

**CENTRAL ELECTRICITY REGULATORY COMMISSION
NEW DELHI**

Petition No. 301/MP/2025

Coram:

**Shri Jishnu Barua, Chairperson
Shri Ramesh Babu V., Member
Shri Harish Dudani, Member
Shri Ravinder Singh Dhillon, Member**

Date of Order: 3rd July, 2026

In the Matter Of:

Petition under Section 79 (1) (k) of the Electricity Act, 2003 Read with Regulation 19 (3) of the Central Electricity Regulatory Commission (Indian Electricity Grid code) (First Amendment) Regulations, 2024 seeking extension of infirm power injection for 100 MW Solar Component out of the SECI 600 MW Hybrid Project.

AND

In the Matter Of:

TP Saurya Limited

C/o The Tata Power Company Limited, B Block,
Corporate Centre, 34 Sant Tukaram Road, Carnac Bunder,
Mumbai, Maharashtra-400009

...Petitioner

Versus

1. Northern Regional Load Despatch Centre

18-A, Shaheed Jeet Singh Sansanwal Marg,
Katwaria Sarai, New Delhi-110016

...Respondent No. 1

2. Solar Energy Corporation of India

6th Floor, Plate-B, NBCC Office Block Tower-2,
East Kidwai Nagar, New Delhi-110023

...Respondent No. 2

3. Tata Power Trading Company Limited

B-12/13, Sector 4, 2nd Floor, Noida,
Uttar Pradesh-201301

...Respondent No. 3

4. MPSEZ Utilities Limited

Adani Corporate House, Shantigram,
Near Vaishno Devi Circle, S.G. Highway,
Khodiyar, Ahmedabad, Gujarat-382421

...Respondent No. 4

5. CESC Limited

CESC House, Chowringhee Square,
Kolkata, West Bengal – 700001

...Respondent No. 5

Parties Present: Shri Suhael Buttan, Advocate, TPSL
Ms. Priya Dhankar, Advocate, TPSL
Shri Nikunj Bhatnagar, Advocate, TPSL
Ms. Drishti Rathi, Advocate, TPSL
Shri Hemant Singh, Advocate, MUL
Ms. Alchi Thapliyal, Advocate, MUL
Shri Jay Lal, Advocate, MUL
Shri Arun Lal, Advocate, MUL
Shri Nishant Kumar, Advocate, MUL
Shri Ranjan Kumar, MUL
Shri Anil, MUL
Ms. Shikha Ohri, Advocate, SECI
Shri Kartik Sharma, Advocate, SECI
Ms. Divya Chaturvedi, Advocate, CESC Ltd.
Shri Saransh Shaw, Advocate, CESC Ltd.
Shri Jai Dhanani, Advocate, CESC Ltd.
Shri Ajit Kumar Yadav, NRLDC
Shri Alok Mishra, NRLDC
Ms. Himani Dutta, NRLDC

ORDER

The present Petition has been filed by TP Saurya Limited (hereinafter referred to as 'Petitioner'), seeking extension of infirm power injection for the 100 MW Solar component of the 600 MW Hybrid Project. The Petitioner has made the following Prayers:

- (a) *Admit the present Petition;*
- (b) *Grant an extension for injection of infirm power to the Petitioner from the 100 MW component of the Project till the actual date of commissioning of the total capacity, i.e., 600 MW of the Project under Regulation 19(3) of CERC (Indian Electricity Grid Code) Regulations, 2024.*
And/or
- (c) *Pass such other order(s)/direction(s) which this Hon'ble Commission may deem fit and proper in light of the facts and circumstances of the present case and in the interest of justice.*



Submissions of Petitioner:

2. The Petitioner has mainly submitted as follows:

- (a) The Petitioner is developing a hybrid Project of 600 MW, comprising 400 MW of Solar and 200 MW of Wind energy, in terms of the Request for Selection (“RfS”) dated 22.10.2021 and subsequent Letter of Award (“LoA”) dated 12.07.2022 issued by Solar Energy Corporation of India Limited (“SECI”/ “Respondent No. 2”). The Project of the Petitioner is intended for power supply through SECI as an intermediary to MPSEZ Utilities Limited and CESC Limited.
- (b) On 31.03.2023, Petitioner and SECI executed the PPA for supply of 600 MW of Hybrid Power (Solar - 400 MW and Wind - 200 MW) with an Effective Date of 11.01.2023. The Solar component of the Project was to be established in District Koppal, Karnataka, and the Wind component in District Gadag, Karnataka. The original SCOD, as per the PPA, was 11.01.2025.
- (c) In June 2023, SECI filed Petition No. 213/AT/2023 seeking adoption of a tariff under Section 63 of the Act for 1170 MW Wind-Solar Hybrid Power Projects (Tranche-V) connected to ISTS and selected through a competitive bidding process as per the Guidelines of the Government of India under RfS dated 22.10.2021 by SECI. The Commission, by way of an order dated 13.09.2023, adopted the Tariff.
- (d) The Financial Closure and SCOD were revised to 15.05.2024 and 16.05.2025, respectively, due to the delay in the adoption of the tariff.
- (e) On 23.10.2023, the Petitioner, by way of a letter issued to SECI, requested a change in location qua its Solar component as (i) 100 MW Solar from Koppal II, Karnataka to Bikaner II, Rajasthan and (ii) 300 MW Solar from Koppal II, Karnataka to Koppal, Karnataka. SECI, by way of its letter dated 11.12.2023, accorded approval for the change in location.
- (f) On 06.01.2024, the Petitioner issued a letter to SECI as well as the buying entities, inter alia, stating that pursuant to the approval for change in location, 100 MW Solar components being developed at Bikaner II, Rajasthan shall be commissioned by 30.06.2024 and the associated 200 MW wind component shall be commissioned depending upon the readiness of Gadag II CTUIL Substation in Karnataka. The Petitioner proposed a tariff of Rs. 3.08 per unit, including SECI's margin, for the 100 MW solar power at the delivery point of the Generator



CTU periphery for the period from the Commissioning date of the 100 MW Solar Project till the COD under the PPA. Further, it was mentioned that if the buying entities/SECI did not wish to purchase power as per the above proposal, the Petitioner shall use the other option available under the RfS to sell the power to a third party till COD of the Project.

- (g) On 26.03.2024, the Petitioner issued a letter to SECI requesting an extension of SCOD due to the delay in the Gadag II Substation.
- (h) NRLDC issued the first-time charging certificate to the Petitioner and approved the trial run of the 100 MW Project on 24.04.2024.
- (i) On 25.04.2024, SECI issued NoC for sale of 100 MW power outside of PPA as per provisions of RfS/PPA, till early and/or Part Commissioning of the Project or the date of commencement of procurement of power from the Project as notified by SECI/Revised SCOD, whichever is earlier.
- (j) On 20.05.2024, SECI, in response to the Petitioner's letter dated 26.03.2024, granted an extension for commissioning of the entire project capacity of 600 MW till 24.02.2026 or the actual start date of connectivity+ 2 months, whichever is later, due to the delay in Gadag II Substation.
- (k) On 09.07.2024, the Petitioner entered into a Power Delivery Agreement ("PDA") with TPTCL for the sale of 70 MW installed capacity out of the 100 MW Solar Power Project established in Bikaner.
- (l) On 18.07.2024, the Petitioner issued a letter to NRLDC, thereby seeking its approval for scheduling infirm power generated from its 100 MW Project up to 24.04.2025. In the said letter, the Petitioner inter alia stated and apprised NRLDC that in terms of the MoM dated 10.05.2024, Gadag-II substation is scheduled for commissioning in Dec 2025 and hence, the wind capacity is not feasible before December 2025, in line with which SECI has provided an extension of SCOD at least up to 24.02.2026. Further, the Petitioner had also obtained charging approval for the 100 MW Banderwala Solar Plant connected to the Bikaner II substation. However, the PPA entered into with SECI does not permit part commissioning in view of Clause 5.1.6 and Schedule 3.1 of the PPA, as part commissioning cannot be construed by installing only one of the projects, whether wind or solar.

- (m) On 13.09.2024, NRLDC issued a certificate of successful trial for the Petitioner's 100 MW (out of 300 MW) Banderwala Solar Project (with electrical load) as per Regulation 35 of the Grid Code.
- (n) On 13.09.2024, CTUIL sent an intimation for Final Grant of Connectivity at Gadag-II Substation, as per which, the start date of connectivity is 27.12.2025.
- (o) On 22.10.2024, NRLDC issued a standing clearance certificate for Petitioner's 100 MW Banderwala Solar Plant for the period from 01.11.2024 to 30.11.2024.
- (p) On 26.10.2024, the Petitioner filed a petition bearing no. 421/MP/2024 before the Commission under Section 79(1) (k) of the Act read with Regulation 57 and 58 of Grid Code seeking relaxation of Regulation 19(2)(b) amended by way of first Amendment to the Grid Code, as the Petitioner was under the apprehension that in terms of the said amendment, the Petitioner's Project had already time overrun by 175 days and required intervention of the Commission to remove the said difficulty.
- (q) Thereafter, pursuant to filing of the said Petition and after the Grid Code amendment was notified, NLDC on 30.10.2024 issued an Advisory stating that *'The zero date/start date for the above sub-clause (b) & (c) of Clause (2) of Regulation 19 of the Principal Regulations shall be effective from the date of publication of the Central Electricity Regulatory Commission [Indian Electricity Grid Code) [First Amendment) Regulations, 2024 in the official Gazette of India'*.
- (r) On 08.11.2024, during the hearing of Petition No. 421/MP /2024, the Commission, taking note of the advisory issued by the NLDC dated 30.10.2024, observed that the Petitioner had not yet approached the concerned RLDC for the permissible three-month extension. The Commission further clarified that only after availing such an extension from the RLDC could the Petitioner seek further relief from the Commission in terms of the proviso inserted in Regulation 19(3) of the Grid Code.
- (s) Accordingly, by its Order dated 25.11.2024, this Commission permitted the Petitioner to withdraw the said Petition, granting liberty to the Petitioner to approach the Commission at an appropriate stage with a fresh Petition, after following the due process as stipulated under Regulation 19(3) of the Grid Code.
- (t) On the same date, the Petitioner issued a letter to NRLDC seeking a 3-month extension for the sale of infirm power in terms of Clause 19 of the Grid Code. In

the said letter, the Petitioner provided the following justifications for the requested extension: -

- (i) Extension has been sought in light of the non-readiness of the evacuation infrastructure, specifically related to the 200 MW wind component of the Project at Gadag-II PS, which was initially scheduled for commissioning by 31.10.2024, but has now been shifted to 31.12.2025.
- (ii) The said delay in commissioning was primarily caused by the late transfer of the Special Purpose Vehicle ("SPV") responsible for developing the transmission system, which, in turn, resulted in a corresponding extension of the Scheduled Commercial Operation Date ("SCOD") for the hybrid project under the SECI PPA to 24.02.2026.
- (iii) As the SECI PPA does not permit commissioning of a single component, the Petitioner sought and obtained an NOC from SECI on 25.04.2024 to sell the generated power to third parties. Pursuant to this, the Petitioner entered into a PDA with TPTCL for the sale of 70 MW, with the remaining 30 MW being sold through power exchanges.
- (iv) Initially, the Petitioner was under a genuine assumption that infirm power injection would be allowed for one year from the first synchronization, as per the provisions of the Grid Code.
- (v) However, the 2024 Grid Code amendment, effective from 29.10.2024, revised this period to 45 days from the date of FTC approval. Since the Petitioner had already exhausted this 45-day period, the Petitioner filed Petition No. 421/MP/2024 before this Commission, seeking permission to continue injecting infirm power until the COD of the SECI project.
- (vi) Further, during the course of the hearing, the Commission clarified that the start date established in the NLDC advisory and stated that the Petitioner would be eligible to inject infirm power till 13.12.2024, i.e. 45 days from 29.10.2024. Hence, the Petitioner sought NRLDC's approval for a 3-month extension, i.e. 13.12.2024 to 13.03.2025, to prevent the 100 MW capacity from idling.
- (u) The Petitioner approached NRLDC, which, after due consideration, granted standing clearance for injection of infirm power from the 100 MW Solar component (out of the total 600 MW capacity of the Hybrid Project) up to

13.03.2025, being the maximum permissible period of 135 days (i.e., 45 days plus a three-month extension) as per Regulation 19(3) of the Grid Code.

- (v) Having now exhausted the maximum extension period available with the RLDC and with the delay in commissioning of the Gadag-II substation extending beyond the Petitioner's control, the Petitioner is constrained to approach this Commission by way of the instant Petition seeking further extension of the period for injection of infirm power from its 100 MW Solar component until the actual COD of the entire 600 MW Hybrid Project.
- (w) The Petitioner, from time to time, was granted the standing clearances/ NoC from NRLDC from 01.12.2024 for injection of infirm power. Ultimately, on 20.02.2025, the Petitioner was granted standing clearances till 13.03.2025 by NRLDC, thereby ending the three-month time extension that NRLDC can provide in terms of the Grid Code.
- (x) The Petitioner is seeking an extension for the injection of infirm power from this Hon'ble Commission till the actual COD of the entire Project capacity of 600 MW as per the applicable proviso inserted in Regulation 19(3) of the Grid Code.

Hearing dated 11.03.2025

3. The extracts of RoP for the hearing dated 11.03.2025 are as under:

“Learned counsel for the Petitioner submitted that the present Petition had been filed inter alia seeking an extension of infirm power injection for the 100 MW Solar Component out of the 600 MW SECI Hybrid Project. Learned counsel further submitted as under:

(a) The Petitioner is developing a 600 MW Hybrid Project comprising 400 MW solar and 200 MW of wind components ('the Project') in terms of the RfS dated 22.10.2021 and subsequent Letter of Award dated 12.7.2022 issued by the Solar Energy Corporation of India Ltd. (SECI).

(b) While the 300 MW solar and 200 MW wind components being developed at Koppal and Gadag-II, respectively, are yet to be ready owing to the delay in the readiness of the concerned Pooling Station(s), its 100 MW solar component at Bikaner-II was issued the First Time Charging (FTC) approval by the NRLDC on 24.4.2024. However, owing to the delay in the readiness of the Gadag-II S/s, the SCOD of the Project under the PPA has been extended by SECI up to February 2026.

(c) Clause 10.2 of the RfS allowed the developer(s) to inject the power from one ready component of the Project without qualifying as early/part commission, and accordingly, the Petitioner had offered this 100 MW solar component to SECI, which it did not accept. Consequently, SECI issued the NOC for the sale of this 100 MW power outside of PPA, till early and/or part commissioning of the Project or the date of commencement of procurement of power from the Project as notified by the SECI/Revised SCOD, whichever is earlier. The Petitioner has, accordingly, entered into an arrangement with the Tata Power Trading Co. Ltd. in respect of this capacity.



(d) By the First Amendment to IEGC, 2024, the injection of infirm power by the Renewable Energy based Generating Station (REGS) has been restricted to 45 days from the FTC approval and allows an extension of three months if applied to the concerned RLDC, at least 10 days in advance. Further, in the event that the REGS requires further extension beyond the extended period of 3 months, it is required to approach the Commission, at least 15 days in advance, by furnishing detailed reasons for further extension.

(e) In the present case, the Petitioner has already sought NRLDC's approval for the extension of three months for the injection of infirm power w.e.f. 13.12.2024 to 13.3.2025 to prevent the idling of its 100 MW solar component and by way of the present Petition, is now seeking a further extension for the injection of infirm power from this Commission till the actual COD of the entire Project capacity.

(f) Since the extension as allowed by NRLDC is about to expire on 13.3.2025 itself, the Commission may also consider passing an interim direction for granting a limited extension till such time the Commission proceeds with the matter so as to avoid the idling of its 100 MW solar component.

2. After hearing the learned counsel for the Petitioner, the Commission directed as under:

(a) The Petitioner to implead the concerned Buying Utilities/End Procurers as parties to the Petition and file a revised memo of Parties within 2 days.

(b) Admit and issue notice to the Respondents, subject to just exceptions;

(c) The Respondents, including the impleaded Respondents, to file their respective replies, if any, within two weeks with a copy to the Petitioner, who may file its rejoinder(s), within two weeks thereafter.

(d) The Petitioner to file the following information /clarification on an affidavit within two weeks:

(i) A copy of the grant of connectivity for solar and wind components of its Hybrid Project.

(ii) The reasons for non-declaration of COD for solar components under IEGC 2023.

(iii) Details of the schedule and actual injection for the Petitioner's 100 MW solar component for the period from 31.7.2024 to 28.2.2025.

(e) SECI to file the following information /clarification, on an affidavit, within two weeks:

(i) The provision of the PPA under which NOC has been issued by SECI for the sale of power to a third party.

