

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION

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PRACTICE DIRECTION

ON

OPERATIONAL PROCEDURE AND PROTOCOL TO BE FOLLOWED FOR E-FILING AND E-HEARING OF THE PETITION BEFORE THE COMMISSION

Dated: 14th November 2022

1. Maharashtra Electricity Regulatory Commission (MERC / Commission) has notified MERC (Transaction of Business and Fees and Charges) Regulations 2022 on 18 October 2022. With the said notification, MERC (Conduct of Business) Regulations 2004 and practice directions / procedures issued therein are deemed to be replaced by Transaction of Business Regulations 2022.
2. Regulations 18 and 22 of Transaction of Business Regulations 2022 require issuance of operational procedure and protocol to be followed for e-filing of the petition and e-hearing on the said petition.
3. The Commission has adopted e-filing and e-hearing process in its functioning for the last 2 to 3 years by issuing practice directions under earlier Regulations. While notifying, Transaction of Business Regulations 2022, provisions of these practice directions have been incorporated in the Regulations. Now by invoking Regulation 38 of Transaction of Business Regulations 2022, through this Practice Direction, operational procedure and protocol for e-filing and e-hearing is being laid down for ease of understanding for all stakeholders.
4. E-filing of the Petition:
 - 4.1. Regulation 18 of Transaction of Business Regulation 2022 mandates that Petition shall be filed through 'E-filing Portal' only. Same is applicable for filing of Reply / Rejoinder / Interlocutory Application by parties.
 - 4.2. Pleadings shall be filed in soft copy (Word and PDF) only. No hard copy is required to be filed.

- 4.3. Parties while filing the Petition through 'E-filing Portal' are required to file and upload the scanned copy of the entire Petition including summary/synopsis of Petition, facts and grounds of the case, Annexures along with duly signed Affidavit as per Forms specified in the Regulations.
- 4.4. In case any person is having difficulty in accessing digital technology, the Commission's staff will assist in converting such Petition to digital format and then process it through 'E-filing Portal'.
- 4.5. Request for urgent hearing / mentioning application needs to be filed as Interlocutory Application justifying the urgency.
- 4.6. 'E-filing Portal' can be accessed through '<https://e-filing.merc.gov.in>'. User instructions/ FAQs are available on this webpage for ease of understanding of stakeholders.

5. E-hearing on the Petitions:

- 5.1. Regulation 22 of Transaction of Business Regulations stipulates that the Commission shall conduct proceedings by remote access (e-hearing) through video conferencing as a default option using Designated Video Conferencing Software. However, any party can opt for physical hearing by providing justification, in that case HYBRID hearing (combination of In Person (Physical) and Remote Access (Digital) would be conducted.
- 5.2. All the hearings before the Commission would be live streamed to the extent possible, through a link to be provided on website of the Commission. However, in some particular case, after recording reasons, the Commission may restrict live-streaming of e-hearing.
- 5.3. Link with rights to provide audio-visual inputs will be given to only those advocates/parties whose matters are listed on a particular day for e-hearing/mentioning. Maximum of 3 persons of concerned parties including Advocates will be allowed to participate in the e-Hearing. All others can attend the e-hearing through live steaming link provided on website of the Commission.
- 5.4. In case of e-public hearing, based on number of persons who have conveyed their option to speak during e-public hearing, an opportunity of being heard and for smooth conduct of e-public hearing, following measures shall be taken:
 - a. Only one link per party with audio-visual inputs rights shall be given.
 - b. Limited time for each speaker shall be allocated so that opportunity of being heard is given to all interested applicants.
 - c. If number of speakers are more, e-public hearings shall be conducted in multiple sessions on same date or on multiple dates. In case of multiple session / multiple dates for e-public hearing, allocated session & date will be communicated to concerned speaker at least 3

days in advance on its registered mobile number and /or email id or session wise list of speaker will be uploaded on MERC website.

