

MADHYA PRADESH GAZETTE
(Extraordinary)
Notification

[Number 44]

Bhopal, Saturday, Date: 30 January 2012 –

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New and Renewable Energy Department
Mantralaya Vallabh Bhavan, Bhopal
Bhopal, Date: 30 January 2012

No. F-3-03/2011/LX— In the cabinet meeting held on 24th January 2012, approval on “Wind Power Project Policy, 2012” has been accorded for implementation of projects for power generation using wind energy in Madhya Pradesh State. The publication of the said policy in “Madhya Pradesh Gazette (extraordinary)” is being done for information of the general public.

[By order and in the name of Governor of Madhya Pradesh]
(Anil Shrivastva, Principal Secretary)

Subject:— Implementation of projects of power generation using wind energy in Madhya Pradesh State
“Wind Power Project Policy, 2012”

Preamble:—

The Government of Madhya Pradesh has focused on the growing recognition of the impacts of climate change and recognized the need to tackle challenges that have arisen due to these impacts through integrated policy assessment and programmes aimed at minimization of their impacts. Based on this green initiative, by supporting the essential need to prevent the inevitable erosion of natural carbon-energy resources, with which the State is enriched, the State is committed to encourage the promotion of power generation through Renewable Energy Resources.

Wind energy is an indirect form of Solar energy. About 1 % of the total solar radiation reaching the earth is converted into wind energy. Wind Energy is one of the most economical and exploitable renewable source of energy that can be harnessed for generation of power. There are several advantages of using wind energy— like low establishment period, no raw material expenses, non-polluting, etc. Wind energy based power generators are ruling the Indian Renewable Energy market. In India wind energy accounts for around 70 % of the renewable energy generation capacity. The 11th plan proposal foresees a total installed wind energy capacity of 40,000 Megawatt by harnessing around 88% of the wind energy potential in India by 2022. Madhya Pradesh has a wind energy potential of around 5500 Megawatt whereas the total installed capacity is 270 Megawatt in the State. The State Government proposes to promote wind energy as an additional and alternative source of energy.

In view of the above, Government of Madhya Pradesh proposes to restore following programme & Policy as under:—

Background:—

1. Government of Madhya Pradesh has been providing incentives to investors/developers for promoting the setting up of renewable energy based power plants as per the Energy Policy of the State No. 513, dated 17.10.2006.
2. Ministry of New and Renewable Energy, Government of India, New Delhi has always promoted new technologies for upcoming wind power projects. This would result in appropriate tapping of power generating capacity of the wind energy available in the State. certain policy changes have been made by the Ministry of New and Renewable Energy, Government of India, New Delhi and the provisions have been incorporated in the new policy.
3. With the new tariff declared by the Madhya Pradesh Electricity Regulatory Commission (MPERC) and considering the huge potential of untapped wind energy in Madhya Pradesh, need for a revised investor/developer friendly policy is being felt.
4. The new policy for wind energy shall be called as “Wind Power Project Policy of Madhya Pradesh - 2012.

Regulatory Framework:—

1. The “Electricity Act 2003” has been enacted with effect from June 2003. Under the provisions of this Act any private agency or individual is free to set up power generating plants and shall have the right for open access of the transmission facilities.
2. The Madhya Pradesh Electricity Regulatory Commission (MPERC) has been functioning since 1999 and the orders/regulations passed by this commission from time to time shall be applicable to the provisions of this policy. Similarly Acts passed by Government of India from time to time regarding energy sector shall also be applicable to the provisions of this policy. In case of any inconsistency in the provisions of this policy and orders/regulations issued by MPERC, the orders/regulations issued by MPERC shall prevail.

PART A

Policy Guidelines

1.1 Operative Period:—

- 1.1.1 This policy shall come in force from the date of notification in the Madhya Pradesh State Gazette.
- 1.1.2 All the projects allotted or to be allotted under this policy shall operate on Build, Own and Operate (BOO) basis. The BOO period shall begin from the Commercial operation date (COD) and shall be for 25 years or the life of the project, whichever is earlier. After completion of this period, Government shall consider about the renewal of the project.
- 1.1.3 **Wind Power Project:—** At any site, generation of power by setting up of one or more than one wind turbine generators are called the Wind Power Projects under this policy.

