

MINUTES OF THE 21ST GENERAL BODY MEETING
OF
FORUM OF INDIAN REGULATORS (FOIR)
HELD IN GANDHINAGAR (GUJARAT) DURING 04TH – 05TH OCTOBER, 2007

Venue : CAMBAY SPA AND RESORT, GANDHINAGAR
(GUJARAT)

List of Participants : At Annexure-I (enclosed)

04th October, 2007 -

Shri S.N. Ghosh, Chairperson, WBERC and Hony. Chairman, FOIR welcomed the participants in the 21st General Body Meeting of the Forum of Indian Regulators (FOIR) and conveyed his gratitude and appreciation for the entire team of Gujarat Electricity Regulatory Commission (GERC) led by their Chairperson Shri G. Subba Rao, for their arduous efforts at organizing the meeting at Gandhinagar (Gujarat). He also conveyed his deep appreciation to the staff of FOIR Secretariat for their assistance in hosting the meeting.

2. The following agenda items were taken up for discussion :

- ❖ Confirmation of the Minutes of the last FOIR Meeting.
- ❖ Issue raised by MPERC vide their letter dated 30th June, 2007 regarding financial assistance for “Customer Satisfaction Survey”.
- ❖ Issue raised by DERC vide their letter dated 26th/27th July, 2007 regarding absence of proper representation of consumer interest before different fora.

2.1 Shri S.K. Chatterjee, Executive Treasurer-FOIR and Assistant Secretary, CERC apprised the Members about the decision of the last Annual General Body Meeting held on 07th June, 2007 at New Delhi and also status/Action Taken Report on the same. **After a brief discussion, the Minutes of the meeting were confirmed.**

2.2 The issue regarding financial assistance to MPERC for “Customer Satisfaction Survey” was discussed at length. Chairperson, MPERC apprised the Members present about the importance of the survey/study in Madhya Pradesh. Shri S.N. Ghosh, Hony. Chairman invited comments/suggestions from the Members on the issue as to whether fund can be provided by FOIR. Some Members felt that FOIR should extend financial assistance on issues of generic nature and common interest for all States. Finally, **it was decided that the issue might be referred to the Standing Committee (already formed by FOIR in its 8th AGM on 07th June, 2007) to make recommendations on the question as to whether this could be taken up as pilot project by FOIR.**

2.3 The issue regarding absence of proper representation of consumer interest before different fora was explained by Shri K. Venugopal, Member, DERC. He also informed that DERC had already written to Govt. of NCT of Delhi to establish Consumer Advocacy Forum who could take up the cases of consumers in different fora like the Regulatory Commission, Appellate Tribunal, High Court and Supreme Court. The Members appreciated the need for such an institutional mechanism. Shri S.N. Ghosh, Chairperson, WBERC and Hony. Chairman, FOIR, however, felt that given the mandate under the Electricity Act, 2003, it would be advisable if such Consumer Advocacy Forum was established by the Regulatory Commissions themselves, with adequate funding from the Government for the purpose. Attention was also drawn to the provisions contained in section 94 (3) and 124 (2) of the Electricity Act, 2003 which envisaged the role and responsibilities of the Regulatory Commission in facilitating the consumers in representing their case before the Commission/Appellate Tribunal. It was felt that these provisions read with the provisions contained in section 61 relating to protection of consumer’s interest, could be used effectively by the Regulatory Commissions to institutionalize the mechanism of consumer advocacy. Shri K.P. Pandey, Chairperson, KERC explained the consumer advocacy system already institutionalized by his Commission in the State of Karnataka. UPERC Chairperson Shri Vijoy Kumar also informed about the initiatives taken by his Commission to institutionalize a similar mechanism. It was generally agreed that these models

could be studied and if need be, emulated with suitable modifications as per requirements by various State Commissions. **It was also decided that Standing Committee of FOIR could further examine the proposal of DERC for reference of the issue of consumer advocacy to Government of India, keeping in view the views expressed by the Members in this regard.**

