

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

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Date: 20th September, 2019

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

Ministry of New and Renewable Energy(MNRE) vide Order of even No. dated 18.06.2019 has set up Dispute Resolution Mechanism to consider the unforeseen disputes between solar/ wind power developers and SECI/ NTPC and disputes relating to Extension of Time requests. In order to provide an implementation framework for the said Dispute Resolution Mechanism (DRM) and for the functioning of Dispute Resolution Committee (DRC), the present guidelines are being issued. The mechanism of Dispute Resolution Committee (DRC), will be applicable to Schemes/Programmes/Projects being implemented through/by SECI/NTPC. The details are as follows:

(1). SECI and NTPC will provide a Secretariat for the Dispute Resolution Committee, with its head being designated as Secretary (DRC/SECI) or Secretary (DRC/NTPC), as the case may be. SECI/NTPC will make available one officer each, not below the rank of General Manager, who shall function as the Secretary of the Dispute Resolution Committee. All the applications under the DRM, whether for appeal against the decisions given by SECI/NTPC based on the terms of contract or the requests not covering under the terms of contract, shall be addressed to the Secretary of the DRC. The names and contact addresses of Secretaries shall be prominently displayed on their respective websites. SECI/ NTPC shall also provide adequate support to the DRC Secretariat, in terms of supporting staff, IT support and other amenities, for processing the applications.

(2). All applications shall be addressed to the Secretary (DRC) at SECI/NTPC with a copy sent to MNRE's Division dealing with the DRM.

(3). All applications received in a particular week, whether appeal or otherwise, should be placed before the DRC as soon as possible, in the following week, in consultation with the members of DRC by the respective Secretaries (DRC) of SECI/NTPC.

(4). The Secretaries (DRC) would club all applications of similar nature, involving similar issues in terms of Para 3(vi) of the DRM Order, before placing the same before DRC.

(5). The DRC at the first instance would come to a finding on whether the case is covered under the scope of work prescribed in the Order No. 283/14/2018 - Grid Solar dated 18/6/2019 setting up the DRM, read with subsequent amendments thereon. If the case does not fall under the scope or if the applicant has come directly to the DRC without first taking recourse to SECI/ NTPC, the application would be summarily rejected.

(6). Fee would be payable in all cases as per amendment to the Order No. 283/124/2018-GRID SOLAR dated 18/06/2019 issued vide Order No. 283/124/2018-GRID SOLAR dated 20/09/2019. If the fee is not paid, then the Secretary (DRC) shall return the application with request to the applicant to submit the required fee.

(7). In cases, involving clubbed applications requiring payment of mandatory fee, any default in payment of fee by one party will only render that application to be rejected and the outcome of DRC's decision on the main case will not have any bearing on this defaulting applicant.

(8). After the application is brought before it, the DRC shall hold hearings on the subject and submit its recommendations to MNRE not later than 21 days of such reference. Since a number of applications



may be received on similar issues in a particular week, for the purpose of these Guidelines and the DRM Order, the date of reference shall be the date of first hearing on the application(s).

(9). The DRC shall meet at least once every week, provided there are cases/ applications pending before DRC for resolution. The Secretary (DRC) of SECI/NTPC would ensure that the meetings of DRC are convened in a manner and frequency that can ensure adherence to 21 days period kept for decision on a case.

(10). In cases, where the DRC is unable to give their decision within the time frame of 21 days, the Secretary (DRC) appointed by SECI/ NTPC shall inform MNRE in this regard and MNRE may provide an additional 14 days within which the DRC will have to take a decision.

(11). In terms of Para 3 (ix) of the DRM Order, DRC will be free to interact with relevant parties of the case and shall record their views. No lawyers shall be permitted for presenting the case before DRC. SECI/ NTPC would also be permitted to present their views/ arguments on the pleas made by the applicant. If required, DRC may interact with MNRE, in which case, the MNRE's Division dealing with the DRM shall act as Ministry's nodal point.

(12). Since the order dated 18.06.2019, with amendments thereon dated 20.09.2019, in Para 3, allows the developer to appeal to DRC against the SECI/NTPC's order within 21 days of SECI/NTPC's order, any adverse financial impact coming on the developer in pursuance of such order by SECI/NTPC should be put in abeyance for 21 days subsequent to the issuance of such order. In case appeal, is not filed within the said period of 21 days, or appeal is rejected for want of requisite fee, action as appropriate can be taken by SECI/NTPC. Further, no coercive action shall be taken on cases brought before the DRC till the final disposal of the appeal by the DRC and Ministry, where applicable.

(13). The DRM has been set up to facilitate the resolution of disputes in the solar and wind sector, between SECI/NTPC and the developers. As the DRM will help in furtherance of SECI/NTPC's role as intermediary procurer by enhancing the investors' confidence, all expenses coming out of the Dispute Resolution Mechanism Order dated 18.06.2019, or these Guidelines, including the expenses related to the DRC and the secretariat thereof, shall be borne by SECI/NTPC and no recourse to any Payment Security Fund, if any, shall be made in this regard.

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



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