

Prayas submission Comments and Suggestions on the Draft Telangana State Electricity Regulatory Commission (Establishment of mechanism for Redressal of Grievances of the Consumers) (2nd Amendment) Regulation, 2020

On 22 October 2020, the Telangana State Electricity Regulatory Commission (TSERC) published a draft of second amendment to the (Establishment of mechanism for Redressal of Grievances of the Consumers) Regulation, 2015 (referred to as the principal regulations), which was first amended in 2018. This amendment is being proposed towards further streamlining and strengthening the redressal mechanisms within the state.

Such periodic reviews and revisions are positive steps towards the effective implementation consumer grievance redressal. Prayas (Energy Group) has some comments and suggestions towards clarifying the proposed amendment, and ensuring that accountability of Distribution Companies and consumer interests are upheld.

These are enlisted below. After a brief explanation of the context, we have indicated the suggested changes in boxes.

1. Constitution of the Consumer Grievance Redressal Forum (CGRF)

a) Independent functioning of the CGRF

As per the draft amendment, Clause 2.10 states that the Licensee shall appoint members (other than the independent member) from its serving officers, subject to the qualification required by the regulation. Such appointment, with majority members being in the employee of the Licensee, was also opposed by sector stakeholders during the public hearing held on 25.07.2015 before the approval of the principal regulations.

The independent functioning of the Forum is jeopardised by appointing all members with voting rights (i.e. all non-independent members) from the employee of the Licensee. A CGRF so constituted is likely to increase the likelihood of matters being ruled in the favour of the utility. This will, in turn, result in most cases being appealed at further levels/ombudsman, and thus, may cause ineffective operation at all levels. It will also severely reduce the credibility of the Forum, in the eyes of the consumers and general public.

Appointing an independent and representative CGRF within the Licensee's area of supply is a step towards addressing some of these concerns. Additionally, ensuring that the Chairperson is not in the employee of the Licensee and increasing the proportion of non-Licensee appointments in the CGRF will contribute to the credibility of the Forum.

b) Strengthening the role of independent member

Clause 2.8 of the principal regulations stipulates that the independent member does not operate as a CGRF member full time, and need only attend the sittings/hearings of the Forum. In addition, Clause 2.23 states that the independent member's role is limited to participating in the deliberations

on the matters presented before the CGRF, and such member does not have the right to vote on these matters.

The provision of an independent consumer representative member of the CGRF can be a strong step toward ensuring that consumer interests are represented and upheld in the rulings of the CGRF. However, the efficacy of this provision is subject to the independent member having voting rights and an equal role within the CGRF.

In order to ensure the efficient functioning of the CGRF, prevent skewed rulings, and uphold consumer interests, strengthening the role of the independent member within the Forum is pertinent. This could also be aided by requiring that the CGRF be constituted with at least one consumer representative, with the provision of appointing more, if required.

c) Role of the Selection Committee

Clause 2.9 of the proposed amendment states that a Selection Committee is required only to empanel the Chairperson. This is a dilution of the pre-existing regulation, which requires the Licensee to constitute a Selection Committee to empanel all members of the CGRF other than the independent member.

The two-fold approval process of shortlisting by the Selection Committee and approval by the TSERC lends credibility to these appointments, which further ensures effective judgement of cases brought before the CGRF.

Given these issues with the constitution of the CGRF, we suggest the following:

-The CGRF required to be created by the Licensee should be constituted by at least three members, including the Chairperson, such that the composition of the CGRF is as follows:

The Chairperson of the Forum should be a consumer representative; or a retired senior judicial officer; or a retired civil servant not below the rank of a Collector; or a retired Principal of a reputed Engineering college; or a retired Professor of the Electrical Engineering Department of a reputed institute; or a retired senior electrical engineer of the Government; having at least twenty-five years of experience, with adequate knowledge of the power sector. The Chairperson should preferably have working knowledge of the vernacular language(s) of the state. Such candidate should also not have served as an employee of the Licensee.

Only one member of the CGRF, the technical or finance member, can be a person in the employ, or a retired employee of the Licensee with appropriate seniority.

Any other members should be independent consumer representatives with experience on matters concerning consumer grievances, and they should not be in the employ of the Licensee.

-The independent member(s) should have voting rights on matters brought before the CGRF. He/she should be a full time member with remuneration and working conditions at par with the other members.

-All appointments to the CGRF should be based on a shortlist prepared by the selection committee, and approved by the TSERC.

2. Vacancies in the CGRF

Clause 2.15 of the principal regulations require that no posts (excluding that of the independent member) remain vacant for a period exceeding thirty days. However, despite such stipulation, there have been long term vacancies in the CGRF, which substantially hinder the efficient and timely functioning of the Forum. Moreover, excluding the post of the independent member from this requirement can also further impede the unbiased operation of the CGRF.

In order to address these concerns, provisions/penalisations should be put in place to ensure that the Licensee adheres to the process stated in the regulations so as to prevent any vacancies for more than thirty days. Additionally, this requirement must also extend to the post of the independent member.

Given these issues with vacancies in the CGRF, we suggest the following:

-If a vacancy persists for a period more than 30 days, the Commission shall initiate the process of filling the vacancy.

-Such stipulation should also extend to the post of the independent member(s).

