

**ASSAM ELECTRICITY REGULATORY COMMISSION
GUWAHATI**

Corum : Shri S.C. Das, Chairperson

Date: 03.08.2019

In the matter of

Assam Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulations, 2019.

Statement of Objects & Reasons

1. Background

- 1.1. The Assam Electricity Regulatory Commission (AERC) notified the AERC (Standards of Performance) Regulations for the Transmission and Distribution licensees within the State of Assam., However, these Regulations do not provide for compensation for death or injury to human beings or animals caused by electrical accidents which are attributable to a Licensee or a Generating Company including Captive Power Plant (CPP).
- 1.2. Therefore, in exercise of the powers conferred by Section 181(1) read with Section 57 (2) and Section 57 (3) of the Electricity Act, 2003 (36 of 2003) and all other powers enabling in this behalf, the Assam Electricity Regulatory Commission formulated the draft Assam Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulations, 2019.
- 1.3. These Regulations specifies the quantum of compensation to be paid to victims of electrical accidents, assessment of compensation, procedures to be followed and other related matters.
- 1.4. The draft Regulations were notified as previous publication in the website of the Commission on 8th March, 2019, under sub-section (3) of Section 181 of the Electricity Act, 2003. Notifications in this regard were also published in largely circulated local newspapers namely The Assam Tribune and Amar Asom.
- 1.5. Comments / objections/ suggestions were invited from all stakeholders who are likely to be affected by the provisions of these Regulations on or before 10th April, 2019. Comments on the Draft Regulations were received only from Assam Power Distribution Company Limited (APDCL).
- 1.6. The Commission held a public hearing on 24.05.2019 to facilitate oral submission by the respondents and other interested persons. Notice of the Public Hearing was also published in The Assam Tribune and Amar Asom. Representatives from the APDCL were present during the hearing. They reiterated the submissions already made in writing before the Commission.
- 1.7. Since no comment was received initially from members of the State Advisory Committee (SAC), the draft Regulations were forwarded to all members of SAC for advice. Comments were received from Shri S.K. Jain, CMD, SM Group and Shri M.P Agarwal, Chairman, All India Manufacturer's Organization – Assam State Chapter.
- 1.8. The Power Department, Government of Assam forwarded the comments of the Chief Electrical inspector cum Adviser (i/c)[CEIA (i/c)], Government of Assam through their letter No. PEL.193/2015/135 dated 20th June, 2019. The said letter also enclosed copies of APDCL's letters, which were already submitted to the Commission earlier.

- 2. Suggestions from the above organizations/ individuals on the draft Regulations, the Commission's observations and decisions on the same are discussed in the subsequent paragraphs. The suggestions have been accordingly considered by the Commission and**

incorporated wherever necessary in these Regulations. The Commission has now framed the AERC (Compensation to Victims of Electrical Accidents) Regulations, 2019, which shall come into force from the date of publication in the Assam Gazette.

1. Regulation 1: Short Title, Commencement And Extent

• Provisions in the draft Regulations

“1(iv) These Regulations shall not apply to persons who are in direct employment with any Licensee/ Generating Company”.

❖ S.M. Group suggested as under:

Employees excluded. As not all employees are covered by other social security provisions, it seems inclusion of employees will serve the intent of the Regulations better.

➤ Commission’s analysis & decision:

As can be read from Regulation 1(iv) of the draft Regulations only those employees who are in direct employment have been excluded from the purview of these Regulations as, social security provisions exists for regular employees of a licensee/ Generating Company.

However, to add more clarity, the provision be modified, as under:

“1(iv) These Regulations shall not apply to persons who are in direct and regular employment with any Licensee/ Generating Company”.

2. Regulation 2: Definitions

❖ APDCL and CEIA (i/c) suggested as under:

Definition of “Electrical Accidents” may be included as per Section 161 (1) of the EA 2003

➤ Commission’s analysis & decision:

Section 161 (1) of the Electricity Act, 2003 is not the definition of electrical accident per se but related to issue of “Notice of accidents and injuries” caused by an electrical accident. However, the relevant part of Section 161 (1) of the Electricity Act, 2003 to which APDCL and CEIA (i/c) are hinting has been included in the Introductory Section of the Regulations as under:

“Whereas Section 161 of the Electricity Act, 2003 provides for notice of accidents and injuries, if any accident occurs in connection with the generation, transmission, distribution, supply or use of electricity in or in connection with, any part of the electric lines or electrical plant of any person and the accident results or is likely to have resulted in loss of human or animal life or in any injury to a human being or an animal, but no provision was made for payment of compensation to any person affected”.

