

No. 283/124/2018-GRID SOLAR

भारत सरकार / Government of India

नवीन और नवीकरणीय ऊर्जा मंत्रालय/ Ministry of New & Renewable Energy

ग्रिड सौर ऊर्जा प्रभाग / Grid Solar Power Division

ब्लॉक संख्या 14, केंद्रीय कार्यालय परिसर,

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Block No. 14, C.G.O. Complex,
Lodi Road, New Delhi – 110003

Dated: 18 June, 2019

ORDER

Sub: Setting up of a Dispute Resolution Mechanism to consider the unforeseen disputes between solar/ wind power developers and SECI/ NTPC, beyond contractual agreements – regarding.

1. The Solar and Wind Industries have been demanding for setting up of Dispute Resolution Mechanism by MNRE for quite some time, to resolve expeditiously, unforeseen disputes that may arise beyond the scope of Contractual Agreements between solar power developers / wind power developers and SECI/ NTPC.

2. The issue has been considered and it is felt that there is need to erect a transparent, unbiased Dispute Resolution Mechanism, consisting of an independent, transparent and unbiased Dispute Resolution Committee (DRC), for resolving the unforeseen disputes that may arise in implementation of contractual agreements and also for dealing with issues which are beyond the scope of Contractual Agreements between solar power developers/ wind power developers and SECI / NTPC.

3. The Government after careful examination of the issues involved, issues the following orders:

(i) A three member Dispute Resolution Committee (DRC) will be set up with the approval of Hon'ble Minister (NRE), consisting of eminent persons of impeccable integrity. The upper age for the DRC members shall be 70 years. The Committee members of DRC shall be chosen from the eminent persons located in NCR of Delhi so as to avoid expenditure on Air Travel & accommodation. The selection of DRC Members would be such that there is no conflict of interest involved.

(ii) The mechanism of Dispute Resolution Committee (DRC) will be applicable for all solar/ wind Schemes/ Programmes/ Projects being implemented through/ by SECI/ NTPC.

(iii) The DRC will consider following kinds of cases:

(a) All cases of appeal against decisions given by SECI on Extension of Time requests based on terms of contract: All requests for extension of time due to recognized 'Force Majeure' events like flood, earthquake, delay in handing over of land by Solar Park

Developers, delay in connectivity, etc. will be dealt strictly as per Contractual Agreements. In all such cases, the solar power developers / wind power developers shall make an application for grant of Extension of Time (EoT) within the time specified in the Contractual Agreement. If application is not made within the time limit prescribed in the Contractual Agreement, it shall be summarily rejected by SECI/ NTPC. If application is made within the time limit, the request will be examined and final decision given to solar power developer/ wind power developer within twenty-one (21) days from the date of application. No separate extension of time shall be granted for overlapping periods of effect by two or more causes. If the developer is not satisfied with the decision of SECI/ NTPC, then it may appeal to the Dispute Resolution Committee (DRC), within 21 days of SECI/NTPC's order after paying a fee, to be decided by the DRC, which in any case shall not be less than 5% of the impact of SECI's/NTPC's decision being challenged. This fee shall be deposited into the Payment Security Fund maintained by SECI/ NTPC for the project concerned. In case, the Government upholds the appeal in toto, after taking into consideration the recommendation of DRC, and strikes down the SECI order, then the fee so collected shall be refunded, provided the DRC makes a recommendation for the same and the Government passes a specific order to that effect. The Fee which may be received and is not required to be refunded, shall be credited to the appropriate Payment Security Fund being maintained by SECI/ NTPC.

(b) All requests of Extension of Time not covered under the terms of contract: All cases involving unforeseen issues/ circumstances not covered under Contractual Agreements like cases where the site is to be procured by the developer but there is delay in land allotment due to policy change or registration by the Government, delays in grant of proposed connectivity due to court stays, etc., will be placed before the DRC for consideration and make recommendations to M/o New & Renewable Energy (MNRE) for appropriate decision.

(iv) The 'Dispute Resolution Committee' (DRC) will examine all such cases referred to it, including the cases where the developer is not satisfied with the decision of SECI/NTPC and it decides to appeal after paying the required fee as laid down under Para (ii) (a) above, in a time bound manner and submit its recommendations to the Ministry of New & Renewable Energy (MNRE), not later than twenty-one (21) days from the date of reference.

(v) The recommendations of the 'Dispute Resolution Committee' (DRC) along with MNRE's observations, will be placed before Hon'ble Minister (NRE) for final decision. The Ministry shall examine and put up such recommendations to Minister (NRE) with the comments of IFD within twenty one (21) days of receipt of recommendation from the DRC.

(vi) DRC members shall be paid Rs.4,000/- per sitting, not exceeding Rs.20,000/- per member per case referred. Cases involving similar issues will be treated as one case. The fee for DRC members shall be paid by SECI/ NTPC.

(vii) The meetings of DRC shall be organized in the premises of SECI/ NTPC respectively. All arrangements for the DRC meeting shall be made by SECI/ NTPC.

(viii) The DRC members shall be provided transportation from their place of residence to the venue of the meeting and back.

(ix) To arrive at any decision, Committee will be free to interact with the relevant parties of the case and shall record their views. For presenting the case before the DRC, no lawyers shall be permitted.

This issues based on approval of Hon'ble Minister (NRE).



(Shobhit Srivastava)

Scientist-C

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To:

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2. **The Managing Director**, Solar Energy Corporation of India Limited (**SECI**), 1st Floor, D-3, A Wing, Prius Platinum Building, District Centre, Saket, New Delhi- 110017, Email: md@seci.co.in

Copy for internal circulation to:

1. PS to Hon'ble Minister (Power & NRE),
2. Sr. PPS to Secretary, MNRE
3. PPS to AS/ PPS to AS&FA
4. JS (BPY)/Adv (DN)
5. Dir (RG)/ DS (IFD)/ US (IFD)