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LEGAL COMPLIANCES FOR SETTING UP A CAPTIVE POWER PLANT

Now and again, the Government of India (GOI) issues the National Electricity Policy (NEP) to develop an efficient electricity system supported on the optimal utilization of natural resources. The National Electricity Policy has been evolved in consultation with and taking into account views of the State Governments, Central Electricity Authority (CEA), Central Electricity Regulatory Commission (CERC), and other stakeholders. The policy lays guidelines for continuous development within the power sector.

Introduction

A Captive Generating Plant is a power plant set up by any individual, association of persons (including companies) or co-operative society for generating electricity for self-use. Chronic increase in tariffs, long power cuts, less dependability on the availability have led to many households and industries setting their own plants. There are various advantages and downsides of putting in place a captive generation plant. A number of benefits include:

1. No electricity theft
2. Less power cut-offs
3. Cheaper than the facility grid
4. No extra cost on infrastructure
5. Any surplus electricity produced by the plant are often sold to the grid

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6. The consumers of captive power schemes are exempted from paying cross-subsidy surcharges (CSS)

Even though there are multiple benefits, there are a few disadvantages of setting up the plant:

1. Training costs of skilled personnel involved
2. Pollutant control measures cost
3. Small size plants are inefficient thanks to low loads.

The Captive Power Plant is of different types depending on technology/fuel. Some of these include:

1. *Steam Plant*

   Typically suitable for heavy industries like steel and aluminum. The heat that is produced by burning of the coal is employed to convert water into high-pressure steam, which helps to drive a turbine and produce electricity.

2. *Diesel Engine Plant*

   Engine power plants can provide full output within a few minutes and ensure load balancing. Small size diesel engine plants are cost-effective, consume less space, and can be used in case of emergencies.

3. *Co-generation Plant*

   Cogeneration – means the assembly of two or more forms of energy from a single fuel source. This form of Plant uses the wasted heat from the plant's exhaust in the form of recycled energy. Pollution created by a co-generation plant is far less than other plants which are beneficial for the environment.

4. *Hydro Plant*

   Hydropower is generated by movement of flowing water. Impoundment, pumped storage, runs of the river and tidal power are differing types of hydropower facilities. Hydro plants are cost effective, short point and favorable to the environment.

Legal regimes revolving around Captive Plants

Captive Plants are governed under Section 9 of the Electricity Act, 2003 and Electricity Rules, 2005. According to Rule 3 of Electricity Rules, 2005, a Power plant is considered 'Captive' if entities consume a minimum of 51% of the power produced and owns 26% of the equity. Other ways of Capital Financing can be structured like major portion may be structured as Preference shares and a very small portion can be allocated to Equity shares under to Section 9 read with clause (8) of Section 2 of the Act.

The Power Ministry, on 22 May 2018, issued draft amendments to the electricity laws. The proposed amendments to the Electricity Rules, 2005 prescribe an ownership stake of a minimum of 26 per cent of the equity share capital with voting rights. Provided only two shareholding pattern changes each year otherwise the status of such plant shall cease to exist on third change in shareholding pattern.

Approval under Section 53 i.e., safety inspection by Electrical Inspector under State or Central Government is important for safety of all personnel.

Section 9 (2) of the Electricity Act,2005 gives open access to the captive power generating users and Section 38,39 and 42 provides that surcharge won't be applicable to open access users.

Benefits such as Renewable Energy Certificates, discounted wheeling and banking charges, net metering and carbon credits are available for captive generation users using for renewable energy sources.

Concerns for setting up Captive Generation Plant

1. *Load*

   Cement, chemical, engineering, metal and material, textile, sugar are of industries where captive power generation is largely and widely used due to continuous requirements of energy. For instance, Industries like steel and aluminum which are heavy load intensive require constant energy and thus require big set up.

2. *Land requirement and Connecting issues*

The Land required for putting in place a captive plant is different based on every technology/fuel to be used. For the aim of Open access, the supply of adequate transmission facility is determined by Central Transmission Utility (CTU) or the State Transmission Utility (STU). Industrial consumers who use grid for consumption of power from their captive plants must pay the open access charges.

3. *Open access charges*

A **Wheeling Charges** is a currency per megawatt-hour amount that a transmission owner receives for the use of its system to export energy. These charges are applicable for transmitting the power through discom's network. They are typically determined by the State Regulatory Commission. Similarly, **Wheeling Losses** are technical losses determined by State Regulatory Commission. **State Transmission Utility charges** are leviable if the power from the captive generation plant flows through the state grid and **STU losses** is losses of state grid. Both of these are also approved by the State Commission. **Point of Connection (PoC) charges** are similar to STU except that this is leviable when the power flows through interstate grid. These charges and losses are determined by Central Electricity Regulatory Commission (CERC). **Banking charges** are a kind of tariff that has to be paid for the supply of electricity from the generating company to a distribution licensee. These charges are different for renewable energy and non-renewable energy. They are to be paid to the Distribution Licensee.

4. *Environmental Issues*

Climate change crisis is real and Carbon emissions from these plants cause Pollution and harm the environment. There are various agencies which give environment clearances such as Ministry of Environment and Forests (MoEF), Central Pollution Control Board (CPCB), State Pollution Control Board (SPCB)

Recent Issues

A Captive Power Producers association (Indian Captive Power Producers Association) has contented government to normalize coal supplies to Captive Power Plant based industries otherwise it would lead to unalterable damages of these national assets.

Fossil fuels are the biggest contributor for climate crisis. ***COP26, the 26th United Nations Climate Change Conference*** was held in Glasgow, Scotland recently where the Glasgow Climate Pact was agreed on expecting 197 countries to keep temperatures below 1.5 degrees Celsius, phase out coal, reduce emissions, and prevent further deforestation by **2030**.At the start of the conference, PM Narendra Modi committed for India to achieve net zero carbon emissions by 2070. Later, at a last-minute intervention, India renegotiated the agreement replacing 'phase down' instead of 'phase out' coal as a fossil fuel. Developing countries such as India argued that they are being put under pressure to move from fossil fuels to renewables, while developed countries are not helping them financially and with technology. An energy reliable future including coal is vital for India's economy - which is already recovering from the pandemic shock.

Conclusion

Setting up a Captive Power Plants has its own advantages and drawbacks and needs to be assessed carefully taking account of environmental concerns.

This last-minute negotiation has gained quite a lot of criticism and put India in spotlight after COP26, Glasgow. The employment of renewable sources for setting up power plants shall help India achieve the target of net zero carbon emissions soon.

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