

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
World Trade Centre, Centre No.1, 13th Floor,
Cuffe Parade, Mumbai – 400 005
Tel. 022 22163964/65/69 Fax 22163976
Email: mercindia@mercindia.org.in
Website: www.merc.gov.in

MAHARASHTRA ELECTRICITY REGULATORY COMMISSION
(RECRUITMENT AND CONDITIONS OF SERVICE OF EMPLOYEES)
REGULATIONS, 2024

STATEMENT OF REASONS

Dated: 25 September, 2024

1. Introduction

- 1.1 Section 91 (2) & (3) of the Electricity Act 2003 requires the Commission to frame Regulations stipulating terms and conditions of services of its employees including number, nature, and categories of posts, with prior approval of the Government. Accordingly, with approval of the Government of Maharashtra (GoM), the Maharashtra Electricity Regulatory Commission (“MERC” or “the Commission”) has framed MERC (Recruitment and Conditions of Services of Employee) Regulations 2007 and its Amendment in 2011.
- 1.2 MERC has gone through a long period of more than twenty years since its inception in 1999. In the formative years of MERC, human resource related issues did not show up much as most of the newly appointed personnel, either by direct recruitment or by deputation, were still to get sufficient length of service for expecting promotion, change in assignment, broader role in advising on technical and regulatory issues and rising to a position of higher responsibility and authority. Due to the small size of organization, it was not possible to provide opportunity of promotion to every employee which impacts their career growth. Further, adoption of newer technologies in power sector, growth of Renewable Energy and regulatory changes required to absorb more and more renewable energy, need for creating consumer awareness and their rights etc has led to increase in workload of the MERC which requires changes in organizational structure. Considering all these issues, the Commission has been seeking reports/advice from the experts on organizational restructuring, recent being the K P Bakshi Committee.
- 1.3 Considering such reports from the expert committee and all other details available before it, the Commission has framed the Draft MERC (Recruitment and Conditions of Service of Employees) Regulations 2024 which will replace exiting Employee Regulations. As required under the Electricity (Procedure for Previous Publication) Rules, 2005, the said

draft Regulations and the associated Explanatory Memorandum were published on the Commission's website www.merc.gov.in in downloadable format on 7 March 2024. A Public Notice was also published in daily newspapers Marathi (Maharashtra Times and Lokmat) and English (Economic Times and Times of India), inviting comments, objections and suggestions from all stakeholders which were to be submitted to the office of Commission on or before 28 March 2024.

- 1.4 Total 21 (twenty one) stakeholders had submitted their comments/suggestions/objections on the Draft MERC (Recruitment and Conditions of Services of Employee) Regulations, 2024. The list of stakeholders who had offered their comments/suggestions/objections on the Draft Regulations, which have been considered by the Commission while finalising the Regulations, is placed at Annexure-I.
- 1.5 After considering comments received during such public consultation process, the Commission had modified certain parts of the Draft MERC (Recruitment and Conditions of Services of Employee) Regulations 2024 and as stipulated in Section 91 (2) & (3) of the Electricity Act 2003, The Commission had sent it to the GoM for approval. The GoM vide letter dated 23 September, 2024 has now granted its approval to The Draft MERC (Recruitment and Conditions of Services of Employee) Regulations 2024.
- 1.6 The main comments/suggestions/objections and views expressed by some of the stakeholders through their written submissions and the Commission's views thereon have been summarized in the following paragraphs. It may be noted that all the suggestions given by the stakeholders have been considered and the Commission has attempted to elaborate all the suggestions as well as the Commission's decisions on each such suggestion in this Statement of Reasons (SOR). However, in case any suggestion is not specifically elaborated, it does not mean that the same has not been considered.
- 1.7 Wherever possible, the comments and suggestions or objections have been summarised issue-wise, along with the Commission's analysis and ruling on the same. However, in some cases, due to overlapping of the issues/comments, the issues have been combined in order to minimise repetition.
- 1.8 Some comments and suggestions were regarding individual grievances and not directly related to the Draft Regulations on which inputs were invited. Specific rulings on the same have not been provided, as the same are outside the scope of these Regulations.