1.2 Participation:—

Any individual/firm/society/organisation/registered company etc. shall be eligible to apply for the development of the project. Applications of joint ventures shall not be valid.

2.0 Process of Project Allotment:—

Department shall invite proposals for project allotment once in each quarter of a year or at least four times a year. Applicant may apply to set up the project on government land or private land. Data of the sites where department has installed wind monitoring masts for setting up wind power plants shall be available for applicants. If more than one application are received for setting up project at the same site on government land then in such case the allotment of project shall be on competition basis. The premium amount shall be the basis of competition for which bids shall be invited from applicants. No applicant shall be eligible for applying more than 100 Megawatt project against one time advertisement on government land. Project shall be allocated to applicants on private land in accordance with their proposal. Applicant shall have to ensure that wind turbine generator being installed at the project site proposed by them should be at a technically safe distance from the other nearest previously identified/installed wind turbine generators.

3.0 Development of the Project:—

3.1 Letter of Allotment (LOA) and Wind Power Development Agreement (WPDA)—

- 3.1.1 LOA shall be issued within 15 days of the selection of developer (Clause 2).
- 3.1.2 Developer has to give his consent within 7 days of issue of LOA. Developer has to deposit with the consent letter a processing fee of Rs. 50, 000 per Megawatt or per the megawatt rate decided by the government from time to time.
- 3.1.3 Developer has to deposit the Performance Guarantee to ensure timely installation of the project on government land.

Developer has to deposit performance guarantee in two stages. First stage of the performance guarantee at the rate Rs. One Lakh per Megawatt or the amount as decided by the government from time to time shall be submitted within 30 days of issue of LOA.

0.5 % of the total cost of project shall be deposited as the second stage of the performance guarantee within 30 days of financial closure of the project. This guarantee amount may be in the form of bank guarantee, demand draft or fixed deposit receipt. The performance guarantee of both the stages shall be valid for a period of six months after the date of commercial operation of the entire project.

- 3.1.4 The performance guarantee shall be released after 3 months from the date of commercial operation of installed capacity of the approved project as mentioned in the Clause 3.2.2.
- 3.1.5 The selected developer has to execute the Wind Power Development Agreement (WPDA) within 30 days of depositing performance guarantee of first stage and within 60 days of issue of LOA.
- 3.1.6 Developer shall have to bear all the expenditures from its own resources made on survey, investigation and preparing techno-economical feasibility report (TEFR) or its investigation.
- 3.1.7 If any selected developer fails to deposit performance guarantee for the project as specified in the Clause 3.1.3, the allotted project shall be treated as cancelled.
- 3.1.8 Implementation of project proposed on private land should be completed within the time-line specified in the policy. If the project is implemented after the specified time-limit then the incentives mentioned in the policy shall be limited to the extent of the specified time-limit.

3.2 Approval and Clearance of the Project:—

- 3.2.1 From the date of execution of WPDA the developer shall seek and obtain necessary approvals including approvals required under the applicable act from the concerned local bodies and detailed project report and financial closure of the project shall be done within a period of maximum 18 months. This period can be extended, on the basis of satisfactory reasons, for a maximum of 6 months on a case to case basis.
- 3.2.2 Developer has to ensure the commercial operation of the project from the date of execution of the WPDA as per the following time-limit—

50 % project capacity	-	28 months
Complete project capacity	-	36 months

(If the time limit is extended further as per the provisions in Clause 3.2.1 then the above time limit shall be deemed to have been increased accordingly.)

3.3 Progress of the project:—

- 3.3.1 From the date of commencement of WPDA till the date of commercial operation of the project, developer shall have to submit quarterly progress reports in the prescribed format along with the relevant documents. This progress report will be verified and the progress of the project should compulsorily be according to the time limits prescribed in the policy and according to the prescribed milestones. In case of any delay in submission of the quarterly progress report the developer has to give a satisfactory explanation.
- 3.3.2 If the explanation given by developer is found to be unsatisfactory then developer shall be provided an opportunity of hearing and the project allocated by the government can be cancelled at any stage.

