



62. The Project activities which were delayed on account of the cascading effects of COVID-19 are tabulated hereunder:

Delay Event	Timeline	Reason for delay
Land Acquisition	Mar'20 to Aug'20 (180 days)	Land Acquisition didn't count as an essential activity as a result of which, at the time of first wave of Covid-19, there was complete lockdown and acquisition activities were halted.
Survey and Engineering	Apr'21 to Jun'21 (90 days)	Since Land was acquired late, other allied activities like Survey (Because of Non-availability of Land, drawings for engineering were absent)/procurement of raw materials/and Construction including development of Transmission line were also delayed. Another reason accounts to the halt in activities due to second wave of Covid and restriction on movement.
Procurement	Apr'21 to Jun'21 (90 days)	
Construction including Transmission Line	Apr'21 to Jun'21 (90 days)	

63. The outbreak of COVID-19 in India as well as in China, had a cascading effect on the Project milestones, which were beyond the control of the Petitioner. Further the outbreak of COVID-19 across India is an Event of Force Majeure under the PPA and has also been considered as a Force Majeure Event by the MNRE, MoF and by various judicial forums pan India. Therefore, the contention of NPCL that the aforesaid delays does not constitute Force Majeure Events are bald, baseless, and devoid of any merits.
64. The Farmer's Protest was one of the major impediments in the commissioning of the Project as the landowners whose lands were intended to be acquired by the Petitioner hailed from the aforesaid affected states. As a result, the delay in land acquisition process was further compounded, which in turn precluded the Petitioner from achieving the Condition Subsequent within the stipulated time. The reality of farmer's protest is not in dispute as the same was widely covered in print and electronic media. Further, while the farmer's protest is an event subsequent to the signing of the PPA, the same would also qualify as a "Force Majeure Event" in terms of Article 11 of the PPA and was beyond the control of the Petitioner.
65. The Project has also been subjected to restricted movement within the State due to the Gram Panchayat Elections. Notably, on 26.03.2021, the State Election



Commission, UP notified the four phases in which voting for the Gram Panchayat Elections, 2021 took place in the State. As per the said notification, the voting took place on 15.04.2021, 19.04.2021, 26.04.2021 and 29.04.2021. On account of said elections, the inter-state movement was restricted from 15.04.2021 to 29.04.2021.

66. Petitioner even after extending best efforts to minimize the impact of delay in commissioning of the project, was unable to achieve timely synchronization of the 132 kV line owing to delay in meter sealing of 132 kV sub-station on the part of UPPTCL, which was beyond the control of the Petitioner and therefore, delay in completion of interconnection facilities is a Force Majeure event as per Article 11.3.1 (e) of the PPA as it affects the evacuation of power.
67. The Petitioner's undertaking dated 16.07.2021 in no way tantamount to waiver of right of the Petitioner to approach this Commission and plead the bonafide grounds which led to substantial delays and caused serious impediments in completion of the project as the Petitioner under its PPA entitled to claim relief for Force Majeure. In fact, the in-principle extension in SCOD up till 27.11.2021 granted by NPCL vide its letter dated 27.07.2021 is subject to approval of this Commission.
68. Furthermore, the Petitioner is committed towards Green Power Development in the state of UP, hence does not intend to terminate the PPA in any manner whatsoever. This can be substantiated from the fact that the Project now stands commissioned on 03.12.2021, for which a Commissioning Certificate has also been issued/signed by UPNEDA on 03.12.2021.
69. NPCL has granted extension in the SCOD on numerous occasions basis the MNRE O.M.'s and the recommendation of UPNEDA, whilst rejecting the Force Majeure claims of the Petitioner. However, while doing so, what has escaped the consideration of NPCL is that the relief for extension of SCOD and intermediate milestones under the MNRE OM's is an "out of contract concession" and does not preclude the Petitioner from claiming relief for extension of SCOD under the PPA.
70. Considering the recommendations of UPNEDA and considering of the Force Majeure Events, NPCL vide its letter dated 30.03.2021 granted in principle extension in SCOD till 12.09.2021 which was further extended till 27.11.2021. Thus, the present stand of NPCL qua the denial of Force Majeure Claims on account of administrative delays, farmers agitation, Gram Panchayat Elections and delay in completion of interconnection transmission facilities is meritless and nothing but a moonshine defense.
71. **TPREL rejoinder dated 30.05.202 to UPPTCL.**
The was on part of UPPPTCL was due to delay of 7 days in meter sealing activity