3. Regulation 4: Safety Standards

• Provisions in the draft Regulations

“4.(i) The works of Licensees or Generating Companies including Captive Generating Plants (CPPs) shall be so installed, constructed, maintained or operated or used so as to protect the public (including the persons engaged in the generation, transmission or distribution or trading), animals and property from dangers arising from the generation, transmission or distribution or trading of electricity or use of electricity supplied and eliminate the risks of any injury to any person, animal or damage to the property of any person”.

❖ APDCL and CEIA (i/c)suggested as under:

APDCL:

“Damage to Property” as in Regulation 4(i) to be defined appropriately.

In the Public Hearing, APDCL suggested that the part of paragraph “damage to the property of any person” may be deleted.

CEIA (i/c):

“Damage to the Property” should be defined appropriately.

➤ **Commission’s analysis & decision:**

The Regulation 4(i) is meant for maintenance of overall safety measures and needs no change.

Since, Section 161(1) of the EA 2003 does not make provisions for reporting damage to property from electrical accidents, compensation for damage to property has been excluded from the purview of these Regulations. Therefore, no definition is necessary for the same in these Regulations. The concern of APDCL has been addressed in Regulation 5 where payment of compensation against damage to property has been excluded.

4. Regulation 5: Liability of compensation

• **Provisions in the draft Regulations**

“5. Notwithstanding anything contained in any other law in force, the licensee/ generating company shall be liable to pay compensation as specified in these Regulations to the person affected or his dependents for loss of human life, or partial /total disablement, or loss of animal life or damage to property in consequence of an electrical accident, provided the electrical accident is attributable to the licensee/ generating company /CPP”.

❖ **The following submissions were made:**

S.M. Group:

Preferably be elaborated.

APDCL:

In the last line of this para may end as – provided the electrical accident occurred due to attributable fault of the licensee.

➤ **Commission’s analysis & decision:**

As suggested, Regulation 5 to be amended and new provision added as under:

“Notwithstanding anything contained in any other law in force, the licensee/ generating company including CPP shall be liable to pay compensation as specified in these Regulations to the person affected or his dependents for loss of animal or human lives or injury to human beings and animals in consequence of an electrical accident, provided the electrical accident is attributable to the fault/ negligence of the licensee / generating company / CPP.

Provided also that if the loss of human life is due to suicide or homicide or the injury to a human being is due to an attempt to commit suicide or homicide, the licensee/generating company /CPP shall not be liable to pay any compensation for the same under these Regulations”.

5. Regulation 7: Medical Expenses

• **Provisions in the draft Regulations**

“7(i). The actual expenses incurred during the period of hospitalization and/or treatment for the grievous hurt suffered due to an electrical accident, shall also be paid to the injured or the dependents of the deceased, as the case may be, in addition to the compensation specified above. The medical expenses shall be paid subject to submission of certified bills of Government hospitals/ hospitals approved

by the State Government/ hospitals approved by the concerned authority of the licensee”.

❖ **S.M. Group suggested as under:**

Hospitals should preferably be approved by the Government/ AERC.

➤ **Commission’s analysis & decision:**

Three options are provided to the consumers as in Regulation 7.1 – Government hospitals, hospital approved by the State Government and hospitals approved by the concerned authority of the licensee. The certified bills from any of these three options are admissible. Further, AERC follows the Government Rules. No change is therefore, necessary.

6. Regulation 7: Medical Expenses

• **Provisions in the draft Regulations**

“7 (ii) In case, the treatment is undertaken in a private hospital, reimbursement of medical expenses shall be limited to the rates admissible as per Regulation 7 (i)”.

❖ **Suggestion of S.M. Group:**

Cases of treatment at Pvt. Hospitals should be covered when referred to by the approved hospitals, especially when there is insufficient facility at that time.

