



## **TAMIL NADU ELECTRICITY REGULATORY COMMISSION**

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**(Comments/suggestions are invited on or before 15-07-2024)**

### **DRAFT TAMIL NADU ELECTRICITY REGULATORY COMMISSION (VERIFICATION OF CAPTIVE STATUS OF GENERATING PLANTS / CONSUMERS) REGULATIONS, 2024**

WHEREAS Central Government in exercise of powers conferred under Section 176 of the Electricity Act, 2003 (Act 36 of 2003) has made rules called 'The Electricity Rules, 2005'. Rule 3 of the Electricity Rules of 2005 lays down the requirements of Captive Generating Plant. In order that a generating plant is to be qualified as a Captive Generating Plant, such plant has to fulfill the requirements laid down in Rule 3. Failure to fulfill the conditions would render the CGP to lose CGP status and be treated as an ordinary generating plant and in consequence, such defaulting consumer(s) who have consumed energy from the plant shall have to pay cross subsidy surcharge and other applicable charges as determined by the Commission from time to time;

AND WHEREAS the Hon'ble APTEL's order in Appeal No.131 of 2020 dt.7.6.2021 has upheld that Commission is empowered to appoint TANGEDCO to undertake the exercise of collecting and verifying the data for CGP status;

AND WHEREAS the Hon'ble Supreme Court has settled the conundrum arising out of the conflicting interpretations of Rule 3 of the Electricity Rules, in the case of M/s DAKSHIN GUJARAT VIJ COMPANY LIMITED VERSUS M/S. GAYATRI SHAKTI PAPER AND BOARD LIMITED AND ANOTHER, ETC. in CIVIL APPEAL NOS. 8527-8529 of 2009 vide order Dated 06.10.23 holding inter alia as below:

- A generating Company which fulfils the special conditions prescribed in Section 2(8) read with Rule 3 above is categorized as captive power plant; Therefore, the captive generating plant will also be subject to the regulatory control of the State Commission inasmuch as a generating company; The proviso of Section 42(2) exempts a captive consumer from payment of cross subsidy surcharge; It is the State Commission which has the jurisdiction to determine whether or not the exemption provided under Section 42(2) can be accorded in the same manner , as the Commission is entrusted with the responsibility of determination of tariff and charges payable by the consumers in the State.
- The person who maintains and operates the CGP need not have necessarily constructed the CGP. A CGP does not lose its captive status due to transfer of its ownership or any part of its ownership, provided that the transferee, that is, a new captive user, complies with eligibility criteria specified under Rule 3 of the Rules.

- The minimum ownership criteria is required to be maintained continuously, throughout the financial year, that is, from 1st April of a year to 31st March of the next year, coupled with the electricity consumption requirement in proportion to the percentage of ownership as laid down under Rule 3.
- Where there is a change in ownership or shareholding of the CGP, the principle of weighted average shall be applied to verify the compliance of the ownership criteria as well as consumption criteria on annual basis.
- The owner of every 1% share holding in aggregate of the CGP should have proportionate annual consumption of electricity generated by the CGP, within a variation of not exceeding  $\pm 10\%$ . The Hon'ble supreme court has held that the proportionality test checks, "gaming" by owners, which would amount to misuse and abuse of the Rule 3(1)(a) of the Rules. Instances of gaming have been quoted by the Hon'ble Supreme Court where a 1% or an insignificant shareholder of the CGP disproportionately uses the electricity generated, in which case he is not entitled to be treated as a group captive user and therefore shall be denied the benefits given under the Act to the captive users. Gaming or misuse is ought to be checked to protect the interests of Distribution Licensee, the Hon'ble court observed.

- The Hon'ble Supreme Court has further ruled that SPVs which own, operate and maintain CGPs are on par with "association of persons" in terms of the second proviso to Rule 3(1)(a) of the Rules.

AND WHEREAS to establish regulatory control and to protect the interest of all the stakeholders, the Commission, keeping in view of ruling of the Hon'ble Supreme Court of India in its Order dated 09.10.2023 in conjunction with earlier orders of the Commission and the APTEL and Rule 3 of the Electricity Rules, 2005 (as amended from time to time), read with various sections of the Electricity Act, 2003 and the model Regulations drafted by Forum of Regulators on verification of status of generating plants and captive users, decides to specify the methodology of verification of CGP status and accordingly notify the Draft Regulations for verification of captive status of generating plant /consumers in the State of Tamil Nadu.

THEREFORE in exercise of the power conferred under Section 181 of the Electricity Act, 2003 (Central Act 36 of 2003) and all other powers enabling in that behalf, the Commission hereby issues draft TNERC (Verification of captive status of generating plant / consumers in the State of Tamil Nadu) Regulations, 2024 for information of all the persons likely to be affected.