at UPPTCL's bay end which occurred due to non-conducting of GI cables on part of UPPTCL. The meter sealing at Plant end was completed on 19.11.2021. The meter sealing certificate was submitted to UPSLDC on 29.11.21 and charging code was issued on 02.12.2021 and SCOD achieved on 03.12.21. Otherwise the SCOD could have been completed on 27.11.2021 itself instead of 03.12.2021.

Commission's analysis and decision

72. Tata Power Renewable Energy Limited has filed the present Petition under Section 86 (1) (b), (e) & (f) of the Electricity Act, 2003 for extension in the Schedule Commercial Operation Date ("**SCOD**") of the Bunda (25 MW) for supply of 25 MW of Solar Photovoltaic Power to Noida Power Corporation Ltd. ("**NPCL**") under Power Purchase Agreement ("**PPA**") dated 12.02.2019.
73. For the Project, the original SCOD was 12.11.2020. This has been subsequently extended by NPCL through its various letters as tabulated hereunder:

TABLE I

S. No.	Original SCOD	Revised SCOD	Date	Days granted	Reasons
1.	12.11.2020	17.02.2021	16.06.2020	98 days	Extension granted in light of the MNRE OM dated 17.04.2020 [Covid-19 +Lockdown]
2.	12.11.2020	12.04.2021	29.01.2021	5 months [Including the extension granted by Sr. No. 1 above]	Extension granted in light of the MNRE OM dated 13.08.2020. The said extension subsumed 98 days granted vide letter dated 16.06.2020 [Covid-19 +Lockdown]
3.	12.04.2021	12.09.2021	30.03.2021	5 months	Extension granted upon assurance of Petitioner for COD within additional time i.e. 12.09.2021 and recommendation of UPNEDA subject to approval of Hon'ble UPERC. [Covid-19 2 nd Wave]
4.	12.09.2021	27.11.2021	27.07.2021	2.5	Extension granted



				months	considering MNRE's OM dated 12.05.2021 read with OM dated 29.06.2021 and unconditional undertaking of Petitioner to not seek any upward revision in tariff.
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74. The Petitioner had originally sought extension of SCOD till 12.09.2021. However, with the passage of time Petitioner has suffered subsequent force majeure events such as surge of Covid -19 Second wave, *Gram panchayat* elections in state of UP and delay in commissioning due to non-completion of interconnection facilities.
75. Therefore, on 24.01.2022, the Petitioner was constrained to file an application seeking amendment of the Petition and to bring on record subsequent facts post filing of the Petition. The Application of Petitioner was considered and allowed *vide* order dated 16.02.2022. Pursuant thereto, the Petitioner filed an amended Petition seeking extension of SCOD up to 03.12.2021 *qua* Bunda Project and 03.01.2022 *qua* Prayagraj project. *Vide* the Amended Petition, UPPTCL was also arrayed as Respondent No. 3.
76. The Bunda Project achieved the SCOD on 03.12.2021 and since then the Petitioner has been supplying power to UPPCL.
77. A brief summary of the delays *qua* the **Bunda Project** are tabulated hereunder:

TABLE 2

S. No.	Particulars	Days
1.	Delay in Land Ceiling (18.04.2019 – 03.10.2019)	169 days
2.	Delay in Stamp Duty (12.06.2019 – 11.11.2019)	153 days
3.	Covid -19 (first wave) (March 2020 – August 2020)	183 days
4.	Farmers protest (September 2020 – 21.01.2021)	143 days
5.	Gram Panchayat elections & Weekend curfew (26.03.2021 – 15.05.2021)	51 days
6.	Covid -19 (second wave) (01.04.2021 – 15.06.2021)	76 days

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7.	Delay in Interconnection Facilities for Bunda (27.11.2021 – 03.12.2021)	7 days
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Delay in grant of exemption from land ceiling

