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BIHAR ELECTRICITY REGULATORY COMMISSION, PATNA

PROCEDURE FOR PREFERRING APPEAL BEFORE THE APPELLATE AUTHORITY REGULATIONS

NOTIFICATION

Dated the 1st November 2006

No. BERC/Regulation-2/2006—In exercise of powers conferred on it by sub-section (1) of Section 127 read with Clause (zo) of sub-section (2) of Section 181 and all powers enabling it in that behalf of the Electricity Act, 2003, the Bihar Electricity Regulatory Commission hereby makes the following Regulations providing for procedure for preferring an appeal before the Appellate Authority:

1. Short Title, Extent and Commencement

- (1) These Regulations may be called the **Bihar Electricity Regulatory Commission (Procedure for preferring appeal before the Appellate Authority) Regulations, 2006.**
- (2) These Regulations shall extend to the whole of the State of Bihar.
- (3) These Regulations shall come into force on the date of its publication in the Official Gazette.

2. Definitions

- (1) In these regulations, unless the context otherwise requires:-
 - (a) "Act" means the Electricity Act, 2003 (36 of 2003);

- (b) "Appellate Authority" means the authority prescribed under sub-section (1) of Section 127 read with clause (u) of sub-section (2) of Section 176 of the Act;
 - (c) "Assessing Officer" means the assessing officer appointed under Section 126 of the Act.
 - (d) "Commission" means the Bihar Electricity Regulatory Commission;
 - (e) "Licensee" means a Distribution Licensee authorised to operate and maintain a distribution system and supply electricity to consumers in the concerned area of supply and shall include the deemed licensee under the provisions of Section 42 of the Act.
- (2) Words and expressions used but not specifically defined in these Regulations but defined in the Act shall have the meanings assigned to them in the Act.

3. Preferring an Appeal

- (1) A person aggrieved by a final order of an assessing officer made under Section 126 of the Act, may, within thirty (30) days of the said order, prefer an appeal before the Appellate Authority.
- (2) The appeal shall be made in the form specified in the Schedule.
- (3) The memorandum of appeal shall be signed and verified in the manner specified in the Schedule on a non-judicial stamp paper of Rupees five only.
- (4) The memorandum of appeal shall be accompanied with the fee as specified by the Commission in the Bihar Electricity Regulatory Commission (Fees, Fines & Charges) Regulations, 2005.
- (5) The fee shall be paid in such form as the Appellate Authority may specify.
- ¹[(6) The appellant shall deposit an amount equal to half of the assessed amount] with the licensee in cash or by way of bank draft. Documentary proof of such deposit shall be enclosed alongwith the memorandum of appeal.]

4. Disposal of Appeal

- (1) The Appellate Authority after hearing the parties shall as far as may be practicable pass appropriate order within a period of 120 days from the date of preferring appeal by the appellant.
- (2) The Appellant Authority shall send copy of the order to the assessing officer and the appellant.

[1] Substituted Clause 3(6) by the BERC (Procedure for preferring appeal before the Appellate Authority) [1st Amendment] Regulations, 2010 vide Bihar Gazette No. 31 dated 8th January, 2010 (w.e.f. 08.01.2010)

5. Reporting to the Commission

Distribution licensee shall furnish to the Commission with one month from the end of the quarter, the status of disposal of the appeals by the Appellant Authority giving the following details:

- (a) Number of appeals pending at the beginning of the quarter.
- (b) Number of new appeals preferred during the quarter.
- (c) Number of appeals disposed of during the quarter.
- (d) Number of pending appeals at the end of the quarter.
 - Less than six months
 - More than six months but less than a year
 - Over one year

6. Miscellaneous

- (1) Subject to the provisions of the Electricity Act, 2003 and these Regulations, the Commission may, from time to time, issue orders and practice directions in regard to the implementation of these Regulations and procedures to be followed.
- (2) The Commission may, at any time, add, vary, alter, modify or amend any of the provisions of these Regulations.
- (3) If any difficulty arises in giving effect to any of the provisions of these Regulations, the Commission may, by general or special order, do any thing not being inconsistent with the provisions of the Act, which appears to be necessary or expedient for the purpose of removing the difficulties.

By order of the Commission

Sd/-

Secretary

SCHEDULE

[See Regl. 3(2)]

**APPEAL BEFORE THE APPELLATE AUTHORITY
UNDER SECTION 127 OF THE ELECTRICITY ACT, 2003**

Appeal against final order (AFO) of _____
AFO No. _____ of 200 _____

Between

1. (Name and full address of the Consumer) Appellant

AND

1. (Name and full address of Distribution Licensee)
2. (Name and full address of Assessing Officer) Respondents

Appeal under Section 127 of the Electricity Act, 2003

1. Details of Appellant

- a. Full Name of the Appellant :
- b. Full Address of the Appellant :
- c. Name, Designation & Address
of the Contact Person :
- d. Contact Telephone Numbers :
Fax Number(s) :
E-mail ID :
- e. Category of service :
- f. Consumer No. :

2. Details of the Distribution Licensee

- a. Name and address of the concerned Sub-Divisional Engineer/Junior
Engineer
- b. Address of the office of the concerned Division / Circle / Area Office

3. Details of the Assessing Officer

- a. Name
- b. Address

4. Address of the premises concerned

5. Contracted Load / Demand
6. Particulars of the meter installed
7. Date of Inspection
(The copy of the inspection report to be enclosed)
8. Name and address of the Inspecting Officer
9. Connected load at the time of inspection
10. Nature of the Unauthorized use alleged
11. Date of the provisional assessment
12. Provisional assessed amount
13. Date of filing the objection by the Appellant against provisional assessment
14. Date of hearing of the objection by the Assessing Officer and date of final order
(True copy of the final order to be enclosed)
15. Whether any amount assessed paid / deposited relating to the period in issue
and if so the details thereof
16. GROUNDS FOR APPEAL
(State the grounds of the appeal with a brief narration of relevant facts and
submissions)
17. The disputed amount under appeal is Rs. _____ and a fee of
Rs. _____ is paid by way of Cash / demand Draft bearing No.
_____ dated _____ as per section 127 of the Act read with
Bihar Electricity Regulatory Commission (Procedure for preferring Appeal
before the Appellate Authority) Regulations, 2006.
18. The Final order was not passed with the consent of both the parties under
Section 127(5) of the Electricity Act 2003.
19. An amount of Rs. _____ being 1/3rd of the disputed amount is paid by
way of Cash / Demand Draft bearing No. _____ dated _____
to the licensee in accordance with Section 127(2) of the Electricity Act 2003;
the proof of payment is enclosed.

PRAYER

It is therefore, prayed that _____

Signature of Appellant

VERIFICATION

I, the Appellant declare that the facts stated in the above Memorandum of Appeal are true to the best of my knowledge (or based on information from and believed by me to be true); no part of the same are false and nothing has been concealed therefrom.

Verified at on this day of

**Place :
Appellant**

Name & Signature of

Date :

List of enclosures :

- 1.
- 2.
- 3.
- 4.
- 5.