05th October, 2007 –

Arrival of Hon'ble Minister of Energy & Petrochemical, Gujarat

3. Shri G. Subba Rao, Chairperson, Gujarat Electricity Regulatory Commission welcomed Shri Saurabh Patel, Hon'ble Minister of Energy & Petrochemical, Government of Gujarat, Shri S.N. Ghosh, Chairperson, WBERC & Hony. Chairman, FOIR, Shri S.K.F. Kujur, Chairperson, JSERC & Senior Vice-Chairman, FOIR, Shri Bhanu Bhushan, Member, CERC & Hony. Secretary, FOIR and other Members of FOIR. He expressed his appreciation to the Hony. Chairman, FOIR for choosing Gandhinagar (Gujarat) as the venue for the meeting of the FOIR. He briefly apprised the Members of FOIR about the setting up of the Regulatory Commission in Gujarat. He also conveyed special thanks to S/Shri S.D. Dave and D.G. Karia, Ex-Chairpersons, GERC and S/Shri B.M. Oza and R.K. Sharma, Ex-Members, GERC for their presence in the meeting.

4. Shri Subba Rao's welcome address was followed by the address of Shri S.N. Ghosh, Hony. Chairman, FOIR. Shri Ghosh welcomed Shri Saurabh Patel, Hon'ble Minister of Energy & Petrochemical, Government of Gujarat and conveyed to him the gratitude of the FOIR for sparing time out of his busy schedule to address the Members of the FOIR. He complimented him for the initiatives undertaken by the State Government for overall development of the State including the electricity sector. In his brief address, Shri Ghosh highlighted the objectives of the FOIR and the role being played by the Regulators in the country, especially in terms of bringing about transparency, accountability and professionalism in matters of regulations.

5. Shri Ghosh's address was followed by the speech of Shri Saurabh Patel, Hon'ble Minister of Energy & Petrochemical, Government of Gujarat. Shri Saurabh Patel, thanked Shri Ghosh for having given his State the opportunity of hosting the 21st General Body Meeting of FOIR. He felt overwhelmed by the presence of the Chairpersons/Members of Electricity Regulatory Commission from all across the country. The Hon'ble Minister apprised the Members about the initiatives being taken by the Gujarat Government towards capacity addition and reiterated that his Government felt that power sector would be the biggest source of revenue for the State. He expressed full confidence in the Electricity Regulatory Commission which had been formed in the State in the endeavour towards power sector development. The Hon'ble Minister wished all success to the meeting of the FOIR.

6. Shri Saurabh Patel's speech was followed by a vote of thanks extended by Shri K.P. Gupta, Member, GERC. On behalf of the GERC and FOIR, he conveyed his sincere thanks to the Hon'ble Minister, Principal Secretary and all the dignitaries present in the meeting. He also thanked the staff of FOIR Secretariat for their valuable support and assistance in conducting the meeting.

7. After the vote of thanks by Shri K.P. Gupta, a presentation was made by Smt. V.L. Joshi, Principal Secretary, Energy & Petrochemicals Department, Government of Gujarat on "Gujarat's Powerful Progress" in the electricity sector. Smt. Joshi explained the capacity addition plan for Gujarat for the period 2008-2012 including the efforts made by the State utility (GUVNL) to procure power through competitive bidding process under Case-I of the Government of India Competitive Bidding guidelines under section 63 of the Act. She also highlighted the initiatives for performance improvement taken by the State, especially with reference to the implementation of Intra-State ABT, System Improvement Scheme (reduction of T&D losses etc.), Data Acquisition System, E-urja, Transmission Network Expansion etc. She dwelt at length on the "Jyoti Gram Yojana" (JGY) launched in the State in September, 2003 which focused on bifurcation of rural load into two separate feeders, installation of specially designed transformers, metering of transformers on JGY feeders etc. The scheme has resulted in reduction in

migration from rural to urban areas, development of cottage/home industries, provision of better health services and infrastructure facility etc.

8. The presentation made by Smt. V.L. Joshi, was followed by the presentation of Shri D.J. Pandia, Managing Director, Gujarat State Petroleum Corporation Limited (GSPCL). Shri Pandia informed the Members of the August House about the activities of GSPCL, especially, the role being played by the Company in meeting the demand for gas in Gujarat.

