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MNRE GUIDELINES AMENDED: SIX MONTHS EXTENSION FOR COMMISSIONING SOLAR POWER PROJECTS

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Introduction

On 30 August 2018, the Ministry of New and Renewable and Energy, Government of India (MNRE), amended the guidelines for setting up grid connected solar photovoltaic power projects under the viability gap funding scheme of 750 MW under Batch I of Phase II, 2000 MW under Batch III of Phase II, and 5000 MW under Batch IV of Phase II of the National Solar Mission (Amended Guidelines).

The power purchase agreements (PPAs) entered with the Solar Energy Corporation of India (SECI), pursuant to the abovementioned schemes, require solar power projects to be commissioned within 12 or 13 months, as the case may be, from the effective date of the PPAs (Scheduled Commissioning Date). However, in case there is any delay in commissioning the solar power project by its Scheduled Commissioning Date, the PPA provides for a maximum period of 24 or 25 months from the date of execution of the relevant PPA to commission the solar power project (Long Stop Date), subject to payment of liquidated damages for such delay followed by reduction in tariff under the PPA. If the solar power project is not commissioned by the Long Stop Date (after payment of liquidated damages and reduction in tariff), the same is treated as the developer's event of default under the PPA, allowing the SECI to terminate the PPA for the capacity not commissioned.

Pursuant to the Amended Guidelines (including satisfaction of the eligibility conditions provided below), developers will be given an extension of up to 6 months upon the expiry of the Long Stop Date for commissioning the solar power projects. However, if only a part of the solar power project is set up by the Long Stop Date, then an extension for commissioning the solar power project will only be provided for such part set up before the Long Stop Date.

Conditions for Extension

The extension under the Amended Guidelines will be available to solar power projects which have been otherwise set up and are ready to be commissioned, but the formalities for completion could not be completed due to: (i) a delay in re-classification of the use of land from agricultural to non-agricultural purposes; (ii) a ceiling on procurement of land in the relevant State; (iii) a delay in land leasing permissions from

the State Government/ State authorities; or (iv) a delay in setting up of evacuation infrastructure by solar park implementation agencies or State authorities.

Comment

The MNRE has been facilitating the commissioning of solar power projects which are facing genuine issues by providing an enabling framework. The MNRE had earlier in June 2018, clarified that the solar power projects being developed for offtake of power by the SECI will not require registration with the State nodal agencies. It appeared that developers were not being issued commissioning certificates by the State nodal agencies until they registered the solar power projects and paid the applicable registration fees.

This step is again in the right direction as the failure of the developers to receive any further extension beyond the stipulated timeframe for reasons beyond their control would have made the solar power projects unviable resulting in undesirable disputes.

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