

**POLICY FOR DEVELOPMENT OF BIG HYDRO
PROJECTS, 2010**

DRAFT POLICY

**GOVERNMENT OF BIHAR
ENERGY DEPARTMENT**

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GOVERNMENT OF BIHAR

ENERGY DEPARTMENT

RESOLUTION

Bihar's Draft Policy for Development of Big Hydro Power Projects, 2010

1 Background

- 1.1 Bihar's power system has a peak load of about 1,500 MW, under the currently constrained demand scenario where the electricity system covers barely 50% of the villages and 6% of the households.
- 1.2 Against this constrained demand, the peak availability is about 950 MW, causing a peak shortfall of 550 MW, which results in wide-spread curtailment of supply to all categories of consumers. Bihar's installed generation capacity in the state sector is 584 MW post bifurcation of the state in 2000, whereas most of the allocated generating capacities are in-operational and the outputs negligible.
- 1.3 The annual per capita consumption in Bihar is currently at 75 units, against a national average of 603 units in 2005. The National Electricity Policy aims to achieve an annual average per capita consumption of 1,000 units by 2012. This growth is predicated on increasing generation availability to remove peak electricity demand and energy shortfalls, as well as implementation of the noteworthy Rajiv Gandhi Grameen Vidyutikaran Yojana (RGGVY), which seeks to electrify all villages in India by 2009 under Central Government provision of 90% to 100% grant funds for creation of rural electrification backbone.
- 1.4 Given this backdrop, a target per capita consumption equal to the current national average (of about 650 units) by 2012 is realistic and achievable under the growth factors discussed above. This per capita consumption translates to a staggering 10,500 MW of generation requirement for Bihar.
- 1.5 Rapid augmentation of generation capacity is an overwhelming priority for the State Government and a crucial factor in achieving the socio-economic growth targets that the government has set forth to achieve by 2012.

2 Preamble of the Policy

- 2.1 Bihar requires significant augmenting of its power generating capabilities to come close to and meet the national average in terms of the per capita use of energy, thereby fuelling growth on new industries and supporting the expansion of existing

industrial climate in the state as well as making power available to all its people. In order to achieve this objective, Bihar requires a staggering 10,500 MW capacity by 2012 from the present level of 1,503.33 MW installed capacity. This also includes significant support and dependence on power allocated from the central PSUs. Though in recent times, the state has witnessed significant interest from private developers keen to set up coal-based capacity in the state,

3 Key Objectives of the Policy

- 3.1 Power is a critical driver for socio-economic development. Efforts at accelerating the rate of economic growth in the new globalised economy are dependent on the availability of adequate, reliable and quality power at competitive rates. The basic objective of the electricity industry would be to provide adequate power at economic cost, while ensuring reliable and quality supply.
- 3.2 Hydro power projects, once established, have a long and productive life span of over 40 years, and though comparatively expensive in the initial years of operation, have substantially lower costs in terms of operations and on the environment in the long run, when compared to coal or natural gas based generation. Development of the hydro potential in the state is essential, not only for increasing the installed capacity but also for optimising the energy mix balance in the state – augmentation of the hydro power capacity would also contribute significantly in improving the hydro-thermal mix of the state from the present 5% levels closer to the desired optimal mix ratio of 40:60. Govt. of Bihar is committed to this critical goal and is desirous of putting together a policy framework to encourage rapid development of the state's hydro power sector at the earliest.
- 3.3 Exploitation of the entire hydro potential in the state can contribute significantly towards eliminating power shortages, particularly peaking shortages in the State, and which will provide an impetus for growth and development of the State. The Govt of Bihar is receptive of the changing environment post the enactment of the Electricity Act 2003 and is committed to reforming its power sector and encourage private investment in all the areas of the power sector, including that of hydro power generation.
- 3.4 The total estimated hydro power potential identified by BHPC, the nodal agency, untapped as on 31 December 2008 is approximately 3,546 MW, including pumped storage schemes. This untapped potential should be unlocked and developed at the earliest to meet the energy and peaking shortage of the state.
- 3.5 Given the significant hydro potential in the state and the need to aggressively tap this potential, leveraging the expertise of the private sector and the resources of the state is crucial. Though a number of mini and micro hydro generating capability has already been identified by the nodal agency and is being developed by it, this policy aims to provide a framework and vision for the development of hydro projects of at least 25 MW. All projects being awarded and within the period of this policy shall continue to be guided for the entire duration of operation of these projects.

3.6 The main objectives of this policy would be:

1. To harness the hydro potential of the state to capitalise on it being a environment-friendly sustainable source of energy and to enhance their contribution to the socio-economic development, keeping in lines with the overall objectives of the Electricity Act 2003, the National Electricity Policy and the National Tariff Policy;
2. To supplement efforts in bridging the gap between demand and supply of power, and in improving the balance in the hydro-thermal generation mix of the state;
3. To attract private sector investment in the state power sector by providing an investor-friendly regime and framework specially in light of the huge constraints on the limited financial resources of the state;
4. To develop hydropower projects on a BOOT (Build-Own-Operate-Transfer) basis in an eco-friendly manner, causing minimum distress to affected people, ecology and environment by adopting suitable remedial / mitigating measures;
5. To protect the ownership and water usage rights of the local people;
6. To make the power sector self sufficient in terms of finances and provide an additional potential source of revenue in the shape of free power in accordance with the amended National Tariff Policy and the reversion of the project back to the State Government free of cost after the operating period; and
7. To create direct and indirect employment opportunities especially in rural and backward areas.

