



**ANDHRA PRADESH ELECTRICITY REGULATORY COMMISSION**  
**Compensation to Victims of Electrical Accidents Regulation, 2017**  
**(Regulation No. 2 of 2017)**

**Explanatory Memorandum**

Since the constitution of the Andhra Pradesh Electricity Regulatory Commission, at every public hearing, a number of stakeholders ventilated their grievances about the victims of electrical accidents not being compensated or being undercompensated due to the absence of any defined parameters or norms for claiming or paying such compensation. The Commission found no uniform or binding guidelines being followed by the public utilities to compensate any loss of life or limb or property due to electrical accidents and the adhoc procedures do not result in justly and adequately compensating the victims. The Commission therefore desired to evolve a rational and scientific basis in tune with the fundamental prerequisites of judicial procedure to determine the extent and quantum of liability of the public utilities in such events. Therefore, the Commission by a public notice dated 17-06-2015 placed on its website requested all the stakeholders to offer their considered views and suggestions to evolve the necessary legal framework for the purpose. The Commission also addressed the power utilities in the State similarly with a request to have the public notice brought to the notice of all the officers working with the utilities also. The Commission also addressed the Energy Department of the State Government, the Vidyut Ombudsman and the Consumer Grievances Redressal Fora also similarly to offer their views and suggestions. The Commission also addressed all the State Electricity Regulatory Commissions, Central Electricity Regulatory Commission, Central Electricity Authority and the Ministry of Power, Government of India to furnish the procedures being followed by

them and make their suggestions in this regard. Individual notices were also sent to all the stakeholders who raised the issue during the public hearings earlier. The Director (Administration) of the Commission also got in touch with some known experts and non-governmental organizations connected to the power sector to make their views known in this regard.

2. The Director (Administration) of the Commission, who was entrusted with the task of making requisite study and research, obtained required data on fatal or non-fatal electrical accidents relating to the Transmission Corporation of Andhra Pradesh Limited, Andhra Pradesh Power Generation Corporation Limited and both the Distribution Companies within the State for a period of ten years from 2006-07 to 2015-16. On thorough verification of all the procedures in vogue concerning the consequences of electrical accidents and payment of any ex-gratia or compensation in India and abroad, the Director (Administration) of the Commission could lay his hands on the Jaipur Vidyut Vitran Nigam Limited Payment of Compensation (in cases of death/permanent disability of publicman caused due to electrical accident) Rules, 2010 (which provided an administrative scheme for payment of compensation in the State of Rajasthan), the Consumer guide to claim solatium for electrical accidents issued by the Karnataka Electricity Regulatory Commission, proceedings of the erstwhile Andhra Pradesh Electricity Regulatory Commission dated 13-08-2013 for enhancement of ex-gratia amount payable in case of fatal accidents to non-departmental person and animal and the proceedings of the Telangana State Electricity Regulatory Commission dated 28-12-2015 which further enhanced ex-gratia sums and laid down the procedures for making a claim. He could also lay his hands on the administrative procedures for loss of crops and crop insurance obtaining in the State of Gujarat and the proceedings/orders obtaining in the States

of Tamil Nadu, Rajasthan and Telangana in respect of payment of compensation/ex-gratia or premium for insurance for outsourced workers respectively.

3. Sri M. Thimma Reddy, Convenor, People's Monitoring Group on Electricity Regulation in a communication to the Director (Administration) of the Commission through e-mail dated 29-11-2016 made various suggestions on the subject which are kept in view in finalizing the draft for the regulation.

4. After examining the subject from all conceivable angles, the draft "Andhra Pradesh Electricity Regulatory Commission Compensation to Victims of Electrical Accidents Regulation, 2017" has been prepared and placed on the website of the Commission inviting comments and suggestions of all interested persons/stakeholders and fixing a public hearing on 15-05-2017 at the headquarters of the Commission. All the utilities and officers concerned were also similarly requested to make their views/suggestions known by that date.

5. During the public hearing on 15-05-2017, Sri Sree Kumar. N, Member, Prayas (Energy Group), Sri P. Bhaskar Reddy, DE/RAC representing CGM / Operation / APSPDCL and Sri M. Thimma Reddy, Convenor, People's Monitoring Group on Electricity Regulation presented written submissions and also addressed the Commission orally about their views and suggestions. Sri Sridhar Prabhu, Advocate, Sri M. Venugopala Rao, Senior Journalist and Convenor, Centre for Power Studies, Hyderabad, Sri P. Shiva Rao, Advocate and Standing Counsel for the licensees and Sri K. Rajendra Reddy, President, Rashtriya Raithu Seva Samithi, Pakala made their oral submissions and the public hearing was concluded. The final draft of the Regulation has been prepared keeping in view all the suggestions/objections received orally and in writing.

