



भारत सरकार

Government of India

विद्युत मंत्रालय

Ministry of Power

केन्द्रीय विद्युत प्राधिकरण

Central Electricity Authority

विधि प्रभाग

Legal Division

PUBLIC NOTICE

It is in reference to the our letter dated 01.11.2023, through which the comments from all the stakeholders have been sought before 01.12.2023 on the draft Procedure for verifying the captive status of such generating plants, where captive generating plant and its captive user(s) are located in more than one State.

However, some of the stakeholders have requested to extend the closing date of submission of comments. Accordingly, the date of submission of comments on the draft has been extended and all the stakeholders including the public are requested to send their **comments in the enclosed Format**, on the draft procedure to Legal Division, CEA through e-mail **celegal-cea@gov.in** latest by **08.12.2023**

प्रतीक जैतवाल
01/12/2023
प्रतीक जैतवाल
उप निदेशक (विधि)



भारत सरकार
Government of India
विद्युत मंत्रालय
Ministry of Power
केन्द्रीय विद्युत प्राधिकरण
Central Electricity Authority
विधि प्रभाग
Legal Division

PUBLIC NOTICE

The sub-rule (3) of rule 3 of the Electricity Rules 2005, for which amendment was issued on 01st September, 2023, states that:

"3. Requirements of captive generating plant. (1).....

XXX

(3) The captive status of such generating plants, where captive generating plant and its captive user(s) 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."

Accordingly, the Central Electricity Authority (CEA) has prepared a draft Procedure for verifying the captive status of such generating plants, where captive generating plant and its captive user(s) are located in more than one State. The draft Procedure has been hosted on website www.cea.nic.in for seeking public comments before seeking approval of the Central Government.

All the Stakeholders including the public are requested to send their **comments in the enclosed format**, on the draft procedure to Legal Division, CEA through e-mail celegal-cea@gov.in **latest by 01.12.2023**

प्रतीक जैतवाल
01/11/2023
प्रतीक जैतवाल
उप निदेशक (विधि)

Annex

Format for submitting comments

Sr. No.	Para no. of the draft Procedure	Proposed draft Procedure by CEA	Comments on the draft Procedure/Suggested draft procedure	Justification for the Comments/Suggested draft procedure
1.				
2.				
3.				
4.				

PROCEDURE FOR VERIFICATION OF CAPTIVE STATUS OF SUCH GENERATING PLANTS, WHERE CAPTIVE GENERATING PLANT AND ITS CAPTIVE USER(S) ARE LOCATED IN MORE THAN ONE STATE

The Central Electricity Authority in exercise of the powers vested under sub-rule (3) of Rule 3 of the Electricity Rules, 2005 for which amendment was issued on 01st September, 2023 hereby makes the following procedure with the approval of Central Government for verifying the captive status of such generating plants, where captive generating plant and its captive user(s) are located in more than one state.

1. Objective

The objective of this procedure is to verify the captive status of such generating plants by the Authority where Captive Generating Plants (CGP) and its Users are located in the more than one States as per the requirements of Rule 3 of the Electricity Rules, 2005.

2. Applicability

2.1 This procedure shall be applicable for all power plants and end users who desires to submit their claim for verification as CGP and associated Captive users to the Authority in accordance with sub-rule (3) of Rule 3 of the Electricity Rules, 2005