NOTICE is given hereby that the said draft will be taken into consideration for finalizing the Regulations after 21 days from the date of publication. The stakeholders and interested persons may file their

objections/suggestions/views on the proposed draft within 21 days from the date of publication to:

**The Secretary,**  
Tamil Nadu Electricity Regulatory Commission  
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## **DRAFT REGULATIONS**

### **1. Short Title and commencement**

- a. These Regulations shall be called the Tamil Nadu Electricity Regulatory Commission (Verification of captive status of generating plants/consumers in the State of Tamil Nadu) Regulations, 2024.

### **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 Tamil Nadu.

### **4. Definitions**

In these regulations, unless the context otherwise requires –

- a. "Act" means the Electricity Act, 2003 (36 of 2003)

- b. "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 co-operative society or association of persons for generating electricity primarily for use of members of such co-operative society or association; as defined in the Act read with Rule 3 of the Electricity Rules, 2005.
- c. "Captive User(s)" 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. "Central Nodal Agency" means a Central Nodal Agency as notified by the Central Government to set up and operate a single window green energy open access system for renewable energy.
- e. "Company" means a company formed and registered under the Companies Act, 1956 or Companies Act, 2013 (as amended from time to time) and includes any body corporate under a Central or State Act;
- f. "Commission" means the Tamil Nadu Electricity Regulatory Commission.
- g. "Consumer" means any person who is supplied with electricity for his own use by a Licensee or the Government or by any other person engaged in the business of supplying electricity to the public under this Act or any other law for the time being in force and includes any person whose premises are for the time being connected for the purpose of receiving electricity with the works of a Licensee, the Government or such other person, as the case may be;
- h. "Dedicated transmission lines" means any electric supply-line

for point to point transmission which are required for the purpose of connecting electric lines or electric plants of a captive generating plant referred to in section 9 or generating station referred to in section 10 to any transmission lines or sub-stations or generating stations, or the load centre, as the case may be;

- i. "Intra-State transmission system" means any system for transmission of electricity other than an inter-State transmission system;
- j. "Licence" means a licence granted under section 14;
- k. "Open Access" means the non-discriminatory provision for the use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the Regulations specified by the this Commission.
- l. "person" shall include any company or body corporate or association or body of individuals, whether incorporated or not, or artificial juridical person;
- m. "Injection Point" means the point or points at which electricity is injected by the generating Company into the STU/DISCOM network.
- n. "Premises" includes any land, building or structure;
- o. "Renewable Energy" means such sources that produce/generate electrical energy from renewable sources of energy including, but not limited to Solar PV Power project or wind power project or hybrid power project or small hydro power project or biomass, biofuel, urban or municipal waste, pumped storage hydro generation, Energy Storage Systems using entire electricity generated from renewable energy for charging or any

other technology as may be notified by the Government of India from time to time and shall also include any mechanism that utilizes green energy to replace fossil fuels including production of green hydrogen or green ammonia;

- p. "SLDC" means the State Load Dispatch Centre established under sub-section (1) of section 31 of the Act.
- q. "State Transmission Utility" means the Board or the Government company specified as such by the State Government under sub-section (1) of section 39 of the Act;
- r. "Rule" means The Electricity Rules, 2005, as amended;
- s. "Wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined under section 62 of the Act;
- t. 'Year' means financial year from 1<sup>st</sup> April to 31<sup>st</sup> March.

Words and expressions used in this Regulation but not defined either in this Regulation or the Act or the Electricity (Rights of Consumer Rules), 2020 and Electricity Rules, 2005 or any other Regulations of this Commission or the General Clauses Act 1897 (Central Act 10 of 1897) shall have the same meanings as commonly understood in the Engineering and Commercial parlance.

## **5. Determination of captive status of CGP:**

5.1 Monitoring of captive status of generator(s)/user(s) with respect to criteria of consumption and equity share-holding, as prescribed under the Electricity Rules, 2005 (as amended from time to time) shall be done



annually by the Distribution Licensee authorised by the State Commission to this effect , after the end of a Financial Year (FY) based on the share-holding pattern existing during a financial year and the annual consumption details as submitted by the generator/consumer(s) and the Distribution Licensees.

Provided that for a newly commissioned plant, for the first year, the date of open access i.e., date of receipt of wheeling agreement by the nodal agency or the date of commissioning of the project or the units, whichever is later, shall be considered as the starting date for that financial year. For the subsequent years, generation from 1<sup>st</sup> April to 31<sup>st</sup> March of a financial year shall be considered for determining captive status.