4.0 Permission for Land use:—

- 4.1 If government land is available for implementation of the project then in such case the permission to use the land shall be provided for establishing aero-generator on the basis of footprints, approach road up to the aero-generator, transmission lines, sub-station installation and for other affiliated uses on the basis of actual use of land for the project. Measurement of the land required shall be based on the footprint, determined by the government taking into consideration, the technology of WTG established.

4.2 Permission for Government revenue land use:—

- 4.2.1 The terms laid down in the circular No. F-16-3-93-VII-2A, dated 06-09-2010 and No. F-6-53-2011-VII-Nazool, dated 08-08-2011 issued by Revenue Department

of Madhya Pradesh Government shall be applicable for permission to use government revenue land.

- 4.2.2 In case the government land is used by the developer for any other purpose, then the permission for land use shall be cancelled with immediate effect and the land will be returned back to the Revenue Department. Any construction/plant constructed by the developer on that land shall also be seized/confiscated.
- 4.2.3 Inspection of the land for the project can be done at any time by a person authorised by the State Government/District Collector and it shall be ensured that the land is not being used for any other work, other than the specified purpose.
- 4.2.4 Permission for land use on Government revenue land shall be provided by New and Renewable Energy Department. If the developer wants to transfer the land provided to him to any third party then the permission for land use could be transferred by the New and Renewable Energy Department on the same conditions of the Revenue Department.

4.3 Permission for use of Forest land:—

Besides the provisions mentioned in Clause 4.2, for the use of forest land the guidelines issued by Forest (Conservation) Act 1980, rules issued by Ministry of forest and environment, Government of India and the State government, from time to time shall be applicable.

4.4 Permission to use land owned by Schedule Tribes:—

Project installation on the land owned by Scheduled Tribes may be done by following the provision mentioned in the Section 165 (b) of Madhya Pradesh Land Revenue Code and other provisions. Project installation on lands owned by schedule tribes shall be carried out only under exceptional circumstances and on the basis of mutual consent and agreement.

5.0 Grid interfacing and Evacuation arrangements:—

Interfacing arrangements, including the transformer panels, protection, metering etc., from the point of generation to the nearest sub-station or an interconnection point or nearest transmission/distribution line shall be the responsibility of developer, subject to fulfilment of technical and safety parameters in accordance with the Madhya Pradesh State Grid Code, Madhya Pradesh Electricity Supply Code, 2004, M.P. Electricity Regulatory Commission and Central Electricity Regulatory Commission regulations as amended from time to time. This work may be executed by the Madhya Pradesh Power Transmission Company Limited (MPPTCL) and /or the other related Distribution Company of MP State or according to their terms and conditions, the cost of which shall have to be borne by the developer. In this regards the decisions taken by M.P. Electricity Regulatory Commission shall be final.

6.0 Transmission and Distribution:—

- 6.1 The developer shall be free to construct his own dedicated transmission/distribution lines from the point of generation to consumption point. The developer shall also have the right of open access of existing transmission facilities of the State as per the provisions mentioned in the Electricity Act 2003. Under the terms mentioned in this policy developer shall sign the wheeling agreement with the Madhya Pradesh Power Transmission Company Ltd. (MPPTCL)/related Distribution Company.
- 6.2 In case the developer sell power to Third Party Consumers/ Licensee distributor/ Power Trading Company then it shall be bound for payment of wheeling and transmission charges to the

MPPTCL/Distribution Company, subject to the final decision taken by M.P. Electricity Regulatory Commission.

- 6.3 Metering equipments as specified by MPPTCL/related Distribution Company shall be installed at the generation site/interconnection site in accordance with the provisions of M.P. Electricity Supply Code, 2004 and MPERC regulations for metering at the cost of the developer. The officers of MPPTCL/Distribution Company may inspect the same.

