

SIKKIM



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**SIKKIM STATE ELECTRICITY REGULATORY COMMISSION
GANGTOK**

No. 413/SSERC/2023-24/04

Date: 13.6.2023

NOTIFICATION

In exercise of the powers conferred by Section 27(A) of the Energy Conservation (Amendment) Act, 2022, the Sikkim State Electricity Regulatory Commission for discharge of functions of Adjudicating Officer and conduct of proceedings before Adjudicating Officer hereby makes the Sikkim State Electricity Regulatory Commission (Conduct of Business for Holding Inquiry by Adjudicating Officer) Regulations, 2023, namely: -

SIKKIM STATE ELECTRICITY REGULATORY COMMISSION (CONDUCT OF BUSINESS FOR HOLDING INQUIRY BY ADJUDICATING OFFICER) REGULATIONS, 2023.

CHAPTER I

PRELIMINARY

1. Short title, extent, and commencement: -

- (1) These Regulations may be called the Sikkim State Electricity Regulatory Commission (Conduct of Business for Holding Inquiry by Adjudicating Officer) Regulations, 2023.
- (2) These Regulations shall extend to the whole of the State of Sikkim.
- (3) These Regulations shall come into force from the date of their publication in the official Gazette

2. Objective: -

The objective of these regulations is to provide provisions regarding process of adjudication before the Adjudicating Officer appointed by the Commission under Section 27(A) of the Energy Conservation Act, 2001 as amended from time to time.

3. Definitions: -(1) In these Regulations, unless the context otherwise requires; -

- (a) “Act” means the Energy Conservation Act, 2001(52 of 2001);

- (b) "Adjudicating Officer" means the Adjudicating Officer appointed by Commission under section 27(A) of the Act;
 - (c) "BEE" means Bureau of Energy Efficiency;
 - (d) "Central Government" means the Government of India;
 - (e) "Commission" means the Sikkim State Electricity Regulatory Commission;
 - (f) "Secretary" means the Secretary of the Commission;
 - (g) "designated consumer" means any consumer specified under clause (e) of Section 14 of the Act.
 - (h) "form" means form appended to these regulations.
 - (i) "penalty" refers to penalty that the Adjudicating Officer is empowered to impose under the Act,
 - (j) "fund" means the State Electricity Regulatory Commission Fund constituted under Section 103 of the Electricity Act, 2003,
 - (k) "Inter locutory Application" means an application filed in any petition or proceeding already instituted before the Adjudicating Officer but does not include an application for review.
 - (l) "officer" means an officer of the Commission;
 - (m) "proceedings" means proceedings of all nature that the Adjudicating Officer may decide to initiate or hold in the discharge of its functions under the Act but any preliminary meeting or any action done by the Adjudicating Officer before such initiation shall not be a proceeding for the purposes of these regulations;
 - (n) "receiving officer" means an officer designated by the Adjudicating Officer for the purpose of receiving the petitions;
 - (o) "designated agency" means any agency designated under clause (d) of Section 15 of the Act;
 - (p) "State Government" means the Government of Sikkim.
- (2) Words or expressions used but not defined in these Regulations shall have the same meaning as assigned to them in the Act.

4. Scope: -

These regulations shall be applicable for holding enquiries by Adjudicating Officer on receiving complaints regarding violation of provisions of Section 14 and or Section 15 of the Act in the manner as specified in these regulations.

5. Adjudicating Officer's office, office hours and sittings: -

- (1) The Adjudicating Officer shall function from his office at the Commission.
- (2) Unless other wise directed, the office of the Adjudicating Officer shall be open daily except on second and fourth Saturdays and Sundays and holidays notified by the State Government from time to time.
- (3) The office of the Adjudicating Officer shall be open from 10:00 hours to 16:30 hours on all working days or at such times as the Commission may direct.

- (4) For public dealings, the office of the Adjudicating Officer shall remain open between 11:00 hours to 16:30 hours on all working days.
- (5) Where the last day for doing of any act falls on a day on which the office of the Adjudicating Officer 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 Adjudicating Officer may hold sittings for hearing matters at the headquarters or at any other place on days and time to be specified by the Adjudicating Officer.

