

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION

BHOPAL

DRAFT NOTIFICATION

In exercise of powers conferred by sub section (1) of section 181, read with section 9 of the Electricity Act 2003 (36 of 2003) and all other powers enabling it in that behalf, the Madhya Pradesh Electricity Regulatory Commission hereby makes the following Regulations.

1. Short Title and Commencement

- 1.1 These regulations shall be called the Madhya Pradesh Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2022.
- 1.2 These regulations shall come into force from the date of their notification in the Official Gazette.

2. Objective

The objective of these regulations is to specify the methodology for verification of status of captive generating plants and captive users when consumers import power from their captive generator(s) located either within the State or outside the State and consequences of not meeting the conditions of either captive generator or captive user.

3. Scope and Extent of Application

- 3.1 These regulations shall apply to all the captive generating plants (CGP) and captive users.
- 3.2 These regulations shall extend to the whole of the State of Madhya Pradesh.

4. Definitions

- 4.1 In these regulations, unless the context otherwise requires; -
 - a) “Act” means the Electricity Act, 2003.
 - b) “Captive generating plant” or CGP means a captive generating plant as defined in the Act read with Rule 3 of the Electricity Rules, 2005;
 - c) “Captive User” shall mean the end user of the electricity generated from its

own Captive Generating Plant and the term “Captive Use” shall be construed accordingly;

- d) “Designated Authority” shall mean an Authority authorised by the Commission for verification of Captive Generating Plants and Captive Consumers under these regulations.
- e) “Electricity Rules, 2005 “means the Rules notified by the Central Government vide G.S.R. 379 (E) dated 8th June 2005 and as amended from time to time;
- f) 'Year' means a financial year from 1st April to 31st March.

4.2 Words and expressions used in these regulations and not defined herein but defined in the Act or the Electricity Rules, 2005 or any other regulations specified by the State Commission shall, unless the context otherwise requires, have the meanings assigned to them under the Act or the Electricity Rules, 2005 or any other regulations specified by the State Commission, as the case may be.

5. Designated Authority

5.1 The Commission shall issue a separate order regarding designating authority to determine the captive status of the Generating station under these regulations.

5.2 The designated authority may seek clarifications, if any, and confirm the CPP status or otherwise for the previous financial year latest by 30th June of next financial year:

5.3 In case, designated authority does not receive requisite data and documents for the purpose of verification of captive status within the time frame affixed in this procedure, it would be free to determine the status of the plant with the available data or documents if any.

5.4 The Designated Authority shall intimate fulfillment of condition in regard to the captive status or otherwise to the CGPs/captive users and the distribution licensee by 15th July of next financial year.

6. Verification of Status of CGP

6.1 Verification of status of CGP and captive users with respect to the criteria of consumption and equity share holding, as prescribed under the Electricity Rules, 2005 shall be done

annually after the end of financial year by the designated authority as authorised by the Commission.

6.2 The CGP and the Captive User shall file affidavit in specified format(s) before the designated authority giving details regarding their electricity generation, entity-wise consumption and equity share holding during the previous year before 30th April each year.

6.3 The designated authority may take assistance of the concerned RLDC, SLDC, Distribution Licensee (in whose area the CGP or Captive User is located) for verification of captive status of CGP or Captive Users based on the affidavit submitted by such CGP and captive users.

6.4 ***Verification of consumption criteria***

- a) Verification of criteria of consumption shall be based on the net electricity generated from the generating unit(s) in a generating station, i.e., gross electricity generated less auxiliary consumption, identified for captive use.
- b) The net electricity shall be determined on annual basis at the end of the year.
- c) Verification criteria for various types of captive users shall be as follows:

<i>Sl No</i>	<i>Type of captive user</i>	<i>Criteria</i>
i	Single captive user	The self-consumption shall not be less than 51% of the net electricity generated by CGP on an annual basis.
ii	Partnership firm /Limited Liability Partnership (LLP)	The self-consumption shall not be less than 51% of the net electricity generated by CGP on an annual basis
iii	Association of Persons (AoP)	The captive users shall consume not less than 51% of the net electricity generated on annual basis for captive use in proportion to their share in the CGP within the variation not exceeding 10%.

iv	Cooperative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated by the CGP on annual basis
v	Captive User (s) of a CGP setup by a Special Purpose Vehicle (SPV) formed by Company/ Partnership Firm/ LLP Firm / AoP	The captive user(s) shall consume not less than 51% of the net electricity generated on annual basis in proportion to their shares in the units identified for captive use.