5.2 In case only few generating units in a generating station / pooling station are identified for captive use, the captive status of generator / consumer(s) shall be determined by accounting the aggregate energy generated from units identified for the captive use, energy allocated from those generating units to the intending captive consumers, and the actual energy consumed by the intending captive consumers.

5.2.1 In the case of wind energy, if a CGP has multiple generating units (in the same name) governed by separate Energy Wheeling Agreements with the ownership structure/shareholding being the same in each agreement, aggregate energy of all generating units of the CGP shall be accounted irrespective of separate wheeling agreements.

5.3 The generator / consumer(s) shall provide the details of equity share holding as on 31<sup>st</sup> March for the financial year, entity-wise consumption and electricity generation along with other documents in the prescribed formats (as specified by the Commission on its website/attached with this Regulation as annexure) necessary for determination of captive status.

Provided that in case of any change in the share-holding pattern or the ownership during a financial year, the generator/consumers shall provide the details of change in the equity share holding pattern or the ownership to the distribution company as well as the Commission within 15 days of that change.

Provided that in case of any change in the share-holding pattern during a financial year, the principle of weighted average shall be applied for determination of the share-holding percentage for that financial year, which will be taken in to account to verify the compliance of the ownership criteria, consumption criteria and proportional consumption requirement as stipulated under the second proviso to Rule 3(1)(a).

5.4 In case where captive generating plant and its captive user(s) are located in more than one State, verification of captive status of such generating plants shall be verified by the Central Electricity Authority as per the procedure issued by the Authority with the approval of the Central Government.

5.5 Every person, who has constructed a captive generating unit, 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 / distribution facility and other statutory criteria.

Provided that the supply of electricity from the CGP through the grid shall be regulated in same manner as being regulated in generating station(s) of a generating company.

5.6 The captive users shall deposit by 30th April, of every year, the security deposit in the form of un-conditional and irrevocable bank guarantee equivalent to cross-subsidy surcharge and additional surcharge for 51% of captive consumption (of the previous year, for a new generating plant, on an estimated basis), to the concerned distribution licensee as payment security against estimated cross subsidy surcharge and additional surcharge as may be decided by the Distribution Licensee.

## **6. Verification of Captive Status by verification of ownership and consumption criteria**

6.1 Types of captive users:

- a) Single captive user
- b) Co-operative society
- c) Partnership firm / Limited Liability Partnership (LLP)

- d) Association of persons
- e) Special purpose vehicle (SPV)

**6.2 Verification of consumption criteria**

- a) Verification of criteria of consumption shall be based on the aggregate net electricity generated from the generating unit(s) in a generating station, identified for captive use i.e gross electricity generated less auxiliary consumption and other consumption viz., Banked energy, Startup energy(including self consumption) as applicable
- b) The aggregate net electricity shall be determined on annual basis at the end of the year.
- c) Verification of consumption criteria for various types of captive users shall be as follows:

<b>Sl. No.</b>	<b>Types of captive users</b>	<b>Consumption Criteria</b>
1	Single captive user	The self-consumption shall not be less than 51% of the net electricity generated on an annual basis
2	Cooperative Society	Members of Society shall collectively consume not less than 51% of the net electricity generated on annual basis
4	Association of persons	The captive users shall consume not less than 51% of the aggregate net electricity generated on annual basis for captive use in proportion to their share in the power plant within the variation not exceeding 10%

5	Special purpose vehicle (SPV)	The captive user(s) shall consume not less than 51% of the aggregate net electricity generated on annual basis in proportion to their shares in the units identified for captive use.
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### **6.3 Verification of equity share holding criteria**

<b>Sl. No.</b>	<b>Types of captive users</b>	<b>Share-holding Criteria</b>	<b>Supporting document</b>
1	Single captive user	The user shall hold not less than 26% of equity share capital having voting rights throughout the year.	<ul style="list-style-type: none"> <li>a. Certificate of Incorporation</li> <li>b. MoA and AoA</li> <li>c. Share-holding Certificate by Company Secretary (CS)/ Chartered Accountant (CA)/ Cost and Management Accountant (CMA).</li> <li>d. Form MGT 9/ MGT 7/ Summary of Annual Report</li> </ul>
2	Co-operative society	Members of society shall collectively satisfy not less than 26% ownership on an annual basis.	<ul style="list-style-type: none"> <li>a. A Certificate from District Registrar of Co-operative Society.</li> <li>b. A certificate by the Chartered Accountant, who signs the annual financial statement showing detailed breakup of the Issued, Subscribed and Paid-up</li> </ul>

