

## DRAFT REGULATION



### **ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**

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## REGULATION \_\_\_ OF 2020

### **INTRODUCTION**

This Commission has, by way of [APERC\(Adaptation\) Regulation, 2014](#) adapted all the Regulations made by the erstwhile Andhra Pradesh Electricity Regulatory Commission. Accordingly, the following two Regulations were being followed by this Commission since its constitution consequent to the bifurcation of the united State of Andhra Pradesh:

1. The Advocate on Record for Andhra Pradesh Electricity Regulatory Commission in Supreme Court (Appointment, condition of appointment and Remuneration) Regulations 1999. ([Regulation No.5 of 1999](#))
2. Andhra Pradesh Electricity Regulatory Commission (Terms and Conditions of Appointment and Payment of Remuneration to Standing Counsel/Counsel) Regulation, 2013. ([Regulation 8 of 2013](#))

As the above two Regulations have become quite dated and there arose a need to have a consolidated Regulation on the subject matter, the Commission decided to frame a draft Regulation and put it up in Public domain inviting comments from the Public.

In exercise of the powers conferred on it by Section 181 of the Electricity Act, 2003 (36 of 2003) and all other powers enabling it on that behalf, the Andhra Pradesh Electricity Regulatory Commission makes the following Regulation.

**Andhra Pradesh Electricity Regulatory Commission (Terms & Conditions of Appointment and Payment of Remuneration to Empanelled Advocate) Regulations, 2020**

**PART I**

**Title and Commencement**

1. Short title & commencement

(i) These regulations may be called the “Andhra Pradesh Electricity Regulatory Commission (Terms & Conditions of Appointment and Payment of Remuneration to Empanelled Advocate) Regulations, 2020.

(ii) They shall come into force with effect from their date of publication in the official gazette.

2. Definitions:

(i) ‘APTEL’ means the Appellate Tribunal for Electricity established under Section 111 of the Electricity Act, 2003 by the Government of India.

(ii) ‘Commission’ means Andhra Pradesh Electricity Regulatory Commission and includes any other officer authorized by the Andhra Pradesh Electricity Regulatory Commission.

(iii) ‘Advocate’/ ‘Legal Practitioner’ shall have the meaning assigned to it in clause (i) of Section 2 of the Advocates Act, 1961 (25 of 1961)

(iv) “Advocate-on-Record” means an advocate who is entitled under order IV of [Supreme Court Rules, 2013](#) to act as well as to plead for a party in the Supreme Court.

(v) “Empanelled Advocate” means an advocate who is empanelled by the Commission to represent it before the Supreme Court, APTEL or the High Court of Andhra Pradesh.

(vi) “Senior Advocate” is any Advocate so designated under sub-section (2) of Section 16 of the Advocates Act, 1961.

## **PART II Supreme Court**

3. Appointment: a) The Commission, may prepare a panel of Advocates on Record, who shall have a minimum standing of ten years in the Supreme Court to represent it in the Supreme Court.

b) Period of appointment: a) The validity of the panel of advocates shall be for a period of three years in the first instance and may be continued for such time as the Commission may by order direct.

c) Deletion from panel: The empanelment of an Advocate on Record, to represent the Commission before the Supreme Court, is terminable any time on three months’ notice in writing on either side and the Commission is not required to give reasons for such termination.

## **PART III APTEL**

4. Appointment: a) The Commission may prepare a panel of advocates, who shall have a minimum standing of ten years at the bar to represent it before the APTEL.

b) Period of appointment: The validity of the panel of advocates shall be for a period of three years in the first instance and may be continued for such time as the Commission may by order direct.

c) Termination of appointment: The empanelment of an advocate, to represent the Commission before the APTEL, is terminable on three months’ notice in writing on either side and the Commission is not required to give reasons for such termination.

d) The Commission may choose to empanel an advocate to represent it both before the Supreme Court and APTEL.

