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# **SMALL HYDROPOWER POLICY – 2011 (DRAFT)**

**GOVT. OF MADHYA PRADESH  
NEW & RENEWABLE ENERGY  
DEPARTMENT**

**MAY - 2011**

**1.0 Preamble:**

- 1.1 Hydro - electric power is one of the cleanest and most viable renewable sources of energy. Madhya Pradesh Government has been constantly promoting setting up of non-conventional power plants.
- 1.2 State Government has declared incentive policy 26-09-1994 and 08-08-2006 for non-conventional energy sources and there after time to time their amendments accordingly Small Hydro Power production is within the control of State Government.
- 1.3 It is very important to have wide, liberal and comprehensive policy for the complete promotion, development and harness maximum Hydro electric potential available in the state.
- 1.4 New policy for small hydro power development aims to effectively address the changed legal and regulatory framework governing electricity generation/distribution.

**2.0 Scope:**

- 2.1 This new policy shall apply to all the hydro power projects with an installed capacity of up to 25 MW capacity, which have been identified by WRD, NVDA, Madhya Pradesh Power Generation Company, or any other state agency authorized by GOMP, or by a private developer. This policy shall also apply to all such projects which are not currently identified on the date of notification of this policy, which are yet to attain the stage of commercial production.
- 2.2 These SHPs can be operated either as Captive Power Projects (CPPs), or as Independent Power Projects (IPPs). A Captive Power Project shall have the same meaning as defined in section 2(8), read with Section 9 of the Electricity Act, 2003 and as stipulated in Electricity Rules, 2005 notified by the Ministry of Power, Government of India on 8 June, 2005.
- 2.3 The list of identified SHPs will be notified by MPUVNL, a corporation of the GOMP, under the administrative control of the New & Renewable Energy Department. This list shall be continually updated by MPUVNL as and when new sites are identified.
- 2.4 Those sites, which have not been identified by any of the Government agencies and are instead identified by a private developer shall be treated as Self Identified sites and dealt separately under the provisions of this policy.

### **3.0 The Regulatory Framework:**

- 3.1 the electricity act 2003 has been promulgated and come into application. Under the provision of the act, any agency is free to set up generation plants for production of the power and the producer of energy is vested with a right to “open Access” to the transmission facilities.
- 3.2 This policy shall be governed by the orders/regulations passed by Madhya Pradesh Electricity Regulatory Commission (MPERC) from time to time. Similarly, incentives and benefits declared under any policy of GOI regarding the state power sector from time to time will also be applicable to the projects developed under the provisions of this policy. In case of any inconsistency between the provisions of this policy and orders/regulations issued by MPERC, the orders/regulations of MPERC shall prevail.

### **4 Objectives:**

- The key objectives of this policy are :
- 4.1 To promote generation of green power through small hydropower Projects.
- 4.2 Harness the undeveloped hydro electric potential in Madhya Pradesh, by leveraging the capabilities of the private sector for development;
- 4.3 Create an enabling environment for attracting private sector investment for development of SHPs in the state; and
- 4.4 Lay down the framework for the implementation of the policy.

### **5 Nodal Agency:**

- 5.2 The GOMP hereby notifies the Madhya Pradesh Urja Vikas Nigam as the designated Nodal Agency for taking all emergent steps for the implementation of this policy.

## **PART A:**

### **POLICY GUIDELINES**

#### **1.0 Operative Period :**

- 1.1 This policy shall become operative from the date of its notification in the Madhya Pradesh State Gazette, and shall continue to be effective till it is withdrawn or cancelled.
- 1.2 All the projects allotted under this policy shall be on Build, Own, Operate & Transfer (BOOT) basis. The BOOT period, which shall start from the commercial operation date (COD) of the project shall be of period of thirty five (35) years or the life of the project whichever is earlier. At the end of this BOOT period, the entire project, including its assets relating to water structures and power generation, shall be transferred to the State Government free of cost. However, in case the land of project site has been privately acquired by the developer, it shall be transferred to the state Government on payment of cost of land at prevailing market rate determined by the Collector of the district where the project is located.