			Equity Share Capital of the CGP and the details of holding of Equity Share Capital with voting rights by the Captive users.
3	Partnership firm / limited liability partnership (LLP)	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 on annual basis.	a) Registration Certificate from Registrar of Firms/Certificate of Incorporation b) LLP Agreement or partnership agreement c) Certificate of Share holding by CA or CS.
4	Association of persons	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 / units to be identified as the CGP) throughout the year.	a. Copy of the Business agreement that details the shareholding of persons as members of the AoP certified by the CA or CS or CMA. b. Copy of Registration (if applicable).
5	Company/ Special purpose vehicle (SPV)		c. MoA and AoA (if applicable)

*Note: Respective CGPs / Captive User(s) shall submit above documents along with the specified Format , appended to this*

*Regulation as applicable to respective category . All intended captive users including any new captive user due to change in ownership, who require approval for open access i.e. wheeling of energy generated from their captive generating plants to their respective HT service connections shall furnish the documents as specified.*

*Whenever there is any change in the shareholding pattern of ownership in the middle of the financial year, the revised shareholding shall be intimated to the Distribution Licensee by the CGP user(s) / owner(s) within 15 days with CA certification and requisite documents to obtain approval for open access/wheeling of energy, in appropriate Format appended to this Regulation.*

(i) In case of a single captive user, minimum 26% of the equity shares of the generation unit shall be held by the captive user. The single captive user shall consume minimum 51% of the total Aggregate Generation annually by the generating plant(s) / unit(s) identified for captive use.

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.

(ii) In case of a registered Co-operative society, 26% share-holding pattern and 51% consumption pattern shall be satisfied collectively by the members of the co-operative society.

(iii) In case of Partnership firm / Limited Liability Partnership (LLP), ownership of the Partners in the captive plant shall be not less than 26% proprietary interest and consumption by the partners shall not be less than 51% of the net electricity generated on an annual basis.

(iv) In case of Group Captive consumers ie Association of persons/ Special Purpose Vehicle, the captive users shall hold not less than twenty-six percent of the equity shares with voting rights of the plant in aggregate and such consumers shall consume not less than 51% of the Aggregate net electricity generated on an annual basis in proportion to their shares in ownership of the power plant within a variation not exceeding  $\pm 10$  percent. The compliance of proportionality shall be verified as per the Formats under V appended to this Regulation.

Provided that the intending captive consumers (other than single captive user and co-operative society) consuming energy more or less than their proportion (with a variation exceeding  $\pm 10\%$ ), will lose their captive status. In consequence, captive status of the other consumers / generating station shall be verified excluding such consumers.



6.4 In case a generator intends to supply energy to consumers under captive route, the generator shall submit all the required documents to the Distribution companies along with the list of consumers before onset of wheeling of energy. This shall also apply to any change in share holding pattern/ownership during a year which shall be informed to the Distribution Licensee within 15 days of such change.

Verification of consumption by captive users shall be an annual exercise. The documents and formats specified in annexure appended to this Regulation shall also be furnished by the CGP Owner/Captive User to the Distribution Licensee at the time of annual verification of CGP status within a month after the end of the financial year. The Distribution Licensee shall verify the captive status of the consumers within three months thereafter to compute the surcharges (if applicable), by verifying the ownership and consumption criteria in accordance with Rule 3 of the Electricity Rules, 2005 (as amended from time to time). Further, in case during a financial year any new captive user is added, the generator/user shall submit the documents to the Distribution Licensee illustrating the date of purchase of equity shares by the new consumer within 15 days of such change along with proof of documents.

Provided that in case a generator wants to supply power under the captive mode during middle of a financial year, he shall identify the

generating units (Unique Account number of each plant / unit) entering into captive mode and shall submit the details clearly mentioning the date of transfer of equity shares with voting right to the intending captive consumers along with other details with regards to generation and consumption of energy to the distribution licensee (before the onset of wheeling under captive mode) and to the Commission (at the end of the financial year).

6.5 Distribution Licensees shall provide the detailed calculation along with the demand notices to the consumers in case the consumers do not satisfy the captive status.

6.6 The verification of consumption criteria shall be based on the Aggregate of net generation of each Generating Plant(s) / Unit(s) identified for captive use on annual basis.

For arriving at the "Aggregate Generation", summation of " Net Generation" from all Generating Plant(s) / Unit(s) identified as CGP at the end of the financial year shall be accounted. For arriving at the "Net Generation", total generation by a generating unit less auxiliary consumption shall be accounted as follows:

- *Aggregate generation= Sum of Net generation of all Generating Plant(s) / Unit(s) identified as CGP on annual basis.*
- *Net Generation = Gross generation (-)Auxiliary consumption(-)start up power.*

Provided that in case of wind/Solar energy CGPs the banking charges in kind and the start up power shall be deducted from Gross generation to arrive at the Net generation as follows:

- *Net generation = Gross generation (-) banking charges in kind (in units) (-) start up power (in units)*

Provided that in case the generator and the intended captive user are located within the State but not co-located, the consumption corresponding to the energy allocated by the generator or the actual consumption based on the meter installed at the consumption side whichever is lower, shall be accounted.