- d) Manner of assessment of data related to generation from CGP and consumption by captive user:

<i>Sl. No</i>	<i>Location</i>	<i>Method of assessment</i>
i	CGP and its captive user(s) are co-located	Based on net generation from the CGP and consumption by the captive user which shall be based on the reading of the meter installed for recording the generation at the generation side (“generation meter”) and consumption at the consumption side (“consumption meter”).
ii	CGP and its captive users are located within the State (but not co-located),	Based on net generation from the CGP as per the data provided by the SLDC and the corresponding consumption or the actual consumption whichever is lower, based on the reading of the meter installed for recording the generation at the generation side (“generation meter”) and consumption at the consumption side (“consumption meter”).

iii	The CGP and its captive user(s) is / are located in different States	Based on net generation from the CGP as per the data provided by the respective RLDC and the corresponding consumption or the actual consumption whichever is lower, based on the consumption recorded at consumption side (“consumption meter”) provided by the concerned distribution licensee (s) in whose area the user(s) are located.
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6.5 Verification of equity share holding criteria

a) Verification criteria for various types of CGP shall be as follows:

<i>Sl No</i>	<i>Type of captive user</i>	<i>Criteria</i>	<i>Support Document</i>
i	Single captive user	The user shall hold not less than 26% of the equity share capital having voting rights throughout the year	A certificate from the Registered Chartered Accountant who signs the annual financial statement of the Company / Company Secretary.
ii	Partnership firm/LLP	Ownership in the captive plant shall be with respect to not less than 26% proprietary interest and control over the generating station or power plant on annual basis.	A certificate from the Firms Registered Chartered Accountant who signs the annual financial statement of the Firm.
iii	AoP	The captive users shall hold in aggregate not less than 26% of the ownership/paid up equity share capital with	A certificate from a registered Chartered Accountant who signs the annual financial statement

		voting rights throughout the year	
iv	Cooperative Society	Members of society shall collectively satisfy not less than 26% of the ownership on annual basis.	A certificate from District Registrar of Cooperative Society/ Chartered Accountant who signs the annual financial statement of the Society
v	Captive User (s) of a CGP setup by a Special Purpose Vehicle (SPV) formed by Company/ Partnership Firm/ LLP Firm / AoP	The captive user(s) shall hold in aggregate not less than 26% of the proportionate paid-up equity share capital with voting rights of the units identified for captive use (i.e. the proportionate of the Equity of the company related to the generating unit or units identified as the CGP) throughout the year	As in (i) to (iv) above depending upon whether SPV is Company/ Partnership / LLP / AoP

7. Consequence of failure to meet Captive user status

7.1 If the CGP or Captive User (s) fails to meet the criteria of ownership and consumption, specified in Rule 3 of Electricity Rule 2005, as amended from time to time, by the end of the year, such CGP or Captive User shall lose its Captive status for that year leading to imposition of Cross Subsidy Surcharge and Additional Surcharge and such other charges as applicable on open access consumers and an independent generating station for the entire financial year.

7.2 The concerned distribution licensee shall be entitled to raise demand of applicable cross subsidy surcharge and additional surcharge for each month along with delayed payment

surcharge @ 1.5 % per month from the date of such demand becoming due.

8. Detailed Procedure

8.1 The Commission shall publish the detailed procedure for verification of status of CGP and captive users in pursuance to the provision of the Electricity Rules, 2005 and these regulations.

9. Monitoring, Dispute Resolution and Review of decision

9.1 The Commission shall constitute a Committee, to be known as the 'CGP Status Monitoring, Dispute Resolution and Decision Review Committee' (hereinafter referred to as "CGP Status Committee").

9.2 The CGP Status Committee shall consist of one representative each from the SLDC, the State Transmission Utility and Distribution Licensee, to be approved by the Commission and one person to be nominated by the Commission from amongst its staff. The representative of the Commission shall be its Coordinator. The SLDC, the State Transmission Utility, the Distribution Licensee and the Commission, may nominate one alternate member whose views shall be construed to be the views of the incumbent member whom he represents:

Provided that the members representing the SLDC, the State Transmission Utility and the Distribution Licensee shall not, unless otherwise approved by the Commission in writing, be officers below the rank of the Superintending Engineer or equivalent.

9.3 The CGP Status Committee shall monitor the functioning of the Designated Authority regularly. The CGP Status Committee shall take stock of the situation at least once in three months. The Designated Authority is obliged to provide the details of the applications pending / rejected by it to the CGP Status Committee. The CGP Status Committee shall also review these Regulations once every six months.

9.4 The CGP and or CGP User (s) aggrieved with the decision of the Designated Authority shall first approach the CGP Status Committee. The CGP Status Committee shall resolve the disputes of open access permissions and review the decisions of Nodal Agencies when requested by the aggrieved CGP and or CGP User (s).

9.5 Any CGP and or CGP User (s) aggrieved by a decision of the Designated Authority may upon discovery of new and important material or evidence or otherwise, which after exercise of due diligence, was not within his knowledge or could not be produced by him

- at the time when the decision was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reason, may apply for a review of such decision, within forty-five (45) days of the date of the decision, to the CGP Status Committee.
- 9.6 The CGP Status Committee depending on whether or not there is sufficient ground for review, would either accept or reject requests for such reviews.
- 9.7 When the CGP Status Committee is of the opinion that the review application is maintainable, then it shall examine and endeavor to resolve the same.
- 9.8 The CGP and or CGP User (s) may file a Petition with the Commission seeking the order if they are not satisfied with the decision of the CGP Status Committee. In this case the CGP and or CGP User (s) shall have to file the Petition in accordance with the Madhya Pradesh Electricity Regulatory Commission (Conduct of Business) Regulations, 2016.

10. Power to remove difficulties

- 10.1 If any difficulty arises in giving effect to the provisions of these Regulations, the State Commission may, by general or specific Order, make such provisions not inconsistent with the provisions of the Act, as may appear to be necessary for removing the difficulty.

(Dr. Umakanta Panda)
Secretary

Madhya Pradesh Electricity Regulatory Commission

Procedure for verification of Captive Generating Plant (CGP) status in accordance to requirements in Rule 3 of the Electricity Rules, 2005

The Madhya Pradesh Electricity Regulatory Commission in exercise of the powers vested under Regulation 7.1 of Madhya Pradesh Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, 2022 hereby makes the following Procedure for verification of Captive Generating Plant (CGP) status in terms of Rule 3 of the Electricity Rules, 2005.

1. Scope:

- (1) This procedure is applicable to all power plants that generate power purportedly for Captive consumption and the captive users.
- (2) This procedure shall be applicable from Financial Year 2023-24.

2. Statutory provisions:

2.1 A generating plant declared as a Captive Generating Plant (CGP) is required to meet the provisions in the Electricity Act, 2003 and Rule 3 of the Electricity Rules, 2005.

2.2 For a power plant to be qualified as a Captive Generating Plant (CGP), following basic conditions are required to be met as per Rule 3 of the Electricity Rules, 2005:

- (i) The captive generators/users shall be required to identify the unit/units intended for captive consumption at the time of induction of equity itself.
- (ii) the captive user(s) consuming the power generated from the captive generating plant for

self-use must necessarily hold not less than 26% of the ownership in the captive generating company; and

- (iii) not less than 51% of the aggregate electricity generated in such plant, determined on annual basis, should be consumed for the captive use.

2.3 The provisos under Rule 3(1) (a) and (1) (b) of the Electricity Rules, 2005 have certain provisions applicable to Registered Co-operative Society, Association of Persons and Company formed as a Special Purpose Vehicle (SPV) as under:

- i) in case of a power plant set up by registered Cooperative Society, the conditions in sub-clauses (i) and (ii) of clause (a) of sub-rule (1) of Rule 3 shall be satisfied collectively by the members of the Cooperative Society, and
- ii) in case of Association of Persons (AoP), the captive user(s) shall hold not less than 26% ownership of the plant in aggregate and such captive user(s) shall consume not less than 51% of electricity generated, determined on annual basis, in proportion to their shares in ownership of the plant within a variation not exceeding 10%.
- iii) in case of a generating station owned by a company formed as a Special Purpose Vehicle (SPV), the units identified for captive use shall alone satisfy conditions in sub clause (i) and (ii) of clause (a) in sub-rule 1 of Rule 3 of the Electricity Rules, 2005, and the electricity required to be consumed by captive users shall be confined to the units in aggregate identified for captive use. The equity shares to be held by the captive users shall also be in proportion to the equity of the company related to generating units identified for captive use.

2.4 The explanation to the Rule 3 of the Electricity Rules, 2005 describes “Ownership” as having “equity share capital with voting rights” in relation to a generating station or power plant set up by a company or any other body corporate, and in other cases meaning “proprietary interest and control over the generating station or power plant”.

2.5 The captive users have the obligation to consume not less than 51% of the aggregate electricity generated in a power plant determined on an annual basis, and failure to comply with minimum per cent of captive use in a year will entail in the CGP losing its captive status and the entire electricity generated from the CGP will be treated as supply of electricity by a generating company.

3. General Conditions:

Considering the above-mentioned statutory provisions, general provisions to verify compliance of conditions under Rule 3 of the Electricity Rules, 2005 shall be as under:

- (i) The captive generators/users shall be required to identify the unit/units intended for captive consumption at the time of induction of equity itself.
- (ii) The CGP users/owners shall ensure that at any point of time in a financial year not less than 26% of the ownership with voting rights of the generating plant/station or the units identified for captive use, as the case maybe, is held by the captive users and they consume not less than 51% of the electricity generated on annual basis as per this procedure.
- (iii) In case, if there is one captive user, the user shall hold not less than 26% of the equity share capital with voting rights throughout the year and shall consume not less than 51% of the electricity generated on annual basis for captive use as per this procedure.
- (iv) In case of two or more captive users or AoP, the captive users shall hold in aggregate not less than 26% of the equity share capital with voting rights throughout the year and consume not less than 51% of the electricity generated on annual basis for captive use as per this procedure in proportion to their equity share in the power plant within the variation not exceeding 10%. The proportionality test shall be calculated for 51% of aggregate generation and not for consumption beyond 51% by captive consumers.
- (v) If an operating company is non SPV, the captive user shall hold not less than 26% of the equity share capital with voting rights throughout the year and shall consume not less than 51% of the electricity generated on annual basis for captive use as per this procedure.
- (vi) In the case of Co-operative Society, members of society shall collectively satisfy not less than 26% of the ownership and consume not less than 51% of the electricity generated on annual basis for captive use as per this procedure.
- (vii) In the case of Partnership firm/LLP, ownership shall be with respect to not less than

26% proprietary interest and control over the generating station or power plant and the consumption shall be not less than 51% of the energy generated on annual basis as per this procedure.