6. Language of the proceedings before Adjudicating Officer: -

- (1) The proceedings of the Adjudicating Officer shall be conducted in English. The Adjudicating Officer may allow any person to plead or represent the case in any local language as recognised by the State Government.
- (2) No petition/representation, documents or other materials contained in any language other than English shall be accepted by the Adjudicating Officer unless the same is accompanied by a translation thereof in English. However, the Adjudicating Officer may relax and accept any petition given in any recognized local language of the State without translation in English in deserving cases in his discretion.
- (3) The Adjudicating Officer may direct that the petition, documents, or other materials in English be translated to any other State language or vice versa.

7. Seal of the Adjudicating Officer: -

- (1) There shall be a separate seal for the Adjudicating Officer. The impression of the seal shall be certified and kept on record of the Adjudicating Officer.
- (2) Every order or communication made, notice issued or certified copy granted by the Adjudicating Officer shall be stamped with the seal of the Adjudicating Officer and shall be certified by the Secretary or an Officer of the Commission designated for the purpose.

8. Officers of the Commission: -

- (1) The Commission may delegate to its officers such functions including the functions to be exercised by the Secretary on the specified terms and conditions.
- (2) The Commission shall have the powers to engage consultant/ staff for assisting the Adjudicating Officer in the matters related to adjudication.
- (3) The Secretary shall have custody of the seal and records of the Adjudicating Officer and shall exercise such functions as are assigned to him by these regulations or otherwise by the Commission.
- (4) In particular and without prejudice to the generality of the provision of the sub clause (2) above, the Secretary shall have the following functions, namely: -
 - (i) He shall receive or cause to receive all petitions, applications, other filings, or references pertaining to the Adjudicating Officer;
 - (ii) He shall prepare or cause to prepare the briefs and summaries of all such filing presented before the Adjudicating Officer;
 - (iii) He shall assist the Adjudicating Officer in proceedings conducted by the Adjudicating Officer;

- (iv) He shall authenticate the orders passed by the Adjudicating Officer;
 - (v) He shall ensure compliance of the orders passed by the Adjudicating Officer;
and
 - (vi) He shall have the right to collect from the Central Government, State Government and their agencies, the Licensees or other offices, companies and firms or any other person as may be directed by the Adjudicating Officer, such information as may be considered useful for the purpose of efficient discharge of the functions of the Adjudicating Officer under the Act.
- (5) In the absence of the Secretary, such other officers of the Commission, as may be authorized by the Commission, may exercise all the functions of the Secretary.
- (6) The Adjudicating Officer shall always 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 of the Commission, if the Adjudicating Officer considers it to be appropriate.

CHAPTER II

GENERAL RULES CONCERNING THE PROCEEDINGS BEFORE THE ADJUDICATING OFFICER

9. Authorised representative to appear before Adjudicating Officer: -

- (1) A person may appear himself or may authorise any of his employees to appear before the Adjudicating Officer and to act and plead on his behalf.
- (2) A person may authorise an advocate or a registered consultant or a member of any statutory professional body holding a certificate of practice to act and plead on his behalf before the Adjudicating Officer.
- (3) Notwithstanding the above, the Adjudicating Officer may allow any consumer group or association, or any person duly authorised by such consumer group or association to appear in any proceedings before the Adjudicating Officer or in any meetings before the initiation of the proceedings, as the Adjudicating Officer may consider appropriate.

10. Proceedings before the Adjudicating Officer: -

- (1) The Adjudicating Officer may, from time to time, hold such proceedings, meetings, discussions, deliberations, consultations, inquiries, and investigations, as he may consider appropriate in the discharge of its functions under the Act.
- (2) The Adjudicating Officer may appoint an officer or any other person whom he considers appropriate to represent him in any proceedings before him or otherwise participate and assist him in the proceedings.
- (3) All matters which the Adjudicating Officer is required under the Act to undertake and discharge through hearings shall be done through proceedings in the manner specified under the said Act and in these regulations.
- (4) Except where the Adjudicating Officer may provide otherwise, all matters affecting the rights or interests of the licensee or any other person shall be undertaken and

discharged by the Adjudicating Officer through proceedings in the manner specified in these regulations.

- (5) The Adjudicating Officer may hold consultations with the parties or any one or more of them before deciding on the initiation of a proceeding in any matter.