6.7 The technical losses in electrical network (as determined by the Commission in its tariff Orders) and energy storage system shall be grossed up to the energy consumption of the captive users for the purpose of verification of consumption criteria.

## **7. Obligation of stakeholders for verification of CGP status**

7.1 Verification of compliance of ownership criteria and consumption criteria as formulated in this Regulation in accordance with Rule 3 requires proper accounting of generation, auxiliary consumption, T&D loss, units consumed under start-up, banked units and consumption by captive user(s). It shall be the responsibility of both generator and Licensee to ensure that above data are maintained for proper verification of CGP verification status.

7.2 Verification of CGP status is a dynamic process whereby in one month a consumer may qualify but in next month he may not. Hence, Licensee shall create a dedicated web portal for CGP for login of data by generators providing an ID to each CGP and captive user. All parameters of ownership / consumption criteria shall be filled by the generators so as to monitor the changes continuously. Whenever, the criteria is not met with, there shall be a pop-up to alert the generator/captive user. This is to ensure effective monitoring of the deviation in shareholding pattern, shortfall from generation and consumption requirement and timely rectification. This shall be ensured at the time of adjustment by CGP holder every month.

7.3 All CGPs shall furnish necessary documents for ownership/shareholding pattern, relevant data of generation and consumption in the formats as appended in this Regulation within 4 weeks from the end of every financial year. The documents for verification of CGP status at the end of the financial year shall be submitted by the CGP to the Distribution Licensee where the CGP is located. In case of captive user who owns 100 % of the Captive Generating Plants that are located in different places and the usage of energy from all CGPs by the captive user is in a single location, then at the option of the captive user, the documents for verification of CGP status may be submitted to the Electricity Distribution Circle of Licensee where the captive user is located.

7.4 The Distribution Licensee shall conduct verification of all data furnished with the available data from the meter terminals of captive generators and their captive user(s)/billed data available. With respect to the documents of ownership/shareholding also, the Licensee can carry out cross verification from the data available in the Public domain of Registrar of Companies, Registrar of Firms etc.

7.5 Failure to furnish data, documents for the purpose of annual verification within the time frame fixed in this procedure for verification of CGP status would entitle the Licensee to conduct verification of the same with the available data at its end if necessary.

7.6 In case of any CGP(s) on verification is found to have failed to meet the Criteria of eligibility of CGP, the Licensee shall submit the relevant documents in full to the Commission after due reconciliation with the CGPs, for approval of declaration to the effect that the generator/consumer concerned is not entitled to hold the CGP status for the financial year concerned. The Commission, on scrutiny of documents so submitted by the Licensee shall declare the entitlement of CGP status.

7.7 In case it is declared by the commission that the consumer is not entitled for the CGP status of a particular financial year, the Licensee shall issue a notice to the defaulting entity to pay the relevant charges as computed by the licensee duly raising the invoice with a detailed working sheet and split up details without ambiguity.

## **8 METERING:**

8.1 Each Generating Plant(s) / Unit(s) intended for captive use shall have a separate Energy Meter as Main Meter with AMR facility and Licensee shall provide Check Meter as specified in the Central Electricity Authority (CEA) (Installation and Operation of Meters) Regulations, 2006 (as amended from time to time) and as approved by the Distribution Licensee. The generators shall provide the monthly data/quarterly/15-minutes data of the energy generated (less auxiliary consumption) and other data to the SLDC/Distribution Licensee. The practice adopted by the Distribution Licensees in the case of HT open access consumers for meter reading, downloading data of consumption may be followed, which is not inconsistent with any Orders or directions issued by the Commission. The Energy Meters shall be tested periodically as prescribed in the CEA Regulations as per prescribed testing procedures.

8.2 Separate metering arrangement (Main & Check Meter) shall be made for each Generating Unit and consumption unit (plant) in case the Embedded CGP generators are selling power under bilateral transaction to third party consumers or having Power Purchase Agreement (PPA) with any Distribution Licensee.

8.3 The SLDC/Licensees shall create a web portal and provide login ID to each of the CPPs and captive users to enable the captive generators to allocate the total energy generated to its various consumers.

## **9 Default by a shareholder(s)**

9.1 Failure to fulfill any of the provisions as specified under these Regulations shall be construed as default by the stakeholders.