6. The different views and suggestions and the response of the Commission have been enumerated below:

7. Views/suggestions of Sri S. Surya Prakasa Rao, Former Director (Commercial), Central Power Distribution Company of Andhra Pradesh Limited and Former Secretary, Andhra Pradesh Electricity Regulatory Commission.

- (a) Suggestion: The inputs/views of the stakeholders in response to the public notice dated 17-06-2015 along with the decision of the Commission thereon should also have been published as an Explanatory Memorandum.

Commission's response: No inputs/views were received from the stakeholders in response to the public notice dated 17-06-2015.

- (b) Suggestion: The regulatory framework proposed should provide for streamlining the process of compliance by the distribution licensees with the technical standards and safety measures specified by the Central Electricity Authority and the codes/manuals etc., on construction and maintenance of distribution networks.

Commission's response: Sections 53 (a) and (b), Section 73 (c) and Section 177 (2) (b) of the Electricity Act, Central Act 36 of 2003 empower the Central Electricity Authority to specify suitable measures and safety requirements in this regard. Section 57 of the said Act enables this Commission to specify standards of performance and compensation. Sections 57 (1) and (2), 86 (1) (i) and Section 181 (2) (za) together empower the Commission to make Regulations on such standards of performance. The power and jurisdiction of the Central Electricity Authority and the State Commission are thus

specifically defined and demarcated and the State Commission cannot encroach upon the power and jurisdiction of the Central Electricity Authority. The Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010 as amended in 2015 occupying the field are exhaustive and self-contained regulations on the subject including the manner of ensuring observance of the specified safety measures through an electrical safety officer etc. As such, the State Commission may not be competent to provide for any matter covered by the Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010 as amended in 2015 in the present Regulation and any subordinate legislation being made by this Commission within its jurisdiction has to be without encroaching upon the Regulation already made by the Central Electricity Authority.

- (c) Suggestion: Section 57 appears to make liable the Distribution Companies to pay compensation to the consumers and not general public for any default or deficiency or accidents.

Commission's response: Consumer is defined in Section 2 (15) of the Electricity Act, Central Act 36 of 2003. Section 57 (1) while enabling the Commission to specify standards of performance, refers to consultation with the persons likely to be affected and did not confine it to consumers alone. Section 57 (2) also speaks about the liability to pay compensation to the persons affected. The specific language of Section 57 thus shows the concept of standards of performance and compensation to be applicable to all persons affected whether they are consumers or not. Whenever the

Electricity Act, Central Act 36 of 2003 intended to make provision for the consumers only, it was specific like in Section 42. Any classification of the victims of the electrical accidents on the test of being consumers or not, may not answer the test of reasonable classification not offending the principle of equality under the Constitution.

- (d) Suggestion: The standard specified in the proposed clause No.4 is a defective enabling provision not enough to establish the default of standard to invoke Section 57 for payment of compensation and is vulnerable for challenge.

Commission's response: The safety standards specified in the proposed clause No.4 are practically a verbatim reproduction from Section 53 of the Electricity Act, Central Act 36 of 2003 and Section 37 (2) (f) of the Indian Electricity Act, 1910. By way of abundant caution, to avoid any apprehensions of inadequacy of expression or clarity, the following be added to the proposed clause No.4 as follows,--

“(3). The licensees shall strictly comply with the Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010 as amended from time to time and any further suitable measures or requirements that may be specified by the Central Electricity Authority under Section 53 (a) and (b), Section 73 (c) and Section 177 (2) (b) of the Electricity Act, Central Act 36 of 2003 relating to safety and electric supply.”

- (e) Suggestion: Avoiding accidents and reducing it to zero level has to be specified after consultation with the licensees to make the victim entitled to compensation under Section 57.

Commission's response: Safety standards under the proposed clause No.4 are proposed as arising out of the statutory mandate under Sections 53, 57, 58, 67, 73, 177 and 181 of the Electricity Act, Central Act 36 of 2003 and Sections 11, 33, 34, 35 and 54 (2) of the Andhra Pradesh Electricity Reform Act, State Act 30 of 1998 and the Central Electricity Authority (measures relating to safety and electric supply) Regulations, 2010 and there should be no difficulty in fastening the liability for compensation on the licensees under Section 57 (1) and (2). The very language of the proposed clause No.4 should make it evident that even a single electrical accident will attract the Regulation and the proposed clause No.25 draws a statutory presumption in favour of the victim against the licensee.

- (f) Suggestion: Be informed of the procedures for compliance of standards and safety measures, hold consultations as required under Section 57 (1), determine a reasonable level of compensation with mutual agreement of all the stakeholders and furnish a revised draft Regulation.