11. Initiation of Proceedings: -

- (1) The Adjudicating Officer may initiate any proceeding suo-moto or on a petition or any other filing by any affected or interested person.
- (2) When the Adjudicating Officer initiates the proceedings, it shall be by a notice issued by the office of the Adjudicating Officer and he may give such orders and directions as may be deemed necessary, for service of notices to the affected or interested persons for filing of the replies and rejoinders in opposition or in support of the petition in such form as the Adjudicating Officer may direct.
- (3) The Adjudicating Officer may, if he considers appropriate, issue orders for advertisement of the petition inviting comments from interested persons on the issue involved in the proceedings in such form as the Adjudicating Officer may direct.
- (4) While issuing the notice of inquiry, the Adjudicating Officer may, in suo-moto proceedings and in other appropriate cases, designate an officer of the Commission or any other person whom he considers appropriate to participate in the matter as if such a person is a party to the proceedings.

12. Petitions before the Adjudicating Officer: -

- (1) All petitions shall contain a clear and concise statement of facts with material particulars, the reliefs sought, the applicable provisions of law and the basis for such reliefs.
- (2) All petitions to be filed before the Adjudicating Officer shall be type written, or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered. The Adjudicating Officer may permit or seek copies of the petition to be filed in an electronic form, on such terms and conditions as the Adjudicating Officer may specify.
- (3) The contents of the petition shall be divided appropriately into paragraphs, which shall be numbered serially.
- (4) The petition shall be accompanied by documents, supporting data and statements relevant to the matters in issue in the petition.

13. General headings: -

The general heading in all petitions before the Adjudicating Officer and in all advertisements and notices shall be as per (Appendix-I), Form-1

14. Affidavit in support: -

- (1) The Petitions filed shall be verified by an affidavit, and the affidavit shall be as per (Appendix – II), Form-2.
- (2) The affidavit shall be drawn up in first person and shall state the full name, age, occupation and address of the person swearing on the affidavit (herein after referred

to as the deponent) and the capacity in which he is signing and shall be signed and sworn before a person law fully authorized to take and receive affidavits.

- (3) Every affidavit shall clearly and specifically indicate that the statements are true to the—
 - (i) Knowledge of the deponent; and/or
 - (ii) Information received by the deponent; or
 - (iii) Belief of the deponent.
- (4) Where any statement in affidavit is stated to be true based on the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that information to be true.

15. Presentation and scrutiny of the petitions, etc.: -

- (1) All petitions shall be filed in two or such number of copies as may be directed by the Adjudicating Officer and all such copies shall be complete in all respects.
- (2) The fee specified by the Commission in Chapter-III of these regulations shall be paid along with the petition.
- (3) All petitions shall be presented in person or by any duly authorised agent or representative to the receiving officer at the office of the Adjudicating Officer or such other filing centre or centres as may be notified by the Adjudicating Officer from time to time. The petitions may also be sent by registered post along with acknowledgment card to the Secretary. The authorization/vakalatnama in favour of the authorized agent or representative, as the case may be, shall be filed along with the petition. In the event of the petition being presented by an authorized representative not being a legal practitioner the authorized representative shall file a Memorandum of Appearance in (Appendix – III), Form-3.
- (4) Upon the receipt of the petition, the receiving officer shall acknowledge the receipt by stamping and endorsing the date on which the petition has been received and shall issue an acknowledgment 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 received at the office of Adjudicating Officer shall be taken as date of the presentation of the petition and the office shall send the acknowledgement by post, to the person filing the petition.
- (5) The receipt of the petition shall be duly entered in the register maintained for the purpose by the office of the Adjudicating Officer.
- (6) 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.
- (7) A person aggrieved in regard to the presentation or receipt of the petition may request the Secretary for appropriate order.
- (8) As soon as the petition and all necessary documents are filed and the defects and objections, if any, removed and the petition scrutinized, accepted and numbered, the petition shall be placed before the Adjudicating Officer for preliminary consideration:
- (9) The Adjudicating Officer may admit the petition for hearing. The Adjudicating Officer shall not pass an order refusing admission without giving the person concerned an

opportunity of being heard. The Adjudicating Officer may, if he considers appropriate, issue notice to such other person or persons, as he may desire for the hearing of petition for admission.

- (10) If the Adjudicating Officer admits the petition, he may give such orders and directions as may be deemed necessary, for service of notices to the respondents if any in the petition and also to other affected or interested parties as the Adjudicating Officer may consider appropriate for the filing of replies and rejoinder in opposition or in support of the petition in such form as the Adjudicating Officer may direct.