➤ **Commission’s analysis & decision:**

Private hospitals are already covered by Regulation 7(ii) with the limitation that rates admissible shall be as per Regulation 7(i).

7. Regulation 8: Assessment of Compensation

• **Provisions in the draft Regulations**

“8. The quantum of compensation payable in respect of injury to a human being or an animal or damage to property shall be assessed by the licensee/ generating company concerned on such information, material and evidence that may be considered relevant”.

❖ **Suggestion from S.M. Group**

Assessment should preferably be by a neutral party. Conflict of interest will be there, if the guilty is allowed to adjudge.

➤ **Commission’s analysis & decision:**

Regulation 21 of the Regulations states that if a person is aggrieved by the orders of the Managing Director of the Licensee/ generating Company/ CPP regarding the quantum of compensation or entitlement, he may make a complaint before the Electricity Ombudsman.

The Ombudsman is appointed by the Commission and functions independently. The Ombudsman is required to pass its Order within 3 months as per the AERC (Redressal of Consumer Grievances) Regulations, 2016.

Further, the aggrieved party is at liberty to approach any forum for alternative remedy. These Regulations have been framed only to expedite the payment of compensation. Engagement of third party may delay the process.

8. Regulation 9: Other rights and remedies unaffected.

• **Provisions in the draft Regulations**

“9. The right of any person to claim compensation as above shall not affect the right of any such person to recover the compensation payable under any other law for the time being in force”.

❖ **Suggestions from APDCL**

The following may be added:

“However, the compensation paid under this Regulation shall be deducted to avoid double payment”.

➤ **Commission’s analysis & decision:**

Regulation 9 to be amended as under:

“9. The right of any person to claim compensation as above shall not affect the right of any such person to recover the compensation payable under any other law for the time being in force.

Provided that the amount paid as compensation under these Regulations shall be duly deducted from such compensation payable under any other law, so as to avoid double payment by the Licensee/ Generating Company /CPP.”

9. Regulation 11: Periodical revision of the quantum of compensation

• **Provisions in the draft Regulations**

“11. The Commission may from time to time, by notification, and for reasons to be recorded in writing, revise the quantum of compensation given in Schedule B of these Regulations, after previous publication.”

❖ **Suggestion from S.M Group**

Preferably, revision should be done in a time bound manner e.g. every five years.

➤ **Commission’s analysis & decision:**

The Commission may decide to revise the quantum of compensation before 5 years depending on the socio-economic conditions prevailing in the State and demand from the consumers. Thus, it was decided not to specify any time line for revision.

10. Regulation 14: Enquiry report

• **Provisions in the draft Regulations**

“14. The Chief Executive Officer of the concerned Circle shall cause an enquiry to be conducted by an officer not below the rank of Assistant General Manager or equivalent, within 15 days from the receipt of a report of an electrical accident, and submit a detailed report of the same to the Managing Director/ Chief Executive of the concerned generating company or licensee or CPP.

The enquiry report shall be accompanied with the following reports/ documents as under:

- i) Occurrence Report
- ii) Police Report
- iii) Post Mortem Report (in case of death)
- iv) Death Certificate (in case of death)
- v) Age proof certificate of the victim

The report shall also make specific recommendations on the quantum of compensation and persons entitled to the same in terms of the quantum of compensation as prescribed under Chapter III”.

❖ **Suggestion from APDCL, S.M. Group**

APDCL:

Provision laid in section 161(2) of the EA 2003 regarding electrical accident inquiries by the appropriate Government to be added in addition to the provision made in the aforesaid draft regulations.

S.M Group:

Copy of enquiry report should be shared with the victim

CEIA (I/C):

In chapter IV, one clause should be inserted for “Enquiry and Report of Electrical Accident” as laid down under the provision of Section 161 (2) of the Electricity Act, 2003.