2. Comments Received from Stakeholders:

2.1 Sharing of Committee Report:

2.1.1 Comments Received

Some of the stakeholders have stated that Bakshi Committee was formed to address grievances of the employee and hence they had requested that said Committee Report based on which the Draft Regulations have been framed needs to be shared /made public and thereafter additional time be given for filing their comments. Further, it is also pointed out that the Commission had earlier setup Tripathi Committee which had also given its recommendations, and the same need to be considered.

2.1.2 Analysis and Commission's Ruling

Bakshi Committee has given its Report to the Commission which has summarised details of each employee, their grievances and has provided recommendations on organisational changes to address the grievances of the employees as well as meet functional requirement of the Commission. As the said Report includes personal and confidential details of the employees, same cannot be made Public.

Further, although Report of the Bakshi Committee recommending organisational changes is a recent one, the Commission, while framing the Draft Regulations, have considered all previous available Reports and documents before it. Such Reports of Experts are only recommendatory in nature, whereas Employees will be governed by the service conditions stipulated in the Regulations which were made available for comments and stakeholders have already filed their comments on the same. Hence the Commission has not considered the request for making such Report public and thereafter extending date for filing the comments.

2.2 Resolving Grievances under Existing Regulations before notification of new Regulations

2.2.1 Comments Received

Some of the Stakeholders have contended that their pending grievances under existing Regulations be resolved first and then new Regulations be notified. It is also suggested that a clause may be added to state that all existing grievances be resolved under present Regulations even after notification of the new Employee Regulations. Some of the stakeholders have also contended that existing Regulations enable them to promotion to t higher posts, whereas Draft Regulations 2024 have added few posts in between thereby requiring longer period to reach such higher posts vis-a-vis the existing Regulations. Further some of the employees have already got benefit under existing Regulations. Hence, they suggested that they may be appropriately compensated for the same.

2.2.2 *Analysis and Commission's Ruling*

The Commission notes that as explained in introductory part of the documents, most of the employee grievances are due to small size of the organisation and limited scope for promotions. Therefore, instead of addressing these grievances individually, the Commission has proposed changes in the Organisational structure and has introduced the concept of Functional and Non-functional promotions, merging of standalone posts etc. to address these grievances in a more wholistic manner.

Also, existing Employee Regulations enable the Commission to make necessary changes in service regulations to fit into its working requirements. Employee Regulations 2024 does not make any reduction in entitlement that employees are getting on present post under the existing Regulations. In fact, Employee Regulation 2024 has proposed additional benefits such as Earned Leave encashment, Leave Travel Allowance for visit to any place in India, Medical Insurance and Monthly Reimbursement facility etc. which are not there in the existing Regulations.

Further, to address contention of delay in promotions, Employee Regulations 2024 has prescribed procedure to be adopted for promotion and has mandated that the Departmental Promotion Committee must meet at least once in a year. Further, standalone posts have been merged with other posts to provide promotional avenues to them. As far as request for suitable compensation is concerned, the Commission notes that Hon'ble Supreme Court in recent judgment dated 23 July 2024 in the matter of Civil Appeal 6977 of 2015 has ruled on the matter of promotion as follows:

“18. It is no longer res integra that a promotion is effective from the date it is granted and not from the date when a vacancy occurs on the subject post or when the post itself is created. No doubt, a right to be considered for promotion has been treated by courts not just as a statutory right but as a fundamental right, at the same time, there is no fundamental right to promotion itself.”

In view of above, there is no case of any compensation for delay in promotion. At the same time, the Commission do recognise the need of promotional avenues for career growth of employees and will ensure that post notification of these Regulations, timelines stipulated in the Regulations for granting promotions to eligible employees are complied with.

Accordingly, the Commission has not accepted the request of delaying notification of these Regulations till all pending grievances are resolved.