- (viii) In the case of CGPs identified for captive use as under clause (b) of sub- rule (1) of Rule 3 of the Electricity Rules, 2005 in a generating station owned by a Company which is formed as a Special Purpose Vehicle and has multiple generating units, the captive users shall hold in aggregate not less than 26% of the proportionate paid up equity share capital with voting rights as per illustration at clause 3(1)(b) of the Electricity Rules, 2005 and consume not less than 51% of energy generated as per this procedure shall be with reference to the generating units identified for captive use and not generating station/company, as a whole.
- (ix) The test of proportional consumption in AoP and in SPV (where applicable) shall be on 51% of electricity generated, determined on an annual basis, in proportion to the shares in ownership of the power plant within a variation not exceeding ten percent.
- (x) Verification of ownership and consumption for any change in the captive user in a FY shall be for each corresponding period of change. i.e by considering the proportionate generation for the corresponding period and the energy consumed by the captive user(s).
- (xi) Weighted average of shareholding to verify 26% ownership annually when there is change in ownership structure, shall be considered subject to the condition that change in extent of shareholding of a captive user is intimated to the Distribution Licensee and the Designated Authority within 10 days of such change. Failure to intimate the change within the specified period will render the Designated Authority to conduct verifications without considering weighted average of shareholding.
- (xii) The Designated Authority shall verify minimum equity share capital of 26% before the grant of permission for Open Access from the Captive Generating Plants. In case if the criteria of minimum equity share capital of 26% is not fulfilled at the time of seeking Open Access, it shall be considered as if the applicant is non-captive user.

4. **Procedure for verification of Captive Generating Plant status:**

4.1 **Verification of ownership of the CGP as per condition in sub clause (i) of clause (a) of sub rule 1 of Rule 3:**

4.1.1 The Authorised signatory of CGP shall identify the category of ownership with respect to the provisions contained in the Electricity Rules, 2005.

4.1.2 For verification of ownership, the documents as detailed below shall be furnished by the CGP owners/captive users for different compositions of ownership:

a) **Where the generating plant is a Company under the Companies Act:**

- (i) A certificate issued by the Registered Chartered Accountant, who signs the annual financial statement of the company/practicing Company Secretary who files the annual return of the Company providing details of Total equity, Authorised, Issued, Subscribed and Paid up Equity Share Capital of the Generators and the details of holding of Equity Share Capital with voting rights of the CGP and that of the Captive users as per FORMAT-I.
- (ii) Certified copy of Memorandum of Association and Articles of Association and its amendments issued from time to time, along with the certification that there is provision in Memorandum of Association and Articles of Association for taking up captive generation.
- (iii) Furnishing of Relevant extract of Latest Annual Return showing shareholding details filed by the generators/captive users with the Registrar of Companies, within a month of filing for the purpose of cross verification.
- (iv) A certificate regarding holding of Equity Share Capital with voting rights in the CGP by the captive user duly certified by the Registered Chartered Accountant who signs the annual financial statement of the company/practicing Company Secretary who files the annual return of the Company as per FORMAT II.
- (v) A copy of Board Resolution authorizing the signatory of the Company. The authorized signatory shall be the Managing Director or Whole Time Director or Company Secretary.

(vi) The authorized signatory shall furnish the documents (i) to (v) above.

(vii) Any change in the authorized signatory and revocation for approval for captive generation by the Board by way of amendment to Memorandum of Association and Articles of Association shall be intimated within 30 days from the date of such change to the Distribution Licensee and the Designated Authority.

b) Where the generating company is a Partnership firm/LLP:

(i) A certificate issued by the Firm's Registered Chartered Accountant, who signs the annual financial statement of the company, as the case may be, showing breakup details of total capital of the Firm, the capital held by the captive users, the percentage of proprietary interest and control over the generating plant by the captive users in the Format –III along with a certificate that there is provision in the Partnership deed of the company for carrying on captive generation.

(ii) A certificate regarding extent of 'Ownership' in the Captive Generating Plant by the captive user duly certified by the Registered Chartered Accountant who signs the annual financial statement of the firm /LLP in Format -IV.

(iii) Furnishing of relevant extract of Latest Annual Financial Statement of Accounts/annual return/tax audit return of the firm and the Captive Users showing details of ownership by the end of November for the purpose of cross verification.

(iv) A copy of the agreement/nomination by all partners in a Partnership/ members in an LLP authorizing the signatory of the Partnership Firm/LLP.

(v) A certified copy of the Partnership deed/agreement for a Partnership Firm/LLP along with Form A issued by the Registrar of Firms for a Partnership firm and by the ROC in case of LLP and its amendments issued from time to time.

(vi) The authorized signatory of the Partnership Firm/LLP shall furnish the documents in (i) to (v) above.