9.2 In case of Group Captive consumers, if one or more persons defaults in fulfilling the criteria mentioned under Rule 3, such defaulting person(s) shall forgo the concessions extended to a captive user, provided other captive users put together comply with the criteria of 26% ownership and consumption of not less than 51% of the aggregate electricity generated, in proportion to their individual shareholding pattern throughout in a financial year.

## **10 Consequence of failure to meet captive users' status**

10.1 The captive users have the obligation to comply the ownership and consumption criteria specified in sub-clauses (a) & (b) of Rule 3(1) of the Electricity Rules 2005. The intending captive consumer not fulfilling the above requirement will lose his captive status. In consequence, Captive status of the other consumer / generating station shall be verified excluding such consumers.

Provided that in case of addition of consumer, additional security deposit in the form of un-conditional and irrevocable bank guarantee / Letter of credit shall be submitted to the Distribution Licensee.

10.2 If the CGP or captive user fails to meet the criteria of ownership and consumption specified in Rule 3 of Electricity Rules, 2005 as amended from time to time, by the end of the year, such generator / consumer shall be denied the 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.

10.3 The defaulting entity shall pay the charges as computed by the licensee within one month from the date of raising the invoice by the Licensee.

## **11 Dispute Resolution:**

11.1 In case of any dispute between the Distribution Licensee and Captive Power producers / users regarding captive status and payment of surcharges, the aggrieved party may prefer a petition before the Commission for adjudication. No coercive action shall be taken by the Distribution Licensee, during the pendency of the dispute. The Licensee shall not contemplate any proceeding in regard to cross-subsidy surcharges till the culmination of the proceedings.

Further initiation of such proceedings will not cloth any right on the Licensee to withhold payment of charges for the unutilized energy to the generator concerned which shall be paid within the period of three months after the end of financial year. Payment of unutilized energy and collection of cross subsidy surcharge are two different categories operating on different spheres and hence they shall not be interlinked.



11.2 The onus of furnishing the correct and complete data shall be on the Captive generator / user seeking captive status.

11.3 During pendency of a dispute or during the process of scrutiny of documents before declaring the CGP status , the Commission shall be free to seek any additional data / documents from the stake holders as deemed necessary, for determination of captive status .

## **12 Power to remove difficulties**

In case of any difficulty in giving effect to any of the provisions of these Regulations, the Commission may by general or special order, direct the consumers, generators and the Licensees to take suitable action, not being inconsistent with the provisions of Electricity Act, 2003, and Electricity Rules, 2005 (as amended from time to time) which appears to the Commission to be necessary or expedient for the purpose of removing the difficulty.

The consumers / Licensees may make an application to the Commission and seek suitable orders to remove any difficulties that may arise in implementation of these Regulations.

## **13 Power to amend:**

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

**14 Interpretation:**

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

**(By order of Tamil Nadu Electricity Regulatory Commission)**

Sd/- 24.06.24  
(Dr. C. Veeramani)  
Secretary  
Tamil Nadu Electricity Regulatory Commission

**APPENDIX-A**  
**(SHEET-1)**

The following details shall be furnished by for each generating plant /unit for the respective financial year		
<b>Sl. No.</b>	<b>Particulars</b>	
1	Name of Generating Company:	
2	Financial Year	
3	No. of Generating Stations	
a	Generation Station No.	
i	Account No. of Generating Station	
	Project Location	
ii	Type of Generator:	
	Renewable Energy Wind Solar Hydro Others	
	Non-renewable Energy	
iii	Total capacity of the generating station (in MW)	
iv	Total number of units in the generation station	
v	Total number of units commissioned in the generation station:	
vi	Total number of units identified for captive use:	
vii	Total capacity identified for captive use (MW):	

**APPENDIX-A  
(SHEET-2)**

The following details shall be furnished by for each generating plant /unit for the respective financial year_____.		
1	Type of Company:	
	Association of Persons	
	Company	
	Subsidiary company	
	Co-operative Society	
	Special Purpose vehicle	
2	Please submit the following documents (as applicable):	
A	Memorandum of Association	
B	Articles of Association	
C	Form MGT-7 or MGT-9	
D	Share-holding pattern as existing on 31st March of a Financial year, certified by Chartered Accountant (CA)/Company Secretary (CS) / Cost and Management Accountant (CMA)for each year for which verification of captive status has been requested	
E	Certificate of incorporation	
F	In case of a Cooperative Society: Certificate from District Registrar of Cooperative Society	
3	Upload all the WAs signed by generating Units:	
4	Upload all the documents for allowing Open Access from the generating unit to the consumer:	
5	Upload documents pertaining to total energy generated by each generating units during a Financial Year in the format provided	
6	Upload all the monthly energy generation certificates based on AMR meter reading of all the generating units for which the captive status have been requested	
7	Upload documents pertaining to total energy allocated to each consumer during a FinancialYear	

