

MODEL REGULATIONS ON VERIFICATION OF STATUS OF GENERATING PLANTS AND CAPTIVE USERS



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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 “State” Electricity Regulatory Commission hereby makes the following Regulations.

1. Short Title and Commencement

- 1.1 These regulations shall be called the “State” Electricity Regulatory Commission (Verification of Captive Generating Plants and Captive Consumers) Regulations, “Notification Year”.
- 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.

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 [Name of the State].

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) “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;

e) '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. Verification of Status of CGP

- 5.1 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 by the State Commission after the end of financial year based on the information submitted by the CGP and Captive User.
- 5.2 The CGP and the Captive User shall file affidavit in specified format(s) before the State Commission giving details regarding their electricity generation, entity-wise consumption and equity share holding during the previous year before 30th April each year.
- 5.3 The State Commission shall take assistance of the concerned RLDC, SLDC, Distribution Licensee (in whose area the CGP or Captive User is located) for the verification of captive status of CGP or Captive Users based on the affidavit submitted by such CGP and captive users.

Explanation:-

In cases where the captive user is located in a State other than the State in which the CGP is located, the State Commission in whose jurisdiction the captive user is located shall take assistance of the concerned RLDC, SLDC, Distribution Licensee in whose area the CGP is located for the verification of captive status of CGP and Captive user.

5.4 *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 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 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 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 power plant within the variation not exceeding 10%.
iv	Cooperative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated on annual basis
v	Captive use in respect of Special Purpose Vehicle (SPV)	The captive user(s) shall consume not less than 51% of the net electricity generated on annual basis

- 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 shall be based on the reading of the meter installed for recording the generation at the generation side ("generation meter") and the electricity sourced at the consumption

		side (“consumption meter”).
ii	CGP and its captive users are located within the State (but not co-located),	Based on actual generation from the CGP as per the data provided by the respective SLDC and the corresponding consumption or the actual consumption whichever is lower, based on the meter reading at the user interface with the grid as provided by the concerned SLDC and the distribution licensee in whose area the user(s) are located.
iii	The CGP and its captive user(s) is/are located in different States	Based on actual 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 meter reading at the user interface with the grid as provided by the concerned SLDC and the distribution licensee in whose area the user(s) are located.

5.5 **Verification of equity share holding criteria**

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

SI No	Type of CGP	Criteria	Support Document
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 Company Secretary.
ii	Partnership firm/LLP	Ownership in the captive plant shall be with respect to not less than 26%	A certificate from the Company Secretary.

		proprietary interest and control over the generating station or power plant on annual basis.	
iii	AoP	The captive users shall hold in aggregate not less than 26% of the ownership/paid up equity share capital with voting rights throughout the year	A certificate from a registered Chartered Accountant.
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.
v	SPV/ Company	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	A certificate from a registered Chartered Accountant.

6. Consequence of failure to meet Captive user status

- 6.1 The Captive user shall deposit by 30th April of every year, the security deposit in the form of unconditional and irrevocable Bank Guarantee equivalent to 51% captive consumption, to the concerned distribution licensee as payment security against estimated cross subsidy surcharge and additional surcharge as may be decided by

the State Commission;

Provided that there shall be no exemption from Cross Subsidy Surcharge and Additional Surcharge on the electricity consumed by non-Captive consumers.

- 6.2 If the CGP or Captive User 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.

7. Detailed Procedure

- 7.1 The State 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.

8. Power to remove difficulties

- 8.1 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.

(Secretary)