(ii) Whether the "provisional commissioning certificate," in terms of Clause 5.1.8 of the PPA, has been issued by SECI.

(iii) Whether the first right of refusal was offered to the beneficiary of the generating station in terms of the order dated 22.12.2024 in Petition No. 11/SM/2024.

(f) In the interregnum, the Petitioner shall be permitted to inject the infirm power in respect of its 100 MW solar component in terms of the IEGC 2023, till the next date of the hearing."

Submissions of Petitioner in compliance with the RoP for hearing dated 11.03.2025:



4. The Petitioner, vide affidavit dated 27.03.2025, has submitted as under:
- (a) The Petitioner was granted final connectivity for its 300 MW Solar component at Koppal-II PS out of the 400 MW Solar component on 08.08.2024 by CTUIL. Further, the Petitioner was granted connectivity for its balance 100 MW Solar component at Bikaner-II PS on 18.01.2024 and 200 MW Wind component at Gadag-II PS on 13.09.2024. The Petitioner has furnished a copy of the respective connectivity grants.
 - (b) On account of the delay in readiness of the Gadag-II substation (i.e. till December, 2025) and the SECI PPA, which does not permit single-component commissioning, the Petitioner cannot declare COD of the solar component.
 - (c) The 100 MW Solar component has injected 112.49 MUs and scheduled 118.59 MUs for the period from 31.07.2024 to 28.02.2025.

Reply of the Respondent No. 5, CESC Limited:

5. The CESC Limited, vide affidavit dated 03.04.2025, submitted as under:
- (a) On 11.01.2023, CESC and SECI entered into a Power Sale Agreement (“PSA”) for procuring/purchasing 100 MW of power to be generated from the Project.
 - (b) In terms of Article 9.2 of the PPA, any energy produced and flowing into the grid before SCD will not be allowed to be sold to any other entity other than SECI (unless refused by SECI). Notably, CESC has at no point rejected the procurement of infirm power from Petitioner herein. SECI has incorrectly treated the communication dated 24.01.2024 issued by CESC to SECI as a rejection of the Petitioner’s proposal.
 - (c) CESC, in the communication dated 24.01.2024, had stated that any power procurement by it would have to be done in terms of applicable regulations; it had at no point rejected the procurement of power in question. In terms of the applicable regulatory framework, CESC is merely required to procure power at the tariff determined through competitive bidding, a power exchange or SECI.
 - (d) Petitioner ought to be directed to supply the entire 100 MW infirm power at the tariff discovered under the PPA/PSA, i.e., at Rs. 2.60/kWh to CESC as per the applicable terms contained therein, or at an equitable tariff as may be deemed fit by the Commission. In light of the provisions under the Grid Code and the observation of the Commission in the Suo Motu Order dated 22.12.2024, CESC,

as a Buying entity, wishes to exercise its right to procure the aforementioned infirm power from the Petitioner. In view of the upcoming summer and festive months, and to procure reliable and affordable power to effectively serve its consumers, CESC denies permission for the sale of such infirm power to any third party and the entire quantum of the infirm power shall be offered by the Petitioner.

- (e) Petitioner is only able to generate the present infirm Power because it was given permission by SECI to transfer part of the solar component of the proposed Project from Karnataka to another State, i.e., to the State of Rajasthan, which has led to the timely commissioning of such component.
- (f) The tariff of Rs. 3.08/kWh offered by the Petitioner is much higher than the PPA tariff, and the same would impact the consumers of CESC at large, as they would be burdened with such a higher tariff.
- (g) The clause allowing tariff for infirm power to be mutually decided is giving rise to an anomalous position, which has been addressed in the subsequent Competitive Bidding Guidelines. The subsequent Competitive Bidding Guidelines dated 21.08.2023 allow only 75% of the tariff payable for the sale of infirm power from one component of Wind-Solar Hybrid projects (Clause 15.4 of the Guidelines dated 21.08.2023). While the Competitive Bidding Guideline dated 14.10.2020, applicable to the present case, is silent on the aspect of sale of infirm power, the recent Competitive Bidding Guidelines deal with the tariff of the Infirm Power. Therefore, the Commission, by exercising its regulatory power in the present case, may kindly allow the procurement of this infirm power at the competitively discovered tariff by CESC.
- (h) As the NoC granted by SECI to the Petitioner duly records that such NoC can be withdrawn at any point by SECI, SECI ought to be directed to withdraw its NoC granted to the Petitioner since CESC is explicitly expressing its interest in procuring the power being generated by the Petitioner.

Submissions of the Respondent No. 2, SECI Limited, in compliance with the RoP for hearing dated 11.03.2025:

6. SECI, vide affidavit dated 14.04.2025 submitted as under:

- (a) The PPA does not envisage a scenario where one component of the Project (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to a delay in the grant of LTA/LTA



operationalization, as is the case in the instant petition. However, Clause 10.2 of the RfS provides for this special scenario and enables the generator to sell such power to any third party until the grant/ operationalization of LTA. This special scenario was provided for a case where a project component is ready, to ensure that generation from that component is not wasted. SECI, in line with the said Clause 10.2 of the RfS, issued the NOC to the Petitioner herein after the Buying Entities refused to purchase energy at the tariff cited by the Petitioner.

- (b) Clause 5.1.6 of the PPA states that installation of one source of generation cannot be considered to be part of the commissioning of the Project, and that both solar and wind capacities in the proposed ratio on a pro rata basis are to be installed. In the present case, the Petitioner has installed only the solar component for the generation of power, and the same cannot be treated as part commissioning under the PPA. As such, no provisional commissioning certificate, in terms of Clause 5.1.8 of the PPA, has been issued by SECI to the Petitioner.
- (c) The Petitioner, vide its letter dated 06.01.2024 addressed to SECI, CESC Limited and MPSEZ Utilities Limited, forwarded its tariff proposal for the sale of 100 MW Solar component before Commercial Operation of its Power Project. SECI, vide email dated 09.01.2024 to CESC Limited, sought a response from CESC on the Petitioner's proposal for the sale of power from the single solar component of 100 MW. CESC, vide its Letter dated 24.01.2024 to SECI and Respondent No. 3 and vide an email dated 14.10.2024 to SECI, stated that the Amended Clause 5.3 of the WBERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (First Amendment), 2020 requires the purchase of solar power from any source under JNNSM bundled power of SECI, which is selected through competitive bidding or from the power exchange. As such, CESC Limited did not accept the Petitioner's proposal at the proposed tariff.
- (d) SECI, vide an email dated 09.01.2024 addressed to MPSEZ Utilities Limited, sought its response to the sale of power from the single solar component of 100 MW. MPSEZ Utilities Limited, vide Letters dated 29.03.2024 and 26.04.2024, did not accept the tariff proposed by the Petitioner.

Rejoinder of the Petitioner to the reply of Respondent No. 5, CESC Limited:

- 7. The Petitioner, in its rejoinder vide affidavit dated 21.04.2025 to the reply filed by CESC Limited, submitted as under:

- (a) The objections raised by CESC regarding the commercial terms of sale, tariff applicability, etc., are outside the scope of the present proceedings.
- (b) As per clause 10.2 of the RfS, the developer has sole discretion to sell power to a third party till the operationalization of LTA. The PPA specifically does not provide any provision for the sale of infirm power. However, under Article 1.2.18 of the PPA, the provisions of the PPA and the RfS are to be read together harmoniously. Since the PPA does not provide for the sale of infirm power, the provision provided under the RfS should prevail.
- (c) The Petitioner, by its letter dated 06.01.2024, extended the offer to the Buying Entities under the SECI-facilitated PSA, including CESC. In response, CESC issued a letter on 24.01.2024. CESC did not expressly accept the contents of the letter dated 06.01.2024; rather, it proposed a new condition that the power shall be supplied through a power exchange at a tariff rate arrived at from the bidding as per the JNNSM scheme.
- (d) Thereafter, vide its letter dated 25.04.2024, SECI, taking cognisance of the letter dated 24.01.2024 issued by CESC and considering the same as a rejection of the proposal of the Petitioner, vide letter dated 06.01.2024, granted NOC to the Petitioner. Despite full knowledge of these developments, CESC took no steps whatsoever from April 2024 to March 2025 to assert any right to procure the infirm power or raise any formal objection to SECI's interpretation. Almost one year after the original correspondence, CESC has now objected and expressed interest in procuring the infirm power. Further, the Petitioner has already entered into a binding PDA dated 09.07.2024 with TPTCL for the supply of 70 MW out of the 100 MW solar component, based on the NoC granted by SECI and the absence of any objection from CESC. The balance of 30 MW is being traded through the power exchange.
- (e) The Petitioner denied that SECI and CESC were not aware of the delay in commercial operationalization of the Project.
- (f) The TBCB Guidelines dated 21.08.2023 do not apply to the present Project as the same were issued after the effective date of the PPA. Any future changes in tender conditions cannot be applied retrospectively to the present case.

Hearing dated 22.04.2025:



8. The extracts of the Record of Proceedings for the hearing dated 22.04.2025 are as under:

“Learned counsel for the Petitioner submitted that the present Petition had been filed inter alia seeking an extension of infirm power injection for the 100 MW Solar Component out of the 600 MW SECI Hybrid Project. Learned counsel further submitted that as per the directions issued vide Record of Proceedings dated 11.3.2025, the Petitioner has impleaded the concerned Buying Utilities/End Procurers as parties to the Petition and filed a revised memo of Parties. Learned counsel further submitted that only Respondent No. 5, CESC Ltd., has filed its reply in the matter and requested an extension of time for filing the Rejoinder to the reply filed by CESC Ltd.

2. Learned counsel for Respondent No. 4, MPSEZ Utilities Limited, sought liberty to file a reply in the matter. Learned counsel further submitted that as per the Respondent, the power being injected by the Petitioner from its Solar Project cannot be considered as infirm power and ought to be treated as deemed firm power. Learned counsel also added that the Respondent is willing to off-take the above power at the PPA rates.

3. Learned counsel for Respondent No.5, CESC Limited, confirmed that the Respondent has already filed its reply. Learned counsel further submitted that the Respondent’s letter dated 24.1.2024 was misunderstood by SECI, and the Respondent is interested in off-taking the power from the Petitioner’s 100 MW Solar Project.

4. Learned counsel for the Respondent, SECI submitted that SECI has already filed its compliance affidavit to the direction issued by the Commission vide Record of Proceedings for the hearing dated 11.3.2025 and insofar as the willingness of the Buying Utilities/End Procurer to procure the infirm power is concerned, the End Procurers/Buying Utilities were not ready to off-take such power at a mutually agreed rate.

5. In response, learned counsel for the Petitioner submitted that since the Buying Utilities/End Procurers have expressed their willingness to off-take the infirm power, the parties may be permitted to have a joint meeting to arrive at an amicable solution to this.

6. Considering the submissions made by the learned counsel for the parties, the Commission permitted the Parties to have a joint discussion on the issue of supply of ‘infirm power’ from the Petitioner’s 100 MW Solar Project within a week and the Petitioner was directed to file the outcome of meeting within two days thereafter.

7. The Commission further directed the Petitioner to furnish the following information/clarification, on affidavit, within a week:

(a) What has prevented the Petitioner from declaring a COD of 100 MW solar? Is the power of 100 MW solar yet to achieve some testing or trial run requirements, or have all technical requirements under the Grid Code been achieved?

(b) Present status of 200 MW wind Project. Whether the Petitioner’s wind project is ready but not able to be commissioned due to non-operationalization of the Connectivity/GNA. Documents to substantiate the position are to be furnished.

(c) According to the Petitioner, it has been granted connectivity for its 200 MW Wind component at Gadag-II PS on 13.9.2024. However, the Connectivity grant dated 13.09.2024 submitted by the Petitioner is for the solar component. Submit a copy of the connectivity grant in respect of the wind component of 200 MW.

(d) Details of the time block-wise scheduled injection and actual injection for the Petitioner’s 100 MW solar component for the period from 31.7.2024 to 31.03.25 as per the table below:

Date	Time Block	Scheduled Injection (MW)	Actual Injection (MW)

(e) What is the basis of offering a rate of Rs. 3.08 per unit when the discovered rate as per the PPA is Rs. 2.60 per unit?

8. The Respondent, SECI, was directed to file the following information /clarification, on affidavit, within a week:

(a) Under which provision of RFS or PPA has SECI issued NOC for sale of power to the Petitioner?

(b) Has SECI claimed a trading margin of 7 paise/unit on the sale of this 100 MW infirm solar power? If yes, is it due to of issuance of NOC or some other reason? Furnish the PPA clause for the same.

(c) The reasons for linking the COD of one generating station located in Rajasthan with the COD of another generating station located in Karnataka? Whether such one generating station located in Rajasthan is fit for commercial operation as on date, where offtake of power by specific buyers can start after COD of all other generating stations which are part of PPA or should such generating station which have completed all technical requirements under the Grid Code should continue to run as infirm injection and not declare COD? Are such conditions of linking the COD of one generating station located in one State with the COD of another generating station located in another State part of the bidding guidelines issued by Gol or included by SECI in the RfS/PPA?

(d) Explain the term 'commissioning' used in the PPA. Is completing a trial run under the Grid Code mean meeting technical requirements or it mean declaring the Commercial Operation Date, post which the generating station starts supplying power on a commercial basis.

(e) What action has been taken by the SECI pursuant to CESC letter dated 24.01.2024 and MUL letter dated 29.03.2024? Whether the SECI has conveyed a copy of NOC to the buyers, MUL, and CESC, clearly stating the reasons why NOC has been issued despite the proposal of CESC to off-take the power at the tariff discovered in the competitive bidding and MUL proposal to off-take power from the solar project of the Petitioner at the tariff of Rs. 2.53/kWh to the Petitioner? Whether SECI carried out any prudence of offer rate of Rs. 3.08 per unit against quoted tariff of Rs 2.60 per unit (including trading margin of SECI) or the Petitioner was free to choose such rate?

(f) What action has been taken by the SECI pursuant to the MUL letter dated 26.04.2024 to cancel the NOC granted to the Petitioner for the sale of 100 MW power from the solar component and allocate the power to the Petitioner?

(g) Whether any meeting was held between the Petitioner and the beneficiaries (i.e., CESC and MUL) for mutual agreement of the tariff to off-take power from the solar component of the project of Petitioner. If yes, may a copy of such minutes of meeting be furnished?

(h) Suggest the mechanism to be followed for future cases of a similar nature, including the issue of the tariff at which such power may be supplied to original buyers as per the PPA.

9. The Commission also permitted the Petitioner to file its rejoinder(s) within a week. In the meanwhile, the Petitioner shall be permitted to inject the infirm power in respect

of its 100 MW solar component in terms of the IEGC 2023, till the next date of the hearing.”

Reply of the Respondent No. 4, MPSEZ Utilities Limited (MUL)

9. The Respondent No. 4, MPSEZ Utilities Limited (MUL), vide affidavit dated 06.05.2025, submitted as under:
- (a) The Petitioner is mischievously terming the power generated by it as ‘infirm’ power as it is deliberately not declaring the commissioning of its unit(s) despite all technical parameters being in place.
 - (b) on 28.04.2025, a joint discussion was held between representative of the Petitioner, SECI and the Respondent No. 4. However, in the said meeting, the Petitioner proceeded to offer the ‘infirm’ power at an unjustifiable rate of Rs. 3.28/kWh, which only reinforces the fact that the Petitioner wants to unduly enrich itself by selling power at higher rates to third parties contrary to the understanding in terms of the PPA/ PSA, by deliberately delaying commissioning of the solar component.
 - (c) The reliance placed by the Petitioner upon Clause 10.2 of the RfS is misconstrued since the said provision is only applicable in case there is a delay in the grant of LTA. As such, once Clause 10.2 is not applicable, the Petitioner cannot at all attempt to sell the power being generated to third parties.
 - (d) In response to the proposal of the Petitioner to supply 100 MW infirm solar power at a tariff of Rs. 3.08 per unit, the Answering Respondent issued a letter dated 10.02.2024 to the SECI refuting the same.
 - (e) On 29.03.2024, the Respondent No. 4 issued another letter to the SECI regarding the tariff proposal for the sale of 100 MW infirm Solar Component. In the said context, the Answering Respondent informed SECI that the underlying scenario with respect to the Petitioner amounted to early commissioning of the Project; therefore, the Petitioner was entitled to the applicable tariff at Rs. 2.53/kWh, as per the PPA/ PSA.
 - (f) Despite having clearly communicated its stand vide letters dated 10.02.2024 and 29.03.2024, qua rejection of the proposal made by the Petitioner to supply 100 MW of alleged infirm solar power at Rs. 3.08 per unit as against the PPA rate of Rs. 2.53 per unit, the SECI erroneously proceeded to construe the same as refusal to accept supply from the Petitioner thereby allowing the Petitioner to go for third party sale.