Commission's response: Central Electricity Authority Regulations of 2010 are a self-contained Regulation providing for its implementation and enforcement and the Commission cannot indirectly amend or vary or modify or add to that Regulation.

The public notice dated 17-06-2015 and the communications to all the utilities and the officers etc., were only for the purpose of answering the need for consultation under Section 57. Even the present public notice and communication to everybody can also be reasonably construed as holding further consultations, in addition to satisfying Section 181 (2).

Reasonable levels of compensation as considered just and reasonable by the Commission have been determined and incorporated in the draft and universal unanimity on the quantum of compensation may be ideal but not practically possible.

Under the circumstances, there appears no necessity for publishing any further revised draft Regulation.

(g) Suggestion: Regarding the drafting

Commission's response: Implementation of technical standards and safety measures cannot be the subject matter of this Regulation.

The Regulation does not propose to make any distinction between the electrical accidents and proposes to provide relief to the victims in reasonable proportion to the loss or injury suffered irrespective of any fault. If there is an unusual occurrence like a cyclone or tsunami, any electrical accident that occurs as a result thereof cannot be construed as due to failure of the licensees to meet the standards of performance prescribed by the Regulation. The contingency conceived about the consequences of unusual occurrences can be taken care of by adding at the end of the proposed clause 5 (2), before the proviso, the following words:

“unless the electrical accident primarily was not due to the failure of the licensee to meet the standards of performance but was a direct or proximate result of intervention of some other extraneous reason or cause.”

References to the affected persons and the reporting officers are self-explanatory and need no definitions.

While the references to electrical safety officers etc., cannot be incorporated in this Regulation, any provision for provisional payment is not proposed as time limits were prescribed for different steps ending with the payment of compensation and the payment is contemplated on the final orders at the level of the Chairman and Managing Director in view of the possible financial implications.

The categories of injured persons were specified in tune with the accepted principles of forensic medicine and as compensation should be proportionate to the consequences of the injuries, a detailed distinction between different categories of injured persons became inevitable.

Consumer Grievances Redressal Fora and Vidut Ombudsman were conferred jurisdiction by this Regulation by creating a legal friction that the issue becomes a grievance within the meaning of Regulation No.3 of 2016 and as reference of the victims either to the State Commission or the Fora under the Consumer Protection Act, 1986 or Civil Court or High Court

against the final orders of the Chairman and Managing Director will make the victims suffer more cost and time.

#### 8. Views/suggestions of the APSEB Engineers' Association (APSPDCL Unit)

- a) Suggestion: The distribution company is liable only if the accident is due to departmental lapses and not otherwise.

Commission's response: The safety standards and standards of performance conceived by Sections 53, 67, 57 and 58 of the Electricity Act, Central Act 36 of 2003 or rules or regulations made thereunder conceive protection of the public from all dangers and elimination of risks of all injuries to persons or properties and in tune with the legislative scheme and intent, any electrical accident resulting in loss of life or limb to human beings or animals has to be presumed as due to failure of the licensee to meet the safety standards and standards of performance. That apart, humanitarian considerations require the welfare state or its agencies to come to the rescue of the victims without making any technical and artificial distinction between departmental lapses and non-departmental lapses.

- b) Suggestion: Accidents that occurred before the incoming side of the cutouts alone come within the purview of the distribution company.

Commission's response: The safety standards are proposed to be prescribed only with reference to the works of licensees and the entire statutory background is referred to in the preamble. The liability for compensation was specifically prescribed with reference to the failure to meet those standards of performance only. The impression that the

installations or appliances of the consumers are also covered by this Regulation is thus erroneous. The Regulation specifically covers only accidents arising out of the failure of a licensee to meet the specified safety standards and standards of performance in relation to its works.

- c) Suggestion: Accidents due to natural calamities, meddling by consumers and conspiracy of the public should not make a distribution company liable to pay compensation, while negligence of the departmental employees should make them liable to pay compensation.

Commission's response: The contingencies apprehended by the Association are now clearly averted by clearly mentioning in clause 5 (2) that "unless the electrical accident primarily was not due to the failure of the licensee to meet the standards of performance but was a direct or proximate result of intervention of some other extraneous reason or cause".

- d) Suggestion: Fool-proof procedures should be ensured to avoid misuse by the employees or public by a joint preliminary investigation by the Section Officer and another Section Officer nominated by the Divisional Engineer (Operation) or VRO, detailed inspection by the Divisional Engineer (Operation) and the Divisional Engineer (Technical) of the circle office or MRO and findings of the police investigation or other documents as specified in the draft Regulation.

