**Date:** 13.12.2025

To,
The Secretary,
Central Electricity Regulatory Commission (CERC),
6th, 7th & 8th Floors, Tower B, World Trade Centre,
Nauroji Nagar, New Delhi- 110029

**Subject:** Comments and Suggestions on the Staff Paper regarding "Proposal for allocation of Connectivity granted (on LOA route) where the signing of the PPA/PSA is getting delayed"

**Reference:** CERC Staff Paper on Proposal for Allocation of Connectivity

**Respected Sir/Madam,**

We write to you as stakeholders deeply invested in the robust and legally sustainable development of India's renewable energy sector. We commend the Hon'ble Commission and its Staff for the comprehensive Staff Paper aimed at addressing the sub-optimal utilization of the Inter-State Transmission System (ISTS) caused by delays in signing Power Purchase Agreements (PPAs). We fully support the objective of disciplining the grid allocation framework to ensure that connectivity, a scarce resource, is allocated to committed developers.

However, a granular analysis of the Staff Paper reveals structural and legal incongruities, particularly regarding the integration with Central Transmission Utility (CTU) procedures and the exclusion of statutory Open Access rights. Our submission highlights these issues and proposes a "Provisional Connectivity" framework that harmoniously integrates with the exit options proposed in the Staff Paper.

Our detailed submissions are articulated below:

## SECTION I: HARMONISATION WITH CTU PROCEDURES AND THE HIERARCHY OF REALLOCATION

### 1. Conflict with Existing Priority Queues (Proposal 1, Option 3)

The Staff Paper, under Proposal 1 (Option 3), suggests that if a developer surrenders connectivity, such capacity should immediately be put to auction4. We submit that this approach fails to integrate with the CTU's Draft Reallocation Procedure, which relies on a time-stamped, queue-based priority system.

### 2. The Risk of "Cornering" Capacity

Bypassing the existing queue to auction vacated capacity creates a perverse incentive. Deep-pocketed entities could wait for surrenders and aggressively bid for capacity, effectively "jumping the queue" over developers who have been waiting diligently. This artificial inflation of connectivity costs contradicts the objective of competitive tariff discovery.

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### 3. Submission

We earnestly request the Commission to mandate that any connectivity vacated (due to surrender under Option 3) must first be offered to the existing applicants in the CTU's queue based on their original time-stamp. Only the residual, unallocated capacity that remains after exhausting the queue should be subjected to the auction mechanism proposed in the Staff Paper. This preserves the sanctity of the "first-come, first-served" principle while allowing market-discovery mechanisms for surplus capacity. Developers who have neither land or LOA or PPA, they can participate in residual connectivity auction.

## SECTION II: PRESERVATION OF STATUTORY OPEN ACCESS RIGHTS (PROPOSAL 2)

### 4. Exclusion of C&I and Open Access (Proposal 2, Option 1)

The Staff Paper proposes that for future connectivity, the LoA route be deleted and only a PPA (under GoI guidelines) be considered a valid document. We respectfully submit that this restriction is legally untenable as it effectively bars Commercial & Industrial (C&I) projects and other Open Access models from accessing the ISTS network.

### 5. Legal Inconsistency with the Electricity Act, 2003

Section 9 (Captive Generation) and Sections 38/42 (Non-Discriminatory Open Access) of the Electricity Act, 2003, grant a statutory right to non-discriminatory open access. Limiting connectivity eligibility strictly to government-procured PPAs introduces a discriminatory classification that may be viewed as ultra vires the parent Act.

### 6. Submission

We propose that the condition be broadened to include "Bankable PPAs." Connectivity should be granted for projects backed by PPAs with creditworthy C&I consumers (e.g., off-takers with a minimum credit rating of 'AA' or equivalent), ensuring compliance with the statutory mandate of non-discriminatory open access.

## SECTION III: THE ADVERSE IMPACT OF PPA-TIMESTAMPING AND AUCTION-ONLY MODELS

### 7. Uncertainty on PPA execution timelines

Proposal 2 (Option 1) suggests making the PPA signing the sole criterion for connectivity. PPA signing is administratively fluid and often delayed by factors beyond a developer's control (e.g., PSA adoption delays). Making this the criterion turns connectivity allocation into a "bureaucratic race" rather than a merit-based system, disadvantaging developers who won bids earlier but faced administrative bottlenecks.

### 8. Contradiction with MNRE Guidelines for Under-Construction Projects

If connectivity is denied until a PPA is signed, the "under-construction" category encouraged by MNRE guidelines becomes unviable. Investors cannot deploy equity into a project lacking grid access.

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**9. Economic Inefficiency of "Auction-Only" Connectivity (Proposal 2, Option 2)**

The proposal to grant future connectivity only through an auction mechanism will force developers to lock in equity for long gestation periods (6-8 years) especially for the Sub-stations where the Start date of connectivity has a lead time of 3-4-5 years. This introduces a "double-auction" risk (Grid Auction + Tariff Auction), inevitably leading to higher tariffs for the end consumer for developers who are participating in RE auctions of under RE Bidding Guidelines.

## SECTION IV: PROPOSED REGULATORY ARCHITECTURE (THE "PCN" FRAMEWORK)

To resolve these misalignments, we propose a unified **"Provisional Connectivity" (PCN)** framework that bridges the gap between LoA issuance and PPA signing, while ensuring strict discipline via the exit options already drafted by the Staff.

### A. Introduction of Provisional Connectivity (PCN)

The Commission is requested to introduce a 12-month Provisional Connectivity stage.

- **Eligibility:** Grant PCN based on (a) Letter of Award (LoA) from the REIA/Bid Conductor, AND (b) Proof of Land Rights.
- **Conversion:** PCN automatically converts to Final Connectivity upon submission of the signed PPA within the 12-month window.

### B. Mandatory Transition to "Proposal 1" Options Post-Expiry

Crucially, to prevent indefinite capacity blocking, we propose a strict "sunset clause." If the developer fails to submit a signed PPA within the 12-month PCN validity period, the Provisional Connectivity must mandatorily transition to the remedial pathways outlined in Proposal 1 of the Staff Paper. Specifically, the developer must exercise one of the following:

- **Transition to Option I (Exit LoA Route):** Convert to the Land/Merchant route by furnishing the enhanced Performance Bank Guarantee (PBG) of Rs. 10 Lakhs/MW and adhering to the 18-month SCOD timeline.
- **Transition to Option II (Substitution):** Substitute the underlying LoA with a signed PPA from another project/entity.
- **Transition to Option III (Surrender):** Exit the connectivity, triggering the penalty mechanisms (encashment of Conn-BG1) and releasing the capacity for reallocation.

### C. Prioritisation Based on Bid Award Date

Priority for connectivity must be anchored to the "Date of Issuance of LoA/Bid Award" rather than the date of PPA signing.

### CONCLUSION AND PRAYER

In light of the above, we pray that the Hon'ble Commission may be pleased to:

1. **Reject the proposal for immediate auction** of surrendered capacity in favor of the CTU's time-stamped queue.

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2. **Amend eligibility** to include creditworthy C&I PPAs.
3. **Adopt the "Provisional Connectivity" mechanism**, which provides a 12-month bridge for PPA execution but mandates a strict transition to the Staff Paper's proposed exit/conversion routes (Options 1, 2, or 3) immediately upon expiry.

We believe these modifications will result in a regulatory framework that is legally robust, commercially viable, and aligned with the objectives of the Staff Paper.

For Hero Solar Energy Private Limited,

**Ankur Pathak**
Head – Regulatory Affairs

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