➤ **Commission’s analysis & decision:**

Section 161 (2) states that *“The Appropriate Government may, if it thinks fit, require any Electrical Inspector, or any other person appointed by it in this behalf, to inquire and report-*

(a) as to the cause of any accident affecting the safety of the public, which may have been occasioned by or in connection with, the generation, transmission, distribution, supply or use of electricity, or

(b) as to the manner in, and extent to, which the provisions of this Act or rules and regulations made thereunder or of any licence, so far as those provisions affect the safety of any person, have been complied with.”

Even if a provision of the Act is not included in the Regulations, the provision prevails. Therefore, repetition of the same provisions as in the Act is not necessary. Besides, the Regulations only intend to give prompt relief to the victims/dependents of electrical accidents that are attributable to the fault /negligence of a Licensee/ Generating Company/CPP.

Regarding the suggestion that a copy of enquiry report should be shared with the victim, it is felt that this is not required as it may lead to unprecedented complications that may hamper the process.

However, the 1st Para of Provision 14 be redrafted as under:

“14. The Chief Executive Officer of the concerned Electrical Circle of the Licensee or the Station head of the Generating Company/CPP, as the case may be, shall conduct an enquiry within 15 days from the receipt of a report of an electrical accident, and submit a detailed report of the same to the Managing Director/ Chief Executive of the concerned generating company or licensee or CPP”.

11. Regulation 15: Claim for Compensation

• **Provisions in the draft Regulations**

“15.(i). The dependents of a person who died in an electrical accident or a person affected by the injury caused to himself or an animal or damage to property may make a claim for compensation in the form (Form B) set out in Annexure-II of these Regulations either in person or by post to the Managing Director/ Chief Executive of the licensee /generating company including CPP concerned who shall cause such claim to be enquired into and determined in accordance with these Regulations”.

❖ **Suggestion from APDCL**

In view of the specific provision of the Regulation 14, the claim applications are to be filed before the concerned CEO only.

➤ **Commission’s analysis & decision:**

As suggested, the Regulation has to be amended as under:

“15(i). The dependents of a person who died in an electrical accident or a person affected by the injury caused to himself or an animal may make a claim for compensation in the form (Form B) set out in Annexure-II of these Regulations either in person or by post to the Chief Executive Officer of the concerned Electrical Circle of the licensee or the Standing Office of the Generating company /CPP concerned who shall cause such claim to be enquired into and determined in accordance with these Regulations.

The claim can also be made to the office of Managing Director or any other office of the licensee/ generating company/CPP.

Regulation 15 (ii) be accordingly amended as under:

“15.(ii) In case, the claim is made to other offices of the licensee/ generating company/CPP, it shall be forwarded immediately on receipt, to the concerned offices mentioned in 15 (i), for further processing”.

12. Regulation 17: Communication of the Order

• **Provisions in the draft Regulations**

“17. The licensee or generating company/CPP shall communicate the order passed by it on any claim for compensation arising out of an electrical accident to the claimants and the persons entitled within fifteen days of the passing of any such order”.

❖ **Suggestion from S.M. Group**

Mode of communication should be mentioned. Also, be posted on the official website.

➤ **Commission’s analysis & decision**

As suggested, Regulation 17 is to be redrafted as under:

“17. The licensee /generating company/CPP shall communicate the order passed by it on any claim for compensation arising out of an electrical accident to the claimants and the persons entitled, within fifteen days of the passing of any such order, in any one or more of the following modes as under:

- i). Through e-mail to designated e-mail id,
- ii). by registered post with acknowledgement due,
- iii). by hand delivery through messenger,
- iv). in any other manner considered appropriate.

The Order shall also be hosted in the official website of the licensee /generating company /CPP.

The licensee /generating company /CPP shall forward a copy of such order to the Commission.”

13. Regulation 20: Interest

• **Provisions in the draft Regulations**

“20. The quantum of compensation determined by the order of the licensee/ generating company/ CPP shall be paid within 120 days from the date of occurrence of the electrical accident, and if such payment is delayed for any reason beyond 120 days, the compensation shall be paid with additional interest of 12% per annum on the amount from the due date of payment”.

❖ **Query from S.M Group**

What is the due date? The 120th day?

➤ **Commission’s reply**

The due date of payment is 120th day from the date of occurrence of the electrical accident. Interest will be paid from the 121st day.