78. As per the Petitioner, there was delay in receipt of permission for exemption from Land ceiling (**18.04.2019 to 03.10.2019 i.e., 169 days**), which was caused by the promulgation of the Uttar Pradesh Revenue Code (Amendment), Ordinance of 2019 ("Ordinance of 2019"). The following is list of dates:

TABLE 3

S. No.	Date	Event
1.	12.02.2019	PPA was executed between Petitioner and NPCL for supply of 25 MW of Solar Power from its projects
2.	10.03.2019	The Ordinance 2019 was promulgated as per which the single step process for acquisition of land under the older regime was changed as follows: a. For Acquisition of Land up to 20.2344 hectares, the Application was to be processed by the concerned District Collector. b. For acquisition of land more than 20.2344 hectares and up to 40.4688 hectares, the Application was to be processed by the Commissioner. c. For Acquisition of land above 40.4688 hectares the application was to be processed by the State Govt itself.
3.	14.03.2019	Petitioner filed its application seeking connectivity to intra state transmission system.
4.	27.03.2019	CEA granted permission to Petitioner to connect to intra – state transmission system.
5.	18.04.2019]	Petitioner issued a letter to D.M, Shahjahanpur and made an Application seeking exemption from land ceiling in order to initiate the process of land acquisition for the Bunda Project.
6.	26.06.2019	D.M Shahjahanpur addressed a letter to Chief Secretary, GoUP granting its NoC to the Project <i>qua</i> land ceiling exemption.
7.	09.09.2019	Petitioner issued a Representation the Principal Secretary, Govt. of U.P. seeking an extension in due date for achieving Financial Closure as the Land Ceiling Exemption was being delayed.
8.	03.10.2019	Land Ceiling exemption for the Bunda Project land was granted after a delay of 169 days.
9.	23.12.2019 03.02.2020	In light of the cumulative delay on account of land ceiling and stamp duty exemption, Petitioner issued FM Notices as per Article 11.5 of the PPA to UPPCL and UPNEDA.

79. The Acquisition of large pieces of land is always subject to approval of competent



authority established by the relevant state govt. However, on account of promulgation of Ordinance of 2019, the entire process for seeking the requisite permission went through a paradigm shift in terms of applying to the different level in the State Govt. As a result, the earlier process of procuring an approval from the District Magistrate underwent a complete change. The approval was to now be procured through a multi-stage process and eventually be granted by the State Government.

80. The Petitioner has issued a Force Majeure notice on 23.12.2019 seeking extension in SCOD. The relevant extract of Article 11.3.1 of the PPA, i.e., Force Majeure, is reproduced hereinbelow for the sake of reference:

"11.3 Force Majeure

11.3.1 A "Force Majeure" means any event or circumstances or combination of events and circumstances as stated below that wholly or partly prevents or unavoidably delays as Affected Party in the performance of its obligations under this Agreement but only if and to the extent that such events or circumstances are not within the reasonable control directly or indirectly, of the Affected Party and could not have been avoided if the Affected Party had taken reasonable care in performing its obligations....

- (a) Act of God, including but not limiting to lighting, drought, fire and explosion, earthquake, volcanic eruption, landslide, flood, cyclone, typhoon, tornado, or.
- (b) Explosion, accident or breakage of transmission facilities to deliver power from the Delivery Points to the receiving sub-station(s); or
- (c) Any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, riot, insurrection, terrorist or military action making the performance of obligations as specified herein as impossible; or
- (d) Radioactive contamination or ionising radiation originating from a source in India or resulting from another Force Majeure Event mentioned above excluding circumstances where the sources or cause of contamination or radiation is brought or has been brought into or near the Power Project by the Affected Party or those employed or engaged by the Affected Party.
- (e) An event of force majeure affecting the concerned STU, as the case may be, thereby affecting the evacuation of power from the Delivery

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Points by the Procurers;

11.7 Available Relief for a Force Majeure Event

11.7.1 Subject to this Article 11

- (a) No Party shall be in breach of its obligations pursuant to this Agreement except to the extent that the performance of its obligations was prevented, hindered or delayed due to a Force Majeure Event;**
- (b) Every Party shall be entitled to claim relief in relation to a Force Majeure Event in regard to its obligations as specified under this Agreement.**
- (c)**
- (d)**