(vii) Any revocation of approval for captive generation by the firm or by way of amendment to Partnership Deed shall be informed duly within 30 days from such change to the Distribution Licensee and the Designated Authority.

c) Where the generating plant is owned by Association of Persons (AoP):

Copy of the Business agreement that details the shareholding of persons as members of the AoP certified by the Chartered Accountant who signs the annual financial statement, furnished by the Authorised signatory of the AoP with certified copy of such nomination of the signatory.

d) Where the generating plant is owned by Special Purpose Vehicle (SPV):

Documents as in (a), (b) and (c) above depending on whether the SPV is a Company/Partnership/LLP/AoP.

e) Where the generating plant is owned by a Co-operative Society:

(i) A certificate by the District Registrar / Chartered Accountant, who signs the annual financial statement showing detailed breakup of the Issued, Subscribed and Paid up Equity Share Capital of the Generators and the details of holding of Equity Share Capital with voting rights by the Captive users as per FORMAT-I.

(ii) Certificate of incorporation of the Co-operative Society.

(iii) Copy of byelaws of society and its amendments issued from time to time.

(iv) Relevant extract from the Latest Annual Report of the Generators showing details of share capital.

(v) A copy of the Resolution passed by the Chief Executive of the Co-operative Society as the

authorized signatory with attested signature of such signatory.

(vi) The authorized signatory shall furnish documents mentioned in Sl. No.(i) to (vi) of this clause through a letter.

(vii) Any revocation of sanction for carrying on captive generation by the society shall be informed within 30 days from the date of such change to the Distribution Licensee and the Designated Authority.

4.1.3 The documents listed above in Para 4.1.2 are to be furnished at the time of seeking open access by the generator or captive user. Approval for open access shall be granted under captive category subject to furnishing of the documents. This also applies to any change in shareholding pattern/ownership at the start of the financial year or within a financial year.

4.1.4 The verification of CGP status is an annual process. The documents in Para 5.1.2 shall also be furnished by the CGP owners/captive users to the distribution licensee and the Designated Authority at the time of annual verification of CGP status at the end of the financial year.

4.1.5 Any change in shareholding pattern has to be intimated to the distribution licensee and the Designated Authority within 15 days of such change along with proof of documents.

4.2 **Verification of condition of not less than 51% consumption by captive users:**

4.2.1 The net energy generated from CGP unit shall be the gross energy generated from the unit less aggregate auxiliary consumption during the time block.

4.2.2 The consumption of energy by the captive users under open access for this purpose shall be considered as lower of net energy generated by CGP unit(s) or actual energy drawn through open access limited to a maximum of scheduled open access energy during that time block as per Format VII.

4.2.3 The applicant shall submit the details of actual generation from the power plant, auxiliary consumption and the actual consumption made by the captive users on monthly basis as per format V, VI and format VII to the 'Designated Authority' and the Distribution Licensee, within 7 days of the end

of the month through email and in hard copy also.

4.2.4 For determination of 'annual basis for the first year of declaring the plant under captive status, the date of grant of open access shall be considered as a start date for the financial year for counting the generation of the plant under captive status. For the subsequent years, total generation from 1st April to 31st March of a financial year shall be considered for determining the captive status of the generation station.

4.2.5 Where the shareholding pattern/ownership is maintained throughout the financial year, verification of consumption criteria of not less than 51% of aggregate electricity generated and the test of proportional consumption shall be for the financial year subject to the condition that where the shareholding pattern has changed within a financial year, verification of consumption criteria shall be made on the energy generated and consumed in the corresponding period against the revised shareholding pattern.

4.3 **Designated Authority:**

4.3.1 The Commission shall issue a separate order regarding Designating Authority to determine the captive status of the Generating station under these regulations.

4.3.2 The Designated Authority may seek clarifications, if any, and confirm the CPP status or otherwise for the previous financial year latest by the 30th June of next financial year based on conditions stipulated in this procedure:

4.3.3 In case, Designated Authority does not receive requisite data and documents for the purpose of verification of captive status within the stipulated time frame, it would be free to determine the status of the plant with the available data or documents if any.

4.3.4 The Designated Authority shall intimate fulfillment of condition in regard to the captive status or otherwise to the CGPs/captive users and the distribution licensee by the 15th July of next financial year.

4.4 **Ceasing of Qualification of CGP and Captive User (s):**

4.4.1 If CGP and Captive User (s) fails to meet the requisite conditions in a financial year, the

generating plant will cease to be a Captive Generating Plant and the Captive User (s) will cease to be captive users and in such case, Captive User (s) shall be liable to pay Cross Subsidy Surcharge and /or additional surcharge and other charges as may be applicable.

Provided that the CGP shall also be treated as non-captive generator and all the provisions and charges as may be applicable to a non-captive generating plant shall be applicable to the CGP.

