

Notified on 15-05-2009

Dated: 1st May, 2009

No. 921/MPERC/2009 - In exercise of powers conferred under Section 181(1) read with Section 91(4) of the Electricity Act, 2003 (No. 36 of 2003), the Madhya Pradesh Electricity Regulatory Commission hereby makes the following amendment in MPERC (Appointment of Consultants) (Revision-1) Regulations, 2009 which was notified on 30.01.2009 in M.P.Gazette.

FIRST AMENDMENT TO MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (APPOINTMENT OF CONSULTANTS) (Revision - 1) REGULATIONS, 2009.

- 1. Short title and Commencement:** (i) These Regulations may be called the **Madhya Pradesh Electricity Regulatory Commission (Appointment of Consultants) (Revision – 1) (First Amendment) Regulations, 2009 {ARG-6(I)(i) of 2009}**.
- (ii) These Regulations shall come into force on the date of their publication in the M.P. Gazette.
- (iii) These Regulations shall extend to the entire State of Madhya Pradesh..

2. Amendment to Regulation 12.

In the MPERC (Appointment of Consultants) (Revision – 1) Regulations, 2009, the following Regulation shall be inserted as **Regulation 12(A)** after Regulation 12, namely:

12 (A) Appointment of a Standing Legal Counsel

a. Terms of Appointment :

- (i) The Standing Legal Counsels shall be appointed by the Madhya Pradesh Electricity Regulatory Commission for Supreme Court, High Court and Tribunal. The number of the Standing Legal Counsels to be appointed shall be determined by the Commission depending upon volume of work. In such cases, one of the Standing Legal Counsels shall be designated as Principal Standing Legal Counsel, otherwise the single Standing Legal Counsel shall be the Principal Standing Legal Counsel.
- (ii) (a) An Advocate with not less than 10 years standing at High Court & Supreme Court Bar shall only be appointed as Standing Legal Counsel in High Court and Supreme Court.

(b) They must have experience in dealing the cases related with the Acts and Rules of Electricity.
- (iii) The appointment shall be for a period of three years or less in the first instance and may be continued for such further periods from time to time as the Commission may by order direct.

- (iv) The services of Standing Legal Counsel shall be terminable on serving of one month notice in writing by either side.
- (v) The Commission reserves its right to engage any other Advocate in any specific case either before the High Court or any other Court or Tribunal or Forum depending on the nature of case and the specialization possessed by such Advocate in the Subject relating to such case.

b. Appointment of a Senior Counsel :

The Commission, may if it so desires or on the advice of the Standing Legal Counsel, engage a Senior/Junior Counsel in any case in Tribunal or any Court.

c. Duties :

The duties of the Principal Standing Legal Counsel shall be as follows:

- (a) To tender advice and opinion to the Commission and its functional heads in all matters involving legal implications as and when required.
- (b) To prepare, settle and scrutinize agreements, deeds and other documents of legal nature as may be referred to him by the Commission or its functional heads.
- (c) To prepare affidavits, counter affidavits, petitions, statement of cases and all other connected documentation in which he appears on behalf of the Commission.
- (d) To appear on behalf of the Commission in all cases or classes of cases assigned to him, where the Commission is a party or its interests are involved before the Supreme Court/High Court and when so required, before Tribunal.
- (e) To appear personally as far as possible, in cases entrusted to him and leave the cases to Juniors only in unavoidable and unforeseen contingencies and that too with the prior consent of the Commission.
- (f) To perform such other work of legal nature as may be entrusted to him by the Commission from time to time.

d. Principal Standing Legal Counsels not to represent interests adverse to the Commission :

The Principal Standing Legal 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 of the Commission.

e. Honorarium:

The Principal Standing Legal Counsel for High Court shall be paid a retainer fee of Rs. 5000/- per month towards his duties as mentioned in Regulation No. "c (Duties)" above. This shall be payable in addition to the fee as prescribed for Standing Legal Counsel.

f. Fees:

1. The Standing Legal Counsel shall be paid the fees as prescribed in the Schedule as per Appendix enclosed in respect of all Legal Proceedings in Court as the case may be. The Commission can also order for payment of higher fees than fixed in the Schedule, if the nature of the case and the labour and time spent by the Standing Counsel in a particular case deserves the same.