2.3 **Objection on creation of posts or promotional channel**

2.3.1 *Comments Received*

Some of the stakeholders have objected to creation of two posts of the Executive Director and enabling provision of promoting an Executive Director to the post of

Secretary of the Commission. It is also stated that as pay scales of the Executive Director and Secretary are same, it cannot be considered as promotion.

2.3.2 *Analysis and Commission's Ruling*

The Commission is empowered under the Electricity Act to decide the number, nature and category of posts with prior approval of the Government. For catering to increasing workload, the Commission has decided to restructure organisational setup and has increased the number of posts under 'Regulatory and Technical Section' which is the core section of MERC assisting the Commission in various Regulatory and adjudicatory matters. As a part of such restructuring, the Commission deems it appropriate to create two posts of Executive Director in the Technical Section.

Further, besides the Secretary, Executive Director is the senior most Officer who is assisting the Commission in important regulatory and adjudicatory matters as well as in various matters related to the Ministry of Power & other ministries/departments of Government of India and the GoM. Hence the Commission thinks it appropriate to make enabling provision for promoting Executive Director to the post of Secretary.

In view of above, the Commission rejects these objections and do not make any changes in final Regulations in these respects.

2.4 Reservations

2.4.1 *Comments Received*

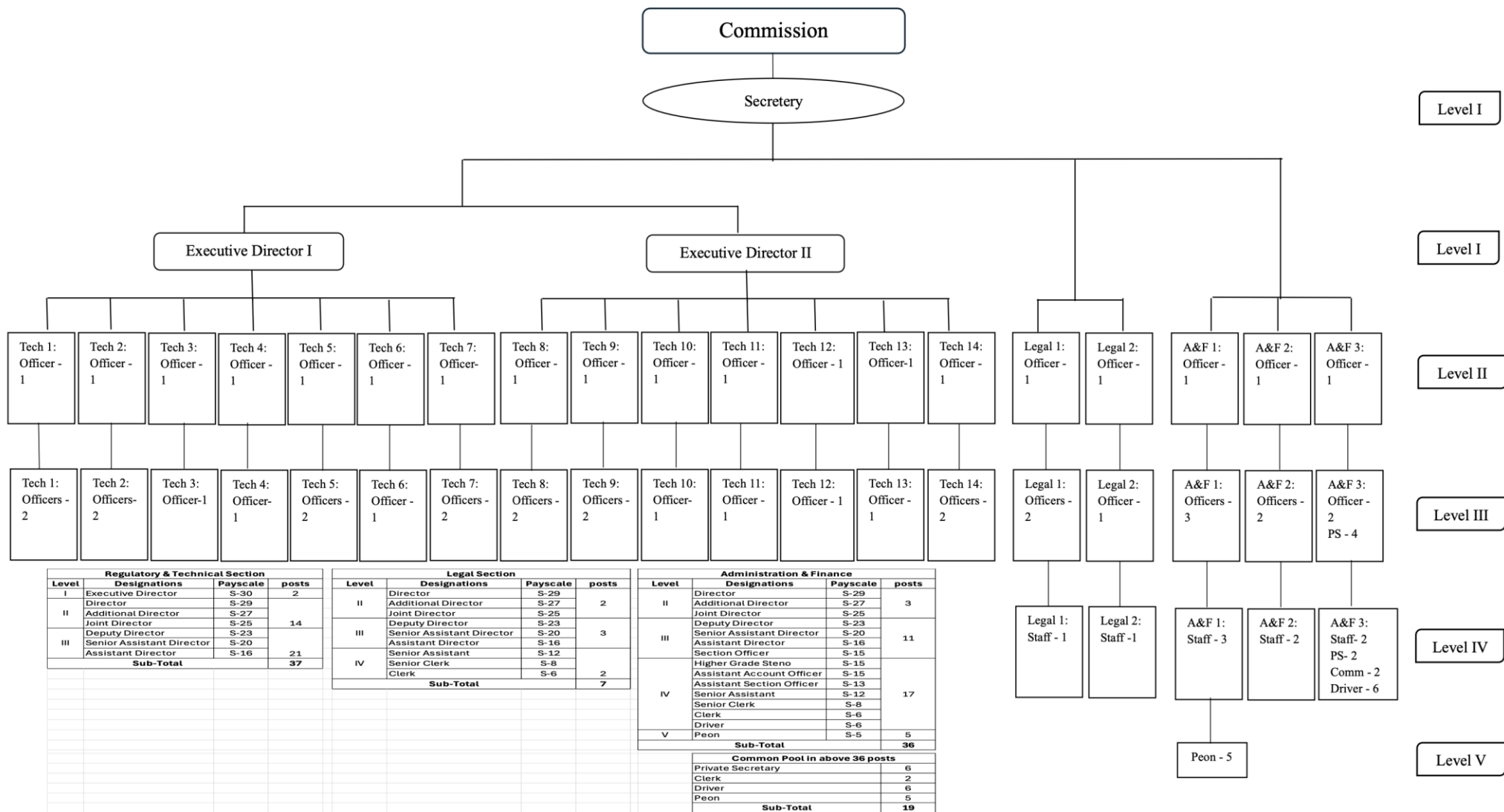
Some of the stakeholders have stated that provision of considering total strength of Functional level for the purpose of deciding reservation is not in accordance with reservation policies and they have requested that reservation should be provided cadre wise.