- (g) MUL does not oppose the grant of extension for injection of power from the 100 MW component of the Project, till the actual date of commissioning of the total capacity (600 MW). However, this Commission ought to consider that the Petitioner is trying to misinterpret Clause 10.2 of the RfS dated 22.10.2021 to gain undue commercial benefit/ advantage, which is legally unsustainable in the eyes of law.
- (h) In the present case, for the capacity, which is to be commissioned by the Petitioner, i.e., 100 MW solar capacity (*by 30.06.2024*), the connectivity qua such Project capacity was already shifted from Koppal-II PS to Bikaner-II PS, and the Bikaner-II PS is already commissioned. This means that qua the 100 MW capacity which was to be commissioned by the Petitioner on or before 30.06.2024, there is no delay in the grant of GNA or LTA or its operationalization. Thus, Clause 10.2 of the RfS is not applicable in the Present Petition.
- (i) Reliance is placed upon the settled principle of law that once bidding is concluded and the PPA is executed between the parties, the said contract exclusively governs the rights and obligations of the parties in supersession of any previous terms contained in the bid or other documents.
- (j) The offered tariff is even less than the PPA/ PSA tariff (Rs. 2.53/kWh), since the 'applicable tariff' under the PPA/ PSA constitutes solar as well as wind components, wherein, as a general practice, wind power has a relatively higher cost as compared to solar power. Accordingly, in such a scenario, since only the solar part of the Project is getting commissioned, the offered tariff for 100 MW of solar power would be even lower than the 'applicable tariff'.
- (k) SECI misconstrued the letters dated 10.02.2024 and 29.03.2024 issued by MUL in response to the proposal made by the Petitioner seeking to sell 100 MW of solar power at a higher tariff of Rs. 3.08 per unit. Since the right of first refusal is vested with the Answering Respondent, the Commission may direct SECI to withdraw the aforesaid NoC and the Petitioner to stop the supply of 70 MW power to TPTCL in terms of the PDA dated 09.07.2024 with immediate effect. Further, the revenue earned by the Petitioner in excess of the PPA/ PSA tariff apportioned for the Solar Component, by supplying the above quantum to third parties till date, shall be passed to the Answering Respondent.

Submission of the Respondent No. 2, SECI, in compliance with the RoP for hearing dated 22.04.2025:



10. The Respondent SECI, vide affidavit dated 07.05.2025, has submitted as under:

Under which provision of RfS or PPA has SECI issued NOC for the sale of power to the Petitioner?

(a) Clause 10.2 of the RfS provides for a special scenario in case one component of the Project (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to a delay in the grant of LTA/LTA operationalization. The said clause enables the generator to sell such power to any third party until the grant/ operationalization of LTA. This scenario provides for a case where a single project component is ready, ensuring that generation from such a component is not wasted. Power procurement from such component(s) is outside the scope of the PPA. As Clause 10.2 of the RfS provides a right of first refusal to the Buying Entities and SECI. SECI issued the NOC to the Petitioner after the Buying Entities refused to purchase energy at the tariff cited by the Petitioner.

Has SECI claimed a trading margin of 7 paise/unit on the sale of this 100 MW infirm solar power? If yes, is it due to the issuance of NOC or some other reason? Furnish the PPA clause for the same.

(b) SECI has not claimed a trading margin of INR 7 paise/unit on the sale of 100 MW single solar component by the Petitioner.

The reasons for linking the COD of one generating station located in Rajasthan with the COD of another generating station located in Karnataka? Whether such one generating station located in Rajasthan is fit for commercial operation as on date, where offtake of power by specific buyers can start after COD of all other generating stations which are part of the PPA or should such a generating station which have completed all technical requirements under the Grid Code should continue to run as infirm injection and not declare COD? Are such conditions of linking the COD of one generating station located in one State with the COD of another generating station located in another State part of the bidding guidelines issued by Gol or included by SECI in the RfS/PPA?

(c) The Guidelines for Tariff-Based Competitive Bidding Process for procurement of power from Grid-Connected Wind Solar Hybrid Project dated 14.10.2020, issued by the MNRE, permit the solar and wind components of the hybrid project to be located at the same or different locations. Further, the said guidelines provide that part-commissioning cannot be construed as the installation of just one source of generation, that is, wind or solar.

(d) In terms of Clause 6 of the RfS, the Project location was at the discretion, cost and risk of the Bidder/HPD.



- (e) Clause 10.2 was included by SECI in the RfS to provide for a special scenario in case one component of the Project (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to a delay in the grant of LTA/LTA operationalization. This was done to ensure that generation from such a readily available single component is not wasted.
- (f) In the subsequent Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, issued by MNRE on 21.08.2023, a similar clause has been included by MNRE.

Explain the term 'commissioning' used in the PPA. Is completing a trial run under the Grid Code mean meeting technical requirements or it means declaring the Commercial Operation Date, post which the generating station starts supplying power on a commercial basis.

- (g) Article 1.1 of the PPA defines commissioning as *"The Project will be considered as commissioned if all equipment as per rated Project Capacity has been installed and energy has flown into grid, in line with the Commissioning procedures defined in the PPA."*
- (h) In terms of the Commissioning Procedure under the PPA, Commissioning of the Project shall be declared only upon synchronisation of the minimum cumulative capacity required to declare part commissioning of the Project under the RfS, that is, both the components, wind and solar.

What action has been taken by the SECI pursuant to the CESC letter dated 24.01.2024 and the MUL letter dated 29.03.2024? Whether the SECI has conveyed a copy of the NOC to the buyers, MUL, and CESC, clearly stating the reasons why the NOC has been issued despite the proposal of CESC to off-take the power at the tariff discovered in the competitive bidding and the MUL proposal to off-take power from the solar project of the Petitioner at the tariff of Rs. 2.53/kWh to the Petitioner? Whether SECI carried out any prudence check of the offer rate of Rs. 3.08 per unit against the quoted tariff of Rs 2.60 per unit (including the trading margin of SECI), or was the Petitioner free to choose such a rate?

- (i) SECI, vide its email dated 25.04.2024, informed MPSEZ Utilities Limited that it has issued an NOC to the Petitioner as per the provisions of RfS Clause 10.2. Furthermore, SECI, vide an email dated 25.04.2024, informed CESC Limited that it has issued NOC to the Petitioner. SECI further submitted that such power procurement in terms of Clause 10.2 of the RfS is outside the PPA and permissible, in terms of the said clause, at a tariff mutually decided between the Buying Entity and the HPD. Therefore, in the absence of a mutually agreed tariff

between the Buying Entities and the Petitioner, SECI issued the NOC to the Petitioner.

What action has been taken by the SECI pursuant to the MUL letter dated 26.04.2024 to cancel the NOC granted to the Petitioner for the sale of 100 MW of power from the solar component and allocate the power to the Petitioner?

- (j) Meetings were held between SECI, MPSEZ and Petitioner on 28.04.2025 and SECI, CESC and Petitioner on 30.04.2025, wherein the buying entities stated that they are willing to buy the infirm power at the PPA tariff rate. Draft Record Notes of the VC meetings dated 28.04.2025 and 30.04.2025 have been shared with the buying entities and TPSL, and the same are under finalisation.

Whether any meeting was held between the Petitioner and the beneficiaries (i.e., CESC and MUL) for mutual agreement on the tariff to off-take power from the solar component of the Petitioner's project.

- (k) A meeting was held between the parties on 15.03.2024, where the Petitioner asked MPSEZ and CESC to provide consent for the procurement of 100 MW solar power at the proposed tariff of INR 3.08/kWh. No minutes of the meeting were recorded. A reference to the meeting can be seen in Para 1 of the letter dated 29.04.2025 issued by MPSEZ to SECI.

Suggest the mechanism to be followed for future cases of a similar nature, including the issue of the tariff at which such power may be supplied to original buyers as per the PPA.

- (l) In terms of the Guidelines for Tariff Based Competitive Bidding Process for Procurement of Power from Grid Connected Wind Solar Hybrid Projects, issued by MNRE dated 21.08.2023, provides that in case of multiple project components and if one or more component is ready for injection of power, but remaining component is unable to commence supply of power, the generator will be allowed to commence supply of power from such component which is ready outside the PPA, with first right of refusal such power being vested with end procurer. In case the Procurer/ Intermediary procurer decides to buy such power outside the PPA, such power shall be purchased at up to 75% of the PPA tariff for the applicable contract year.
- (m) For similar cases governed by the Guidelines dated 14.10.2020, the Commission may consider asking the parties to sell and purchase power at the PPA tariff rate.

Submission of the Petitioner in compliance with the RoP for hearing dated 22.04.2025:

11. The Petitioner, vide affidavit dated 07.05.2025, submitted as under:

What has prevented the Petitioner from declaring a COD of 100 MW solar? Has the 100 MW solar power yet to achieve some testing or trial run requirements, or have all technical requirements under the Grid Code been achieved?

- (a) The scheme of the RfS issued by SECI dated 22.10.2021, read with the provisions of the PPA, does not envisage single-source commissioning of the 600 MW Solar-Wind Hybrid Power Project. While part commissioning for a minimum 50 MW capacity has been allowed, the same takes into consideration the installation of both Solar and Wind capacities on a pro rata basis. No provision allowing for component-wise commissioning is provided under the PPA or the RfS. Therefore, commissioning of a single component is not permissible under the scheme of the PPA.
- (b) Petitioner has fulfilled all trial run requirements and received the successful trial run completion certificate on 13.09.2024. However, as per Regulation 27(1)(e) of the Grid Code, the declaration of commercial operation by RE generating stations shall be subject to the fulfilment of conditions set out in the PPA. As RFS or PPA do not allow single-component commissioning under the PPA. Consequently, the 100 MW Solar Component, though technically ready and having fulfilled all technical conditions under the Grid Code, cannot be declared commissioned independently.

Present status of the 200 MW wind Project. Whether the Petitioner's wind project is ready but not able to be commissioned due to non-operationalization of the Connectivity /GNA.

- (c) Due to the delay in the GNA operationalisation of the Gadag-II substation, SECI, vide its letter dated 20.05.2024, extended the SCOD of the entire Hybrid Project till 24.02.2026 or the actual start date of connectivity + 2 months in terms of Clause 4.5.2 of the PPA. The Petitioner is progressing as per the extended timelines and shall commission the 200 MW Wind Component within 2 months of the Gadag-II substation becoming ready, in accordance with the provisions of the PPA. The Petitioner has submitted the April 2025 progress report to substantiate its position.

Submit a copy of the connectivity grant in respect of the wind component of 200 MW.



- (d) The Petitioner submitted that the Stage-2 intimation dated 14.10.2022 by CTUIL for the Project was for the 200 MW Wind Component of the Hybrid Project. However, due to an inadvertent error during the transition under the GNA Regulations, the nature of the generation type was recorded as 'Solar' in the intimation dated 13.09.2024. Thereafter, the Petitioner requested CTUIL to change the 'Solar' generation type to the 'Wind' generation type vide its email dated 30.09.2024. Pursuant thereto, CTUIL revised the intimation on 16.12.2024, thereby accepting the request of the Petitioner and changing the generation type from 'Solar' to 'Wind'. The Petitioner has furnished a copy of the same.

Details of the time-block-wise scheduled injection and actual injection for the Petitioner's 100 MW solar component for the period from 31.7.2024 to 31.03.25.

- (e) The Petitioner has furnished the time-block-wise scheduled injection and actual injection for the Petitioner's 100 MW solar component for the period from 31.7.2024 to 31.03.2025.

What is the basis of offering a rate of Rs. 3.08 per unit when the discovered rate as per the PPA is Rs. 2.60 per unit?

- (f) The tariff of Rs. 3.08 per unit offered included the SECI trading margin of Rs. 0.07 per unit, with the base tariff being Rs. 3.01 per unit. This base tariff is derived from the power delivery agreement dated 12.05.2023, executed between TPTCL and the Petitioner for the supply of 200 MW of solar power in Rajasthan. This power purchase agreement was entered into pursuant to the letter of award dated 27.04.2023.
- (g) In terms of Clause 10.2(i) of the RfS, the sale and tariff arrangement for the infirm power operates independently and outside the scope of the PPA. Notably, the 100 MW infirm solar power supplied under the PDA is co-located with the 200 MW solar power covered under the power purchase agreement with TPTCL.

Hearing dated 08.05.2025

12. The extract of the Record of Proceedings for the hearing dated 08.05.2025 is as under:

"During the course of the hearing, learned counsel for the Petitioner submitted that the Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind-Solar Hybrid Project dated 14.10.2020, issued by the MNRE and RfS provides that the part commissioning cannot be construed by just installing one source of generation. The generator shall be required to install both solar and wind capacities in the proposed ratio on a pro-rata basis. Accordingly, the commissioning of a single project

component is not allowed in terms of the Guidelines and RfS. However, in terms of the Guidelines as well as the RfS, there is special scenario where if one of such components (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to delay in grant of the LTA/LTA operationalization, the HPD will be allowed for commissioning of such component which is ready. Further, the terms "COD" and "commissioning" as per the RfS, PPA and PSA will not be applicable for such component. Learned counsel for the Petitioner further submitted that in terms of the agreed PPA terms, the ratio under PPA is 2:1 (wind:solar), and also in terms of the Grid Code, the Petitioner can declare the COD of its project subject to the fulfilment of terms and conditions of the PPA.

2. The learned counsel of the Petitioner further submitted that originally, both projects, i.e., solar and wind, were at Koppal-II and Gadag in Karnataka, where there was a delay in the substation being awarded, and the Petitioner had 100 MW of solar capacity ready at Bikaner. Therefore, on 23.10.2023, the Petitioner requested SECI to allow to the change of the project location for 100 MW solar capacity at Bikaner. SECI vide letter dated 11.12.2023 allowed to a change in location for the 100 MW solar capacity to Bikaner-II and 300 MW solar from Koppal-II to Koppal.

3. In response to the specific query of the Commission, the learned counsel for the Petitioner submitted that the SCOD under the PPA for the project is January 2025, and the solar component got commissioned in April 2024. In this regard, the Commission observed that SECI wanted the power from January 2025, and while changing the location from Koppal to Bikaner-II, SECI was very well aware that the Petitioner would be selling power from the solar component under Clause 10.2 as infirm power because the wind power was not coming up, and such sale of power shall be outside of the PPA.

4. Learned counsel for the Respondent, CESC, pointed out that the power from the solar component of the project is being sold by the Petitioner outside the PPA at a higher tariff rate as compared to the PPA tariff. As CESC is the ultimate beneficiary of the project and the first right of refusal should be given to it. The learned counsel for the CESC added that CESC never refused to take such power from SECI. SECI has interpreted its letters as a denial to off-take such power from the solar component of the project of the Petitioner.

5. Learned counsel for the SECI submitted that the power is being sold by the Petitioner in terms of Clause 10.2 of the RfS at a mutually agreed tariff. Under the new Guidelines of the MNRE issued in 2023, such a scenario is specifically covered, and such power shall be offered to the beneficiaries at a 75% tariff as per the PPA.

6. Learned counsel for the MUL submitted that there is gaming and the Petitioner is not commissioning the project and selling the power outside the PPA, calling it infirm power. He also submitted that the contract does not contemplate allowing the Petitioner to sell this contract capacity, which is meant for its renewable purchase obligation.

7. The matter remained part-heard and the parties were further permitted to file their respective written submissions within three weeks, with a copy to the other side. In the interregnum, the Petitioner shall be permitted to inject the infirm power in respect of its 100 MW solar component in terms of the IEGC 2023, till the next date of the hearing.

8. The Commission directed the Petitioner to submit the following information on an affidavit within a week, with a copy to the other side:

- (a) According to SECI, meetings were held between SECI, MUL, and the Petitioner on 28.4.2025 and SECI, CESC, and the Petitioner on 30.4.2025 on the issues involved in the instant Petition. Submit the outcome of such meetings held on 28.4.2025 and 30.04.2025.
- (b) The details of the connectivity obtained for the 100 MW solar project at Bikaner and the action taken to include this 100 MW solar connectivity to be a part of the wind-solar hybrid project.
- (c) As per the Petitioner, "in terms of guidelines as well as RfS there is special scenario where if one of such components (wind or solar PV) is ready for injection of power into

the grid, but the remaining component is unable to get commissioned due to delay in grant of LTA/LTA operationalization, the HPD will be allowed for commissioning of such component which is ready". Further, the terms "COD" and "commissioning" as per the RfS, PPA and PSA will not be applicable for such component". What prevents the Petitioner from commissioning the 100 MW solar capacity as merchant capacity in terms of IEGC 2023?