8	Upload any other necessary documents for determination of captive status	
9	Total number of equity shares issued by the Generator for each financial year for which captive status has been requested:	
10	Number of Captive Consumers :	
11	Details of captive consumers:	
a	Name of Licensee	
i	Name of the Consumer 1	
ii	Account No. of the Consumer 1	
iii	Total number of equity shares with voting rights held by the consumer during each financial year for which captive status has been requested:	
iv	Total percentage of shares held by captive consumers during each financial year for which captive status has been requested:	
b	Name of Licensee	
i	Name of the Consumer 2	
ii	Account No. of the Consumer 2	
iii	Total number of equity shares with voting rights held by the consumer during each financial year for which captive status has been requested:	
iv	Total percentage of shares held by captive consumers during each financial year for which captive status has been requested.	

**FORMAT –I**

**[To be submitted by THE GENERATOR WHICH IS A CORPORATE BODY]**

**CERTIFICATE ON "OWNERSHIP" AS PER RULE 3 OF 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 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 for the financial year \_\_\_\_\_ have been tabulated below in Table A. Further, specific breakup of Equity Share Capital with voting rights held by captive user vis-a-vis other users has been tabulated below in Table B.

**Table A (for company)**

Equity Share Capital with voting rights from _____ to _____ (for the Financial Year _____)						
Sl. No.	Class of Equity shares	No. of Equity Shares	Value per Equity Share	Amount of Equity Share Capital	Percentage holding in Equity Share Capital	Percentage holding in Equity Share Capital with voting rights
	Total					

**Table B (for captive users)**

Break up of Captive user holding in Equity Share Capital with Voting rights from _____ to _____ (for the Financial Year _____)						
Sl. No.	Class of share holder	No. of Equity Share held with voting right	Value per Equity Share	Amount of Equity Share Capital	Percentage holding in Equity Share Capital	Percentage holding in Equity Share Capital with voting rights
1	Captive user - 1					
2	Captive user - 2					
3	Captive user - 3					
4	Captive user - 4					
	Total					

Signature of Practicing Chartered Accountant /  
Practicing Cost Accountant /  
Practicing Company Secretary

Name in Block letters

Name of firm

Firm Registration number:

Membership No.

Place :

Date :

Note: The above Table A & B are meant for company / captive user whose share holding pattern is constant throughout the year.

In case of change in share holding pattern during the year, separate tables containing the break up period corresponding to each change shall be furnished.

## FORMAT –II

**[To be submitted by each Captive user/  
owners who are Corporate bodies]**

### **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 \_\_\_\_\_ with HT.SC.No. \_\_\_\_\_ at \_\_\_\_\_ EDC 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 under HT.SC.No. \_\_\_\_\_ at \_\_\_\_\_ EDC from \_\_\_\_\_ to \_\_\_\_\_ during the financial year \_\_\_\_\_.

Please find attached the following:

- Annexure 1. Copy of the latest audited balance sheet of the Captive User.
2. Copy of the Share Certificate for the above.
3. Copy of the SH-4 Certificate.

Signature of Practicing Chartered  
Accountant /  
Practicing Cost Accountant /  
Practicing Company Secretary

Name in Block letters

Membership No.

Name of the Firm:

Firm Registration No:

Name of the Partner: \_\_\_\_\_

Membership No: \_\_\_\_\_



**FORMAT-III**

**[To be submitted by THE GENERATOR WHICH IS A  
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 for the Financial Year \_\_\_\_\_ has been tabulated below in Table A. Further, specific breakup of the proprietary interest and control in relation to Captive Generation Plant held by captive user vis-à-vis other users has been tabulated below in Table B.

**TABLE A:**

Ownership of the Captive Generation Plant of the Partnership Firm from _____ to _____ for the Financial year _____						
Sl.No.	Name of the partner	Capital contribution	% of capital contribution	Profit sharing Ratio	Whether Control Proportionate to Capital Contribution?	Remarks on control pattern *
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.

Contd.

**TABLE B:**

Ownership of the Captive Generation Plant of the Partnership Firm from _____ to _____ (during financial year _____)					
Type of Owner			% of proprietary interest in the Captive Generating Plant	Whether Control Proportionate to Proprietary interest?	Remarks on control pattern*
Captive User	HT. SC.NO	EDC			
Others					
TOTAL					

\* Please provide remarks in the relevant column whether control is proportionate to the Proprietary interest, with specific reasons as to how the ownership threshold under Rule 3 of the Electricity Rules 2005 is being satisfied.