4.5 **Default by a shareholder(s):**

4.5.1 When a shareholder(s) defaults in fulfilling criteria of consumption in Rule 3, and when other captive users together comply with ownership criteria of not less than 26%, the defaulting shareholder(s) alone shall forgo the concessions available to a captive user. The other captive users together who comply with criteria of not less than 26% ownership and consumption of not less than 51% of aggregate electricity generated +/- 10% in proportion to their individual shareholdings shall retain the captive status.

4.5.2 When a shareholder(s) defaults in fulfilling the consumption criteria of Rule 3, and when other captive users together do not comply with ownership criteria of not less than 26%, the CGP will lose its captive status, and all captive users shall forgo the concessions available to a captive user.

5. **Metering:**

5.1 Each Captive Generating Plant (CGP) Unit located in Madhya Pradesh shall install a separate Special Energy Meter (SEM) with real time communication facility with SLDC as per the specifications in the Central Electricity Authority (CEA) (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.

5.2 In case of a co-located CGP , if such plant is selling power under bilateral transaction to third party consumers, separate metering arrangement shall be made for generation and self-consumption within same premises.

6. **Default in Payment:**

6.1 Non-payment of any charge or sum of money payable by such open access consumer under captive use shall be considered as non-compliance and shall be liable for action under the

Electricity Act, 2003.

6.2 The distribution licensee may discontinue open access under captive use after giving consumer an advance notice of 15 days without prejudice to its right to recover such charges as per applicable laws.

ANNEXURE

UNDERTAKING FROM CGP

I/WEhaving registered office atdo hereby solemnly declare and undertake as follows:

- a) I/We declare that I/We are the owners operating/intend to operate, a generating plant under captive category [hereinafter referred as, 'CGP'] namely [name of the generating plant] within the meaning of Section 2(8) and Section 9 of the Electricity Act, 2003 [hereinafter referred as 'Act'] read with the Electricity Rules, 2005, as amended [hereinafter referred as, 'Rules'] having a total installed capacity of MW located at and maintain the above-mentioned generating plant as per the Articles of Association /Memorandum of Association of the Company.
- b) I/We declare that we have obtained all the necessary approvals as per applicable laws/rules/regulations/orders, to operate and maintain such generating plant.
- c) I/We declare that captive generating plant/station is/is not, an association of person/special purpose vehicle.
- d) I/We declare and confirm that CGP meets/shall meet all criteria to qualify it as a CGP in accordance with the Act read with Electricity Rules.
- e) I/WE declare our captive user M/s.....[name of the user utilizing power from Captive Generating Plant is located at[address] is a consumer of the Distribution Licensee..... connected at voltageKV having CA number.....[hereinafter.....referred as 'Captive User' or 'Consumer'] at -----
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- f) I/We undertake and confirm that we shall provide all necessary information/documents/data and seek prior approval for wheeling under captive category. We also undertake to provide all necessary information/documents/data for verifying the qualifying requirements of CGP status as per the procedure and any subsequent order/instruction issued in this regard.
- g) I/We submit that the above captive generating plant is desirous to wheel power under captive category through Open Access. We undertake to make payment of all applicable Open Access charges for such consumption of power through such Open Access arrangement in accordance with applicable law/rules/regulation/policies from time to time.
- h) I/We declare and confirm that Captive User(s) is / are having % ownership in the CGP and qualify to wheel under captive category. I/We hereby undertake that the holding of Equity Share Capital with voting rights /proprietary interest and control and consumption by the captive users will be as per the provisions of the Act & Rule-3 of the Electricity Rules, 2005.
- i) I/We undertake that there will not be any bogus/fraudulent injection/drawl of energy by the generating company and captive users and in the occurrence of any such event, I undertake to pay the charges to distribution licensee as applicable as per the orders in force along with late payment surcharge and penal charges, if any.
- j) I/We undertake to the effect that in case of holding of Equity Share Capital with voting rights/proprietary interest and control and Consumption by the captive user(s) are not as per the requirements of Rule 3 of the Electricity Rules, 2005 during the period of wheeling under captive category, the Captive Generating Plant will be disqualified and cross subsidy surcharge and additional surcharge will be paid to the distribution licensee for the energy consumed from the above generating plant. I/We undertake that failure to make payment within the due date, the distribution licensee shall recover the cross-subsidy surcharge and additional surcharge as per Law.
- k) Certificate of a qualified Chartered Accountant with regard to ownership is enclosed.

Dated Signature of authorized signatory

Encl.:

- 1. Resolution/Agreement/Nomination for authorization of signatory for furnishing undertaking
- 2. Certificate of a CA/Co. Secy certifying the Ownership (Formats I to IV, as applicable)
- 3. Copy of MoA/AoA.