#### **2.0 Category of projects:** Small Hydro Power project are categorized into the following categories:

**Category – I:** Projects Identified by GOMP/Government under takings or nodal agency.

**Category – II:** Self identified by the developers.

#### **3.0 Participation & Pre-qualification:**

- 3.1 Pre-qualification criteria will be fixed by GOMP/New & Renewal Energy Department/Nodal agency. Pre-qualification criteria for the developer shall be based on their financial capabilities. Financial capability of the developer shall be determined on the basis of their minimum fixed turnover and profit earned in the last three years. For pre-qualification the average turnover of the developer in last three years should be equal to 20% normative cost of the project fixed by the MPERC. The turnover criteria for each project will be fixed by the nodal agency. Developer registered in the state of Madhya Pradesh will get 25% rebate in the turnover criteria. If developer has minimum three years experience (on their own name) in the operation of SHP project they are entitle for additional 25% rebate in the turnover criteria.

#### **4.0 List of projects:**

Nodal agency will prepare and publish on its website, a list of SHPs to be offered for development through private sector participation. Time to time the Nodal agency will up-date this list.

#### **5.0 Selection Process:**

Selection process for successful developer as follows;

5.1.1 Category – 1 projects - Nodal agency will invite tenders for such projects. Pre qualification document can be obtained from office of nodal agency against the payment of Rs. 10,000/- for each project.

5.1.2 Interesting developers will submit pre qualification document along with the EMD in the form of demand draft to the nodal agency. EMD will be 2% of the normative cost of the project as decided by the MPERC.

5.1.3 Nodal Agency will provide related technical data of respective project to the pre qualified developers. Developer will be given three months time to study the project and thereafter tender will be invited for financial offer.

5.1.4 Tender will be invited from pre qualified bidders on UP FRONT PREMIUM basis. Project will be allotted to such bidders who offer maximum upfront premium in their financial offer. Financial offer should be more than minimum fixed upfront premium. Fixation of minimum upfront premium will be as follows.

Minimum upfront premium 10% of the amount based on the generation at normative utilization factor for the project and levelled rate of generation as declared by MPERC. Minimum upfront premium will be indicated by nodal agency along with tender.

5.1.5 Bids received below the minimum upfront premium will be summarily rejected and EMD of such developer shall be forfeited.

5.1.6 If there are more than one identical financial offer for the same project in that case revise offer for upfront premium will be invited from such bidders and the developer who offer maximum financial offer will be selected for project.

## 5.2 **Selection process for self identified projects:-**

- 5.2.1 Developer can apply for self identified projects.
- 5.2.2 Developer has to deposit Rs. 10,000/- with nodal agency for each project.
- 5.2.3 Developer has to apply along with the technical specification of the project for the fixation of the boundary of the project. Technical specification for such projects will be formulated separately by New and Renewable Energy Department/Nodal Agency.
- 5.2.4 Nodal Agency will forward relevant technical information received from developer to Water Resource Department/ Narmada Valley Development Authority/ concerning Electricity Company or any other related department for necessary NOC. The concerned department shall transmit NOC within 30 days failure to which it shall be taken as deemed NOC.
- 5.2.5 In case of multiple developers coming up the application for a particular site, such site shall be allotted on first- come- first basis.
- 5.2.6 For self identified projects the developer has to fulfill pre qualification criteria.

## 6.0 **Development of project:**

### 6.1 Letter of Allotment & Hydro Power Development Agreement:

#### 6.1.1 Process of Administrative approval:

Nodal Agency will complete the selection process of developer for the project and forward their recommendation to New & Renewable Energy Department for their administration approval. New and renewable energy department will examine the proposal as per rule and approve the allotment of project for further development.

- 6.1.2 Nodal Agency will issue letter of allotment within 15 days from the receiving of administrative approval thereafter developer has to submit his acceptance within 15 days to Nodal Agency. Developer has to submit performance guarantee within 30 days which is 2% of the normative cost of the project, with the Nodal Agency. Performance guarantee can be submitted in the form of Bank Guarantee or demand draft or FDR.