16. Service of notices and summons issued by the Adjudicating Officer: -

- (1) Any notice or summons to be issued by the Adjudicating Officer may be served by any one or more of the following modes as may be directed by the Adjudicating Officer;
- (i) Service by the petitioner or any other party in the proceedings; or
 - (ii) By hand delivery through a messenger; or
 - (iii) By registered post with acknowledgment due; or
 - (iv) By publication in two local newspapers one in English and one in the notified state vernacular, in cases where the Adjudicating Officer is satisfied that it is not reasonably practicable to serve the notices, summons etc. on any person in the manner mentioned in clause (i) to (iii) above: or
 - (v) By any other means prescribed under the Code of Civil Procedure and Rules made there under from time to time.
- (2) Every notice or summons 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 in the petition or its registered office.
- (3) In the event any matter is pending before the Adjudicating Officer and the person to be served has authorised a representative to appear for or represent him in the matter, such representative shall be deemed to be duly empowered to take service of the notices and summons on behalf of the person concerned in all matters and the service on such representative shall be taken as due service on the person to be served. It shall be the duty of such representative to duly inform the person whom he represents of the service of the notices.
- (4) Where a notice is to be served by a party to the proceedings either in person or through registered post, an affidavit of service shall be filed by such a party with the Adjudicating Officer giving details of the date and manner of service of notices and summons and proof of such service.
- (5) Where any petition is required to be advertised it shall be advertised within such time as the Adjudicating Officer may direct and unless otherwise directed by the Adjudicating Officer, in one issue each of a daily newspaper in English language and in any other local language having circulation in the area specified by the Adjudicating Officer.
- (6) Save as otherwise provided in the Act or in the regulations or subject to any direction which the Adjudicating Officer or the Secretary or the officer designated for the purpose may issue, the petitioner/applicant or any other person whom the

Adjudicating Officer may make responsible, shall arrange for advertisements of service of all notices, summons and other processes required to be served.

- (7) The Adjudicating Officer may also give directions for effecting service in any other manner he considers appropriate. The Adjudicating Officer shall be entitled to decide in each case the person who shall bear the cost of such service or publication. The Adjudicating Officer may place notice of any proceedings on the website of Commission.
- (8) In default of compliance with the requirements of the regulations or directions of the Adjudicating Officer as regards the service of notices, summons or processes or the publication, the Adjudicating Officer may either dismiss the petition or give such other or further directions, as he thinks fit.
- (9) 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 Adjudicating Officer is satisfied that such service is in other respects sufficient, and no proceeding shall be invalidated by reason of any defect or irregularity in the service or publication unless the Adjudicating Officer, on an objection taken, is of the opinion that in justice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

17. Filing of reply, disposition, objections, etc.: -

- (1) Each person to whom the notice of inquiry or the petition is issued (herein after referred to as the respondent) and who intends to oppose or support the inquiry/petition, shall file the reply along with the documents relied upon within such period and in two or such number of copies as may be specified by the Adjudicating Officer.
- (2) In the reply filed, the respondent shall specifically explain admit or deny the facts stated in the notice of inquiry or the petition and may also state such additional facts, as he considers necessary for a decision in the matter.
- (3) The reply shall be signed and verified and supported by an 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.
- (4) 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 Adjudicating Officer at the time of filing the reply.
- (5) Where the respondent states additional facts as may be necessary for a decision in the matter, the Adjudicating Officer may allow the petitioner to file rejoinder to the reply filed by the respondents. The procedure mentioned above for filing of the reply shall apply mutatis mutandis to the filing of the rejoinder.
- (6) (a) Every other person who intends to file objection or comments in regard to a matter pending before the Adjudicating Officer, pursuant to the publication issued for the purpose (other than the persons to whom notices, processes, etc. have been issued calling for reply) shall deliver to the receiving officer the statement of the objections or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.

- (b) The Adjudicating Officer may permit such person(s)/organisation or groups as he may consider appropriate to facilitate the proceedings and the decision in the matter.
- (C) Unless permitted by the Adjudicating Officer, the person filing objections or comments pursuant to sub-clause (a) above shall not be entitled to make oral submissions. However, the Adjudicating Officer may take into account the objections and comments filed after giving such opportunity to the parties in the proceedings as the Adjudicating Officer considers appropriate to deal with the objections and comments.