Commission's response: The officer on the field and the officer of the division who submit the occurrence report and enquiry report are responsible officers and when the Divisional Engineer sends his report

through proper channel, the officers in between also can make their own investigations or enquiries if they are not satisfied with the Divisional Engineer's report. The Chairman and Managing Director will also cause verification of the reports by himself or through his nominee and it was specifically provided that the Chairman and Managing Director can collect every information, material and evidence he feels relevant in any manner he feels appropriate. Sufficient safeguards are thus incorporated in the Regulation.

- e) Suggestion: Liability to compensation has to be clearly defined.

Commission's response: Already answered above.

- f) Suggestion: If it is not decided about the departmental or non-departmental lapses, claims against insurance companies may become precarious and unnecessary court cases may result. A marginal amount of Rupee one only from each service connection per month may be collected to create a compensation fund and maintaining the fund with the money of the distribution companies may be avoided as they are in financial losses.

Commission's response: As already stated, the Regulation is proposed in tune with the legislative scheme and intent of the Electricity Act, 2003 to provide a speedy and summary relief to the victims of electrical accidents. A comprehensive adjudication before a Civil Court or a Criminal Court if the officers or employees or the victims so desire, is not barred by this Regulation. In so far as the compensation fund is concerned, the Order on Tariff for Retail Sale of Electricity during FY 2017-18 specified the procedure and the suggestions will be kept in view for future years.

9. Views/suggestions of the Government of Andhra Pradesh (Letter No.469/Power-III/2017-1 dated 09-05-2017.

- a) Suggestion: No compensation need be paid for natural calamities, accidents due to vehicles hitting the poles and suicide which shall be decided by the Reporting Officer.

Commission's response: As already stated, these aspects are taken care of and procedural safeguards are incorporated in the Regulation.

- b) Suggestion: Compensation should be paid only when there is negligence on the part of the licensee.

Commission's response: As already stated, the statutory scheme and intent mandate protection from any injury and elimination from any risk for human beings, animals and properties and the happening of an incident causing loss of life or limb to human beings or animals itself may signify the licensee not meeting the prescribed safety standards of performance. Placing any burden of proof on the victims to prove negligence on the part of AP Transco or the Discom will be violating the statutory intent and placing an inequitable burden of proof on the victims. How an electrical accident had occurred can be competently explained only by the licensees having exclusive or special technical expertise and knowledge of the safety standards which they adopted. As such, making proof of any negligence on the part of the licensee, a condition precedent for grant of compensation will be not only against Central and State Acts but also inequitable and unjust.

- c) Suggestion: Post-mortem report is required as a proof that death is due to electrical shock or burns.

Commission's response: If a post-mortem is conducted, a report thereof can be positively looked into. Even otherwise, a death due to an electrical accident may be considered probalised by any other dependable evidence. The occurrence report, the enquiry report, the verification and final orders provide ample opportunity for securing and scanning all available evidence. Detailed provisions are accordingly incorporated in the Regulation.

- d) Suggestion: Hurt, Grievous Hurt, Disability etc., shall be elaborated.

Commission's response: Definition of Hurt and Grievous Hurt is referential to the Indian Penal Code, Central Act XLV of 1860 and Sections 319 and 320 thereof contain elaborate details of the same. Disability was specifically referred to as that certified in tune with G.O.Ms.No.31, Women Development, Child Welfare and Disabled Welfare (DW) Department of the Government of Andhra Pradesh dated 01-12-2009, which orders are comprehensive. They are not again repeated in this Regulation, to avoid any duplication.

10. Views/suggestions of Sri Sree Kumar. N, Member, Prayas (Energy Group), Member, State Advisory Committee, APERC

- a) Suggestion: Section 16 of the Electricity Act, 2003 also could have been mentioned as one of the enabling provisions for the Regulation.

Commission's response: Section 16 refers to the general or special conditions that can be specified in a license as applicable. The AP Transco Transmission and Bulk Supply License and the Distribution and Retail Supply Licenses issued

to both the distribution companies in the State mandate in Condition 4 of the licences that the licensee shall comply with the regulations, orders and directions issued by the Commission from time to time and hence the present Regulation binds the licensees under the conditions of license under Section 16 also, which is not a source of the power of promulgation of this Regulation.

- b) Suggestion: The amount of compensation for the death of animal may be specified instead of leaving it to the CMD as in clause 14.

Commission's response: Animals injured or dead in electrical accidents and their value will be infinite in variety and any scientific quantification of the compensation payable for animals of all descriptions may not be physically possible or practically correct. Hence, the discretion is left to the highest functionary of the licensee who can be trusted to render a neutral decision on merits in discharge of his official duty. If he fails in that duty, a remedy is always there before the CGRF or VO or a regular court or forum.

- c) Suggestion: The compensation amount may be specified in a Schedule /Annexure which can be revised periodically by the Commission.