9. The presentation of Shri D.J. Pandia, was followed by presentation of Shri Murali Ranganathan, Director, Torrent Power Limited on Franchisee Model (Bhiwandi). In his presentation, he highlighted his experience on undertaking the Distribution Franchise of Bhiwandi in Maharashtra. He mentioned that Distribution Franchise model as provided in the Electricity Act, 2003 was perhaps the most potent method of distribution reforms. This model provides an interim solution on the way to privatization of distribution. Under this model, obligations of the Franchisee include – all obligations of DISCOMs within the franchisee area, total O & M of the network, capital expenditure, revenue assurance and vigilance, day-to-day business operations, medium to long term contract with performance benchmark. He articulated that Bhiwandi's was a pleasant experience for Torrent Power Limited. The area covered under the Franchisee is 721 sq. kms., with population of 10 lakhs, 1.6 lakhs customers with 800 MVA demand. The annual energy input is 2500 MUs. The commercial terms of agreement between the Franchisee and the DISCOM include – payment by Distribution Franchisee (namely, charges for input energy, arrears collected, security deposit, electricity duty) and payment by DISCOM (namely, incentive on recovery of arrears, subsidy, specified payment upon termination/expiry). He highlighted that the benefits of the model included reduction in T&D losses and theft, improvement in metering, billing and revenue collection, capital investments in upgradation of the network, enhancement in customer service quality – a win-win situation for all : consumers, DISCOM and Franchisee. At the end, he highlighted what he considered as critical success factors of Franchisee business, namely, uninterrupted availability of required power to Franchisee, adequate transmission

capacity to supply powers to consumers, long term agreement (say, for 20 years), large franchise area, authorization of Franchisee to carry out the capital expenditure, adequate support from Government, State utilities and public in general.

10. A presentation was also made by Prof. Navroz K. Dubash of Jawaharlal Nehru University on his book titled “The Practice & Politics of Regulation : Regulatory Governance in Indian Electricity”. In his presentation, he highlighted the findings made by him and his co-author while writing the book. He observed that there was a tension between regulatory predictability and regulatory independence and that the institutional legitimacy and effectiveness often got undermined because of non-transparent selection process. He felt that there were wide spread variations in operating procedures across regulators. The Regulators, in his and his co-authors opinion, often side step political decisions while maintaining an apolitical façade. This was perceptible on decisions on tariff rationalization and cross-subsidy surcharge. He also felt that despite the regulatory process, stakeholder’s capacity/participation remained limited. He also highlighted various recommendations made in his book on the issues highlighted above. He summarized the recommendations as – signal early support to build regulatory credibility, build a credible institutional structure and capacity, more defined structure and operational guidelines, more proactive and engaged scrutiny, explicit engagement with political issues through deliberation, develop stakeholders as an instrument of accountability.

11. The issue relating to Consumer Grievance Redressal Machinery was then taken up for discussion. Shri S.K. Misra, Chairperson, CSERC apprised the Members on the issues at stake about CGR and Ombudsman. The issues were already highlighted in the agenda note for discussion, i.e., (a) Forums to be of licensee or neutral/independent bodies? Provision in the Act – of licensee. But new provision of independent member has created some confusion. (b) If of licensee, question of how to make the licensee own up the Forums and empower it so that its orders are accepted and complied with. (c) Proceedings of Forum formal (quasi-judicial) or informal. Formal proceedings lead to delay. Resort to reconciliation/mediation by Forums? (d) Control over Forum – by

Ombudsman/by Commission? Manner of control (e) Ombudsman's comments in CR of officers in Forum? (f) Implementation of orders of Forums/Ombudsman. Remedy against non-implementation – Section 142? (g) Action against Forum not complying with Commission's regulations/Act – U/S 142? (h) Remedy for licensee not satisfied with order of Forum – Provision for appeal to Ombudsman/Commission (i) Appeal against orders of Ombudsman – to the Commission? (j) Experience of working of Forums generally. Members expressed their views on each of these issues. It was found that different State Commissions were following different procedures in dealing with these issues as per their requirements and within the parameters of the Electricity Act, 2003 and the rules made in this regard by the Government of India. It was felt that the issues being State specific and should be dealt by the State Commissions in the manner that suiting them but within the ambit of law and rules.

12. A presentation was then made by Shri P.S. Shah, Secretary, GERC highlighting the experience of Gujarat on Competitive Bidding. Shri Shah explained the efforts made by the State of Gujarat in successfully ensuring procurement of power by the DISCOMs through competitive bidding process under Case-I of the Competitive Bidding guidelines of Government of India issued under section 63 of the Act.

13. Discussion on Institutional Mechanism for third party meter testing. The issue was raised by DERC wherein State Commission had highlighted the difficulties being faced in institutionalizing the third party meter testing in the absence of adequate number of meter testing labs. Several State Commissions shared their experience in institutionalizing the meter testing mechanism. It was informed that in Gujarat, the State level utility had got its testing lab accredited by Government agency. The State Commissions should ensure that the utilities procure meters with proper accuracy level as provided in CEA's Metering Regulation. This would reduce the metering complaints significantly.