18. Hearing of the matter: -

- (i) The Adjudicating Officer may determine the stages, the manner, the place, date and the time of the hearing of the matter considered appropriate by him, consistent with such specific timing requirements as are set forth in the Act or otherwise not less than 30 days. The Adjudicating Officer may curtail aforesaid period of 30 days looking to the need to expeditiously decide the matter.
- (ii) The Adjudicating Officer may decide the matter on the pleadings of the parties or may call for the parties to produce evidence by way of affidavit or to lead or alevidence in the matter.
- (iii) If the Adjudicating Officer directs evidence of a party to be led by way of affidavit, the Adjudicating Officer may, if he considers it to be necessary or expedient, grant an opportunity to the other party to cross examine the deponent of the affidavit.
- (iv) The Adjudicating Officer may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an officer or by any person designated for the purpose by him.
- (v) The Adjudicating Officer may direct the parties to file written note of arguments or submissions in any proceeding before him within a time, as the he considers appropriate.

19. Power of the Adjudicating Officer to call for further information, evidence, etc.:

- (1) The Adjudicating Officer 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 he considers appropriate, to produce such documentary or other evidence as he may consider relevant for the purpose of enabling him to pass orders.
- (2) The Adjudicating Officer may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisitioning of any public record from any office, examination by an officer, the books, accounts or other documents or information in the custody or control of any person which he considers relevant for the matter.
- (3) The Adjudicating Officer may, if he considers appropriate, allow any of the parties to produce further evidence in the matter considering the evidence brought on record under sub-regulations (1) and (2) above.

20. Reference of issues to others: -

- (1) At any stage of the proceedings, the Adjudicating Officer may refer such issue or issues in the matter, as he considers appropriate to persons including, but not limited

to the officers of the Commission and or the Government agency/ body whom the Adjudicating Officer considers as qualified to give expert or specialized advice or opinion.

- (2) The Adjudicating Officer may nominate from time to time any person including, but not limited to, the officers of the Commission to visit any place or places for inspection and report on the status of the place or any facilities therein.
- (3) The Adjudicating Officer, if he thinks fit, may direct the parties to appear before the persons, Government agency/ body designated under sub-regulations (1) or(2) above to present their respective views on the issues or matters referred to such persons.
- (4) The report or the opinion received from such person, Government agency/ body shall form a part of the record of the case and parties to the proceedings shall be given copies of the report or opinion. The parties to the proceedings shall be entitled to file their version either in support of or in opposition to such report or opinion.
- (5) The Adjudicating Officer shall duly take into account the report, or the opinion given by the person, Government agency/ body and the reply filed by the parties while deciding the matter and if considers necessary, the Adjudicating Officer may examine the person giving such report or the opinion.
- (6) The Adjudicating Officer shall, however, not be bound by the report or the opinion given under sub-regulations (1) and (2) above and the Adjudicating Officer shall be entitled to take such decision as he considers appropriate.

21. Procedure to be followed where any party does not appear: -

- (1) When, on the date and the time fixed for hearing or any other date or time to which such hearing may be adjourned, if any party or his authorized representative does not appear when the matter is called for hearing, the Adjudicating Officer may, in his discretion, either dismiss the petition for default when the petitioner or the person who moves the Adjudicating Officer for hearing is absent or proceed ex-parte to hear and decide the petition in the absence of the other party.
- (2) Where a petition is dismissed in default or decided ex-parte, the person aggrieved may file an application within 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 Adjudicating Officer may recall the Order on such terms as he thinks fit, if the Adjudicating Officer is satisfied that there was sufficient cause for the non-appearance of the aggrieved person when the petition was called for hearing.

22. Orders of the Adjudicating Officer: -

- (1) The Adjudicating Officer, having heard the matter, shall pass an Order on the petition.
- (2) All orders and decisions issued or communicated by the Adjudicating Officer shall be certified and communicated under the signature of the Secretary or an officer empowered in this behalf by the Adjudicating Officer and shall bear the official seal of the Adjudicating Officer.
- (3) All Orders of the Adjudicating Officer shall be communicated in the language in which petition may be filed, i.e. English.

23. Inspection of records and supply of certified copies: -

- (1) The records of proceeding shall be open to the inspection of the parties or their authorized representatives either during the proceeding or after the orders are passed, subject to payment of applicable charges and compliance with such other terms as the Commission may direct.
- (2) The records of every proceeding, except those parts which for reasons specified by the Adjudicating Officer are confidential or privileged, shall be open to inspection by persons 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.
- (3) A person shall be entitled to obtain certified copies of the Orders, decisions, directions and reasons in support thereof given by the Adjudicating Officer as well as the pleadings and papers and other parts of the records of the Adjudicating Officer to which he is entitled to inspect under sub-regulations (1) or (2) above subject to payment of fees and compliance with such other terms as the Commission may direct.

