

MAHINDRA SUSTEN PRIVATE LIMITED

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Ref No: CERC/MSPL/GNA/01

Date: 7th March, 2024

To,
The Secretary,
Central Electricity Regulatory Commission,
3rd & 4th Floor, Chanderlok Building,
36, Janpath, New Delhi-110001

Subject: Comments on Draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Second Amendment) Regulations, 2024

Dear Sir,

- A. We would like to introduce ourselves as Mahindra Susten Private Limited, a clean-tech arm of the Mahindra Group. Over the years, we have developed 1.5 GWp+ of IPP renewable assets contributing to India's RE targets. We have also successfully executed 4.2 GWp+ of renewable projects as an EPC in India and across the globe. Our commitment to decarbonization and achieving ESG goals is further strengthened by our dedicated in-house EPC team, ensuring excellence in all our endeavours.
- B. We are pleased to note that CERC has proactively issued Draft Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Second Amendment) Regulations, 2024. In this regard, we would like to participate in the consultation process with CERC and we are herewith submitting our comments on the same (enclosed herewith). We are hopeful that CERC would find merit in our submissions and incorporate the same Regulations.

Thanking you,
Yours faithfully,



Ankur Pathak,

Head – Regulatory Affairs

Encls: As above

Comments on Central Electricity Regulatory Commission (Connectivity and General Network Access to the inter-State Transmission System) (Second Amendment) Regulations, 2024