Signature of Practicing Chartered Accountant /

Practicing Cost Accountant /

Practicing Company Secretary

NAME in Block letters

Firm Registration Number:

Membership Number: \_\_\_\_\_

Place :

Date:

**FORMAT-IV**

**[To be submitted by the Captive users (also owners) of the Partnership Firm]**

**Auditor's Certificate**

I hereby certify that **(Captive User 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 \_\_\_ No. \_\_ at \_\_\_\_\_ EDC from \_\_\_\_\_ to \_\_\_\_\_ (during Financial Year \_\_\_\_\_).

Please find attached the following:

- Annexure 1. Copy of the latest audited balance sheet of the Captive User.
2. Copy of the latest partnership deed.

Signature of Practicing Chartered Accountant/

Practicing Cost Accountant /

Practicing Cost Accountant /

Practicing Company Secretary

Name in Block letters:

Membership No.

Name of the Firm:

Firm Registration No:

Name of the Partner: \_\_\_\_\_

Membership No: \_\_\_\_\_

### FORMAT V-A

Sl. No.	Month	% of ownership of each captive user						Total % ( sum of % of all users during the month )
		User 1	User 2	User 3	User 4	User 5	User n	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1.	January							
2.	February							
3.	March							
4.	April							
5.	May							
6.	June							
7.	July							
8.	August							
9.	September							
10.	October							
11.	November							
12.	December							
13	<b>Weighted average in % (sum of % of shareholding for 12 months /12)</b>							

- Whether 26% of ownership criteria is fulfilled every month throughout the year – Yes / No. ( column 9)
- Whether weighted average of 26% of ownership is fulfilled for the whole year in aggregate - Yes / No. ( Row 13)
- If the ownership criteria is fulfilled, then go to Format V-B for verification of aggregate consumption criteria.

**FORMAT V-B**

1(a) Total number of generating units identified for captive use \_\_\_\_\_ Nos

(b) Total capacity identified for captive are \_\_\_\_\_ MW

Sl.No.	Particulars	Energy in Units				
		Unit1 (Id No_) Capacity:	Unit 2 (Id No_) Capacity:	Unit3 (Id No_) Capacity:	Unit n (Id No_) Capacity:	Total
1	Gross Generation from all generating plant/(s) identified for captive use					
2	Less: Auxiliary Consumption in the above in unit(s) (except wind & solar)					
3	Less : Banking charges where applicable					
4	Less: Start up power where applicable					
5	Aggregate Net units available for captive consumption {1-(2+3+4)}					
6	51% of aggregate generation available for captive consumption in units (Total in row 5 x 51%)					

7	Actual Adjusted units by the captive users	
8	Actual Adjusted units grossed up with T&D losses	
9	Percentage of actual adjusted units grossed up with T&D losses by the captive users with respect to aggregate net generation for captive use (SI.No.8 divided by SI.No.5)	

- **If SI. No.9 is less than 51% the CGP status fails.**
- **If SI.No.9 is not Less than 51%, then go to FORMAT V(C), V(D), as the case may be, for further verification of proportionality.**

Signature

Name :

(Authorised signatory of CGP)

**FORMAT V-C**  
**PROPORTIONALITY TEST**

FY \_\_\_\_\_

Aggregate shareholding partnership in %	List of shareholders		Annual Aggregate net consumption by all shareholders (in units)	proportionate consumption to be achieved with a variation of 10% (in units)			Actual consumption achieved by individual captive user			Whether consumption criteria is fulfilled
	Name	Weighted average of ownership during the year in %		(4÷1) x3	5 x 110%	5 x 90%	Consumption	T&D loss in %	Net Consumption grossed up with T&D loss (in units)	
1	2	3	4	5	6	7	8	9	10 (8+9)	11

**Note :** Quantum of consumption in column 10 should be within the bracket of quantum mentioned in column 6 and 7 to qualify the criteria of the proportionality test

Signature

Name :  
(Authorised signatory of  
CGP)



**FORMAT V-D**

**(For Wind Energy Generators-CGPs 100% owned by captive user)**

**FY** \_\_\_\_\_

Sl. No.	Name of CGP owner(s)	details of % ownership	Total annual generation (in units)	Banking charges in kind	Start-up power (in units)	Generation to be accounted to verify consumption criteria (in units)	Actual consumption (in units)	Consumption grossed up with T&D loss (in units)	Whether the consumption criteria is fulfilled
1	2	3	4	5	6	7 [4-(5+6)] x 51%	8	9	10

**Note :The consumption in column 9 should be equal or more than the quantum of consumption under column 7**

Signature  
Name :  
(Authorised signatory of  
CGP)

Sd/- 24.06.24  
(Dr. C. Veeramani)  
Secretary  
Tamil Nadu Electricity Regulatory Commission