



Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd.
(Government of M.P. Undertaking)

Nishtha Parisar, Govindpura Bhopal (M.P.)-462023

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No. MD/MK/Comm-III/ F-81/ 1940

Bhopal. Dtd 14-12-2018

To
The GM (CC) / (O&M),
MPMKVVCL

.....
Sub:-Guidelines in the matter of assessing captive status of consumer as per provisions of Electricity Act 2003 read with Electricity Rules 2005.

Under Company's jurisdiction, there are consumers drawing power through open access for captive use both from renewable and conventional sources of energy.

2. The sub-rule 3(1) of the Rule 3 "Requirements of Captive Generating Plant" of the Electricity Rules 2005 (notified on 8th June 2005 by MoP, GoI) states that, no power plant shall qualify as a 'captive generating plant' under section 9 read with clause (8) of section 2 of the Act unless it fulfills the provisions of sub-clauses (a) and (b) of sub-rule 3 (1) and sub-rule 3(2). Similar provisions are provided in the Madhya Pradesh Electricity Regulatory Commission (Power Purchase and Other Matters with respect to conventional fuel based Captive Power Plants) Regulations 2009.
3. In above context it is to mention that, before extending any benefit available to the captive user as per provision of Electricity Act 2003 or any other applicable statute, assessment of captive status in accordance with the aforesaid provision of the statute is necessary.
4. In view of above, the eligible benefits to the consumers availing power through captive route shall be extended after ensuring following procedure:-
 - A. In principle consent before commencing supply of power through captive route:-
 - i. The generator / consumer seeking captive status will submit application to CGM (Commercial) O/o MD MPMKVVCL along with declaration in enclosed **Annex-I & II** for obtaining in principle consent to designate plant / consumer as captive for given Financial Year. Upon receipt of proposal CGM (Commercial) shall grant or reject the in principle consent after obtaining competent approval and communicate the same to the concerned consumer/generator under intimation to the concerned GM (O&M) / (City) etc.
 - ii. After completion of each Financial Year by the month of June, the consumer / Generator will have to submit the certificate of chartered accountant in enclosed form (**Annex-III**) along with required documents in support of compliance of provision of sub rule 3(1)(a) & (b) of 'Electricity Rules 2005' for verification of captive status. Upon receipt of documents CGM (Commercial) shall acknowledge or reject the captive status for that financial year after obtaining competent approval and communicate the same to the concerned consumer / generator under intimation to the concerned General Manager (O&M) / (City), etc.

- iii. If the captive status is rejected by the CGM (Commercial), the General Manager (O&M) / (City) shall levy all applicable charges which would have been levied, had such approval not been granted.

B. Captive status of Existing Captive Generating Plant:

- i. The GM(O&M) / (City) shall intimate the concerned consumer about the requirement of the necessary document i.e undertaking as per Annexure-1 and certificate of chartered Accountant as per Annexure-3 and ensure submission of such document within one month to CGM(Commercial) O/o MD, MPMKVCL.
- ii. Upon receipt of document procedure given in para A (ii) above shall be followed for granting captive status.
5. In case of any inconsistency between provisions of above guidelines and any Order / Regulations/ Clarification of CEA / MPERC in the matter, the provision of later will prevail.

Encl-Annexures I, II & III


CGM (Commercial)
MPMKVVCL

Endt.No. MD/MK/Comm-III/ F-81/

Bhopal. Dtd -12-2018

1. The Director (Commercial), MPPaKVCL, Polo Ground, Indore.
2. CGM (BR) / (GR), MPMKVCL, Bhopal / Gwalior.
3. The CGM (Commercial), MPPoKVCL, Shakti Bhavan, Rampur, Jabalpur.
4. RAO, O/o GM (CC) / (O&M), MPMKVCL.....
5. PS to MD, MPMKVCL, Bhopal.


GM(C-III)

Undertaking from Captive Users

We M/s. [CIN number:], having registered office at, do hereby solemnly declare and undertake as follows:-

1. We declare that we are operating / intend to operate, a captive [hereinafter referred as, 'CGP'] namely[name of Unit having power plant] within the meaning of sub section 8 of Section 2 of the Electricity Act, 2003 [hereinafter referred as, 'Act'] read with Electricity Rules, 2005, as amended [hereinafter referred as, 'Captive Rules'], having total installed capacity ofMW located at(address).
2. We declare that we are authorized to operate and maintain the above mentioned generating plant as per the article of association / memorandum of association of the company.
3. We declare that we have obtained all the necessary approval as per applicable law/rule/regulation, to operate and maintain such generating plant.
4. We declare that captive generating plant is / is not, an association of person / special purpose vehicle.
5. We declare and confirm that CGP meets / shall meet all criteria to qualify it as a captive generating plant in accordance with the Act read with Captive Rules.
6. We declare our captive user M/s.....[CIN number:][name of the Unit utilizing power from Captive Power Plant] located at[address], is a consumer of Madhya Pradesh Madhya Kshetra Vidyut Vitaran Co. Ltd [hereinafter referred as 'MPMKVVCL'] connected at voltage (11/33/132/220 KV) having service No. _____ [hereinafter referred as 'Captive User (CU)' or 'Consumer'].
7. We submit that CU is desirous of consuming power from CGP 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/ regulations/ policies from time to time.
8. We declare and confirm that CU are having % ownership in the CGP. We further declare and confirm that we shall inform MPMKVVCL as and when any change take place in the ownership structure of CGP. Certificate of qualified Chartered Accountant with regard to ownership is enclosed.
9. We undertake and confirm that we shall provide all necessary information / documents for establishment of the CGP status of the said CGP as per the provisions of Captive Rules, Madhya Pradesh Electricity Regulatory Commission (Power Purchase and Other Matters with respect to conventional fuel based Captive Power Plants) Regulations 2009,

and any subsequent order / instruction of MPERC in this regard, by the month of Jun from the completion of every financial year.