9. The Commission directed the Respondents, CESC and MUL, to submit on an affidavit within a week, action taken/ correspondence made with SECI/ Petitioner subsequent to the issuance of the NOC dated 25.4.2024. Whether the Respondents, MUL and CESC, specifically expressed their consent to the effect that they are willing to buy the power from the solar project of the Petitioner at the PPA tariff rate.

10. The Commission directed the SECI to submit the following information on an affidavit within a week, with a copy to the other side:

- (a) Clarify "commissioning" used in the title of Clause 10.2 vs that used in clause 10.2(iii) of the RfS, which appears contradictory.*
- (b) Clause 10.2 of the RfS provides for the treatment of power in case of delay in commissioning on account of delay in operationalization of the LTA. In this regard, the Petitioner has contended that it cannot declare COD of solar component, in terms of the Guidelines for Tariff Based Competitive Bidding Process for procurement of power from Grid Connected Wind Solar Hybrid Project dated 14.10.2020, issued by the MNRE. However, the same is not incorporated in the PPA signed with the Respondents. Whether the exclusion of such provisions in the PPA is as per guidelines issued by the Government.*
- (c) Action taken from 26.04.2024 till 30.4.2025 (~1 year) and submit the correspondence, if any, exchanged between SECI and MUL after 26.4.2024.*
- (d) SECI allowed the change of location for the solar component from Koppal to Bikaner-II. Under which provisions of the Guidelines, RfS, and the PPA, has such a change in location been permitted by SECI? Whether Is there a requirement to obtain the consent of buyers (MUL and CESC) in the instant case? If yes, copy of the communication with buyers in this regard.*

11. The parties are directed to submit their respective written submissions within three weeks, with a copy to the other side."

Submission of Respondent No. 5, CESC Limited, in compliance with the RoP for hearing dated 08.05.2025:

13. The Respondent CESC Limited, vide affidavit dated 21.05.2025, submitted as under:

- (a) In pursuance of the Record of Proceedings dated 22.04.2025 passed by this Commission in the present petition, during the meeting held on 30.04.2025 amongst SECI, CESC and the Petitioner, CESC reiterated its request to offtake the power at the tariff already discovered under the PPA/PSA, i.e., Rs. 2.53/kWh plus SECI's Trading Margin of Rs. 0.07/kWh at the earliest. However, despite the aforesaid meeting, the Petitioner has failed to take any steps to sell power from the 100 MW solar component to CESC.



- (b) CESC wishes to procure the power being generated from the 100 MW solar component of the project with effect from 16.05.2025, i.e. the original revised SCD of the project.
- (c) CES, as a buying entity, is exercising its right to procure power from the Petitioner in terms of Articles 4.4.2 and 9.2 of the PPA, read with the Suo Motu Order dated 22.12.2024 passed in Petition No. 11/SM/2024.
- (d) NoC dated 25.04.2024 granted by SECI to the Petitioner duly records that such NoC can be withdrawn at any point by SECI. Therefore, SECI ought to be directed to withdraw its NoC granted to the Petitioner since CESC is explicitly expressing its interest in procuring the power being generated by the Petitioner, even if it is assumed, without admitting, that the communication(s) sent by CESC to SECI can be treated as a rejection for procurement of power.

Submission of SECI in compliance with the RoP for the hearing dated 08.05.2025:

14. The Respondent SECI, vide affidavit dated 21.05.2025, submitted as under:

Clarify “commissioning” used in the title of Clause 10.2 vs that used in clause 10.2(iii) of the RfS, which appears contradictory.

- (a) The term “*commissioning*” appearing in the title part of Clause 10.2 only signifies the readiness of a component (wind or solar PV) for injection of power into the grid. Whereas the PPA and the PSA [as also referred to in Clause 10.2 (iii) of the RfS] define “*commissioning*” as the readiness of all components, that is, both wind and solar-PV. The distinction between the terms “*commissioning*” and “COD” as defined in the PPA, in Clause 10.2(iii) of the RfS, also means that the commercial offtake of power from the Project under the PPA does not commence solely from the commencement of such power injection under Clause 10.2.
- (b) While the term *commissioning* has not been defined in the RfS, it may be relevant to point out that in terms of the Grid Code, a hybrid project can only achieve a commercial operation date after the successful trial run of each individual source of the hybrid system. The definition of the term “*commissioning*” in the PPA/PSA is in line with the Grid Code.

Clause 10.2 of the RfS provides for the treatment of power in case of delay in commissioning on account of delay in operationalization of the LTA. In this regard, the Petitioner has contended that it cannot declare COD of the solar component, in terms of the Guidelines for Tariff-Based Competitive Bidding Process for procurement of power from Grid-Connected Wind Solar Hybrid Project dated 14.10.2020, issued by the MNRE. However, the same is not incorporated in the PPA signed with the Respondents. Whether the exclusion of such provisions in the PPA is as per guidelines issued by the Government.

- (c) The Guidelines for Tariff-Based Competitive Bidding Process for procurement of power from Grid-Connected Wind-Solar Hybrid Project dated 14.10.2020, issued by MNRE, provide that part-commissioning cannot be construed as installing just one source of generation, that is, wind or solar.
- (d) Clause 10.2 of the RfS provides for a special scenario and enables the generator to sell such power to any third party till the grant/ operationalization of all LTAs under the project. This scenario was provided for a case where a project component is ready, to ensure that generation from that component is not wasted.
- (e) This special scenario is outside the ambit of the PPA and hence the PPA does not envisage a scenario where one component of the Project (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to a delay in the grant of LTA/LTA operationalization. Accordingly, the same was not included in the PPA.
- (f) It is clarified that allowing power injection into the grid from a single component of the Project, as provided for in Clause 10.2 of the RfS, is not denied in the Guidelines, and the same is not excluded from the Guidelines.

Action taken from 26.04.2024 till 30.4.2025 (~1 year) and submit the correspondence, if any, exchanged between SECI and MUL after 26.4.2024.

- (g) SECI, vide its Letter dated 07.05.2024 to MPSEZ, in response to MPSEZ's letter dated 26.04.2024, stated that the PPA clause has no provision to commission the individual component. Therefore, there is no contradiction between the RfS and the PPA. As per the RfS clause 10.2, SECI denied the objections/ claims raised by M/s MPSEZ Utilities Limited vide letter dated 26.04.2024. However, it was informed that SECI shall map the power to Buying Entities upon early and/or Part commissioning of the Project as per the provisions of the RfS/PPA..."

SECI allowed the change of location for the solar component from Koppal to Bikaner-II. Under which provisions of the Guidelines, RfS, and the PPA has such a change in location been permitted by SECI? Is there a requirement to obtain the consent of buyers (MUL and CESC) in the instant case? If yes, a copy of the communication with buyers in this regard.

- (h) The Guidelines, the RfS and the PPA do not restrict the Petitioner from changing the location of its project. Further, the Letter of Award dated 12.07.2022 issued by SECI to the Petitioner provides that *“It is to be noted that as per the provision of the RfS, the HPD is allowed to change the project location and delivery point for the awarded project subsequent to issuance of LoA”*.
- (i) However, as per Clause 23.6 of the RfS, it is stated that the delay in commissioning of the Project due to changes in Project location(s) and/or connectivity/LTA, if any, will be on account of the HPD and will be dealt with as per the provisions of the RfS/PPA. As per this clause, the Project locations/ connectivity may be changed; however, any time extension due to the delay in commissioning of the project will be within the scope of HPD.

Submission of Respondent No. 4 MUL in compliance with the RoP for the hearing dated 08.05.2025:

15. The Respondent MUL, vide affidavit dated 26.05.2025, has submitted as under:

Action taken/ correspondence made with SECI/ Petitioner subsequent to the issuance of the NoC dated 25.04.2024

- (a) Upon receipt of the NoC dated 25.04.2024, the MUL issued a letter on 26.04.2024 to the SECI, thereby stating that MUL, in none of its communications, has given its refusal to off-take the offered quantum and therefore SECI's action on allowing the NoC to HPD is not in the true spirit of the PSA and PPA terms. Accordingly, under the PPA terms, SECI would be in breach of its obligations by allowing NOC to HPD and accordingly requested SECI to immediately cancel the NOC granted to the Petitioner and allocate the power to MUL, which is the original beneficiary
- (b) The Petitioner, SECI and the MUL conducted a joint meeting on 28.04.2025, in which, the Petitioner proceeded to offer the alleged 'infirm' power at an unjustifiable rate of Rs. 3.28/kWh, which only reinforces the fact that the Petitioner wants to unduly enrich itself by selling power at higher rates to third parties



contrary to the understanding in terms of the PPA/ PSA, by deliberately delaying commissioning of the project, while commissioning the individual components.

- (c) Since no resolution was arrived at between the parties in the above meeting, the MUL filed its Reply in the present petition on 06.05.2025, in which it prayed for the conditions that the 100 MW solar power may be supplied to the MUL at a PPA/PSA tariff apportioned for the Solar Component (lower than PPA/PSA tariff of Rs. 2.53 per unit) and the revenue earned by the Petitioner in excess of the PPA/PSA tariff apportioned for the Solar Component, by supplying the above quantum to third parties till date, be passed onto the MUL.

Whether the Answering Respondent specifically expressed its consent to the effect it is willing to buy the power from the solar project of the Petitioner at the PPA tariff rate

- (d) MUL issued a letter dated 29.03.2024 to the SECI, wherein it was categorically stated that the 100 MW solar power ought to be supplied to MUL at the tariff of Rs. 2.53/kWh, strictly in terms of the PPA/ PSA. Further, post issuance of the NOC dated 25.04.2024 by SECI, MUL immediately preferred a letter on 26.04.2024, whereby MUL clearly stated that it was willing to offtake the 100 MW solar power from the Petitioner and accordingly, the SECI ought to cancel the NoC.
- (e) As per Clause 10.2(i) of the RfS itself, supply of such 'infirm' part-Component power has to be at a tariff which is "mutually decided" between the Petitioner and the Buying Entities (including the MUL). This means that such a "mutually agreed" tariff ought to be based on the nature of the power which is being offered.

Written submissions of Respondent No. 5, CESC Limited:

16. CESC Limited, in its written submissions dated 04.06.2025, reiterated its earlier submissions and mainly submitted as under:

- (a) The gaming of the system is being done by the Petitioner. In the regulatory and contractual background, it is clear that in terms of the PPA read with the SM Order passed by this Commission, the sale of power from the 100 MW solar component ought to be to CESC since:
- (i) The present injection of power cannot strictly be covered under Regulation 19(7) since the same is not for testing purposes.

- (iii) In the present case, both PPA (Article 4.4.2 and 9.2) and the SM Order only allow for the supply of power by the Petitioner to a third party if the Buying Entity consents to it.
- (iv) The letter dated 24.01.2024 and the e-mail dated 14.02.2024 sent by CESC to SECI have been mistakenly construed as a rejection of the procurement of power.
- (v) Even if the aforesaid communication(s) can be treated as a rejection for procurement of power, SECI had granted the NOC dated 25.04.2024, subject to future withdrawal of the NOC. CESC, in the present proceedings, has made amply clear that it is willing to procure power from the Petitioner at an equitable tariff deemed appropriate by this Commission.
- (b) The Petitioner is only allowed to sell power to a third party with the consent of SECI and the Buying Entities. Once CESC has unequivocally expressed its intent to procure power from the 100 MW solar components, then such power cannot continue to be sold to a third party, especially after 16.05.2025, i.e., the original revised SCD allowed by SECI and considering that the NoC was only granted by SECI on an ad hoc basis (subject to withdrawal at any stage).
- (c) From the submission of the Petitioner, it is clear that the foregoing Clause 10.2 included in the RfS is in deviation from the WSH Guidelines. Notably, SECI has not sought any approval from the Commission for the aforesaid deviation as per Clause 23 of the WSH Guidelines dated 14.10.2020.
- (d) As per the information available in the public domain (including newspaper reports), the projects in Koppal and Gadag are suffering a delay of almost two and a half years. The said delay is likely to continue for some time, as per information available in the public domain. Therefore, if the Petitioner is allowed to offer this power to any third party at any tariff of its choosing, it will continue to benefit from such supply of power at a tariff which is much higher than the long-term PPA tariff, without needing to commission the other components for several years.
- (e) Clause 10.2 of the RfS, having not been incorporated into the PPA, cannot be relied upon by the Petitioner to sell the infirm power to any entity and at any tariff that it pleases to.

Written submissions of Respondent No. 4, MUL:



17. MUL, in its written submissions dated 04.06.2025, reiterated its earlier submissions and mainly submitted as under:

- (a) The entire Component (*wind or solar*) is required to be commissioned in order to take advantage of Clause 10.2 of the RfS. This provision is not applicable if the part-Component is commissioned. In the present case, admittedly, only 100 MW out of the total solar Component of 400 MW has been commissioned by the Petitioner. Hence, no reliance can be placed upon Clause 10.2 of the RfS.
- (b) Once the 100 MW capacity stands commissioned, the power generated from the same cannot at all be termed as '*infirm*' under *trial run*; as such, the prayer of the Petitioner is *not at all maintainable*, as Regulations 3(1)(69) & 19(3) of the Grid Code are only applicable for '*infirm*' power under trial run.
- (c) To invoke Regulation 19(3) of the Grid Code to seek extension of the time period for injection of '*infirm*' power under the trial run, the solar component of the Petitioner/ TPSL should not have been commissioned. This is because the alleged benefit of Clause 10.2 of the RfS to sell power to third parties at a mutually agreed rate, outside the PPA, can only be availed by the Petitioner/ TPSL when the entire individual Component (wind or solar) is commissioned, i.e. 400 MW Solar, which is not there in the present case.
- (d) It is the case of the Petitioner that the 100 MW capacity is outside the PPA, as it is neither part of early commissioning nor part of commissioning. This is a complete misinterpretation of the PPA/ PSA terms.
- (e) RfS, qua the issue of commissioning of the single component, will not have any applicability, since if Clause 10.2 of the RfS is made applicable, then the same will render Articles 5.1.2 & 6.8 of the PSA as otiose. The PPA and PSA, which are back-to-back agreements, have to be read together. Once the said agreements are read together, it becomes crystal clear that the intention of the parties and the sole purpose of entering into PPA/ PSA are that any capacity commissioned out of the total project capacity is first meant for SECI/ Discoms for fulfilment of RPO.
- (f) The Hybrid Bidding Guidelines, 2023, provide that in case a single component of a Hybrid Developer is commissioned, the same has to be sold to SECI/ Discoms at 75% of the PPA tariff. In the present case, the Petitioner seeks to sell its solar part-Component at Rs. 3.08/kWh, instead of the PPA tariff of Rs. 2.53/kWh, especially when the cost of solar power is lower than the wind component of a Hybrid plant. The Petitioner has to necessarily offer to sell the 100 MW solar power

to SECI/ Respondent No. 4 at PPA tariff only; only in the event of refusal, can such power be sold to third parties.

- (g) SECI, while granting the request for a change of location of the 100 MW solar block/ part Component of the hybrid project of the Petitioner from Koppal-II, Karnataka to Bikaner-II, Rajasthan, acted in complete violation of Clause 6.3(b)(iii) of the RfS, which specifically states that multiple blocks of the Solar component have to exist within the same State. Accordingly, the above conduct of the Respondent No. 2/ SECI in acting de hors the express provisions of the RfS itself also ought to be noted and deprecated by this Commission.

Written submissions of Petitioner:

18. The Petitioner, in its written submissions dated 27.06.2025, reiterated its earlier submissions and mainly submitted as under:

- (a) Until and unless the 400 MW Solar and 200 MW are commissioned in the ratio of 2:1, part commissioning of the Hybrid Project cannot be said to have been achieved. In the present case, the 100 MW Solar component out of the total 400 MW has been commissioned, therefore for the Hybrid Project to achieve part commissioning, at least 50 MW of the Wind component out of the total 200 MW has to be commissioned. Since the 50 MW Wind component cannot be commissioned due to reasons beyond the control of the Petitioner, the project cannot be said to achieve part commissioning.
- (b) Clause 10.2 of the RfS does not require TPSL to obtain consent from the buying entity or SECI before proceeding to sell power from the 100 MW solar component to a third party, and such an action is at the discretion of TPSL. The only requirement in this regard is that the tariff for such sale be mutually agreed upon between TPSL and the Buying Entity. Pertinently, such a sale falls outside the PPA, and thus, the stipulations envisaged under the PPA executed by TPSL with SECI cannot be applied.
- (c) The wind component, which is suffering the delay in GNA operationalisation at Gadag-II substation, is expected to be ready in February, 2026, matching the current SCOD of the Project.
- (d) Since, till the readiness of the Gadag II substation, the power generated at the solar components cannot be allowed to go to waste, it is a fit case for invocation of Clause 10.2 of the RfS. Further, till such time as commissioning is achieved as

per the PPA, the COD cannot be declared, and hence any power prior to such declaration can only be considered as 'infirm power', for which this Commission has been empowered under Regulation 19(3) of the Grid Code to grant extension.

