

## Gazette Notification 19<sup>th</sup> November, 2010

Bhopal, Dated 9<sup>th</sup> November, 2010

No. 3042/MPERC-2010. In exercise of the powers under Section 181(2) (zp) read with Section 86(1)(e) of the Electricity Act, 2003 (No. 36 of 2003), the Madhya Pradesh Electricity Regulatory Commission hereby revises the “MPERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2008” notified in Madhya Pradesh Gazette vide No. 2261 dated 22<sup>nd</sup> October, 2008 and published on 7<sup>th</sup> November, 2008.

### **MADHYA PRADESH ELECTRICITY REGULATORY COMMISSION (COGENERATION AND GENERATION OF ELECTRICITY FROM RENEWABLE SOURCES OF ENERGY) (REVISION-I) REGULATIONS, 2010.**

#### **1. Preamble :**

The Commission had specified Renewable Purchase Obligations till FY 2010-11 in respect of all Non-conventional Sources of Energy. The Commission has received communications and representations from various agencies to promote Solar Power and other Non-conventional Sources of Energy and also to provide facility for banking of un-used power. Therefore, a separate Renewable Purchase Obligations for Solar and Non-Solar Power alongwith Banking Policy are being specified through the revision in the existing Regulations.

#### **2. Short Title and Commencement: 2.1 These Regulations may be called the ‘Madhya Pradesh Electricity Regulatory Commission (Cogeneration and Generation of Electricity from Renewable Sources of Energy) Regulations, 2010 (Revision-I) {RG-33(I) of 2010}.**

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

2.3 These Regulations shall apply to the whole of the Madhya Pradesh State.

#### **3. Definitions**

- (i) ‘**ABT**’ means Availability Based Tariff;
- (ii) ‘**Act**’ means the Electricity Act, 2003 (36 of 2003) and subsequent amendments thereof;
- (iii) ‘**Central Agency**’ means the agency operating the National Load Despatch Centre or such other Agency as the Central Commission may from time to time specify for issuing Renewable Energy Certificate;
- (iv) ‘**Central Commission**’ means the Central Electricity Regulatory Commission referred to in sub-section (1) of Section 76 of the Act;

- (v) **‘Certificate’** means the Renewable Energy Certificate issued by the Central Agency in accordance with the procedures prescribed by it and under the provisions specified in the Central Electricity Regulatory Commission(Terms and conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010;
- (vi) **‘Cogeneration’** means a process which simultaneously produces two or more forms of useful Energy (including Electricity);
- (vii) **‘Commission’** means the MP Electricity Regulatory Commission referred to in subsection (1) of Section 82 of the Act;
- (viii) **‘Distribution Licensee’** means a Licensee authorised to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply;
- (ix) **‘Forbearance Price’** means the ceiling price as determined by the Central Commission in accordance with the Central Electricity Regulatory Commission (Terms and conditions for recognition and issuance of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010, as amended from time to time, within which only REC Certificate can be dealt in power exchange;
- (x) **‘MNRE’** means Ministry of New and Renewable Energy of the Government of India;
- (xi) **‘Obligated Entity’** means the entity such as the Distribution Licensees, Captive Consumers and Open Access Consumer who are mandated to fulfill Renewable Purchase Obligation under these Regulations;
- (xii) **‘Open Access Consumer’** means a person who has availed open access either under CERC (Open Access in Inter-State Transmission) Regulations, 2008 (as amended) or under MPERC (Terms and conditions for Intra-State Open Access in Madhya Pradesh) Regulations, 2005 and shall include Short-term Transmission/Distribution Consumers also as defined in any other Regulations specified by CERC/MPERC from time to time;
- (xiii) **‘Power Exchange’** means any exchange operating as the Power Exchange for electricity in terms of the guidelines issued by the Central Commission;
- (xiv) **‘Preferential Tariff’** means the tariff fixed by the State Commission for purchase of energy from Renewable Energy Sources based on the ‘cost plus rate of return’ methodology;
- (xv) **‘Renewable Energy Sources’** means renewable sources such as small Hydro, mini Hydro, Wind, Solar, Biomass, Bio Fuel Cogeneration, Urban/Municipal waste and such other sources as approved by MNRE;
- (xvi) **‘SLDC’** means State Load Despatch Centre as defined in the M.P. Electricity Grid

Code;