Commission's response: The need for periodical revision of compensation amount in tune with governing inflation, cost of living index etc., is well suggested and a specific provision providing for such periodical revision by the Commission is being incorporated in clause 17 of the final draft.

- d) Suggestion: Attribution and quantification of the loss of property should be specified with reference to procedure and decision maker. Such analysis should be ideally by a third party and not the operation staff of the licensees.

Commission's response: The right to compensation under this Regulation is in addition to and not in derogation of any other right or remedy available in law to an affected person as clarified in clauses 15 and 16. As the Regulation intends to provide a summary remedy expeditiously, men of the licensee are entrusted with reporting the occurrence, enquiring into it and deciding the relief. They are interested in the cause only in the performance of their official duty and not personally. Involving any third party procedure will complicate and delay the grant of compensation and may defeat the object of the Regulation.

- e) Suggestion: Verification and final orders can be by a designated officer of the licensee also to speed up the process.

Commission's response: Even the present clause clearly provides for verification by an officer of the licensee duly authorized by the CMD in this behalf. Only the final orders were kept with CMD alone in view of the financial implications.

- f) Suggestion: The claim can also be made to a local designated senior officer instead of CMD alone.

Commission's response: During the oral submissions, the possible difficulty for persons at remote places to approach the CMDs at their headquarters was pointed out. To avoid such problem, the words "presented in person or sent by post" are incorporated in clause 23.

- g) Suggestion: There should be some plan to cap the reserve fund and gradually reduce it to compel the licensee to improve safety.

Commission's response: The suggestion is well taken and will be kept in view while passing the next Tariff Order.

- h) Suggestion: Regulation 3 of 2016 applies only to consumers and other affected persons may be specifically included for the purposes of appealing to CGRF and VO.

Commission's response: Any person aggrieved is considered to be having a grievance under clause 29 and this legal fiction by the deeming provision takes care of the contingency of covering every affected person.

- i) Suggestion: Clarity on safety requirements and their implementation is needed. Data on accidents should be periodically collected and analysed. Like other SERCs., CEA Regulation can be specifically referred to.

Commission's response: Incorporation of sub-clause (3) in clause 4 specifying CEA Regulations is in compliance with the suggestion. Words "electrical safety" are not included in the title of the Regulation to avoid any impression of overlap over the CEA Regulation.

11. Views/suggestions of CGM / Operation / APSPDCL through Sri P. Bhaskar Reddy, DE/RAC:

- a) Suggestion: The Regulation may be restricted to fatal electrical accidents and in future, steps may be taken to compensate injury to human beings, animals and property.

Commission's response: Grant of compensation to the dependents of the deceased and denying the same to persons affected by injuries to a person or

property may not be a reasonable classification based on intelligible criteria satisfying the fundamental right of equality. Even otherwise, when the Central and State Electricity Acts intend specification and compliance with safety standards eliminating the risk of injury to any person or property, the failure to meet the specified standards of performance cannot be treated differently based on different consequences.

- b) Suggestion: Victims of loss of property due to electrical accidents may invoke their rights through other Fora to avoid legal complications and misappropriations.

Commission's response: The functionaries of the licensees from the field level to the top cannot be suspected by the licensees themselves to possibly give scope for misappropriation and the Regulation proposes to place the burden of proving the entitlement to compensation in respect of injury to property on the claimant only to avoid such contingencies. No other legal complications are reasonably visualized if the licensees follow the Regulation in letter and spirit.

- c) Suggestion: Compensation has to be paid only in cases of failure or negligence on the part of the Discom but not like in a case where the hit of a vehicle to an electric pole results in a fatal electrical accident.

Commission's response: If the electrical accident is primarily due to intervention of some other extraneous reason or cause like a lorry hitting an electric pole, the same leads to no liability to pay compensation which is now specified in clause 5 (2). Otherwise, the very fact that there was loss of life or limb or property due to an electrical accident, is ex-facie indicative of non-compliance

with Section 53 of the Electricity Act, 2003 and Safety Regulations of CEA. Mere failure to meet the specified standards by itself should lead to payment of compensation according to Section 57 of the Electricity Act, 2003.

- d) Suggestion: The compensation payable for loss of human and animal life is on high side and compensation for different animals like cow, buffalo, goat, sheep etc., which cost very less, be specified.

Commission's response: The quantum of compensation for loss of human life or limb even at the maximum prescribed is susceptible to the vice of being called low but not high. The compensation for loss of animal life was fixed at a maximum of Rupees one lakh per animal and no minimum was prescribed. It is a matter of common knowledge that some varieties of animals may cost lakhs of rupees but to avoid undue financial burden on the Discom straightaway, the maximum cap is prescribed. What is the reasonable compensation payable to each animal is ultimately left to be decided by the CMD of the licensee on the record and evidence available to him. As animals and their values vary in each case, specification of a particular value may not be desirable and at any rate, it can never be exhaustive.

