

The U.P. Electricity Regulatory Commission (Recruitment, Control and Service Conditions of Staff) Regulations, 2004

UTTAR PRADESH

India

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Rule

THE-U-P-ELECTRICITY-REGULATORY-COMMISSION-RECRUITMENT- of 2004

- Published on 8 December 2004
- Commenced on 8 December 2004
- [This is the version of this document from 8 December 2004.]
- [Note: The original publication document is not available and this content could not be verified.]

The U.P. Electricity Regulatory Commission (Recruitment, Control and Service Conditions of Staff) Regulations, 2004 Published Vide Notification No. UPERC/Secy/SR/2004-4278, dated 08.12.2004, published in the U.P. Gazette, Extraordinary, dated 08.12.2004. In exercise of the powers conferred by Sections 91 and 181 of the Electricity Act, 2003, the Uttar Pradesh Electricity Regulatory Commission, with the approval of the State Government, does hereby make the following regulations.

Preamble The Commission is a statutory body with quasi-judicial status, which was constituted under Section 17 of the Electricity Regulatory Commission's Act, 1998 and came into being on September 10, 1998. It was later deemed to have been appointed under Section 3 of the U.P. Electricity Reforms Act, 1999 and continues to be the State Commission under the first proviso of Section 82, Electricity Act, 2003. The primary functions of the Commission as given under Section 86 of Electricity Act, 2003 are :- (a) to determine the tariff for generation, supply, transmission and wheeling of electricity, wholesale, bulk, grid or retail, as the case may be, within the State provided that where open access have been permitted to a category of consumers under Section 42, the Commission shall determine only the wheeling charges and surcharge thereon, if any, for the said category of consumers; (b) to regulate electricity purchase and procurement process of distribution licensees including the price at which electricity shall be procured from the generating companies or licensees or from other sources through agreements for purchase of power for distribution and supply within the State; (c) facilitate intra-State transmission and wheeling of electricity; (d) issue licences to persons seeking to act as transmission licensees, distribution licensees and electricity traders with respect to their operations within the State; (e) promote co-generation and generation of electricity from renewable sources of energy by providing suitable

measure for connectivity with the grid and sale of electricity to any person, and also specify, for purchase of electricity from such sources, a percentage of the total consumption of electricity in the area of a distribution licensee;(f) adjudicate upon the disputes between the licences and generating companies and to refer any dispute for arbitration;(g) levy fee for the purposes of this Act;(h) specify State Grid Code consistent with the Grid Code specified under clause (h) of sub-section (i) of Section 79;(i) specify or enforce standards with respect to quality, continuity and reliability of service by licences;(j) fix the trading margin in the intra-State trading of electricity, if considered necessary;(k) discharge such other functions as may be assigned to it under this Act. In addition to the above the State Commission shall advise the State Government on all or any of the following matters:(a) promotion of competition, efficiency and economy in the activities of the electricity industry;(b) promotion of investment in Electricity Industry;(c) reorganization and restructuring of Electricity Industry in the State;(d) matters concerning electricity generation, transmission, distribution and trading of Electricity or any other matter referred to the State Commission by the State Government. The effectiveness and efficiency of the Commission in discharging its responsibilities will depend upon the quality and functional specialisation of its staff, which would need to encompass expertise and experience in engineering, system operation, economic and financial analysis, management accounting, information management and other related skills. Rapid changes in technology and evolution of the process of independent regulation are expected to continually redefine the scope of work within the Commission and hence, also the human resources necessary for achieving the objectives of the Commission. Skills and manpower development assessment will have to be done on a dynamic basis. To retain the necessary degree of flexibility to function effectively in this environment the Commission proposes to meet its requirement of staff/service through regular recruitment, deputation, renewable contract and outside service providers. These service rules relate primarily to the categorisation of sanctioned posts in different pay scales, designation of appointing authority for each category, procedures for recruitment, appointment and placement of staff, pay and allowances and service conditions for staff on regular basis, on deputation and contract, performance appraisal and the recording of confidential reports, designation of disciplinary authority, conduct of disciplinary proceedings and the procedure for imposition of penalties with regard to the staff of the Commission.

Chapter I

General

1.

(a) These regulations may be called the Uttar Pradesh Electricity Regulatory Commission (Recruitment, Control and Service Conditions of Staff) Regulations, 2004. (b) These regulations shall come into force from the date of their notification in the State Gazette. (c) These regulations shall apply to all members of the staff of the Uttar Pradesh Electricity Regulator)' Commission mentioned in these regulations.

2. Definitions.

- In these regulations, unless the context otherwise requires, -(a)"Act" means the Electricity Act, 2003;(b)"Appointing Authority", except in the case of deputationists where prescribed elsewhere by the parent Government/organization, means -(i)Chairperson, in respect of all Group A and B posts; and(ii)Secretary or any other officer of the Commission duly authorised in respect of all Group C and D posts.(c)"Chairperson" means the Chairperson of the Commission;(d)"Commission" means the Uttar Pradesh Electricity Regulatory Commission;(e)"Disciplinary Authority", except in the case of deputationists where prescribed elsewhere by the parent Government/organization, means -(i)Chairperson, in respect of all Group A and B posts;(ii)Secretary of the Commission in respect of all Group C and D posts.(f)"Groups A, B, C and D" posts will be classified in accordance with the description indicated in these regulations;(g)"Member" means a Member of the Commission;(h)"State" means the State of Uttar Pradesh;(i)"State Government" means the Government of the State of Uttar Pradesh through the Principal Secretary/Secretary Energy;(j)"Function" means and includes all work related to activities of the Commission;(k)"Service" means service by the staff of the Commission;(l)"Staff" includes both officers and employees of all categories appointed either on deputation, regular or on contract basis;(m)Words and expressions used in these regulations but not defined, unless the context is otherwise, shall have the same meaning as respectively assigned to them in the Act.

Chapter II

Categorisation Of Posts Against Sanctioned Strength And Mode Of Recruitment

3. Categorisation of Posts.

- The posts for the staff of the Commission are categorised in the Table at Appendix-I as per sanction vide O/M No. 468/24-U.Ni.Ni.Pra./2004, dated 15th October, 2004 at Appendix-II.

4. Mode of appointment.

(a)Appointments may be made, against the vacant posts in the Commission, through direct recruitment on contract basis or regular basis or on deputation from Central/State Government/Government Undertakings/Departments/Corporations, at the discretion of the Commission. Appointments on contract basis or on deputation will be, for a period not exceeding three years, which will be extendable/renewable for up to three years at a time at the discretion of the Commission.(b)The requirement for posts of drivers and peons will vary depending upon the degree of automation, use of electronic communication systems and electronic data storage devices etc. Hence to incorporate the required flexibility, the Commission may, in addition to its regular staff, when required, contract out these services to a service provider .

5. Allocation of posts.

- The inter se allocation of the sanctioned posts among different functional areas will be as decided by the Commission from time to time, to best fulfil the expertise mix required.

6. Power to keep posts vacant.

- Nothing in these Regulations shall be construed as requiring the Commission to have at all times, staff serving in all the categories or posts.

Chapter III

Procedure For Recruitment And Appointment

7. Appointing Authority.

- All appointments of staff members shall be made by the Appointing Authority indicated in these regulations.

8. Eligibility criterion.

- The prescribed eligibility criteria for recruitment to different posts are indicated in Appendix I. The Commission in consultation with the State Government, may from time to time amend the prescribed eligibility criterion for recruitment to different posts to best meet its requirements. The minimum educational qualification and nature of experience will be determined with regard to the functional requirements for a post.

9. Retirement Age.

- Retirement age for regular employees and staff on deputation shall be in accordance with State Government and parent department rules respectively.

10. Announcement of vacancies.

- The Commission may announce in such manner as it deems fit the number of vacancies to be filled on regular basis, through deputation, or on contract basis and shall invite applications from eligible candidates for appointment to the Commission. In the case of deputation the vacancies may be circulated to the relevant Government departments/undertakings/corporations, attached offices and subordinate offices, or the relevant Government may be asked to suggest suitable officers. In the case of recruitment on regular basis, wide publicity will be given to the vacancies through the print media and/or employment exchanges.

11. Prescription of forms and conditions for applications.

- The Commission may prescribe, as it deems fit, the form in which applications are to be submitted, the documents and certificates to be submitted with the application, the mode of submission, the last date for receipt of applications and the designated office for submission of applications. The Commission will allow sufficient time, between the announcement and the last date for submission of application, so as to provide sufficient opportunity to all eligible candidates to apply.

