



SOLAR POWER DEVELOPERS ASSOCIATION

910, 9th Floor, Surya Kiran Building,
19, Kasturba Gandhi Marg, New Delhi- 110001
Website: www.solarpda.com
Email: dg@solarpda.com, duttshekh@hotmai.com

Shekhar Dutt, SM, IAS (Retd.)
Director General, SPDA
Former Governor of Chhattisgarh State
Phone: +91-9810222250 / +91-8750394442

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Sub: Request for grant appropriate time extension in SCD timelines due to delays in Approval for Procurement of Power & adoption of Tariff by CERC/ SERC.

Dear Shri Chaturvedi,

Greetings from Solar Power Developer Association.

This is concerning the significant challenges multiple Developers face in project implementation due to the delay in grant of PSA approval / Tariff adoption and Power Procurement under Sec 86 (1) (b) of Electricity Act 2003.

It may kindly be noted that the approval for the Procurement of the Contracted Capacity by the Appropriate Commission is the condition precedent to progress with the development of the Projects. Considering the delay in the said approval, the lenders were refraining from financing the power projects. They stopped the disbursement of the loan is already approved, hence severely impeding the Financial Closure/ execution of the Projects.

Besides due to ongoing monumental delay in the approval of PSAs, the lender community is also expressing their concerns over the viability of the project as this situation is reminiscent of a similar problem faced in September of 2019 wherein the State DISCOMs of Andhra Pradesh and Uttar Pradesh were denied power procurement approval at discovered tariff by respective State ERC(s). The Banks stopped any further fund disbursements for such projects. The details of the issues faced by some of the developers are provided in **Annexure-I** (as a separate attachment) for your kind reference.

Reasons of Concern:

The absence of requisite Regulatory Approvals (Power Procurement Approval) has posed an adverse impact on the Renewable Energy (RE) sector, wherein there have been incidences of Discoms refusing to accept power from RE plants, and even Regulatory Commissions giving adverse orders against RE Projects which have made these regulatory approvals a necessity for lenders and investors to finance the Projects. Some instances include:

- Cancellation/ renegotiation of already signed PPAs by Andhra Pradesh Govt.
- Cancellation of the Project/ tender by the Gujarat Electricity Regulatory Commission, about four months after LoA issuance
- UPERC reprimanding its SLDC for scheduling power from projects, which had not received the Power Procurement approval

Due to delay in delay in disbursements project execution gets stalled and in turn hinders SPDs' ability to commission the same on time. We believe in cases of delay in regulatory approvals , timelines for achieving Scheduled Commissioning Date (SCD) should be appropriately revised to account for this delay.

It is also pertinent to highlight that your good office has taken semblance of the above issue and notified the amendment to the bidding guidelines for procurement of power from Grid-connected Solar PV power projects, dated 23.10.2019 ("Bidding Guidelines Amendment") wherein vide Clause 10.4 of the guidelines, read in conjunction with Section 86 (1) (b)' of the Electricity Act 2003, the issue of delay in tariff adoption (and PSA approval) by Appropriate Commission has been highlighted and addressed.

Further, Hon'ble Appellate Tribunal for Electricity ("APTEL"), vide its combined order dated 27.02.2020 in the matter of Ayana Ananthapuramu Solar Private Limited and others vs. Andhra Pradesh Electricity Regulation Commission, and Others (Appeal No. 368, 369, 370, 371, 372 & 373 of 2019) established that the timeline for the completion of projects under the PPA should start when the approval of procurement of power and adoption of tariff reaches finality. The relevant extract of the said order is reproduced below-

"Over and above this, it is seen that there were Supplementary PSAs to the original PSAs with intermediary procurer extending the existing timelines up to 31.07.2019. The time is further extended by intermediary procurer. To commission the project within the timeframe when approval of procurement of power and adoption of tariff reach finality would be the starting of time to reach the completion of project in terms of agreements i.e., PPA between the solar developer and intermediary procurer-NTPC/SECI would come into play. Therefore, the contention of the Respondent-AP Discoms that there is delay or going to be delay achieving SCOD is rejected."

Given the above-stated facts, you will appreciate that any delay in grant of approval under Section 86 (1) (b) of the Electricity Act 2003 by appropriate Commission is a significant issue plaguing most developers and severely threatening the financial viability of such projects.

Further to the above, as the recent tenders issued by your Hon'ble office had provisions for extending the deadline for Financial Closure and SCOD on a day-on-day basis for the delay in adopting the tariff or securing the procurement approval from Appropriate Commission within 120 days (4 months) of the signing of PPA and PSA.

The projects with delayed Regulatory Approvals should be given appropriate time extension as per key milestones achieved and progress made by the developers; this will help identify developers who are seriously working on their projects. Key milestones can be completing Financial Closure (FC), and Land obtained, Connectivity by the developer while deciding on the appropriate extension. It will be tough for developers to expect capital investment when lenders and Investors are reluctant to fund projects without key Regulatory Approvals.

Request

In the light of all the above, MNRE's immediate intervention is necessary to address and resolve the issues. We request MNRE to kindly issue orders so that all power procurers/ RE Implementing agencies can:

- i. Obtain the requisite Regulatory Approvals on an expeditious basis, and
- ii. Grant us an appropriate extension in Project FC and SCD timelines proportionately with delay in approval by concerned Regulatory commissioning. **From the date of Approval of Power Procurement & PSA, FC Commissioning of the Projects should be provided, respectively, to offset the damage that the developers have faced.**

We express our sincere gratitude for MNRE's continued support to the sector and look forward to your support in resolving the above critical issue.

With warm regards

Yours Sincerely,



Shekhar Dutt

To,
Shri Indu Shekhar Chaturvedi
Secretary
Ministry of New & Renewable Energy
Government of India
New Delhi