UNDERTAKING FROM CGP - User

I/WEhaving registered office atdo hereby solemnly declare and undertake as follows:

1. I/We declare that I/We are the owners operating/intend to operate, a generating plant under captive category [hereinafter referred as, 'CGP'] namely..... [name of the generating plant] within the meaning of Section 2(8) and Section 9 of the Electricity Act, 2003 [hereinafter referred as 'Act'] read with the Electricity Rules, 2005, as amended [hereinafter referred as, 'Rules'] having a total installed capacity of..... MW located at and maintain the above mentioned generating plant as per the Articles of Association /Memorandum of Association of the Company.
2. I/We declare that we have obtained all the necessary approvals as per applicable laws/rules/regulations/orders, to operate and maintain such generating plant.
3. I/We declare that captive generating plant/station is/is not, an association of person/special purpose vehicle.
4. I/We declare and confirm that CGP meets/shall meet all criteria to qualify it as a CGP in accordance with the Act read with Electricity Rules.
5. I/WE declare our captive user M/s.....[name of the user utilizing power from Captive Generating Plant is located at [address] is a consumer of the Distribution Licensee..... connected at voltageKV having CA number.....[hereinafter referred as 'Captive User' or 'Consumer'] at
6. I/We undertake and confirm that we shall provide all necessary information/documents/data and seek prior approval for wheeling under captive category. We also undertake to provide all necessary information/documents/data for verifying the qualifying requirements of CGP status as per the procedure and any subsequent order/instruction issued in this regard.
7. I/We submit that the above captive generating plant is desirous to wheel power under captive category through Open Access. We undertake to make payment of all applicable Open Access charges for such consumption of power through such Open Access arrangement in accordance with applicable law/rules/regulation/policies from time to time.
8. I/We declare and confirm that Captive User(s) is / are having..... % ownership in the CGP and qualify to wheel under captive category. I/We hereby undertake that the holding of Equity Share Capital with voting rights /proprietary interest and control and consumption by the captive users will be as per the provisions of the Act & Rule-3 of the Electricity Rules, 2005.
9. I/We undertake that there will not be any bogus/fraudulent injection/drawl of energy by the generating company and captive users and in the occurrence of any such event, I undertake to pay the charges to distribution licensee as applicable as per the orders in force along with late payment surcharge and penal charges, if any.
10. I/We undertake to the effect that in case of holding of Equity Share Capital with voting rights/proprietary interest and control and Consumption by the captive user(s) are not as per the requirements of Rule 3 of the Electricity Rules, 2005 during the period of wheeling under captive category, the Captive Generating Plant will be disqualified and cross subsidy surcharge and additional surcharge will be paid to the distribution licensee for the energy consumed from the above generating plant. I/We undertake that failure to make payment within the due date, the distribution licensee shall recover the cross subsidy surcharge and additional surcharge as per Law.
11. Certificate of a qualified Chartered Accountant with regard to ownership is enclosed.

Dated Signature of authorized signatory

Encl.:

1. Resolution/Agreement/Nomination for authorization of signatory for furnishing undertaking
2. Certificate of a CA/Co.Secy certifying the Ownership (Formats I to IV, as applicable)
3. Copy of MoA/AoA.

FORMAT –I

[To be submitted by THE GENERATOR WHICH IS A CORPORATE BODY]

**“CERTIFICATE ON “OWNERSHIP” AS PER RULE 3 OF THE ELECTRICITY RULES, 2005
FOR WHEELING UNDER CAPTIVE CATEGORY**

We hereby certify that the Equity Share Capital with voting rights of _____ having its registered office at _____ satisfy the requirements under Rule 3 of the Electricity Rules 2005 for qualifying as a Captive Generation Plant with reference to “Ownership” criteria. The detailed breakup of the issued, subscribed and paid-up equity share capital, including percentage of holding in Equity Share Capital with voting rights of the Company have been tabulated below in Table A. Further, specific breakup of Equity Share Capital with voting rights held by captive user vis-a-vis other users has been tabulated below in Table B. The details of total installed capacity, aggregate capacity of units identified for captive use and its equity share capital to be held by captive users to satisfy the requirements under Rule 3 of the Electricity Rules 2005 for qualifying as a Captive Generation Plant is shown in Table C.

Table A

Equity Share Capital with Voting rights as on								
Sl. No.	Class of Equity shares	No. of Equity Shares	Paid Up Value per Equity Share	Amount of Paid Up Equity Share Capital	Percentage holding in Paid Up Equity Share Capital	No. of Voting rights	Percentage holding in voting rights	Percentage holding in Paid Up Equity Share Capital with voting rights
Total								

Table B

Break up of Captive user holding in Equity Share Capital with Voting rights as on								
Sl. No.	Class of share holder	No. of Equity Share	Paid Up Value per Equity Share	Amount of Paid Up Equity Share Capital	Percentage holding in Equity Share Capital	No. of Voting rights	Percentage holding in voting rights	Percentage holding in Paid Up Equity Share Capital with voting rights
1	Captive User							
2	Others							
Total								

Table C

Verification of Equity share capital with voting rights proportionate to the units identified for Captive Use as per Electricity Rules.		
Total installed Capacity of the generating station (in MW)	A	
Of the Total installed Capacity, units and capacity identified for Captive Use (in MW)	B	
Proportion of Capacity identified for Captive use on the overall installed capacity (in MW)	$C=(B/A)$	
Paid up Equity share capital with voting rights to be maintained by Captive consumers in the generating station (%)	$D=(26% * C)$	
Actual paid up Equity shareholding with voting rights held by Captive consumers (%)	E	

Note: As the actual paid up equity shareholding with voting rights held by the captive consumers in (E) is not less than 26%(or proportionate, as the case may be) , the plant satisfies the Ownership criteria for CGP as required under Rule 3 read with Explanation of Electricity Rules 2005.