12. Processing of Application.

- The Commission shall consider all valid applications received in the Commission and may shortlist candidates, on the basis of the curriculum vitae of the candidates, for further processing for Groups A and B posts. For Groups C and D posts shortlisting for further processing shall be done by a Committee constituted by the Commission for the purpose.

13. Mode of selection.

- The Commission may prescribe the mode of selection including test or interview or any other method for assessing the suitability of the shortlisted candidates and for the ranking of candidates in order of merit.

14. Constitution of Selection Committee.

- There shall be a Selection Committee for processing the applications of shortlisted candidates as per the mode of selection prescribed by the Commission.

For selection to all Group A and B posts mentioned

(a) above the Selection Committee shall consist of the following members :-

Chair	: Chairperson of the Commission
Members	: Members of the Commission and a subject specialist, if required, to be nominated by the Commission
Convenor	: Secretary of the Commission

For selection to all Group C and D posts

(b) mentioned above the Selection Committee shall consist of the following members-

Chair	: Secretary of the Commission
Members	: Two Directors nominated by the Commission
Convenor	: Deputy Director (Administration)

(c)

The Selection Committee shall meet as and when it becomes necessary.

15. Merit list of candidates.

- On the recommendation of the Selection Committee the Commission shall prepare a select list of candidates arranged in order of merit which will remain valid for such period, generally not more than six months, as the Commission may specify.

16. Selection of candidates.

(a) Offers of appointment to candidates on the select list will be issued on the basis of merit shown in the select list clearly specifying a time limit within which the candidate must join service. This time limit may be further extended by the Appointing Authority. (b) The letter of offer of appointment may specify the conditions to be fulfilled by the candidate, prior to appointment. Every candidate selected for appointment who had earlier not been in Government service or in PSU, shall be examined by a State Medical Board prior to his/her appointment (unless he is on a one-year or less contract of service). A candidate who fails to qualify the Medical Test shall not be appointed. (c) The Commission may withdraw its offer of appointment if the selected candidate fails to fulfil any of the conditions prescribed as necessary to be fulfilled prior to appointment or if the candidate fails to join service in the specified time which shall be reasonable. (d) All appointments on regular or contract basis shall be subject to verification of character and antecedents, as may be decided by the Commission from time to time. (e) Where a letter of offer of appointment is cancelled, in the manner prescribed above, an offer of appointment will be issued to the candidate next below in the order of merit in the select list, so long as it remains valid.

17. Adjustment in Lower Scale.

- Even though the candidate meets the minimum qualifications for the higher post, a candidate may be offered employment at emoluments corresponding to a lower post than the one advertised, if the Appointing Authority feels that such action is warranted subject to the condition that the said lower post should have been advertised and no suitable candidate was found.

18. Probation.

- A period of probation may be prescribed for each appointee. The Appointing Authority shall have the right to extend probation, or terminate the employee for non-satisfactory performance at any time during the probationary period or on the conclusion of that period. The employee shall be confirmed on satisfactory completion of probation.

19. Reservation.

- State Government rules on reservation shall be abided by.

20. Existing Staff.

- Existing staff of the Commission whether on contract or deputation or on regular basis would have an opportunity to participate in the selection procedures envisaged to fill posts. Where an existing staff Member has been selected through a process of open recruitment, satisfies the minimum requirements, and is found by the Appointing Authority to have performed satisfactorily, he may be offered employment on regular basis without going through the regular selection procedure. The Commission at its discretion may allow time, to be determined by it, to existing staff members to acquire the requisite educational qualifications for a particular post, provided that the individual demonstrates the volition and ability to do so. Where the individual successfully achieves these qualifications, he may be considered for absorption against that post. In the interim the individual shall work on ad hoc contractual/deputation basis against that vacancy, and draw a salary that shall not exceed the emoluments prescribed for that post. After enactment of these regulations, existing staff not covered by the above arrangements shall cease to remain employees of the Commission after expiry of their employment terms with the Commission.

Chapter IV

Pay, Allowances, Placement And Conditions Of Service

21. Pay fixation.

- The scales of pay to be applied in determining the gross fixed amounts payable to contract staff and to be granted to regular appointees are indicated in Appendix I. (a) Regular Appointment. - In the case of regular recruitment the selected candidate will be placed in the appropriate pay scale. If the selected candidate is a Government servant his pay will be fixed at the appropriate point in the pay scale for which he has been selected. If the selected candidate is from the private sector his pay will be fixed at the lowest of the scale for which he has been selected. At the discretion of the Commission some or all of the following benefits may be provided to the employment - (i) Dearness Allowance - As admissible to equivalent Government servants of the Government of U.P. (ii) HRA - As admissible to equivalent Government servants of the Government of U.P. (iii) CCA - As admissible to equivalent Government servants of the Government of U.P. (iv) LTC/Home Travel - As admissible to equivalent Government servants of the Government of U.P. (v) Medical Facilities - As admissible to equivalent Government servants of the Government of U.P. (vi) [Provident Fund - The defined contribution pension system implemented vide Vitta (Samanya) Anubhag-3, Notification No. G-3-379/X-2005-301(9)-2003, dated March 28, 2005 shall apply to the employees of the Commission however, for employees absorbed in the services of the Commission, who were availing the benefits of Pension-cum-GPF system in their parent department/organization on the pattern of State Employees/Central Government Employees, shall continue to get all those benefits as before during their service in the Commission and for pensionary purposes, their service in the parent department/organization shall be eligible on the same conditions, which are applicable on State Employees. The Commission shall be responsible for payment of pension of such employees] [Substituted by Notification No. UPERC/Secy./SR/2006-1508, dated 19.05.2006, published in the U.P. Gazette, dated 19.05.2006.] (vii) Leave Provisions - Leave shall be admissible as per State

Government Rules.(viii)TA/DA - As per State Government Rules.(ix)Residential Telephone - As admissible to equivalent Government servants of the Government of U.P.Any other allowance available in the State Government to that category of employees may be provided.(b)Contract Staff. - (i) In the case of direct recruitment on contract basis a consolidated amount will be determined in each case separately for each year of the contract. The consolidated amount would remain fixed for the duration of the contract. It will be determined taking into account the pay and the other monetary benefits/allowances available at the corresponding scale indicated in Appendix I. For candidates just fulfilling the minimum qualifications, generally the minimum of the applicable scale will be used for this purpose. The Commission may consider determining this amount by including suitable number of additional increments in the scale for persons possessing qualification/experience greater than the minimum requirement, or having an exceptional background in terms of educational background and/or experience. In determining the consolidated emoluments the Commission will take into account the increments that become applicable in the indicative scale over the duration of the contract. Where the Commission decides to extend the contract or to reappoint the person on contract, without going through the process of fresh recruitment, similar principles will be adopted in determining the consolidated package.(ii)If persons retired from Government/PSU service are engaged on contract their pay shall be fixed taking into consideration their pension etc. as per State Government Rules.(i)Dearness Allowance(ii)HRA(iii)CCA(iv)LTC/Home Travel(v)Medical(vi)Provident Fund(vii)Leave Provisions(viii)TA/DA(ix)Residential telephone(x)Newspaper(xi)Any other allowance applied to regular employees(iii)The determination of the consolidated amount payable to a person appointed through direct recruitment on contract basis against a vacant post, described above, would be done with due regard to the eligibility and qualifications of the candidate and the need to maintain parity with deputationists in that scale, keeping in mind that on contractual basis, there is no escalation in the compensation on account of inflation or increments over the contract period and may include, at the discretion of the Commission :Each facility made applicable shall be applied in a similar manner as provided for to regular employees.(c)Staff on deputation. - (i) Employees on deputation will have the option to either opt his existing pay and allowance of his parent department along with deputation allowance prescribed by the State Government or opt pay and allowance applicable to the post he is selected on deputation.(ii)Staff joining on deputation shall be eligible for contribution to the respective Provident Fund to which they are subscribers in their parent department. Where a deputationist has been a member of a contributory provident fund the Commission will bear the cost of the employer's contribution as applicable in each case.(iii)Privileges related to telephone, newspapers, transport allowance and other privileges permissible in the State Government but not available in the parent department of the deputationists may be considered according to need on a case-by-case basis.(iv)When the Commission determines that the services of the deputationists are no longer required or found wanting, he will be repatriated to his parent department even before completion of his normal period of deputation.(v)The Commission may consider absorbing a deputationist in a contractual position on his willingness for the same, after severance of ties with the Parent Department as per the State Government/Central Government/ Parent Department Rules in this regard, as may be relevant. Similarly, deputationists will also be eligible for participating in the selection process for regular recruitment, subject to compliance with rules of the Parent Department.Privileges in excess of their entitlement may be given to regular/contractual/ deputation Commission employees in the interest of work, examined on case-to-case basis.