- e) Suggestion: The cost of hospital charges varies from one hospital to other and one place to other and compensating the same cannot be taken up.

Commission's response: The Regulation prescribes in case of a claim by the claimants, submission of information by the claimants towards evidence of expenses of hospitalization and treatment. It is ultimately for the CMD to arrive at the sum payable towards such medical expenses on the information, material

and evidence before him. As the very concept of compensation in law implies an attempt to place a person in the same position he would have been but for the event to the extent possible, actual medical expenses cannot be totally excluded merely on the ground of variance between hospital to hospital and place to place. It is for the CMD to limit such compensation to reasonable limits keeping in view that compensation is neither for unjust enrichment nor is only a pittance but a just and reasonable quantification of loss in monetary terms.

- f) Suggestion: Assistant Divisional Engineer may be made the Reporting Officer.

Commission's response: The officer at the field is the most appropriate person to report about any accident i.e., an Assistant Engineer or an Additional Assistant Engineer.

- g) Suggestion: The DE may be granted 30 days time to submit an enquiry report as he shall be providing the death/injury certificate, legal heir certificate, identity proof of the victims etc., and he may be permitted to seek further extension of time from the Corporate Office of the Discom if he finds any additional data or information to be necessary to finalise his enquiry report.

Commission's response: The time limits prescribed at different stages have kept practical considerations in view. Still in view of the request, the time limit is being changed to 15 days from 7 days in clause 19.

- h) Suggestion: The time for issue of final orders by the CMD may be modified to 30 days.

Commission's response: Clause 20 (iii) even now provides for 30 days as an exception for recorded reasons, while the normal rule is 15 days for passing final orders, which is but reasonable.

- i) Suggestion: Due to prevailing accounting procedures, time limit for payment may be modified as 60 days.

Commission's response: Once the CMD passes final orders, there are no such accounting procedures known to the Commission which take 60 days for making payment. Even 15 days granted by clause 22 appears to be more liberal than required.

- j) Suggestion: The rate of interest may be modified as RBI bank rate.

Commission's response: For monetary claims, interest at 18% per annum simple has been recognized by judicial precedents to be reasonable and interest becomes payable only when the time limits fixed by the Regulation are exceeded by more than twice.

- k) Suggestion: The payment of compensation in respect of electrical accidents involving the AP Transco may be made by AP Transco directly and not as per Regulation 28.

Commission's response: The payment was directed to be made by the Discom of the area on communication of the final orders of the CMD of AP Transco, as the reserve fund is created only with the Discoms and as the Discoms can deduct such payment, from the transmission tariff payable by them to AP Transco.

l) Suggestion: No jurisdiction may be conferred on the CGRF and VO.

Commission's response: There should be some Forum for a person aggrieved by the decision of the licensee on the quantum of or entitlement to compensation and if it were the State Commission, the person affected will suffer more time, cost and distance. The State Commission cannot create jurisdiction in any other Fora like regular courts or tribunals. If the persons affected are consumers, the CGRF and VO will undoubtedly have jurisdiction under Regulation 3 of 2016 itself which cannot be excluded by this Regulation. It is only when the person affected is not a consumer that a deeming provision is made under clause 29 in tune with justice, equity, good conscience and the principles of natural justice.

j) Medical treatment and physical rehabilitation may lead to more complications to the Discom.

Commission's response: The licensee is obligated to ensure only possible assistance and help to help to victims to be treated and rehabilitated. This is a natural corollary to the liability to compensate, the word compensation necessarily signifying an attempt to put back the person affected in the same position as far as possible in which he would have been but for the accident.

12. Views/suggestions of Sri M. Thimma Reddy, Convenor, People's Monitoring Group on Electricity Regulation:

a) Suggestion: Dependents of a deceased victim may be allowed to file the claims before Additional Divisional Engineer or Divisional Engineer.

Commission's response: It is now specifically provided that a claim can be in person or by post. A claim directly to the CMD will avoid lot of delay than a claim travelling from bottom to top through proper channel.

- b) Suggestion: Number of measures are suggested to bring down the electrical accidents drastically.

Commission's response: The well considered suggestions of Sri M. Thimma Reddy be communicated by the office of the Commission to the CMDs of AP Transco and both the Discoms for positive consideration and necessary action.

13. Views/suggestions of Sri Sridhar Prabhu, Advocate:

- a) Suggestion: In applications for new connections, a nominee of the consumer may be asked to be specified. More CGRFs may be established and they may be asked to adjudicate the claims for compensation. Group insurance premium can be collected from the consumers. Chief Electrical Inspector's report can be taken as basis without a separate enquiry report. There is a doubt whether a Discom can also appeal to CGRF. There may be conflicting multiple claims on the same accident. Section 142 covers violation of CEA Regulations.