2.3 This procedure shall be applicable from

3. Definitions:

3.1 In this procedure, unless the context otherwise requires;

- a) "Act" means the Electricity Act, 2003;
- b) "Company" means a company incorporated under Company Act, 2013 or under any previous company law;
- c) "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;
- d) "Energy Storage System" in relation to the electricity system, means a facility where electrical energy is converted into any form of energy which can be stored, and subsequently reconverted into electrical energy and injected back into the grid;
- e) "Generating Unit" shall mean
 - (i) a unit of a generating station (other than those covered in sub-clauses (ii) and (iii) of this clause) having electrical generator coupled to a prime mover within a power station together with all plant and apparatus at the power station which relate exclusively to operation of that turbo-generator;
 - (ii) an inverter along with associated photovoltaic modules and other equipment in respect of generating station based on solar photo voltaic technology;
 - (iii) a wind turbine generator with associated equipment, in respect of generating station based on wind energy;
 - (iv) in respect of Renewable Hybrid Generating Station, combination of hydro generator under sub-clause (i); or solar generator under sub-clause (ii) or wind generator under sub-clause (iii) of this clause;
- f) "Renewable Hybrid Generating Station" means a generating station based on hybrid of two or more renewable source(s) of energy with or without Energy Storage System, connected at the same inter-connection point.
- g) "Power plant" means a generating station as defined in clause (30) of section 2 of the Electricity Act, 2003.
- h) "Subsidiary company" means a company as defined in clause (87) of section 2 of the Companies Act, 2013.
- i) "Year" means an year from 1st April of a year to 31st March of following year.

- 3.2 Words and expressions used in this procedure and not defined herein but defined in the Act or the Electricity Rules, 2005 or any other regulations specified by the Authority or Central Electricity Regulatory Commission, as the case may be, unless the context otherwise requires, have the meanings assigned to them under the Act or the Electricity Rules, 2005 or the regulations specified by the Authority or Central Electricity Regulatory Commission.

4. Statutory provisions:

- 4.1 The provisions in the Act that relate to the definitions of ‘Captive generating plant’, ‘generating company’, ‘generating station’ and to the captive generation are extracted herein:

Section 2(8):

“Captive generating plant” means a power plant set up by any person to generate electricity primarily for his own use and includes a power plant set up by any cooperative society or association of persons for generating electricity primarily for use of members of such cooperative society or association;”

Section 2(28):

“generating company” means any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person, which owns or operates or maintains a generating station;”

Section 2 (30):

“Generating station” or “station” means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switch-yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by waterpower, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station.”

Section 9: Captive Generation-

“(1) Notwithstanding anything contained in this Act, a person may construct, maintain or operate captive generating plant and dedicated transmission lines:

Provided that the supply of electricity from the captive generating plant through the grid shall be regulated in the same manner as the generating station of a generating company:

Provided further that no license shall be required under this Act for supply of electricity generated from a captive generating plant to any licensee in accordance with the provisions of this Act and the rules and regulations made there under and to any consumer subject to the regulations made under sub-section (2) of Section 42.

(2) Every person, who has constructed a captive generating plant and maintains and operates such plant, shall have the right to open access for the purposes of carrying electricity from his captive generating plant to the destination of his use:

Provided that such open access shall be subject to availability of adequate transmission facility and such availability of transmission facility shall be determined by the Central Transmission Utility or the State Transmission Utility, as the case may be:

Provided further that any dispute regarding the availability of transmission facility shall be adjudicated upon by the Appropriate Commission.”

- 4.2 The Electricity Rules, 2005 provides the following requirements for a Captive Generating Plant:

“3. Requirements of Captive Generating Plant.- (1) No power plant shall qualify as a ‘captive generating plant’ under section 9 read with clause (8) of section 2 of the Act unless-

(a) in case of a power plant

- (i) not less than twenty-six per cent of the ownership is held by the captive user(s); and
- (ii) not less than fifty-one percent of the aggregate electricity generated in such plant, determined on an annual basis, is consumed for the captive use:

Provided that in case of power plant set up by registered cooperative society, the conditions mentioned under paragraphs at (i) and (ii) above shall be satisfied collectively by the members of the cooperative society;

Provided further that in case of association of persons, the captive user(s) shall hold not less than twenty-six percent of the ownership of the plant in aggregate and such captive user(s) shall consume not less than fifty-one percent of the electricity generated, determined on an annual basis, in proportion to their shares in ownership of the power plant within a variation not exceeding ten percent.

(b) in case of a generating station owned by a company formed as special purpose vehicle for such generating station, a unit or units of such generating station identified for captive use and not the entire generating station satisfy (ies) the conditions contained in paragraphs (i) and (ii) of sub-clause (a) above including –

Explanation:-

- (1) The electricity required to be consumed by captive users shall be determined with reference to such generating unit or units in aggregate identified for captive use and not with reference to generating station as a whole; and
- (2) The equity shares to be held by the captive user(s) in the generating station shall not be less than twenty-six per cent of the proportionate of the equity of the company related to the generating unit or units identified as the captive generating plant.