S n	Clause	Original Clause	Recommended Clause	Rationale
1	2.1 (ag-i)	Renewable Energy Implementing Agency" means and includes an entity designated by the Central Government or the State Government to act as Intermediary Procurer to select and buy power from Renewable energy generating station(s) and sell the same to one or more distribution licensees or any other entity in accordance with the Guidelines issued from time to time by the Ministry of Power, Government of India or the Ministry of New and Renewable Energy, Government of India or the State Government.	Renewable Energy Implementing Agency" or " Bid Process Coordinators " means and includes an entity designated by the Central Government or the State Government to act as Intermediary Procurer to select and buy power from Renewable energy generating station(s) and sell the same to one or more distribution licensees or any other entity in accordance with the Guidelines issued from time to time by the Ministry of Power, Government of India or the Ministry of New and Renewable Energy, Government of India or the State Government.	Bid Process Coordinators such as RECPDCL , PFFCL and NVVN may also be included in the definition of REIAs as has been notified by MoP notice no. F.No. 09/11/2021- RCM- Part (1) dated 17th June, 2022 under "Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid connected RE Power Projects for utilization under the scheme for flexibility in generation and scheduling of Thermal/Hydro Power Stations through bundling with Renewable Energy and Storage power". Further, same was dealt with in CERC Suo-motu order no. 11/SM/2023 dated 22.09.2023 wherein CERC directed particular instance to be considered till regulations are in place.
2	4.1 (f)	Notwithstanding anything contained under Clauses (a) to (c) of this Regulation, the minimum installed capacity individually or with an aggregate installed capacity to apply for a grant of Connectivity shall be 25 MW in North Eastern Region (NER)	Notwithstanding anything contained under Clauses (a) to (c) of this Regulation, the minimum installed capacity individually or with an aggregate installed capacity to apply for a grant of Connectivity shall be 25 MW in North Eastern Region (NER) and Eastern Region	It is important to increase the installation in Eastern part of India which has been a neglected for most part of India's Renewable journey. In this context, we urge commission to encourage RE installation in Eastern parts, where RE installations have been less due to scare availability of contiguous land parcels and restrictive laws on land acquisitions. However, the region also provides an opportunity for captive RE installations due to industrialization activities. Therefore, we request to widen the scope of minimum cumulative installation of 25 MW to Eastern region along with NER region.
3	5.8.vii.c & 5.8.xi.c	For a capacity up to 1000MW - Bank Guarantee of Rs. 10 lakh/ MW and for a capacity more than 1000MW - Bank Guarantee of Rs. 100 Crore plus Rs. 5 lakh/ MW for capacity over and above 1000MW, in lieu of ownership or lease rights or land use rights of land for 50% of the land required for the capacity for which Connectivity is sought subject to provisions of Regulations 11A and 11B of these regulations; or	For a capacity up to 1000MW - Bank Guarantee of Rs. 5 lakh/ MW and for a capacity more than 1000MW - Bank Guarantee of Rs. 400 Crore plus Rs.10 lakh/ MW for capacity over and above 1000MW, in lieu of ownership or lease rights or land use rights of land for 50% of the land required for the capacity for which Connectivity is sought subject to provisions of Regulations 11A and 11B of these regulations subject to condition that capacity limit of 1000MW shall be applicable to Applicant only; or	1. Generally, Parent company forms multi SPVs and apply for connectivity. It may happen that such SPVs may cumulatively apply for connectivity of more than 100 MW, which , in such case, would entail 100 Crore+Rs. 5lakhs/MW BG requirement. Therefore, it is important to understand whether the limit of 1000 MW is on a group level basis i.e. for Parent company or on Applicant basis i.e. on SPV basis where an SPV is independently applying for 1000MW or less. We request Honb'le Commission to clarify in it's regulations on the applicability of 1000 MW to SPV or Parent basis. 2. RE developers have been participating in several Bids issued by REIAs, BPC etc. In this context, it is important to inform the Honb'le Commission that such Bids entail providing large number of Performance Bank Guarantees in tender in the range of 29-30 lakhs/MW (for a single component such as Solar or Wind). Further, this amount more than doubles up for RTC, HYBRIC, FDRE sort of tenders. Such PBG amounts are subsisting till COD of the Project. In this context, it is imperative that seriousness of such Developers is put to test under connectivity Regulations by way of submission of Rs. 10 lakhs/MW under Land BG routes. We appreciate the intent of seriousness, however, it is imperative that such costs affect the viability of the Projects and such barriers should be lowered. We therefore request Honb'le Commission to keep the Land BG upto 1000 MW at Rs. 5 lakhs/MW and beyond 1000 MW at Rs. 10 Lakhs/MW.
4	11A.2 & 11A.3	11A.2..... at least 10% of the project cost including the land acquisition cost through equity latest by 12 months prior to the scheduled date of commercial operation of such applicant: ...SCOD, as extended by REIA or a distribution licensee or an authorized agency on behalf of distribution licensee from time to time, release 10% equity infusion due to extension in SCOD shall not be allowed more than 12 months from the original timeline as per initial SCOD. 11A.3 ... financial closure for the capacity of such Connectivity, latest by 12 months prior to the scheduled date of commercial operation of such applicant: SCOD, as extended by REIA or a distribution licensee or an authorized agency ... milestone of Financial Closure due to extension in SCOD shall not be allowed more than 12	...and in cases where LoA or PPA has been terminated by the Applicant	1. It may be clarified the "scheduled date of commercial operation" and "SCOD" are as per IEGC, 2023 or date provided in Application or as per LOA/PPA entered into with REIAs. The definitions differ across commercial operation may be clearly provided in the Regulations. 2. As per Bidding Guidelines and tender documents issued by REIA, the Financial Closure is generally 6 months before SCOD. In cases of extension of SCOD, the FC milestones also gets extended. In view of such scheme, it is imperative that any Applicant getting covered under 5.8.xi.a of this Regulation should be aligned with such Guidelines in order to harmonize the compliance requirements. In this context, it is requested to kindly consider fulfillment of requirement of 10% equity and FC compliance latest by 6 months from SCOD. 3. In view of point '2' above, we also request to consider that any extension in the timeline to release 10% equity infusion and FC due to extension in SCOD which shall not be more than 12 months from the original compliance timeline.
5	11A.5	...and in cases where LOA or PPA has been terminated by the entity and the same has also been agreed by the REIA or Distribution Licensee, such Applicant may convert the Connectivity, in full or part, granted under sub-clause (a) of Clause (xi) of Regulation 5.8 of these regulations to Connectivity under sub-clause (b) of Clause (xi) of Regulation 5.8 of these Regulations with no change in the start date of Connectivity consequent to such conversion and compliance to requirements of Clause (2) and Clause (3) of this Regulation as applicable to entities covered under sub- clause (b) of Clause (xi) of Regulation 5.8 of these regulations: and in cases where LoA or PPA has been terminated by the Applicant in terms of Bidding documents issued by REIAs or termination has been agreed by the REIA or Distribution Licensee, such Applicant may convert the Connectivity, in full or part, granted under sub-clause (a) of Clause (xi) of Regulation 5.8 of these regulations to Connectivity under sub-clause (b) of Clause (xi) of Regulation 5.8 of these Regulations with no change in the start date of Connectivity consequent to such conversion and compliance to requirements of Clause (2) and Clause (3) of this Regulation as applicable to entities covered under sub- clause (b) of Clause (xi) of Regulation 5.8 of these regulations shall start from the date of conversion from sub-clause (a) of Clause (xi) of Regulation 5.8 to sub-clause (b) of Clause (xi) of Regulation 5.8 : ...	There have been several cases in the past that due to non-availability of offtake, back to back Power Sale agreements had taken undue time. In such cases, the connectivity was also obtained on basis of LOA. Such cases does not entail default on part of Applicant. However, to better utilize the connectivity so obtained should be allowed by enabling the Applicant to go ahead and terminate LOA unilaterally in terms of RFS documents. Such flexibility shall allow better utilization, seriousness and importantly allow Applicants to implement the Project on ground. Conversion of LOA based connectivity to Land should be allowed in cases of unilateral termination by Applicant as per terms of RFS. The phrase "in cases where LOA or PPA has been terminated by the entity and the same has also been agreed by the REIA or Distribution Licensee" should be rephrased to reflect this understanding. Further, we request to cover the compliance of conversion from LOA/PPA route to Land route should start from the date of conversion and not from the date of grant of original connectivity under LOA route. Further the SCOD of the Project should also be extended to cover for the the time of final grant under LOA to final grant under Land route after conversion.

