

ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION

“DRAFT” REGULATION ON

TERMS & CONDITIONS OF APPOINTMENT AND PAYMENT OF  
REMUNERATION TO STANDING COUNSEL / COUNSEL

(Regulation No. \_\_\_\_ of 2013)

**(This Regulation is issued duly repealing Regulation No.4 of 1999)**

In exercise of the power conferred by sub-section (1) and clause (l) of sub-section (2) of section 54 of the Andhra Pradesh Electricity Reform Act, 1998 (Act No.30 of 1998) read with sub-section (1) and clause (zo) of sub-section (2) of Section 181 of the Electricity Act, 2003 (Act No.36 of 2003), the Andhra Pradesh Electricity Regulatory Commission hereby makes the following Regulation relating to the terms & conditions of appointment of and payment of remuneration to the Standing Counsel /Counsel appearing on behalf of the Andhra Pradesh Electricity Regulatory Commission

**1. Short title and Commencement:**

- (i) This Regulation may be called the Andhra Pradesh Electricity Regulatory Commission (Terms & Conditions of Appointment and Payment of Remuneration to Standing Counsel / Counsel) Regulation, 2013.
- (ii) This Regulation shall come into force on the date of their publication in the AP Gazette.

**2. Definitions:**

- (i) “ATE” means Appellate Tribunal for Electricity.
- (ii) “Commission” means Andhra Pradesh Electricity Regulatory Commission and includes any officer authorized by the Andhra Pradesh Electricity Regulatory Commission to institute or defend cases on its behalf.
- (ii) “Standing Counsel” means Advocate appointed by the Commission for conducting cases in the High Court or ATE as the case may be.
- (iii) “Counsel” means Advocate engaged by the Commission for conducting cases in any other Court or Forum, other than in High Court or ATE.

- (iv) "Senior Advocate" means any advocate so designated by the High Court or the Supreme Court, by a notification issued in that regard.

**3. Appointment:**

- (i) The Standing Counsel shall be appointed by the Commission. The number of the standing counsel to be appointed shall be determined by the Commission depending upon volume of work, number of cases and importance of the case(s).
- (ii)
  - (a) An advocate with not less than 15 years standing at bar shall only be appointed as Standing Counsel in High Court and / or ATE.
  - (b) An advocate with not less than 10 years standing at bar can be engaged as a Counsel for conducting cases on behalf of the Commission in any other Court or Forum, other than High Court or ATE as and when necessary.
- (iii) The appointment of Standing Counsel shall be for a period of not less than two years in the first instance and may be continued for such further period from time to time as the Commission may by order direct.
- (iv) The engagement of Counsel to any other Court or Forum, other than High Court or ATE, shall be on case to case basis.
- (v) The services of Standing Counsel shall be terminable on one month notice in writing on either side. Decision of termination of services of the Standing Counsel by the Commission shall be final.
- (vi) The Commission reserves its right to engage any other Advocate in any specific case either before the High Court or ATE depending on the nature and importance of case and the specialisation possessed by such Advocate in the subject relating to such case. The decision of the Commission in this regard is final and Standing Counsel shall abide by it.
- (vii) The Commission can if need arises, engage any other advocate for consultation in specific cases. The decision of the Commission in this regard is final and Standing Counsel shall abide by it.

**4. Appointment of a Senior Advocate:**

The Commission, may if it so desires or on the advice of the Standing Counsel, engage a Senior Advocate in any case in the High Court or ATE.

The fee to be paid to the Senior Advocate will be decided by the Commission from time to time depending on the standing of such Senior Advocate at bar and commensurate with the nature of work entrusted.

**5. Duties:**

The duties of the Standing Counsel / Counsel shall be as follows:

- (i) To tender advice and opinion to the Commission and its functional heads in all matters involving legal implications as and when required.
- (ii) To prepare, settle and scrutinize agreements, deeds and other documents of legal nature as may be referred to them by the Commission or any of its officers authorized by the Commission.
- (iii) To prepare affidavits, counter affidavits, petitions, statement of cases and all other connected documentation in which they appear on behalf of the Commission.
- (iv) To appear on behalf of the Commission in all cases or classes of cases assigned to them, where the Commission is a party or its interests are involved before the High Court or ATE and when so required, before any other Court or Forum.
- (v) To perform such other work of legal nature as may be entrusted to them by the Commission from time to time.
- (vi) Endeavour to attend to the work entrusted, promptly and not to seek adjournments on frivolous grounds.
- (vii) To submit status of various cases entrusted as and when called for by the Commission.

**6. Standing Counsel / Counsel not to represent interests adverse to the Commission:**

The Standing Counsel / Counsel shall not appear against the Commission in any case or represent or give opinion or advice to others in any matter adverse to the interests and objectives of the Commission as envisaged under the Andhra Pradesh Electricity Reform Act, 1998 and the Electricity Act, 2003, either directly or indirectly.