#### **PART IV High Court**

5. Appointment: a) The Commission may prepare a panel of advocates, who shall have a minimum standing of ten years in the High Court, to represent it before the High Court of Andhra Pradesh.

b) Period of appointment: The validity of the panel of advocates shall be for a period of three years in the first instance and may be continued for such time as the Commission may by order direct.

c) Termination of appointment: The empanelment of an advocate, to represent the Commission before the High Court of Andhra Pradesh, is terminable on three months' notice in writing on either side and the Commission is not required to give reasons for such termination.

#### **PART-V Senior Advocate**

6. Appointment : a) The Commission, if it so desires, or on the advice of the Empanelled Advocate, who is representing the Commission, may appoint a Senior Counsel in any case.

b) The quantum of fees payable to the Senior Advocate and terms of engagement shall be fixed on a case to case basis.

#### **PART-VI Duties and Responsibilities**

7. The following are the duties and responsibilities of the Empanelled Advocate:

(a) The Empanelled Advocate before all the fora shall appear only when the case is specifically entrusted to him for entering appearance. They are not entitled to claim any fees, unless they enter appearance on instructions.

(b) The Empanelled Advocate, shall not appear against the Commission in the case or cases, which are entrusted to them and in the cases which have similar issues. They shall not represent or give opinion or advise others in such cases against the interests of the Commission, either directly or indirectly.

(c) The Empanelled Advocate shall have the right to represent for and on behalf of any other client in any case or matter, which shall not, however, interfere with or be in conflict with the issues involved in the cases entrusted to him to represent the Commission.

(d) The Empanelled Advocate shall not advise any party or accept any case or matter against the Commission, any member or its officers or employees, or any case or matter in which he has appeared or tendered his advice.

(e) The Empanelled Advocate, unless instructed in writing by the Commission, shall not delegate any case, brief or assignment given to him to any other advocate other than his office colleagues in usual course but shall deal and necessarily appear for the effective hearings by himself.

(f) The Empanelled Advocate shall coordinate or cooperate with any other advocate that may be engaged to appear in any case or matter by the Commission.

(g) The Empanelled Advocate shall maintain absolute secrecy and confidentiality about the case or matter of the Commission.

(h) The Empanelled Advocate shall accept such other terms and conditions of the empanelment as may be determined by the Commission from time to time.

(i) Cases involving similar issues or matters or otherwise interlinked or clubbed may be entrusted to the same Empanelled Advocate as far as possible, unless otherwise found necessary.

(j) The Empanelled Advocate shall not necessarily be for a particular Court and shall accept any case or matter assigned to him and shall not refuse to accept any professional task without reasonable cause.

(k) The Empanelled Advocate shall not refuse to accept any assignment otherwise than on grounds of ill health, conflict of interest or any other reason to the satisfaction of the Commission.

(l) The engagement or allotment of cases or matters to the Empanelled Advocate shall be at the discretion of the Commission.

(m) During the term of the empanelment and thereafter, any confidential information relating to the Commission, any officer, employee or representative of the Commission obtained by the Empanelled Advocate, under or by virtue of the empanelment, shall be maintained as professional communication within the meaning of Section 126 of the Indian Evidence Act, 1872 (1 of 1872) and he shall not disclose the information to any person without the prior written consent of the Commission, unless such information is required to be disclosed in pursuance of an order of any competent court, tribunal exercising jurisdiction.

(n) The Empanelled Advocate shall appear in the cases assigned to him and also appear before Trial courts, Tribunals and any other Statutory bodies as and when required.

(o) The Empanelled Advocate must submit quarterly reports of the Commission matters pending with them and keep the Commission informed about the important developments in the case from time to time particularly with regard to drafting, filing of papers, dates of hearing of the case, order etc.

(p) The Empanelled Advocate must prepare the draft of the Application/Petition/Counter Affidavits which are to be filed before

the adjudicating authorities. However, the same shall be filed after obtaining the prior written approval of the Commission.

(q) Upon termination, suspension or non-renewal of empanelment, as the case may be, the Empanelled Advocate shall handover the case file or matter forthwith to another Empanelled Advocate appointed by the Commission along with all documents and records connected thereto duly marked and flagged with his no objection certificate.

(r) Mere empanelment of an advocate shall not bind the Commission necessarily to assure him of engagement in any case or to obtain any service from him or to pay any fee or charges therefor.