- d. For ease of access to the e-public hearing platform, facilitation centers could be setup on temporary basis at different locations in the States. In such case, e-public hearing sessions will be scheduled location wise. Persons who do not have access to necessary infrastructure for participating in e-public hearing, may use the service of facilitation center for participating in e-public hearing, subject to their prior identification as applicants who wish to speak.
 - e. Link for participation in e-public hearing shall be issued to the applicants who have requested wish to speak on their applications received within due date mentioned in Public Notice inviting suggestion and objection on Petition. Others can attend the e-public hearing through link provided on MERC website.
 - f. The Commission at its discretion may allow issuance of link to the applicants whose wish to speak request is received after due date or during the e-public hearing process.
- 5.5. Advocates/parties appearing and presenting their respective cases via e-Hearing facility must observe the dress code and etiquette.
- 5.6. Section 95 of the Electricity Act, 2003 provides that “ *All proceedings before the Appropriate Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Appropriate Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.*”
- 5.7. Detailed procedure to be followed for e-hearing in annexed herewith.
6. This operational procedure and protocol will be updated from time to time for addressing any operational issues faced in future.

**Sd/-
(Mukesh Khullar)
Member**

**Sd/-
(I.M. Bohari)
Member**

**Sd/-
(Sanjay Kumar)
Chairperson**

Annexure

Detailed Procedure for E-Hearing

1. General Directions:

- 1.1. All communication, including notifications, circulars, dates scheduled for (e-hearing/e-public hearing), addendum(s), corrigendum(s), etc., vis-à-vis e-Hearings will be published on the official website of the Commission i.e. 'https://www.merc.gov.in'.
- 1.2. The Commission will notify the schedule and the session time for all the matters on its website.
- 1.3. The e-Hearing shall be conducted through the use of '*Microsoft Teams app*' as the primary video conferencing platform. Necessary details will be available with the MERC IT team and will also be posted on the website of the Commission. The same will be shared with concerned parties through email also.
- 1.4. The Petitioner/Respondent/Parties can send their e-mails for communication for the proceedings before the Commission on the official e-mail ID of the Secretariat of the Commission i.e. ehearing@merc.gov.in.

2. Decorum, Dress Code and Use of Electronic Devices:

- 2.1. Subject to any case-specific dispensation granted by the Commission, Advocates/parties appearing and presenting their respective cases via e-Hearing facility must observe the dress code and etiquette.
- 2.2. Advocates/parties shall be seated in appropriately ambient surroundings ensuring that there is no background noise or disturbance (like ringing of mobile phones, background chatter etc.).
- 2.3. Advocates/parties shall preferably use headsets/ earphone. It will be the responsibility of the advocates/parties to ensure that discipline is maintained at their respective ends, and no inconvenience or disturbance is caused during the proceedings.
- 2.4. Advocates/parties are requested to scrupulously comply with date and time-slots prescribed and the above mentioned directions.
- 2.5. Subject to directions of the Commission, in the event that sufficient time is not available for an advocate/parties to conclude arguments, additional time may be allocated or the matter may be adjourned.
- 2.6. Any complaint with regards to the quality or audibility of feed shall be communicated by the concerned parties to the MERC IT Team during the proceeding through the "**Chat**" option available in "**Microsoft Teams app**". MERC IT team can also be contacted through voice call, SMS, Whatsapp for the same (Contact details are mentioned in Appendix-A).

- 2.7. For smooth and seamless experience of e-Hearing, the advocates/party-in-person are requested to familiarize themselves with the video conferencing platform “**Microsoft Teams app**” as also the practice guidelines set out here and that may be issued from time to time.
- 2.8. A test-run (Trial of e-Hearing) will be held a day or two days before the e-hearing (by the officers of the Commission) to familiarize the Advocates/parties representing the petitioners, respondents and the Interveners (if any) about the features and the use of the e-Hearing software platform. The details of the Test-run (Trial of e-Hearing) are given in **Appendix-D**.
3. E-Hearing Set Up:
 - 3.1. Only those advocates/parties whose matters are listed on a particular day will be given presenter status and corresponding rights on the e-Hearing platform – such advocates/parties will be assigned rights to provide audio- visual inputs. Provided that a maximum of 3 persons of concerned parties including Advocates will be allowed to participate in the e-Hearing.
 - 3.2. Advocates/parties have to keep their respective devices/microphones on mute at all-times and un-mute themselves only when their respective turn to present their say or to interject arises. Advocates/parties shall avoid interjections altogether and only do so when absolutely essential with the permission of the Commission.
 - 3.3. When questions/issues are being raised by the Commission, the Advocate/parties concerned shall remain patient and respond only after the Commission completes its questions/issues. It is advisable that the Advocate/party concerned waits for a few seconds after the Commission has completed stating the question before proceeding to respond.
 - 3.4. Advocates/ parties are requested to adhere to the time slot prescribed by the Commission.
 - 3.5. Participating Advocates/parties will be required to participate in the test video-call by IT Team of the Commission, 15 minutes before the commencement of proceedings, in order to ensure stability and clarity of the connection.
 - 3.6. Advocates/parties shall provide the relevant email IDs and other relevant details of the presenting Advocates/parties well in advance through email on official email of Secretary (ehearing@merc.gov.in) of the Commission.
 - 3.7. Recording of the e-Hearing, whether in part or full is strictly prohibited. No e-hearing proceedings, or part thereof, shall be disseminated or otherwise presented by the counsel, Advocates, litigants, general public, journalists, etc., for publication or reproduction to the media or any other person. Any infraction of this prescription will be dealt with strictly and in accordance with law.
 - 3.8. The overall control and administrative privileges over the e-Hearing video conferencing platform, subject to the instructions of the Commission, will be exercised by the Secretary/IT team/ designated official of the Commission.

- 3.9. The Commission may direct IT Administrator to remove a person from e-hearing who is creating disturbance for smooth conduct of e-hearing proceeding.
- 3.10. The Standard Operating Procedure for using Microsoft Teams App for Video Conferencing (e-Hearing) is mentioned in **Appendix-C**.
4. Protocol for Document Submission:
- 4.1. The Petitioner / Respondent / parties shall submit relevant documents in doc and pdf format with indexing, continuous pagination, book marking in advance on the issues that are required to be brought to the notice of the Commission during the e-Hearing and the same shall be done prior to the date of hearing. The documents not adhering to above may not be considered by the Commission.
- 4.2. The Petitioner / Respondent / parties shall submit relevant documents in doc and pdf format with indexing, continuous pagination, book marking in advance on E-Filing Portal.
5. Concluding of Hearings:
- 5.1. It shall be mandatory that in 'Chat' window, the parties have to give their written declaration that "the proceedings have been conducted /completed (as the case may be) satisfactorily."
6. Certified Copies of e-Proceedings shall not be available to the public:
- 6.1. The audio/ video/ recording of e-Hearings shall not be made available to the Advocates/ parties in person or public.
- 6.2. However, the certified copy of the relevant documents filed in the e-Hearing will be made available to the parties/ Applicant/ Advocates/ public subject to payment of prescribed fees.
7. Judicial Proceedings and Penal Provisions shall be attracted to e-Hearings:
- 7.1. In accordance with Section 228 of the Indian Penal Code, 1860, whoever intentionally offers any insult or causes any interruption in any of the proceedings of the Commission, shall be punishable with simple imprisonment for a term which may extend to six months or with fine which may extend to Rs.1,000/-, or with both.
- 7.2. In accordance with Section 345 of the Code of Criminal Procedure, 1973, where any one intentionally offers insult or causes any interruption in the presence of the Commission, the Commission may cause the offender to be detained in custody and may, at any time before the raising of the bench on the same day take cognizance of the offence and after giving the offender a reasonable opportunity of show cause why he should not be punished under this section, sentence the offender to fine not exceeding Rs.200/- and in default of payment of fine, simple imprisonment for a term which may extend to one month unless such fine is sooner paid.

7.3. If the Commission, in any case as referred to it, considers that a person accused of any of the offences referred to these Regulations, should be imprisoned on account of default of payment of fine, it may forward the case to a Magistrate having jurisdiction to try the same and may require security to be given for the appearance of such person before such Magistrate or if sufficient security is not given, shall send such person in custody to such Magistrate.

Appendix-A

PROTOCOL FOR TIMELINES

Sr. No.	Activity	Timelines	Details
1	Scheduling of case(s) and publishing the same on MERC website.	As per the discretion of the Commission	
2	Parties to provide names of persons who will be attending e-hearing to MERC Legal Team	Two days preceding the date fixed for e-Hearing	MERC Contact Details: [Provided on MERC Website]
3	MERC IT Team to provide meeting details over email to parties.	One or two days preceding the date fixed for e-Hearing	MERC Contact details: [Provided on MERC Website]

Appendix-B

E-HEARING PROTOCOL (BEFORE HEARING)					
Sr No.			Audio	Video	
1	45 minutes prior to e-Hearing	MERC IT team Joins	On	Off	Check for the connections
		Nodal officer Joins	On	Off	
		Legal Team Joins	On	Off	
2	15 minutes prior to e-hearing	MERC IT team	On	Off	Check for the connections
		Nodal officer	Off	Off	
		Legal Team	Off	Off	
		MERC Executive Director, Directors Joins	On	On	
		All Advocates and Petitioners and Respondents joins	On	On	
3	15 minutes prior to meeting	MERC IT team	On	Off	Check for the connections
		Nodal officer	Off	Off	
		MERC Executive Director, Directors and Legal team	Off	Off	
		All Advocates	Off	Off	
		Hon'ble Secretary joins	On	On	
4	5 minutes prior to meeting	MERC IT team	On	Off	Check for the connections
		Nodal officer	Off	Off	
		MERC Executive Director, Directors and Legal team	Off	Off	
		All Advocates	Off	Off	
		Hon'ble Chairperson and Members joins	On	On	

E-Hearing Protocol (DURING HEARING)			
S. No.		Audio	Video
1	Chairperson/	On	On
2	Members	On	On
3	Secretary	Off	Off
4	Nodal Officer	Off	Off
5	Legal & IT team	Off	Off
6	Party-in-person / Advocate of Petitioner / Respondent (whoever is the Presenter)	On	On
7	Other Advocates / Representatives	Off	Off

Appendix-C

The Standard Operating Procedure for using Microsoft Teams for Video Conferencing Hearing (e-Hearing):

The Commission (MERC) has decided to use “Microsoft Teams app” software (herein after Teams) for hearing of all the matters through Video Conferencing. This manual has been compiled to assist participants in e-Hearings using Microsoft Teams.

Initial steps

The success of an e-Hearing through Video Conferencing using Microsoft Teams app depends on the available facilities with the parties, as well as their willingness to adapt. Following steps may be followed for using Teams app for e-Hearing:

1. MERC will send an invitation link for participation in e-Hearing through Microsoft Teams.
2. The procedure to join a Meeting/Hearing over Microsoft Teams is given below.
3. A Test-Run (Trial) Teams meeting will be held a day or two days before the e-hearing so that the parties might familiarize themselves with the Microsoft Teams software. The details of the Test-Run (Trial) are given in **Appendix-D**.

INSTRUCTIONS FOR JOINING e-Hearing

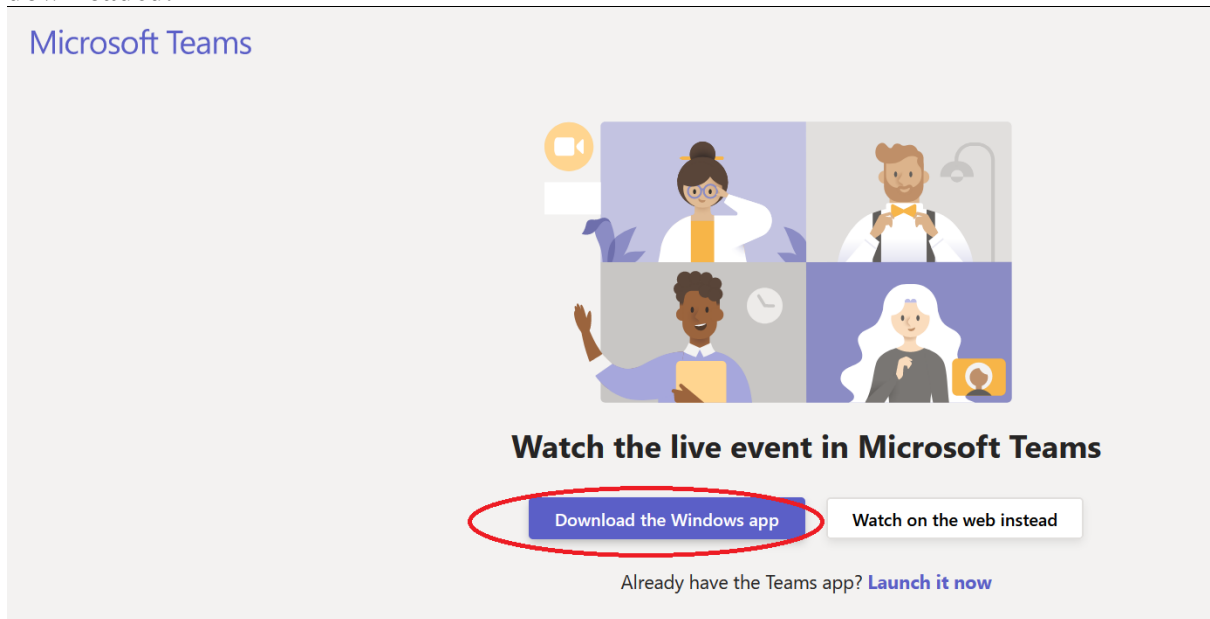
1. PARTIES may kindly note that the matters shall be heard by the Commission through web-based video-conferencing system on the Microsoft Teams app.
2. It may be further noted that smooth functioning of the e-Hearing is squarely depend upon and subject to the connectivity [signal-strength/bandwidth] available at the end of the remote user(s), and hence it is expected that any party joining e-Hearing shall ensure robust connectivity and bandwidth are available at their end, in this regard, parties may use broadband connection of minimum 2 mbps / dedicated 4G data connection.
3. PARTIES may also ensure that no other device or application is connected to or using the bandwidth when the e-Hearing by video-conferencing is progressing on Microsoft Teams app on their computer/ laptop (preferable).
4. For ease-of-use, parties may kindly inform themselves of the following Standard Operating Procedure (SoP) in respect of e-Hearing of the cases through video-conferencing mode:
 - a. To join video conferencing on Microsoft Teams app, parties are required to click on the ‘Join live event’ link received on email on their laptop or desktop.

Microsoft Teams
Join live event
Join as producer or presenter when it's time for the live event.
Do not forward this invite to the attendees.
[Producer help](#) | [Presenter help](#) | [Learn more](#)
[Manage live event resources](#)

Select **Join live event** in your meeting invite to be taken to a page where you can choose to either ‘**Download the Windows App**’or ‘**Watch on the web instead**’. You are hereby requested to click

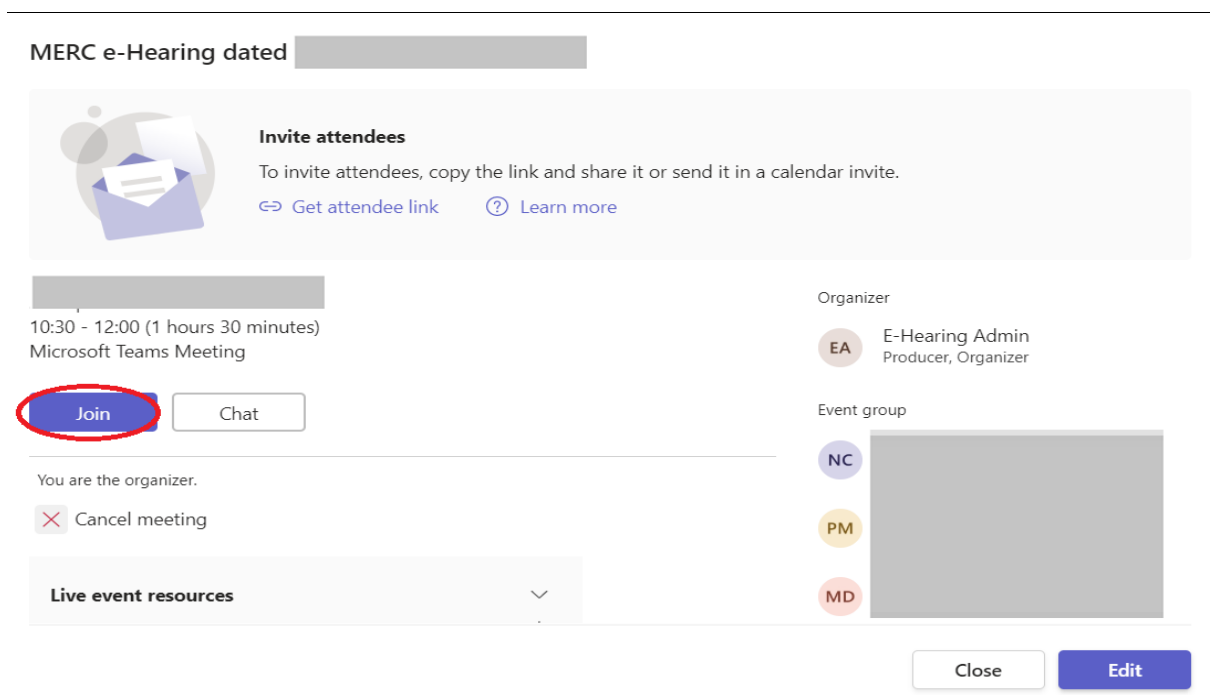
on the **‘Download the Windows App’** button. If you already have the Teams app, the meeting will open in Teams App.