- 6.1.3 Developer of category-1 has to deposit proposed upfront premium amount to Nodal Agency in the form of Demand Draft within 30 days from the date of letter of allotment.
- 6.1.4 Selected developer has to deposit processing fees which is Rs.25,000/- per MW within 30 days to Nodal Agency.
- 6.1.5 After deposition of prescribed fees as mentioned in above clauses the selected developer has to execute Hydro Power Development Agreement (HPDA) with Nodal Agency within 50 days.
- 6.1.6 Under any circumstances (whether the project is viable or not) the developer is not entitled for any claim or compensation from the government for expenditure made on investigation, technical feasibility report or any other study carried out.
- 6.1.7 Non payment of any amount specified in above clauses with Nodal Agency within specified time by the selected developer shall result in cancellation of letter of allotment and the EMD will be forfeited.

## 6.2 **Free Power:**

- 6.2.1 The successful bidder, as selected by MPUVNL and approved by the New & Renewable Energy Department, shall pay revenues to MPUVNL equivalent to the following percentage of free power generated from the project. The revenues will be calculated on the basis of applicable tariff.

<b>Sl. No.</b>	<b>Estimated installed Capacity</b>	<b>Free power as percentage of actual total generation in MUs net of Auxiliary Consumption as specified by MPERC</b>
1	Up to 5 MW	5% with exemption to supply free power in the block of three (3) years during first seven (7) years of operation post COD
2	More than 5 MW but up to 10 MW	8% with exemption to supply free power in the block of two (2) years during first seven (7) years of operation post COD
3	More than 10 MW but up to 25 MW	10% with exemption to supply free power for one (1) year in any of the seven years post the COD

### 6.3 **Clearance and Approvals:**

6.3.1 On signing of the HPDA, the developer shall seek and obtain all the necessary approvals and also arrange for financial closure within a period 12 months. This period can be extended by Nodal Agency maximum up to six months on case to case basis if it is satisfied that the reasons for delay are beyond the control of the developer, There after time extension will given by the New & Renewable Energy Department. New & Renewable Energy Department and nodal Agency shall extend all possible assistance for obtaining such approvals but the primary responsibility of obtaining such permissions is that of the developer. In the case the developer fails to obtain the required clearances or financial closer within the prescribed time limit the HPDA shall stand automatically cancelled and the performance security shall be forfeited

6.3.2 In case the project cannot be set up for want of an approval from the State or the Central Government, the performance security shall not be forfeited and refunded by the nodal Agency In case of category-1 project (in case of government identified sites) the up-front premium shall be refunded to the developers of such project.

### 6.4 **Project Milestones:**

6.4.1 The project must achieve COD within the time frame mentioned below from the date of execution of the HPDA.

<b>Sl. No.</b>	<b>Installed Capacity</b>	<b>50% or more Physical &amp; Financial Progress of Project</b>	<b>Commissioning Schedule from the date of execution of the HPDA</b>
1	Up to 5 MW	24 month	Thirty Five (35) months
2	More than 5 MW & up to 10 MW	29 month	Forty (40) months
3	More than 10 MW & up to 25 MW	33 month	Forty (48) months

6.4.2 The project development milestone up to the COD shall form part of the HPDA.

6.4.3 In the event of delay in commissioning of the Project as per the project development milestone for reasons attributable to the



Developer except in the case of Force Majeure, the developer will be required to compensate the loss of free power (revenue) to Nodal Agency for the delayed period as per the projected power generation in the DPR during this period. The loss should be compensated in form of revenue equivalent to the quantity of free power after the start of commercial operation over and above the committed free power.

- 6.4.4 If the developer is able to commission the project before the Scheduled COD as per the HPDA, the developer shall be entitled for incentive i.e. the developer shall be not entitled to share revenue from free power as per the provisions from the date of actual COD to the date of scheduled COD.

## **6.6 Release of performance guarantee:**

- 6.6.1 25% of the performance security will be released within one month after the intimation financial closures.
- 6.6.2 75% of the performance security shall be released after Successful commercial operation of three months.

