of the industry.

43. (1) The utilities shall provide to the Commission during the period between 15th December to 31st December every year details of its calculation for the ensuing financial year of the expected aggregate revenue from charges based on currently approved tariff by the

Commission.

(2) The details of the calculation of the expected aggregate revenue with such other information and particulars shall be furnished in such form as the Commission may direct from time to time.

(3) Notwithstanding the above, the Commission shall be entitled to require the Utility to give such other or further information, particulars and documents as the Commission may consider appropriate.

(4) The Utility shall forthwith supply all the information, particulars and documents directed to be furnished by the Commission.

44. The Utility shall publish the tariff as approved by the Commission in the manner as may be prescribed. The Tariff so published shall be in force until any amendment to the tariff is approved by the Commission and published.

45. All application for amendment of tariff shall be made in such form as the Commission may direct from time to time and the provisions of Chapter-II in so far as they are applicable shall apply to proceeding for amendment of tariff.

## **CHAPTER-V** **(Miscellaneous)**

### **Interim Orders**

46. The Commission may pass in any proceedings before it, such interim orders including an interim ex-party orders as it may consider appropriate to protect the interest of any of the parties to the proceedings or any other person including the consumers or any class or classes of consumers.

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

47. (1) The Commission may, on its motion or on the application of any of the person or parties concerned, within 90 days of the making of any decision, directions 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-II of these Regulations.

### **Continuance of proceedings after death, etc.**

48. (1) Where in any proceedings 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 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 to come on record.

### **Proceeding to be open to public.**

49. Unless otherwise specified the proceedings before the Commission shall be open to the public However, admission to the hearing room shall subject of the availability of the sitting accommodation, provided that the Commission if it thinks fit, and for reasons to be recorded in writing, order at a 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 remain in the room or building used by the Commission.

### **Publication of petition.**

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

(2) Except as otherwise provided, such advertisement shall give 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.**

51. (1) Records of the Commission, except those parts which reasons specified by the Commission are confidential or privileged, shall be open to inspection by all, subject to payment of prescribed fees and compliance with such other 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 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 documents, papers or materials shall not be used in any manner except as specially authorized by the Commission.

### **Issue of Orders and Practice directions.**

52. Subject to the provisions of the Act 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 on various matters which the Commission has been empowered by these Regulations to specify or direct.

### **Saving of inherent power of the Commission.**

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

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

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

**General power to amend.**

54. The Commission may, at any time amend any defect or error in any proceeding before it.

**Power to remove difficulties.**

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

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

56. 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 specific cases subject to such terms and conditions as may be specified.

**Extension or abridgement of time prescribed.**

57. Subject to the provisions of the Act, the time prescribe by this 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 reasons by order of the Commission.

**Effect of non-compliance.**

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

**Costs.**

59.(1) Subject to such conditions and limitations 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 costs are to be paid and give all necessary directions for the aforesaid purpose.

(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.**

60. 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 Act and Regulations and if necessary, may seek the orders of the Commission for directions.

By order of the Commission

**(Parimal Roy)**

**Secretary of the Commission**