- (e) The tariff of Rs. 3.08/- per unit was also not a figment of TPSL's imagination, but was based on an already existing PPA between TPSL and Tata Power Trading Company Limited for a separate 200 MW solar project co-located with the project in question.
- (f) The stand taken by CESC constitutes a counter-offer rather than an acceptance of TPSL's proposal. Since CESC never granted express consent to TPSL's proposal, the issuance of a NoC by SECI was completely justified.
- (g) MUL, in response to the TPSL's offer, issued a letter dated 29.03.2024, taking a stand that the proposed tariff of Rs. 3.08 per unit is not tenable and that power be supplied from a 100 MW solar component at the tariff of Rs. 2.53 per unit.

Rejoinder of the Petitioner to the reply filed by Respondent No. 4 MUL:

19. The Petitioner, vide affidavit dated 27.06.2025, submitted as under:

- (a) The present Petition does not invoke Section 79(1)(f) of the Act and does not pertain to the adjudication of any dispute arising under the PPA or PSA dated 05.01.2023 executed between SECI and MUL. Therefore, the objections raised by MUL regarding the commercial terms of sale, tariff applicability, and related matters are outside the scope of the present proceedings.
- (b) It is a settled principle of law that for an offer to be considered accepted, the acceptance must be absolute, unconditional, and mirror the terms of the offer. Any variation, modification, or qualification constitutes a counter-offer, which, in effect, rejects the original offer. MUL, in its letter dated 29.03.2024, rejected the tariff offered and instead proposed supply at the PPA tariff of Rs. 2.53/kWh. Consequently, no binding agreement or acceptance materialised, and the Petitioner remained at liberty to sell the infirm power to a third party in accordance with the RfS and SECI's NoC dated 25.04.2024.
- (c) If MUL genuinely believed that SECI had misinterpreted its letter dated 29.03.2024, it was open to MUL to raise a timely dispute before the appropriate forum or to seek immediate clarification.

- (d) MUL took no steps whatsoever from April 2024 to April 2025 to assert any right to procure the infirm power or raise any formal objection to SECI's interpretation.
- (e) It is reiterated that the provisions of the RfS, Bidding Guidelines and the PPA/PSA do not envisage single-source commissioning of the Hybrid Project. Therefore, the Petitioner is not allowed to declare the commissioning of the Project. Further, MUL has failed to appreciate that the delay in the operationalisation of LTA is an admitted position accepted by SECI.
- (f) The Buying Entities do not have the first right of refusal, and the Petitioner is free to sell power to third parties as per RfS Clause 10.2. Therefore, there arises no question of SECI withdrawing its NOC. MUL's contention that the revenue earned by the Petitioner should be passed onto the Buying Entities is wholly misconceived as the Buying Entities have no right over such revenue, and the Petitioner has acted strictly as per the terms of the RFS, PPA and prevailing law inasmuch as such sale is outside the terms of the PPA.

Submissions of the Petitioner in compliance with the RoP for the hearing dated 08.05.2025:

20. The Petitioner, vide affidavit dated 27.06.2025, submitted as under:

Outcome of the meetings held on 28.04.2025 and 30.04.2025:

- (a) A Joint meeting was convened on 30.04.2025 between the representatives of SECI, the Petitioner and CESC Limited. CESC placed its request before SECI and the Petitioner to provide power from the 100 MW Solar Component of the 600 MW Hybrid Project at the tariff stipulated under the PSA executed with SECI, i.e., Rs. 2.53 per Unit plus SECI's trading margin of Rs. 0.07 per Unit. Petitioner clarified that power cannot be supplied to the Buying Entities at the rate envisaged under the PPA at this stage and if at all CESC wishes to procure such power, then the same can be procured at Rs. 3.28 per unit or in the alternative sale of such power can be undertaken through SECI at Rs. 3.35 per unit, comprising Rs. 3.28 per unit plus Rs. 0.07 per unit trading margin payable to SECI.
- (b) While concluding the meeting, SECI proposed that power may be offered to the Buying Entities at the PPA tariff, i.e., Rs. 2.53 per unit (plus trading margin) as the project is being implemented under the competitive bidding scheme and the tariff is adopted by this Commission under Section 63 of the Act.

- (c) A similar meeting was held between Petitioner, SECI and MUL on 28.04.2025. While the Petitioner has shared the signed version of the Minutes of the Meeting dated 28.04.2025 with MUL, the countersigned version thereof has not been received from MUL.

The details of the connectivity obtained for the 100 MW solar project at Bikaner and the action taken to include this 100 MW solar connectivity as part of the wind-solar hybrid project.

- (d) The connectivity for the 100 MW solar component, which forms part of the 300 MW solar connectivity granted at Bikaner-II PS on 18.01.2024.
- (e) The decision to shift 100 MW of solar capacity to the Bikaner-II substation was based on the fact that the Petitioner already had 300 MW of connectivity available at Bikaner-II PS, out of which 100 MW could be allotted to the Hybrid project, allowing efficient utilisation of available infrastructure as the Bikaner-II substation was operational and the Petitioner could schedule 100 MW of power to allow early power flow.

Commissioning of 100 MW Solar capacity as merchant capacity in terms of the Grid Code

- (f) The scheme of the RfS, as well as the PPA executed with SECI, does not allow commissioning of a single component. The Project, both for purposes of commissioning and contractual obligations, is referred to as a composite hybrid facility comprising both solar and wind elements. Moreover, clause 5.1.6 of the PPA provides that no part commissioning of the Hybrid Project can be construed by just installing one source of generation, i.e., either solar or wind. Hence, the Petitioner is under an obligation to install both solar and wind capacities in the proposed ratio on a *pro rata* basis.

Hearing dated 17.07.2025

21. The extracts of the Record of Proceedings for the hearing dated 17.07.2025 are as under:

*“The learned counsels for Respondents, MPSEZ Utilities Limited, CESC Limited, and SECI, argued at length and reiterated the submissions made in the pleadings.
2. Considering the submissions made by the learned counsels for the parties, the Commission directed the Petitioner to file the following information on an affidavit within two weeks:*

(i) A copy of the record notes of the discussion held on 28.4.2025 between SECI, MUL and the Petitioner.



(ii) A copy of the Petitioner's letter dated 11.11.2023 addressed to CTUIL regarding reduction of connectivity quantum from 400 MW to 300 MW and change in project location from Koppal-II PS to Koppal PS.

(iii) A copy of the connectivity application for the 300 MW solar project at Bikaner-II PS.

3. SECI was directed to file, on an affidavit within two weeks, the response/information called for vide ROP for the hearing dated 08.05.2025, i.e., "Whether there was a requirement to obtain the consent of buyers (MUL and CESC) in the instant case for shifting of the Project Location from Koppal-II to Bikaner-II? If yes, copy of the communication with buyers in this regard."

4. In the meanwhile, the Petitioner shall be permitted to inject the infirm power in respect of its 100 MW solar component in terms of the IEGC 2023 till the issuance of the order.

5. The Commission directed the parties to file their respective written submissions within two weeks. Subject to this, the matter was reserved for order."

Submission of the Respondent SECI in compliance with the RoP for the hearing dated 17.07.2025:

22. SECI vide affidavit dated 01.08.2025 submitted as under:

- (a) The Guidelines, the RfS and the PPA do not restrict the Petitioner from changing the location of its project. However, as per Clause 23.6 of the RfS, it is stated that the delay in commissioning of the Project due to changes in Project location(s) and/or connectivity/LTA, if any, will be on account of the HPD and will be dealt with as per the provisions of the RfS/PPA. As per this clause, the Project locations/connectivity may be changed; however, any time extension due to delay in commissioning of the project will be within the scope of HPD. Further, in Schedule B of the PSAs executed with CESC and MPSEZ, the Project's location is not specified. Therefore, the agreement executed between SECI and the Buying Entities is not location-specific.
- (b) There was no requirement for prior consent from either CESC or MUL in the RfS, LoA or PSA.

Written submission of the Respondent CESC Limited:

23. The Respondent CESC Limited, in its written submissions dated 04.08.2025, reiterated its earlier submissions.

Submissions of the Petitioner dated 19.08.2025 in compliance with the RoP for the hearing dated 17.07.2025:



24. The Petitioner has furnished a copy of the record notes of the discussion in the meeting held between SECI, MUL and the Petitioner dated 28.04.2024 and a copy of the Petitioner's letter dated 11.12.2023.
25. Petitioner, by way of its letter dated 11.12.2023, informed CTUIL that, SECI, vide its letter dated 11.12.2023 has accepted the proposal for shifting of 300MW connectivity from 220kV Koppal-11 PS to 220kV Koppal-I PS. As a consequence thereof, the 100 MW connectivity at Koppal-II PS was surrendered. Accordingly, CTUIL was requested to issue an intimation letter for 300MW connectivity at 220kV Koppal-I PS.
26. The Petitioner on 09.12.2021 submitted an Application bearing no. 1200003582 for Stage-II connectivity at Bikaner-II PS for its 300 MW of solar power being generated from the project located at Bikaner, Rajasthan.
27. The Petitioner has furnished a copy of the Stage-II connectivity application dated 09.12.2021 for the 300 MW solar project at Bikaner II PS.

Analysis and Decision:

28. We have considered the submissions of the Petitioner and Respondents and the documents placed on record. The following issue arises for our consideration:

Issue 1: Whether the Petitioner can be granted an extension for injection of infirm power under Regulation 19(3) of the Grid Code, from the 100 MW solar component of its 600 MW Hybrid Project till the date of commissioning of its Hybrid Project as per the PPA?

Issue 2: Whether the Petitioner can be allowed to sell the infirm power from the 100 MW solar component of its Hybrid Project, till the date of commissioning of the project as per PPA, to any third party outside the PPA? Whether the Respondent MUL and CESC reserve the right to avail the infirm power from the 100 MW solar component of its Hybrid Project till the actual date of commissioning of the project as per the PPA?

29. We now proceed to discuss the above issues.

Issue 1: Whether the Petitioner can be granted an extension for injection of infirm power under Regulation 19(3) of the Grid Code, from the 100 MW solar component of its 600 MW Hybrid Project till the actual date of commissioning of its Hybrid Project as per the PPA?

30. With regard to the Petitioner's project, we note the following:

- (a) The Petitioner is developing a Wind-Solar Hybrid Project of 600 MW, comprising 400 MW of Solar and 200 MW of Wind energy, in terms of the Request for RfS dated 22.10.2021 and subsequent LoA dated 12.07.2022 issued by SECI. The



Petitioner's Project is intended to supply power, through SECI as an intermediary, to MUL and CESC. Petitioner and SECI executed a PPA for the supply of 600 MW of Hybrid Power (Solar - 400 MW and Wind - 200 MW) with an Effective Date of 11.01.2023. The Solar component of the Project was to be established in District Koppal, Karnataka, and the Wind component in District Gadag, Karnataka. The original SCOD, as per the PPA, was 11.01.2025. The Financial Closure and SCOD were revised to 15.05.2024 and 16.05.2025, respectively, due to the delay in the adoption of the tariff.

- (b) The Petitioner, by way of a letter dated 23.10.2023, requested SECI for a change in location qua its Solar component as (i) 100 MW Solar from Koppal II, Karnataka to Bikaner II, Rajasthan and (ii) 300 MW Solar from Koppal II, Karnataka to Koppal, Karnataka. SECI, by way of its letter dated 11.12.2023, accorded approval for the change in location.
- (c) The Petitioner issued a letter to SECI as well as the buying entities on 06.01.2024, inter alia, stating that pursuant to the approval for change in location, 100 MW Solar components being developed at Bikaner II, Rajasthan shall be commissioned by 30.06.2024 and the associated 200 MW wind component shall be commissioned depending upon the readiness of Gadag II CTU Substation in Karnataka. Further, on 26.03.2024, the Petitioner issued a letter to SECI requesting an extension of SCOD due to the delay in Gadag II Substation.
- (d) NRLDC issued the first-time charging certificate to the Petitioner and approved the 100 MW trial run of the Project on 24.04.2024. Subsequently, on 25.04.2024, SECI issued NoC for the sale of 100 MW power outside of PPA as per provisions of RfS/PPA, till early and/or Part Commissioning of the Project or the date of commencement of procurement of power from the Project as notified by SECI/Revised SCOD, whichever is earlier.
- (e) On 20.05.2024, SECI, in response to the Petitioner's letter dated 26.03.2024, granted an extension for commissioning of the entire project capacity of 600 MW till 24.02.2026 or the actual start date of connectivity+ 2 months, whichever is later, due to the delay in Gadag II Substation.
- (f) On 13.09.2024, NRLDC issued a certificate of successful trial for the Petitioner's 100 MW Solar Project (with electrical load) as per Regulation 35 of the Grid Code.
- (g) The Petitioner approached NRLDC, which, after due consideration, granted standing clearance for injection of infirm power from the 100 MW Solar



component up to 13.03.2025, being the maximum permissible period of 135 days (i.e., 45 days plus a three-month extension) as per Regulation 19(3) of the Grid Code.

(h) Having now exhausted the maximum extension period available with the RLDC as per Grid Code and keeping in view the delay in commissioning of the Gadag-II substation extending beyond the Petitioner's control, the Petitioner has approached this Commission seeking further extension of the period for injection of infirm power from its 100 MW Solar component until the actual COD of the entire 600 MW Hybrid Project.

31. The Respondents SECI, MUL and CESC have not opposed the grant of extension for injection of power from the 100 MW solar component of the Petitioner's Hybrid Project. However, they have primarily submitted that the infirm power generated by the 100 MW solar component of Petitioner's project should be offered to them at the PPA tariff and that they have the right of first refusal for such power.

32. The relevant extract of the PPA signed between Petitioner and SECI is as under:

"ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

5.1.5 The HPD shall commission the Project as detailed in "Schedule 3: Commissioning Procedure" within the SCD as per this Agreement. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-3 and subsequent upon the successful visit by the Commissioning Committee.

5.1.6 There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid.

Part commissioning cannot be construed by just installing one source of generation. the HPD shall install both solar and wind capacities in proposed ratio on pro-rata basis.

.....

5.1.8 Early Commissioning

The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date, subject to availability of transmission connectivity and Long-Term Access (LTA).

Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and SECI shall purchase the energy from such early commissioned Project at the PPA tariff, only in the case Discom agrees to purchase power from the Project at an earlier date, and at the PPA tariff plus trading margin. Such intimation for early commissioning shall be provided to SECI at least 60 days prior to the proposed early commissioning date. In case there is no response

provided by SECI within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by SECI.

In case SECI does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the HPD will be free to sell such energy to a third party; subject to operationalization of LTA/STOA/MTOA/GNA/T-GNA, until SCD or the date of commencement of procurement of power from the Project as notified by SECI, whichever is earlier. In such cases a Provisional Commissioning Certificate will be issued to HPD for period up to SCD or date of commencement of Power Procurement (whichever is earlier), along with a NOC for sale of Power to 3rd Party for such period. COD of the Project under the PPA will be declared from the date of commencement of procurement of energy from the Project by SECI.

.....

ARTICLE 9: APPLICABLE TARIFF

9.1 The HPD shall be entitled to receive the Tariff of Rs. 2.53/ kWh, fixed for the entire term of this Agreement, with effect from the SCD, for the power sold by the Buyer to the Buying Entity for the scheduled energy as reflected in the Energy Accounts. In case of early commissioning, subject to the consent for such purchase by the Buying Utility, SECI will purchase the generation at the PPA tariff.”

As per above, the PPA provides that the Petitioner can perform the part commissioning of the project; however, such part commissioning shall not be considered by just installing one source of generation, and the project developer is required to install both solar and wind capacities in the proposed ratio on a pro-rata basis. In the present case, the Petitioner's project capacity is 600 MW (400 MW solar and 200 MW wind). Therefore, with a solar capacity of 100 MW, the Petitioner is required to commission a 50 MW wind component to be eligible to declare part/ early commissioning under the PPA.

33. The relevant extract of RfS for “selection of Hybrid Power Developers for Setting up of Request for Selection (RfS) Document for Selection of Hybrid Power Developers for Setting up of 1200 MW ISTS-connected Wind-Solar Hybrid Power Projects in India under Tariff-Based Competitive Bidding (Tranche-V)” is as under:

“10 Delay in Commissioning on Account of Delay in LTA Operationalization

....

