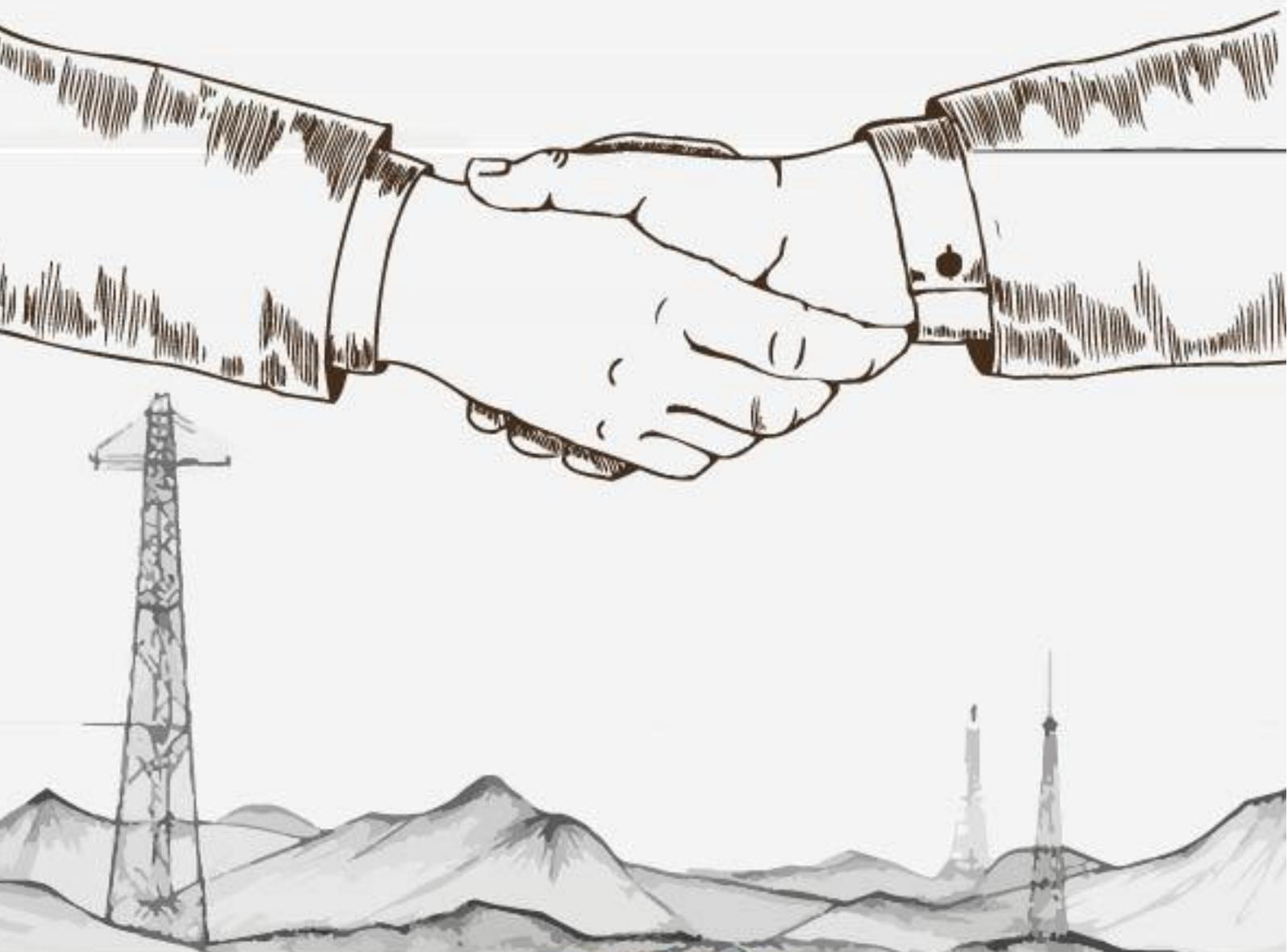


Submitted to Rajasthan Electricity Regulatory Commission

Feb. 2021

# Suggestions on Draft Rajasthan Electricity Regulatory Commission (Transaction of Business) Regulations, 2021



CENTRE FOR ENERGY, ENVIRONMENT & PEOPLE

Rajasthan Electricity Regulatory Commission (RERC) has invited comments, objections, and suggestions on "Draft Rajasthan Electricity Regulatory Commission (Transaction of Business) Regulations, 2021". The present submission is in response to the Public Notice as per regulations published on Commission's website. We request the Commission to accept this submission on record.