## **6.7 Land for Project:**

The land required for the project, if available with GOMP, shall be leased to Developer in the following manner:

### **6.7.1 Allotment of Government land:**

- 6.7.1.1 Possession of the land will be taken by the New & Renewable Energy Department which belongs to WRD/NVDA or any other State Government department, there after New & Renewable Energy Department will lease the land to developer with intimation to district collector.
- 6.7.1.2 Land belonging to the Revenue Department shall be transferred by the concerned District Collector to New & Renewable Energy department in accordance with the provisions of Revenue department Circular F-16-3-93/7/2A dated 06-09-2010 and New & Renewable Energy department will further lease it to the developer, under intimation to the concerned District Collector.
- 6.7.1.3 The premium and lease rent together for the total area of the land so leased to the developer will be at the rate of a token sum of Rupee One (Rs 1/-) per annum. The lease shall be for the term of the HPDA.

- 6.7.1.4 In case of Government land being leased for the project is found to be used for purpose other than the objective the allotment of the land will be cancelled with immediate effect and land will be transferred to respective department. The construction/equipments at allotted land will be forfeiture.
- 6.7.1.5 Any Representative/Authorized Personnel of GOMP & District Collector/ Representative can visit the project site for inspection of land and the project regarding compliance of the land use for the specified project purpose and all other related terms and conditions as per the lease deed.
- 6.7.1.6 Government revenue land allotment and permission to change its land use will be in accordance to the circular no. F-16-3-93/7/2A dated 06-09-2010, issued by revenue department.
- 6.7.1.7 If any project developer wishes to transfer allotted Government revenue land in favour of any third party than transfer of land use will be allowed by the revenue department on same terms to new & renewable energy department and than in favour of developer.
- 6.7.1.8 For cases where Government land is not available, the Revenue Department shall acquire the land as per the required procedure and the same shall be allotted to the applicant at the acquired cost. The objective of the land use shall remain the same. The information regarding land use shall be given to the District Collector of the concerned district only.
- 6.7.1.9 Permission for the change of land use of revenue land/private land is not required. Object of land use may be communicated to the concerning district Collector.
- 6.7.1.10 In case of forest land including revenue land classified as chota-bade jhad ke jungle or any revenue or private land classified as forest or define as forest, provision of forest (Conservation) Act, 1980 and rules made there under from time to time and instruction of central/State government shall apply. The application for survey of the forest land shall be submitted through MPUVNL to the concerned competent authority of Forests department of M.P. State Government. After completion of the survey, application in the specified format for land use shall be submitted to the concerned competent authority M.P. state forest department.

- 6.7.1.11 Once allotted, no change in “objective of land use”, i.e., setting up of SHP project, shall be allowed in any case.
- 6.7.1.12 The developer shall have the sole responsibility of ensuring compliance with all the applicable legislations/ rules, regulations.
- 6.7.1.13 The developer shall ensure proper insurance of all the assets of the project during the tenure of the HPDA and maintain the same in proper condition for eventual transfer in favour of the State Government or its agencies, after expiry of the HPDA, free of all encumbrances.
- 6.7.1.14 Subject to signing of the HPDA and compliance of the applicable approvals, the developer shall be free to set up the generating plant. He shall ensure compliance with Technical Standards prescribed under section 73 of the EA 2003 for connectivity to the grid.

## **6.8 Grid Interfacing & Evacuation Arrangements:**

- 6.8.1 Interfacing arrangements, including the transformer panels, protection, metering etc., from the point of generation to the nearest sub-station or an interconnection point, subject to fulfillment of technical and safety parameters in accordance with the Madhya Pradesh State Grid Code, Madhya Pradesh Electricity Supply Code, 2004, applicable MPERC and CERC regulations as amended from time to time, shall be the responsibility of the Developer. The Madhya Pradesh Power Transmission Company Limited (MPPTCL) and /or the concerned Distribution Company of the state of MP may take up the work on cost basis, which are to be borne by the Developer.
- 6.8.2 Any dispensation in this regard that may be made by the State Electricity Regulatory Commission shall be final.