14. Regulation 21: Disputes about entitlement/ quantum of compensation.

• **Provisions in the draft Regulations**

“21.(i). Any dispute or difference regarding the entitlement to compensation on death of a human being in an electrical accident or the ownership of an animal or property involved in an electrical accident, or any person aggrieved by the orders of the Managing Director of the Licensee/ Generating Company/ CPP concerned on the quantum or entitlement shall be deemed to be a grievance in accordance with the Assam Electricity Regulatory Commission (Redressal of Consumer Grievances) Regulations, 2016 and its subsequent amendments. The disputants shall be entitled to make a complaint before the Electricity Ombudsman.

(ii) Notwithstanding the above, the aggrieved person may approach a civil court”.

❖ **Suggestion from S.M. Group**

Assessment by an independent agency on victims request should be provided. As there is no provision for any way to verify the findings of the assessment, etc, it leaves a great scope for manipulation.

➤ **Commission's analysis & decision**

The Electricity Ombudsman is an independent authority appointed by the Commission as per Section 42 (6) of the Electricity Act, 2003. The Ombudsman has the authority to ask for any document related to a case from the licensee/generating company including CPP. He is required to adopt a procedure ensuring transparency and due compliance of the principles of natural justice and due process of law. Provision of assessment by independent authority will also incur cost and delay the process of payment of compensation. Therefore, an additional provision for assessment by an independent agency is not necessary.

15. Annexure - I- Form A:

❖ **Suggestions from CEIA (i/c)**

The Form A for reporting electrical accident as annexed as Annexure-I against Regulation 13 (ii) of the Draft Regulation does not tally with the Intimation of Accidents (Form and time of Service of Notice) Rules, 2005 as per provision of the Electricity Act, 2003. As such, the Form A for Reporting the Electrical Accident should be corrected as per the provision of the Electricity Act, 2003.

➤ **Commission's analysis & decision**

Form A for reporting electrical accidents will be as per the Electricity Act, 2003.

16. Annexure -2 - Form B:

❖ **Suggestions from S.M. Group, AIMO and APDCL**

S.M. Group:

List should be made out as to what will be treated as evidence of ownership and value to avoid future disputes.

AIMO:

In Para 7 of Form B, Medical Report/ Certificate may be given from registered Medical Practitioner/ Doctor of a recognized hospital in place of District Medical Board.

APDCL:

Clause 6 of Form B: Details of property may be deleted as damage of property is not covered as an electrical accident under Section 161 (1) of the EA 2003.

➤ **Commission's analysis & decision**

As suggested by APDCL, the details of property shall be deleted from Form B.

Clause 6 of form B : Details of property stands deleted. Thus, Clause 7 in the draft Regulations shall henceforth be read as Clause 6, Clause 8 as Clause 7 and so on.

As suggested by SM Group - bill receipts, cash memos, a certificate of ownership from Circle Officer from the concerned Revenue Circle Office shall be considered as evidence of ownership. Regarding value of the animal, a Certificate from the concerned Veterinary doctor/department may be treated as evidence of ownership and value. Thus, the same shall be incorporated in the relevant section as under:

“6. Evidence of ownership and value of the animal(s). [Example- bill receipts, cash memos, Certificate from the concerned Revenue Circle Officer and concerned Veterinary Office, etc]”

As suggested by AIMO, para 7 (now read as para 6) of Form B is redrafted as under:

“6. In case of non-fatal accidents, details of temporary/permanent/total/partial disabilities suffered, if any: (Enclose a certificate issued by the registered Medical Practitioner/ Doctor of a recognized hospital or the Appellate Authority)”.

17. Schedule B: Compensation

- **Provisions in the draft Regulations**

“B.(1) The compensation payable for loss of human life as a result of an electrical accident: Rs 4.00 lakh per person”.

- ❖ **Suggestion from S.M. Group**

Compensation to human victims preferably be linked with present income as well as future earning potential as in MACT claims.

- **Commission’s analysis & decision**

The compensation for loss of human life has been considered in accordance with the Assam Disaster Management Manual, 2015. The idea is to give some immediate respite to the dependents/ family members. Besides, if compensation to human victims is linked with present income as well as future earning potential as in Motor Accidents Claims Tribunal (MACT) claim, it would become cumbersome for the concerned licensee / generating company/ CPP. Moreover, the right of any person to claim compensation as per these Regulations does not affect the right of the person to recover compensation payable under any other law in force.