**7. Honorarium:**

The Standing Counsel for the Commission in the High Court shall be paid a retainer fee of Rs.20,000/- per month towards his duties as mentioned in Clause No. 5 above.

**8. Fees:**

- (i) Besides the honorarium payable under clause No.7 above, the Standing Counsel for the Commission in the High Court, shall be paid fees as specified in Part – I of the Schedule appended.
- (ii) The Standing Counsel for the Commission in the ATE shall be paid fees as specified in Part –II of the Schedule appended.
- (iii) A Counsel engaged for conducting case(s) on behalf of the Commission in any other Court or Forum, other than the High Court or ATE, will be paid remuneration as decided by the Commission from time to time depending on the volume of work involved and as per the norms of payment as applicable before such Court or Forum.
- (iv) Commission shall decide the fee or reimbursement of expenses in cases that are not covered in the Schedule and / or to be paid for consultation.
- (v) The Commission shall have power to amend the schedule from time to time, without reference to the Standing Counsel / Counsel.

**9. Payment of Reduced Fees in certain Cases:**

If the fees fixed by the Court or the Regulation, as the case or cases may be, is considered high, the Commission shall have the discretion to reduce such fees irrespective of whether or not costs are recoverable by the Commission and pay such smaller amount as may be determined in each case on the basis of work done and the time taken by the Standing Counsel / Counsel. Such fixation may be in accordance with the principles given hereunder, purely as a working guide:-

- (i) The fees fixed by the Court as recoverable by the Commission from the other party will ordinarily be allowed:
- (ii) A reasonable fee will be allowed when the Court awards only proportionate costs recoverable by the Commission from the other party or when a case is decided against the Commission or decided in favour of the Commission but without costs.

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

In case the engagement of the Standing Counsel / Counsel 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

Standing Counsel / Counsel 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.

**11. Interpretation:**

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

**12. 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.

**13. Repeal:**

The Andhra Pradesh Electricity Regulatory Commission Standing Legal Counsels (Terms and Conditions of appointment) Regulations 1999 (Regulation No.4 (Law), Dated 19.11.1999) stands repealed on the date of publication of this Regulation in the AP Gazette.

**14. Power to Amend:**

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

**15. Saving of inherent power of the Commission:**

Nothing in this Regulation shall bar the Commission from adopting a practice with regard to Terms & Conditions of Appointment and Payment of Remuneration to Standing Counsel / Counsel which is at variance with any of the provisions of this Regulation, if the Commission, in view of the special circumstances of a case or class of cases and for reasons to be recorded in writing deems it necessary or expedient.

(BY ORDER OF THE COMMISSION)

Place: Hyderabad  
Date: 20.07.2013

Sd/-  
M.D.Manohar Raju  
Commission Secretary

## SCHEDULE

### PART - I

The Standing Counsel for the Commission in the High Court shall be paid fee as follows:

- (i)
- (a) i) In case of a single writ petition or writ appeal, an amount of Rs. 8,000/- will be paid; Rs.4,000/- upon filing of counter and balance amount of Rs.4,000/- after disposal of the case.
- ii) In case of entering only appearance without filing any counter affidavit and when there is no requirement to file counter affidavit, on behalf of the Commission, an amount of Rs.4,000/- will only 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 is passed against the Commission.
- (b) In case of more than one writ petition or writ appeal, involving similar issue, an amount of Rs.12,000/- will be paid in respect of the first case.
- (c) In case of such batch of cases involving similar issue, for the second and subsequent cases, the following amounts will be payable.
- |            |                     |
|------------|---------------------|
| 2 to 50    | Rs.2,500/- per case |
| 51 to 100  | Rs.1,500/- per case |
| 101 to 500 | Rs.500/- per case   |
- Above 500 cases, involving similar issue, Counsel will only be paid Rs.175/- when vakalat is filed towards expenses for such cases exceeding 500 and above.
- (ii) An amount not exceeding Rs.7,000/- to defray expenses and accommodation, subject to production of vouchers, shall be paid when the Standing Counsel attends works in a place other than Hyderabad. Travel expenses by air in economy class shall be reimbursed, upon production of proof of travel by such class.
- (iii) Whenever necessary, Commission may decide and permit the Standing Counsel to engage services of a junior counsel. The junior counsel is entitled to fee of Rs.4,000/-.

## **PART - II**

The Standing Counsel for the Commission in the ATE shall be paid fee as follows:

- (i) In case of a single appeal, an amount of Rs.5,000/- per hearing will be paid.
- (ii) In case of more than one appeal, involving similar issue, an amount of Rs.2,000/- each per hearing will be paid, for second and subsequent appeals subject to a maximum of Rs.25,000/- where a batch of cases are filed and heard together.
- (iii) An amount not exceeding Rs.7,000/- to defray expenses and accommodation, subject to production of vouchers, shall be paid when the Standing Counsel attends works in a place other than New Delhi. Travel expenses by air in economy class shall be reimbursed, upon production of proof of travel by such class.