3.7 The Electricity Act, 2003 provides that generating companies shall not be required to obtain any license to establish, operate and maintain the generating stations. Hydro Power developers shall, however, need the approval of the State Government or the Central Electricity Authority (as the case may be) while developing hydro-electric power projects.

3.8 The State Government may give allotment for implementation in Private Sector, to the eligible bidder, i.e., a Company or a Consortium of Companies or a Corporation, whether in the Public or Private Sector and whether of Indian or Foreign Origin. The hydro-power projects for which this policy would be applicable would be broadly classified under two sub-categories, viz.:

Category – I	Projects with installed capacity of more than 25MW but under 100MW	Projects to be awarded under the MOU route
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Category – II	Projects with installed capacity of more than 100MW	Project developer to be competitively selected through an International Competitive Bidding (ICB) route.
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4 Nodal Agency

- 4.1 Bihar Hydro Power Corporation (BHPC) will be the nodal agency for the implementation of the NRSE Policy. BHPC will be responsible for laying down the procedure for inviting of proposals from Developers and Independent Power Producers (IPPs), preparation of DPRs, evaluation of project proposals, project approvals, project implementation and facilitation, operation and monitoring.

5 Policy Framework for Development of HEPs

- 5.1 All potential Projects/sites shall be advertised through Notice Inviting Proposals (NIP) in various News Papers for Global invitation of Bids from the eligible Bidders.
- 5.2 Interested parties can submit Bids for one or more Projects. One Bid Document purchased shall hold good for submission of Bid only for the Project for which the bid document is purchased by the party. The Bids as well as the Processing Fee shall be submitted separately for each Project applied for.
- 5.3 The Company / Consortium shall be selected for the Project on the basis of their equity participation in implementation of the Project as under:

- 5.3.1 The Company shall retain their equity participation till three years after commissioning of the Project. Any change in Consortium / equity participation would automatically result in termination of MOU / IA and the Project shall revert back to the Government. No compensation whatsoever shall be payable by the Government in this regard. It may be further noted that all the correspondence shall be made with the party which signs the MOU/IA till such time as the authority vested in gives authorization to any other person with valid authorization of Board of Directors of the Company.
- 5.3.2 The Government may consider the request of the Company for changing the name of the Company or Consortium subject to the condition that the Principal Promoter shall retain the controlling interest i.e. 51% equity in the new entity. In the event of any contravention, the Government of Bihar shall terminate the I.A. forthwith at any stage.
- 5.3.3 Free transfer of shares will be permitted in the Company's allotted Projects as per the prevailing Policy.
- 5.3.4 The Company shall be permitted to incorporate a Special Purpose Vehicle (SPV) for the implementation of the Project with its registered office within Bihar with the same equity participation as stated above. All rights and obligations under this agreement shall thereafter be transferred to new Company.
- 5.4 The Company will need to ensure that it opens a fully operational Corporate Office within the State of Bihar.
- 5.5 After the Project is allotted, MOU/Pre-Implementation Agreement/Implementation Agreement as the case may be shall be signed. And following milestones (shown in the tables at Annexures 1 and 2 respectively) shall be achieved by the Company failing which consequential action as mentioned will be taken by the Government.
- 5.6 In case the Company is unable to achieve Financial Closure within the time limit specified above, the Company must be agreeable to start construction work on the Project positively within the time limit specified in the annexures by investing from its equity component. The Financial Closure shall be concluded within six months of start of the construction work on the Project.
- 5.7 For setting up the HEPs, concurrence of the competent authority (ies) shall be obtained as per the procedure applicable from time to time.
- 5.8 The Projects will be allotted on the basis of tentative installed capacity as mentioned in the Notice Inviting Proposals and on self identified basis. However, in case the capacity of the Projects increases / decreases upon firming up of the potential as per TEC accorded by the competent authority, the Company shall be required to sign a fresh / revised MOU / IA with the Government, as the case may be. In all such cases, the royalty, upfront premium and other charges shall be levied according to the approved norms of the Government for the revised capacity.

- 5.9 The scope of the work will be from concept to commissioning and operation thereafter, including, inter-alia, survey and investigations, identification of transmission system for the evacuation of power and preparation/review of DPR. The transmission system for evacuation of power shall form part of the Project and shall be included in the DPR in consultation with BSHPC, keeping in view the integrated system requirements.
- 5.10 Electricity generated from HEPs would help in reduction of emission of “Green House Gases”. The developer should carryout development of the Project(s) so that these qualify for carbon credits at the National/International levels. Sale of such equivalent Carbon credits by the developer on account of development of Project(s) should be through competitive process amongst buyers, in order to derive the maximum benefits.
- 5.11 The Agreement shall remain in force up to a period of 40 years from the Scheduled Commercial Operation Date of the Project, thereafter, the Project shall revert to the State Government free of cost and free from all encumbrances. The Project assets would be maintained by the successful developer in a condition that would ensure a residual life of the Project at the rated capacity for at least 30 years at any point of time.
- 5.12 During the 10th, 20th, 30th & 35th years of operations, the Government of Bihar or one of its appointed agencies would carry out a mandatory inspection of the Project site to ensure that the Project assets are maintained to the required standards to ensure the specified generation capability and residual life of the Project.
- 5.12.1 If such inspections find that the Project capacity or life is being undermined by inadequate maintenance, the Government of Bihar would be entitled to seek remedial measures from the developer. If the developer fails to comply with the requirement, the Government of Bihar would have the right to take over the commercial operation of the Project and shall have full right upon the sale of power including developer share. The cost on account of suggestive remedial measures shall be deducted including the operation & maintenance cost for such a period till the Project’s assets are restored to the required standards to ensure the specified generation capability and residual life of the Project as specified above. Thereafter, the Project shall be handed over to the developer.
- 5.13 The Company shall have no claim on any Project upstream and down stream of the Project.
- 5.14 The Company shall open a Police Station/Chowki and a Labour office in Projects above 50 MW at its cost. The Company shall also bear the cost of deployment of Police Personnel during the construction phase of the Project. For all the Projects above 25 MW, the Company shall inform the local Police Station and the Labour Office about the details of the labourers and other work force engaged who are both from within the State, country or outside the country, regularly.
- 5.15 The Company, if ROR Project, shall ensure minimum flow of 15% water immediately downstream of the diversion structure of the Project all the times

including lean seasons from November to March, keeping in mind the serious concerns of the State Govt. on account of its fragile ecology & environment and also to address issues concerning riparian rights, drinking water, health, aquatic life, wild life, fisheries , silt and even to honour the sensitive religious issues like cremation and other religious rites etc. on the river banks. However, the companies are at liberty to install small hydro Projects to harness such water for their captive use, for their utilities, systems and colonies.

- 5.16 The IPPs have an option to develop such Projects either as run of the river (ROR) schemes or storage Projects. However, in the case of storage Projects, approval of the State Government shall be required to ensure that such Projects cause minimum submergence of habitations and agricultural holding of the people of the area.
- 5.17 The Developer shall reimburse to the Bihar State Hydroelectric power corporation Ltd the amount, spent by the Corporation on investigations and infrastructure works of the Project up to the date of signing of Implementation Agreement, with compound interest @ 10% per annum within three months of signing the Implementation Agreement.
- 5.18 The Company shall have to provide employment to Bonafide Bihar natives whose names are registered on live register of any Employment Exchange located in the State of Bihar, in respect of all the unskilled/skilled staff and other non-executives as may be required for execution, operation and maintenance of the Project, through the local Employment Exchanges or from other than live registers from anywhere within the State or outside the State who are bonafide Bihar natives. However, the first preference will be given to oustees. In the event of non-availability of the requisite skilled manpower at various levels with requisite qualification and experience, non-availability certificates will be obtained from the Labour Commissioner/Director Employment, Bihar and only thereafter the Company will be free to recruit such persons from outside the State of Bihar.

- 5.18.1 The Company shall satisfy the Government that the contractors/sub-contractors engaged by them for the Project shall give employment to local people/ Bihar natives for appointment as supervisors, workmen and laborers/workers in the Project.
- 5.18.2 In regard to direct recruitment of engineers and other executives, other things being equal in terms of eligibility criteria, qualification, experience etc, the Company shall give preference to the candidates well conversant with customs, culture, language and dialect of Bihar. The advertisement regarding employment shall be issued in one English daily and two Hindi daily papers having wide circulation within Bihar.
- 5.18.3 The Company shall ensure that during the deployment of Bihar natives in respect of Executive/Non-Executive/Skilled/Non-Skilled categories at any stage of the Project implementation, if it is not possible to recruit 100% staff from Bihar natives for justifiable reasons, only then the Company shall maintain not less 70% of the total employees/officers/executives from Bonafide Bihar natives persons.
- 5.18.4 The Company shall provide employment to one member of each of the displaced families or adversely affected as a result of the acquisition of land for the Project, during construction of the Project. During the operation and maintenance of the Project, the Company shall give preference to members of the displaced families for employment in the Project.
- 5.18.5 The petty contracts of the road work, retaining walls, buildings construction, carriage of construction material like sand, aggregate, cement, steel etc, engagement of all categories of other service providers, taxis for the staff deployed to the sites, engagement of other light and heavy vehicles, running of canteens/mess, engagement of security personnel through ex-servicemen shall normally be awarded to locals/Bihar natives.
- 5.18.6 The Company shall also provide training programme to the locals affected by the Project so that they are in a position to get employment as various technical/administrative jobs in the Project.
- 5.18.7 All the above mentioned stipulations shall be monitored strictly by the Labour Commissioner and Director, Employment as well as at the Government level by the Labour Department.
- 5.19 The Government will constitute a Multi-disciplinary Committee under the Chairmanship of Chief Secretary. The Committee shall be monitoring the issues arising during the implementation of the Project, Employment related monitoring, Relief and Rehabilitation, review of Progress of Local Area Development Committee (LADC) schemes, implementation of Catchment Area Treatment (CAT) Plan, Compensatory Afforestation, Environmental Management Plan, Environment Impact Assessment (EIA) Plan, and restoration of facilities which get damaged because of the implementation of the Project, quality control mechanism of the Projects. The Committee shall review the progress of all statutory clearances, time and cost overruns of the Project, if any. The Committee shall also draw up the

methodology to regulate the payments to be made by the Company to the various departments of the Government in connection with the implementation of the Project. The Committee shall meet at such intervals, preferably quarterly at such places as is decided by it.

- 5.20 Any violations of the above mentioned issues concerning policy parameters, MOU/IA may result into monetary penalty including cancellation of the Project.
- 5.21 The Government shall constitute a Local Area Development Committee (LADC) for Project (s) being implemented in each river valley. The District Magistrate shall be the Chairman of the LADC and other members shall be nominated by the Government, which will include the representatives of HEP's also. Concerned SDM shall be the Member Secretary. The LADC will be entrusted with, but not limited to, the following activities in the Project Affected Areas, which are those areas/ villages surrounding/falling in the catchment / watershed areas extending from the Reservoir to the Tail Race of the Project:
- 5.21.1 Oversee the restoration of facilities adversely affected due to implementation of the Project.
- 5.21.2 Oversee the implementation of Rehabilitation and Relief Plan.
- 5.21.3 Oversee the implementation of Catchment Area Treatment (CAT) Plan and Compensatory Afforestation.
- 5.21.4 Local Development activities related to development of Agriculture, Horticulture, Animal Husbandry, Fisheries, Rural Development, irrigation, drinking water supply, Health, Forest, Education, PWD, Electricity and other Social, Religious and Cultural activities etc.
- 5.22 The District Magistrate may co-opt any other member as he deems fit.
- 5.23 However, PWD / other roads leading to the Project areas shall not form part of LADC activities.
- 5.24 The activities of the LADC during execution shall be financed by the Project itself and for this purpose the Developer shall make a provision of 1.5% of final cost of the Project. The LADC activities shall be financed from the above provision and not from free power as royalty.
- 5.25 The amount on account of Local Area Development shall be paid by the Developer to the District Magistrate of the Project Affected Areas (Chairman of the LADC) in equal annual instalments during the Construction Period of the Project and shall be payable in 1st quarter of every financial year, starting from the date of Financial Closure.
- 5.26 The Developer shall keep the Government informed of any change in the construction cost of the Project and for any increase in the construction cost of the Project from time to time, the Developer shall release the instalments accordingly.

- 5.27 The Company shall be required to prepare Disaster Management Plan and its implementation taking into consideration the different flood eventualities, or any kind of natural calamity at various stages of construction and operation of the Project and their mitigation measures. The Company shall include the same in the DPR to be submitted to the Government.
- 5.28 The Company shall be required to follow environmental related issues concerning disposal of blasting muck and soil etc. The Company shall use such material for the Project as may be found suitable for the construction and the remaining material shall be allowed to be used by other development departments like PWD, Irrigation, public health and several others for the execution of their area developmental schemes including the channelization of river waters by the concerned development agencies. Not only that, even private crusher owners etc. and other private users shall also be allowed to use such material from the site free of cost. The prescribed norms will be available with the Pollution Control Board.

The Company agrees not to dump such material on the Project site or any other inappropriate place which flows further downstream rivers causing serious environmental concern, which shall attract punishment under various laws of Pollution Control Board.

The Company shall ensure that the material excavated from the site shall be dumped in the area duly approved by the Ministry of Environment & Forests, GOI/State Pollution Control Board.

- 5.29 In case any existing facilities including but not limited to, irrigation systems, water supplies, roads, bridges, buildings, communication system(s), power systems and water mills are adversely affected because of the implementation of the Project, the Company shall be responsible for taking remedial measures to mitigate such adverse effects. The cost of the above remedial measures shall become a part of the Project cost. Such facilities shall be mutually identified and agreed upon between the Company and the State Government. The Company shall not interfere with any of the existing facilities till an alternate facility, as identified, is created.
- 5.30 The Company shall ensure to protect the water rights of the local inhabitants for drinking and irrigation purposes etc. by verifying the revenue entries and activities of I&PH department so as to ensure that such rights are not infringed upon. Any dispute in the matter shall be referred to a committee to be appointed by the State Government involving Irrigation & Public Health and Revenue departments. However, the decision of the State Government shall be final and binding on all the parties. The Government of Bihar shall have the right for withdrawal of water from the river course for the consumptive use of pumping or by gravity for the purpose of potable water supply and irrigation to the affected villagers.
- 5.31 The Company shall make suitable financial provisions for mitigation of adverse impacts as per the approved EIA plan, Environment Management Plan and mitigation of degradation of environment due to disturbance of eco-system in watershed area, at the cost of Project.

- 5.32 The Developers will be free to dispose of power from the Projects, after allowing for royalty in the shape of free power to the State, in any manner they like in accordance with the provisions contained in the Electricity Act, 2003 and the rules and regulations made there under.
- 5.33 The Project Developer shall be required to provide royalty in the shape of free power from the Project to the Government of Bihar in lieu of surrender of potential site @ 12% of the Deliverable Energy of the Project for the period starting from the date of synchronization of the first generating unit and extending up to 25 years from the date of Scheduled Commercial Operation of the Project, @ 15% of Deliverable energy of the Project for a period of next 15 years. The royalty in the shape of free power shall start accruing to the Government from the Scheduled Commercial Operation Date/ synchronization of first generating unit whichever is earlier.
- 5.34 Incentive for Early Commercial Operation of the Project:
- In case the Commercial Operation of the Project is achieved prior to the Scheduled Commercial Operation Date, the quantum of free power to Government shall be from COD of the Project up to the Scheduled Commercial Operation Date of the Project, such percentage of Deliverable Energy, shall be 6 %.
- 5.35 Disincentive for Delayed Commercial Operation of the Project:
- In the event that the Commercial Operation Date of the Project is delayed beyond the Scheduled Commercial Operation Date, the quantum of free power to Government shall be, such percentage of Deliverable Energy as is equal to 12% plus two tenth (0.2) percentage points for each period of seventy three (73) days (or part thereof) falling between the Scheduled COD of the Project and Commercial Operation Date of the Project.
- 5.36 Any difference and/or disputes arising at any time between the parties out of the MOU / PIA / IA or interpretation thereof shall be endeavored to be resolved by the parties hereto by mutual negotiations, failing which the matter shall be referred to the Arbitrator to be appointed as per the provisions of the Arbitration & Conciliation Act, 1996. However, all disputes shall be settled within the jurisdiction of Courts of Bihar.
- 5.37 The Project Developer shall make arrangements for evacuation of power from the Project to the Board's / PGCIL's Sub-station (designated as the Interconnection Point) as per the provision mentioned in the DPR. For evacuation of power beyond the Interconnection Point, the Developer shall tie up with BSHPC / PGCIL for arrangements of a suitable integrated transmission system at mutually agreed wheeling charges.
- 5.38 For Projects above 100 MW installed capacity, the Government of Bihar reserves the right of equity participation up to 49% on selective basis.
- 5.39 The Developer will be permitted to withdraw from the Project after the conveyance of non-feasibility of the Project, if the Government is satisfied that the Developer

has sufficient ground to establish that the Project is not techno-economically viable, without any liability on the Government of Bihar for the expenditure incurred by the Developer. The security deposited at the time of signing of MOU shall be refunded without interest. 50% of the upfront premium shall also be refunded without interest.

6 Bid Process for identification of Private Developers for HEPs

6.1 Category I : Projects with installed capacity of above 25MW up to 100 MW

6.1.1 The Bids in response to the advertisement should be accompanied by a non - refundable processing fees @ Rupees One Lac (Rs 50,000/-) only per MW subject to maximum of Rupees Ten Lacs (Rs 10,00,000/-) per Project applied for, which shall be retained by BSHPC as Consultancy/ Processing charges. The processing fee shall not form part of the Project cost in the DPR and financial closure, which shall be borne by the Developer out of the financial strength of the Company.

6.1.2 The Bids shall be assessed on the basis of various parameters viz. Financial Strength, Technical Strength and Project Development Experience of the Bidders. The Government of Bihar has set up the Bihar Infrastructure Development Board (BIDB) with the objective, inter-alia, to encourage and promote investment from the Private Sector through Infrastructure Development Projects in the State including the Power Sector. BIDB will devise its own procedure for evaluation of Bids and make recommendations to the Government of Bihar for selection, whose decision shall be final in the matter. The following weightage shall be given to the various parameters:

- Financial Strength 65 marks
- Technical Strength 30 marks
- Project Development Experience 5 marks
- **Total 100 marks**

6.1.3 A Bidder/Tendered, who obtains minimum 50% marks in their overall Financial, Technical and Project Development criteria, will be considered as pre-qualified/eligible. However, the Bidder must get minimum 32.5 marks (i.e.50%) in the Financial Strength Criteria to be eligible.

6.1.4 A letter of allotment shall be issued to the successful/selected Bidders asking them to execute a Memorandum of Understanding (MOU) with the Government of Bihar for which a sum of Indian Rupees equivalent to Rupees One Lakh (Rs. 1,00,000) per Mega Watt of installed capacity only shall be required to be deposited by the successful Bidder as the Security Deposit either through

Government of Bihar for appraisal by State Government/Central Electricity Authority as the case may be.

Subject to the Government as well as the Developer having satisfied themselves about the techno-economic feasibility of the Project, the Developer shall execute the Implementation Agreement (IA) with the Government within a period of six (6) months from the date of signing of MOU. The security deposited at the time of signing of MOU shall continue during the IA period as well, which shall be refunded six months after the Commercial Operation Date.

In case of delay in submission of DPR by the Developer being unavoidable, to the satisfaction to the Government, which is not due to Force Majeure reasons as defined in the IA, an extension up to maximum of six (6) months shall be granted to the developer upon payment of fees of Rs. 10,000/- per MW per month, subject to maximum of Rs. 25.00 Lakhs.

- 6.1.9 The Developer will be permitted to withdraw from the Project, if the Government is satisfied that the Developer has sufficient ground to establish that the Project is not techno-economically viable, without any liability on the Government of Bihar for the expenditure incurred by the Developer. The Security Deposit at the time of signing of MOU shall however be refunded without interest 50% of the upfront premium deposited at the time of signing of MOU shall also be refunded without interest. This will ensure the commitment of the developer towards the execution of the Project and compensate for loss of time and revenue, which could have otherwise accrued during this period.

6.2 Category II : Projects with installed capacity of above 100 MW

- 6.2.1 The bids in response to the advertisement should be accompanied by a non-refundable Processing fees of Rupees Fifty Lakhs (Rs 50,00,000/-) for every Project applied for, which shall be retained by BSHPC as expenses towards Consultancy / Processing charges. The processing fee shall not form part of the Project cost in the DPR and financial closure, which shall be borne by the Developer out of the financial strength of the Company.
- 6.2.2 The selection process will be in two stages. In the first stage the interested companies shall submit Pre-qualification Bids as per the Request of Qualification (RFQ) document. The Bids shall be assessed on the basis of various parameters viz. Financial Strength, Technical Strength and Project Development Experience of the Bidders. The Government of Bihar has set up the Bihar Infrastructure Development Board (BIDB) with the objective, inter-alia, to encourage and promote investment from the Private Sector through infrastructure Development Projects in the State including the Power Sector. BIDB will devise its own procedure for evaluation of Bids and make recommendations to the Government. The following weightage shall be given to the various parameters:
- Financial Strength 65 marks
 - Technical Strength 30 marks
 - Project Development Experience 5 marks
 - **Total 100 marks**
- 6.2.3 A Bidder / Tenderer, who obtains minimum 50% marks in their overall Financial, Technical and Project Development criteria, will be considered as pre-qualified / eligible. However, the Bidder must get a minimum 32.5 marks (i.e., 50%) in the Financial Strength Criteria to be eligible.
- 6.2.4 In the second stage, the Pre-qualification Bidders will be invited to submit Price Bids. In the Price Bid, the Bidder would be required to quote the upfront premium charges over and above a minimum amount of a Rupees five Lakhs (Rs 5,00,000) per Mega Watt capacity of the Project. The Projects will be allotted to the bidders making the highest bids. The upfront premium shall not form part of the Project cost in the DPR and financial closure, which shall be borne by the developer out of the financial strength of the Company.
- 6.2.5 A letter of allotment shall be issued to the successful Bidders asking them to sign a Pre Implementation Agreement with the Govt. of Bihar for achieving various benchmarks and submission of final DPR.
- 6.2.6 Successful / Selected Bidders shall be required to deposit Upfront Premium in three instalments i.e., 50% amount immediately after the allotment of the Project, 25% at the time of signing of Implementation Agreement and remaining 25% immediately after Financial Closure. In case of breach of Agreement or any part thereof, the upfront premium deposited at the time of allotment of Project shall be liable to be forfeited by the Government.

6.2.7 Essential documents:

- In those streams & rivers wherever Hydro Electric Projects have been identified either by the IPPs or State, Government shall obtain clearances from the concerned departments like Wild Life stating that the Project area is outside the Wild Life Park, Sanctuaries, Zoos etc., from irrigation and public health engg & Revenue department(s) stating that the proposed Projects(s) does/do not infringe with the drinking and irrigation rights of the local inhabitants and of the ownership of traditional water mills, i.e., Gharats, approval under the Regulation of Transfer (Land Act) in tribal areas, consent from the Gram Panchayat through Panchayat Secretary within one month's time. In case no communication is received from the concerned Gram Panchayat including that of tribal areas within the stipulated period, it will be presumed that they have no objection in giving consent to such a proposal. Administrative Department shall monitor the progress of such reports in a time bound manner.
- The IPP shall give an undertaking to the Fisheries Department of the local area that wherever feasible, rearing of fish shall be promoted by the IPP in consultation with the Fisheries Department in the Project area at the time of final implementation of the Project.
- In case of bonafide Bihar natives Promoter Directors/cooperatives, a proof thereof shall be furnished to the Government.

6.2.8 As per the terms & conditions of Pre- Implementation Agreement (PIA), the Developer shall be required to achieve various milestones. The Developer shall submit a Detailed Project Report (DPR) commensurate with the allotted site within a period as per details specified under Para (v) –Generation, from the date of signing of PIA to Government of Bihar for appraisal by State Government/Central Electricity Authority as the case may be.

Subject to the Government as well as the Developer having satisfied themselves about the techno-economic feasibility of the Project, the Developer shall execute the Implementation Agreement (IA) with the Government within a period of six (6) months from the date of signing of IA.

In case of delay in submission of DPR by the Developer being unavoidable, to the satisfaction to the Government which is not due to *Force Majeure* reasons (as defined in the IA), an extension up to maximum of six (6) months shall be granted to the developer upon payment of fees of Rs. 10,000/- per MW per month subject to maximum of Rs. 1.00 crore.

6.2.9 The Developer will be permitted to withdraw from the Project of the Government if the Government is satisfied that the Developer has sufficient ground to establish that the Project is not techno- economically viable without any liability of Government of Bihar for the expenditure incurred by the Developer. 50% of the upfront premium deposited at the time of allotment of Project shall be refunded without any interest. This will ensure the commitment of the Developer towards

the execution of the Project and compensate for the loss of time and revenue which could have otherwise accrued during this period.

7 Transmission, Load Despatch and Trading of Power

7.1 Transmission:

- 7.1.1 The Electricity Act, 2003 empowers the State Governments to notify the State Electricity Boards or Government owned Company as the State Transmission Utility (STU). Bihar Government has already notified BSEB as STU, it shall continue to function as such for the purpose of the said Act. The Electricity Act, 2003 however, provides the transmission to be a licensed business and any person on the grant of the license by the Appropriate Commission can also engage in transmission of electricity as a transmission licensee.
- 7.1.2 The Electricity Act, 2003 mandates STU as well as the transmission licensees to provide non-discriminatory open access to its transmission system for use by any licensee or a Generating Company on payment of the transmission charges. The said Act further stipulates that any electricity consumer, when allowed by Appropriate Electricity Regulatory Commission, shall also be eligible for such non-discriminatory open access on payment of transmission charges and surcharge there-on as specified by the appropriate Electricity Regulatory Commission. The Act also enables any electricity consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply.
- 7.1.3 The introduction of open access in transmission shall pave the way for multi-lateral energy transactions. The transmission licensees shall be obliged to provide on demand open access to their respective systems, subject to availability of spare capacity, to facilitate such transactions on payment of transmission charges as specified by the Appropriate Electricity Regulatory Commission. This shall not only ensure optimum utilization of existing transmission assets but also provide excellent investment opportunities in the transmission sector.

7.2 Load Despatch:

- 7.2.1 The Electricity Act, 2003 provides that load despatch and system operation functions shall be performed by an entity within the frame-work of STU. This SLDC, in future, can be separated from the STU and entrusted to an independent Government owned Company established under the Act.

7.3 Trading:

- 7.3.1 The Electricity Act, 2003 recognizes trading as a distinct licensed activity but STU and SLDCs are not to engage in trading of power. Any person can undertake the trading of electricity provided he fulfils the technical requirement, capital adequacy requirement and credit worthiness as specified by the Appropriate Commission. Here-to-fore, the trading of power was mostly by way

of bilateral agreements between the power utilities. These power transactions were in fact limited to the diversion of surplus power available in a certain State to the deficit State.

8 Monitoring and Review

- 8.1 All concerned departments and institutions shall issue necessary follow up orders to give effect to the provisions of this policy within sixty (60) days of notification of this policy in the official gazette.
- 8.2 A Monitoring Committee, under the Chairmanship of the Chief Secretary shall be set up, which shall have the Commissioners / Secretaries of the concerned departments as its members. The Secretary, Energy Department shall be the Member Secretary of this Monitoring Committee.
- 8.3 This Monitoring Committee shall also look into the hurdles / problems, if any, with respect to the implementation of this policy and also in respect to providing relief / concessions with regard to such issues brought before the Committee.
- 8.4 This Monitoring Committee, on behalf of the State Government, would also carry out annual / mid-term review of this policy.

9 Operative Period and other General Conditions

- 9.1 This policy supersedes all the policy guidelines/instructions issued in this behalf from time to time.
- 9.2 The Government reserves the right to modify, increase/decrease the charges/upfront premium or modify any of the provisions mentioned in the policy from time to time as the situation so warrants in larger public interest.
- 9.3 The Developer shall keep the Government informed from time to time, of any increase/decrease in the construction cost of the Project.
- 9.4 In case of any doubt regarding the interpretation of the Policy or any other clause of the Policy, the decision of the Government shall be final and binding on all parties concerned.

10 Power to amend / relax / interpret the provisions of this policy

- 10.1 Notwithstanding anything contained in the foregoing sections of this NRSE Policy 2009, The Government of Bihar, through the Energy Department, shall have the powers to amend / relax / issue clarification, if any, on any matter related to the interpretation of any provisions under this policy in consultation with the concerned State Govt. Departments / Agencies.

BY ORDER OF THE GOVERNOR OF BIHAR

Principal Secretary, Department of Energy
Government of Bihar

Annexure – 1

S. No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
1.	Upfront Premium	50% at the time of signing of MOU, 25% at the time of signing of Implementation Agreement and remaining 25% immediately at the time of Financial Closure.	50% at the time of signing of MOU, 25% at the time of signing of Implementation Agreement and remaining 25% immediately at the time of Financial Closure.	--
2.	Security Deposit	30 days from the date of signing of MOU	30 days from the date of signing of MOU.	Cancellation of the MOU,
3.	A Compendium giving details of hydrological data/observations.	One year from the date of signing of MOU.	One year from the date of signing of MOU	Cancellation of the MOU and forfeiture of Security Deposit/ upfront Premium deposited.
4.	Topographical sheets prepared after conducting surveys.	One year from the date of signing of MOU	One year from the date of signing of MOU	-do-
5.	A Compendium giving details of Geological/ Geophysical observations.	One year from the date of signing of MOU	One year from the date of signing of MOU	-do-
6.	Conveyance of Feasibility/Non-feasibility of the Project.	--	One year from the date of signing of MOU	-do-
7.	A report on the Power Evacuation Arrangement envisaged by the Company.	One year from the date of signing of MOU	One year from the date of signing of MOU	-do-

S. No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
8.	Submission of DPR.	18 months (for Projects up to 50 MW) or 24 months (for Projects above 50 MW) from the date of signing of MOU.	24 months (for Projects up to 50 MW) or 30 months (for Projects above 50 MW) from the date of signing of MOU	-do-
9.	Signing of the Implementation Agreement with the Government.	36 months (30 months for Projects where DPR is prepared by BSHPC & is ready) after the date of signing of MOU.	42 months after the date of signing of MOU	Cancellation of the allotment of the Project and forfeiture of Security Deposit/ Upfront Premium deposited.
10.	Submission of necessary inputs for obtaining TEC proposal (s) for obtaining other statutory/non-statutory clearances (Diversion of Forest Land. Environmental & Forest Clearance. Pollution Clearance) and Acquisition of Land by the Company to the Government.	Within 8 months from the date the IA is signed.	Within 8 months from the date the IA is signed	Termination of Implementation Agreement and forfeiture of Security Deposit/ Upfront Premium deposited.
11.	To obtain required sanctions/ approvals/ clearances to the proposals submitted by the	Within 10 months from the date of submission of proposal(s) by the Company	Within 10 months from the date of submission of proposal(s) by the Company	Extension of presc-ribed period in the MOU subject to deposit of presc-ribed Extension fee of

S. No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
	Company as per 10 above.			Rs.10,000/- per MW per month subject to a maximum of Rs. 50.00 lacs.
12.	Achieving Financial Closure, signing of PPA, establishment of site office etc. and start of construction work on the Project.	Within 24 months from the date of signing of the IA or six months of obtaining the approvals/clearances mentioned at 11 above whichever is earlier.	Within 24 months from the date of signing of the IA or six months of obtaining the approvals/clearances mentioned at 11 above whichever is earlier.	Termination of the IA in case the construction work on the Project is not started and forfeiture of Security Deposit /Upfront Premium deposited.
13.	Project commissioning (scheduled Commercial Operation Date of the Project)	As per Techno-economic Clearance of the DPR.	As per Techno-economic Clearance of the DPR.	Disincentive as per Clause stipulated in the IA.
14.	Handing over of the Project to the Government free of cost.	The date falling 40 years after the Scheduled Commercial Operation Date of the Project.	The date falling 40 years after the Scheduled Commercial Operation Date of the Project.	Action as deemed fit.

Annexure-2

S.No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available.	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
1.	Upfront Premium	50% at the time of allotment of Project, 25% at the time of signing of Implementation Agreement and remaining 25% immediately at the time of Financial Closure.	50% at the time of allotment of Project, 25% at the time of signing of Implementation Agreement and remaining 25% immediately at the time of Financial Closure.	--
2.	A Compendium giving details of hydrological data/observations.	One year from the date of signing of Pre-Implementation Agreement	One year from the date of signing of Pre-Implementation Agreement	Cancellation of the Pre-Implementation Agreement and forfeiture of Upfront Premium deposited.
3.	Topographical sheets prepared after conducting surveys.	One year from the date of signing of Pre-Implementation Agreement	One year from the date of signing of Pre-Implementation Agreement	-do-
4.	A Compendium giving details of Geological/Geophysical observations.	One year from the date of signing of Pre-Implementation Agreement	One year from the date of signing of Pre-Implementation Agreement	-do-
5.	Conveyance of Feasibility/Non-feasibility of the Project.	--	One year from the date of signing of Pre-Implementation Agreement	-do-
6.	A report on the Power Evacuation Arrangement envisaged by the Company.	One year from the date of signing of Pre-Implementation Agreement	One year from the date of signing of Pre-Implementation Agreement	-do-

S.No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available.	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
7.	Submission of DPR.	24 months from the date of signing of Pre-Implementation Agreement.	30 months from the date of signing of Pre-Implementation Agreement	-do-
8.	Signing of the Implementation Agreement with the Government.	36 months (30 months for Projects where DPR is prepared by BSHPC & is ready) after the date of signing of Pre Implementation Agreement.	42 months after the date of signing of Pre-Implementation Agreement	Cancellation of the allotment of the Project and forfeiture of Upfront Premium deposited.
9.	Submission of necessary inputs for obtaining TEC proposal (s) for obtaining other statutory/non-statutory clearances (Diversion of Forest Land. Environmental & Forest Clearance. Pollution Clearance) and Acquisition of Land by the Company to the Government.	Within 8 months from the date the IA is signed.	Within 8 months from the date the IA is signed	Termination of Implementation Agreement and forfeiture of Security Deposit/Upfront Premium deposited.
10.	To obtain required sanctions/approvals/clearances to the proposals submitted by the Company as per 9 above.	Within 10 months from the date of submission of proposal(s) by the Company	Within 10 months from the date of submission of proposal(s) by the Company	Extension of prescribed period in the Pre Implementation Agreement subject to deposit of prescribed Extension fees of

S.No	Milestones	Time Period		Consequential Action.
		For Projects where DPR/PFR are available.	For Projects where the Feasibilities is to be ascertained by the IPP.	
1.	2.	3.	4.	5.
				Rs.10,000/- per MW per month subject to a maximum of Rs.1.00 crore.
11.	Achieving Financial Closure, signing of PPA, establishment of site office etc. and start of construction work on the Project.	Within 24 months from the date of signing of the IA or six months of obtaining the approvals/clearances mentioned at 10 above whichever is earlier.	Within 24 months from the date of signing of the IA or six months of obtaining the approvals/clearances mentioned at 10 above whichever is earlier.	Termination of the IA in case the construction work on the Project is not started and forfeiture of Security Deposit/Upfront Premium.
12.	Project commissioning (scheduled Commercial Operation Date of the Project)	As per Techno-economic Clearance of the DPR.	As per Techno-economic Clearance of the DPR.	Disincentive as per Clause stipulated in the IA regarding disincentive.
13.	Handing over of the Project to the Government free of cost.	The date falling 40 years after the Scheduled Commercial Operation Date of the Project.	The date falling 40 years after the Scheduled Commercial Operation Date of the Project.	Action as deemed fit.