	11A.6		Addition of New clause	We request Hon'ble Commission to allow part or full conversion connectivity granted under Land BG or Land route to LOA/PPA route. For BG route applications, the partial BG amount could be discharged in case of conversion to LOA/PPA route. It is not necessary that full connectivity under LOA route be mandatorily applied for while conversion. The regulations may be amended to provide such clarity.
6	11B	Consequences of non-fulfillment of conditions under Regulation 11A		We request Hon'ble Commission to allow return of Land BGs in cases of: <ul style="list-style-type: none"> - withdrawal of application - before submission of CON BGs - conversion of Land route application to LOA/PPA based application - fulfillment of compliances under Regulation 11A.2 but failure to comply under 11A.3
	15.1	Misc	Misc	<ul style="list-style-type: none"> - Given the competitive nature of market and connectivity being blocked beyond 2028, it is imperative for applicants to seek connectivity much in advance, to support the business development plans. It is not feasible to foresee and plan the SPVs while filing connectivity. - Once the said Connectivity is granted, the freedom of choice comes in for which specific Subsidiary Company (or Project SPV) will actually develop the project – which can differ basis compliance perspective, or targeted customers to be served, or even the solar-wind mix in the RE solution being provided. - The Bidding Guidelines allows us to Bid from Parent and thereafter execute the PPA from SPV. In such circumstances, it is important that clause 15.1 is exercised and such SPV where the PPA is executed, be allowed to utilize the connectivity of its Parent. - However, CTUIL is interpreting the current provision in a manner where it would be impossible to exercise our rights under the Regulation 15.1. The narrow interpretation is that any entity obtaining connectivity under Land or Land BG route has to have all approvals, including land documents in its own name. This interpretation creates hurdles where connectivity is in Parent's name but is to be utilized by SPV which is custodian of all approvals, PPA etc. related to Project. - Another point is that the Condition Subsequent such as Land and financial Closure provided under GNA Regulations, 2022 are to be complied with, by the connectivity grantee i.e. Parent itself. In a business-as-usual scenario, it is the subsidiary that is developing the project shall buy the land and does the financial closure. Therefore, utilization of Parent's Connectivity by SPV must be allowed and interpreted in a literal manner as provided in Regulations.