*10.2 In case of project components being located at multiple locations, and if one of such components (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to delay in grant of LTA/LTA operationalization, the HPD will be allowed for commissioning of such component which is ready, and the HPD at its sole discretion, **may sell such power to any third party till** the grant/operationalization of LTA. Following should be noted under this scenario:*

- i. **Power procurement from such component(s) will be outside the PPA, and at a tariff mutually decided between the Buying Entity and the HPD. In case the same is procured through SECI, trading margin of 7 paise/unit will be applicable on such power procurement.***



ii. The above scenario does not qualify under the provisions of Part/Early Commissioning under the RfS, PPA and PSA. This is a special scenario wherein in case a project component is ready, the generation from such component is not wasted.

iii. The terms "COD" and "commissioning" as per the RfS, PPA and PSA will not be applicable for such component. Commissioning/injection of power from such component will be allowed only if the same is allowed as per the applicable regulations.

iv. The above scenario will be applicable until the HPD is ready to commission the Project as per the provisions of "Early and/or Part Commissioning" of the Project."

As per above, the RfS provides for a scenario wherein in case of project components being located at multiple locations, and if one of such components (wind or solar PV) is ready for injection of power into the grid, but the other component is not ready due delay in grant of LTA/ LTA operationalization, the HPD i.e. the Petitioner is allowed for commissioning of such component which is ready and may sell such power to any third party till the grant/operationalization of LTA. The RfS also clearly states that power procurement from such components will be outside the PPA. Therefore, under the RfS, the Petitioner is permitted to sell power from any single component of the Project (wind/solar) outside the PPA.

34. The snapshot of the certificate of successful trial run dated 13.09.2024 is as under:

5. No Objections recived from (Beneficiary(ies)).

Based on above references, it is hereby certified that the following Power System elements have been successfully completed the trial operation:

Name of the Transmission Asset:	100MW out of 300 MW of Banderwala Solar Plant TPSL(Based on Corroborated performance). 1. 70MW-Solar Block No. 29 to 36 and 40(B). 2. 30MW-Solar Block No. 37 to 39, 40(A) and 41(A).
Owner of the Transmission Asset:	Banderwala Solar Plant TPSL.
Date and Time of Energization for commencement of successful trial run operation	1. 08-05-2024, 09:30Hrs. 2. 11-07-2024, 09:15Hrs.
Date/Time of completion of successful trial run operation	1. 08-05-2024, 15:00Hrs. 2. 11-07-2024, 13:45Hrs.

Note:

This certificate is being issued in accordance with Regulation 25 (1) and 25(2) of CERC (Indian Electricity Grid Code) Regulations, 2023 and amendments thereof to certify successful trial run of power system element with electrical load.

1. The Reactive power capability test was performed on dated 08 and 09 Sep 2024. On 09 Sep 2024, Plant successfully operated at 0.95 Lag PF at POI(Bikaner_2_PG) with active power injection of 318.87MW and Reactive power injection of 105.04MVAR at ambient temperature of 37.75 degree Celsius(as per SCADA data).

2. CEA Technical Standards complied Type test report for Fault Ride through test(LVRT and HVRT) received.

3. Frequency response test is not performed by Banderwala_TPSL. CEA Technical Standards complied Simulation studies for frequency response test received. Banderwala_TPSL shall perform the Frequency response test of machines as per the CEA Technical Standards for Connectivity within a period of one year from the date of achieving COD at the point of interconnection.

4. Corroborated performance data of 270MW and 30MW received.

As per above, the successful trial run for the 100 MW Solar component of the Petitioner's hybrid project was completed on 11.07.2024.

35. The relevant snapshot of the final grant of connectivity for the 200 MW wind component of Petitioner's project at Gadag-II PS is as under:

FORMAT-CONN-INT-1C

INTIMATION FOR FINAL GRANT OF CONNECTIVITY UNDER REGULATION 9		
A General		
1.	Intimation No	: CTU/S/5/Conn/INT-1C-0251100006
	Date	: 13.09.2024
2.	Ref. Application No.	: 0251100006
	Date	: 15.07.2022
3.	Name of the Applicant	: M/s TP Saurya Ltd.
4.	Address for Correspondence	: C/o The Tata Power Company Limited, Corporate Centre B, 6 th floor, 34 Sant Tukaram Road Carnac Bunder, Maharashtra
5.	Location of the Generating Station	: Abigeri Naregal Halakeri, Gadag
	Latitude	: 15.364977 (15° 21' 53.9172"N)
	Longitude	: 75.490239 (75° 29' 24.8604"E)
	State	: Karnataka
6.	Nature of the Applicant	: Generator
7.	Installed Capacity [Thermal/ Hydro/ Nuclear/ Wind/ Solar/ PSP/ BESS etc.]	: 200 MW [Solar]
B Connectivity Details		
8.	ISTS Connectivity details	
i.	Capacity (MW) for which connectivity is granted	: 200
ii.	Point at which connectivity is granted	: Gadag-II PS
iii.	Voltage level of allocated terminal bay	: 220 kV
iv.	Terminal bay at ISTS end to be constructed under ISTS	: Yes
v.	Terminal bay no. and SLD	: 202 [SLD Enclosed]
vi.	Status of ISTS substation [Existing/ Under Construction]	: UC
vii.	In case of under construction substation (tentative/final):	: Final

		Gadag-II (Phase-A) in Karnataka as per -I: 26.12.2025
		<ul style="list-style-type: none"> ISTS Network Expansion scheme in WR & SR for export of surplus power during high RE scenario in SR as per Annexure-II, SCOD: 16.07.2024 [Anticipated COD: 31.12.2024 as per 46th JCC meeting]
11.	Start date of Connectivity	: 27.12.2025 [With the availability of common transmission system required for effectiveness of GNA]
C Bank Guarantees submitted		
i.	Amount of Conn-BG1	: Rs. 50 lakhs
ii.	Amount of Conn-BG2	: Rs. 3.0 Crs.
iii.	Amount of Conn-BG3 @2 lakh/MW	: Rs. 4.0 Crs.
D Details of communication system		
i.	Details of communication system	: As per Annexure-III

Connectivity Grantee/Applicant may get updated status towards COD of common transmission system from TSP for readiness of its generation project along with matching time frame.

Part of Transmission Scheme for Integration of Renewable Energy Zone (Phase-II), in Koppal (Phase-A & B) and Gadag-II (Phase-A) in Karnataka

Transmission Scheme for integration of Renewable Energy Zone (Phase-II) in Koppal-II (Phase-A) in Karnataka

- Establishment of 765/400 kV 2x1500 MVA, 400/220 kV, 2x500 MVA Koppal-II PS
- Koppal-II PS – Narendra (New) 765 kV D/c line with 240 MVA SLR at Koppal-II PS end
- 2x330 MVA (765 kV) & 2x125 MVA (400 kV) bus reactors at Koppal-II PS

Transmission Scheme for integration of Renewable Energy Zone (Phase-II) in Gadag-II (Phase-A) in Karnataka

- Establishment of 400/220 kV, 2x500 MVA Gadag-II PS
- Gadag-II PS – Koppal-II PS 400 kV (Quad Moose) D/c line
- 2x125 MVA 420kV bus reactors at Gadag-II PS

Annexure-II

ISTS Network Expansion scheme in Western Region & Southern Region for export of surplus power during high RE scenario in Southern Region

Sl.	Scope of the Transmission Scheme	Capacity /km
1.	Narendra New (GIS) – Pune (GIS) 765kV D/c line with 1x330MVA switchable line reactor on each ckt at both ends	<ul style="list-style-type: none"> • 765 kV line bays -2 (GIS) (at Narendra New) • 765 kV line bays -2 (GIS) (at Pune) • 765 kV, 330 MVA SLR – 2 nos (7 X 110 MVA incl. 1 switchable spare unit) at Pune (GIS) • 765 kV, 330 MVA SLR – 2 nos (6 X 110 MVA) at Narendra (New) (GIS)
2.	Upgradation of Narendra (New) (GIS) to its rated voltage of 765 kV level along with 4x1500 MVA transformer and 2x330 MVA Bus Reactor.	<ul style="list-style-type: none"> • 765/400 kV, 1500 MVA- 4 no. (13 X 500 MVA incl. 1 spare unit) • 765 kV ICT bays- 4 nos. (GIS) • 400 kV ICT bays- 4 nos. (GIS) • 765 kV, 330 MVA BR – 2 nos. (7 X 110 MVA incl. 1 switchable spare unit to be used for both bus/line reactors) • 765 kV Bus Reactor bays – 2 nos. (GIS)

Ref No. CTU/S/5/Conn/INT-1C-0251100006-R1

Date: 16.12.2024

Shri Santosh Narayan
Group Head Project Development
TP Saurya Limited
C/o The Tata Power Company Limited,
Corporate Centre B, 6th floor,
34 Sant Tukaram Road
Carnac Bunder, Maharashtra

Sub: Modification in final grant of Connectivity for 200 MW to M/s TP Saurya Ltd. at Gadag-II PS- Reg.

Dear Sir,

M/s TP Saurya Ltd. has been granted final grant of connectivity for 200 MW [intimation ref. CTU/S/5/Conn/INT-1C-0251100006 dated 13.09.2024] at Gadag-II PS against application no. 0251100006, submitted on the basis of SECI LOA (no. SECI/C&P/HPD/T5/LoA/P1/50089 dated 12.07.2022) and subsequent GNA transition request dated 25.04.2023.

Vide letter dated 17.09.2024 and e-mail dated 23.10.2024, M/s TP Saurya Ltd. requested for change in nature of generation type from solar to wind and had signed the connectivity agreement.

In view of the above, following is revised in the final grant of connectivity for application no. 0251100006.

Item No.	Description	Details, as per earlier intimations	Revised details
7	Installed Capacity [Thermal/ Hydro/ Nuclear/ Wind/ Solar/ PSP/ BESS etc.]	200 MW [Solar]	200 MW [Wind]

This letter shall form integral part of earlier intimation dated 12.09.2024 and all other terms and conditions of the earlier intimation shall remain same.

Thanking you

As per the above, the Petitioner has been granted connectivity for the 200 MW wind component of its project at Gadag-II PS with a start date of Connectivity on 27.12.2025, subject to availability of the common transmission system.

36. We note that the SECI, vide its letter dated 20.05.2024, extended the scheduled commissioning date of the Petitioner's project under the PPA as under:

Ref: SECI/PS/Tranche-V/TATA Extn./ 64301

Date: 20.05.2024

To

M/s TP Saurya Limited
C/O Tata Power Company Limited
Corporate Centre, A Block 34, Sant Tukaram Road
Carnac Bunder Mumbai- 400009

Kind Attention: Sh. Sumit Goel

Sub: Extension in SCD on account of delay in start date of connectivity for 600 MW Solar Wind Hybrid Power Project (under Tranche –V) awarded to M/s TP Saurya Limited – Reg.

Ref:

1. Power Purchase Agreement signed for your 600 MW Hybrid Power Project (Project ID: HPD-ISTST5-TPSL-P1-600 MW)
2. Your e-mail dated 26 March, 2024 and subsequent communications

Dear Sir,

This is with reference to the above request (Ref 2) w.r.t extension in Schedule Commissioning date (SCD) due to delay in start date of connectivity of 600 MW Project under Hybrid Tranche V. It is hereby conveyed that SCD of the Project will be '24.02.2026' or 'Actual start date of connectivity + 60 days', whichever is later and maximum time period allowed for commissioning of the aforesaid Project is also extended as '24.08.2026' or 'Actual date of start of connectivity + 60 days + 6 months', accordingly.

This letter is issued without any prejudice to the provisions of RfS & PPA (Ref-1).

As per the above, SECI has granted an extension for the scheduled commissioning date of the Petitioner's 600 MW Hybrid project till 24.02.2026, or the actual start date of connectivity+ 2 months, whichever is later, on account of the delay in the start date of connectivity.

37. We note that PPA and the RfS provide two distinct provisions for commissioning of part capacity of the Petitioner's hybrid project. While the PPA puts a bar on COD of the single component of the hybrid project, the RfS permits injection and sale of power from the single ready component of the hybrid project outside the PPA, without treating the same as part of commissioning under the PPA. In view of the express provisions under the PPA, the Petitioner is not entitled to declare the COD of the 100 MW solar component of its project, which is already ready. Further, we also observe that start date of connectivity of the Petitioner's hybrid project is delayed and keeping in view the same, SECI has granted an extension for

commissioning of the Petitioner's 600 MW Hybrid project till 24.02.2026 or actual start date of connectivity+ 2 months, whichever is later. Accordingly, we are of the considered view that this is a fit case for allowing the extension of the period for the injection of infirm power.

38. With regard to two distinct provisions for commissioning of part capacity of the Petitioner's hybrid project under the PPA and the RfS, we are of the view that SECI ought to take care in future so that the various provisions and conditions under the RfS are clearly incorporated under the PPA so as to avoid disputes at a later stage.

39. Regulation 19 of the Grid Code provides as under:

"19. DRAWAL OF START UP POWER AND INJECTION OF INFIRM POWER

(1) A unit of a generating station including unit of a captive generating plant that has been granted connectivity to the inter-State Transmission System in accordance with GNA Regulations shall be allowed to inter-change power with the grid during the commissioning period, including testing and full load testing before the COD, after obtaining prior permission of the concerned Regional Load Despatch Centre:

Provided that the concerned Regional Load Despatch Centre while granting such permission shall keep grid security in view.

(2) The period for which such inter-change shall be allowed shall be as follows:-

(a) Drawal of start-up power shall not exceed 15 months prior to the expected date of first synchronization and one year after the date of first synchronization; and

(b) Injection of infirm power shall not exceed one year from the date of first synchronization for generating stations other than REGS and ESS (except Hydro PSP ESS).

(c) Injection of infirm power shall not exceed 45 (forty-five) days from date of first time energization and integration (FTC) approval for REGS and ESS (except Hydro PSP ESS).

(3) Notwithstanding the provisions of clause (2) of this Regulation, the Commission may allow extension of the period for inter-change of power beyond the stipulated period on an application made by the generating station at least two months in advance of the completion of the stipulated period:

Provided that for REGS and ESS (except Hydro PSP ESS), extension of period for injection of infirm power beyond the stipulated period may be allowed (a) for a period up to three months by respective RLDC on an application(s) made by such generating station or ESS(except Hydro PSP ESS) to respective RLDC along with detailed reasons, at least 10 days in advance of the completion of the stipulated period, (b) for a period beyond three months, by the Commission on an application(s) made by such generating station or ESS(except Hydro PSP ESS) along with detailed reasons, at least 15 days in advance of the completion of the stipulated period."

As per above, for a REGS, injection of infirm power is allowed for a period not exceeding 45 days from the date of first-time energization and integration (FTC)



approval. For a period beyond 45 days, an extension for a period of three months may be allowed by the respective RLDC and beyond a period of three months, by the Commission.

40. We observe that the Petitioner was injecting infirm power from a 100 MW solar component with due approvals of the SRLDC as per the provisions under the Grid Code, and the Petitioner has already exhausted the maximum extension for injection of infirm power permissible at the RLDC level under Regulation 19 of the Grid Code. The Respondents, SECI, CESC Limited and MUL, have not opposed the extension of the period for infirm power from the Petitioner's 100 MW solar project; however, their contention that infirm power from the 100 MW solar component of the Petitioner's project should be offered to them at the PPA tariff has been dealt with under Issue No. 2 of this Order.
41. In view of the above discussions, in exercise of powers under Regulation 19(3) of the Grid Code, we allow the extension of the period for injection of infirm power from the Petitioner's 100 MW solar component till the readiness of 50 MW wind component of the Petitioner's Hybrid Project which is the required eligibility condition for declaration of part/early commissioning of the hybrid project under the PPA. However, such an injection of infirm power shall be subject to compliance with applicable Regulations and directions of the concerned RLDC.

Issue 2: Whether the Petitioner can be allowed to sell the infirm power from the 100 MW solar component of its Hybrid Project, till the actual date of commissioning of the project as per the PPA, to any third party outside the PPA? Whether the Respondent, MUL and CESC reserve the right to avail the infirm power from the 100 MW solar component of the Hybrid Project till the actual date of commissioning of the project as per the PPA?

42. The Petitioner has submitted that, vide letter dated 06.01.2024, the Petitioner extended the offer to supply the infirm power from a 100 MW solar component to the Buying Entities, i.e., CESC and MUL. In response, CESC issued a letter on 24.01.2024. CESC did not expressly accept the contents of the letter dated 06.01.2024; rather, it proposed a new condition that the power shall be supplied through power exchange at a tariff rate arrived at from the bidding as per the JNNSM scheme. Similarly, MUL, in its letter dated 29.03.2024, rejected the tariff offered and instead proposed supply at the PPA tariff of Rs. 2.53/kWh. Consequently, no binding agreement or acceptance materialised; SECI, vide its letter dated 25.04.2024, granted NOC to the Petitioner. Thereafter, Petitioner has

entered into a binding PDA dated 09.07.2024 with TPTCL for the supply of 70 MW out of the 100 MW solar component. The balance of 30 MW is being traded through the power exchange.