## GENERAL COMMENTS

1. The Commission employs multiple consultants to undertake various functions. We propose to define the term "consultant" in the regulations. The definition should ensure the preventing the conflict of interest of the person appointed with the matter.
2. One of the key constituents, in implementing these regulations to their true spirit, is the "affected party". But the proposed draft does not define who constitutes the affected party. Hence, we recommend defining the term "affected party" within the regulations.
3. We suggest incorporating the following definition under Regulation 2 (1)  
'Affected Party' – Any individual or group of individuals whose interests are unduly impacted directly or indirectly by the actions or inactions of the party or parties stated as respondents.
4. The Commission shall publish all public notices and other notifications in at least two daily English and Hindi newspapers with a wide circulation.
5. The Commission shall ensure all public notices be published on the Commission's website and licensees' websites, where the licensee is a party to the case.
6. All public notices inviting comments, suggestions, and recommendations from the general public or the section of people shall have a minimum duration of 21 days for submission.
7. The Commission shall ensure the mandatory availability of electronic submission facilities against public notices.
8. The Commission shall ensure public availability of the text-searchable (machine-readable) formats of the petitions filed, replies, comments, and suggestions received through the Commission's website.
9. The Commission shall make all new regulations along with compiled versions of previous regulations available on the website along with the statement of reasons.

## SECTION-WISE COMMENTS

Regulation 2(1)(c) - 'Chairperson' means the Chairperson of the Rajasthan Electricity Regulatory Commission.

### Our Comments

It is a good practice to ensure that the language of regulations is gender-neutral. But the same

is not followed across all sections of the current draft. We suggest replacing the references to "Chairman" with "Chairperson" in Regulation 28 (1) and Regulation 38 (3).

Regulation 3(2)- The office of the Commission shall open on all working days of the State Government. The office working hours shall be as that of the offices of the State Government. The office of the Commission may open at such other times as the Commission may direct.

#### [Our Comments](#)

We submit that the Commission shall prominently display the working hours and working days on the website and offices of the Commission and the licensees.

Regulation 3(3)- Ordinarily, the Commission will hold sittings for hearing matters at its head office or may hold its sittings at any other place on the days and times so specified by the Commission.

#### [Our Comments](#)

We suggest assigning a minimum of days in a week or on a fortnightly basis reserved for the purpose of hearing cases/petitions.

Regulation 4(1)- All the proceedings of the Commission, unless otherwise directed by the Commission, shall be conducted either in Hindi or English. All petitions and pleadings shall be submitted in Hindi or English

#### [Our Comments](#)

We recommend that the Petitioner be given the option to choose the language of the proceedings between Hindi and English

Regulation 10- The Chairperson, at his discretion, may call for a special meeting either on his own or on receipt of a requisition in writing from any Member specifying the subject for consideration at the meeting.

#### [Our Comments](#)

In cases when the Chairperson calls for a special meeting, the Commission shall issue a public notice detailing the reasons and agenda of such meeting. The same shall be uploaded on the Commission's website.

Regulation 15(2)- The draft minutes shall, as soon as practicable, be sent to the Chairperson and the attending Members for confirmation by circulation.

#### [Our Comments](#)

The minutes of the meeting confirmed by the Chairperson and the attending members shall be made available to the general public electronically through the Commission's website within 07 days unless the Chairperson is satisfied that larger public interest warrants the disclosure of such information.

Regulation 15(3)- The decision taken in such a meeting shall be recorded in the minutes' book in a clear, concise, and unambiguous manner.

#### Our Comments

We suggest amending this regulation to incorporate the provision to ensure that dissent notes arrived by any member on the subject matter be included in the minutes' book.

Regulation 17 (1) - The Commission shall meet at head office or any other place at such time as the Chairperson may direct.

#### Our Comments

Considering the geographical conditions of the state and ensuring equitable access to the general public, we suggest the following changes. The proceedings of the Commission for such subject matters where the general public may be allowed shall be streamed online. The Commission shall also mandate the licensee to arrange the facilities for the online participation of the general public from remote locations. The Commission shall approve the expenses incurred by the licensees for such provision during the trueing of the annual accounts.

Regulation 18 - The quorum for the proceedings before Commission shall be two. However, the quorum could be one of the following situations:

(a) Only one Member is functional due to vacancies in the Commission.

(b) Any Member(s) has recused himself from a proceeding/subject matter due to reasons stated by such Member when the Commission has only two functional members, and the Commission agrees that one Member may continue with proceedings on account of the other Member (s) having recused himself

#### Our Comments

Considering that the decision-making of the Commission is arrived at through a multidisciplinary approach and in the public interest, the individual expertise of the members is ensured during the hearing and passing of orders. We suggest that for all initial procedural issues and also adjudicatory Proceedings of the Commission, generally, the quorum of the Commission shall be full strength of the Commission.

We also suggest when the Commission is at full strength, to ensure a balanced representation for hearing and disposing of cases, the bench should have at least two members. One-member benches should only be allowed when there is a vacancy, and one Member is on leave for more than seven days.