## **6.9 Transmission and Distributions:**

- 6.9.1 The Developer is free to construct his own dedicated transmission lines. It shall also have the right of open access for existing transmission facilities of the state as per the provisions of the EA 2003. The Developer shall sign wheeling agreements with MPPTCL/ respective Distribution Company as per terms of this policy but subject to the final dispensation by the Regulatory Commission

6.9.2 The Developer shall be responsible for payment of all wheeling and transmission charges to the MPPTCL/respective Distribution Company in case of sale of power to Third Party Consumers/ Distribution Licensee/ Power Trading Company, subject to the final dispensation by MPERC.

6.9.3 MPPTCL or respective Distribution Company shall install Metering equipment at the production and/or consumption sites at the cost of the Developer as per the provisions of MP Electricity Supply Code, 2004 and the specifications laid down by the MPERC. Any official of the MPPTCL/respective Distribution Company shall be allowed access by the Developer to inspect the same.

## **7 Sale of Power:**

In the case of an IPP, the entire power and in the case of a CPP, any surplus power can be sold to any consumer eligible under open access or any distribution licensee or any power trading company.

## **8 Inspection of Project:**

8.9 Authorized representatives of MPUVNL/GOMP shall, with prior written intimation, have the right of inspection of the power project to assess the safety of the project. The developer shall render all requisite help and assistance in facilitating such inspection.

8.10 The developer shall maintain all records regarding capacity, generation, downtime, with relevant constraints etc. and make available all these records to the inspecting authority for inspection.

## **9 Exclusive Jurisdiction of MPERC:**

9.9 MPERC has exclusive jurisdiction on those provisions of this Policy which are within its regulatory mandate under the provision of EA 2003, especially regarding electricity tariffs in case of sale to the state distribution licensees, power purchase agreements with the state Discoms and provisions regarding wheeling, banking, distribution and transmission loss charges, etc. Similarly, MPERC has jurisdiction, as per provision of the EA 2003, as regards the promotion of non-conventional energy sources, facilities for transmission of energy and sharing of purchase of power amongst the MPPTCL/ Transmission Licensee/ Distribution Licensee. Orders regulations, directives guidelines issued by MPERC regarding these issues from time to time shall be binding on all stakeholders.

- 9.10 In the event of dispute in interpretation of this policy or any clause in the agreement between the Developer & MPUVNL/GOMP or MPPTCL/ Transmission Licensee/ Distribution Licensee, the same shall be referred to MPERC.

## **PART: B**

### **OTHER PROVISIONS**

- 1.0** The developers to whom CPP/ IPPs were allotted by the earlier Policy of 2006 and in whose case the project has still not achieved COD, shall have the option of continuing under the old policy or adopt to the provisions of the new policy. Such option should be exercised by the Developers within one (1) month of issue of this policy by making an application for such change to MPUVNL, who will issue the permission to such developers to migrate into the new policy subject to their signing of a MoU laying down a revised implementation schedule. This permission to migrate will be liable to be terminated if the Developer does not adhere to the revised implementation schedule under this policy. This permission shall be subject to dispensation by MPERC.
- 2.0** IPPs will be free to change their option to CPP in due course of time & vice versa with the approval of MPUVNL.
- 3.0** Change in option from sale to any third party to sale to a Licensee and switching from one third party consumer to other third party consumer shall also be permissible by MPUVNL.
- 4.0** Provisions of the Policy shall be periodically reviewed in view of the dynamic and changing nature of the sector and the changing legal and regulatory environment. New & Renewable Energy Department of GOMP reserves the right to amend/ delete certain provisions of this policy and include additional provisions, if found necessary for operational ease or to deal with unforeseen issues or if found necessary due to any further dispensation of GOI or MPERC directives as the case may be by making necessary changes in the HPDA. New & Renewable Energy Department of GOMP may, from time to time, issue orders and practice directions in regard to the implementation of this policy and matters incidental or ancillary thereto as the GOMP may consider appropriate. However, such amendments shall be made applicable with prospective effect only.
- 5.0 Surrender of Allotment:**
  - 5.1** Developer is free to surrender the project at any time before the execution of HDPA in that case the EMD of the promoter will be forfeiture by the nodal agency.
  - 5.2** In case developer surrender the project after the execution of HDPA in that case the Performance Security will be forfeiture.
  - 5.3** The developer of category-1 surrender the projector after the execution of HDPA than the paid up front premium will be forfeited.