- (xvii) **‘State Agency’** means the State Nodal Agency or such other Agency in the Madhya Pradesh State to be designated by the Commission to act as the agency for accreditation and recommending the renewable energy projects for registration and to undertake functions under these Regulations;
- (xviii) **‘Solar PV Power Plant’** means the Solar Photo Voltaic Power Plant that uses sunlight for direct conversion into electricity through Photo Voltaic Technology;
- (xix) **‘STU’** means the State Transmission Utility;
- (xx) **‘Transmission Licensee’** means a Licensee authorised to establish or operate Transmission lines;
- (xxi) **‘UI’** means Un-scheduled Interchange; and
- (xxii) **‘Year’** means a Financial Year commencing on 1<sup>st</sup> April of the Calendar year and ending on 31<sup>st</sup> March of the subsequent Calendar year.
- (xxiii) Unless the context otherwise requires, words and expressions used in these Regulations and not defined but defined in the Act shall have the same meaning.

## **PART – A**

### **4. Quantum of Purchase of Electricity from Co-generation and Renewable Sources of Energy**

- 4.1. The minimum quantum of electricity to be procured by all the Obligated Entities from generators of Energy including Co-generation from Renewable Sources of electricity expressed as percentage of their total annual procurement of Electrical Energy during the following Financial Years shall be as under:-

<b>Financial Year</b>	<b>Cogeneration and other Renewable Sources of Energy</b>		
	<b>Solar (%)</b>	<b>Non Solar (%)</b>	<b>Total (%)</b>
2010-11	-	0.80	0.80
2011-12	0.40	2.10	2.50
2012-13	0.60	3.40	4.00
2013-14	0.80	4.70	5.50
2014-15	1.00	6.00	7.00

- 4.2. If the Distribution Licensees fulfill the minimum purchase requirements and still have offers from energy generators including Co-generators from Renewable Sources, then either the Distribution Licensee or the Investor/Developer can approach the Commission for approval of such additional procurement offers.

- 4.3. If an Obligated Entity is not able to fulfill the minimum purchase requirements as per Regulation 4.1 above, such Obligated Entity shall be required to purchase Energy Certificates issued by the Central Agency as specified in PART-B of these Regulations.
- 4.4. The condition of minimum purchase requirement for the Obligated Entities can be relaxed by the Commission to the extent it is affected by the Force Majeure Conditions such as war, strike, lockout, riots, act of god or natural calamity etc.
- 4.5. The energy from all the Renewable Sources of Energy and Co-generation units may be procured centrally by the M.P. Power Trading Co. Ltd. on behalf of the Distribution Licensees, at the tariff determined by the Commission from time to time in its Tariff orders. The energy so procured centrally will be allocated by M.P. Power Trading Co. Ltd. to all Distribution Licensees in the ratio of total actual energy input to each one of them in previous Financial Year. This arrangement of central procurement shall be applicable till the related provisions of 'Transfer Scheme Rules, 2006' notified by the Government of Madhya Pradesh remain in force.
- 4.6. The Power Purchase Agreement (PPA) shall be signed between the Developer and the M.P. Power Trading Co. Ltd. who in turn will have back to back Power Supply Agreement with the Distribution Licensees.
- 4.7. The Distribution Licensees shall indicate the proposed quantum of purchase of energy from Co-generation and all Renewable Sources of Energy for ensuing year of the control period in the application for determination of distribution/retail tariff duly indicating the sources of purchase based on above allocation.

## **5. Determination of Tariff of Electricity from Co-generation and Renewable Source**

The Commission shall determine the Tariff from time to time for procurement of power from generation including Co-generation from Renewable Sources of Energy for specified control period.

## **6. Power Purchase Agreement**

- 6.1. The Power Purchase Agreement period will be of minimum 20 years, if not otherwise specified in the tariff orders, from the date of commissioning of plant. However, the agreement may be for a shorter period in case the Developer opts to supply to the Distribution Licensees after consuming the electricity for self use/ third party sale for lesser period.
- 6.2. The Developers are required to get all the required statutory consents including permission from the Commission before entering into the Agreement. Such consent/permission shall have validity for the entire period of the Agreement.