7.0 Sale of Power:—

- 7.1 Developer can sell generated energy to any third party consumer/willing distributor company or Power Trading Company the entire energy produced in case of Independent Power Production (IPP) and any surplus energy produced in case of Captive Power Production (CPP) as per the orders of M.P. Electricity Regulatory Commission.
- 7.2 M.P. Power Trading Company shall have the first right to purchase the power generated from the project installed entirely or partly on Government land..
- 7.3 Before presenting the electricity purchase agreement for signing the developer has to avail all the necessary approvals from M.P. Electricity Regulatory Commission.
- 7.4 Power generated from wind energy shall be sold at the rates decided by M.P. Electricity Regulatory Commission. The tariff determined by transparent bidding process as per the guidelines issued by Central government 'which should not exceed the rates prescribed by the Commission' shall be acceptable to the Commission.
- 7.5 If the Unit takes Reactive Power in the project then charges shall be payable at the rates determined by M.P. Electricity Regulatory Commission.
- 7.6 Developer may sell the power generated in accordance with the R.E.C. mechanism.

Part B

General Provisions

1. The developer has to ensure that the minimum average of the project CUF (Capacity Utilisation Factor) must be 20 % in a block of 3 years from the date of commercial operation (COD). If the CUF is less than 20 % then in such case the project can be cancelled in the absence of satisfactory reasons.
2. Developer shall have to follow the current guidelines for implementation of wind power project issued by New and Renewable Energy Department, Government of M.P. and Ministry of New and Renewable Energy, Government of India, New Delhi.
3. Developer shall have to choose the latest model of wind turbine as per the current guidelines of Ministry of New and Renewable Energy, Government of India.
4.
 - a. Projects registered/approved at identified sites under the former policy, which have not yet started commercial production, can be migrated in this policy. Migrated developers shall have to submit the revised implementation schedule according to provisions of the new policy and consent letter within two months of notification of this policy. Project allotment on the project sites, for whose registration applications are pending under the former policy, can be provided on the basis of consent for provisions of this policy. The developers shall have to submit their consent letter within two months of notification of this policy. The developers shall have to proceed on the project, including the performance guarantee, as per the provisions prescribed in this policy from the date of submission of consent letter. In case any developer fails to submit a consent letter in that case their application, registration and approval will be deemed to be cancelled.
 - b. The developer whose site has been allotted for wind monitoring under former policy and those who have applied for wind monitoring at identified sites shall be migrated in this policy. The developers shall have to submit consent letter within 2 months of notification of this policy, that they want to set up the project on those sites, then on the migration the project shall deemed allocated under the provisions of this policy else such proposals of wind monitoring shall be treated as cancelled. From the date of submission of consent the developer shall have to comply the provisions of the policy including performance guarantee.
5. There will be options to convert Independent power production (IPP) into Captive power production (CPP) and vice-versa. However the permission shall be in accordance with the guidelines of Madhya Pradesh Electricity Regulatory Commission.
6. **Inspection of the Project:—**
 - 6.1 Keeping in view the safety of the project, authorised officers of State government shall have the right of inspection of the project. During the inspection the developer shall provide the necessary assistance to these officers.
 - 6.2 The developer shall maintain all the records regarding power generation (capacity, generation, constraints in the production, etc.) and make available all the records to the inspecting authorities during inspection.
 - 6.3 After completion of Commercial Operation Date (COD) of the project, the developer shall in every month essentially submit the data of energy generated from the project that are used for billing to the government.