(s) The allotment of a case or matter to an Empanelled Advocate shall be solely at the discretion of the Commission.

## **PART-VII**

### **Fees and Expenses**

8. Supreme Court: The scale of fees and expenses payable to the Empanelled Advocate representing the Commission shall be as specified in the Schedule-I appended.

9. APTEL: The scale of fees and expenses payable to the Empanelled Advocate representing the Commission shall be as specified in the Schedule-II appended.

10. High Court: The scale of fees and expenses payable to the Empanelled Advocate representing the Commission shall be as specified in the Schedule-III appended.

11. Notwithstanding the above, the Commission reserves its power to fix special fees to the counsel engaged by it before any court or forum having regard to the importance of the case(s) and the standing/stature of the counsel so engaged. Further the Commission may at its discretion, pay enhanced fees to the Empanelled Advocate if it is satisfied that the counsel was required

to devote substantial professional time and make special efforts for preparation and presentation of a case.

12. Expenses: The expenses reimbursable shall be as specified in the Schedule-IV appended.

13. Legal Opinions: The scale of fees payable for legal opinion is as specified in the Schedule-V appended.

14. Where the Empanelled Advocate is required to visit any Court situated outside his ordinary place of practice in connection with any case or matter, he shall be entitled to claim expenses as mentioned in the applicable appended Schedule.

15. Commission shall decide the fee or reimbursement of expenses in cases that are not covered in the Schedule.

16. Payment of Reduced Fees in certain Cases:

(a) A reasonable fee will be allowed when the Court awards only proportionate costs recoverable by the Commission from the other party.

(b) No fee shall be paid for non-appearance in a Court by the Empanelled Advocate or where he seeks adjournment without any instruction for adjournment from the Commission or on account of his personal reason or where the case got adjourned due to non functioning of Court for whatever reason.

(c) Only one set of fees shall be payable to the Empanelled Advocate where more parties than one on behalf of the Commission are in the array of parties.

17. Payment of Reasonable fees when engagement becomes terminated in pending cases:

In case the engagement of the Advocate in any case or cases or generally on behalf of the Commission becomes terminated either by reason of resignation or giving up of the case by the Commission or by the expiry of the term or by the Commission terminating the services of the Empanelled Advocate for any reason and the case is still pending for completion, the Commission shall have the full discretion to fix such fees irrespective of the case or

cases as it considers reasonable having regard to the work done in the case or cases till the date of such termination of service.

18. No retainer fee shall be paid to any Empanelled Advocate.

19. Method of Payment of fee:

(a) The Empanelled Advocate, if the engagement is on lump sum basis, shall submit the professional fee bill claiming 50% of the fees as per the Schedule during pendency of the case and the balance 50% shall be claimed after its disposal, which shall be claimed by an invoice along with the certified copy of order or judgment.

(b) Where the bill relates to a claim for appearance fee, Empanelled Advocate shall submit a professional fee bill, indicating the date of appearance and also provide the details of such hearing.

(c) Where the bill relates to legal opinion or other reference, the Empanelled Advocate shall submit a professional fee bill, by duly enclosing the legal opinion along with the copy of the request or reference sought by the Commission.

(d) The claim for reimbursement of expenses or expenditures for outstation conveyance, boarding and lodging shall be claimed by producing necessary voucher or bill or undertaking to the satisfaction of the Commission.

(e) The Commission shall process payment of bills within a period of two months from the date of submission if the claim is complete in all respects.

(f) The payments shall be subject to tax deduction at source, goods and service tax or such other taxes as applicable from time to time.

(g) An Empanelled Advocate shall be paid in advance, the filing expenses namely court fee, photocopying / cyclostyling charges etc., on a rough estimate filed with the Commission. The Empanelled Advocate shall however, file with the Commission an account of monies received from the Commission quoting the Commission's communication of sanction of such monies.

(h) All claims of fees and expenses shall be accompanied by necessary proof in support of the claims made.

## **PART VIII**

### **Miscellaneous**

20. Interpretation:

If any question arises relating to the interpretation of this Regulation, the decision of the Commission shall be final.