81. From a combined reading of the extracts reproduced above, it is clear that as long as any event or circumstance that wholly or partly prevents or unavoidably delays an affected party's performance or its obligation under the agreement, is entitled to relief under Article 11.7.1. The Petitioner has applied to the authorities on 18.04.2019 and land ceiling exemption has been granted on 03.10.2019. Subsequently, on 11.11.2019, stamp duty exemption has been granted. There is a delay of five and half months.
82. In the present case at hand, Petitioner despite its best efforts in making timely applications seeking land ceiling exemption and stamp duty exemption for both the Projects, has been subjected to considerable delay in necessary approvals and sanctions in respect thereof on the part of the concerned Government Departments. It is a settled position of law that another other party cannot be held accountable for delay on part of the jurisdictional authorities in issuing necessary approvals and sanctions.
83. The following judgements can be referred to :

- (a)** Appeal No. 37 of 2019 titled as "Hunsankodili Solar Power Projects LLP vs. Bangalore Electricity Supply Company Limited

We have already referred to the Article of PPA which refers to force majeure clause. We have gone through the written submissions so also the oral arguments. The State Govt. of Karnataka under the special programme for promoting the renewable energy generation intended to provide opportunities for individual agricultural land owning farmers to become solar energy developers. In response to the promotion of the



State govt, several farmers came forward to set up solar plants in their respective lands. PPA came into APPEAL NO. 37 of 2019 & IA No. 67 of 2019 & IA No. 1299 of 2020 existence as stated above, which provided a guaranteed tariff of 8.40 per unit on completion of the project within 18 months from signing the PPA. Apparently, this PPA had a seal of the approval of Karnataka State Government on 25.08.2015. It is not in dispute that in terms of guidelines issued by the State Govts., several sanctions / approvals / clearances / consents were required for setting up a solar plant. To name a few are land conversion approvals, grid connectivity approval, bay extension approval facing closures, approval from Chief Electrical Inspector and evacuation approval etc. **If the time taken for getting these approvals, as stated above, it is seen these approvals could be secured by the Appellant after lapse of considerable time which seems to have created obstacles in implementation of the project on time. Therefore, we are of the opinion that taking into consideration the above facts, the delay, if any, obtaining in above-mentioned approval, certainly, it becomes impossible for the Appellant to achieve COD of the Solar Plant within SCOD of the PPA.**

- (b) Appeal No. 108 of 2014 titled as "Power Company of Karnataka Ltd. vs. CERC

70. Let us examine the findings of the CERC. The relevant paragraph of the impugned order is reproduced below:

"Delay in land acquisition

39. It could be observed from the above tables that though the effective date was 26.12.2006, due to land acquisition problem the petitioner had to lose 11 valuable months at that start of the commissioning work. The respondents have also not denied this fact of delay in handing over the land to the petitioner. **Accordingly, we find that the delay in acquisition of land by the petitioner was beyond their control and hence not attributable to them. Accordingly, the time over run of 8.5 months for Unit-I is allowed as the same is not attributable to the petitioner.** In view of this, the increase in IDEC, IDC and FC due to delay of Unit-I has been allowed.

40. Unit-II of the generating station has been declared commercial on 19.08.2012 which is about 26 months delay from the schedule COD of 25.06.2010 of the generating station. As in case of unit-I, Unit-II is equally affected due to delay in land acquisition by the State Government and



therefore, the loss of 10 months due to litigation in land acquisition has been considered as beyond the control of the A.No.108, 122, 119 of 2014 & 18 of 2013 petitioner and is allowed. Accordingly, the actual delay in COD of Unit-II of the generating station works out to 16 months only."

84. The approval of land ceiling exemption at different levels of the State Govt. is definitely a time taking process. The Commission is of the view that delay of more than one and half months i.e., four months, as sought by the Petitioner, is unavoidable and beyond the control of the Petitioner and has prevented the Petitioner from taking up subsequent activities, thus affecting its Performance achieve SCOD of 12.11.2020 and would therefore be entitled to relief under Article 11.7.1 by extending the SCOD by four months.

