

Comments on Procedure for verification of Captive Generating Plant status

By Prayas (Energy Group)

5th April 2019

This procedural guideline issued by the TNERC to determine and standardise the process of captive status in the state of Tamil Nadu is a welcome step. Given the rise in captive consumers in the state, steps to streamline procedures, increase accountability and reduce legal disputes are necessary and timely. The detailed process for verification of captive status based on type of ownership of the generating plant, the process for intimation of change in shareholding patterns and the clarification on auxiliary consumption were much needed. The creation of a web portal as suggested in the guidelines will have the Commission leading the way as it would be the first portal of its kind in India to streamline captive application, verification and status tracking processes. However, there are a number of aspects within the framework that require more clarity.

1 Applicability of guidelines on captive plants with consumers outside the state

As this procedure is applicable to all captive generating plants (CGPs) situated in the state and their captive users, there is lack of clarity on whether these guidelines will be applicable on captive generating plants with users outside the state or captive consumers obtaining power from generators in other states. This is especially a concern with respect to verification of status of such captive generating plants and captive consumers. Two specific aspects which the guidelines should elucidate on include the process for verification of captive consumption outside the state for such plants and jurisdiction in case of dispute resolution.

- **Verification of captive consumption:** For cases where the consumers of the captive generating plants are located in other states, verification of captive consumption information would be required by TANGEDCO from the respective SLDCs and RLDCs in the state/s and region/s where the captive user/s is located. A similar process would be required for captive consumers within the state obtaining power from generators outside the state.

It is suggested that TANGEDCO obtain such information based on procedures for status verification as applicable in the state (based on data submitted to DISCOMs, RLDCs, SLDCs etc.). Further, the CGP should submit data to TANGEDCO on the consumption and energy sent out to a captive consumer. Both these data points can be used to verify status of captive consumption.

- **Jurisdiction in case of dispute resolution:** As mentioned in clause 6.7.8 captive generators/users can file a Dispute Resolution Petition before the Commission, in case of disagreement on captive status. It is unclear what the arrangement would be if the captive user is from another state while CGP is from Tamil Nadu or if the CGP is located in another state and the captive user is from Tamil Nadu. The guidelines should specify the process for dispute resolution as well as clarify who the adjudicating authority will be when:
 - The CGP is located in the state but the users are located in other states.
 - The CGP is located in another state but the captive user is located within the state.

2 Treatment of losses for status verification

In accordance with Rule 3 sub rule-1 of the Electricity Rules, 2005, clause 4.8 of these guidelines mentions that in order to satisfy the consumption criteria, all the captive users must consume not less than 51% of the aggregate energy generated by the captive generating plant. It is not clear whether the consumption considered for captive

status verification includes transmission and distribution losses or is based on the final energy received by the consumers. The base for applicability of the consumption criteria must be clarified in the guidelines.

3 Mandate Web portal by nodal agency

Clause 6.7.3 states that Distribution licensee may create a web portal for login of data by generators with unique IDs for captive generators and captive user. The Commission's suggestion on creation of a web portal by the distribution licensee is a very strong indicator that the Commission acknowledges the importance of data and the role it can play in determining accountability of captive generators/users and of the distribution licensee. This portal ensures timely provision of data while not compromising on the identity of the captive generators/users.

Rather than leaving it as an option, we strongly urge the Commission to mandate the distribution licensee to create the web portal to track compliance, consumption, generation and status of captive plants. Just like clause 6.7.4 specifies a date by which information needs to be furnished by generators, the guidelines should also specify a date by which the portal should be operational (say, six months from the date of notification of the guidelines).

4 Information to be tracked on web portal

In addition to the data that TNERC has proposed be present in the portal some other parameters that could possibly be added to the portal for effective monitoring are as follows:

- Captive generator specific data (with unique ID)
 - Type of ownership: Company/ Partnership firm/LLP/ Association of persons/ Special Purpose Vehicle (SPV)/ Cooperative Society
 - Type of captive power plant: Group captive/ Conventional captive
 - Location of the generating plant
 - Type of fuel used (in case of renewable energy, source to be specified)
- Captive consumer/s specific data (with unique ID)
 - Name of shareholder
 - Shareholding pattern (With provision to update pattern within the 10 days of change in shareholding pattern)
 - Location of captive user
 - Type of industry
 - Distribution licensee in whose area the consumer is located

In addition to data on type of plant, information on its operation would also be useful for verification and monitoring. This information can be uploaded by the captive generating plant or the DISCOM on a monthly basis and can be tracked and verified by SLDCs, DISCOMs and the ERC. Some such parameters include:

- Gross generation, auxiliary consumption data and instances of outages by captive generating plant to be uploaded by the captive generating plant and verified by the DISCOM
- Consumption data by captive user/s along with defaults by shareholders in meeting consumption criteria to be uploaded by the captive generating plant and verified by the DISCOM
- Consumption deemed as open access sale to consumers due to loss of captive status in the period to be uploaded by the DISCOM
- Transmission and wheeling charges paid during the period to be uploaded by the DISCOM
- Payment of penalties and receipt of incentives, if any to be uploaded by the DISCOM
- Shareholding pattern and changes, if any, by captive user/s, to be uploaded by the CGP.

The portal should be accessible by the DISCOMs, RLDCs, SLDCs, Generators, Captive Consumers and the ERC. It should also include information on captive generating plants and consumers connected at the transmission network. This information should be provided to the DISCOM by the appropriate LDC and transmission company.

5 Reporting and Monitoring of status of captive in Tamilnadu

Informed policy responses to the rapidly changing environment especially with renewable based captive options is impossible without periodic assessment of the status of captive consumption and generation. To enable this, the guidelines must specify that the DISCOMs should publish quarterly reports which include:

- Number, Capacity, Generation and Auxiliary consumption of captive plants by ownership type, and fuel source.
- Number of captive consumers and their consumption based on whether they are in-state or out of state and whether they receive supply for renewable or non-renewable CGPs.
- Number of companies which have changed their shareholding pattern in the intervening period
- Number of consumers and generators who were unable to comply with the shareholding and consumption limits
- Revenue from transmission charges, wheeling charges, as well as any surcharges, penalties, incentives or concessions provided to captive consumers.
- Open access consumption and charges paid by consumers who lose their captive status in the period.

These reports should be submitted to the Commission and should be available on the DISCOM's website on a quarterly basis.

Further, the guidelines can institute a monitoring committee which consists of representatives of captive consumers, TANGEDCO, TANTRANSCO, SLDC, sector experts and consumer representatives. The committee can be chaired by the ERC to discuss issues faced in operationalising captive generation and consumption in the state and can discuss remedial measures to address this. The deliberations of the committee can be informed by the quarterly reports published by the DISCOM as well. This monitoring committee should also publish an annual report with key recommendations and analysis on the TNERC website.

In conclusion, TNERC has taken a significant step in further clarifying procedural guidelines in operationalising captive generation and consumption in the state and other states can also adopt similar guidelines to address issues in their states. Therefore, care must be taken to ensure the guidelines are clear, comprehensive and ensure transparency and accountability.