21. Termination :

All previous appointments of counsel, in whatever name were made before the commencement of these Regulations shall stand terminated on the commencement of these Regulations..

22. Power to Amend:

The Commission may, at any time add, vary, alter, modify, revise and amend any provisions of this Regulation.

23. Power to remove difficulties: .

The Commission may by order make such provisions or give such directions as it may deem necessary for the removal of any difficulty that may arise in giving effect to the provisions of this Regulation.

24. Repeal & Savings:

(a) The Advocate on Record for Andhra Pradesh Electricity Regulatory Commission in Supreme Court (Appointment condition of appointment and Remuneration) Regulations 1999 ([Regulation No.5 of 1999](#)) & Andhra Pradesh Electricity Regulatory Commission Terms and Conditions of Appointment and Payment of Remuneration to Standing Counsel ([Regulation 8 of 2013](#)) stand repealed on the date of publication of this Regulation in the A.P. Gazette.

(b) Notwithstanding such repeal, in respect of the pending cases, fees and expenses shall be payable as per 1) The Advocate on

Record for Andhra Pradesh Electricity Regulatory Commission in Supreme Court (Appointment condition of appointment and Remuneration) Regulations 1999 ([Regulation No.5 of 1999](#)) & 2) Andhra Pradesh Electricity Regulatory Commission Terms and Conditions of Appointment and Payment of Remuneration to Standing Counsel ([Regulation 8 of 2013](#)), as the case may be.

(c) These Regulations apply to the cases filed before different fora on and / or from the date of their coming into force.

Hyderabad  
15-09-2020

Sd/-  
Commission Secretary<sub>(i/c)</sub>

## SCHEDULE -I

An Empanelled Advocate engaged by the Commission to appear in the Supreme Court shall be paid fee as follows:

a) A daily fee of Rs. 35,000/- in each appeal during the final hearing. Where 2 or more appeals involving similar points are coming up for final hearing, the following amounts shall be payable for each day of appearance:

- i) After the first case, from case no. 2 to 50 an amount of Rs. 15,000 per case.
- ii) Where the number of cases exceeds 50 but does not exceed 100, a fee of Rs. 7,500/- per case no. 51 to 100.
- iii) Where the number of cases exceeds 100 but does not exceed 200 a fee of Rs. 3,000/- per case no. 101 onwards.

Provided that the amount payable for a batch shall be subject to a maximum of Rs.70,000/- per day and for 10 days in all.

b) A daily fee of Rs. 20,000/- in each appearance in miscellaneous matters like special leave petition, civil miscellaneous petition for stay etc. Where 2 or more SLPs / appeals are coming up for the miscellaneous hearing the following amounts shall be payable for each day of appearance:

- i) After the first case, from case no. 2 to 50 an amount of Rs. 10,000 per case.
- ii) Where the number of cases exceeds 50 but does not exceed 100 a fee of Rs. 5,000/- from case no. 51 to 100.
- iii) Where the number of cases exceeds 100 but does not exceed 200 a fee of Rs. 2,500/- from case no. 101 onwards.

Provided that the amount payable for a batch shall be subject to a maximum of Rs.50,000/- per day and for 10 days in all.

c) A separate reading fee @ 25% on the fees payable shall be paid if the reading material is more than 250 pages and above.

#### SCHEDULE -II

An Empanelled Advocate engaged by the Commission to appear in the APTEL shall be paid fee as follows:

a) In case of a single appeal, an amount of Rs. 20,000/- per appearance per day will be paid.

b) In case of more than one appeal, involving similar issue(s), an amount of Rs. 10,000/- each per appearance per day in respect of each appeal shall be paid. For second and subsequent appeals subject to limiting the total of maximum fee of Rs. 40,000/-per day including the fee for the first case where a batch of cases are filed and heard together and for 10 days in all.

c) No separate amount shall be payable towards any other expenditure and the same has to be met from the fee itself.

d) A separate reading fee @ 25% on the fees payable shall be paid if the reading material is more than 250 pages and above.

