

No. 558/MPERC/2023. 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 for verification of captive status of Generating Plants and Captive Users:

MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (VERIFICATION OF CAPTIVE GENERATING PLANTS AND CAPTIVE USERS) REGULATIONS, 2023.

(G-45 OF 2023)

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 Users) Regulations, 2023 (G-45 of 2023)**.

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 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 (CGPs) 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 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

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

- d) "Commission" means the Madhya Pradesh Electricity Regulatory Commission;
- e) "Designated Authority" shall mean an authority authorised by the Commission for verification of captive status of Generating Plants and Users under these Regulations;
- f) "Distribution Licensee" shall mean a licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- g) "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;
- h) "Regional Load Despatch Centre" or "RLDC" shall mean the Centre established under sub-section (1) of Section 27 of the Act;
- i) "State Load Despatch Center" or "SLDC" shall mean the centre established under sub-section (1) of Section 31 of the Act;
- j) "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 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 Commission, as the case may be.

5. Designated Authority

5.1 The Commission shall issue a separate order regarding Designated Authority to determine the captive status of the Generating Plant and Captive User under these Regulations.

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

5.3 The Designated Authority shall intimate fulfillment of condition in regard to the captive status or otherwise to the CGP /Captive User and the Distribution Licensee by 15th July of next year.

6. Verification of Status of CGP

6.1 Verification of status of CGP and Captive User with respect to the criterion of consumption and equity share holding, as prescribed under the Electricity Rules, 2005 shall be done annually after the end of Year by the Designated Authority.

6.2 The CGP and the Captive User shall file affidavit in specified format before the Designated

Authority giving details regarding their electricity generation, entity-wise consumption and equity share holding during the previous Year latest by 15th May each Year.

6.3 The Designated Authority may take assistance of the concerned Regional Load Despatch Center, State Load Despatch Center, Distribution Licensee (in whose area the CGP or Captive User is located) and any other agency, if required, for verification of captive status of CGP or Captive User on receipt of the affidavit submitted by such CGP and Captive User.

6.4 **Verification of consumption criterion**

- a) Verification of criteria of consumption shall be based on the net electricity generated from the Generating unit in a Generating Station, i.e., gross electricity generated less auxiliary consumption, identified for captive use.
- b) The net electricity generation shall be determined on annual basis at the end of the Year.
- c) Verification criterion for various types of Captive Users shall be as follows:

Sl. No	Type of Captive User	Criterion
i	Single Captive User	The Captive User shall consume not less than 51% of the net electricity generated by the CGP on annual basis.
ii	Partnership firm /Limited Liability Partnership	The Captive User shall consume not less than 51% of the net electricity generated by the CGP on annual basis
iii	Association of Persons	The Captive User shall consume not less than 51% of the net electricity generated by the CGP on annual basis for captive use in proportion to their share in the CGP within the variation not exceeding 10%
iv	Co-operative Society	The Captive User shall collectively consume not less than 51% of the net electricity generated by the CGP on annual basis
v	Captive User of a CGP setup by a Special Purpose Vehicle formed by Company / Partnership Firm/ Limited Liability Partnership / Association of persons	The Captive User shall consume not less than 51% of the net electricity generated by the CGP on annual basis

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

Sl. No	Location	Method of assessment
i	CGP and its Captive User are co-located	Based on net generation from the CGP and consumption by the Captive User which shall be computed on the basis of 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 User are located within the State of Madhya Pradesh (but not co-located),	Based on net generation from the CGP as per the data provided by the State Load Despatch Center and the consumption corresponding to the scheduled energy from the CGP 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 are located in different States	Based on net generation from the CGP as per the data provided by the respective Regional Load Despatch Center and the consumption corresponding to the scheduled energy or the actual consumption whichever is lower, based on the consumption recorded at consumption side ("consumption meter") provided by the concerned Distribution Licensee in whose area the user(s) are located.

6.5 Verification of Equity Share holding Criterion

Verification criterion for various types of CGP shall be as follows:

Sl. No	Type of Captive User	Criterion	Support Document
i	Single Captive User	The User shall hold not less than 26% of the equity share capital	A certificate from the Registered Chartered Accountant who signs the

		having voting rights throughout the Year.	Annual Financial Statement of the Company / Company Secretary.
ii	Partnership Firm/Limited Liability Partnership	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 throughout the Year.	A certificate from the Firms Registered Chartered Accountant who signs the Annual Financial Statement of the Firm.
iii	Association of Persons	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 who signs the Annual Financial Statement
iv	Co-operative Society	Members of Co-operative Society shall collectively satisfy not less than 26% of the ownership throughout the Year.	A certificate from District Registrar of Co-operative Society/ Chartered Accountant who signs the Annual Financial Statement of the Co-operative Society
v	Captive User of a CGP setup by a Special Purpose Vehicle formed by Company/ Partnership Firm/ Limited Liability Partnership / Association of persons	The Captive User 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., 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 Special Purpose Vehicle is formed by a Company/ Partnership Firm / Limited Liability Partnership / Association of persons

7. Consequence of failure to meet Captive User Status

7.1 If the CGP or Captive User fails to meet the criterion 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 only leading to imposition of Cross Subsidy Surcharge and additional surcharge and such other charges as applicable on open access consumer and a non-captive Generating Plant for the entire such 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 @ 1.25 % per month from the date of such demand becoming due.

8. Detailed Procedure

The Commission shall publish a detailed procedure for verification of status of CGP and Captive User in pursuance to the provision of the Electricity Rules, 2005 and these Regulations.

9. Review of decision and dispute resolution

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

9.2 The Commission shall notify the constitution of CGP Status Committee through a separate order.

9.3 Any CGP or Captive User or Distribution Licensee aggrieved by the 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 / its knowledge or could not be produced by him / it 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 thirty (30) days of the date of the decision of Designated Authority, to the Designated Authority.

9.4 The Designated Authority, depending on whether or not there is sufficient ground for review, shall either accept or reject requests for such reviews within a period of 30 days from the date of receipt of such review application.

9.5 Any CGP or Captive User or Distribution Licensee aggrieved by the decision of the Designated Authority, may represent before the CGP Status Committee within a period of 30 days from the date of order of Designated Authority, if any provisions of Regulation or detailed procedure is not complied by the Designated Authority.

9.6 The CGP Status Committee on receipt of the representation made by CGP or Captive User or Distribution Licensee shall examine and resolve the same preferably within a period of 45 days.

9.7 The CGP or Captive User or Distribution Licensee may file a petition before the Commission if they are not satisfied with the decision of the CGP Status Committee within a period of 30 days of such decision. In this case, the CGP or Captive User or Distribution Licensee 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

If any difficulty arises in giving effect to the provisions of these Regulations, the 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.

By order of Commission,
UMAKANTA PANDA, Secy.