b. Upon clicking the **‘Download the Windows app’** button, **‘Microsoft Teams app’** will be **downloaded**.



c. After downloading open teams app and Login with the credentials (username & password) provided by MERC IT team.

d. On the left Menu Panel click on Calendar icon. In the calendar, scheduled event/e-Hearing will appear. Double click the same and below screen will appear. Join the meeting by clicking on 'Join' button as shown in below pic



e. After clicking on Join button display window as depicted in PIC below shall open. The party is requested to make sure that Camera and MIC are off, thereafter the party is required to click on the 'Join now' button;



f. After having clicked on the “Join now” button, as in above step, the party would join in e-Hearing.

g. Upon being joined to the e-Hearing, arguing counsel/parties shall wait for the instructions from Commission on being asked, he will introduce himself and thereafter, party may make submissions and on completion of the submissions, shall at once “mute” the MIC of the respective device, if the Commission requires the party to make further submission(s), the party may then “unmute” the MIC of the device and again, on completion of the submission, put the MIC on “mute” mode;

h. It is important for parties to remember to keep their MIC on “mute” at all times, except when the Commission requires them to make submission(s); thus, when one party is making submissions, it is imperative that all other participants shall keep their respective MIC muted failing which the possibility of MIC catching audio feed from the speakers and creating `echo/noise-disturbance` would become very high and may disturb the e-Hearing;

i. It may be noted that simultaneous submissions by more than one party at any given time should be avoided and each party shall wait patiently for their turn or the permission from Commission. Once permitted by the Commission, the party shall first „unmute“ the MIC and thereafter make submissions, as per clause “h” above.

j. During e-Hearing, the parties may kindly keep in mind that they are participating in COURT PROCEEDINGS, and hence it is expected that they would not resort to any indecorous conduct or dress or comment; further, parties are required to ensure that the e-Hearing proceedings neither be recorded/stored nor be broadcasted, in any manner whatsoever, as recording/copying/storing and/or broadcasting, by any means, of the hearings and proceedings before the Commission are expressly prohibited;

k. Parties are required to stay online till Commission concludes the hearing of their matter. In case a connectivity link goes down at remote end, then the Remote user can rejoin the e-hearing through the invitation link received over email or he can contact MERC IT team through other modes including voice call, SMS, Whatsapp, email etc. for the same. The MERC IT team will immediately inform the same to the Commission by mentioning the same in Chat box.

l. If connectivity link goes down at Server level due to unforeseen and unavoidable technological issues, then the Commission will adjourn the hearing and same will be intimated to parties immediately via email. After resolving the issue by IT team, the Commission will reschedule the hearing as per the convenient date and time of the Commission and the parties will be intimated accordingly through email.

m. MERC officials may call any party for the Test run prior to the date of the actual e-Hearing and require to test the device or its connectivity, and every such party is required to cooperate with such staff/official and abide by the instructions given, so that the hearing by videoconference may be smoothly conducted;

n. The presenter can show the document on the screen for explaining in detail. The said showcasing can be from the indexed/pagination documents submitted to the Commission in advance which have been bookmarked for easy search.

Live streaming of e-Hearing:

1. Live streaming will be done by publishing a link over MERC website (<https://www.merc.gov.in>). People can join session of Live Streaming as anonymous users without downloading rights to witness the proceedings of e hearing. They can raise their queries / questions via “Q & A” Tab available to them. The queries raised vis “Q&A” tab will be answered online.

Provided that the queries raised in “Q&A” tab shall be pertaining to the particular Case and with respect to the intervening in the matter with proper application. It shall not be binding to answer every or irrelevant queries / questions raised through “Q &A” section.

2. In Live streaming, there are 3 roles that are required -

1. Producer (who will host and control the live streaming event- IT Admin)

2. Presenter (who will make submission - Advocate / Party)

3. Moderator (who will monitor and respond to questions received in the ‘Q&A’ - Legal Team)

Producer: IT admin / Producer will host the Live Streaming event and will add the participants (as per request received over email) to the event. Producer can control the display screen for live event. Producer can show the screen of Presenter (making any submission / presentation) or can show the active user (speaker) on the screen.

Presenter: After the permission of the Commission, Advocate / Party can produce documents / show the presentation through screen sharing. Advocate / Party can submit the documents in “Chat” tab.

Moderator: MERC Legal officer will act as a ‘Moderator’ in the live event. The Moderator will announce over ‘Q & A’ Tab that if anyone wants to speak/ submit something, then first he (anonymous user) has to provide the contact details (Name, Email ID, Phone Number) in ‘Q & A’ Tab. The Moderator will go through all the queries / questions received through ‘Q & A’ section and can publish the relevant queries which then can be seen by everyone in the e-Hearing (excluding people joining from link – anonymous users).

Appendix –D Test-run for Parties

In order to dispel any anxiety surrounding electronic hearings a test-run would be conducted by MERC Legal and IT team.

The typical things that will be covered are:

- clarity of the video feed and audio quality on their end and the MERC’s end;
- confirming that the users have a base level of familiarity with the software, and how the screens will change based on who is speaking;
- showing participants, the “Chat” and “Screen Sharing” functionality used for sharing / submission of file, (subject to the necessity and if permitted by the Commission;)

Appendix -E

General Guidelines for e-Hearing Participants

1. As full features of Teams App are presently not available with Mobile (Android and iOS) devices; participants are advised to use Desktop/ Laptop / iPad for smooth functioning of e-Hearing.
2. Attendees, joining through browser, are advised to use latest versions of the browsers like Google Chrome, Firefox etc.
3. Participants shall use Earphone / Microphone devices. Hands free mode is not recommended.
4. Do not move or hold the Microphone.
5. It is important for parties to remember to keep their MIC on “mute” at all times, except when the Commission requires them to make submission(s).
6. Avoid keeping paper/articles on the Microphone.
7. Focus the Camera on the speaker while speaking.
8. Test the presentation well before Video Conferencing starts.
9. Avoid bringing food and Beverage in camera view.
10. The Commission at its sole discretion and depending on the petition being heard through video conferencing, may live stream the event. In case the Commission decides to live stream the event, a link will be provided on the website of the Commission.
11. During hearing through video conferencing, the parties may kindly keep in mind that they are participating in proceedings, and hence it is expected that they would not resort to any indecorous conduct or dress or comment. Further, parties are required to ensure that the proceedings by video conference are neither recorded/stored nor broadcast, in any manner whatsoever, as recording/copying/storing and/or broadcasting, by any means, of the hearings and proceedings before the Commission is expressly prohibited;
12. Parties are required to stay online till the Commission concludes the hearing of their matter, thereafter the parties may disconnect from video-conference;
13. Upon publication of the Schedule of Hearing cases, the Registry of the Commission may call any party and require to test the device or its connectivity, and every such party is required to cooperate with such staff/official and abide by the instructions given, so that the hearing by videoconference may be smoothly conducted;
14. After publication of Schedule of Hearing cases, a WhatsApp group may be created by the Commission before the hearing of the matters where the participants may raise any query related to video conferencing. That apart, the parties may contact E-hearing Helpline, for Joining and Teams app related queries to IT Team and for Case related or documents related queries to Legal Team on contact details provided on MERC website.