

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

Block-14, C.G.O. Complex,
Lodi Road, New Delhi – 110003.

Date: 20th September, 2019

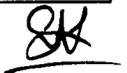
ORDER

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

Reference is invited to this Ministry's Order of even no. dated 18.06.2019 on the above mentioned subject.

2. The undersigned is directed to convey that the said Order hereby stands amended as follows:

Para No. in Order dtd 18.06.2019	Existing Provision	Amended Provision
3(ii)	The mechanism of Dispute Resolution Committee (DRC) will be applicable for all solar/ wind Schemes/ Programmes/ Projects being implemented through/ by SECI/ NTPC.	The mechanism of Dispute Resolution Committee (DRC) will be applicable for all solar/ wind Schemes/ Programmes/ Projects being implemented through/ by SECI/ NTPC. In case of all disputes, whether covered by PPA or not, application shall have to be made first to SECI/NTPC. SECI/ NTPC would pass speaking orders on such requests, with the objective being to give a just solution to the developers with a sense of justice and fair play, even in situations not covered by PPA, so that the aim of setting up renewable projects are achieved. If the applicant party is not satisfied with the orders of SECI/NTPC, then it can appeal to the DRC.
3(iii)	The DRC will consider following kinds of cases: <u>(a). All cases of appeal against decisions given by SECI on Extension of Time requests based on terms of contract:</u> 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	The DRC will consider all kinds of cases of appeal against decisions given by SECI/NTPC on disputes, as follows: <u>(a). All requests for extension of time due to recognized 'Force Majeure' events</u> 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, where applicable. In all such cases, the solar power developers/ wind power developers shall make an application to SECI/NTPC for grant of Extension of Time (EoT) within the time specified in the Contractual Agreement.



Para No. in Order dtd 18.06.2019	Existing Provision	Amended Provision
	<p>(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.</p> <p>(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.</p>	<p>If there is no time limit prescribed in the PPA for making such an application, then the application must be made within seven days of the cause of dispute taking place on the first occasion. If application is not made within the time limit prescribed, 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 by SECI/NTPC 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.</p> <p>(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 SECI/NTPC within seven days of the issue/ circumstance arising on the first occasion. The final decision shall be given to solar power developer/ wind power developer within twenty-one (21) days by SECI/ NTPC from the date of application. No separate extension of</p>

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		<p>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.</p> <p><u>(c). All disputes other than those pertaining to 'Extension of Time' between SECI/NTPC and developers:</u> All other disputes, apart from those pertaining to Extension of Time shall also be dealt as detailed at (b) above.</p> <p><u>(d). All applications before DRC under (a), (b) and (c) above shall be accompanied with the applicable fee as detailed below:</u></p> <p><u>(i).</u> In case of Extension of Time dispute, the fee payable shall be 5% of the impact of SECI/NTPC's decision being challenged, with the impact being limited to the Performance Bank Guarantee (PBG) submitted for the project concerned. A minimum fee of Rs. 1,00,000/- (Rupees one lakh) would be payable even if the 5% of the impact of SECI/NTPC's decision being challenged, is less than Rs. one lakh.</p> <p><u>(ii).</u> Disputes not coming under the head, Extension of Time, in case there is a PBG covering the dispute, then the fee shall be same as in (i) above.</p> <p><u>(iii).</u> In case of disputes not coming under Extension of Time, in case there is no PBG covering the dispute, then the fee shall be 5% of the total impact of the dispute, which in no case be less than Rs. 1,00,000/- (Rupees one lakh) and not more than Rs. 1,00,00,000/- (Rupees one crore).</p> <p><u>(e).</u> 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 recommendations 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</p>

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		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.

3. This issues with the approval of Hon'ble Minister (NRE).



(Sanjay Karndhar)

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To:

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