2. The Commission shall have power to amend the Schedule from time to time.

3. Fee shall not normally be paid in advance. Whenever the counsel requires payment of fee in advance, one third of the fee to which he is entitled to as per scale given in schedule may be paid in advance.

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

In case the engagement of the Standing Legal Counsel is necessary to be 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 Legal Counsel for any reason and case is still pending, the Commission shall have the full discretion to fix such fees as it considers reasonable having regard to the work done in the case or cases till the date of such termination of service.

By Order of the Commission

Ashok Sharma, Commission Secretary

APPENDIX

**SCHEDULE OF PROFESSIONAL FEE ETC. PAYABLE TO COUNSEL ENGAGED
IN COMMISSION'S CASES**

S. No.		PARTICULAR (Cases)	FEE (in Rs.)
i.	1.	High Court Cases	10,000/- for advocate & 20,000/- for Sr. advocate
	2.	Cases in Tribunal	10,000/- for advocate & 20,000/- for Sr. advocate.
	3.	Supreme Court Cases	15,000/- for advocate & 30,000/- for Sr. advocate.
ii.	In each case an amount of Rs. 500/- will be paid toward miscellaneous expenses like stamp on vakalatnama, court fee, typing etc.		
iii.	Journey Expenses		
	a)	For Senior Counsel	AC Ist Class
	b)	For other Counsel	IInd AC Sleeper
iv.	Daily Allowances		
	a)	For Senior Counsel	Out of State Rs. 700/- per day or part of the day and within State Rs. 500/- per day or part of the day.
	b)	For other Counsel	Out of State Rs. 500/- per day or part of the day and within State Rs. 300/- per day or part of the day.
v.	Accommodation Charges		
	a)	For Senior Counsel	Accommodation charges as admissible to Executive Officers of the Commission subject to production of original receipts
	b)	For other Counsel	Accommodation charges as admissible to Commission Officers drawing pay not exceeding Rs. 12,000/-.
	Note : Definition of Sr. Counsel for the purpose of accommodation charges, journey expenses and daily allowances is as under : For Senior Counsel who has been designated as Sr. Advocate by Hon'ble High Court / Supreme Court.		
vi.	Fee for appearance in Supreme Court		
	For Sr. Counsel		
	a)	For effective hearing	Rs. 7,500/- per appearance, for single case.
	b)		Total Rs. 11,250/- (7,500/- + 50% of appearance i.e. Rs. 3,750/-), for two similar tagged/clubbed cases per appearance.
	c)		Total Rs. 15,000/- i.e. twice of appearance fee per appearance in more than two tagged/clubbed cases.
a)	For non-effective hearing	Rs. 1,000/- per appearance for single or more tagged/clubbed cases.	

	For Junior Counsel	
a)	For effective hearing	Rs. 4,500/- per appearance, for single case.
b)		Rs. 6,750/- (4,500/- + 50% of Rs. 4,500/- ie. Rs. 2,250/-), for two tagged / clubbed cases per appearance.
c)		Rs. 9,000/- i.e. twice of appearance fee per appearance in more than two tagged/clubbed cases.
a)	For non-effective hearing	Rs. 750/- per appearance, for single case.
b)		Total Rs. 750/- per appearance in two or more than two tagged/clubbed cases.
vii.	Fee for appearance in High Court / Tribunal / National Tribunal	
	For Sr. Counsel	
a)	For effective hearing	Rs. 5,500/- per appearance, for single case
b)		Total Rs. 8,250/- (5,500/- + 50% of appearance i.e. 2,750/-) for two tagged / clubbed cases per appearance.
c)		Total Rs. 11,000/- i.e. twice of appearance fee per appearance in more than two tagged/clubbed cases.
a)	For non-effective hearing	Rs. 1,000/- per appearance, for single case.
b)		Total Rs. 1,000/- per appearance for two or more tagged/clubbed cases.
	For Junior Counsel	
a)	For effective hearing	Rs. 3,500/- per appearance, for single case.
b)		Rs. 5,250/- (3,500/- + 50% of Rs 3,500/- i.e. Rs. 1,750/-) for two similar tagged / clubbed cases.
c)		Rs. 7,000/- i.e. twice of appearance, fee per appearance in more than two tagged/clubbed cases.
a)	For non-effective hearing	Rs. 750/- per appearance for single case or more tagged/clubbed cases.