Commission's response: Specifying a nominee in an application for a new connection may not serve any purpose, as a nominee will not get any right to property i.e., compensation, if the consumer is dead in the accident and gets only a right to receive the compensation, which has to be shared in law by all the successors of the consumer.

The decision on compensation is kept with the CMD in view of the financial implications and the further approach is proposed to be provided to CGRF and VO in a manner akin to a first appeal and a second appeal in tune with the fundamental prerequisites of judicial procedure. More CGRFs can be established if the filing and pendency of cases under this Regulation require and justify the same in future.

The statistical data of electrical accidents for a decade does not suggest the number to be unmanageable for the CMDs.

Group insurance as an alternative source for payment can be considered during the next tariff proceedings.

The Chief Electrical Inspector's report under Section 161 of the Electricity Act, 2003 is primarily about the cause of the accident and compliance with the safety provisions but not about compensation or its quantum or entitlement.

A complaint under clause 29 of the Regulation is provided for only a person aggrieved by the final orders of the CMD of the licensee and the licensee can never be aggrieved by the orders of its own CMD to entitle it to approach the CGRF under this clause.

Any dispute or difference about entitlement to the compensation due to multiple claims may be unavoidable in some cases and the CMD will decide, if he can or otherwise he will refer the disputants to a civil court under clause 27.

14. Views/suggestions of Sri M. Venugopala Rao, Senior Journalist and Convenor, Centre for Power Studies:

a) Suggestion: Consumers may not be burdened to contribute to corpus fund and Discoms may bear the liability from other resources, if it exceeds the prescribed limits.

Commission's response: All resources of Discoms including tariff and non-tariff income come from the people only who are again the consumers and their families. However the suggestion will be kept in view during the next tariff proceedings.

15. Views/suggestions of Sri P. Shiva Rao, learned Standing Counsel for the licensees:

a) Suggestion: The principles laid down in Madhya Pradesh Electricity Board Vs. Shail Kumari and Ors 2002 (3) ALD 4 (SC); Motukuri Bheemavva and Ors. Vs. APSEB through its Chairman and Anr. 1997 (6) ALD 217; and Cellular Operators Association of India and Ors Vs. Telecom Regulatory Authority of India and Ors. 2016 (5) SCALE 137 may be followed. A quasi judicial authority is needed to decide the quantum of compensation. The presumption under clause 25, not there in the main Act, may not be invocable in the subordinate legislation and it may not be necessary in view of the principle of strict liability. Instead of CMD being a judge in his own cause, the CGRF/VO may decide the claims.

b) Written submissions were subsequently communicated on 24-05-2017 stating that compensation shall be determined by the State Commission under Section 57 (2). The CMD or any other officer of the licensee are not

authorized to undertake adjudicatory functions under the Electricity Act, 2003 and conferment of adjudicatory functions on an administrator of a company by a subordinate legislation may not be permissible. The Commission cannot delegate the power of determination of compensation conferred on it under Section 57 (1). The CMD is prohibited to adjudicate the compensation as no man can be judge in his own cause. The Hon'ble Supreme Court applied doctrine of strict liability to such accidents and in the absence of any provision in any other law including the Electricity Act, 2003, it is incorrect to provide a presumption through subordinate legislation. The multiplier method has to be adopted to victims of electrocution accidents. The victims need not be referred to any other remedy again and appropriate amounts may be decided under the Regulation itself. The specific figures may be applied only for no fault liability.

Commission's response: (a) The incharge Secretary of the Commission has placed before the Commission Raman Vs Uttar Haryana Bijli Vitran Nigam Limited and others (2014) 15 SCC 1. A learned single Judge of Punjab and Haryana High Court in an exhaustive consideration concluded that failure of the statutory functions/duties tantamounting to negligence on the part of the electricity authorities cannot be overcome by any statutory obligations on the part of the consumer of electricity. The electricity authorities are liable irrespective of whether the harm could have been avoided by the consumer taking precautions. The learned single Judge concluded from the judicial precedents cited that rule of strict liability and the theory of foreseeable risk make the electricity authorities primarily liable to compensate the sufferer. The learned single Judge further held that on failure to use all reasonable means to prevent escape of an inherently dangerous thing, which by nature the

electricity is, the standards of care will be high and the onus should be on the supplier that there was no negligence.

When a Division Bench modified the order of the learned single Judge, the Hon'ble Supreme Court restored the order of the learned single Judge with some modifications and reiterated that electricity boards/supply companies are duty bound to take precautionary measures under the Act and the liability to pay compensation is strict and irrespective of the fact that harm could have been avoided by the consumer by taking precautionary measures.