Delay in Grant of Exemption from Stamp Duty

85. The Petitioner has submitted that the Delay on account of land ceiling exemption i.e. 169 days had a cascading effect on the receipt of Stamp duty exemption which was also delayed for a period of **153 days (12.06.2019 – 11.11.2019)**. The list of dates is stated to be following:

TABLE 4

c	Dates	Particulars
1.	12.02.2018	The GoUP in exercise of power vested with it under Section 9 of the Indian Stamp act, 1899 issued a Notification declared remittance of 100% stamp duty chargeable for establishing Solar Energy Unit to produce electricity. Therefore, any solar developer if acquiring land for establishment of its Project could avail the said benefit.
2.	12.06.2019	Petitioner made an application for Stamp Duty Exemption before District Magistrate, Shahjahanpur and District Industries Centre, Shahjahanpur ("DIC") in terms of Notification dated 12.02.2018.
3.	09.09.2019	Petitioner issued a representation the Principal Secretary, Govt. of U.P. seeking an extension in due date for achieving Financial Closure and highlighted that its application for Stamp Duty Exemption has been pending.
4.	06.11.2019	Owing to no response from office of DIC/DM Shahjahanpur, Petitioner submitted another application which was supported with Land Ceiling Exemption as received by Petitioner on 03.10.2019.
5.	11.11.2019	The office of DIC Shahjahanpur vide its letter addressed to Deputy Registrar, Puvayan requested for the grant of exemption of stamp duty on the executed deeds qua the 100 hectares of land acquired by the Petitioner.
6.	Like in the case of Land Ceiling Exemption, Petitioner on 23.12.2019 and	



03.02.2020 issued FM Notices also on the delay faced in acquiring the Stamp Duty Exemption to UPENDA. UPNEDA vide letter dated 10.02.2020 accepted the FM and granted extension of time period to fulfill Condition Subsequent by 4 Months 3 weeks.

86. The Petitioner filed an Application before DM, Shahjahanpur and DIC, Shahjahanpur seeking stamp duty exemption on 12.06.2019. On the basis of guidance received from GM, DIC, Petitioner issued a letter on 06.11.2019, requesting for issuance of exemption and for the sake of clarity, enclosed additional documents such as Land Ceiling Exemption along with the Application dated 06.11.2019.

87. **The stamp duty exemption was granted on 11.11.2019, within 5 days. Therefore, the Commission is of the view that there is no delay in granting stamp duty exemption to the Petitioner's Project.**

Outbreak of COVID-19 Pandemic and its resurgence

88. On account of the outbreak of COVID-19, the economic activities within the country were disrupted. Resultantly, the projects activities and stipulated timelines under the PPA were also adversely affected. The advent of First wave of COVID-19 lasted from **March 2020 – August 2020** due to which there was a delay of **183 days** and the second wave lasted from **(01.04.2021 – 15.06.2021)**, which led to a further delay of **76 days**. The delay on account of Covid -19 had **affected Bunda Project** and the delay is being explained cumulatively:

TABLE 5

S. No.	DATES	PARTICULARS
1.	20.03.2020	MNRE issued OM <i>inter-alia</i> treating delay on account of disruption of supply chains as Force Majeure and directing RE agencies to grant extension of time for projects on account of Covid-19 based on evidence/documents produced by developers in support of their claims.
2.	24.03.2020	In order to contain the outbreak of COVID-19, the GoI issued a notification declaring a nationwide lockdown.
3.	March-August, 2020	Due to the outbreak of COVID-19, the import of critical supplied for the Project from China such as PV modules inverters and connectors was disrupted.
4.	19.02.2020	Petitioner issued a letter to NPCL thereby highlighting about the difficulties faced by it in completion of the Project activities due to the outbreak of COVID-19.
5.	20.03.2020	MNRE issued an O.M. <i>inter-alia</i> treating delay on account of disruption of supply chains as Force Majeure and directing RE

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		agencies to grant extension of time for projects on account of Covid 19 based on evidence/documents produced by developers in support of their claims.
6.	17.04.2020	MNRE issued another O.M. directing that a blanket extension in the SCOD of RE Projects for the period of lockdown plus an additional 30 days may be granted on account of the Pandemic.
7.	30.06.2020	With the partial release of the lockdown, MNRE issued an O.M. stating as under: i) The period of lockdown is to be treated from 25.03.2020 till 31.05.2020. ii) All projects through RE Implementing Agencies designated by the MNRE and those under various schemes of MNRE are covered by this O.M. iii) The timelines for intermediate milestones may also be extended within the extended time (period of lockdown plus 30 days) provided for commissioning of a project.
8.	06.07.2020	UPNEDA issued a letter to Petitioner extending the timeline for fulfilling the Conditions Subsequent to 30.09.2020.
9.	13.08.2020	MNRE issued an O.M. stating as under: (a) Lockdown due to the Pandemic is to be treated as <i>force majeure</i> , which is to be observed by the State Renewable Energy Departments as well. (b) All projects under the supervision of the RE Implementing Agencies are to be given a blanket extension of five months from 25.03.2020 to 24.08.2020. The State RE Departments may also consider granting an appropriate time extension.
10.	26.11.2020	Petitioner issued a letter to UPNEDA requesting for an extension in: (a) The date of Financial Closure of the Project from 30.12.2020 to 31.03.2021. (b) The SCOD of the Project by five months over and above that granted by O.M. dated 13.08.2020, i.e., till 12.09.2021. The said letter was issued considering the rise in Covid cases in the state of Uttar Pradesh
11.	09.02.2021	MRNE issued an OM directing RE Implementing Agencies to consider requests for extension beyond the period of 5 months stipulated in the OM dated 13.08.2020 on a case-to-case basis.
12.	21.01.2021 26.01.2021	Petitioner issued a letter to NPCL requesting for an extension in SCOD of the Project till 12.09.2021, on account of the Pandemic and farmer's protest.
13.	21.01.2021	Acquisition of the entire land of 205 acres for the Project was completed

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14.	04.01.2021	UPNEDA issued a letter to Petitioner granting an extension till 05.02.2021 for fulfilling the Conditions Subsequent for the Project and asked TRPEL to approach NPCL for an extension in the SCOD.
15.	04.02.2021	Petitioner issued a letter to NPCL requesting for extension in the SCOD of the Project till 12.09.2021 on account of issues arising out of the farmer agitations.
16.	09.02.2021	MRNE issued an OM directing RE Implementing Agencies to consider requests for extension beyond the period of 5 months stipulated in the OM dated 13.08.2020 on a case-to-case basis.
17.	12.02.2021	As the Petitioner was able to acquire land by 18.01.2021 i.e. much before the extended date of Financial Closure i.e. 05.02.2021, UPNEDA issued a letter acknowledging the aforesaid fact.
18.	08.03.2021	Petitioner issued a letter to NPCL requesting for additional extension in the SCOD of the Project to 12.09.2021 for the following reasons: (a) Delay in receipt of the permission granting exemption from Land Ceiling for acquisition of the Project Land. (b) Restriction in inter-state movement on account of the protest against the Farm Laws. (c) Delay in acquisition of the Project Land and execution of sale deeds on account of the Pandemic and the Farmer Protest.
19.	29.01.2021	NPCL issued a letter granting extension in the SCOD of the Project by five months from the original SCOD in view of the O.M. dated 13.08.2020. This extension subsumed the earlier extension of 98 days granted by NPCL vide letter dated 16.06.2020.
20.	18.03.2021	UPNEDA issued a letter to NPCL requesting that Petitioner's case <u>be considered as an "exceptional circumstance" under the O.M. dated 09.02.2021 and the SCOD of the Project be extended to 12.09.2021.</u>
21.	30.03.2021	MNRE issued another O.M. clarifying the scope of O.M. dated 13.08.2020 read with O.M. dated 09.02.2021 inasmuch as the total extension that may be granted to an RE Project on account of the Pandemic must not be more than 6 months including the blanket five-month extension granted under the O.M. dated 13.08.2020.
22.	30.03.2021	On the same day, NPCL's issued a letter to Petitioner granting an in-principal extension in the SCOD till 12.09.2021 subject to the approval of UPERC upon the recommendations of UPNEDA vide its letter dated 18.03.2021.



89. SCOD was extended by NPCL in view of the blanket five-month extension granted under O.M. dated 13.08.2020. However, MNRE vide its O.M. dated 30.03.2021 has clarified the scope of O.M. dated 13.08.2020 read with O.M. dated 09.02.2021 inasmuch as the total extension that may be granted to an RE Project on account of the Pandemic must not be more than 6 months including the blanket five-month extension granted under the O.M. dated 13.08.2020. **Therefore, the Commission is of the view that the Petitioner shall be eligible for extension of six months for the SCOD on account of first wave of Covid 19.**
90. Considering the impact of the second wave of the Covid-19 virus, MNRE issued O.M. dated 29.06.2021. As per the said O.M.'s, the entire period of 01.04.2021 to 15.06.2021 was to be allowed for extension of time in the SCOD of RE Projects by giving an undertaking that the said time extension shall not be used as a ground for termination of PPA. On 12.11.2021, Petitioner submitted an undertaking to UPPCL for extension of time period for its Projects. The request was accepted by UPPCL on 22.11.2021 by granting an extension of SCOD by 2.5 months i.e. 01.04.2021 to 15.06.2021. **Therefore, the Commission is of the view that the Petitioner shall be eligible for extension of 2.5 months for the SCOD on account of second wave of Covid 19.**

Farmer's Protest

91. The Petitioner has submitted that Farmer's protest across the country created several impediments in the day-to-day affairs, which also trickled on the obligations of Petitioner under the PPA and thus, led to a delay of **143 days (September 2020 – 21.01.2021)**. The list of dates is as follows:

TABLE 6

S. No.	Date	Particulars
1.	05.06.2020	Farm Ordinances were notified by the President of India. Major protests broke out in June 2020 in Punjab, Haryana and Uttar Pradesh opposing the Farm Ordinances.
2.	June 2020	Farmer's Protest Commenced.
3.	14.06.2020	<i>Bharatiya Kisan</i> Union issued a statement objecting the Farm Ordinances.
4.	27.06.2020	Farmers organized a Joint Tractor March in protest of the Farm Ordinances.
5.	August 2020	Protests gathered steam across the Country with the news of the Farm Bills being tables in the Parliament.
6.	25.09.2020	Nationwide lockdown was called for by the Farmer unions. Many State and National highways were blocked including highways between Punjab, Haryana, Delhi NCT and UP.

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7.	27.09.2020	Farms laws were notified by the GoI.
8.	05.11.2020	Nationwide "Chakka Jam" was launched by the farms whereby national highways were again blocked in intervals up till middle of December 2020.
9.	24.11.2020	Farmers in Punjab lifted their highway blockage but only for 15 days.
10.	20.12.2020	Farmers from Punjab, Haryana and UP began to march towards the borders of Delhi NCT. Inter-state travel between Punjab, UP, Delhi NCT and Haryana came to a halt.
11.	January 2021	Acquisition of the entire land for the Bunda Project was completed.
12.	08.03.2021	Petitioner issued a letter to NPCL requesting for additional extension in the SCOD of the Project to 12.09.2021 for the following reasons: i) Delay in receipt of the permission granting exemption from Land Ceiling for acquisition of the Project Land. ii) Restriction in inter-state movement on account of the protest against the Farm Laws. iii) Delay in acquisition of the Project Land and execution of sale deeds on account of the Pandemic and the Farmer Protest. iv) Consequent delay in construction of the 132kV line to Bunda substation, which would take at least six months.

Extension of SCOD on account of Gram Panchayat Elections

92. The Petitioner has claimed extension of 51 days on account of Gram Panchayat Elections and weekend curfew in the state of UP. The delay on account of *Gram Panchayat* Elections had **affected both Bunda as well as Prayagraj Projects** and the list of dates is as follows:

TABLE 7

S. No.	Date	Particulars
1.	26.03.2021	State Election Commission, UP notified the four phases in which voting for the Gram Panchayat Elections, 2021 would take place in the state.
2.	09.04.2021	The Addl. Chief Secretary, Govt. Of UP, issued a letter to the Collector of Lucknow, Varanasi, Prayagraj and Kanpur <i>Nagar</i> to direct all Govt. and private offices within its jurisdiction to operate at 50% capacity. This arrangement lasted till 30.04.2021.
3.	15.04.2021 - 19.04.2021	Restricted movement on account of <i>Gram Panchayat</i> Elections.
4.	20.04.2021	Addl. Chief Secretary, Govt. of UP issued a direction

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		imposing weekend and night curfew on movement within the State on account of the Pandemic.
5.	29.04.2021	Addl. Chief Secretary, Govt. of UP issued a direction imposing a curfew in the State from 8.00 A.M. on 30.04.2021 till 7.00 A.M. on 04.05.2021.
6.	01.05.2021	Supreme Court permitted counting of the votes of the <i>Gram Panchayat</i> Elections in terms of the Notifications issued by the Govt. of UP.
7.	03.05.2021	Addl. Chief Secretary, Govt. of UP issued a direction extending the curfew from 06.05.2021 to 10.05.2021 till 7.00 A.M.
8.	05.05.2021	Addl. Chief Secretary, Govt. of UP issued a direction extending the curfew from 06.05.2021 to 10.05.2021 till 7.00 A.M.
9.	09.05.2021	Addl. Chief Secretary, Govt. of UP issued a direction extending the curfew from 10.05.2021 to 17.05.2021 till 7.00 A.M.
10.	15.05.2021	Addl. Chief Secretary, Govt. of UP issued a direction extending the curfew from 17.05.2021 to 24.05.2021 till 7.00 A.M.

93. **The Petitioner has only placed newspaper clipping to demonstrate the Farmer's protest but has failed to produce and place on record any documents substantiating that it was affected by armer's protest and elections to prove that it was completely beyond its control. Therefore, the Commission is not inclined to grant any extension of SCOD on these accounts.**
94. **In view of the above, for Bunda Project, the Petitioner shall be entitled to an extension of 4 months on account of a delay in land ceiling approval, six months on account of Covid 19 first wave and 2.5 months extension on account of Covid 19 second wave. The Commission approves the total extension of 12.5 months, thereby extending the SCOD by 12.5 months to 27.11.2021.**
95. The Petitioner achieved the sealing of 33 KV and 132 KV meters plant end on 19.11.2021 and issued an intimation regarding the same to UPPTCL *vide* its letter dated 23.11.2021. The meter sealing activity of 132 KV meters at UPPTCL Bay end could not be completed on time owing to non-completion of GI conduiting of cables by UPPTCL. Pursuant to the receipt of the meter sealing certificate, the Petitioner has approached UPSLDC seeking its permission to charge the transmission line for the Project. Thereafter, UPSLDC, after the verification of the requisite documents,



issued an email dated 02.12.2021 thereby providing a copy of the NoC for Charging Code. On the same date itself, 02.12.2021, Petitioner addressed a letter to UPNEDA, UPPCL, NPCL and UPPTCL demonstrated its efforts in the synchronization of the 132 KV transmission line. The petitioner also requested for deputation of a representative at the project site to witness the synchronization on 03.12.2021.

96. Pursuant to the receipt of the Commissioning Certificates, on 31.12.2021, the Petitioner addressed a letter to UPNEDA requesting issuance of COD Certificate. In response to the said letter, UPNEDA was pleased to issue COD Certificate on 13.01.2022.

Commission's View

97. **The Petitioner shall be entitled to an extension of 4 months on account of a delay in land ceiling approval, six months on account of Covid 19 first wave and 2.5 months extension on account of Covid 19 second wave. The Commission approves the total extension of 12.5 months, thereby extending the SCOD by 12.5 months to 27.11.2021. Subsequently, upon meter sealing and issuance of charging code, the Project has been commissioned on 03.12.2021 without levy of any liquidated damages.**

(Vinod Kumar Srivastava)
Member (Law)

(Raj Pratap Singh)
Chairman

Place: Lucknow

Dated: 01.02.2023