Therefore, no amendment is necessary.

18. Schedule B: Compensation

- **Provisions in the draft Regulations**

“B(1) The compensation payable for loss of human life as a result of an electrical accident: Rs 4.00 lakh per person”.

- ❖ **Suggestion from S.M. Group**

Compensation amount is too low.

- **Commission’s analysis & decision**

As already stated, the compensation for loss of human life has been considered in accordance with the Assam Disaster Management Manual. The idea is to give some immediate respite to the dependents/ family members. Moreover, the right of any person to claim compensation as per these Regulations does not affect the right of the person to recover compensation payable under any other law in force.

Provisions exist in these Regulations for amending the amount of compensation from time to time, whenever necessary. Therefore, no change in compensation is necessary at this stage.

19. Schedule B: Compensation

- **Provisions in the draft Regulations**

“B(2) The compensation payable for loss of animal life as a result of an electrical accident shall be as under:

Rs 30,000/- Buffalo/Cow/Yak/Mithun etc

Rs 3000/- Sheep/Goat/Pig

Rs 25,000/- Camel/horse/bullock, etc

Rs 16,000/- Calf/Donkey/Pony/Mule”

- ❖ **Suggestion from S.M. Group**

Dispute may arise as to classification of animals not mentioned therein.

- **Commission’s analysis & decision**

As suggested, the following provision is to be added as under:

“Provided that compensation for economically productive animals not mentioned herein shall be subjected to valuation by the Animal Husbandry & Veterinary Department of the State Government”.

20. Schedule B: Compensation

- **Provisions in the draft Regulations**

“B . 3(b) **Permanent Partial Disablement:** If an injury to a human being caused due to an electrical accident resulted in a permanent partial disablement, the compensation payable shall be determined by the concerned authority, and shall be equal to the same percentage of the loss of earning capacity out of the maximum amount of Rupees 4.00 lakhs, subject to minimum of Rs one lakh”.

- ❖ **Suggestion from S.M. Group**

“Concerned Authority” not defined, preferably be defined.

- **Commission’s analysis & decision**

To add more clarity , the provision is to be redrafted as under:

“B 3(b) **Permanent Partial Disablement:** If an injury to a human being caused due to an electrical accident resulted in a permanent partial disablement, the compensation payable shall be determined by the authority liable for payment of compensation, and shall be equal to the same percentage of the loss of earning capacity out of the maximum amount of Rs 4.00 lakh, subject to minimum of Rs one lakh”.

21. Schedule B: Compensation

- **Provisions in the draft Regulations**

“B .(4) The compensation payable for damage to property shall be reasonably assessed and fixed in accordance with these Regulations”.

- ❖ **Suggestion from S.M. Group**

B. 4.A.i. Is it intended that no compensation shall be paid for damages of less than 33%? Seems not logical.

B. 4.A.ii. eg., if one suffers damages in 10 ha of area still the compensation shall be for only 2 Ha, seems not justifiable.

B. 4.B.a. amount is too low and not at all related to ground reality. Should be a mechanism to link with replacement cost and rent till replacement.

B. 4.B.b. amount is too low and not at all related to ground reality. Should be a mechanism to link with replacement cost and rent till replacement.

B. 4.B.c. amount is too low and not at all related to ground reality. Should be a mechanism to link with replacement cost and rent till replacement.

- **Commission’s analysis & decision**

As “damage to property” is not covered as an electrical accident under Section 161 (1) of the EA 2003, it has been removed from the purview of these Regulations.

3. At the end, the Commission would like to thank all the respondents for sharing their views/suggestions on the Draft Assam Electricity Regulatory Commission (Compensation to Victims of Electrical Accidents) Regulations, 2019. The Commission has taken these suggestions into consideration while finalizing the Regulations.
4. The Commission directs that the draft Regulations be finalized after incorporating the necessary changes and notified in the Official Gazette.

Sd/-
(S.C. Das)
Chairperson, AERC