CHAPTER III

FEEES

24. Fees on Applications and Petitions: -

- i. Every application, petition or appeal made to the Adjudicating Officer shall be accompanied by such fees as specified in sub-regulation (iv) below. The co-petitioner, if any, shall also have to pay the same fee as is required to be paid by the main petitioner.
- ii. The fee payable under these regulations shall be paid by means of bank draft or payorder, drawn in favor of the 'Sikkim State Electricity Regulatory Commission', payable at Gangtok. If the fee payable is more than Rupees One lakh, the same shall be deposited through electronic transfer directly in the bank account of the Commission under intimation to the Adjudicating Officer. Details needed for identifying the bank account of the Commission may be obtained from the Secretary.
- iii. All fees received by the Adjudicating Officer under these regulations shall be credited to the fund.
- iv. A fee of Rs 50000/- (Rupees fifty thousand only) shall be applicable towards petition fee for proceedings before the Adjudicating Officer under these regulations.

CHAPTER IV
PENALTY

25. Imposition of penalty: -

- i. Subject to the provisions of the Act, the Adjudicating Officer may, while deciding any matter or proceeding pending before the Adjudicating Officer or at any other time, initiate a proceeding for imposition of penalty against any person including but not limited to designated consumers for non-compliance or violation on their part of the provisions or requirements of the Act or rules, regulations or codes framed under the Act or notifications of the Central Government issued in consultation with BEE or directions of the State Government to furnish information to the designated agency or directions or orders of the Adjudicating Officer made from time to time.
- ii. While determining the quantum or extent of the penalty to be imposed, the Adjudicating Officer shall consider, amongst other relevant things, the following:
 - a. The nature and extent of non-compliance or violation.
 - b. the amount of disproportionate gain or unfair advantage, whenever quantifiable, made as a result of the default or non-compliance or violation.
 - c. the loss or degree of harassment caused to any person as a result of the non-compliance or violation.
 - d. The repetitive nature of the default or non-compliance or violation
- iii. Before imposing any penalty, the Adjudicating Officer shall give an opportunity to the person upon whom such penalty is proposed to be imposed, to represent against the proposal to impose such penalty and also on the quantum or extent of the penalty proposed to be imposed.
- iv. The Adjudicating Officer shall issue a notice to the person specifying the nature of non-compliance or violation on the person's part and also call upon him to show cause within the time specified in the notice as to why penalty should not be imposed on him for such non-compliance or violation.
- v. Where while replying to the notice, the person admits non-compliance or violation in writing, the Adjudicating Officer shall record the same and may impose such penalty as it may consider fit in the circumstances of the case, subject to the provisions of the Act.
- vi. If the person to whom a notice has been issued under sub clause (iii) fails to show cause or denies non-compliance with or violation of any provision of the Act or rules or regulations or notifications of the Central Government issued in consultation with BEE or directions of the State Government to furnish information to the designated agency or directions or orders of the Adjudicating Officer, the Adjudicating Officer may enquire into the matter in such manner as he deems fit.
- vii. The Adjudicating Officer may either on being satisfied that no non-compliance or violation of any provision of Act, rules or regulations or an order of the Adjudicating Officer, has been committed, withdraw the notice or in the event inquiry reveals non-compliance or violation for which notice was served, may impose such penalty or charges which are considered appropriate.

26. Payment of Penalty: -

- i. The penalty as ordered by the Adjudicating Officer shall be paid within 30 days of the order of the Adjudicating Officer imposing the penalty, or within such extended date as may be allowed by the Adjudicating Officer in such order.
- ii. The penalty shall be payable in the same manner as provided under sub-clause (ii) of Clause 24 of these regulations.
- iii. If the penalty charged by the Adjudicating Officer is not paid within the prescribed time, it shall be recoverable as arrears of land revenue.

CHAPTER V

INVESTIGATION, INQUIRY, COLLECTION OF INFORMATION, ETC.