- 43.** Petitioner has also submitted that the only exception that permits injection of power from a single component of the hybrid configuration is set out under Clause 10.2 of the RfS, which provides that in case one component is ready for injection, while the other is delayed due to pending LTA operationalisation, the developer may inject power from the ready component and sell it to third parties outside the PPA. The said clause categorically states that such a scenario “does not qualify under the provisions of Part/Early Commissioning under the RfS, PPA and PSA”. Further, clause 10.2 of the RfS does not require TPSL to take consent from the buying entity or SECI before proceeding to sell power from the 100 MW solar component to a third party and such an action is based on the discretion of TPSL. The only requirement in this regard is that the tariff for such sale is required to be mutually agreed upon between the Petitioner and the Buying Entity.
- 44.** Respondent MUL has submitted that despite having clearly communicated its stand vide letters dated 10.02.2024 and 29.03.2024, qua rejection of the proposal made by the Petitioner to supply 100 MW of alleged infirm solar power at Rs. 3.08 per unit as against the PPA rate of Rs. 2.53 per unit, the SECI erroneously proceeded to construe the same as refusal to accept supply from the Petitioner thereby allowing the Petitioner to go for third party sale. Further, the power post-commissioning (whether part or full) is meant only for SECI/buying entities; then such power (by alleging it as infirm) cannot be treated otherwise and has to be mandatorily offered to SECI/buying entities at the PPA/PSA tariff. Only in the event of refusal by SECI/ buying entities can such power be sold to third parties. The right of first refusal is vested with the MUL, and the Commission may direct SECI to withdraw the NoC and the Petitioner to stop the supply of 70 MW power to TPTCL in terms of the PDA dated 09.07.2024 with immediate effect.
- 45.** Respondent CESC has submitted that in terms of Article 9.2 of the PPA, any energy produced and flowing into the grid before SCD will not be allowed to be sold to any entity other than SECI (unless refused by SECI). CESC has at no point rejected the procurement of infirm power from Petitioner. SECI has incorrectly

treated the communication dated 24.01.2024 issued by CESC to SECI as a rejection of Petitioner's proposal.

46. Respondent, CESC, has also submitted that Petitioner ought to be directed to supply the entire 100 MW infirm power at tariff discovered under the PPA/PSA, i.e., at Rs. 2.60/kWh to CESC as per the applicable terms contained therein, or at an equitable tariff as may be deemed fit by the Commission in light of the provisions under Grid Code and the observation of the Commission in the Sua Motu Order dated 22.12.2024. As the NoC granted by SECI to the Petitioner duly records that such NoC can be withdrawn at any point by SECI, SECI ought to be directed to withdraw its NoC granted to the Petitioner since CESC is explicitly expressing its interest in procuring the power being generated by the Petitioner.
47. Respondent, SECI, has submitted that in line with clause 10.2 of the RfS, SECI issued the NOC to the Petitioner after the buying entities refused to purchase energy at the tariff proposed by the Petitioner. Further, clause 5.1.6 of the PPA states that installation of one source of generation cannot be considered to be part commissioning of the Project, and that both solar and wind capacities in the proposed ratio on a pro-rata basis are to be installed.
48. The relevant extract of the Petitioner's letter dated 06.01.2024, which was addressed to CESC, MUL and SECI, is as under:

"Subject: Tariff Proposal for Power sale of 100 MW Solar Component getting ready before COD as per terms of Rfs

Reference:

1. PPA between TP Saurya and SECI dated 31-03-2023 for 600 MW Hybrid Tranche V
2. SECI Letter dated 04-10-2023 regarding the revised SCOD of the Project.
3. SECI Letter dated 11-12-2023 for approval of Change in location of Solar components.
4. RFS dated 22.10.2021 issued by SECI for selection of Hybrid Power Developers for Setting up of 1200 MW ISTS-connected Wind-Solar Hybrid Power Projects in India under Tariff-Based Competitive Bidding (Tranche-V)

Dear Sir,

1. We write to you in reference to the Power Purchase Agreement ("PPA") dated 31.03.2023 executed between TP Saurya and SECI for supply 600 MW Wind-Solar Hybrid power (Solar- 400 MW & Wind- 200 MW) from its Project located in the State of Karnataka at the tariff of Rs. 2.53/kWh. The Scheduled Commercial Operation Date

("SCOD") of the 600 MW Project is 16-May-2025 as per SECI letter dated 04-10-23 under reference (2) above.

2. By way of letter dated 23-10-2023, TP Saurya had requested for a change in location for its Solar component to the following locations:

- (a) 100 MW Solar from Koppal II, Karnataka to Bikaner II, Rajasthan
- (b) 300 MW Solar from Koppal II, Karnataka to Koppal, Karnataka

3. In light of our request, SECI, by way of letter dated 11.11.2023 has approved the change in location of Solar Component

4. In this regard, we would like to inform you that pursuant to above stated approval from SECI, the 100 MW Solar component being developed at Bikaner II Rajasthan shall be commissioned by 30-06-2024. In so far as the associated 200 MW wind component is concerned, the same shall be commissioned depending upon the readiness of Gadag II CTU Substation at Karnataka.

5. At this juncture, it is relevant to mention herein that Clause 10.2 of the RfS dated 22.10.2021 specifies scenarios as to when the developer's project components that are located at multiple locations and one of the project components is ready for injection of power into the grid and other components are unable to get commissioned due to delay in grant of LTA/LTA operationalization, can inject power into the grid. The said early injection shall not qualify as early / part commissioning and the Developer at its sole discretion, may sell such power to any third party till the grant/operationalization of LTA.

6. One scenario under which the same can be done by the developer is when the power procurement from such component(s) will be outside the PPA, and at a tariff mutually decided between the Buying Entity and the Developer. In case the same is procured through SECI, trading margin of 7 paise/unit will be applicable on such power procurement. For ready reference, the said clause is reproduced hereunder.

"10.2 In case of project components being located at multiple locations, and if one of such components (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to delay in grant of LTA/LTA operationalization, the HPD will be allowed for commissioning of such component which is ready, and the HPD at its sole discretion, may sell such power to any third party till the grant/operationalization of LTA. Following should be noted under this scenario:

i. Power procurement from such component(s) will be outside the PPA, and at a tariff mutually decided between the Buying Entity and the HPD. In case the same is procured through SECI, trading margin of 7 paise/unit will be applicable on such power procurement.

ii. The above scenario does not qualify under the provisions of Part/Early Commissioning under the RIS, PPA and PSA. This is a special scenario wherein in case a project component is ready, the generation from such component is not wasted."

7. Therefore, TP Saurya proposes the tariff of Rs 3.08 per unit including the SECI trading margin at delivery point of Generator CTU periphery for the term from Commissioning date of 100 MW Solar Project till the COD under the PPA.

8. We request Buying entities and SECI to review the proposal and revert within 15 days to formalise the short term PPA for 100 MW Solar Power at the proposed tariff of Rs 3.08 per unit subject to other terms and conditions on mutual agreement basis.

Should the Buying entities, SECI don't wish to purchase power as per above proposal, TP Saurya shall use the other option available under Rfs, to sale the power to a third party till COD of the Project.”

As per the above, the Petitioner submitted a tariff proposal for the sale of power from the 100 MW solar component of its hybrid project, which was getting ready before COD as per the terms of the RfS, at a rate of Rs 3.08 per unit on a mutual agreement basis. The Petitioner also mentioned that if the buying entities/SECI do not wish to purchase such power, the Petitioner will sell the same to a third party until the COD of the project.

49. In response to the Petitioner’s proposal vide letter dated 06.01.2024, CESC vide its letter dated 24.01.2024 informed as under:

“Sub: Tariff proposal for power sale of 100 MW Solar Component getting ready before COD as per terms of RfS

Dear Sir,

We are thankful to SECI for sharing the proposal for sale of 100 MW solar capacity from Bikaner II, Rajasthan by M/s TP Saurya Limited [“HPD”], to be commissioned by 30.06.2024, as per the provisions of Clause 10.2 of the RfS SECI/C&P/IPP/13/0003/21-22 dated 22.10.2021 for selection of Hybrid Power Developers for Setting up of 1200 MW ISTS-connected Wind-Solar Hybrid Power Projects in India under Tariff-Based Competitive Bidding [Tranche-V].

It is understood that proposed purchase of solar capacity is outside the provisions of the PSA dated 11.01.23 executed between SECI and CESC.

We have evaluated the proposal and accordingly, wish to draw your kind attention to the amended clause 53 of the WBERC (Cogeneration and Generation of Electricity from Renewable Sources of Energy) (First Amendment), 2020 as below:

5.3 Notwithstanding anything contained to the contrary in any other regulations, distribution licensee shall purchase solar power through competitive bidding only except purchase from grid-connected solar projects below notified capacity for competitive bidding located within the State However, the solar power purchased from any source under JNNSM bundled power or SECI which are selected through competitive bidding or from power exchange, will not be required to go through any separate competitive bidding by the licensee:

As above, the applicable regulation requires purchase of solar power either through SECI based on competitive bidding or through power exchange.

Accordingly, CESC expresses its desire to purchase appropriate solar power capacity, based on its system requirements, through trading products available on power exchange(s). Modalities, if any, can be discussed and finalized later.”

As per above, CESC, vide its letter dated 24.01.2024, clearly noted that the purchase of said power from 100 MW solar capacity is outside the provisions of



the PSA dated 11.01.2023 executed between SECI and CESC. Further, CESC expressed its desire to purchase the said solar power capacity, based on its system requirements, through trading products available on power exchange(s). From above, it is understood that CESC did not accept the proposed offer of the Petitioner at the rate of Rs 3.08 per unit.

50. In response to the Petitioner's proposal vide letter dated 06.01.2024, MUL vide its letter dated 29.03.2024 informed as under:

"1. This has reference to the letters under references and meeting held on 15.03.2024, wherein TP Saurya Limited (HPD) have asked us to provide consent/dissent for procurement of 100 MW solar power getting commissioned by 30.06.2024 (which is prior to the SCD of 16.05.2025) at the proposed tariff of Rs. 3.08/kWh, which is completely contrary and in contrast to the applicable tariff of Rs. 2.53/kWh agreed by both the parties under the PSA.

*2. It is evident from the above-referred letter that **HPD's tariff proposal of Rs. 3.08/kWh for power sale of 100 MW solar component getting commissioned by 30.06.2024 (prior to the SCD of 16.05.2025) is on a higher side in comparison to the applicable tariff under the PSA which shall be at Rs. 2.53/kWh as project is getting commissioned even prior to SCD. The tariff proposal of Rs. 3.08/kWh proposed placing reliance on clause 10.2 of the RfS dated 22.10.2021, is not relevant in this scenario as there is no delay as such in commissioning on account of delay in LTA operationalization, when the project SCD is itself 16.05.2025. Instead this relates to early commissioning as HPD wishes for commissioning of the Project even prior to the SCD and therefore HPD is entitled for Applicable Tariff only which is Rs. 2.53/kWh in terms of PSA as well as PPA terms.***

3. Further, it is noted that the offered tariff should even be less than Rs. 2.53/kWh since as per the PSA, applicable tariff constitutes solar as well as wind component wherein as a general practice wind has relatively higher cost as compared to the standalone solar and accordingly in the present scenario since only solar part is getting commissioned the offered tariff should be on lower side as against the applicable tariff of Rs. 2.53/kWh.

4. The only clause HPD have placed reliance is on clause 10.2 of the Rfs is to quote higher tariff instead of the applicable PSA Tariff. There are several provisions which deal with the clause Early Commissioning and applicability of tariff in case of Early Commissioning, however, to negate what is actual tariff which shall be applicable, HPD have applied different interpretation by placing reliance on the Rfs and trying to quote higher tariff which is contrary to the agreed clauses of PSA/PPA.

For ready reference, the relevant applicable clause of PSA is reproduced hereunder:

"5.1.2 As per provisions of the PPA, the HPDs are permitted for full as well as part commissioning of the Project even prior to the SCD. In case of early (part and/or full) commissioning of the Project(s) prior to SCD, Buying Entity shall have the first right of refusal and Buying Entity shall purchase the power at the Applicable tariff as per the PPA, plus SECI's Trading Margin of Rs 0.07/kWh (Seven Paise per kWh)"

5. Further, in terms of clause 5.1.8, 9.1 and 9.3 of Power Purchase Agreement ("PPA") dated 31.03.2023 executed between TP Saurya Limited and SECI, TP Saurya Limited

is entitled for a tariff of Rs. 2.53/kWh only in cases wherein HPD wishes for commissioning of the projects prior to the Scheduled Commissioning Date. For ready reference, the said clauses of PPA are reproduced hereunder:

.....
6. With the above consideration we are of the view that in case of any mismatch/contradiction between provisions of different documents viz. RfS and PPA, terms of PPA shall prevail and accordingly tariff proposal at Rs. 3.08/kWh is not tenable.

7. In view of the above, we hereby give our acceptance for early commissioning of the solar project to purchase 100 MW power at the applicable tariff of Rs. 2.53/kWh w.e.f 30.06.2024 and request SECI/HPD to share the day-wise hourly solar generation profile for our further analysis.

This is without prejudice to any other rights and contentions of MUL which it may have under law as well as in equity.”

As per above, with respect to the Petitioner’s proposal, MUL informed that the tariff proposal of Rs. 3.08/kWh for power sale of 100 MW solar is on the higher side in comparison to the applicable tariff under the PSA, which shall be at Rs. 2.53/kWh as the project is getting commissioned even prior to SCD. MUL also submitted that the tariff proposal of Rs. 3.08/kWh which places reliance on clause 10.2 of the RfS dated 22.10.2021, is not relevant in this scenario as there is no delay in commissioning on account of delay in LTA operationalization, when the project SCD is itself 16.05.2025. Accordingly, MUL did not accept the proposed offer of the Petitioner at the rate of Rs 3.08 per unit.

51. The relevant extract of the SECI letter dated 25.04.2024 is as under:

“Subject: Interim NOC for sale of Power outside PPA - Reg.

Ref.: 1) Power Purchase Agreement signed for your 600 MW Hybrid Power Project (Project ID: HPD-ISTS-T5-TPSL-P1-600 MW)

2) Your letter dated 06.01.2024

3) Your trial run notice dated 20.04.2024

Sir,

This is in reference to the above request (Ref 2) w.r.t sale of power outside the PPA in relation to single solar component commissioning under Hybrid Project Tranche V. In this regard, SECI hereby allows for sale of Power from single solar component of 100 MW as per provisions of RfS/PPA, till "Early and/or Part Commissioning of the Project or the date of commencement of procurement of power from the Project as notified by SECI/Revised SCD, whichever is earlier.

Further, all State/Central policies, regulations and other relevant statutory approvals as required w.r.t design, construction, development and commissioning of the individual component shall be in the scope of HPD.

SECI has reserved its rights to withdraw this NOC at any point of time.

This letter is issued without any prejudice to the provisions of RIS & PPA (Ref-1).”

As per the above, SECI, issued an interim NOC to the Petitioner for sale of Power from a single solar component of 100 MW as per provisions of RfS/PPA till "Early and/or Part Commissioning of the Project or the date of commencement of procurement of power from the Project as notified by SECI/Revised SCD, whichever is earlier".

52. We observe that MUL, in its letter dated 29.03.2024, mentioned that the Petitioner's case relates to the early commissioning under the PPA, the Petitioner is entitled to the Applicable Tariff of Rs. 2.53/kWh in terms of PSA as well as PPA terms. In this regard, we have perused the provisions of the PPA signed between the Petitioner and SECI, which provides as under:

“

<p>“Unit/ Part Commissioning”</p>	<p><i>Subject to the compliance of conditions/ procedure as detailed under Schedule-3 of this Agreement, Unit/ Part Commissioning shall mean the Hybrid Power Capacity (AC MW) to be commissioned as per provisions of this Agreement and RfS document. The minimum capacity for acceptance of first part commissioning at one project site shall be at least 50 MW, without prejudice to the imposition of penalty, in terms of this PPA on the part which is not commissioned. The projects can further be commissioned in parts of at least 25 MW batch size, with last part could be the balance capacity;</i></p>
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ARTICLE 5: SYNCHRONISATION, COMMISSIONING AND COMMERCIAL OPERATION

5.1 Synchronization, Commissioning and Commercial Operation

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5.1.5 The HPD shall commission the Project as detailed in "Schedule 3: Commissioning Procedure" within the SCD as per this Agreement. Declaration of COD / UCOD shall only be done subject to the demonstration of the compliances as per Schedule-3 and subsequent upon the successful visit by the Commissioning Committee.

5.1.6 There can be part Commissioning of the Project. Part commissioning of the project shall mean that all equipment corresponding to the part capacity have been installed and commissioned and corresponding energy has flown into the grid.

Part commissioning cannot be construed by just installing one source of generation. the HPD shall install both solar and wind capacities in proposed ratio on pro-rata basis.

.....

5.1.8 Early Commissioning

The HPD shall be permitted for full commissioning as well as part commissioning of the Project even prior to the Scheduled Commissioning Date, subject to availability of transmission connectivity and Long-Term Access (LTA).

Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and SECI shall purchase the energy from such early commissioned Project at the PPA tariff, only in the case Discom agrees to purchase power from the Project at an earlier date, and at the PPA tariff plus trading margin. Such intimation for early commissioning shall be provided to SECI at least 60 days prior to the proposed early commissioning date. In case there is no response provided by SECI within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been refused by SECI.

In case SECI does not agree to purchase such energy, early part/full commissioning of the Project shall still be allowed and the HPD will be free to sell such energy to a third party; subject to operationalization of LTA/STOA/MTOA/GNA/T-GNA, until SCD or the date of commencement of procurement of power from the Project as notified by SECI, whichever is earlier. In such cases a Provisional Commissioning Certificate will be issued to HPD for period up to SCD or date of commencement of Power Procurement (whichever is earlier), along with a NOC for sale of Power to 3rd Party for such period. COD of the Project under the PPA will be declared from the date of commencement of procurement of energy from the Project by SECI.

.....

ARTICLE 9: APPLICABLE TARIFF

9.1 The HPD shall be entitled to receive the Tariff of Rs. 2.53/ kWh, fixed for the entire term of this Agreement, with effect from the SCD, for the power sold by the Buyer to the Buying Entity for the scheduled energy as reflected in the Energy Accounts. In case of early commissioning, subject to the consent for such purchase by the Buying Utility, SECI will purchase the generation at the PPA tariff.

.....

9.3 Early Commissioning:

Early commissioning of the Project will be allowed solely at the risk and cost of the HPD, and SECI shall purchase the energy from such early commissioned Project at the PPA tariff, only in the case Discom agrees to purchase power from the Project at an earlier date, and at the PPA tariff plus trading margin.

Such intimation for early commissioning shall be provided to SECI at least 60 days before the proposed early commissioning date. In case there is no response provided by SECI within 30 days from the receipt of such intimation, such early commissioned capacity shall be deemed to have been rejected by SECI.”

As per the provisions of the PPA quoted above, the PPA allows for the early commissioning of the Petitioner’s hybrid project and also for the purchase of power from the early commissioned project by the discoms through SECI at the PPA tariff rate plus trading margin. The PPA also allows for the part Commissioning of the Project; however, it does not provide for Part commissioning of the project by just installing one source of generation. Therefore, if we read the provisions of the early commissioning as well as part commissioning together, even for the purpose of early commissioning under the PPA, the Petitioner is required to install both solar and wind components. Accordingly, we are of the view that the Petitioner’s case

does not qualify for early commissioning as well as part commissioning under the PPA.

53. We note that pursuant to the issuance of NOC by SECI to the Petitioner for sale of Power from a single solar component of 100 MW, MUL, vide its letter dated 26.04.2024, addressed to SECI, submitted as under:

“This is with reference to the letters under references and your letter dated 25.04.2024 wherein SECI has allowed HPD to sell 100 MW solar power outside the PPA when the project SCD itself is 16.05.2025.

In this context, we would like to submit followings:

1. Clause 10.2 of the RFS stands overridden by the terms of the PPA, since as per Article 1.2.18 of the PPA, in case of any mismatch/contradiction between different documents, the PPA would have a precedence over the RFS and it is also a settled principle of Law that PPA supersedes RFS.

2. Moreover, Hon'ble GERC has granted us approval for procurement of power under Hybrid T-V scheme at the Applicable Tariff only which was approved @ Rs. 2.53/kWh and therefore any tariff beyond this would not be in the interest of consumers as this will put burden on end consumers of our licensee area.

3. In addition to above, this will further be a breach of Obligations under the PPA terms. the relevant clause of PPA (clause 4.9.1) is reproduced as under

4.9 Breach of Obligations

4.9.1 The Parties herein agree that during the subsistence of this Agreement, subject to SECI being in compliance of its obligations & undertakings under this Agreement, the HPD would have no right to negotiate or enter into any dialogue with any third party for the sale of Contracted Capacity of power which is the subject matter of this Agreement. It is the specific understanding between the Parties that such bar will apply throughout the entire term of this Agreement.

Further, we would like to highlight that MUL is the original beneficiary of power generated from the project set up under Hybrid T-V scheme and has the first right of refusal to take off-take power.

It is pertinent to mention here that MUL in none of its communication has given its refusal to off-take the offered quantum and therefore SECI's action on allowing NOC to HPD is not in the true spirit of the PSA and PPA terms.

Accordingly, under the PPA terms, SECI would be in breach of its obligations by allowing NOC to HPD.

Hence, SECI is requested to immediately cancel the NOC granted to HPD and allocate the power to MUL which is the original beneficiary of power under Hybrid T-V PPA terms.”

As per the above, MUL informed the SECI that it has never given its refusal to off-take the offered quantum of power by the Petitioner and requested SECI to cancel the NOC granted to the Petitioner and allocate the power to MUL; otherwise, under the PPA terms, SECI would be in breach of its obligations under the PPA.



54. We note the submissions of the CESC and MUL that they were desirous of buying the power from the 100 MW solar component of the Petitioner's project and MUL, vide its letter dated 26.04.2024, also requested SECI to cancel the NOC granted to the Petitioner; otherwise, SECI would be in breach of its obligations. We also note that subsequent to the issuance of the NOC by the SECI, the Petitioner on 09.07.2024 entered into a PDA with TPTCL for the supply of 70 MW out of the 100 MW solar component and the balance 30 MW is being traded through the power exchange. However, we observe that MUL and CESC have not produced any correspondence with either SECI or the Petitioner, after April 2024 to avail such power from the Petitioner's 100 MW solar project.
55. We have carefully considered the submissions of CESC and MUL that they were desirous of procuring power from the 100 MW solar component of the Petitioner's project. It is noted that MUL, vide its letter dated 26.04.2024, requested SECI to cancel the NOC granted to the Petitioner, alleging that failure to do so would amount to a breach of SECI's obligations. However, beyond the aforesaid communication of April 2024, neither MUL nor CESC has placed on record any substantive correspondence addressed either to SECI or to the Petitioner establishing continued intent, concrete steps, or bona fide efforts to procure power from the 100 MW solar component. There is no material placed on record to demonstrate that, subsequent to April 2024, either of the said entities pursued negotiations or initiated any regulatory processes to crystallise their intent to purchase such power.
56. It is an admitted position that subsequent to the issuance of the NOC by SECI, the Petitioner entered into a Power Delivery Agreement (PDA) dated 09.07.2024 with TPTCL for supply of 70 MW out of the 100 MW solar component, with the balance 30 MW being transacted in the power exchange. These arrangements were undertaken by the Petitioner in the absence of any mutual agreement with MUL or CESC in terms of clause 10.2 of the RfS as given below:

"10.2 In case of project components being located at multiple locations, and if one of such components (wind or solar PV) is ready for injection of power into the grid, but the remaining component is unable to get commissioned due to delay in grant of LTA/LTA operationalization, the HPD will be allowed for commissioning of such component which is ready, and the HPD at its sole discretion, may sell such power to any third party till the grant/operationalization of LTA. Following should be noted under this scenario:

i. Power procurement from such components) will be outside the PPA, and at a tariff mutually decided between the Buying Entity and the HPD. In case the same is procured through SECI, trading margin of 7 paise/unit will be applicable on such power procurement.”

57. The Respondents, CESC and MUL, have contended that Clause 10.2 of the RfS is inapplicable in the present case on the ground that there has been no delay in the grant or operationalization of GNA/LTA with respect to the 100 MW solar capacity. We are not inclined to accept the aforesaid contention as Clause 10.2 of the RfS, extracted in paragraph 56 of this Order, contemplates a specific situation wherein a project comprises more than one component and one such component is ready for injection of power, while the other component is unable to achieve readiness due to delay in grant or operationalization of LTA/GNA. In such circumstances, the provision expressly permits the HPD, i.e., the Petitioner, to sell power from the component which is ready to any third party until the LTA/GNA for the remaining component is granted or operationalized. Applicability of Clause 10.2 is not triggered by delay in respect of the component which is ready, but by delay in the other component of the project, which consequently impacts the commissioning of the Hybrid project configuration as per PPA. In the present case, while the 100 MW solar component is ready, the other component, i.e., wind, is delayed due to delay in start date of connectivity of the Petitioner's hybrid project and keeping in view the same, SECI has granted an extension for commissioning of the Petitioner's 600 MW Hybrid project till 24.02.2026 or actual start date of connectivity+ 2 months, whichever is later. Therefore, we are of the view that the Petitioner was within its contractual rights to sell the power from the solar component under clause 10.2 of RfS. Accordingly, the contention of Respondents that Clause 10.2 of RfS is inapplicable merely because there is no delay specific to the 100 MW solar capacity, is rejected.
58. We also note that pursuant to this Commission's direction vide RoP for hearing dated 22.04.2025 to have a joint discussion on the issue of supply of infirm power from the 100 MW solar project. Meetings were held between SECI, MPSEZ and Petitioner on 28.04.2025 and SECI, CESC and Petitioner on 30.04.2025, wherein no mutual agreement could be concluded between the parties.
59. The Respondents have also raised the issue of allowing the request for a change in the location of the 100 MW solar Component of the hybrid project of the Petitioner from Koppal-II, Karnataka to Bikaner-II, Rajasthan, which has been

allowed by SECI vide letter dated 11.12.2023. In this regard, we are of the view that the Respondents have not raised such an issue when the Petitioner offered the infirm power to the Respondents vide its letter dated 06.01.2024; therefore, the raising of the issue of change of location of the 100 MW solar Component, within these proceedings, does not hold good.

60. The Respondents have also contended that, as a buying entity, they reserve the right to procure power from the Petitioner in terms of Articles 4.4.2 and 9.2 of the PPA, read with the Suo Motu Order dated 22.12.2024 passed in Petition No. 11/SM/2024. Article 4.4.2 and 9.2 of the PPA provide as under:

“4.4.2 Any excess generation over and above as per Article 4.4.1, may be purchased by SBCI at the tariff in terms as per Article 9, provided the Buying Entity consents to purchase such power. While the HPD would be free to install the DC solar field as per its design of required output, including its requirement of auxiliary consumption and to re-power the Project from time to time during the term of the PPA in line with applicable MNRE guidelines, it will not be allowed to sell any excess power to any other entity other than SECI (unless refused by SECI). Further, any addition to the installed capacity (including but not limited to solar panels and/or wind turbines) subsequent to commissioning of the full capacity/part capacity of the Project (as applicable), shall not be eligible for any future claims made by the HPD, seeking compensation on account of any changes in the applicable provisions covered under Change in Law as defined in this Agreement.

The HPD will be free to re-power their plants during the PPA duration. However, after re-powering, the minimum ratio of both the resources shall be maintained.

The HPD shall be required to intimate SECI about the proposed excess quantum of energy likely to be generated from the Project within any Contract Year, at least 60 days prior to the proposed date of commencement of excess generation. SECI shall be required to intimate its approval/refusal to the HPD, for buying such excess generation not later than 30 days of receiving the above offer from the HPD. In the event the offer of the HPD is not accepted by SECI within the said period of 30 days, such right shall cease to exist and the HPD shall, at its sole discretion, may sell such excess power to any third party.

However, in case at any point of time, the peak of capacity reached is higher than the contracted capacity and causes disturbance in the system at the point where power is injected, the HPD will have to forego the excess generation and reduce the output to the rated capacity and shall also have to pay the penalty/charges (if applicable) as per applicable regulations / requirements / guidelines of CERC / SERC / SLDC or any other competent agency. Any energy produced and flowing into the grid before Scheduled Commissioning Date shall not be at the cost of SECI. SECI may agree to buy such power at a tariff as agreed to between SECI and the Buying Entity (including SECI's trading margin), provided the Buying Utility consents for purchase of such power.

....

9.2 Any excess generation over and above energy specified in Article 4.4.1, will be purchased by SECI at @ Rs. 1.89/ kWh, provided the Buying Entity consents for purchase of such excess generation. While calculating the above value of 75% of the PPA tariff, the digits after 2 decimal places will be ignored. For e.g., in case the value of 75% of the PPA tariff is calculated as 2.4567/kWh, the tariff applicable for purchase

in case of early commissioning will be read as Rs. 2.45/kWh. HPD shall intimate to SECI regarding the proposed excess generation quantum at least 30 days prior to the proposed such excess generation start date. In case there is no response provided by SECI within 18 days from the receipt of such intimation, such excess generation shall be deemed to have been refused by SECI. In this case, SECI shall issue the NoC to HPD for sale for excess generation power in open market, latest by 7 days from the date of deemed rejection.

Any energy produced and flowing into the grid before SCD shall not be at the cost of SECI. However, the HPD will not be allowed to sell energy generated prior to SCD or excess energy during any Contract Year to any other entity other than SECI (unless refused by SECI).

As per the above, we observe that the provisions under clauses 4.4.2 and 9.2 of the PPA are applicable for any excess generation over and above the contracted capacity and energy as per the PPA.

61. Order dated 22.12.2024 in Petition No. 11/SM/2024 provides as under:

“18. Once successful trial operation is achieved, a generating station should declare COD at the earliest. In case a generating station is not declaring COD post successful trial operation, reasons for the same should be recorded in writing. We have perused a few standard PPAs. On perusing the said PPAs and provisions of the Grid Code, we are of the view that where the PPA have explicit provisions for treatment of power post successful trial operation, the same shall be treated as per provisions of the PPA. In all other cases, for a generating station with identified beneficiary(ies), the first right of refusal for such power shall be with beneficiary(ies) with whom the generating station has entered into a PPA directly or through REIA/Intermediary Procurer. In such cases, the power post successful trial operation shall be first offered to such beneficiary(ies) with advance notice of at least seven days. In case there is an intermediary procurer such as REIA, REGS shall give advance notice to such REIA/Intermediary procurer who in turn shall give notice to beneficiaries. In case beneficiary (ies)/ REIA do not respond within such a notice period whether it wishes to offtake the power or not, it shall be considered as a deemed refusal of the beneficiary(ies)/REIA. In that case, the generating station shall be allowed to sell such power in the market. REIA/Intermediary procurer shall furnish details of consent of beneficiary to offtake the power and whether beneficiary did not respond to the offer of such power.”

As per the above, the Commission has taken the view that where the PPAs have explicit provisions for the treatment of power post-successful trial operation, the same shall be treated in accordance with the provisions of the PPA. In all other cases, for a generating station with identified beneficiary(ies), the first right of refusal for such power shall be with the beneficiary(ies) with whom the generating station has entered into a PPA directly or through REIA/Intermediary Procurer. In this regard, we are of the view that since the PPA does not allow the part/ early commissioning of a single component of the hybrid project, clauses 4.4.2 and 9.2 of the PPA shall not be applicable in the present case.

- 62.** Further. as per regulation 27(e)(i) of IEGC 2023, the commercial operation date in the case of units of a renewable generating station aggregating to 50 MW and above or such other limit as specified in clause (3) of Regulation 22 of these regulations, shall mean the date declared by the generating station after undergoing a successful trial run as per clause (3) of Regulation 22 of these regulations, submission of declaration as per clause (4) of Regulation 26 of these regulations, and subject to fulfilment of other conditions, if any, as per PPA. In the instant case, RLDC has already issued the first-time charging certificate to the Petitioner and approved the trial run of the 100 MW Project on 24.04.2024. The petitioner is unable to declare its commercial operation date because it cannot fulfil the conditions specified in the PPA.
- 63.** In view of above discussions and keeping in view that there is no express provision under the PPA for either early or part commissioning of the single component of the hybrid project being developed by the Petitioner and also in absence of any mutual agreement between the parties to sell/ purchase from 100 MW solar project of the Petitioner, we allow the Petitioner to sell the infirm power from the 100 MW solar component of its Hybrid Project till the date of part/ early commissioning of the project as per PPA, to any third party outside the PPA.
- 64.** Petition No. 301/MP/2025 is disposed of in terms of the above.

**Sd/
(Ravinder Singh Dhillon)
Member**

**Sd/
(Harish Dudani)
Member**

**Sd/
(Ramesh Babu V.)
Member**

**Sd/
(Jishnu Barua)
Chairperson**