#### SCHEDULE-III

An Empanelled Advocate engaged by the Commission to appear in the High Court shall be paid fee as follows:

a) In case of a single contesting writ petition or writ appeal, an amount of Rs. 20,000/- shall be paid; Rs. 10,000/- upon filing of Vakalat and balance amount of Rs. 10,000/- after disposal of the case. A separate fee of Rs. 5,000/- is payable when a counter affidavit is drafted and filed on the remarks furnished by the Commission.

b) In a batch of contested cases i.e., where counters are filed, involving similar issues, an amount of Rs.20,000/- shall be paid in

respect of the 1<sup>st</sup> case only. For the second and subsequent cases the following amount is payable upon final disposal of the matter:

2 to 50 Rs.5,000/- per case

51 to 100 Rs.2,500/- per case

101 and above Rs.1,000/- per case

Subject to a maximum of Rs. 2,00,000/- per batch.

c) In a single non-contesting case, i.e., where no counter is filed and only appearance is entered, an amount of Rs. 10,000/- shall be paid. This applies to cases where no relief is claimed against the Commission or where the Commission is only a proforma party and that no order shall be eventually passed against the Commission.

d) In a batch of non-contested cases involving similar issues, an amount of Rs. 10,000/- shall be paid in respect of the 1<sup>st</sup> case only. For the second and subsequent cases the following amount is payable upon final disposal of the matter:

2 to 50 Rs. 2,500 per case

51 to 100 Rs. 1,250 per case

101 and above Rs. 750 per case

Subject to a maximum of Rs. 1,00,000 per batch

e) The Empanelled Advocates are entitled to payment of any fees as above, only in cases where they are specifically instructed to appear and they entered appearance.

f) Whenever necessary, the Commission may permit the Empanelled Advocate to engage services of a junior advocate. The junior advocate is entitled to a fee of Rs. 10,000/-. If such engagement is in a batch of cases, then a fixed sum of Rs. 50,000 or 10% of actual fee paid to the Empanelled Advocate, whichever is less shall be paid.

Provided that the payment of fee to the junior advocate shall be made directly by the Commission, for which the Empanelled

Advocate should furnish all the details required by the Commission beforehand.

g) No separate amount shall be payable towards any other expenditure and the same has to be met from the fee itself.

#### SCHEDULE-IV

An Empanelled Advocate is entitled to claim the following expenditure which will be reimbursed by the Commission, subject to the provisions in this regulation.

a) Vakalath expenditure depending on the Forum (This includes both the court fee stamp and the welfare stamp expenditure)

b) Court fee as may be applicable to the Forum (the relevant rule should be intimated to the Commission while claiming the same.)

c) Process Fee, as applicable in the Forum concerned.

d) Typing, photocopying and wherever necessary cyclostyling of necessary papers.

e) Conveyance charges in case of travel outside the headquarters (normal place of practice for Empanelled Advocates at Supreme Court/APTEL is New Delhi and Empanelled Advocate before High Court of Andhra Pradesh is Amaravati).

f) Postal expenditure where large number notices have to be sent either by registered or speed post upon dasti service being permitted either by the Supreme Court or APTEL or High Court.

g) Expenses incurred for airlifting voluminous records available with the Empanelled Advocate which are to be airlifted, if such a need arises.

h) Travel expenses where the Commission requires the Empanelled Advocate to travel to Hyderabad to discuss an

important matter to be carried in appeal to the Supreme Court from High Court or APTEL.

i) Travel expenses where the Commission requires an Empanelled Advocate to travel to New Delhi to discuss/ assist another Empanelled Advocate/Senior Advocate in an important matter carried or likely to be carried in appeal to the Supreme Court from the High Court or APTEL.

#### SCHEDULE-V

a) The quantum of fees payable to an Empanelled Advocate for obtaining legal opinion shall be fixed at Rs.10,000/- per opinion.

b) In cases where the Commission consults the Advocate General or a designated Senior Counsel for opinion, it may pay such higher fees as it feels appropriate having regard to the nature and importance of the issue referred for opinion.

Hyderabad  
15-09-2020

Sd/-  
Commission Secretary<sub>(i/c)</sub>