Signature _____ of _____ Chartered
 Accountant/Company Secretary: Name in
 Block letters:
 Name of firm: Membership
 No.:
 UDIN No. (where applicable)

Place:
 Date:

FORMAT –II

[To be submitted by the Captive users (also the owners) who are Company/Corporate Body]

Auditor’s Certificate

I hereby certify that **Captive User Name**, a company incorporated under Companies Act 2013 (or under the erstwhile Act) and having its registered office at _____ as given in the Annexure is holding _____ number of Equity Shares of Rs. _____ each amounting to Rs. _____ as Equity Share Capital and with voting rights per Equity Share in **Captive Power Generator Company Name** which owns a Generating Plant with a Capacity _____ as given **in the annexure as on date.**

Signature of Chartered Accountant: Name in Block letters:

Membership No.: Name of the Firm:

UDIN No. (where applicable)

Place:

Date:

FORMAT-III

**[To be submitted by THE GENERATOR WHICH IS A FIRM]
CERTIFICATE ON 'OWNERSHIP' AS PER RULE 3 OF ELECTRICITY RULES, 2005
FOR WHEELING UNDER CAPTIVE CATEGORY**

We hereby certify that M/s. _____, a Partnership Firm having its principal office at _____ satisfy the requirements under Rule 3 of Electricity Rules 2005 for qualifying as a Captive Generation Plant with reference to "Ownership" criteria as per the Partnership Deed dated _____. We confirm that the captive consumers are holding proprietary interests and control over the Captive Generation Plant.

The detailed breakup of the ownership of each partner in the Partnership Firm has been tabulated below in Table A. Further, specific breakup of the proprietary interest and control in relation to Captive Generation Plant held by captive user vis-à-vis other users has been tabulated below in Table B.

TABLE A

Ownership of the Captive Generation Plant of the Partnership Firm as on						
S.No.	Name of the partner	Capital contribution	% of capital contribution	Profit sharing Ratio	Whether Control Proportionate to Capital Contribution?	Remarks on control pattern*
Total						

* Please provide remarks in the relevant column whether control is proportionate to the capital contribution.

TABLE B

Ownership of the Captive Generation Plant of the Partnership Firm as on			
Type of Owner	% of proprietary interest in the Captive Generating Plant	Whether Control Proportionate to Proprietary interest?	Remarks on control pattern*
Captive User			
Others			
Total			

* Please provide remarks in the relevant column whether control is proportionate to the Proprietary interest, with specific reasons as to how the ownership threshold under Rule 3 of the Electricity Rules 2005 is being satisfied.

Signature of Chartered Accountant:

NAME in Block letters:

Name of Firm:

Membership Number:

UDIN No. (where applicable)

Place :

Date:

FORMAT-IV

[To be submitted by the Captive users (also owners) of the Partnership Firm]

Auditor's Certificate

I hereby certify that Captive User Name, having its registered office at _____ as given in the annexure is a partner/member with capital contribution of Rs. _____ with _____ controlling interest of _____ percentage in Captive Power Generator Firm Name which owns a Generating Plant with Capacity _____ as given in the annexure as on date.

Signature of Chartered Accountant: Name in
Block letters:

Name of the Firm:

UDIN No. (where applicable)

Place:

Date:

FORMAT V

Sl. No.	Particulars	Energy in Units
1	Total Generated units of a generating plant / Station identified for captive use	
2	Less : Auxiliary Consumption in the above in units	
3	Net units available for captive consumption (Aggregate generation for captive use)	
4	51% of aggregate generation available for captive consumption in units	
5	Actual Adjusted / Consumed units by the captive users	
6	Percentage of actual adjusted/consumed units by the captive users with respect to aggregate generation for captive use (Sl.No.5 divided by Sl.No.3)	

If Sl.No.6 is Not Less than 51%, then go to FORMAT VI.

FORMAT VI

Sl. No.	Name of share holder	No. of equity shares of value Rs.		% to be consumed on pro rata basis	100 % generation in Mus (x)	Auxiliary consumption in Mus(y)	Generation considered to verify consumption criteria in Mus $\{(x-y)*51\% \}$	Permitted consumption as per norms in MUs			Actual consumption in MUs	Whether Consumption norms met
		As per share certificates as on 31st March	% of ownership through shares of company					with 0% variation	-10%	-10%		

Signature:
Name of CGP owner:

FORMAT VII

Sl. No.	Time Block	Actual Energy Generated in 'MU'	Actual energy drawn in 'MU'	Scheduled Open Access Energy in 'MU'	Qualification of actual consumption for captive purpose
'A'	'B'	'C'	'D'	'E'	'F = Lower (C, D, E)'

Signature:
Name of CGP owner/ distribution licensee: