Prickly procurement: How the manufacturer-developer relationship has changed

Procurement | Manufacturers and developers alike have felt the pain of supply chain constraints of the last two years but, amidst sky-high prices and contractual disputes, how have relations between manufacturers, distributors and developers changed? Liam Stoker reports.

Sky-high material and component prices have forced module costs upwards by as much as 20% in recent years.

Credit LONGi Solar.

Supply chain constraints of the last 18 months, while perhaps not unlike anything seen before given the cyclical nature of solar PV manufacturing, have caused major concern.

Manufacturers have felt the brunt of this turbulence, with polysilicon prices at ten-year highs and reverberating down the value chain. Prices have often risen by 3 – 4% in the space of a week, with those price spikes then being passed onto the customer.

Module prices have risen by up to 20% over the course of the past two years, with the most recent forecasts suggesting European developers can expect to pay up to US$0.30c/W for modules. The average price for modules bound for the US is around the US$0.36c/W mark, however prices have fluctuated in the extreme considering recent policy and tariff risks.

Such price hikes, coupled with the weekly uncertainty and changing goalposts, have placed considerable strain on the supplier-developer relationship, with both having to navigate sensitive and often fraught negotiations.

Frank Niendorf, general manager for Europe at Solar Module Super League (SMSL) member JinkoSolar, says that for module makers in particular, "a lot of challenges have come all in parallel", which has made the situation difficult to handle.

Jeff Waters, chief executive officer at manufacturer Maxeon Solar Technologies, says the last 18 months of turbulence has "tested our resilience" when it has come to honouring contracts.

"We really do put a high emphasis on integrity in our relationships, and part of it is, frankly, out of necessity. We're a NASDAQ-listed company, we have investors watching over us, we're domiciled in Singapore so, if somebody wants to sue us, they can sue us," he says.

As a result, Waters says contractual situations have "created some pain" in recent months. "I can think of some deals where we had fixed contracts with customers and we've honoured them… but if I could have waved a magic wand and made those contracts go away or raise the prices, I would have. But we abide by our contracts," he says.

The need for transparency

Relationships between developers and manufacturers have had to change over the last two years and, according to Niendorf, the answer has been for JinkoSolar to be more transparent as to pricing, delays and availability. When this information comes up front and the customer is aware, they can be altogether more accepting that the situation is a point of pain for all involved.

"We are used to being flexible and improvise as good as we can. And customers, they do understand that currently it's not a normal market situation, not a normal supply/demand situation, not a normal logistics situation, and they show understanding. But it's challenging," Niendorf says.

Waters agrees, stating that in the discussions Maxeon has had with customers of late there is a greater understanding as to the reasons behind cost increases. This has grown even further since Russia's invasion of Ukraine sent another shockwave through the global economy, developing an altogether more comprehensive understanding of the impact economic shocks can have on pricing generally.

"The customer is never going to tell you they're happy with prices increase, but they do understand it now. I can point to 30% cost increases in the supply chain and they get it. What we're hearing more now is 'hey, we get it, increase the prices, but just get us the panels'," Waters says.

One international solar distributor spoken to for this article concurred that honesty really is the best policy when it comes to shifting prices and confirmed the notion that manufacturers were certainly being more transparent than they perhaps were before.

But transparency is not a panacea for the solar industry's present constraints, and distributors have had to adapt in kind. Contractual frameworks have changed and become more commonplace, while orders are now being placed months ahead of where they were previously. More diversified product ranges have had to be adopted to tackle limited availability of certain products in specific markets too, some manufacturers carefully selecting where module supply goes, and to whom.

Contract constraints

It is perhaps understandable then that relations have become strained and, in some instances, ultimately broken down. Maxeon's Waters describes the number of suppliers that he has heard of walking away from contracts as "stunning".

In July sister publication PV Tech broke news that Totalenergies' renewables division had launched a lawsuit against Trina Solar in the US, alleging fraud and breach of contract in relation to Master Service Agreements signed for four specific projects in the US. Totalenergies agreed to pay around US$300 million – including US$8.75 million in deposit payments – to secure delivery of nearly 1GW of solar modules between February and September 2022. The price and delivery schedules were, Totalenergies claims, locked in at the time of contract signing.

However as the upstream solar landscape shifted, both in terms of pricing and policy barriers to trade, Totalenergies alleges that Trina tried on three occasions to renegotiate the terms of the contract, eventually declaring force majeure. Totalenergies rejected the claim for force majeure, insisting that because Trina had suggested specific PV capacity was reserved upon signing of the contract, there were insufficient grounds.

Trina disputes Totalenergies' version of events and in a statement issued to PV Tech, rejected "completely and utterly, any allegation of 'breach of contract' or 'fraud'" before insisting it will "defend its position in the appropriate manner". PV Tech Power understands that there is no timeline attached to any resolution to the dispute, with meetings between the parties expected later this year.

One distributor spoken to for this article said that it is now not unusual for prices or quantities to change in spite of sales contracts having been signed, some many months in advance of delivery. Whereas this was "previously unheard of", it is now considered far more common, with manufacturers being able to adopt a "take it or leave it approach", safe in the knowledge that someone, somewhere will probably accept those terms.

Evidently, certain parts of the solar value chain will be at loggerheads over what grounds, exactly, constitute force majeure. The pace of change within solar's upstream – the industry average price for polysilicon increased by more than 18% in just three months between May and July this year – has also meant that a contract signed one month could be uneconomical the very next.

This much has been borne out in manufacturer results. The last two years have seen module manufacturers battling to maintain supply margins at a somewhat comparable level to what has historically been achieved, with differing results.

> "The customer is never going to tell you they're happy with prices increase, but they do understand it now."

As such, contracts are now being drawn up in such a way that protects manufacturers from significant fluctuations not just in the price of raw materials and components, but policy risk too. At the manufacturer's Q1 2022 results disclosure in May this year, Canadian Solar revealed – to some surprise – that it was still shipping to the US market from facilities based in Southeast Asia despite the continued uncertainty surrounding the anti-dumping and countervailing investigation launched by the Department of Commerce. The results of that investigation had the potential to see tariffs of up to 250% imposed retrospectively, leading many manufacturers to cease shipments to the US altogether.

Rather than cease shipments, Canadian Solar altered contractual conditions to share elements of that risk, with US developers paying premium prices. Canadian Solar also included a clause which states that the manufacturer can terminate shipments altogether if tariffs veered "outside of certain lines". The risk premium paid by manufacturers varied, but served to protect Canadian Solar from uneconomical contracts while allowing developers to secure module supply at an incredibly fraught time, albeit at a price that may have hit their bottom lines.

With module prices on the up and contractual terms rewritten, Canadian Solar witnessed the margin of its upstream division rise by five percentage points year-on-year in Q1 2022 to 14.5%, a figure which is broadly expected to remain the same throughout this financial year.

A seller's market

Soaring demand coupled with a constrained supply has led the solar market to flip to a seller's market almost overnight. PV Tech head of market research Finlay Colville has written extensively on the subject this year, stating that whereas previous annual solar install figures were dictated largely by demand for modules – driven in turn largely by national policy – for the foreseeable future it will be driven entirely by the industry's total manufacturing output.

"It's very clearly a seller's market at the global level, and it lays bare the power dynamics at play in the industry globally, and the limitations of influence within that at times," one industry stakeholder, who wished to remain anonymous, says. That more significant industry players have been able to secure supply – as evidenced by contract announcements of the last year – would be testament to how module procurement is quickly becoming limited to those with balance sheets to buy gigawatts, and not just megawatts, at a time.

The unfortunate conclusion to reach is that these dynamics will be in place for at least the short-term, or as long as it takes significant polysilicon capacity to come onstream and – in the medium-term – supply chains to be established outside of China.

There are signs of encouragement, however. That manufacturers, developers and distributors alike all speak of healthier, more transparent relationships being formed throughout the last 18 months can only be a source of optimism. ■