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**JHARKHAND STATE ELECTRICITY REGULATORY
COMMISSION**

NOTIFICATION

9th May, 2024

**Jharkhand State Electricity Regulatory Commission (Verification of
CaptiveGenerating Plants and Captive Consumers) Regulations, 2024**

Notification No. 101--In exercise of powers conferred under sub-section (1) of Section 181, read with Section 9of the Electricity Act, 2003 and all other powers enabling it in that behalf, the Jharkhand State Electricity Regulatory Commission, hereby frames the following Regulations.

1. Objective

- 1.1. The objective of these regulations is to specify a methodology for verification of status of Captive generating plants and Captive User, when consumers import power from their respective 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.

2. Short Title and Commencement

- 2.1. These Regulations may be called the Jharkhand State Electricity Regulatory Commission(Verification of CaptiveGenerating Plants and Captive Consumers) Regulations, 2024.

2.2. These Regulations shall come into force from the date of their publication in the Jharkhand State Government Gazette.

3. Scope and Extent of Applications

3.1. The present procedure is applicable to all power plants functioning/ seeking status as Captive Generating Plant and having one or more Captive consumers in the State of Jharkhand, irrespective of the fact whether the Captive generating station is within the State of Jharkhand or not.

4. Definitions and Interpretation

4.1. In this Regulation unless the context otherwise requires:

- a) **'Act'** shall mean the Electricity Act, 2003 and subsequent amendments thereof;
- b) **Association of Persons**: shall mean formation of companies with charitable objects, etc.; Where it is proved to the satisfaction of the Central Government that a person or an association of persons proposed to be registered under this Act as a limited company.
- c) **'Captive generating plant'** or **'CGP'** shall mean a Captive generating plant as defined in the Act read with Rule 3 of the Electricity Rules, 2005, as amended from time to time;
- d) **'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;
- e) **Company**: shall mean a company incorporated under Company Act 2013 or under any previous company law.
- f) **'Electricity Rules, 2005'** shall mean the Rules notified by the Central Government vide G.S.R. 379 (E) dated 8th June 2005 and as amended from time to time;
- g) **Registered Cooperative Society**: shall mean companies capable of being registered; For the purposes of this Part, cooperative society, society or any other business entity formed under any other law for the time being in force which applies for registration under this Part.
- h) **Special Purpose Vehicle**: shall mean a legal entity owning, operating and maintaining a generating station and with no other business or activity to be engaged in by the legal entity.
- i) **'State Load Despatch Centre (SLDC)'** shall have the same meaning as defined under Electricity Act, 2003;
- j) **'Year'** shall mean 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 shall have the meanings respectively assigned to them in the Act.
- 4.3. Reference to any Act, Rules, and Regulations shall include the amendment(s), consolidation(s), or re-enactment(s) thereof.
- 4.4. All proceedings under these Regulations shall be governed by the JSERC (Conduct of Business) Regulations, 2016, as amended or re-enacted from time to time.

5. Procedure for Verification of the Status of CGP

- 5.1. The Commission will verify the status of CGP and CaptiveUser after the end of each financial year with respect to the consumption and equity shareholding criteria stipulated in these regulations on the basis of data submitted by the CGP and their CaptiveUser.
- 5.2. Before the 15th of May of each year, the CGP and their CaptiveUser must submit an affidavit to the Commission in the specified format(s), detailing previous year electricity generation, User-wise consumption, and equity shareholding.
- 5.3. Based on the affidavit submitted by such CGP and CaptiveUser, the Commission shall take the assistance from concerned RLDC, SLDC, and Distribution Licensee (in whose area the CGP or their CaptiveUser are located) for the verification of the Captive status of CGP or CaptiveUser.
- 5.4. The Commission may seek any clarifications from the CGP, and confirm the CGP status for the previous financial years latest by 30th of June of each year.
- 5.5. In case the Commission does not receive requisite data and document for the purpose of verification of Captive status within the time frame affixed in this procedure, it would be free to determine the statuses of the plant with the data available to it.
- 5.6. The Commission shall intimate the CGP status to the CGPs/CaptiveUser and distribution licenses by the 15th July of each financial year.
- 5.7. **Verification of consumption criteria: -**
 - a. For unit(s) which has/have been identified for Captive use, verification of criteria of consumption shall be based on the net electricity generated from this/these generating unit(s) in a generating station, i.e., the gross electricity generated less auxiliary consumption.
 - b. The net electricity generated shall be determined on annual basis at the end of the year.
 - c. Verification criteria for various types of CaptiveUser shall be as follows:

Sl. no.	Type of CaptiveUser	Criteria
1	Single Captive User	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis.
2	Partnership firm/ Limited Liability Partnership (LLP)	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis
3	Association of Persons (AoP)	The CaptiveUser 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%. (i.e proportionality test shall be calculated for 51% of aggregate generation and not for consumption beyond 51% by Captive consumer.)
4	Cooperative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated on an annual basis
5	Special Purpose Vehicle (SPV)	The CaptiveUser 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 the CaptiveUser: -

Sl. no.	Location	Criteria
1	CGP and its CaptiveUser are co-located	<p>a. For CGP:</p> <p>Net generation from the CGP and consumption by the CaptiveUser shall be based on the reading of the meter installed for recording the generation at the injection side ("generation meter").</p> <p>b. For CaptiveUser:</p> <p>The electricity sourced at the consumption side ("consumption meter").</p>
2	CGP and its CaptiveUser are located within the State (but not co-located),	<p>a. For CGP:</p> <p>Based on actual injection from the CGP as per the data provided by the SLDC</p> <p>b. For CaptiveUser:</p> <p>The corresponding consumption or the actual consumption whichever is lower, based on the meter reading at the User</p>

Sl. no.	Location	Criteria
		interface with the grid as provided by the SLDC and the distribution licensee in whose area the User are located.
3	The CGP and its CaptiveUser is/are located in different States	<p>a. For CGP:</p> <p>Based on actual injection from the CGP as per the data provided by the respective RLDC/SLDC.</p> <p>b. For CaptiveUser:</p> <p>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 of the recipient state(s) and the distribution licensee in whose area the User are located.</p>

Provided that the consumption of electricity by the CaptiveUser may be either directly or through Energy Storage System;

Provided that the consumption by a subsidiary company as defined in clause (87) of section 2 of the Companies Act, 2013 (18 of 2023) or the holding company as defined in clause (46) of section 2 of the Companies Act, 2013 (18 of 2023), of a company which is a CaptiveUser, shall also be admissible as Captive consumption by the CaptiveUser.

Provided that the Captive status of such generating plants, where Captive generating plant and its CaptiveUser are located in more than one state, shall be verified by the Central Electricity Authority as per the procedure issued by the Authority with the approval of the Central Government.

5.8. Verification of equity shareholding criteria

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

Sl. no.	Type of CaptiveUser	Criteria	Support Document
1	Single CaptiveUser	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.
2	Partnership firm/ Limited Liability Partnership (LLP)	Ownership in the Captive plant shall be not less than 26% proprietary interest and control over the generating station or power plant on annual basis.	A certificate from the Company Secretary.
3	Association of Persons (AoP)	The CaptiveUser shall hold an aggregate of 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.
4	Cooperative Society	Members of the society shall	A certificate from the

Sl. no.	Type of CaptiveUser	Criteria	Support Document
		collectively satisfy not less than 26% of the ownership on annual basis.	District Registrar of Cooperative Society.
5	Special Purpose Vehicle (SPV)	The CaptiveUser shall hold an aggregate of 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.

Provided that if the Captive generating plant is set up by an affiliate company, not less than fifty-one per cent of the ownership, is held by the CaptiveUser, in that affiliate company;

6. Consequence of failure to meet CaptiveUserstatus

- 6.1. The CaptiveUser shall be required to submit the security deposit by 15th of July of every year in the form of unconditional and irrevocable Bank Guarantee (BG) for an amount equivalent to 51% Captive consumption for one-year period, to the concerned distribution licensee as a payment security mechanism towards estimated cross subsidy surcharge, additional surcharge and any other charge as may be decided from time to time by the Commission.
- 6.2. The Bank Guarantee (BG) shall have a term of 12 months and will have to be renewed/revised annually of an amount equivalent to 51% of its estimated Captive consumption by 31st of May or after completion of Captive verification by the Commission, whichever comes first.
- 6.3. In case the Bank guarantee is not renewed/revised by 31st of May before its expiry date of 15th of July, the Bank guarantee shall be invoked by the Distribution licensee towards its cross-subsidy surcharge and additional surcharge or any other applicable Open access charges.
- 6.4. In case Bank guarantee is not renewed/revised by 31st of May before its expiry date of 15th of July the Bank guarantee shall be forfeited by the Distribution licensee towards its cross-subsidy surcharge and additional surcharge or any other applicable Open access charges.

Provided that there shall be no exemption from Cross Subsidy Surcharge and Additional Surcharge on the electricity consumed by other consumers who are receiving power from this Captive generating plant and are not the Captive consumers.

- 6.5. If the CGP or CaptiveUser fails to meet the criteria of ownership and/or consumption, specified in Rule 3 of Electricity Rule 2005 and in these Regulations, as the case may be as amended from time to time, by the end of the financial year, such CGP or CaptiveUser shall lose its Captive status for

that year leading to imposition of Cross Subsidy Surcharge and Additional Surcharge along with other charges as applicable on open access consumers which shall be payable to the concerned distribution licensee(s).