7. As per the guidelines of MPERC developer shall be allowed to change the option for energy sale from any third party consumer to a Licensee and from one third party consumer to other third party consumer. The process prescribed for purchase of power under the regulation issued by the M.P. Electricity Regulatory Commission "Cogeneration and generation of electricity from renewable sources of energy (Revision-I) Regulations, 2010" must be followed.
8. **Surrender of the Project:**— After execution of the agreement developer shall be free to surrender the project but in this case the performance guarantee shall be forfeited. The developer has to return the project site in the previous state to the government. If the project could not be set up due to circumstances beyond the control of the developer then in such case the performance guarantee shall be released.
9. If any developer wants to upgrade the previously installed project by replacing with advanced WTG then this option will be open. For this the developer shall have to get the upgraded project registered with the government.
10. Any developer shall be free to install low capacity wind turbine generator/wind solar hybrid plant (up to 100 K.W. capacities) on the roof of his house or at private site/land. For this the developer shall have to make the scheme registered. The registration shall be free of cost. Other binding provisions of this policy shall be not be applicable for such schemes.
11. The developer who don't want to take advantages under the provisions of this policy, shall be allowed to install the project without taking any of the above mentioned permissions under the Electricity Act, 2003 (No. 36 of 2003)
12. If necessary, in public interest, the project may be acquired by the Government.
13. Notwithstanding anything contained in this resolution, the provisions of the Electricity Act, 2003, and the orders of Madhya Pradesh Electricity Regulatory Commission, issued from time to time, shall prevail, for the purpose of the implementation of this policy.
14. The projects applied/registered under former Energy Policy, 2006, the implementation of which has been cancelled due to some reasons or such developers, if apply for setting up the project then such cases shall be addressed after hearing at government level. In case of settlement, the project may be migrated under this policy in accordance with the Clause 4 of the policy.

PART C

Incentives

- 1.0 No energy cess shall be payable on the power supplied by wind power projects.
- 2.0 Projects implemented under this policy shall receive the status of industry and shall be eligible for all the incentives provided under “Industrial Promotion Policy” of State government as amended from time to time. If there is any contradiction between the provisions of this policy and the Industrial Promotion Policy then the provision of this policy shall be applicable.
- 3.0 The industrial consumer opting to buy energy from wind power projects in regard of corresponding pro rata reduction in contract demand on a permanent basis The decision of the Madhya Pradesh Electricity Regulatory Commission in this subject shall be final
- 4.0 For captive consumption and third party sale the installed project shall be entitled to receive exemption from payment of Electricity Duty for a period of 10 years.
- 5.0 In case of power consumption for self use or power sale to third party the Madhya Pradesh Power Transmission Company Ltd. (MPPTCL) or related State Distribution Company shall facilitate wheeling of power at the rates prescribed by Madhya Pradesh Electricity Regulatory Commission (MPERC). In case of power sale to Third party within the State, the related Distribution Company shall avail a wheeling grant at the rate of 4.0 percent from the State government.
- 6.0 **Banking:—** Banking of 100 % of energy in each financial year shall be permitted subject to the following conditions:
 1. Data verification of the banked energy during the financial year shall be done by the officials of the concerned State Distribution Company/State Power Trading Company. Developer shall have to pay the 2.0 % of the banked energy as banking fees to the concerned State Distribution Company/State Power Trading Company.
 2. Return supply of the banked energy shall be in accordance with the regulation of M.P. Electricity Regulatory Commission— “Cogeneration and generation of electricity from renewable sources of energy (Revision-I) Regulations, 2010” and the regulations issued by MPERC from time to time.
 3. After returning the banked energy, if there is any balance energy left, at the end of financial year, then this may be purchased by the concerned State Distribution Company/State Power Trading Company as per the rules/directions of MPERC.
- 7.0 Carbon credits or any other similar incentives which are available for such wind power projects shall be made available to the developer as per the guidelines issued by MPERC from time to time.
- 8.0 The evacuation of the power generated from projects up to 15 Megawatt capacities at the nearest 33/11 K.V. sub-station shall be carried out on 33 K.V. lines. If the developer provides the evacuation of the power generated in such stations, then that sub-station may be kept free from power cuts.
- 9.0 The exemption from VAT/Entry Taxes for wind power plants shall be available in accordance with the Madhya Pradesh Government Gazette (Extraordinary) Notification No. 380, dated 01.08.09.

10.0 The cases related to address the difficulties in proper implementation of project and to resolve interdepartmental coordination issues shall be referred to the Project Clearance and Implementation Board (PCIB) constituted under the chairmanship of Chief Secretary.

(Anil Shrivastva, Principal Secretary)

Note:- For the purpose of the interpretation of provisions of the policy, Hindi version of the policy shall prevail.