2.4.2 *Analysis and Commission's Ruling*

As explained in earlier part of this document, concept of 'Functional' and 'Non-functional' promotions has been included in Regulations to address the limited scope of promotion on account of small size of organization. For operationalizing 'Non-functional' promotions, all staff have been categorized under five Functional Levels i.e. Level I to Level V. Non-functional promotion can be given within the same level subject to maintaining the maximum number of posts in that Level. As designation wise strength have not been stipulated, designation wise reservation is not possible and not required. The reservation will be available on the basis of the maximum strength in the entire Level.

Further Non-functional promotion is akin to 'Assured Career Progression' scheme with only difference being that in addition to increase in pay scale, Non-functional promotion also allows change in designation with same functional role. This can be illustrated by organisational chart given below:

Illustrative Organization Structure



As can be seen from above illustrative organisational structure, 'Regulatory and Technical Wing' has 14 posts in Level II. As 'Regulatory and Technical Wing' would be having 14 Cells/Desks, each of such Cell/Desk would be headed by Level II Officer. Under Functional Level II of Technical Section, there are three posts viz Joint Director (S-25), Additional Director (S-27) and Director (S-29). Suppose a Joint Director is heading such cell/desk; after completing the prescribed period on that designation, he/she will be eligible for Non-functional promotion to the post of Additional Director and subsequently to the post of Director. Therefore, under the concept of Non-functional promotions within a given Functional Level, a person who has got promoted (with higher pay scale and designation) will perform the same functions unless he/she is transferred to another cell/desk. Further, different designations under same Functional level do not create hierarchical structure and hence it is incorrect to refer to these designations as cadres. Above illustration is equally applicable to 'Legal Wing' as well as to 'Administration and Finance Wing'.

In view of above, as the designation cannot be considered as a cadre, Reservation is made applicable to the total strength of the Functional Level. Hence, no change in required on this aspect in the Final Regulations.

2.5 Recategorization of Posts

2.5.1 *Comments Received*

It is suggested that post of Librarian be continued as it is, instead of merging with other posts. One of the stakeholders has also requested to clarify how many posts are allocated to IT cell.

2.5.2 *Analysis and Commission's Ruling*

With adoption of digital technologies in functioning of the Commission and digitisation of old documents, Officers and staff in MERC can access these digitised documents without help of any person. Further other reference material is easily available online. Hence, now there is no requirement of a standalone post of Librarian and hence it is merged with other posts without impacting its existing pay scale. It also creates promotional avenue for such a standalone post.