Illustration

In a generating station with two units of 50 MW each namely Units A and B, one unit of 50 MW namely Unit A may be identified as the Captive Generating Plant. The captive users shall hold not less than thirteen percent of the equity shares in the company (being the twenty-six percent proportionate to Unit A of 50 MW) and not less than fifty-one percent of the electricity generated in Unit A determined on an annual basis is to be consumed by the captive users.

(2) It shall be the obligation of the captive users to ensure that the consumption by the Captive Users at the percentages mentioned in subclauses (a) and (b) of sub-rule (1) above is maintained and in case the minimum percentage of captive use is not complied with in any year, the entire electricity generated shall be treated as if it is a supply of electricity by a generating company.

(3) The captive status of such generating plants, where captive generating plant and its captive user(s) 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.

Explanation: - (1) For the purpose of this rule. -

- (a) “Annual Basis” shall be determined based on a financial year;
- (b) “captive user” shall mean the end user of the electricity generated in a Captive Generating Plant and the term “captive use” shall be construed accordingly:

Provided that the consumption of electricity by the captive user may be either directly or through Energy Storage System:

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

- (c) “Ownership” in relation to a generating station or power plant set up by a company or any other body corporate shall mean the equity share capital with voting rights. In other cases, ownership shall mean proprietary interest and control over the generating station or power plant;*
- (d) “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.”*

5. Verifying Authority

- 5.1 As per sub-rule(3) of rule 3 of Electricity Rules, 2005, Central Electricity Authority (CEA) shall be the Verifying Authority.
- 5.2 The Verifying Authority shall verify the captive status where CGP is located in one State and at least one of its Captive users located in another State and also fulfils the conditions of CGP provided under this procedure as per Rule 3 of the Electricity Rules, 2005.
- 5.3 The Verifying Authority may seek clarifications from the CGP or Captive Users with respect to the information or data submitted for verification of captive status.
- 5.4 Failure to furnish clarifications as mentioned under clause .3 within the time frame fixed in this procedure, the Verifying Authority may determine the status of the plant with the available data or documents submitted by the CGP.
- 5.5 The Verifying Authority shall verify the fulfillment of conditions in regard to the captive status or otherwise, and intimate the status to the concerned Distribution licensee(s), State Electricity Regulatory Commission, SLDC, CGP and Captive users.

6. General Conditions

The following general conditions shall be considered to verify the compliance of the requirement of the Rule 3 of the Electricity Rules, 2005:

- 6.1 The consumption of electricity by the Captive users shall be either directly or through the Energy Storage System.
- 6.2 The consumption of electricity by a subsidiary company of a company which is Captive user shall also be admissible as captive consumption by the Captive user.
- 6.3 The consumption of electricity by a holding company of a company which is a Captive user shall also be admissible as captive consumption by the Captive user.
- 6.4 In case of any change in ownership structure during the year under consideration, a statement having the details of change in the ownership structure along with the relevant documentary evidence shall be submitted to the Verifying Authority along with the submission of application for verification of the status of CGP and Captive users.
- 6.5 The CGP and its Captive users shall ensure that at any point of time in a 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.

- 6.6 In case the CGP is owned by the Cooperative Society, then the members of society shall collectively satisfy not less than 26% of the ownership with voting rights and consume not less than 51% of the electricity generated on annual basis for captive use.
- 6.7 In the case of the CGP identified for captive use as per the provision 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 of not less than 26% of the proportionate paid up equity share capital with voting rights as per illustration given at clause 3(1)(b) of the Electricity Rules, 2005 and consume not less than 51% of energy generated and shall be identified for captive use with reference to the generating units and not generating station/company, as a whole.
- 6.8 The test of proportional consumption in case of Association of Persons SPV¹(where applicable) shall be on actual consumption of electricity generated provided it is not less than 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.
- 6.9 Verification of ownership and consumption for any change in the captive user in a year 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.
- 6.10 If the CGP or the captive user or the distribution licensee, as the case may be, is not satisfied with the status as determined by the Verifying Authority, it may approach to the Central Government within 30 days of date of communication from Verifying Authority