The meeting ended with a vote of thanks to the Chair and all Members present.

LIST OF PARTICIPANTS ATTENDED THE 21ST GENERAL BODY MEETING
OF
FORUM OF INDIAN REGULATORS (FOIR)
HELD AT HOTEL CAMBAY SPA AND RESORT, GANDHINAGAR (GUJARAT)
DURING 04TH – 05TH OCTOBER, 2007

S. No.	Name	Designation
01.	Shri S.N. Ghosh	Chairperson, WBERC and Hony. Chairman, FOIR
02.	Shri K. Swaminathan	Chairperson, APERC
03.	Shri J.P. Saikia	Officiating Chairperson, AERC
04.	Shri B.K. Halder	Acting Chairperson, BERC
05.	Shri S.K. Misra	Chairperson, CSERC
06.	Shri G. Subba Rao	Chairperson, GERC
07.	Shri Bhaskar Chatterjee	Chairperson, HERC
08.	Shri Yogesh Khanna	Chairperson, HPERC
09.	Shri K.B. Pillai	Chairperson, J&KSERC
10.	Shri S.K.F. Kujur	Chairperson, JSERC
11.	Shri K.P. Pandey	Chairperson, KERC
12.	Shri C. Balakrishnan	Chairperson, KSERC
13.	Dr. J.L. Bose	Chairperson, MPERC
14.	Shri Vinay Kohli	Chairperson, MsERC
15.	Shri Jai Singh Gill	Chairperson, PSERC
16.	Shri S. Kabilan	Chairperson, TNERC
17.	Shri S.S. Chakraborty	Chairperson, TERC
18.	Shri Vijoy Kumar	Chairperson, UPERC
19.	Shri V.J. Talwar	Chairperson, UERC
20.	Shri Rakesh Nath	Chairperson, CEA
21.	Shri S.D. Dave	Ex-Chairperson, GERC
22.	Shri D.G. Karia	Ex-Chairperson, GERC
23.	Shri A. Balraj	Ex-Chairperson, TNERC
24.	Shri Bhanu Bhushan	Member, CERC
25.	Shri R. Krishnamoorthy	Member, CERC
26.	Shri Surinder Pal	Member, APERC
27.	Shri R. Radha Kishen	Member, APERC
28.	Shri S.K. Jayaswal	Member, BERC
29.	Shri Sarat Chandra	Member, CSERC
30.	Shri K. Venugopal	Member, DERC

31.	Shri K.P. Gupta	Member, GERC
32.	Shri Manmohan	Member, GERC
33..	Shri Tej S. Tewatia	Member, HERC
34.	Shri T.R. Dhaka	Member, HERC
35.	Shri P.C. Verma	Member, JSERC
36.	Smt. Shakuntala Sinha	Member, JSERC
37.	Shri S.D. Ukkali	Member, KERC
38.	Shri H.S. Subramanya	Member, KERC
39.	Shri M.P. Aiyappan	Member, KSERC
40.	Shri A. Velayutham	Member, MERC
41.	Shri S.B. Kulkarni	Member, MERC
42.	Shri R. Natarajan	Member, MPERC
43.	Shri D. Roy Bardhan	Member, MPERC
44.	Smt. Baljit Bains	Member, PSERC
45.	Shri S.S. Pall	Member, PSERC
46.	Shri K.L. Vyas	Member, RERC
47.	Shri B. Jeyraman	Member, TNERC
48.	Shri R. Rajupandi	Member, TNERC
49.	Shri P.N. Pathak	Member, UPERC
50.	Shri R.D. Gupta	Member, UPERC
51.	Shri V.K. Khanna	Member, UERC
52.	Shri R.P. Samaddar	Member, WBERC
53.	Shri R.K. Sharma	Ex-Member, GERC
54.	Shri B.M. Oza	Ex-Member, GERC
55.	Shri S.C. Dhingra	Ex-Member, UPERC
56.	Prof. Usha Ramachandra	ASCI
57.	Shri P.S. Shah	Secretary, GERC
58.	Shri R.K. Sharma	Secretary, RERC
59.	Shri S.K. Chatterjee	Asstt. Secretary, CERC