7. Inherent powers of the Commission

- 7.1. Nothing in these Regulations shall be deemed to limit or otherwise affect the power of the Commission to make such orders as may be necessary to meet the ends of justice.
- 7.2. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Act, a procedure which is at variance with any of the provisions of these Regulations, if the Commission, in view of the special circumstances of a matter or a class of matters, deems it just or expedient for deciding such matter or class of matters.
- 7.3. Nothing in these Regulations shall, expressly or implied, bar the Commission from dealing with any matter or exercising any power under the Act for which no Regulations have been framed, and the Commission may deal with such matters, powers, and functions in a manner, as it considers just and appropriate.

8. Power to Relax

- 8.1. The Commission may by general or specific order, for reasons to be recorded in writing, and after giving an opportunity of hearing to the parties likely to be affected, may relax any of the provisions of these Regulations on its own motion or on an application made before it by the affected party.

9. Power to Remove Difficulties

- 9.1. If any difficulty arises in giving effect to the provisions of these Regulations, the Commission may, by general or specific order, give directions, not inconsistent with the provisions of the Act, as may appear to be necessary or expedient for the purpose of removing difficulties.

10. Power to amend

- 10.1. The Commission may from time to time add, vary, alter, modify or amend any provisions of these Regulations after following the necessary procedures.

11. Interpretation

- 11.1. The decision of the Commission regarding the interpretation of these Regulations shall be final and binding.

By Order of the Commission.

R.P.Nayak,
Secretary

FORMAT**[To be submitted by the Captive Generating Plant]****CERTIFICATE ON "OWNERSHIP" AS PER RULE 3 OF ELECTRICITY RULES, 2005**

We hereby certify that the Equity Share Capital with voting rights of _____ (Name of company) having constitution as Single CaptiveUser/ Partnership firm/LLP/AoP/SPV 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 held by CaptiveUser vis-a-vis otherUser have been tabulated below.

Equity Share Capital CaptiveUser/others with Voting Rights as on.....

S.No.	Class of Share holderCaptiveUser/ others	Class of Equity shares	No. of Equity Shares	Value per Equity Share	Amount of Equity Share Capital	Percentage holding in Equity Share capital	No. of Voting rights	Percentage holding in Voting Rights	Percentage holding in Equity Share Capital with voting rights
1.									
2.									
-									
N.									
Total									

Please find attached the following:

Annexure

1. Copy of the latest audited balance sheet of the Captive Use

A) Copy of the Share Certificate for the above.

B) Copy of the SH-4 Certificate.

Signature of Chartered Accountant/ Company Secretary:

Name in Block letters:

Membership No.:

Name of firm:

Firm Registration number:

Place:

Date:

To be submitted by the Generator which is a Limited Liability Partnership 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 Registered 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 _____ with reference to HT.SC No. _____ of _____ E.D.C. 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 CaptiveUser vis-à-vis other User has been tabulated below in Table B.

TABLE A

Ownerships of the Captive Generation Plant of the Partnership Firm as on

Sl no	Name of the partner	Capital contribution	% of capital contribution	Profit sharing Ratio	Whether Control Proportionate to Capital Contribution?	Remarks on control pattern*
1.						
2.						
-						
N.						
Total						

* Please provide remarks in the relevant column whether control is proportionate to the capital contribution. Further annex the Partnership Deed of the verification of above details.

TABLE B

Ownership of the Captive Generation Plant of the Partnership Firm as on.....

Type of Owner	HT. SC. NO.	EDC	% of proprietary interest in the Captive Generating Plant	Whether Control Proportionate to Proprietary interest?	Remarks on control pattern*
Captive					
Other					
Total					

* Please provide remarks in the relevant column whether control is proportionate to the capital contribution. Further annex the Partnership Deed of the verification of above details.

[To be submitted by the CaptiveUser (also owners) of the Limited Liability Partnership Firm]

AUDITOR'S CERTIFICATE

I hereby certify that CaptiveUser Name, a company incorporated under Companies Act, 2013 (or earlier Act) and having its registered office at _____ with HT. SC. No. _____ at _____ EDC is a partner with capital contribution of Rs. _____ with controlling interest of _____ percentage in Captive Power Generator Firm Name which owns a Generating Plant with Capacity _____ under HT. SC. No. _____ at _____ EDC as on date.

Please find attached the following:

Annexure

1. Copy of the latest audited balance sheet of the Captive Use
2. Copy of the latest partnership deed.

Signature:

Name in Block letters:

Membership No.:

Name of firm:

Firm Registration No.:

Name of the Partner:

Membership No.:
