

Report on the Directions given by the Appellate Tribunal for Electricity in Order
dated 9th October, 2009 in Review Petition no. 5 of 2009 in
Appeal No. 181 of 2008

This report contains the status on the implementation of the directions given by the Hon'ble Tribunal to the Secretary to the Forum of Regulators in its Order dated 9th October, 2009 in Review Petition no. 5 of 2009 in Appeal No. 181 of 2008. These directions were of three categories. The report is divided into three sections and each section deals with the status on the relevant directions:

- I. The Secretary to the Forum of Regulators was directed that it shall take up the issue of constitution, appointment and operationalisation of the State Electricity Regulatory Commissions for the States of Sikkim, Nagaland and Arunachal Pradesh by taking suitable steps with the cooperation of the authorities concerned.
- II. The Tribunal had noticed that there was only partial compliance of the provision of the Electricity Act, 2003 in respect of Section 42(5) regarding Consumer Grievance Redressal Forum. The Secretary to the Forum of Regulators was directed to ensure the compliance of these directions.
- III. The Secretary to the Forum of Regulators was required to evaluate the Standards of Performance and the Supply Codes notified by the Appropriate Commissions to evaluate variations and any specific gaps that need to be rectified.

SECTION - I

Status on the directions of the Appellate for Electricity regarding functionalisation of the State Electricity Regulatory Commissions

Section 82 of the Electricity Act, 2003 provides that every State Government shall, within six months from the appointed date, by notification, constitute for the purposes of this Act, a Commission for the State to be known as the (name of the State) electricity Regulatory Commission'. It was noticed by the Tribunal that the SERCs for the States of Sikkim, Nagaland & Arunachal Pradesh were not in compliance to the provisions of this section. The current status is as follows:

- **Sikkim:**

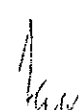
The Chief Secretary of the Govt. of Sikkim was requested by the Secretary to the Forum of Regulators that necessary action should be taken regarding functionalization of the State Electricity Regulatory Commission in the State of Sikkim. They were also reminded but the action taken in this regard has not been communicated till date & is still awaited. (Copies of letters sent to Sikkim Government are enclosed at Annexure-1).

- **Nagaland:**

The following position has come to notice now:

- 1. Constitution of Nagaland Electricity Regulatory Commission, Nagaland.**

- i. The State Government had constituted the NERC and also approved creation of post of officers/staff for NERC in the Cabinet meeting on 15-09-2005.
- ii. The State Government in the Cabinet meeting on 23-2-2006 approved 3 (three) Nos. of Rules / Regulation to initiate functioning of NERC.



2. Appointment NERC.

- i. Er. S.I. Longkumer has been appointed with oath taking and induction as Chairman-cum-Member of NERC on 04-03-2008.

3. Functionalisation of NERC.

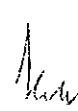
The following Rules / Regulation are in place so far to initiate functioning of NERC:

- i. "Nagaland Electricity Regulatory Commission (Constitution of State Advisory Committee and its function) Regulation, 2008" notified vide Commission's Notification bearing No. NERC/EST-2/2008 dated 29th Sept'2008.
- ii. "Nagaland Electricity Regulatory Commission Fund Rules, 2008" notified vide Power Department, Nagaland Notification bearing No. POWER/W-17/98 (VOL-II) Dated 16th Sept' 2009.
- iii. "Terms and conditions of Service of Secretary, Officers and other employees of NERC Regulation, 2006" notified vide Commission's Notification bearing No. NERC/E-I/2009 dated 9th Oct'2009.

The Commission has now initiated actions related to appointment of Commission Secretary and other officers /staff. It is expected that the Commission can give effect to functionalisation of the NERC within the next 2-3-months. (Copies of supporting documents are at Annexure-II.)

• Arunachal Pradesh:

The Chief Secretary of the Govt. of Arunachal Pradesh was requested by the Secretary to the Forum of Regulators that necessary action should be taken regarding functionalization of the State Electricity Regulatory Commission in the State of Arunachal Pradesh. They were also reminded but the action taken in this regard has not been communicated till date & is still awaited. (Copies of supporting documents are at Annexure-III.)



SECTION - II

Status on the directions of the Appellate Tribunal for Electricity regarding Consumer Grievance Redressal Forum

This section of the report deals with the action taken by the respective State Electricity Regulatory Commissions with respect to the CGRFs in their states. The status of the information with reference to the partial compliance as set out in the order of the Tribunal and the current status after the order has been tabulated below on the basis of letters received from respective SERCs/JERC (copies placed at Annexure-IV):

Sl.No	State	Status of CGRF as in order	Current Status of CGRF after order
1	Goa and Union Territories	<ul style="list-style-type: none">• Not constituted• CGRF guidelines not notified as yet.	<ul style="list-style-type: none">• The guidelines on Establishment of Forum for Redressal of Grievances of Consumers have already been notified in Gazette of India on August 6, 2009. These guidelines are available on the Commission's website www.jercuts.gov.in.• The Commission has already nominated member on CGRF in State of Goa and UTs of Pondicherry and Chandigarh. However, due to lack of response for other UTs i.e., Daman & Diu, Dadar and Nagar Haveli, Andaman & Nicobar and Lakshadweep, the nominee members could not be selected. Fresh advertisements inviting applications have already been issued.• The Commission conveyed the directions dated May 29, 2009 on behalf of the Hon'ble Appellate Tribunal to all the licensees within its regulatory jurisdiction; vide letter No.

			<p>6/2/2009- JERC, DATED. June 17, 2009.</p> <ul style="list-style-type: none"> • Prior thereto, the Commission had vide its letter No. 6/2/2009- JERC dated May 18, 2009, addressed the licensee for constitution of CGRF. <p>However, when it was noticed that CGRF had not been constituted, the Commission took up the issue suo moto and issued the order dated October 30, 2009 directing all UTs/State of Goa to establish CGRF by November 20, 2009.</p>
2	Tripura"	Not constituted	<p>The only licensee in Tripura i.e. Tripura State Electricity Corporation Ltd. (TSECL) has recently constituted 3- tier CGRF as per guidelines of the Commission & also on receipt of clearance from the Commission. The licensee has been pressurized for publication of the CGRF chart for awareness of the consumers.</p>
3	Jharkhand	Vacancy of two Members (Tata Steels Ltd. and one Member in JUSCO)	<ul style="list-style-type: none"> • M/s JUSCO has issued offer of appointment to Shri Uma Shankar Prasad Sinha, Retd. District & Sessions Judge for the post of Member (Legal) & Chairperson of CGRF of M/s JUSCO Ltd. The CGRF of M/s JUSCO is functioning with two Members at present. • As regards M/s Tata Steel Limited, the distribution licensee for Jamshedpur township, it has been informed by the authority of M/s Tata Steel Limited, telephonically, that action has been initiated for appointment of the Members for the CGRF of M/s Tata Steel Ltd. and it will be completed within a fortnight.

			(Letter received from Commission on 03.11.2009).
4	Orissa	Vacancy of two posts of Co-opted Member one each in WESCO and NESCO area	The two vacancies have been filled up w.e.f. 15.10.2009 & 14.10.2009 respectively. Therefore, at present all the posts of 12 GRFs working in the states have been filled up and all are working in full strength.
5	Bihar	Vacancy of one Member in CGRF	The CGRF and Electricity Ombudsman Regulations, 2006 were notified in the official gazette on 22 nd May, 2006. Some amendments in these Regulations were necessitated and after following the regulatory procedures, CGRF and Electricity Ombudsman (Amendment) Regulation, 2009 were issued on 29 th October, 2009 and published in the official gazette on 11 th November, 2009. So the process for appointment of independent Member to be nominated by the Commission could not be initiated so far. Since the amendment in the Regulation has been notified the process for appointment of independent Member to be nominated by the Commission has been initiated and it is expected that the formalities in this respect would be completed shortly.
6	Maharashtra	Vacancy of one Chairman in BEST CGRF	The vacancy has been filled up.
7	Delhi	Vacancy of one Chairman in BYPL CGRF	The vacancy has been filled up with the joining of Shri K.C. Modi as Chairman on 20.08.2009

Handwritten signature

8	Himachal Pradesh	Vacancy of Secretary	As confirmed by Himachal Pradesh Electricity Board, Shri Tirath Ram, Under Secretary of the Board has been posted as Secretary in Forum for Redressal of Grievances of consumers and the concerned officer has also joined the Forum on 29.10.2009.
9	Haryana	Vacancy of two Members in CGRF	The Commission had requested for filling up the vacant posts in the CGRFs but the information, whether the posts have been filled up or not has not been received.
10	Meghalaya	Constituted and the guidelines published in the Gazette but not brought into effect.	The Meghalaya State Electricity Board, which is the only licensee at present in the State, has constituted the Forum vide its notification No. MeSEB/GAII/270/2007/16 dated 06.06.2008. It has published the constitution of the Forum in the local daily as well. Again by Office orders dated 06.06.2008 and 24.06.2008, the said licensee has declared officers of the Executive engineers in district headquarters and 25 offices to be complaint centres in the State.

[Handwritten signature]

SECTION - III

Report on the analysis of the Standards of Performance and the Supply Codes

Hon'ble Appellate Tribunal for Electricity (APTEL) dated 9th October, 2009 in Review Petition No. 5 of 2009 in appeal No. 181 of 2008 directed Secretary, Forum of Regulators (FOR) to evaluate the Standards of Performance and the Supply Code notified by the appropriate Commissions to evaluate variations and any specific gaps that need to be rectified. These issues were considered by the Forum of Regulators in its meeting held on 19.11.2009. A copy of the minutes is enclosed at Annexure-V.

The Forum had earlier commissioned a study on Standards of Performance. The report of the study was considered in the meeting of FOR on 19.11.2009. The "*Model SOP Regulations for Distribution Licensees*" have been accordingly finalised and are placed at Annexure- VI.

After receipt of the APTEL directions, a study of examining the Supply Codes was awarded to M/s PricewaterhouseCoopers. Ten States identified for the study included Madhya Pradesh, Uttar Pradesh, Tamil Nadu, Delhi, Andhra Pradesh, Jharkhand, Assam, Punjab, West Bengal & Maharashtra. The selection of States was based on representation across majority population, regions, industry structure, geographical terrain, ownership structures, etc. The report on comparison of Supply Codes across 10 states and the gaps identified is placed at Annexure- VII. The Forum has decided to evolve a model Supply Code based on the findings of the study. This is expected to be completed in six months.