7. Procedure for verification of Status of CGP and Captive users

- 7.1 Verification of status of CGP and Captive users shall be on annual basis.
- 7.2 The CGP shall submit an application along with the requisite documents to the Verifying Authority.
- 7.3 The CGP and Captive users shall furnish an affidavit not after 30th September as per format enclosed at Schedule I to the Verifying Authority enclosing therewith the details as specified in the format(s) regarding their annual electricity generation, captive user-wise consumption and equity share holding during the previous year.
- 7.4 Verifying Authority shall issue communication about the status of CGP and Captive users within two months from the receipt of the application along with the requisite documents complete in all respect.
- 7.5 The RLDC, SLDC and Distribution Licensee, in whose area the Captive Generating Plant or Captive user is located, shall extend necessary assistance to the Verifying Authority in the verification of captive status of generating plant and its user(s).

8. Verification of the ownership criteria of CGP, as required under Rule 3 of the Electricity Rules, 2005:

- 8.1 The Authorized signatory of CGP shall identify the category of ownership such as association of persons, co-operative society etc. with respect to the provisions contained in the Electricity Rules, 2005.

¹ Added in view of the of the Hon'ble Supreme Court of India Judgment dated 09.10.2023 in the matter of Civil appeal nos. 8527-8529 of 2009 filed by M/S. Dakshin Gujarat Vij Company Limited vs M/S. Gayatri Shakti Paper and Board Limited And Another, etc. under Civil Appellate Jurisdiction which interpreted relevant provisions of the Electricity Act, 2003 and Rule 3 of the Electricity Rules, 2005.

8.2 The documents as detailed below shall be furnished by the CGP for different compositions of ownership:

8.2.1. Criteria for verification of ownership:

- (a) In respect of captive user(s), the user(s) shall hold not less than 26% of the equity share capital having voting rights throughout the year.
- (b) In respect of Cooperative Society, the Members of society shall collectively satisfy not less than 26% of the ownership throughout the year..
- (c) In respect of AoP, the captive uses shall hold in aggregate not less than 26% of the ownership/paid up equity share capital with voting rights throughout the year.
- (d) In respect of SPV/Company, the Captive users 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.

8.2.2. Required documents for verification of ownership:

(a) Where the generating plant is a Company incorporated under the Companies Act, 2013:

- (i) A certificate issued by the Chartered Accountant, who signs the annual financial statement of the company/practicing Company Secretary who files the annual return of the CGP and Captive users providing details of Total equity, Authorized, 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 electricity e generation.
- (iii) Furnishing of Relevant extract of latest Annual Return - MGT 7 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 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 CGP and Captive users . 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 electricity generation by the Board by way of amendment to Memorandum of Association and Articles of Association shall be intimated by the CGP within 30 days from the date of such change to the Distribution Licensee

and to the Verifying Authority.

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

- (i) A certificate by the Chartered Accountant, who signs the annual financial statement showing detailed breakup of the Issued, Subscribed and Paid-up Equity Share Capital of the CGP and the details of holding of Equity Share Capital with voting rights by the Captive users as per **FORMAT-I**.
- (ii) Certificate of incorporation by the Registrar of Co-operative Society of the Co-operative Society.
- (iii) Copy of byelaws of Co-operative Society and its amendments issued from time to time.
- (iv) Relevant extract of latest Annual Report of the CGP showing details of share capital.
- (v) A copy of the Resolution passed by the General Body authorizing the Chairperson or Managing Director of the Co-operative Society as the authorized signatory with attested signature of such signatory.
- (vi) The authorized signatory shall furnish documents mentioned in Sr. No. (i) to (v) of this clause through a letter.
- (vii) Any revocation of sanction for carrying on electricity generation by the society shall be informed within 30 days from the date of such change to the Distribution Licensee and to the Verifying 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/ /AoP.