Posts of IT personnel are merged with 'Regulatory and Technical Wing'. Based on workload, an appropriate number of posts will be filled for IT cell from overall sanctioned strength of 'Regulatory and Technical' Wing.

In view of above, no change in Regulations is required.

2.6 Educational Qualification and Experience for appointment on nomination:

2.6.1 *Comments Received*

Some of the stakeholders have pointed out that for appointment on nomination, years of experience and upper age limit for Director (Technical) have been stipulated as 18 years and 45 years respectively. Whereas for the post of Director (Legal) the same have been stipulated as 20 years and 50 years respectively. They have requested to remove such discrimination.

Some of the stakeholders have suggested that posts under Technical Wing should be filled with persons having Engineering background only and not from Economics & Commerce background.

One of the stakeholders has requested to include Engineering in Computer Science / IT and MBA relating to the same in Educational Qualification.

2.6.2 *Analysis and Commission's Ruling*

The Commission notes that 'Regulatory & Technical Wing' and 'Legal Wing' are two different wings having different educational qualifications and different hierarchical structure. Hence, two posts of different Wings cannot be considered as equal just because they have the same pay scale. The Commission has specified the years of experience and upper age limit for each post of various wings based on its functional requirement. As role and educational qualification required in each wing is different, the Commission has specified requirement for each post accordingly. Hence, no change is required in this regard.

Educational Qualification of Economics and Commerce is required in various functioning of the Commission including Tariff fixation, FAC computation etc. The Commission has taken a conscious decision and has specified Educational Qualifications for each post. Hence, no change is required in this regard.

As regards to including Engineering in Computer Science / IT and related MBA, the Commission notes that it is a valid suggestion. IT posts have been merged with 'Regulatory and Technical Section'. Hence, Educational Qualification has been modified appropriately in the final Regulations.

2.7 Educational Qualification and Experience for appointment on promotion

2.7.1 *Comments Received*

Some of the stakeholders have submitted that qualification and experience requirement for promotion has not been stipulated. Same needs to be incorporated in the Regulations. It is also suggested that only satisfactory completion of stipulated years of experience

on given post shall be considered as criteria for promotion on higher post without imposing any additional criteria. Further Educational Qualification acquired through online courses conducted by reputed institutions shall also be considered as valid Educational Qualification.

2.7.2 *Analysis and Commission's Ruling*

Educational Qualifications for each post have been stipulated under Annexure C. Employee should acquire such Educational Qualification to become eligible for promotion. To enable employees to acquire such Educational Qualification during their service period, the Commission has decided to provide option of acquiring Educational Qualification of promotional post through online or distanced education mode being conducted by reputed institutes recognized /approved by UGC. Appropriate changes regarding the same have been made in the Final Regulations.

Requirement of experience for promotion has already been explained in Regulation 36, hence no change is required in this regard.

2.8 Relaxation of upper age limit to internal employees for appointment on nomination

2.8.1 *Comments Received*

Some of the stakeholders have suggested that upper age limit shall not be applicable to the internal Employees for appointment on nomination basis or on promotion basis.

2.8.2 *Analysis and Commission's Ruling*

Regulations does not specify any upper age limit for the promotion. However, for appointment on nomination basis, upper age limit has been stipulated in Annexure-C to the draft Regulations. For enabling internal employees to participate in process of appointment on nomination basis, the Commission has decided to relax such upper age limit criteria for internal employees. Necessary changes have been made in this regard in the final Regulations.

2.9 Mode of Recruitment:

2.9.1 *Comments Received*

One of the stakeholders has submitted that the Commission should recruit its employees through the Maharashtra Public Service Commission (MPSC). Some of the stakeholders have submitted that other modes of recruitment should be adopted after granting promotions to eligible employees. It is also suggested that recruitment on deputation should be undertaken in a transparent manner and provision for contractual employment may be deleted.