3. Accessibility to CGRF

Ensuring that the CGRF is accessible to consumers is a crucial aspect of the Licensee's duty, and the Licensee must take steps to ensure that consumers can avail the facility of grievance redressal when required. The addition of Clause 2.33.1, which introduces the provisions of a web-based CGRF portal, is a step in the right direction towards this. These online functions find added significance in light of the Covid-19 pandemic and the lockdowns imposed hence, which have increased the need for virtual access to such provisions.

However, enabling web-access does not ensure access to all consumers, owing to technologic and geographic resource constraints and language barriers. To increase access, CGRFs can have online hearings and the Licensee should enable online/virtual hearings for individuals who do not have such facility at their disposal. In addition, the CGRF should have a toll-free number for easy access.

Online hearings are important, but proactive efforts should be made by the Forum to improve the physical access of consumers to the Forum. The practice of proactive tours and camps should continue to be organised by the Forum. This could be organised with support from local consumer organisations, who would encourage participation and also help the consumers to complete the require formalities. Such tours should be publicised and schedule made available on the portal.

Given these issues with accessibility to the CGRF, we suggest the following:

-CGRF should organise tours and camps with support from local consumer organisations, to increase awareness and effectiveness.

- CGRF should offer a provision to conduct online hearings, and the Licensee should facilitate online hearings for consumers who do not have such facility at their disposal.

-CGRF should have a toll-free number, which should be widely publicised.

4. Submission of compliance reports and follow up

As per Clause 2.54 of the principal regulations, the Licensee (or the officer concerned) is responsible for compliance to the order of the CGRF within the stipulated time, failing which the Forum can take suo-motu action and the Licensee (or the officer concerned) is liable to pay compensation. Similar provisions are detailed for orders by the ombudsman in Clause 3.38. These provisions play an important role in holding the Licensee accountable and aiding the implementation of the orders issued by the CGRF/ombudsman.

Further, as per Clause 2.58, the Licensee (or the officer concerned) is required to furnish a compliance report to the CGRF and the complainant, within seven days from the date of compliance. Unlike the case of compliance to the orders, a lapse in submission of such compliance report is not met with any action. The preparation and submission of such reports play an integral part in holding the Licensee accountable toward addressing consumer grievances and improving supply and service conditions, and such regulations must be strictly upheld. Toward this end, in such a case that the compliance report is not submitted within the stipulated time, CGRF should be enabled to take up suo-motu process to seek an explanation from the Licensee and penalise it, if needed.

Given these issues with the submission of compliance reports, we suggest the following:

-The CGRF should be enabled to take up suo-motu process to seek an explanation from the Licensee in case the compliance report is not submitted within seven days from the date of compliance. Provisions to impose a suitable penalty must also be enabled.

5. Issues faced by a group of consumers

There are many instances of repeated non-compliance by Licensees of Standards of Performance (SoP) and other regulations specified by the TSERC. As per Section 42 (6) of the Electricity Act 2003, and as per the principal regulations, individual consumers can approach the CGRF seeking compensation for non-compliance. This is limited in its scope.

To increase accountability of Licensee, the regulation should mandate that a group of say, more than fifty consumers can approach the State Commission directly to ensure compliance with SoP regulations and seek compensation on behalf of a group of consumers for repeated non-compliance. Further, a group of consumers being served by the same Licensee, with similar complaints should also be allowed to approach the CGRF to represent their views together.

Given these issues faced by a group of consumers, we suggest the following:

- A group of consumers can approach the Commission or CGRF with a grievance affecting all of them or persistent violations of Licensee's Standards of Performance.

6. Consumer awareness about CGRF

As per Clause 2.27, the Licensee is obligated to give due publicity about the Forum and its charter from time to time. Despite the existence of such a provision, there is limited knowledge about the CGRF especially among small and/or rural consumers of the Licensee. In addition to displaying contact details of the CGRF on the Licensee website and printing it on electricity bills, a separate, detailed notice outlining the provision and function of the CGRF must be distributed to all consumers once a year. All these should be available in Telugu and Urdu, in addition to English. Since awareness is crucial to access, sufficient resources should be provided to the CGRF for offices, travel, and awareness building.

Given these issues with consumer awareness about CGRF, we suggest the following:

- CGRF and Licensee should display all details of CGRF on its portals, electricity bills and notice boards at offices.

- Once a year, the Licensee should distribute a separate, detailed notice to all consumers, outlining the provision and function of the CGRF.

- Sufficient resources should be provided to the CGRF for offices, travel, and awareness building.

7. Review of orders by CGRF

Clause 2.64 introduces the provision of review of CGRF orders. While this provision proves useful in some circumstances, it can be used improperly and has the potential of defeating the very purpose of an independent and effective grievance redressal mechanism.

To avoid such complications, it must be clarified that such a provision will be available to consumers only in extraordinary circumstances, such as an error in a CGRF order. For a Licensee, the parameters to avail this provision must be more stringent, since the Licensee has better resources compared to the consumers and may also be favoured if most of the CGRF members are in the employ of the Licensee. Limiting the number of reviews to not more than one, and ensuring that such review process is expedient will also prove beneficial to the grievance redressal mechanism.

Given these issues with the review of orders by the CGRF, we suggest the following:

-The provision for review will be available to consumers, if there is an error in the CGRF order. In extra-ordinary circumstances, it will be available to the Licensee, if the CGRF unanimously (including the consumer member(s)) decides to admit it.

-The number of reviews should be limited to one, so that there cannot be multiple review requests on the same complaint.

-The time limit to pass orders on admitted review requests should be half the time limit for complaints filed with the CGRF.

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