9. Verification of the consumption criteria of CGP as required under Rule 3 of the Electricity Rules, 2005

9.1 Criteria for Verification of consumption criteria:

9.1.1. In respect of single, the captive consumption shall not be less than 51% of the net electricity generated on an annual basis.

9.1.2. In respect of Cooperative Society, the Members of society shall collectively consume not less than 51% of the net electricity generated on annual basis.

9.1.3. In respect of Association of Persons, the Captive users shall consume not less than fifty one percent of the electricity generated, determined on an annual basis, in proportion to their shares in ownership of the power plant within a variation not exceeding ten percent.

9.1.4. In respect of SPV, the Captive users 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 within a variation not exceeding ten percent²

9.2 Technical Losses in electrical network and Energy Storage System shall be included in the energy consumption of the Captive users. The losses figures shall be as per the following:

9.2.1. Transmission losses in ISTS network as per weekly published data of POSOCO

9.2.2. Losses in STU network based on published figure of SLDC

9.2.3. Losses in Discom network as per published figure in ARR/Tariff order

9.3 The aggregate energy generated from CGP unit shall be the gross energy generated from the unit less aggregate auxiliary consumption during the time block. In the absence of measured data on auxiliary consumption, until metering as prescribed in clause 12 of this procedure/mechanism/Rule is completed, the normative auxiliary consumption for similar unit in the Regulations of the CERC may be considered for the purpose of CGP verification status.

9.4 The consumption of energy by the captive users with open access shall be considered as lower of actual 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 V**.

9.5 The CGP shall submit the details of actual generation from the power plant and the actual consumption by the Captive users on monthly basis duly verified by the concerned SLDC/RLDC as per **Format III, IV and Format V** to the 'Verifying Authority' and the Distribution Licensee.

9.6 For determination of 'annual basis for the first year of declaring the plant as captive generating plant, 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.

9.7 Verification of 26% ownership shall be done on the basis of weighted average of shareholding when there is change in ownership structure in the financial year under consideration.

9.8 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.

10. Ceasing of Qualification of CGP.-If CGPs fails to meet the requisite conditions in a financial year, the generating plant will cease to be a Captive Generating Plant and the users will cease to be captive users.

11. Default by a shareholder(s):

11.1 When a shareholder defaults in fulfilling criteria of electricity consumption provided under Rule 3 of Electricity Rules, 2005 and when other captive users together comply with ownership criteria of not less than 26%, the defaulting shareholder shall cease to be the captive user 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.

11.2 When a shareholder defaults in fulfilling the consumption criteria provided under Rule 3 of Electricity Rules, 2005, and other captive users together do not comply with ownership criteria

² Added in view of the of the Hon'ble Supreme Court of India Judgment dated 09.10.2023 in the matter of Civil appeal nos. 8527-8529 of 2009 filed by M/S. Dakshin Gujarat Vij Company Limited vs M/S. Gayatri Shakti Paper and Board Limited And Another, etc. under Civil Appellate Jurisdiction which interpreted relevant provisions of the Electricity Act, 2003 and Rule 3 of the Electricity Rules, 2005.

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.

12. Metering: Each Unit of CGP shall have a separate Interface Meter with real time communication facility with RLDC and/or SLDC as per the specifications provided under the Central Electricity Authority (Installation and Operation of Meters) Regulations, 2006 as amended from time to time.

AFFIDAVIT FROM CGP and Captive User(s) ON RS. 100/- STAMP

UNDERTAKING FROM CGP

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 ofMW 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.

[TO BE SUBMITTED BY THE CGP 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 referenceto “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, specificbreakup 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								
Sr. 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	Percent age holding in voting rights	Percenta ge 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, 2005.		
Total installed Capacity of the generating station (inMW)	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 captiveconsumers 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:

**[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

Sr. 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 (Sr. No. 5 divided by Sr. No. 3)	

If Sr.No.6 is Not Less than 51%, then go to **FORMAT IV**.