In Cellular Operators Association of India and Ors., case, Para 11 of the judgment extracted the arguments of the counsel and not the conclusions of the court and the Hon'ble Supreme Court with reference to Sections 57 and 86 (1) (f) of the Electricity Act, 2003 upheld the right to compensation of the affected person if the licensee fails to meet the prescribed standards of performance, which is for the actual loss suffered and only as a result of the fault of a service provider being established before a quasi judicial tribunal. The present Regulation determines the compensation payable in different cases in clauses 6 to 13 on the liability for compensation arising out of the failure to meet the safety standards of performance. Detailed procedures for assessing the quantum of and entitlement to the compensation with crosschecking and verification at different levels are specified before the CMD passing final orders. The role of the CMD under the Regulation is capable of being termed as quasi judicial but there is nothing in law which prohibits an administrative authority from exercising a quasi judicial jurisdiction, if the same is lawfully conferred on it / him.

The decisions in Madhya Pradesh Electricity Board and Motukuri Bheemavva and Ors echo similar principles and the first decision was clear that irrespective of taking all measures to prevent mishaps and absence of carelessness or negligence, the electricity supplier in such cases will be liable under the law of torts to compensate for any injury, while it is made clear in the second decision that it is for the defendant in such cases to prove that there is no negligence on the part of it and not for the complainant to prove negligence. It is only this settled law that is incorporated in clause 25 as a presumption, which is neither an invention by the Commission nor conferment of a new power or jurisdiction by the Commission.

While no man can be a judge in his own cause, what the Regulation contemplates is only a summary immediate relief without prejudice to any other rights or contracts or schemes creating any civil or statutory or contractual or other liability. The CMD thus is not a final arbiter on the question of quantum of or entitlement to compensation and is involved only in his official capacity to discharge the duties prescribed by this Regulation.

b) The Andhra Pradesh Electricity Regulatory Commission (Licensees' Standards of Performance) Regulation 7 of 2004 was also made under Sections 57 and 59 of the Electricity Act, 2003 read with Section 181 (za) and (zb) thereof. The Regulation itself prescribes not only the standards of performance but also the compensation to consumers in case of default in Schedule II and made the licensees liable to pay the specified amounts under Regulation 4. It is in a similar fashion that the Commission determined the compensation payable for loss of human or animal life or loss of human or animal limbs or loss of

property in Chapter III of the Regulation which determination will be appropriately applied and implemented in individual cases by the licensees. Thus, the compensation is determined by the Commission itself and the manner in which the compensation has to be paid to the affected person is exhaustively stated in the Regulation like in Regulation 7 of 2004.

The present Regulation also does not suffer any vice of prohibited or excessive delegation. Administrative or executive authorities or officers being entrusted with quasi judicial functions is not unknown to law and illustratively it is a revenue official that determines the compensation in land acquisition cases. While the cause comes before the CMD not in his personal capacity but in discharge of his official duty, the purpose of this Regulation is to provide an expeditious relief to sustain the victim or his dependents but not conclusive determination of the quantum of compensation under any civil or statutory or other liability.

The multiplier method adopted for determination of compensation in motor accident cases also may be relevant for determining the compensation in electrical accident cases before a civil court. At any rate, this Commission will not be competent to make a Regulation ousting the jurisdiction of a civil court or denying the rights under any law for the time being in force like the Workmen's Compensation Act or depriving the benefits of any contract or scheme to a beneficiary. Clauses 15 and 16 of the Regulation were intended to make it clear that the compensation under this Regulation is for immediate solace and support and not for final determination of the civil rights of the parties.

As already stated, as clause 24 does not create any new principle or remedy, mere nomenclature as a presumption will not detract from the fact that it is only reiterating the letter and intent of the electricity laws and the principles laid down by binding judicial precedents on strict liability. In the honest and considered opinion of the Commission, the Regulation is within the limits of permitted subordinate legislation.

16. Views/suggestions of Sri K. Rajendra Reddy, President, Rashtriya Raithu Seva Samithi, Pakala:

a) Suggestion: CGRF/VO may decide the compensation and when a breadwinner dies, the compensation may be doubled.

Commission's response: The reasons for the procedure for deciding the compensation in the manner specified are already stated above.

Just and reasonable compensation on the death of a breadwinner has to be realized through an appropriate remedy before a competent court or tribunal and may not be possibly made, the subject of these summary proceedings intended to provide immediate support and relief.

(BY ORDER OF THE COMMISSION)

Hyderabad  
27-05-2017

Dr. A.SRINIVAS,  
Secretary (i/c)