22. Placement of staff.

(a)The posting of staff members, at any time, shall be as decided by the Commission in any post, not lower in the scale of pay than the post for which the staff member was recruited.(b)A staff member may be allowed to hold more than one post for which no extra remuneration shall be paid except, at the discretion of the Commission, as may be provided in State Government Rules.

Chapter V

Annual Assessments, Disciplinary Proceedings And Penalties

23. Conduct Rules.

- All deputationists at the Commission shall comply with standards of conduct contained in the conduct rules applicable in the Parent Department. Where these rules are silent on a certain issue or the provisions are relaxed compared to the State Government requirements, the conduct rules applicable to State Government Employees of that level shall apply. For all staff and service provider personnel, standards of conduct envisaged by State Government Rules shall apply.

24. Confidential reports.

- The Commission shall determine the Reporting, Reviewing and Accepting authority or part thereof, for all staff. The annual confidential reports of staff will be recorded broadly in accordance with the provisions of the State Government/Parent Department in this regard, on formats prescribed thereof. The Commission may make prudent alterations to these formats.

25. Disciplinary Proceedings.

- The Appointing Authority shall be the Disciplinary' Authority in each case. The conduct of disciplinary proceedings will be as prescribed under the State Government Rules in this regard, as may be applicable. Imposition of penalties shall also be in accordance with these provisions, as may be applicable. For deputationists the disciplinary authority would be as prescribed by the Parent Organization. The deputation approving authority shall refer matters warranting disciplinary action to the disciplinary authority of the Parent Organisation as and when required. In the case of deputationists and other staff, the Commission would reserve the right to launch criminal prosecution or recovery proceedings as may be relevant to safeguard its interests. Provisions for reverting deputationists back to their Parent Organizations are indicated elsewhere.

26. Termination of services of contract employees.

(a)The services of officers/staff appointed on contract basis for a period of more than one year are terminable without giving any reasons on three months' notice or the unexpired period of the contract whichever is earlier from either side.(b)The services of officers/staff appointed on contract

basis for a period of one year arc terminable without giving any reasons on one month's notice or the unexpired period of the contract whichever is earlier from either side.(c)Either party reserves the right to pay the emoluments due for the notice period in lieu of the notice period.(d)Non-renewal of a contract on its expiry would automatically bring the services of a contract employee to an end.

Chapter VI

Miscellaneous

27. Training.

(a)Staff may be required to undergo in-house or external training courses as may be specified by the Commission.(b)A staff member charged with misconduct during the period of training could be withdrawn from training and appropriate disciplinary proceedings would be initiated Penalties in such cases could include deduction of the amount spent on the training by the Commission from the salary or compensation amount of the staff member.

28. Extension of the application of Government Rules, Regulations etc.

- These regulations may be amended by the Commission from time to time to incorporate rules, regulations, orders and instructions issued by the State Government from time to time in the following matters. No consultation would be required for incorporating provisions contained in the State Government Provisions.(a)Medical fitness(b)Leave(c)Medical Facilities(d)Local allowances such as Children Education Allowance, Tuition fee, Washing Allowance(e)Joining Time and Joining Time Pay(f)Loans and Advances(g)Payments of leave salary and pension contribution in respect of employees appointed on deputation in the Commission on Foreign Service terms(h)Conduct, discipline, suspension, appeal and review(i)Deputation of employees of the Commission to other organisations in India and abroad(j)Re-employment on contract beyond superannuation or retirement(k)Termination of service(l)Resignation(m)Citizenship of India as a condition of eligibility for appointment(n)Hours of duty and holidays(o)Travelling allowance.

29. Power of Relaxation.

- The Commission may, in the public interest and after recording reasons in writing, relax the provisions of these regulations, in consultation with the State Government.

30. Interpretation.

- If any question arises relating to the interpretation of these regulations, the interpretation of the Commission will be final.