## **7. Connectivity and Metering**

- 7.1. The Generation and Co-generation from Renewable Sources, except Roof-top Solar PV and Bio-gas Sources, shall be connected to the State Grid at a Voltage level of 132/33/11 kV based on technical suitability determined by the Licensee. For Roof-top Solar PV sources and bio-gas Plants, connectivity may be allowed at Low Voltage or 11/33 kV as considered technically suitable by the Distribution Licensee.
- 7.2. As per incentive policy for encouraging generation of power in Madhya Pradesh through Non-conventional Energy sources (solar, wind, bio-energy, etc.) issued vide notification dated 17.10.2006 by the Government Madhya Pradesh, the power evacuation will be an integral part of the project and all expenses for power evacuation facility shall be borne by the Developer. Such infrastructure laid, notwithstanding that cost of which has been paid for by the Developer, shall be the property of the concerned Licensee for all purposes. The Licensee shall maintain it at the cost of the Developer and shall have the right to use the same for evacuation of power from any other Developer subject to the condition that such arrangement shall not adversely affect the existing Developer(s).
- 7.3. The metering for measuring parameters required as per Tariff orders issued from time to time shall be installed at Generating Plant site as per the provisions in the incentive policy notified by the Government of Madhya Pradesh on 17.10.2006 for encouraging generation of power in Madhya Pradesh through Non-conventional Energy Sources.
- 7.4. The meter reading will be carried out by the respective Distribution Licensee/Transmission Licensee, as the case may be. For the purpose of admitting the bills for payment, MP Tradeco shall accept the certificate given by the Officer designated by the concerned Discom/Transmission Licensee in respect of units injected into the Grid.

## **8. Open Access for Co-generation and Renewable Sources of Energy**

Any person generating electricity from Co-generation and Renewable Sources of Energy shall have Open Access, subject to availability of adequate transmission capacity in Transmission Licensee's system within the State as per Open Access Regulations under Section 42 of the Act subject to the provisions of the Government of M.P. incentive policy for encouraging generation of power in M.P. through Non-conventional Energy Sources notified on 17.10.2006.

## **9. Scheduling of Co-generation and Renewable Sources of Energy**

The generation from Co-generation and Renewable Sources of Energy are excluded from the ambit of "merit order dispatch principles".

## **10. Drawing power during shut down by Generator/Co-generation from Renewable Sources**

The Generator/Co-generation from Renewable Sources would be entitled to draw power exclusively for its own use from the Distribution Licensee's network during shutdown period of its Plant or during other emergencies. The energy consumed would be billed at the rate applicable to Temporary Connection under HT Industrial Category.

## **11. Other Applicable Conditions**

- 11.1. The Payment mechanism shall be as prescribed by the Commission in the Tariff orders issued/to be issued from time to time.
- 11.2. The reduction in Contract Demand by such consumers of the Distribution Licensees who are availing power supply from Non-conventional Sources of Energy shall be allowed as per the provisions in the Government of M.P. incentive policy for encouraging generation of power in M.P. through Non-conventional Energy Sources notified on 17.10.2006.

## **12. Banking**

- 12.1. The facility for Banking of the entire electric energy generated in each Financial Year from Non-conventional Energy Sources will be provided on the following conditions:
  - (i) The entire power generated from Non-conventional Sources of Energy during a Financial Year may be allowed for Banking.
  - (ii) The accounting of Banking of Power will be certified by MP Power Trading Co. Ltd./Distribution Licensees at the end of each Financial Year.
  - (iii) The quantum of banked power will be returned at a time to be decided by the MP Power Trading Co. Ltd. /Distribution Licensees.
  - (iv) The banked power may normally be returned from 15<sup>th</sup> July to 15<sup>th</sup> October from 2300 hours to 2400 hours and 0000 hours to 1700 hours by deducting 2% in terms of units (kWh) towards Wheeling Charges.
  - (v) The banked power may also be returned during November to February keeping in view the availability of power and demand in the Rabi Season and at the time of Peak Demand as decided by the MP Power Trading Co. Ltd./Distribution Licensees.
  - (vi) If a portion of banked power still remains un-adjusted at the end of Financial Year, then such remaining power would be construed as power purchased and the payment for the same will be made by the MP Power Trading Co at the rate determined by the Commission from time to time for Inadvertent Flow of Energy from Non-conventional Source.
- 12.2. Wheeling charges, Cross subsidy surcharge and applicable surcharge on Wheeling charges shall be applicable as decided by the Commission from time to time. Captive consumers and Open Access Consumers shall be exempted from payment of Open Access charges in respect of energy procured from Renewable Sources of Energy.