**6.0 Transfer of Project:**

- 6.1 No change in ownership of the project shall be allowed for a period of five (5) years from the date of COD.
- 6.2 After written consent of, the New & Renewable Energy Department on payment of the stipulated fees the nodal agency shall allow such transfer. Nodal agency on being satisfied with the transferee meeting the pre qualification & selection criteria.

## **PART C:**

### **INCENTIVES**

- 1.0** A new project shall be eligible for the incentives under this policy only if it meets the milestones prescribed under the HPDA. Similarly, projects which have migrated to this new policy (refer Clause B.1.0) shall be eligible for incentives under this policy if they meet the revised implementation schedule prescribed in the MoU signed with them.
- 2.0** The following incentive shall be available for the development of a SHP in the State of Madhya Pradesh:
- 2.1 The energy produced by the SHP set up under this policy can be used for captive usage, sale to a distribution company, sale to a third party consumer(s) within the state.
- 2.2 MPPTCL or concerned State Distribution Company shall facilitate wheeling of power in case of a Third Party Sale at such rates as may be decided by the MPERC. The State Government shall extend a subsidy @ 4% towards such wheeling charges as per existing policy only in case of third party sale within the State of Madhya Pradesh.
- 2.3 No electricity cess shall be payable for the power supplied by the SHP.
- 2.4 The SHP set up under this policy shall be treated as Industry for the purpose of the Industrial promotion policy, 2004 as well as Madhya Pradesh Industrial Investment Promotion Assistance scheme, 2004, notified by the State Government and shall be eligible for the incentives available under this policy/scheme.
- 2.5 The industrial consumers opting to buy power from a SHP shall be allowed a corresponding reduction in contract demand on a permanent basis subject to dispensation of MPERC.
- 2.6 The land for the project, if available with the Government, shall be leased directly by the MPUVNL at a token lease rent of Rupee One per annum as elaborated earlier.
- 2.7 In case of the Developer acquiring private land for the project/part of the project, he will be eligible to get the land diverted for industrial purpose from the competent revenue authority without any diversion fee/rent.
- 2.8 No water rate shall be payable for the use of water by the SHP.



2.9 If a Developer intends to generate and distribute electricity in a rural area as notified by the State Government vide Notification No.2010-F-13-05-13-2006 dated 25 March 2006, such Developer shall not require any license for distribution of electricity in such designated rural area, but shall continue to comply with the measures which may be specified by the Central Electricity Authority under section 53 of Electricity Act 2003.

2.10 **Banking:**

Banking of 100% of energy every financial year shall be permitted subject to the following conditions:

2.10.1 The figures of banked energy during the financial year shall be subject to verification by the officials of the concerned State Distribution Company/State Power Trading Company. However, the developer will be required to pay two percent (2%) of the banked energy in energy terms to the concerned State Distribution Company/ State Power Trading Company towards banking charges;

2.10.2 The banked energy can be availed to the extent as per the decision of the concerned State Distribution / State Power Trading Company;

2.10.3 The state Distribution company/ State Power Trading Company will consume the banked energy within financial year.

2.10.4 The balance energy, if any, at the end of the financial year shall be purchased by the concerned State Distribution Company/ State Power Trading Company as per the directions of the MPERC.

3.0 **Other Facilities:**

3.1 The power consumed from the SHPs for the purpose of captive use or third party sale shall be exempted from payment of Electricity Duty.

3.2 Carbon Credit or any such incentive available for such SHPs shall be to the exclusive account of the Developer.

3.3 All the equipment/plant and machinery brought into the state for use in the SHP shall be exempted from payment of Entry Tax for a period of five (5) years from the date of signing of HPDA.

3.4 For the purpose of the Madhya Pradesh Industrial investment Promotion Assistance Scheme 2004 relating to assistance in respect of

the Commercial and related taxes arising out of investment in the industrial unit which consumers the energy from this SHP unit. The option regarding to whom this benefit should flow, shall be exercised by the SHP right in the beginning.

By order and in the name of the  
Governor of Madhya Pradesh