2.9.2 Analysis and Commission's Ruling

Electricity Act 2003 empowers the Commission to appoint its Officers and Staff. Further, the Regulations clearly mention that the Commission will adhere to the principle of public recruitment by providing adequate publicity to advertisement for filling up posts on nomination/regular basis. Therefore, mandatory recruitment through MPSC is not required.

Further, while stipulating various modes of recruitments, promotion has been stipulated first. This indicates that preference will be given to filling of posts through promotion of eligible employees and thereafter other modes of recruitment such as deputation or nomination/regular appointment will be considered. Regulations have also specified the process to be adopted while selecting persons on deputation basis. Hence, no further changes are required in the Regulations in this regard.

Regarding contractual appointment, the Commission notes that contractual appointment is for a temporary period, and it enables the Commission to recruit desirable experts. This is just an enabling provision and is required for the smooth functioning of the Commission which is regulating a dynamic sector like the electricity. For example, the Commission may decide to adopt Artificial Intelligence in its functioning, for which it may require employees with such knowledge. In that case, the Commission can employ such persons on contract basis for limited periods which who will not only perform such functions but will also train Commission's permanent employees. Hence, no change is required in the Regulations in this regard.

2.10 Making Government's GR applicable to employee

2.10.1 Comments Received

Some of the stakeholders have requested that the GoM's GR applicable to Mantralaya employees be made applicable to employees of MERC.

2.10.2 Analysis and Commission's Ruling

The Electricity Act 2003 has empowered the Commission to take decision regarding the number, nature, category of posts and their service conditions with approval of the Government. Such provisions under the Act, enable the Commission to frame service conditions of their employees which may be different from that applicable to the employees of State Government. Hence, it is incorrect to demand that GR which are applicable to Government Employee should automatically be made applicable to employees of MERC.

Considering its functional requirements and the nature of duties being performed by employees in MERC, the Commission may decide to adopt any GR of the GoM as it is

or with suitable modifications by recording reasons for the same. Hence, no change in the Regulations is required on this aspect.

2.11 Pay Scale for Section Officer and Assistant Account Officer

2.11.1 Comments Received

Some of the stakeholders have submitted that the GoM has changed pay scale of Section Officer from S-15 to S-17 and that of Assistant Accounts Officer from S-14 to S-15. Regulation needs to be modified accordingly.

2.11.2 Analysis and Commission's Ruling

The role and workload of Section Officer and Assistant Account Officer in the Government are different than those of MERC. Based on the role and workload in MERC, an appropriate pay scale has been adopted for each post in the Regulations. Hence, no change is required.

3. Approval from the Government of Maharashtra

- 3.1 After considering comments received during public consultation process, the Commission has modified the Draft MERC (Recruitment and Conditions of Services of Employee) Regulations 2024 and has submitted the same to the GoM vide letter dated 22 April, 2024 seeking their approval as required under Section 91 (2) & (3) of the Electricity Act 2003.
- 3.2 The GoM vide letter dated 23 September, 2024 have accorded their approval to the said Regulations.

**Sd/-
(Surendra J. Biyani)
Member**

**Sd/-
(Anand M. Limaye)
Member**

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

Annexure - I

Sl. No.	Name of Stakeholders
1	Ms. Namrata Sawant
2	Mr. Ganesh Jadhav
3	Ms. Hemlata Moti
4	Mr. Sunil Rane
5	Mr. Tushar Murudkar
6	Mr. Balu Ugale
7	Ms. Anita Ikke
8	Mr. Amol Khandagale
9	Mr. Siddharth Rokade
10	Mr. Ravidas Gijare
11	Mr. Manoj Patil
12	Mr. Anilkumar Ukey
13	Mr. Rakesh Guhagarkar
14	Ms. Sanjivani Bhosale
15	Mr. Sandeep Naware
16	Mr. Nitin Koli
17	Ms. Nanda Sathe
18	Mr. Pravin Dukhande
19	Ms. Anna Pillai
20	Mr. Pravin Ganvir
21	Mr. Popat Khandare