Regulation 19 - Proceedings may be initiated under these Regulations in any one of the following manners: -

- (a) Suo motu by the Commission,
- (b) Upon a petition filed by a body engaged in the generation, distribution, transmission of electricity or a licensee,
- (c) Upon a petition filed by any affected party.

Provided that the Commission shall decide whether the party is an affected party or not

#### [Our Comments](#)

We suggest incorporating the following provisions to ensure wider participation and efficient working of the Commission.

The Commission shall permit the filling of petitions by any association or group of consumers in the public interest even if they are directly not affected. The Commission, while denying such public interest petitions, shall provide the reasons for arriving at such a decision.

Regulation 21(1) The petition should be typewritten or printed neatly and legibly on one side of white paper, and every page should be consecutive numbered. The contents of the petition shall be divided appropriately into separately numbered paragraphs. The petition shall bear the e-mail id, and mobile number of the Petitioner and his representative or advocate as the case may be.

#### [Our Comments](#)

We recommend that the Commission shall launch a portal for the e-filing of petitions and other submissions within six months of notifying of these regulations. The portal shall have the facility for submission of replies, comments, and suggestions on the subject matters by the parties to the petition. The petitions and all supporting documents should be ensured of legibility and, wherever feasible are filed, are a text-searchable (machine-readable) format. All the documents related to the computation of accounts shall be made available in Microsoft Excel format.

Regulation 23 (4) If on scrutiny, the petition or application is found to be defective, the Receiving Officer shall notify the defects to the Petitioner requiring the Petitioner to rectify the defects within fifteen days from the date of receipt of the petition.

#### [Our Comments](#)

The receiving officer during scrutiny shall also ensure that the petition or application should be clearly legible and in text-searchable (machine-readable) format.

Regulation 27. Filing of objections/comments, etc., by the public.

#### [Our Comments](#)

We suggest that the final order of the Commission should include all objections and comments submitted on record by any person or stakeholder against a petition.

Regulation 28(1) The Chairman may fix the place, date, and time for the hearing of the matters.

#### [Our Comments](#)

The Commission shall ensure the availability of an online platform for hearings of the matters at the licensee's office to ensure accessibility from remote locations.

Regulation 29(1)- When, on the date fixed for hearing of the petition or on any other date to which such hearing may be adjourned, any party or his authorised representative fails to appear when the matter is called for hearing, the Commission may, in its discretion, either dismiss the petition for default when the Petitioner is absent or proceed to hear and decide the petition ex-parte where the respondent is absent.

#### [Our Comments](#)

We submit that only in cases when any party or his/her authorised representative fails to appear on more than two consecutive occasions when the matter is called for hearing, the Commission shall decide the petition ex-parte.

Regulation 33(4)- Copies of all orders or decisions passed by the Commission shall be communicated under the signatures of an officer empowered on this behalf and shall bear the seal of the Commission.

#### [Our Comments](#)

The copies of the orders or decisions shall be communicated within 07 days to all parties, and the same should be made available on the Commission's website.

Regulation 41. Power for framing Regulations:

The Commission in the exercise of the powers conferred on it by Section 181 and all other enabling provisions of the Electricity Act, 2003 may make Regulations on the subject matters specified in the Electricity Act, 2003 as per The Electricity (Procedure for Previous Publication) Rules, 2005 as amended from time to time.

#### [Our Comments](#)

We recommend that the Commission, while framing regulations, shall ensure the following:

- The process of drafting new regulations shall be an inclusive public process where stakeholders and interested individuals are involved is not ensured by facilitated.
- The draft regulations along with an explanatory memorandum shall be made available on the Commission's website in text-searchable (machine-readable) formats.

- The time period for consultation shall not be less than three weeks (21 days).
- All comments, suggestions, and objections received from the stakeholders and interested individuals shall be made part of the explanatory memorandum of final regulations.

Regulation 43(2) The Commission may, for the sake of timely completion of proceedings, direct grouping of electricity consumers who have a common interest so that they be collectively heard.

#### [Our Comments](#)

We suggest that the Commission shall also allow direct grouping of petitions filed by the associations or groups of consumers for collective hearing and also for filing common affidavits, submissions, and representation. The Commission, while denying such a facility, shall provide the reason for arriving at such a decision.

Regulation 43 (3) The Commission may appoint an officer of the Commission or any other person to represent the interest of the electricity consumers in general or any class or classes of consumers, as the Commission may consider appropriate. If any person not being an officer of the Commission is appointed as above, the Commission may direct for payment to such person of such fee, cost, and other expenses by such of the parties to the proceedings, as the Commission may deem appropriate.

#### [Our Comments](#)

The Commission may appoint any Officer or any other person to represent the interests of the consumer in general or any class or classes of the consumer as the Commission may consider appropriate of the Act within six months of notification of these regulations. The Commission shall appoint up to five such institutions that engage in the area of consumer welfare and up to ten individual experts from diverse backgrounds. These appointees must represent the interests of consumers from all consumer categories.