10. We acknowledge and confirm that the documents required for establishment of CGP and / or Captive User status shall include but will not be limited to quantum of generation, duly certified by Electrical Inspector of concerned State OR as per State Energy Account account prepared / published by SLDC of concerned State and certificate of chartered accountant certifying % of captive consumption and % non-captive consumption i.e third party sale or sale to IEX etc as well as ownership in CGP in accordance with Captive Rules as amended from time to time.
11. We undertake and confirm that, failure to provide such information / documents within the prescribed time limit or failure to establish captive status in accordance with the Captive rule & other applicable law/rule/regulation, shall lead to immediate rescission of the CGP/Captive User status granted to CGP and / or Captive User. We further undertakes that consequent upon such rescission we will be liable to pay all applicable open access charges (including but not limited to Cross Subsidy Surcharge) which would have been levied from appropriate date had such approval not been granted.
12. We undertake and confirm that in the event if MPMKVVCL discovers anything contrary to our above mentioned declarations, the MPMKVVCL shall have rights to forthwith decline our proposal, and if such proposal has already been accepted, to rescind the approval and recover all applicable charges which would have been levied from appropriate date, had such approval not been granted.
13. We indemnify MPMKVVCL for loss, damages and expenses of whatever kind and nature arising out of any breach of this undertaking, or failure to prove or maintain the CGP and /or Captive User status of the CGP and/or Captive User.

Signature of authorized Signatory
With company seal & Date

- Encl:** 1. Board resolution (duly certified by the company secretary) for authorization of signatory of undertaking.
2. Certificate of Chartered accountant certifying the ownership as required under Electricity Rule 2005.
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(Form of certificate of Chartered Accountant certifying ownership of captive generating plant to be submitted along with undertaking for in principal approval)

TO WHOMSOEVER IT MAY CONCERN

This is to certify that M/s..... (Name & address of CGP) unit of M/s(CIN.....)(address) is operating as captive /generating plant as defined in the sub section 8 of section 2 of Electricity Act' 2003 read with Electricity Rule 2005.

We certify that captive user(s) has(%) ownership, within the meaning of clause (c) of the explanation given below the rule 3(2) of the Electricity Rule 2005, in the aforesaid captive generating plant. The Captive user wise ownership detail is as under:-

As on.....		
S.No.	Name of Captive User	% ownership
1		
2		
Total		

The above information is based on the relevant document including but not limited to, land ownership document, audited financial statements, shareholder and other relevant register required to be maintained as per applicable law, share certificate, relevant forms filed before registrar of company or other similar authority, invoices/ vouchers/work orders relating to construction of power plant etc. The same has been verified by me from available record and found to be true to the best of my knowledge and belief.

For
Chartered Accounts
Firm Registration No.....

Name
Membership Number

Place:
Date:.....

Annexure-3

(Form of certificate of Chartered Accountant certifying fulfillment of condition prescribed in the Electricity Rule 2005 to be submitted by the month of Jun every year for previous financial year)

TO WHOMSOEVER IT MAY CONCERN

This is to certify that M/s..... (Name & address of captive generating plant) unit of M/s (CIN.....)(address) meets the criteria prescribed in the Electricity Rule 2005 and Madhya Pradesh Electricity Regulatory Commission (Power Purchase and Other Matters with respect to conventional fuel based Captive Power Plants) Regulations 2009, in respect of all its captive user including M/s(CIN.....)(name and address of Captive User), accordingly it is a captive generating plant for the FY.....

We further certify that:

1. The percentage of ownership of captive users in the aforesaid Captive generating plant as on 31st march..... is%.
2. The percentage of ownership of above captive users in the aforesaid Captive generating plant as on 31st march..... is%.
3. Since the captive generating plant is not a/is a association of person/ special purpose vehicle, the second proviso to the rule 3 (1) (a) of the Electricity Rule 2005 regarding proportional consumption is not/is applicable in the present case.
4. The total generation, consumption of Captive Users and non-captive users (if any) for the aforesaid captive generating plant from 1st April to 31st March..... is as under:

(Energy in MUs)

Month	Total Generation	Captive consumption	Supply to non-captive users (if any)
April...			
May...			
Jun...			
July...			
August....			
September.....			
October.....			

November....			
December...			
January...			
February...			
March....			
Total			

5. The percentage of total captive consumption by all captive users of CGP, is% (.....MUs) and non-captive consumption is% (..... MUs) out of the total electricity generation of MUs from CGP for the period starting from 1st April to 31st March.....
6. The percentage of total consumption by Captive User hereinabove of CGP is% (.....MUs) out of the total generation of CGP for the period starting from 1st April to 31st March.....

The above information is based on the, data authenticated by Electrical Inspector of concerned State OR State Energy Account & DSM account prepared by SLDC of concerned State and consumption recorded in the meters installed to record generation and consumption. The same has been verified by me from available record and found to be true to the best of my knowledge and belief.

- Encl:**
1. Captive user wise detail of ownership.
 2. Month wise captive consumption of captive user.
 3. Month wise data of generation certified by electrical inspector.
 4. The calculation of proportional consumption by captive user (if applicable).

For.....
Chartered Accounts
Firm Registration No.....

Name
Membership Number

Place:
Date.....