27. Collection of information: -

- (1) The Adjudicating Officer may make such order as he thinks fit in terms of the provisions of the Act for collection of information, inquiry, investigation, entry, search, seizure and without prejudice to the generality of his powers including the following: -
 - (a) The Adjudicating Officer may specially authorise the Secretary or any other officer to enter any building or place where there is reason to believe that any document or record relating to the subject matter of his inquiry or adjudication under the Act may be found and to seize or take extracts or copies thereof;
 - (b) The Adjudicating Officer may, at any time, direct the Secretary or any one or more officers or consultants or any other person as he considers appropriate to study, investigate or furnish information with respect to any matter within his purview;
 - (c) The Adjudicating Officer may for the above purpose give such other directions as he may deem fit and specify the time within which the report is to be submitted or information furnished;
 - (d) The Adjudicating Officer may issue or authorise the Secretary or an officer of the Commission to issue directions to any person to produce before him and allow to be examined the books, accounts, information etc kept by an officer specified in this behalf.
 - (e) The Adjudicating Officer may, for the purpose of collecting any information particulars or documents which the Adjudicating Officer consider necessary in connection with the discharge of his functions under the Act, issue such directions;
 - (f) If any such report or information obtained as specified in the Act or in these regulations appears to the Adjudicating Officer to be insufficient or inadequate, the Adjudicating Officer or the Secretary or an officer authorised for the purpose may give directions for further inquiry, report and furnishing of information; and;
 - (g) The Adjudicating Officer may direct such incidental, consequential and supplemental matters that may be considered relevant in connection with the above, be attended to.

- (2) In connection with the discharge of the functions and in exercise of powers under section 27(A) of the Act and these regulations, the Adjudicating Officer may, if he 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.

CHAPTER VI MISCELLANEOUS

28. Interim orders: -

The Adjudicating Officer may make such interim orders, as he considers appropriate, at any stage of the matter or proceedings pending before him.

29. Review of the decisions, directions, and orders: -

- (1) The Adjudicating Officer may on its own motion or on the application of any of the person or parties concerned, within 60 days from the date of making any decision, direction, or order, review such decision, direction or order and pass such appropriate order as the Adjudicating Officer thinks fit.
- (2) An application for such review shall be filed in the same manner as a petition under Chapter II of these regulations subject to fulfilment of the following conditions, namely: -
- (a) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the order was passed or;
- (b) On account of some mistake or error apparent on the face of the record; or
- © Any other sufficient reason.

30. Continuance of proceedings after death, etc.: -

- (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 if it is wound up, the proceedings shall continue with the successors-in-interest, the executor, administrator, receiver, liquidator, or other legal representative of the party concerned, as the case may be.
- (2) The Adjudicating Officer may, for reasons to be recorded, treat the proceedings as abated in case the Adjudicating Officer so directs and dispenses with the need to bring the successors-in-interest to come on record.
- (3) In case any person wishes to make a successor-in-interest of a party to the proceedings, he shall file an application for the purpose within 90 days from the date of knowledge of its predecessor's death, insolvency, liquidation or winding up, and such application shall be decided by the Adjudicating Officer after hearing the parties.

31. Proceedings to be open to public: -

- (1) The proceedings before the Adjudicating Officer shall be open to the public.

- (2) The Adjudicating Officer may, if he thinks fit, and for reasons 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 Adjudicating Officer.

32. Publication of petition: -

- (1) Where any application, petition, or other matter is required to be published under the Act or the regulations or as per the directions of the Adjudicating Officer, it shall, unless the Adjudicating Officer otherwise orders or the Act or the regulations otherwise provide, be advertised not less than 7(seven) clear days before the date fixed for hearing. Except as otherwise provided, such publication shall give a heading describing the subject matter in brief.
- (2) The contents to be published shall be approved by the Adjudicating Officer.

33. Issue of orders and practice directions: -

Subject to the provisions of the Act and the regulations, the Adjudicating Officer with approval of the Commission may, from time to time, issue orders, guidelines and practice directions which shall have the same effect as regulations in regard to the implementation of the regulations and procedure to be followed in dealing with concerned matters.

34. Saving of inherent power of the Adjudicating Officer: -

- (1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Adjudicating Officer to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Adjudicating Officer.
- (2) Nothing in these regulations shall bar the Adjudicating Officer from adopting a procedure for dealing with the matters in conformity with the provisions of the Act, which is at variance with any of the provisions of these regulations, if he for reasons to be recorded in writing, deems it necessary or expedient.
- (3) Nothing in these regulations shall, expressly or impliedly, bar the Adjudicating Officer to deal with any matter or exercise any power under the Act for which no regulations have been framed, and the Adjudicating Officer may deal with such matters, powers and functions in a manner he thinks fit.