## **PART - B**

### **13. Renewable Purchase Obligation (RPO)**

- 13.1. The RPO specified in Regulation 4.2 hereinabove shall always be kept reserved by the Obligated Entities for procurement of Specific type of Renewable Energy, if any, and shall be diverted, if necessary, to other Renewable Energy Sources, only on a temporary basis, and also that all energy available from this source shall be purchased until it reaches the aforementioned percentage even if consequently the total Renewable Energy purchase exceeds the total RPO considering the Renewable Energy Power Purchase Commitments made under the Power Purchase Agreement (hereinafter, “the PPAs”) already entered into and consented to by the Commission.
- 13.2. Further, such obligation to purchase Renewable Energy shall be inclusive of the purchases, if any, from Renewable Energy Sources already being made by Obligated Entities.
- 13.3. Subject to the provisions of this Regulation, such purchase of energy shall be made from amongst the sources of Renewable Energy approved by MNRE.
- 13.4. The power purchase under the PPAs for the purchase of Renewable Energy Sources already entered into by the Distribution Licensees and consented to by the Commission shall continue to be made till their present validity, even if the total purchases under such PPAs exceed the percentage as specified hereinabove.

### **14. Certificates under the Regulations of the Central Commission**

- 14.1. Subject to the terms and conditions contained in these Regulations, the Commission recognizes the Certificates issued under the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 as the valid instrument for full or partial discharge of the mandatory obligations set out in these Regulations for the Obligated Entities to buy electricity from Renewable Energy Sources.
- 14.2. Subject to such directions as the Commission may give from time to time, the Obligated Entities shall act consistent with the Central Electricity Regulatory Commission (Terms and Conditions for recognition and issue of Renewable Energy Certificate for Renewable Energy Generation) Regulations, 2010 notified by the Central Commission in regard to the procurement of the Renewable Energy Certificates for fulfilment of the Renewable Purchase Obligation under these Regulations.
- 14.3. The certificates purchased by the Obligated Entities from the Power Exchange in terms of the Regulations of the Central Commission shall be deposited by the Obligated Entities with the Commission within 15 days of the purchase.

## **15. Effect of Default**

- 15.1. In the event the Obligated Entities do not fulfil the mandate of the obligation to purchase energy from Renewable Energy Sources as provided in these Regulations during any Financial Year and also do not purchase the certificates from the Power Exchange, the Commission may :
- (i) direct the Obligated Entity to deposit into a separate Fund, to be maintained by such Obligated Entity, such amount as the Commission may determine as required for purchase of Certificates to the extent of the estimated obligation on the basis of the shortfall in units of RPO and the Forbearance Price of the Certificates which shall be utilized, as may be directed by the Commission, partly for purchase of the certificates and partly for development of Transmission infrastructure for evacuation of power from Generating Stations based on Renewable Energy Sources:  
  
Provided that the Obligated Entities shall not be authorized to use the fund created in pursuance of Clause (i) above, without prior approval of the Commission;
  - (ii) to the extent of the shortfall in the fulfillment of the Obligations, the Commission may empower an Officer of the State Nodal Agency to procure from the Power Exchange the required number of Certificates out of amount in the Fund.
- 15.2. The Distribution Licensee shall be in breach of its Licence condition if it fails to deposit the amount directed by the Commission within 15 days of the communication of the direction.
- 15.3. Further, where any person though required to comply with these Regulations fails to purchase the required percentage of power from Renewable Energy Sources or the Renewable Energy Certificates, he shall also be liable for penalty as may be decided by the Commission under Section 142 of the Act.

## **PART - C**

### **16. Power to Amend**

- 16.1. The Commission may at any time, add, vary, alter, modify or amend any provisions of these Regulations.
- 16.2. In the event of any dispute, the matter shall be referred to the Commission whose decision in this regard shall be final.

### **17. Power to Remove Difficulties**

The Commission may suo moto or on an application from any person generating electricity from Co-generation and Renewable Sources or Distribution Licensee, review these Regulations and pass appropriate orders to remove any difficulty in implementing the provisions of these Regulations.



**18. Savings**

- 18.1. Nothing in these Regulations shall be deemed to limit or otherwise affect the inherent power of the Commission to make such orders as may be necessary to meet the ends of justice or to prevent abuses of the process of the Commission.
- 18.2. Nothing in these Regulations shall bar the Commission from adopting in conformity with the provisions of the Electricity Act 2003 (36 of 2003) 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 class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.
- 18.3. Nothing in these Regulations shall, expressly or impliedly, bar the Commission dealing with any matter or exercising any power under the Electricity Act 2003 (36 of 2003) for which no Regulations have been framed, and the Commission may deal with such matters, powers and functions in a manner it thinks fit.

**By order of the Commission**

**P.K.Chaturvedi, Commission Secretary**