



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 your intervention and resolution on the PPA Tariff reduction proposal by PSPCL for Solar Power projects in Punjab

Dear Shri Chaturvedi,

Greetings from Solar Power Developer Association.

At the outset we would like to thank the Hon'ble Minister, Ministry of New and Renewable Energy and Ministry of Power for time and again appreciating concerns faced by the Renewable industry and taking expeditious steps to resolve issues facing the industry.

We are writing to you with reference to issues faced by solar power developers in Punjab and earnestly seek your intervention on the most recent request by Punjab State Power Corporation Limited (PSPCL) for PPA tariff reduction of the solar power projects in the state of Punjab.

PSPCL, vide its communication dated 23.03.2021, has requested our members to reduce the PPA tariff by at least 15%. PSPCL's desire for a reduction in tariff is not based upon any legal or contractual grounds and is in complete disregard to the established fact that the adopted tariff (adopted by the appropriate commission post discovery of the tariff) cannot be reopened in any circumstances, whatsoever.

Such requests for seeking a discount on tariff for operating projects, with signed PPA agreements, not maintainable in the eyes of law and the provisions enshrined under the Electricity Act, 2003, as well as the notifications issued by MNRE and MoP from time to time. Any reduction in the tariff, which has been discovered vide competitive bidding process, will violate the sanctity of a contractual obligation and will be resultant in turning a performing company into a non-performing company.

It is a settled position that once a contract has been entered, it cannot be altered or modified. For any reason, and certainly not for short-term financial difficulty.

Former

- Deputy National Security Advisor, Govt. of India • Defence Secretary, Govt. of India • Secretary Defence Production, Govt. of India
- Secretary Ministry of Health, Govt. of India • Director General, Sports Authority of India

Clearly, the COVID-19 pandemic and the ensuing restrictions had far-reaching consequences, that cut across organizations, sectors, and countries, and adversely impacted the financials of our sector too. The developers were not immune to such adverse consequences either, and we realize that the entire global economy has been trying to recover from its impact and start growing again. We are indeed thankful to the Central as well as the various State Government ministries of India, who have been playing a key role to ensure this economic recovery is smooth & swift.

Despite the above, shockingly PSPCL is seeking a reduction in tariff, which was the very basis on which this long-term project was, allocated, developed, and commissioned. We must also emphasize that the projects were allotted vide a competitive bidding process that was completely transparent and governed by the guidelines of the State Govt.'s solar policy, its tender, and the appropriate Central/ State Commission.

As per the relevant guidelines, the bidders were obliged to factor in all such considerations that have been highlighted in the letter (including the then estimated module prices, short- & long-term interest rates, tax rates etc.), to compute their 25-year long term tariffs, while being competitive in the bidding process. The developers have not sought an increase in tariff despite multiple execution & operational risks that they undertook and continue to absorb, such as lower than estimated solar insolation, especially due to high smog in winter months, higher than expected O&M costs etc.

Hence, if based on any of the above reasons (extraneous considerations not premised on any specific provision of the PPA), either party attempts to modify long term contracts, the entire foundation of Contracts Law will be demolished, and the economic recovery that we all are eagerly awaiting in the upcoming FY, will not only be prolonged but may even be rendered impossible. It is further stated that a contract is by consensus between the parties more particularly when the contract is executed pursuant to a transparently held competitive bidding process.

Our Members have invested money and have also borrowed money for establishing the project, where the return of investment, the tariff etc., is the basis for financial assistance rendered by the institutions. If any unilateral alteration or modification is carried out at the behest of the State or its instrumentality, the entire financial edifice of the members will collapse like a pack of cards. All members have entered long-term PPAs and have submitted these PPAs to their investors who have relied on the representations and have advanced the finances. PPAs have been acted upon and the bills raised were also honoured.

Further, the pandemic has severely affected the finances of developers, who even during the lockdown have continued to generate and supply the Electricity as an "Essential Service" by incurring an elevated operational cost for running their Solar Projects considering the challenges faced during the lockdown. SPDs have suffered on account of delayed repair & maintenance of their projects and a higher cost of labor.

It is to also be noted that last year, Punjab has taken several steps which are not in consonance with the signed contract. PSPCL deducted 5% payment from the gross monthly invoice for the month of Apr-Jun 2020 and did not pay for the power supplied in the 1st week of Apr 2020 by refusing to accept Joint Meter Readings. Such notifications and requests issued by the Government of Punjab/PSPCL adversely impact solar power developers in these tough times.

Your good office intervention is also essential with the fact that if this arbitrary and unreasonable demand of state DISCOM will not be stopped here, it will open floodgate for issues in renewable sector. In spite of the current Central establishment's bonafide effort to make renewable sector as one of the attractive sectors to invest, steps like this are discouraging investors to further commit any fund. Electricity being a concurrent subject, it is the responsibility of the Central & State Government to ensure stability in the sector. Your good office has recognized its role and has always dissuaded Discoms from taking such actions which are against law and ultimately against the interest of Power sector.

Therefore, in light of the above, we humbly request your immediate support to our members in this matter:

- To enforce regulatory certainty in the State of Punjab.
- To honour the sanctity of the signed contracts and ensure that PSPCL abide by the terms of Power Purchase Agreement.

We sincerely express our gratitude for Ministry of Power and MNRE's continued support to the sector, that has helped the industry make a significant progress in deployment and scaling up of solar projects in the country.

With warm regards

Yours Sincerely,



Shekhar Dutt

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