35. General power to amend: -

The Adjudicating Officer may, at any time and on such terms as to costs or otherwise, as he may think fit, amend any defect or error in any proceeding before him, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.

36. Power to remove difficulties: -

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

37. Power to dispense with the requirement of the regulations: -

The Adjudicating Officer with the approval of 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.

38. Extension or abridgment of time prescribed: -

Subject to the provisions of the Act, the time specified by these regulations or by order of the Adjudicating Officer for doing any act may be extended or a bridged for sufficient reason by order of the Adjudicating Officer.

39. Effect of non-compliance: -

The failure to comply with any requirement of these regulations shall not in validate any proceeding merely by reason of such failure unless the Adjudicating Officer is of the view that such failure has resulted in miscarriage of justice.

40. Costs: -

- (1) Subject to such conditions and limitations as may be directed by the Adjudicating Officer, the cost of all proceedings shall be awarded at his discretion and he 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 of the date of the order or within such time as the Adjudicating Officer may, by order, direct.

41. Enforcement of orders passed by the Adjudicating Officer: -

The Secretary shall ensure enforcement and compliance of the orders passed by the Adjudicating Officer, by the persons concerned in accordance with the provisions of the Act and the regulations and if necessary, may seek the orders of the Adjudicating Officer for directions.

By Order of the Sikkim State Electricity Regulatory Commission.

**Karma D. Youtso, SCS
Secretary.**

Form-1

Appendix-I

(See Regulation 13 of Conduct of Business for holding inquiry by Adjudicating Officer) Regulations, 2023.

General Heading for Proceedings

BEFORE THE ADJUDICATING OFFICER

Sikkim State Electricity Regulatory Commission.

FILING NO.:

CASE NO.:(To be filled by the Office)

IN THE MATTER OF:

Names of the Petitioners/Applicants

.....Add Description and Address(s)

V/s

Name of the Respondent(s)

.....Add Description and Residence/Address(s)

AND

IN THE MATTER OF:

(Gist of the purpose of the Petition or application)

Form-2

APPENDIX-II

Affidavit

(See Regulation 14 of Conduct of Business for holding inquiry by Adjudicating Officer) Regulations, 2023.

BEFORE THE ADJUDICATING OFFICER

Sikkim State Electricity Regulatory Commission

FILE NO.

CASE NO. (To be filled by the Office)

In the matter of

(Gist of purpose of petition and legal provision)

And In the matter of:

(Name and full address of the Petitioners/applicant and names and full address of the respondents)

Affidavit

I, Sh./Smt., (S/o,W/o,D/o) Sh._____ (Aged about_____years), (occupation), residing at_____), the deponent named above do hereby solemnly affirm and state on oath as under;

1. That I am the Petitioner in this instant matter and am well acquainted with the facts as deposed below.
2. I, the deponent named above do hereby verify that the contents of the paragraph Nos.1 of the affidavit and those of the paragraph No. of the accompanying petition are true to my personal knowledge and those of the paragraph Nos..... of the accompanying petition are based on the perusal of records and those of the paragraph Nos.....of the accompanying petition are based on information received and those of the paragraph Nos..... of the accompanying petition are based on the legal advice which I believe to be true and verify that no part of this affidavit is false and nothing material has been concealed.
3. That this affidavit is made bonafide.

(Deponent)

VERIFICATION:

Verified on this day.....at..... that the contents of the affidavit are true and correct, nothing material has been concealed and no part of it is false. I have also been explained about section 193 of Indian Penal Code that whoever intentionally gives false evidence in any of the proceedings of the Commission or fabricates evidence for purpose of being used in any of the proceedings shall be liable for punishment as per law.

Deponent

Identified by: -

Form-3

APPENDIX-III

(See Regulation 13 of Conduct of Business for holding inquiry by Adjudicating Officer) Regulations, 2023.

BEFORE THE ADJUDICATING OFFICER

Sikkim State Electricity Regulatory Commission.

IN THE MATTER OF

Petition No.

.....Petitioner(s)

V/s

.....Respondent(s)

Memorandum of Appearance

I,, working as and having been authorized by..... (Furnish the particulars of the person authorizing), hereby enter appearance on behalf of and under take to plead and act for him/it in all matters in the afore said case.

Place:.....

Date:.....

Address for correspondence: