

Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 69 of 2025

In the matter of:

Petition seeking review of the Tariff Order dated 11.04.2025 on the approval of Business Plan and MYT for fifth Control Period from FY 2025-26 to FY 2027-28 and tariff determination for FY 2025-26 alongwith true up for FY 2023-24.

In the matter of:

Uttarakhand Power Corporation Ltd.

... Petitioner

CORAM

Shri M.L. Prasad

Chairman

Shri Anurag Sharma

Member (Law)

Date of Order : September 04, 2025

Uttarakhand Power Corporation Ltd. (hereinafter referred to as “UPCL” or “the Petitioner”) has filed a Petition for review of Commission’s Order dated 11.04.2025 (hereinafter referred to as “Impugned Order”) on the approval of Business Plan and MYT for fifth Control Period from FY 2025-26 to FY 2027-28 and tariff determination for FY 2025-26 alongwith true up for FY 2023-24, under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as “the Act”), Regulation 54(1) of the Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014 (herein after referred to as “UERC CBR”), Regulation 103 of the Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff), Regulations, 2021 and 2024 respectively, and under Section 114 read with Order XLVII of the Code of Civil Procedure 1908.

1. Background

1.1 The Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2021 (hereinafter referred

to as “UERC Tariff Regulations, 2021”) for the fourth Control Period from FY 2022-23 to FY 2024-25 specifying therein terms, conditions, and norms of operation for licensees, generating companies and SLDC. Further, the Commission had notified Uttarakhand Electricity Regulatory Commission (Terms and Conditions for Determination of Multi Year Tariff) Regulations, 2024 (hereinafter referred to as “UERC Tariff Regulations, 2024”) for the fifth Control Period from FY 2025-26 to FY 2027-28 specifying therein terms, conditions, and norms of operation for licensees, generating companies and SLDC. The Commission had issued Tariff Order dated April 11, 2025 for FY 2025-26, including truing up of for FY 2023-24 and Annual Performance Review for FY 2024-25.

The Petitioner filed a Review Petition dated 11.07.2025 on the grounds that the Commission vide Tariff Order dated 11.04.2025 has disallowed various expenses which is an apparent error on the face of record.

1.2 The Petitioner summarized the issues covered in the Review Petition as follows:

- A. Delayed Payment Surcharge (DPS) on receivables from GoU as part of Non-Tariff Income (NTI) for FY 2023-24 and FY 2025-26.
- B. Grant considered for determining financing structure of Gross fixed assets of FY 2023-24 & FY 2025-26 is higher than grant as per audited accounts.
- C. K- Factor for determining R&M Expenses during the fifth Control Period, i.e. FY 2025-26 to FY 2027-28 and R&M expenses for FY 2025-26.
- D. Distribution loss reduction trajectory approved for the fifth Control Period, i.e. FY 2025-26 to FY 2027-28.

1.3 The Petitioner through the current Review Petition has made an additional claim of ARR as summarized in the Table below:

Sl.	Particulars	Additional claim of ARR for FY 2023-24 (Rs. Crore)	Additional claim of ARR for FY 2025-26 (Rs. Crore)	Total (Rs. Crore)
1	Power Purchase cost	-	74.86	74.86
2	Depreciation	22.95	20.27	43.22
3	Interest on Loan	42.45	37.49	79.93
4	Return on Equity	35.06	30.97	66.03
6	Delayed Payment Surcharge on receivables from GoU	129.09	129.09	258.18

Sl.	Particulars	Additional claim of ARR for FY 2023-24 (Rs. Crore)	Additional claim of ARR for FY 2025-26 (Rs. Crore)	Total (Rs. Crore)
8	R&M Expenses	-	82.27	82.27
9	Interest on working capital after sharing of Gain/Loss	3.07	7.77	10.84
10	Additional ARR	232.62	382.72	615.34
11	Carrying Cost	59.43		59.43
12	Total additional ARR including Carrying cost	292.05	382.72	674.77

- 1.4 The Commission, in order to provide transparency to the process of tariff determination and give all the stakeholders an opportunity to submit their objections/ suggestions/ comments on the proposals of the Distribution Licensee, directed UPCL to publish the salient points of its proposals in the leading newspapers. The salient points of the proposal were published by the Petitioner in the following newspapers:

Table 1: Publication of Notice

S. No.	Newspaper Name	Date of Publication (Notice related to Review Petition dated 11.07.2025)
1.	Amar Ujala, Uttarakhand	22.07.2025
2.	The Times of India, New Delhi	22.07.2025

Through the above notice, the stakeholders were requested to submit their objections /suggestions/comments latest by 01.08.2025 on the admissibility of the Review Petition filed by UPCL (copy of the notice is enclosed as **Annexure-I**). The Commission received total 11 Nos. of objections/ suggestions/comments in writing on the Review Petition filed by UPCL (List of stakeholders is enclosed as **Annexure-II**). The Commission also held a public hearing in the matter on 05.08.2025 to decide on admissibility of the Petition.

- 1.5 The issues raised by the Petitioner in the Petition, alongwith the analysis of the Commission are dealt in the subsequent section.

2. Stakeholders' Objections/Suggestions, Petitioner's Responses and Commission's Views

The Commission has received suggestions and objections on UPCL's Petition for review of Tariff Order dated 11.04.2025 on True-up for FY 2023-24, Annual Performance Review of FY 2024-25 and determination of Annual Revenue Requirement for FY 2025-26.

The Commission during the public hearing received various comments from stakeholders, some of which were of such nature which do not relate to the Review Petition filed by UPCL. The Commission has not taken such comments into consideration while dealing with the current Review Petition filed by UPCL.

Since, several issues are common and have been raised by more than one Respondent, all suggestions/responses/comments have been clubbed issue-wise and summarized below.

2.1 General

2.1.1 Stakeholder's Comments

Shri Manohar Singh, Shri Shubham Chaudhry, Shri Prateek, Shri Yash Veer Arya, and Shri Veeru Bisht (during public hearing), have opposed the proposed tariff hike through the Review Petition filed by UPCL.

Further, Shri Sunny Upadhyay submitted that, if the price of electricity units supplied by UPCL is increased, then the price of Solar units being supplied by consumers to UPCL should also be increased to reflect current unit prices fairly and equitably.

Shri Pawan Agarwal, Vice President, Uttarakhand Steel Manufacturers Association, submitted that review of tariff already determined and approved by the Commission, for a particular year, by UPCL depicts its inefficiency, and such Petitions should be rejected by the Commission as tariff should be determined only once every year and not in periodic intervals. He further submitted that instead of sparing time on these type of Petitions, UPCL should endeavour to improve its efficiency which will be equally beneficial for UPCL and the consumers of the State.

Shri Pankaj Gupta, President, Industries Association of Uttarakhand, submitted that the UPCL's Review Petition should be dismissed being a time barred appeal in disguise. Moreover, the grounds of review are very limited, and any midyear adjustment would contravene the mandate of the Act and Regulations. He further submitted that allowing UPCL to re-argue every disallowance mid-year would create regulatory instability, undermine investor confidence, and saddle consumers with unchecked liability. He further submitted that UPCL seeks relief on account of poor collection

efficiency, delayed prepaid metering, and un prudently managed R&M expenses, and off-load these self-inflicted burdens onto the consumers rather than addressing internal lapses.

Shri Shakeel A Siddiqui, representing M/s Galwalia Ispat Udyog Private Ltd., & M/s Kashi Vishwanath Textile Mill (P) Limited, and Shri Pawan Agarwal, President, Kumaun Garhwal Chamber of Commerce and Industries, submitted that they oppose the Petition filed by the UPCL, as the Petition is devoid of merits and same contents have been repeated which have thoroughly addressed by the Commission in its Tariff Order dated 11.04.2025. Moreover, it has become a practice of UPCL every year to bring some representation after passing of Tariff Order by the Commission.

2.1.2 Petitioner's Reply

In response to the same, UPCL during the public hearing submitted that it is making sincere efforts to improve its services and the proposed claim of additional ARR is essential to ease out the financial burden on UPCL. UPCL submitted that the measures have been taken to improve the collection efficiency, reduce line losses and AT&C losses, metering of feeders through smart meters etc. and the same would go a long way to provide a qualitative and reliable supply to the consumers of the State.

2.2 Maintainability

2.2.1 Stakeholder's Comment

Shri Puneet Mohindra, President (Finance & Administration), Kashi Vishwanath Steels Pvt. Ltd. submitted that the present petition filed by UPCL is not maintainable because the grounds raised by the Petitioner are beyond the grounds of review which have been enshrined under section 94(1)(f) of the Electricity Act, 2003 ("Act") read with Order XLVII Rule 1 of the Code of Civil Procedure ("CPC"). He further submitted that the Hon'ble Supreme Court in *Perry Kansagra v. Smirti Madan Kansagra*, (2019) 20 SCC 753, has laid down/defined the ambit/scope of Review under Order 47 Rule 1 as follows:

- “• It is observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view.*
- Review proceedings are not by way of appeal and have to be strictly confined to the scope and*

ambit of Order 47 Rule 1 CPC.

- *Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the fact of record is found must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably be two options.*

- *Power of review may not be exercised on the ground that the decision was erroneous on merits."*

Further, the Hon'ble Supreme Court in the matter of Shanti Conductors (P) Ltd. Vs. Assam SEB, (2020) 2 SCC 677 has laid down/defined the ambit/scope of Review under Order 47 Rule 1 as follows:

"It is observed and held that scope of review under Order 47 Rule 1 CPC read with Section 114 CPC is limited and under the guise of review, the Petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. "

He further submitted that in view of the aforementioned judgments, it is beyond any doubt that a review proceeding is not maintainable when it merely restates issues that have already been argued, considered, and adjudicated upon. Further, in the present case, no substantial or compelling circumstance has been shown to justify departure from the finality of the Tariff Order dated 11.04.2025, and the Petition does not disclose any statutory oversight, non-consideration of material on record, or manifest error that would warrant reopening the issues relating to normative allowances, computation of receivables, or subsidy treatment. He submitted that the power of review is limited to the correction of a material error that is apparent on the face of the record, and not one which requires elaborate reasoning or reanalysis to identify. The mere possibility of a different interpretation or outcome is not a permissible ground to reopen a concluded matter. Shri Puneet submitted that the Petitioner is attempting to use the pendency of this Review Petition to delay or justify a belated filing of an appeal and such conduct amounts to procedural misuse and is impermissible in law.

Shri Shakeel A. Siddiqui and Shri Pawan Agarwal submitted that the Review

Petition filed by UPCL is liable to be rejected on account of the grounds as summarized herein below:

- i. Electricity Act generally limits tariff adjustments to a single instance per financial year, other than fuel surcharge.
- ii. The Review Petition filed by UPCL is time barred.
- iii. The basis considered by UPCL in filing this Review Petition is baseless, as for every decision the Commission has given its remarks and reasoning in detail.
- iv. In the current Review Petition, UPCL has not been able to present any new or important matter or establish any error apparent on the face of record.

2.2.2 Petitioner's Reply

In response to the same UPCL, during the public hearing, reiterated the submissions made in the Review Petition filed by it and submitted that the Review Petition filed fulfils the ground of review as laid down in relevant section of CPC, and the Commission may allow the Review Petition and pass suitable orders. UPCL w.r.t the limitation in filing of the Review Petition, submitted that due to internal procedures and protocols, and despite taking all necessary steps to avoid delay, a delay has occurred in filing of the Review Petition. UPCL during the public hearing, further submitted that the meeting of the Board of Directors was convened on 05.07.2025, i.e. beyond the last date of filing the Review Petition as per the provisions of UERC (Conduct of Business Regulations), 2014, which is a pre-requisite for filing the Review Petition in the matter, and, hence, the delay is justified and liable to be condoned.

2.3 Consideration of Grant for determination of Gross Fixed Assets

2.3.1 Stakeholder's Comment

Shri Pawan Agarwal submitted that only 4 months have elapsed since the issuance of Tariff Order for FY 2025-26 and the issues related to GFA must have been deliberated in detail in the said Order. If any reconsideration is required at all, then the same should be done alongwith next Tariff proceedings.

Shri Pankaj Gupta submitted that the Commission is empowered to look beyond the audit disclosures to ensure true economic cost recovery. UPCL's own auditors

flagged multiple untraceable grant entries, and in such a case, the Commission is justified in adopting a conservative estimate to prevent “double-dipping” by the utility and protect consumer tariffs.

Shri Puneet Mohindra submitted that the aforementioned issue has already been dealt in detail by the Commission in the Tariff Order dated 11.04.2025, and, hence, the same cannot be a ground for review in the instant case.

Shri Shakeel A. Siddiqui and Sh. Pawan Agarwal submitted that the Commission, as stated in the Tariff Order dt. 11.04.2025, had shown concern regarding the quality of information UPCL has been providing in support of its claims. The Commission has already deliberated in detail on this issue in the Tariff Order and the claim of UPCL has no elements of review as has been prescribed in various judicial pronouncements.

2.3.2 Petitioner’s Reply

In response to the same, UPCL during the public hearing reiterated the grounds raised in the Review Petition filed by it and submitted that the same may be allowed to UPCL.

2.4 Distribution Losses trajectory

2.4.1 Stakeholder’s Comment

Shri Pawan Agarwal submitted that in the State of Uttar Pradesh, which is 5 times geographically larger than Uttarakhand, the pooled line loss percentage is 10.50%, in spite of the domestic consumption of around 75 % (out of which 35% is agricultural consumption, which contributes the most to line losses). However, in the State of Uttarakhand, where 50% of electricity consumption is skewed towards Industrial category consumers (which have negligible line loss), approving the line loss percentage of 12.75% is not correct, and the same should be reduced to 8% with consequential benefit being passed on to the industrial consumers.

Shri Pankaj Gupta submitted that loss reduction is largely within UPCL’s control through network upgrades, meter tamper detection, and AT&C loss minimization and granting leniency would reward inaction and defer necessary investments. Moreover, permitting higher loss allowances shifts the cost of technical and commercial losses onto the consumers, thus, violating the consumer interest as mandated in Section 61(d) of the

Act.

Shri Puneet Mohindra submitted that the Commission while approving the loss trajectory of UPCL for the fifth Control Period had stated that UPCL has been carrying out regular capital expenditure to reduce distribution losses and still no plausible reason has been offered by UPCL for lower billing efficiency even when the meter reading activity has been outsourced by UPCL. He further submitted that the ground taken by UPCL on the instant issue is on the interpretation of the Regulations framed by the Commission which has already been done by the Commission, and, hence, the same cannot be a ground for review in the instant case.

Shri Shakeel A. Siddiqui and Shri Pawan Agarwal submitted that the Commission has already deliberated in detail on this matter in the Tariff Order dated 11.04.2025, and the claim of UPCL has no elements of review regarding distribution losses, neither does it point towards any error or discovery of new or important matter, and, therefore, the claim made by UPCL is devoid of any merits.

2.4.2 Petitioner's Reply

In response to the same, UPCL during the public hearing reiterated the grounds raised in the Review Petition filed by it and submitted that the same may be allowed to UPCL.

2.5 Delayed Payment Surcharge on Receivable from GoU

2.5.1 Stakeholder's Comment

Shri Pawan Agarwal, submitted that the claim on account of DPS receivable from GoU is not tenable and should not be allowed by the Commission. The amount of DPS which UPCL is mentioning pertains to the Government category consumers, i.e. departments/offices working under the GoU, and impact of the same should not be passed on to the other consumers.

Shri Pankaj Gupta submitted that the provisions of the Tariff Regulations apply uniformly and no internal executive order can override the Commission's statutory mandate to enforce timely payment discipline. He further submitted that the Apex Court has held that "quasi-judicial orders must prevail over administrative arrangements" when statutory duties conflict. The Delayed Payment Surcharge (DPS) is a normative tool to deter delayed payments, and if Government receivables are exempted, UPCL will

have no incentive to pursue timely collections, perpetuating severe cash-flow mismatches. In this manner, UPCL seeks to pass its own under-recovery onto other industrial and domestic consumers which is in contravention of the provisions of the Act.

Shri Puneet Mohindra submitted that with respect to the issue of DPS on receivables from GoU, the Commission has categorically given the reasoning in the Tariff Order before reaching the conclusion, and the ground taken by UPCL on the instant issue, is on the interpretation of the Regulations framed by the Commission which has already been done by the Commission, and, therefore, the same cannot be a ground for review in the instant case.

Shri Shakeel A. Siddiqui and Shri Pawan Agarwal submitted that the basis taken by UPCL for allowing the claim is that no Interest/DPS is payable by UPCL on dues payable to GoU and by GoU on dues payable to UPCL as per the decision taken in the meeting held on 15.10.2012 in the chamber of Secretary Finance, GoU. They submitted that this arrangement is between two parties, i.e. GoU and UPCL, and such transaction or arrangement is not supported by the provisions of the Act or Regulations framed by the Commission, and there is no separate distinguishing of the consumers in the Act. They further submitted that, on a perusal of the applicable provisions of the Act, Regulations framed and Tariff Order passed by the Commission, it is very much evident that the Commission has very well addressed the issue and there is nothing new nor any error has been brought by UPCL in this regard, and, therefore, the claim of UPCL needs to be turned down.

2.5.2 Petitioner's Reply

In response to the same, UPCL during the public hearing reiterated the grounds raised in the Review Petition filed by it and submitted that the same may be allowed to UPCL.

2.6 K-factor for Repair and Maintenance expenses

2.6.1 Stakeholder's Comment

Shri Pankaj Gupta submitted that UPCL is aware of Uttarakhand's seismic and climatic vulnerabilities. Proper contingency budgeting or state disaster relief applications were their responsibility, and not a licence to inflate tariffs permanently. He further submitted

that the MYT Regulations envision a normative K-factor, not actual year-to-year volatility.

Shri Puneet Mohindra submitted that the aforementioned issue has already been dealt with by the Commission in detail in the Tariff Order dt. 11.04.2025 and the Commission has already indicated in detail the computation used for calculation and approval of K factor for the fifth Control Period, and hence, the same cannot be a ground for review in the instant case.

Shri Shakeel A. Siddiqui and Shri Pawan Agarwal submitted that the grounds of review, do not point out any error or new fact for determining K-factor/R & M expenses, and the issues have very well been addressed by the Commission, in the Tariff Order dated 11.04.2025, on the basis of information made available by UPCL and apparent records. The claim of UPCL has no elements of review regarding R & M expenses, and is devoid of merit.

2.6.2 Petitioner's Reply

In response to the same, UPCL during the public hearing reiterated the grounds raised in the Review Petition filed by it and submitted that the same may be allowed to UPCL.

2.7 Interest on Working Capital, Carrying Cost and Others

2.7.1 Stakeholder's Comment

Shri Pankaj Gupta submitted that the consumers cannot be subjected to compound tariff hikes based on baseless primary claims, and opposed any revision at this juncture, as Tariff fixation is based on the provisions of the Electricity Act and the process is fully transparent.

Shri Shakeel A. Siddiqui and Shri Pawan Agarwal submitted that the consequential claims raised by UPCL for the grounds raised in the Petition do not sustain, as none of the ground mentioned in the Petition holds merit for consideration in review being already deliberated and considered by the Commission in the Tariff Order dated 11.04.2025.

2.7.2 Petitioner's Reply

In response to the same, UPCL during the public hearing reiterated the grounds raised in the Review Petition filed by it and submitted that the same may be allowed to UPCL.

2.8 Miscellaneous

2.8.1 Stakeholder's Comment

Shri Pawan Agarwal mentioned that the levy of CESS, Water Tax and Royalty by the State Government has been declared as unconstitutional by the MoP, Central Government, still the same is being levied.

2.8.2 Commission's View

The Commission is of the view that the issue raised by Shri Pawan Agarwal is beyond the scope of current proceedings, and, therefore, the Commission has refrained from deliberating or discussing on the same in this Order.

3. Petitioner's submission, and Commission's Analysis and Findings

3.1 Powers of the Commission and Grounds for Review

3.1.1 Limitation - A Threshold Issue

Limitation (delay), being a threshold issue in the instant matter, is being taken up first, prior to an examination of the substantive grounds raised in support of the review petition.

As per the mandate of Regulation 54 of the *UERC (Conduct of Business) Regulations, 2014*, a review petition is required to be filed within 60 days from the date of issuance of the order sought to be reviewed. The impugned Tariff Order was issued on 11.04.2025, and hence, the limitation period for filing a review petition expired on 10.06.2025. However, the present review petition was filed only on 11.07.2025, with a delay of one month.

In justification of the delay, the Petitioner has submitted both in its petition and during the course of public hearing, that the analysis of various disallowances made by the Commission in consultation with its engaged consultant consumed additional time, thereby causing the delay. It was also submitted that one of the contributing factors to the delay was the timing of the Board of Directors' meeting held on 05.07.2025, followed by the Audit Committee meeting on 09.07.2025, after which the petition was ultimately filed.

Upon considering the submissions of the Petitioner, the Commission observes that UPCL was fully aware of the requirement under the applicable Regulations to file the

review petition within 60 days, i.e. by 10.06.2025. The Commission is of the view that UPCL ought to have planned the consultation and analysis process so as to ensure timely filing of the petition. The submissions do not inspire confidence regarding the seriousness with which the Petitioner approached the statutory deadline. This is further evident from UPCL's letter dated 09.06.2025, wherein it sought an extension for filing the review petition until 10.07.2025. The Commission, vide its letter dated 13.06.2025, categorically informed UPCL that such a request could not be entertained.

The Commission finds that the reasons advanced by the Petitioner do not constitute sufficient cause for condoning the delay. Further, from the information provided, it is noted that in FY 2025-26 (till 06.08.2025), UPCL convened two meetings of the Board of Directors, on 01.05.2025 and 05.07.2025 respectively. The meeting held on 01.05.2025, within 20 days of the Tariff Order dated 11.04.2025, provided ample opportunity for UPCL to consider the implications of the said Order. Therefore, the contention that the delay was attributable to the unavailability of a Board meeting is devoid of merit.

The Commission reiterates that UPCL was under an obligation to act diligently and file the petition within the prescribed timeline. The Commission also notes, with concern, that UPCL has previously exhibited a pattern of procrastination, rather than planning its legal recourse in a timely and responsible manner. Such a casual and negligent approach, particularly in matters involving statutory compliance and legal significance, is not acceptable.

Accordingly, the Commission finds no merit in the explanation offered for the delay and there is no valid reason or justification for condoning the delay.

Nevertheless, considering the nature of the issues raised, the arguments advanced during the hearing, and for the sake of clarity on the substantive grounds raised by the Petitioner, the Commission proceeds to examine the same in the subsequent paragraphs of this Order.

3.1.2 Statutory Power of Review

Before considering the merits of the petition, it is necessary to delineate the scope of the Commission's power of review.

Section 94(1)(f) of the Electricity Act, 2003 empowers the Commission to undertake review of its decisions in the same manner as a Civil Court deals with the power of review under Section 114 read with Order XLVII of the Code of Civil Procedure, 1908.

The Order 47 of the Code of Civil Procedure, 1908, specifies the following three grounds for the purpose of considering review:

- (i) **Discovery of new and important matter or evidence** which, despite due diligence, was not within the knowledge of the applicant or could not be produced at the time of the order.
- (ii) **Mistake or error apparent on the face of the record.**
- (iii) **Any other sufficient reason** interpreted to mean reasons analogous to (i) and (ii).

The import of these grounds can be better understood through authoritative judicial exposition by higher courts in India. The Commission shall proceed to examine these grounds in light of the judicial pronouncements by the higher courts in detail in the succeeding part of this order.

3.1.3 Discovery of New Evidence

For review on the ground of discovery of new evidence, the applicant must conclusively establish:

1. The evidence was genuinely not within knowledge despite due diligence.
2. The evidence is of such materiality that its absence would cause miscarriage of justice.
3. The evidence, if considered, could potentially alter the judgment.

In this regard, it is relevant to refer to the order of the Hon'ble Supreme Court in the case of *State of West Bengal and Others v. Kamal Sengupta and Another*, [(2008) 8 SCC 612] wherein it was held that:

"14. At this stage it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words,

mere discovery of new or important matter or evidence is not sufficient ground for review ex debito justitiae. Not only this, the party seeking review has also to show that such additional matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court earlier."

Therefore, from the above it is evident that it is incumbent upon the party seeking review to establish/ demonstrate that the additional matter or evidence was not within its knowledge earlier and, despite the exercise of due diligence, could not have been produced at the time when the order was passed. Failure to meet these strict tests disentitles a party from seeking review.

We shall now proceed further to examine the scope of the second ground; '*error apparent on the face of the record*'.

3.1.4 Error Apparent and Miscarriage of Justice

In *Col. Avatar Singh Sekhon v. Union of India* [(1980) Supp SCC 562], the Court emphasised that review cannot be undertaken unless the error is manifest on the face of the order and such error undermines its soundness or results in miscarriage of justice.

3.1.5 Similarly, in *Lily Thomas v. Union of India* [(2000) 6 SCC 224], the Court clarified that the error contemplated must be "self-evident" and not one that requires a process of reasoning, the Hon'ble Supreme Court had observed that, "***...Error contemplated under the rule must be such which is apparent on the face of the record and not an error which has to be fished out and searched. It must be an error of inadvertence...***"

XXX XXX XXX

"...Error apparent on the face of the proceedings is an error which is based on clear ignorance or disregard of the provisions of law. In T.C. Basappa v. T. Nagappa this Court held that such error is an error which is a patent error and not a mere wrong decision..."

This principle was further reiterated in *Parsion Devi v. Sumitra Devi* [(1997) 8 SCC 715], wherein it was further observed that a review is not an appeal in disguise, relevant para of the said order is reproduced hereunder:

"9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent

on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".

Similarly in the matter of Jain Studios Ltd. v. Shin Satellite Public Co. Ltd. (2006) 5 SCC 501, the Hon'ble Supreme Court has held that:

"...So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications. The power of review can be exercised with extreme care, caution and circumspection and only in exceptional cases. ..."

In the case of State of West Bengal and Others v. Kamal Sengupta and Another, (Supra) the Hon'ble Supreme Court had held that:

"15. The term 'mistake or error apparent' by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self-evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the Court/Tribunal on a point of fact or law. In any case, while exercising the power of review, the concerned Court/Tribunal cannot sit in appeal over its judgment/decision."

Let us now deliberate upon the third ground of review.

3.1.6 Any Other Sufficient Reason

The phrase “any other sufficient reason” under Order XLVII CPC has been judicially interpreted to mean reasons analogous to discovery of new evidence or error apparent. It cannot be expanded to include every conceivable reason. (*Lily Thomas, supra*).

In *Ajit Kumar Rath vs. State of Orissa and Others* [1999 (9) SCC 596], the Hon’ble Supreme Court has held that:

“...A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule. Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

As evident from the above, a review against any Order/Judgment lies only to correct a patent error apparent on the face of the record; it cannot be treated as an appeal or a rehearing, and ‘any other sufficient reason’ must be analogous to the specified grounds.

It is relevant to refer to the judgement of the Hon’ble Supreme Court. In *Kamlesh Verma v. Mayawati & Ors.* [(2013) 8 SCC 320], the Hon’ble Court referring to various judgments culled out the grounds when the review will be maintainable and when it will be not. Relevant para of the said judgment is reproduced hereunder:

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him; (ii) Mistake or error apparent on the face of the record;*
- (iii) Any other sufficient reason.*

The words "any other sufficient reason" has been interpreted in Chajju Ram vs. Neki¹⁷, and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius

& Ors.18 to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd. & Ors. 25 ,.

20.2. When the review will not be maintainable: -

- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) Minor mistakes of inconsequential import.*
- (iii) Review proceedings cannot be equated with the original hearing of the case.*
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.*
- (vi) The mere possibility of two views on the subject cannot be a ground for review. (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.*
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.*

Moreover, error referred to by Petitioner for seeking review is far from being the 'error' that invokes reviewing jurisdiction. Therefore, the Review Petition cannot be entertained and is rejected as non-maintainable. In view of the same there is no error apparent on the face of record and hence issue do not qualify for review."

3.1.7 In light of the above settled legal position, the Commission proceeds to examine whether the grounds raised by the Petitioner fall within the ambit of review.

3.2 Issues for Review raised in the Petition

3.2.1 Delayed Payment Surcharge (DPS) on receivables from GoU as part of Non-Tariff Income (NTI) for FY 2023-24 and FY 2025-26.

Petitioner's Submissions

- a. The Petitioner in the Review Petition submitted that it had claimed non-tariff income as Rs 253.10 Crore for FY 2023-24. UPCL submitted that in the Technical Validation Session held during the tariff proceedings, the Commission sought explanation from the Petitioner for not recovering the Delayed Payment Surcharge (DPS) on the amounts recoverable from the Government categories and considering it as a part of

NTI, in response to which UPCL provided clarification that no Interest/DPS is payable by UPCL on dues payable to GoU and by GoU on dues payable to UPCL, as per the decision taken in the meeting held on 15.10.2012 in the chamber of Secretary Finance, Government of Uttarakhand (GoU).

- b. The Petitioner submitted that the Commission has estimated the DPS on Government categories for FY 2023-24 amounting to Rs. 129.09 Crore, considering the DPS on Government categories for previous years and added it to the NTI. Further, while determining the Annual Revenue Requirement (ARR) for FY 2025-26, the Commission has considered the amount of Non-Tariff Income (NTI) equivalent to the amount as approved for FY 2023-24, which has resulted in consideration of Rs 129.09 Crore as DPS on Government categories in NTI for FY 2025-26.
- c. The Petitioner submitted that the Commission in its Impugned Order dated April 11, 2025, has mentioned the following as per para 4.2.5 “Non-Tariff Income”:

“...the Petitioner and GoU have come to an internal agreement on the applicability of DPS which is not as per the UERC Tariff Regulations, 2021. The Commission has been allowing UPCL all the costs that is to be paid to the Government, however, UPCL due to its inefficiencies and also imprudent financial management has either not been able to collect its dues from the consumers or is utilising the said amount in creation of fixed assets which can very well be ascertained from the fact that every year UPCL is claiming assets to be created out of its equity/internal resources when it is having negative net worth and is claiming RoE on the same. Hence, the entire burden of this inefficient practices cannot be loaded on to the consumers. The Commission, accordingly, is of the view that both the Petitioner as well as the Commission are bound by the provisions of UERC Tariff Regulations, 2021, and the Regulation is not subject to any such agreements which may be agreed between the Petitioner and its consumers. Therefore, any impact arising out of such agreement is to the account of the Petitioner. Further, it is observed that the Petitioner has calculated the normative DPS for FY 2023-24 based on the average balance payment of the Government consumer category at the year end. However, the approach adopted by the Petitioner for the calculation of DPS is not correct as the DPS amount should be computed on a monthly basis for the entire financial year.”

- d. The Petitioner submitted that as per the policy of GoU mentioned above, DPS is

neither computed nor receivable by UPCL on Government categories, and, therefore, the same is not recorded in the audited accounts. Moreover, the Regulations do not specify methodology for normative computation of DPS. Therefore, this is an error apparent on the face of records and needs to be reviewed as the same adds to the financial burden of the Discom. The Petitioner, accordingly, requested the Commission to exclude the amount of Rs. 129.09 Crore for FY 2023-24 and amount of Rs. 129.09 Crore for FY 2025-26, considered as DPS on Government category consumers, from the NTI and, accordingly, made an additional claim of Rs. 258.18 Crore on account of the same.

Commission's Analysis and Ruling

- e. As detailed in the Tariff Order dated 11.04.2025, and part of which is extracted in para 4.2.5 of the Tariff Order quoted by the Petitioner as mentioned above, it is evident that the Commission has already given a reasoned view and conclusion in the matter and it was held that non charging of interest by UPCL on GoU dues and vice versa is an internal agreement between UPCL and the GoU, and the same does not align with the provisions of the MYT Regulations, 2021. The Government dues include the amount which is recovered from consumers and paid back to the Government. The Commission has been allowing UPCL all the costs that is to be paid to the Government, however, UPCL due to its inefficiencies and also imprudent financial management has either not been able to collect its dues from the consumers or is utilising the said amount in creation of fixed assets which can very well be ascertained from the fact that every year UPCL is claiming assets to be created out of its equity/internal resources when it is having negative net worth and is claiming RoE on the same. Hence, the burden of this inefficient practices cannot be loaded on to the consumers. The Commission, accordingly, was of the view that both the Petitioner as well as the Commission are bound by the provisions of UERC Tariff Regulations, 2021, and the Regulation is not subject to any agreements between the Petitioner and its consumers. Therefore, any impact arising out of such agreement, which being in violation of Regulations is not enforceable, is to the account of the Petitioner.

- f. Further, the Commission, as discussed in the Tariff Order dated 11.04.2025, did not find the approach adopted by the Petitioner for the calculation of DPS for FY 2023-24 to be correct, as the Petitioner had calculated the DPS on Government consumers based on the average dues of the Government consumer category at the year end, whereas, the amount of DPS should have been computed on the monthly basis for the entire fiscal year on the amount due against the Government categories.
- g. Besides, the Commission for the truing up of FY 2023-24 had continued the same approach for working out the DPS on Government categories as worked out by it for the truing up for FY 2022-23, the decision and the approach has not been appealed against by UPCL and has therefore attained finality. In this regard it is relevant to refer to the judgement of Hon'ble Supreme Court dated 11 July, 2006 passed in M/S Jain Studios Limited vs Shin Satellite Public Co. Ltd [(2006) 5 SCC 501], wherein it was held as under:

"So far as the grievance of the applicant on merits is concerned, the learned counsel for the opponent is right in submitting that virtually the applicant seeks the same relief which had been sought at the time of arguing the main matter and had been negatived. Once such a prayer had been refused, no review petition would lie which would convert rehearing of the original matter. It is settled law that the power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. It is not rehearing of an original matter. A repetition of old and overruled argument is not enough to reopen concluded adjudications."

The Commission has after due deliberation and for reasons mentioned in Tariff Order dated 28.03.2024 has already taken a view in the matter, and, the same approach has been considered in the Order dated 11.04.2025 also after deliberating on the same, and this issue has already attained finality. Hence, this cannot be a ground of review. Moreover, there were no valid reasons or justification for taking any other view and reagitating the same issue again cannot be a valid ground for review.

- h. Furthermore, the Commission had approved the prepaid metering scheme in its Tariff Order for FY 2012-13. The Commission had made the prepaid metering mandatory for Government connections upto 25 kW in its Tariff Order for FY 2017-

18. However, till date UPCL has not complied with this direction of the Commission. Had the said direction of the Commission been complied, the situation of arrears on Government connections would not have arisen.

- i. Accordingly, as discussed above, there is no error apparent on the face of record and there is no new evidence which can be considered and hence this issue does not qualify for review.

3.2.2 Grant considered for determining financing structure of Gross Fixed Assets (GFA) of FY 2023-24 & FY 2025-26 is higher than the grant as per the audited accounts.

Petitioner's Submissions

- a. The Petitioner submitted that for FY 2023-24 the opening GFA created out of grant was Rs. 3,253.86 Crore as per the audited accounts, however, the Commission in its Order dated 11.04.2025, has considered the opening GFA created out of grant as Rs. 3,962.23 Crore. Similarly, the opening GFA for FY 2024-25 which is created out of grant as per the audited accounts is Rs. 3,505.96 Crore, however, the Commission in its Order dated 11.04.2025, has considered the opening GFA created out of grant as Rs. 4,131.59 Crore.
- b. The Petitioner submitted that the Commission in its Order dated April 11, 2025, has mentioned the following in para 4.2.2.1.2 "Depreciation":

"The Commission observed that UPCL has considered opening grants of Rs. 3253.86 Crore towards opening GFA of Rs. 9223.23 Crore for FY 2023-24 as against the trued-up value of Rs. 3791.60 Crore...

With regard to grants, the Petitioner has revised its grant contribution in the Opening GFA for FY 2023-24 and in the previous tariff proceeding while dealing with truing up of FY 2022-23 the Petitioner had submitted that there is a great difficulty in identifying the assets created out of grants and consumer contribution and corresponding depreciation to be charged as well as writing back of the same (in case of scrap) at the time of dismantling of such assets...

UPCL, accordingly, requested the Commission to currently consider the value of Grants as per the Audited Accounts...

The Commission, therefore, does not find any merit for such re-instatement of funding as no material explanation has been provided by UPCL. The Commission has, therefore, considered

the amount of grant as approved by it in its Order dated March 28, 2024."

- c. The Petitioner submitted the status of grant as per books of account and that considered by the Commission as summarized in the Table below:

S. No.	Particular	As on March 2023 in Rs Cr.	As on March 2024 in Rs Cr.
A	GFA funded through grant as per Accounts	3253.86	3505.96
B	GFA funded through grant as per Commission	3962.23	4131.59
C = B-A	Excess grant considered by UERC	708.37	625.63

- d. The Petitioner submitted that due to consideration of the value of grant more than the grant as per books of accounts, the claim on account of Depreciation, Interest on loan, Return on Equity and Interest on Working Capital has been allowed on a lower side to the Petitioner company for FY 2023-24 and FY 2025-26 which is an error apparent on the face of record and requires review of the Tariff Order.
- e. The Petitioner submitted that the Commission while approving the capitalization policy of the Petitioner, itself accepted that linking of receipts on capital grant, consumer contribution and subsidy, to the creation of fixed assets and charging depreciation/writing back, proportionate amount is practically not possible. Even M/s K.G. Somani & co. LLP, appointed by the Petitioner, could not identify the source of funding (grant and others) of capital assets. The Petitioner submitted that the amount of grant claimed is based on the audited accounts which have also undergone supplementary audit by CAG under Section 143(6)(a) of the Company Act and requested the Commission to kindly consider the amount of grant as per audited accounts and allow return on the same accordingly.
- f. The Petitioner further submitted that the Commission in its Tariff Order dated 11.04.2025 had stated that the opening grants for FY 2023-24 has been considered equal to the amount as approved in the Tariff Order dated March 28, 2024. The amount of grant in Tariff Order dated March 28, 2024, was Rs. 3791.60 Crore as at the end FY 2022-23, however, the Commission in its Tariff Order dated 11.04.2025 considered opening grants as Rs 3962.23 Crore for FY 2023-24, which is an error apparent on the face of records.

Commission's Analysis and Ruling

- g. The Commission analysed the submissions made by the Petitioner and observed that the Petitioner has broadly claimed review towards the value of GFA based on the following grounds:
 - i. Consideration of grant more than the grant as per books of accounts.
 - ii. Difference in opening value of grant for FY 2023-24 in variance to the numbers approved in T.O. dt. 28.03.2024.
- h. The Commission in the Impugned Order dated 11.04.2025 had already deliberated in detail on the above aspects. The Petitioner during the review proceedings has not brought anything before the Commission which could be considered as discovery of new and important matter or evidence or mistake or error apparent on the face of record. The submission of the Petitioner merely aims at reconsideration of already concluded matter which is not permitted through a review.
- i. Besides, any claim towards fixed assets has to be examined in detail with respect to its value as well as its financing thereof. Any standalone claim with respect to addition in the value of assets cannot be accepted. The issue of consideration of the value of grant more than the grant as per the books of accounts, has already been dealt in detail by the Commission in the Tariff Order, the Commission observed that UPCL had considered opening grants of Rs. 3253.86 Crore towards opening GFA of Rs. 9223.23 Crore for FY 2023-24 as against the trued-up value of Rs. 3791.60 Crore towards opening GFA of Rs. 8356.62 Crore, as approved in Tariff Order dated March 28, 2024. In reply to explanation sought from UPCL in this regard, it was submitted that it considered the impact of transfer scheme and all pending EI certificates while claiming GFA and had also revised its grant contribution in the Opening GFA for FY 2023-24. Further, UPCL, earlier, during the truing up proceedings of FY 2022-23, submitted that there was a great difficulty in identifying the assets created out of grants and consumer contribution and corresponding depreciation to be charged as well as writing back of the same at the time of dismantling of such assets. UPCL submitted that this resulted in variance in the balance of the GFA as submitted in the

past and the balance as submitted as per the Audited Accounts of FY 2023-24.

- j. The Commission, during the tariff proceedings, reviewed the submissions of UPCL and noted that the Commission has approved funding for Assets since the establishment of UPCL. This approval was based on the actual funding submitted by the Petitioner, considering the audited accounts and conducting a thorough due diligence check. The Commission also carried out the true-up till FY 2022-23 using the same principles. The Commission, as discussed in the Impugned Order, did not find any merit for the re-instatement of funding as no material explanation could be provided by UPCL. Therefore, the Commission considered the amount of grant as was approved by it in its Order dated March 28, 2024. The relevant portion of the Tariff Order dated 11.04.2025 is reproduced hereunder:

“4.2.2.1.2

...

The Commission observed that UPCL has considered opening grants of Rs. 3253.86 Crore towards opening GFA of Rs. 9223.23 Crore for FY 2023-24 as against the trued-up value of Rs. 3791.60 Crore towards opening GFA of Rs. 8356.62 Crore approved in the Order dated March 28, 2024. The Commission, accordingly, sought explanation from UPCL on the variation in the opening GFA considered by it. UPCL vide its reply dated January 06, 2025, submitted that it has considered the impact of transfer scheme and all pending EI certificates while claiming GFA. With regard to grants, the Petitioner has revised its grant contribution in the Opening GFA for FY 2023-24 and in the previous tariff proceeding while dealing with truing up of FY 2022-23 the Petitioner had submitted that there is a great difficulty in identifying the assets created out of grants and consumer contribution and corresponding depreciation to be charged as well as writing back of the same (in case of scrap) at the time of dismantling of such assets. UPCL submitted that the same has also been covered in the Capitalization Policy of UPCL approved by the Commission, wherein it has been mentioned that the linking of receipts of capital grant, consumer contribution and subsidy to the creation of fixed assets and charging depreciation/writing back proportionate amount is practically not possible. UPCL submitted that this has resulted in variance in the balance of the GFA as submitted in the past and the balance as submitted in the latest response as per the Audited Accounts. The Petitioner in the current tariff proceedings has continued with its earlier values of grant and has further submitted that as per the directions of the Commission the exercise of

identification of such assets along with their source of funding and their corresponding depreciation, had already been assigned to M/s K.G. Somani & Co., LLP, Chartered Accountants, however, the identification of source of funding could not be done by the Firm. UPCL, accordingly, requested the Commission to currently consider the value of Grants as per the Audited Accounts.

The Commission has gone through the submissions of the Petitioner and observes that the Commission has been approving the funding of Assets, since the creation of UPCL, based on actuals funding submitted by the Petitioner based on the audited accounts and after carrying out due prudence check, and truing up till FY 2022-23 has been carried out based on the same. The submission made by UPCL raises serious concern on the quality of information being supplied by UPCL in support of its claims. The Commission, therefore, does not find any merit for such re-instatement of funding as no material explanation has been provided by UPCL. The Commission has, therefore, considered the amount of grant as approved by it in its Order dated March 28, 2024.

..."

- k. As can be seen from the above discussion, the issue related to non-consideration of revised value of grant has been explicitly dealt by the Commission in the Impugned Order in great detail. Further, similar deliberation was carried out in past two Tariff Orders of the Commission dated 30.03.2023 and 28.03.2024 respectively for FY 2023-24 and FY 2024-25.
- l. The issue regarding difference in value of grants first came up during the truing up proceedings for FY 2021-22, wherein the Commission observed that UPCL has considered opening grants of Rs. 2094.86 Crore towards opening GFA of Rs. 6665.10 Crore for FY 2021-22 as against the trued-up value of Rs. 2854.17 Crore towards opening GFA of Rs. 6606.71 Crore approved in MYT Order dated March 31, 2022. The Commission, during the truing-up proceedings of the said FY, after considering the submissions of the Petitioner, did not find any merit for re-instatement of funding as no material explanation was provided by UPCL. The Commission while truing up for FY 2021-22 in its Tariff Order dated 30.03.2023, accordingly, considered the amount of grant as approved by it in its MYT Order dated March 31, 2022, and directed UPCL to reconcile the funding and submit the reasons for deviations, however, no such reconciliation has been provided by the Petitioner till date. The

relevant extract of Tariff Order dated 30.03.2023 is reproduced hereunder:

"The Commission observed that UPCL has considered opening grants of Rs. 2094.86 Crore towards opening GFA of Rs. 6665.10 Crore for FY 2021-22 as against the trued-up value of Rs. 2854.17 Crore towards opening GFA of Rs. 6606.71 Crore approved in MYT Order dated March 31, 2022. The Commission, accordingly, sought explanation from UPCL on the variation in the opening grants considered by it. UPCL vide its reply dated February 06, 2023 submitted that there is a great difficulty in identifying the assets created out of grants and consumer contribution and corresponding depreciation to be charged as well as writing back of the same (in case of scrap) at the time of dismantling of such assets. UPCL submitted that the same has also been covered in the Capitalization Policy of UPCL approved by the Commission, wherein it has been mentioned that the linking of receipts of capital grant, consumer contribution and subsidy to the creation of fixed assets and charging depreciation/ writing back proportionate amount is practically not possible. UPCL submitted that this has resulted in variance in the balance of the GFA as submitted in the past (Rs. 2,605 Crore) and the balance as submitted in the latest response as per Audited Accounts (Rs. 2,094.85 Crore). UPCL further submitted that the exercise of identification of such assets along with their source of funding and their corresponding depreciation, has already been assigned on 31.10.2021 initially for 4 months and is still being carried out by M/s K.G. Somani & Co., LLP, Chartered Accountants due to the arduous nature of the task. UPCL, accordingly, requested the Commission to currently consider the value of Grants as per the Audited Accounts.

The Commission has gone through the submissions of the Petitioner and observes that the Commission has been approving the funding of Assets, since the creation of UPCL, based on actuals funding submitted by the Petitioner based on the audited accounts and after carrying out due prudence check and truing up till FY 2020-21 has been carried out based on the same. The submission made by UPCL in the current tariff proceedings raises serious concern on the quality of information being supplied by UPCL in support of its claims. The Commission, therefore, do not find any merit for such re-instatement of funding as no material explanation has been provided by UPCL. The Commission has, therefore, considered the amount of grant as approved by it in its MYT Order dated March 31, 2022. The Petitioner is directed to reconcile the funding and submit the reasons for deviations within six months from the date of this Order."

- m. As evident from the preceding paras, the persistent disparity in grant values has been

a subject of discussion for the past three years. This matter has been comprehensively addressed in the true-up orders of the respective years and the review against the same also got dismissed in the Order passed in the review Petition filed against those Tariff Orders., all on the same grounds. Instead of attempting to reconcile the variance, the Petitioner has made it a routine practice to raise this issue annually for Commission's review, despite the Commission's direction, which requires UPCL to compile the details of financing of the assets capitalized by UPCL in its books of accounts and submit the same, based on which the Commission shall take appropriate view. The Commission is perplexed by UPCL's persistent attempts to refute its previous stance.

- n. Furthermore, the Commission in its Order dated 30.08.2024 passed in the Review Petition filed by UPCL for review of the Tariff Order dated 28.03.2024 directed UPCL as follows:

"3.2.1...

v. The Commission further directs UPCL to compile the details of financing of the assets capitalized by UPCL in its books of accounts, starting from FY 2003-04 to FY 2023-24, and submit the same along with the next tariff Petition based on which the Commission shall take appropriate view w.r.t reinstatement of the value of the grant, if so required."

UPCL has neither been able to submit the aforesaid details in the last tariff proceedings nor has brought the same before the Commission in the current Review Petition. Not proactively compiling and submitting the said details for the consideration of the Commission only reflects callous and non-serious approach of UPCL. Merely bringing the same issue again and again before the Commission without any basis cannot relieve UPCL from its responsibilities. The Commission has clearly and explicitly and in detail already deliberated on this issue and without there being any compliance with the direction issued by the Commission in the matter, the Commission is not inclined to reconsider its earlier view, be it in the instant review proceedings or in future filings by the Petitioner.

- o. Further, w.r.t the difference in opening value of grant for FY 2022-23 in variance to the numbers approved in T.O. dt. 28.03.2024, the Commission would like to mention that it is not an error on part of the Commission. In this regard, the Commission

would like to mention that the closing value of grant as at the end of FY 2022-23, as approved in the Tariff Order dated 28.03.2024 was Rs. 3791.60 Crore, which should have been considered as the opening value of grants for FY 2023-24, however, contrary to that the Commission has considered the opening value of grants for FY 2023-24 as 3962.23 Crore, thus, resulting in a variation of Rs. 170.63 Crore. The Commission would like to state that the said variance is on account of past year capitalization considered and allowed by the Commission (upto FY 2022-23) in the Tariff Order dated 11.04.2025 as summarized in the Table 4.18 of the Tariff Order. The calculation for the differential amount of grant is summarized in the Table given below for clarification:

S.No.	Past year capitalization as considered by the Commission (Upto FY 2022-23)		Grant %'age as approved by the Commission for respective year	Value of Grant Considered (Rs. Crore)
	FY	Amount (Rs. Crore)		
1	2020-21	40.07	33.79%	13.54
2	2021-22	111.44	58.10%	64.75
3	2022-23	230.20	40.11%	92.34
Total				170.63

The above table clarifies the difference in the value of opening grant as approved by the Commission for FY 2023-24, and, therefore, there is no error apparent on the face of record and there is no new evidence which can be considered and, hence, this issue does not qualify for review.

- p. Further, with respect to consequential additional claim related to R&M expenses, Depreciation, Return on Equity and Interest on Loan, the Commission is of the view that these factors are directly dependent upon the amount of capitalization and funding approved by the Commission. Since the Petitioner's request for review of the value of GFA has been rejected, therefore, the consequential impact that would have arose, if the GFA was reinstated/recasted, also does not survive and are therefore rejected.
- q. Accordingly, there is no error apparent on the face of record and there is no new evidence which can be considered and, hence, this issue does not qualify for review.

3.2.3 K-Factor for determining R&M Expenses during the 5th Control Period, i.e. FY 2025-26 to FY 2027-28 and R&M Expenses for FY 2025-26

Petitioner's Submissions

- a. The Petitioner submitted that in its tariff Petition, it had proposed the K-factor for each year of the 5th Control Period, i.e. FY 2025-26 to FY 2027-28, as 4.39%, 4.65% and 4.92% respectively.
- b. The Petitioner submitted that the Commission in its Order dated April 11, 2025, has mentioned the following in para 5.10.2.2 "R&M expenses":

"...

The Commission has, therefore, considered the actual R&M expenses of Rs. 228.53 Crore, Rs. 312.59 Crore and Rs. 302.13 Crore for FY 2021-22, FY 2022-23, and FY 2023-24 respectively. The Commission has then computed the percentage of actual R&M expenses to opening GFA of the respective year from FY 2021-22 to FY 2023-24, and considered the average of such percentages as K factor which works out to 3.56%. Accordingly, the Commission has approved the K factor of 3.56% for each year of the Fifth Control Period."

The Petitioner further referred to para 5.10.2.2 of Tariff Order dated 11.04.2025 wherein the Commission has observed as under:

"5.10.2.2 ...

Further, it is observed that, "Manpower Supply through Contractors", "Metering Equipments" and "Overhead Lines requirements-reinforced concrete support" has substantially increased from Rs. 124.46 Crore in FY 2022-23 to Rs. 212.36 Crore in FY 2023-24. The Commission during the tariff proceedings asked the Petitioner to submit reasons for such huge increase in R&M expenses in FY 2023-24 vis-à-vis FY 2022-23, in response to which the Petitioner submitted that the same was on account of reconstruction works against damages due to disasters, increase in distribution infrastructure, cost of meter replacement and expenses incurred to secure valuable assets located in the State. The Commission is of the opinion that considering any abnormal increase in any cost component of R&M expenses which are not recurring in nature for projecting K factor would distort the projections and, therefore, the abnormal increase of almost Rs. 88 Crore in R&M expenses, in light of the justifications submitted by the Petitioner, cannot be projected to continue in the ensuing period. The Commission, accordingly, for determining the K factor, has reworked the expenses

under “Manpower Supply through Contractors”, “Metering Equipments” and “Overhead Lines requirements-inforced concrete support” for FY 2023-24, by applying the WPI inflation of 7.90% for FY 2023-24 on the actual expenses of FY 2022-23 which works out to Rs. 302.13 Crore.”

- c. The Petitioner submitted that the Commission has computed the percentage of actual R&M expenses to the opening GFA of the respective year from FY 2021-22 to FY 2023-24 and considered the average of such percentages as K factor. Further, while determining K factor, Commission has considered Rs. 302.13 Crore as actual R&M expenses of FY 2023-24 instead of Rs 380.20 Crore citing abnormal increase and non-recurring nature expenses, and, accordingly, the Commission has approved the K factor of 3.56% for each year of the Fifth Control Period.
- d. The Petitioner submitted that the K factor/R&M expenses has increased in recent years on account of improvement in network reliability, and the Petitioner is incurring higher actual expenditure on R&M expenses vis-à-vis approved by the Commission to improve consumer services. The Petitioner submitted that the disallowance of R&M expenses causes huge financial burden on Petitioner’s day to day operations. The Petitioner submitted that details of actual K-factor in last 5 years from FY 2019-20 to FY 2023-24 as 3.03%, 3.15%, 3.28%, 3.72% and 4.12% respectively. The Petitioner submitted that the permanent manpower recruitment has been deferred since many years and UPCL has to engage manpower through contractors for carrying out O&M activities, expenses on which are also booked under R&M head.
- e. The Petitioner submitted that R&M expenses also account for reconstruction works against damages due to disasters, and in the past few years, expenses of reconstruction work due to disaster has increased significantly. UPCL submitted that in FY 2023-24, works amounting to Rs. 35.22 Crore were done due to disaster, and as disaster relief funds from GoU are limited (Rs. 13.55 Crore in FY 2023-24), the Petitioner had to carry out these expenses from its own resources to ensure reliable and continuous power supply. Similar trend is also observed in FY 2024-25, along with reconstruction work of line and poles, the Petitioner had to shift 3 nos. 33/11 kV sub-stations in Sonprayag, Guptkashi and Ukhimath due to landslides after

expending from its own resources.

- f. The Petitioner submitted that Regulation 84 of the UERC MYT Regulations, 2024 specifies methodology for computation of R & M expenses as follows:

“(1) The O&M expenses for the first year of the Control Period shall be approved by the Commission taking into account the actual O&M expenses for last five years till Base Year subject to prudence check and any other factors considered appropriate by the Commission.

(2) The O&M expenses for the nth year and also for the year immediately preceding the Control Period, i.e. 2024-25, shall be approved based on the formula given below:-

$$O\&M_n = R\&M_n + EMP_n + A\&G_n$$

Where –

- O&M_n – Operation and Maintenance expense for the nth year;*
- EMP_n – Employee Costs for the nth year;*
- R&M_n – Repair and Maintenance Costs for the nth year;*
- A&G_n – Administrative and General Costs for the nth year;*

(3) The above components shall be computed in the manner specified below:

.....

$$R\&M_n = K \times (GFA_{n-1}) \times (1 + WPI_{inflation}) \text{ and }$$

Where -

.....

- ‘K’ is a constant specified by the Commission in %. Value of K for each year of the control period shall be determined by the Commission in the MYT Tariff order based on licensee’s filing, benchmarking of repair and maintenance expenses, approved repair and maintenance expenses vis-à-vis GFA approved by the Commission in past and any other factor considered appropriate by the Commission;*
- CPI inflation – is the average increase in the Consumer Price Index (CPI) for immediately preceding three years;*
- WPI inflation – is the average increase in the Wholesale Price Index (CPI) for immediately preceding three years;*

.....”

- g. The Petitioner submitted that the Tariff Regulation, 2024 do not specifically mention that average value should be used for determining K-factor, and the K-factor based on latest audited R&M expenses and corresponding opening GFA would be more

practical. The Petitioner submitted that the actual K-factor for FY 2023-24 works out to be 4.12%, and it should be considered as base K factor & escalated with WPI to determine K factor from FY 2025-26 to FY 2027-28. The Petitioner further submitted that that Uttar Pradesh Electricity Regulatory Commission (UPERC), for assets commissioned till March 2025, has allowed R & M expenses as 5% of the GFA.

- h. The Petitioner, accordingly, requested the Commission to revise the K-factor for the fifth Control Period as 4.35% for FY 2025-26 and, accordingly, recompute the R&M expenses for FY 2025-26 as Rs. 82.27 Crore. The Petitioner submitted that there is an error apparent on the face of records and requested the Commission to allow the additional claim made for FY 2025-26 as aforesaid.

Commission's Analysis and Ruling

- i. The Commission considered the submissions of the Petitioner in this matter, in conjunction with the comments of stakeholders and the Petitioner's response. The Petitioner had itself elaborated the grounds for disallowance, which clearly indicates that the Petitioner is fully aware of the fact that the matter had been thoroughly deliberated and decided by the Commission in the Tariff Order dated 11.04.2025, therefore, it is evident that the Petitioner's review petition is in deviation from the legally accepted grounds of review and the Petitioner has sought review of the Commission's previously concluded view. The Petitioner failed to establish error apparent on the record and has merely tried to reopen the concluded issue by rearguing the matter by presenting its views and submissions, which the Commission had already considered while issuing the Tariff Order dated 11.04.2025.
- j. The Commission, as detailed in the Tariff Order dated 11.04.2025 and also quoted by the Petitioner in the previous paras, was of the view that, for projecting K factor, considering any abnormal increase in any cost component of R&M expenses, which are not recurring in nature, would distort the projections and, therefore, the abnormal increase cannot be projected to continue in the ensuing period. The Commission observed that, "Manpower Supply through Contractors", "Metering Equipments" and "Overhead Lines requirements-reinforced concrete support" had substantially increased from Rs. 124.46 Crore in FY 2022-23 to Rs. 212.36 Crore in FY 2023-24, for

which the reasons were sought from the Petitioner during the Tariff Proceedings, in reply to which the Petitioner submitted that the same was on account of reconstruction works against damages due to disasters, increase in distribution infrastructure, cost of meter replacement and expenses incurred to secure valuable assets located in the State.

- k. The Commission, after deliberation upon issue and considering all the relevant factors was of the view that the abnormal increase of almost Rs. 88 Crore in R&M expenses, cannot be projected to continue in the ensuing period, and, accordingly, for determining the K factor, the Commission reworked the expenses under “Manpower Supply through Contractors”, “Metering Equipments” and “Overhead Lines requirements-reinforced concrete support” for FY 2023-24, by applying the WPI inflation of 7.90% on such actual expenses of FY 2022-23, and accordingly worked out R&M expenses for FY 2023-24 as Rs. 302.13 Crore. The Commission has, therefore, considered the actual R&M expenses of Rs. 228.53 Crore, Rs. 312.59 Crore and Rs. 302.13 Crore for FY 2021-22, FY 2022-23, and FY 2023-24 respectively, and then computed the percentage of actual R&M expenses to opening GFA of the respective year from FY 2021-22 to FY 2023-24, and considered the average of such percentages as K factor, which worked out to 3.56%. The Commission, therefore, approved the K factor of 3.56% for each year of the Fifth Control Period.
- l. Moreover, the submission of the Petitioner that the Tariff Regulations do not mention about average value of ‘R&M to GFA’ ratio for determination of K-factor is unfounded and devoid of merit. Apart from the fact that as per the Regulations the power to determine ‘K’ factor vest in the Commission, for determination of which the Commission may consider any other factor it deems appropriate, the Commission has been following similar methodology for determination of K-factor and subsequently R&M expenses of the utilities for more than a decade, and the said approach has principally remained unchallenged till date. Now to suit its requirement, challenging the set methodology and principles by the Petitioner has no merit, even otherwise the said contention of the Petitioner do not qualify under the legally acceptable grounds on which a review can be sought. Besides the Regulations merely specify that the O&M expenses for the first year of the Control Period shall be

approved after taking into account the actual O&M expenses for last five years till Base Year. It doesn't say that actual expenses for the base year shall be considered. The Commission has been considering the same approach of taking the average of past three years to work out the O&M expenses of the Control Period, moreover it is prudent and justified as by considering the average of three years, variability in expenditure is reduced while improving the accuracy. It also smoothenes out random fluctuations and potential outliers, making the data more reliable.

- m. Besides the reasons for increased R&M expenses is the change in accounting principles of the Petitioner. Previously, in FY 2022-23 and earlier, it was capitalising the Metering Equipments and Overhead Lines requirements-reinforced concrete support, however, the same has been charged as Revenue expenditure in FY 2023-24. Such expenditure are not recurring in nature and once incurred would not be incurred each year, as meter has a life of almost 10 years. Further, the existing meters are being replaced by smart meters, hence, expenditure on this head would not be recurring as UPCL will be having almost 15 Lakh meters in stock which can be used to replace any defective old meters. Similarly, the works incurred to secure valuable assets were one time works and would not be incurred regularly.
- n. Moreover, the reliance placed by the Petitioner on the Tariff Orders of various State Commissions, especially UPERC, wherein R&M expenses have been allowed equivalent to 5% of the GFA, is misplaced and unfounded. Such a reference, without any justifiable ground has no basis, as each Regulator based on the peculiar facts and circumstances, and in order to achieve the objective and fulfil its duty under the Act is required to exercise its judicial discretion and draw its own interpretation & analysis and after deliberating upon all relevant facts brought before it, issues necessary Orders. Therefore, in such matters cannot have persuasive or binding value.
- o. As can be seen from the above discussion, the Commission has already deliberated in detail upon the issue of methodology for determination of K factor in the Impugned Order, the content of which are self-explanatory and need no further revision or clarification. Accordingly, there is no error apparent on the face of record

and there is no new evidence which can be considered and hence this issue does not qualify for review.

3.2.4 Distribution loss reduction trajectory approved for the 5th Control Period i.e. FY 2025-26 to FY 2027-28.

Petitioner's Submissions

- a. The Petitioner submitted that the Commission vide its Tariff Order dated 11.04.2025 approved the Business Plan of the Petitioner comprising of sales, distribution losses, collection efficiency, Power procurement plan etc. for the 5th control period from FY 2025-26 to FY 2027-28, wherein the Commission approved the distribution loss trajectory against the Petitioner's proposed figures as follows:

Particular	FY 2025-26		FY 2026-27		FY 2027-28	
	Claimed	Approved	Claimed	Approved	Claimed	Approved
Distribution losses	13.50%	12.75%	13.21%	12.25%	12.95%	11.75%

- b. The Petitioner submitted that the Commission in its Order dated April 11, 2025, has mentioned the following as per para 4.1.2 "Distribution loss":

"The Commission observes that the Petitioner has been carrying out regular capital expenditure to reduce distribution loss which have been allowed by the Commission from time to time and as no plausible reason has been offered by UPCL for lower billing efficiency when meter reading activity has majorly been outsourced by UPCL...

... It is further observed that in some of the towns covered under RAPDRP, the billing efficiency is as low as 36%. Hence, the Commission does not find any reason to allow actual losses to UPCL as claimed by it..."

- c. The Petitioner submitted that as per Regulation 4(d) of the UERC MYT Regulations, 2024 trajectory should be based on actual performance data of the applicant. The relevant portion of the regulation is reproduced below:

*"Trajectory for specific parameters as may be stipulated by the Commission based on submissions made by the Licensee, **actual performance data of the Applicants** and performance achieved by similarly placed utilities."*

- d. The Petitioner submitted that in the past decade, it has been successful in reducing losses from 18.39% in FY 2015-16 to 13.89% in FY 2023-24, as summarized in the table

given below:

Year	Approved by the Commission in ARR	Actual as per Petitioner
2015-16	15.00%	18.39%
2016-17	15.00%	16.68%
2017-18	14.75%	15.17%
2018-19	14.50%	14.32%
2019-20	14.25%	13.40%
2020-21	14.00%	13.96%
2021-22	13.75%	14.15%
2022-23	13.50%	14.38%
2023-24	13.25%	13.89%
2024-25	13.00%	-

- e. The Petitioner submitted that as per clause 10.1.2 of the CEA, Electricity Distribution Network Planning Criteria, 2023, technical losses are more in LT lines as higher current flows in the low voltage (LT) lines for the same amount of power in comparison to HT lines. To achieve better level of network losses, the HT:LT ratio should be 1 or higher. The HT:LT ratio in Uttarakhand is 0.72 (HT – 55089 Ckt KM, LT- 76161 Ckt. KM) resulting in higher distribution technical losses. Further, as per RDSS scheme the AT&C loss trajectory approved for UPCL is 14.99% for FY 2023-24, and considering a collection efficiency of 99.15% (as approved), the target Distribution Loss for UPCL as per RDSS scheme comes to 14.26% for FY 2023-24, which UPCL has been able to achieve with actual loss level of 13.89%.
- f. The Petitioner submitted that, in view of the above, the Commission is requested to consider the actual loss level of 13.89% for FY 2023-24 (i.e. Base Year) for approval of distribution loss target for each year of 5th Control Period, and proposed the distribution loss trajectory for each year of the 5th Control Period, i.e. FY 2025-26 to FY 2027-28, as 13.50%, 13.21% and 12.95% respectively, and, accordingly, claimed an amount of Rs. 74.86 Crore as additional Claim of Power Purchase Cost due to distribution losses. The Petitioner submitted that there is an error apparent on the face of records and requested the Commission to allow the additional claim made for FY 2025-26.

Commission's Analysis and Ruling

- g. The Commission examined the claims submitted by the Petitioner in this matter, in

conjunction with the comments of stakeholders and the Petitioner's response. The Petitioner had itself elaborated the grounds for disallowance, which clearly indicates that the Petitioner is fully aware that matter had been thoroughly deliberated by the Commission in the Tariff Order dated 11.04.2025. The Petitioner's review petition deviates from the judicially acceptable grounds of review and has sought to review the Commission's previously concluded view which is only possible in an appeal, and a review cannot be an appeal in disguise, as has been judicially well settled. The Petitioner failed to establish patent error on the record and merely presented its views and submissions, which the Commission had already considered when issuing the Tariff Order dated 11.04.2025.

- h. In this regard, the Commission at para 3.5.1 of the Tariff Order dated 11.04.2025 stated as follows:

"...

The Petitioner has proposed to reduce the distribution losses by 0.28% in FY 2025-26, 0.29% in FY 2026-27 and 0.26% in FY 2027-28 of the Control Period considering the actual distribution loss achieved in the base year FY 2023-24. The proposed distribution loss trajectory for the Fifth Control Period from FY 2025-26 to FY 2027-28 is as shown in the Table below:

Table.2: Distribution Loss trajectory proposed by the Petitioner for FY 2025-26 to FY 2027-28

Particulars	FY 2023-24 (Actual)	FY 2024-25 (Approved)	FY 2025-26 (Projected)	FY 2026-27 (Projected)	FY 2027-28 (Projected)
<i>Distribution Losses</i>	13.89%	13.00%	13.50%	13.21%	12.95%

The distribution loss target approved by the Commission and the actual distribution loss achieved from FY 2021-22 to FY 2023-24 is as shown in the Table below:

Table 3: Distribution Losses for FY 2021-22 to FY 2023-24

Particulars	FY 2021-22		FY 2022-23		FY 2023-24	
	Approved	Actual	Approved	Actual	Approved	Actual
<i>Distribution Losses</i>	13.75%	14.70%	13.50%	16.39%	13.25%	15.63%

It is observed that the Petitioner made a similar submission in the previous Control Period in support of 0.25% loss reduction target, which the Commission had approved. The Petitioner since then claims to have made significant investments aimed at loss reduction. The Commission observes that even with the investments, the actual losses are substantially higher than the target approved thereby raising doubts on the efficiency of the investments made. Further, the Commission has been repeatedly directing the Petitioner in its previous Tariff

Orders, to carry out the energy audit to ascertain actual losses in the system. However, the Petitioner has so far not made any substantial progress in this regard and the Commission also observed that the Petitioner has consistently failed to address the issues of replacement of defective meters and meter reading in each billing cycle. The Commission in view of the above and rationale provided in earlier orders has already opined that the under-achievement of losses by UPCL was not due to the stringent targets fixed by the Commission but due to its own inefficiency and callous approach which does not merit the same to be passed on to the consumers.

Further, in this regard the Commission would like to point out towards the loss reduction initiatives proposed by UPCL. UPCL has been proposing the same initiatives over the years, the results of which should have started accruing by now. However, from the submissions of the Petitioner, as given in the Table below, it emerges that the AT&C losses (%) for the following town is more than 25%, during FY 2023-24, inspite of the fact that these towns are covered under the RAPDRP scheme.

Table 4: High Loss feeders in RAPDRP towns in FY 2023-24

S. No.	Town	Electricity Distribution Division (EDD)	AT&C Loss (%)
1.	Gadarpur	Rudrapur-II	30.58
2.	Jaspur	Jaspur	27.00
3.	Joshimath	Gopeshwar	53.92
4.	Khatima	Khatima	53.00
5.	Laksar	Laksar	27.00
6.	Landhora	Roorkee (R)	69.40
7.	Manglaur		47.62
8.	Sitarganj	Sitarganj	27.25

As can be seen from the above Table, except for Joshimath which is a hilly area, other towns are situated at plain areas, hence, loss reduction in these towns should not have been a challenge for UPCL. The Commission further analysed the distribution loss for the past three years ending FY 2023-24 of the aforementioned EDD's, as summarized in the Table given below:

Table 5: Division wise Distribution Loss

S. No.	Loss Division	Distribution Loss (%)		
		FY 2021-22	FY 2022-23	FY 2023-24
1.	EDD, Rudrapur-II	34.88%	30.76%	26.16%
2.	EDD, Jaspur	13.37%	9.24%	7.73%
3.	EDD, Gopeshwar	19.58%	26.10%	18.20%
4.	EDD, Khatima	14.43%	19.82%	16.84%
5.	EDD, Laksar	27.99%	28.07%	27.93%
6.	EDD, Roorkee (R)	31.21%	31.09%	31.50%
7.	EDD, Sitarganj	8.50%	14.83%	12.40%

From the above Table, it is evident that no significant loss reduction has taken place in

EDD Khatima, EDD Laksar, EDD Roorkee (R). The Commission vide letter dated February 14, 2025 sought division wise details of O&M expenditure and capital expenditure from FY 2021-22 to FY 2023-24, the Petitioner in response submitted the requisite details. The Commission analysed the same and worked out the percentage O&M Expenses and Capital Expenditure for aforementioned EDD's, during the past three years ending on FY 2023-24, as a percentage of total O&M Expenses and Capital Expenditure respectively as summarized in the Table given below:

Table 6: Division wise share of O&M expenses and Capital Expenditure

S. No.	Loss Division	O&M Expenses (as a %'age of total)			Capital Expenditure (as a %'age of total)		
		FY 2021-22	FY 2022-23	FY 2023-24	FY 2021-22	FY 2022-23	FY 2023-24
1.	EDD, Rudrapur-II	0.15%	0.46%	0.37%	2.51%	5.15%	2.96%
2.	EDD, Jaspur	0.56%	0.58%	0.85%	0.53%	1.84%	1.24%
3.	EDD, Gopeshwar	1.96%	1.67%	1.80%	0.37%	0.83%	0.29%
4.	EDD, Khatima	0.09%	0.67%	0.59%	1.16%	5.48%	3.51%
5.	EDD, Laksar	0.87%	0.77%	0.92%	0.86%	1.85%	2.73%
6.	EDD, Roorkee (R)	1.60%	1.17%	0.85%	1.10%	3.09%	2.84%
7.	EDD, Sitarganj	0.59%	0.63%	0.45%	-	1.83%	1.53%

As can be seen from the above table, UPCL is regularly incurring expenses in the aforesaid divisions under the head O&M Expenses and Capital Expenditure, however, the same has not resulted in any significant improvement in the distribution losses. The Petitioner has been regularly claiming expenses in the tariff Petitions in the name of improvement in efficiency parameter, however, the same is not reflected on ground. The only inference that could be drawn here is that the Petitioner has not made any serious and focused efforts in reducing division wise losses despite the same being pointed out by the Commission in its previous orders.

Further, the Commission observed that the division wise break up provided by the Petitioner for Capital Expenditure in its various divisions pertains to booking of expenses in 95 Cost Centres of UPCL, comprising of EDD, Test Divisions, IPDS scheme, RDSS scheme etc. In FY 2023-24 major expenses booked of around 40% have been booked in 11 Cost Centres out of the total 95 listed by the Petitioner as shown in the Table below:

Table.7: Cost Centres where majority of Capital Expenditure has been booked in FY 2023-24

S.No.	Cost Centre	%'age of Total
1.	ADB Project	3.09%
2.	Electricity Distribution Division, Ramnagar	3.00%
3.	Electricity Distribution Division, Rudraprayag	3.68%
4.	Elect. Distribution Division (R), Dehradun	3.19%
5.	Urban Distribution division(N), D.dun	3.22%
6.	Electricity Distribution Division, Kotdwar	3.21%
7.	Urban Electy. Distn. Div. (Central), Dehradun	3.51%
8.	EDD-Bhagwanpur	3.62%
9.	Electricity Distribution Division, Tehri	4.68%
10.	EDD, Vikas Nagar, Dehradun	4.73%
11.	EDD, Khatima	3.51%

The Commission also analysed the loss trajectory of the divisions covered in the above Table for past 3 years and observed that no substantial improvement has taken place in the same, like in EDD, Khatima the distribution loss has increased from 12.59% in FY 2021-22 to 16.84% in FY 2023-24. Similarly, the distribution loss in EDD, Ramnagar has increased from 13.70% in FY 2021-22 to 16.96% in FY 2023-24. The same trend has been observed for most of the other divisions also. The Commission is, therefore, of the view that the Capital Expenditure being incurred by UPCL towards loss reduction has not been yielding any results, and therefore, the Commission does not find it prudent to allow UPCL to continue with this approach of seeking approval for expenses without establishing the benefits achieved out of the same,...

...

Since, it is observed that as per the smart meter implementation plan submitted by the Petitioner, UPCL has projected to achieve 100% smart meter coverage under the RDSS scheme by July 2026. It is high time now that UPCL needs to put its act together and focus on reducing losses or else the RDSS scheme would also become futile like other major capital expenditures incurred by UPCL in the past in the name of controlling losses. Hence, in view of the same the Commission has set the target of loss reduction to the extent of 0.25% in FY 2025-26, 0.50% in FY 2026-27 and 0.50% in FY 2027-28 relative to the distribution loss approved by the Commission for FY 2024-25 in the 4th Control Period."

- i. The Commission, after taking into account the submission of the Petitioner and other stakeholders and carrying out due deliberation, as evident from the above quoted extract of the Tariff Order dated 11.04.2025, approved the UPCL's distribution loss trajectory for the 5th Control Period from FY 2025-26 to FY 2027-28. As a matter of fact, the Commission since the year 2014 has considered approval for various investments towards reduction of distribution loss of the State discom, which has till date totalled to more than Rs. 7000 Crore. If UPCL fails to achieve the objectives and the consumer of the State, who ultimately bear such cost, is unable to reap the benefit out of these expenditure by way of reduction of distribution losses, which was the primary purpose for which these investments were allowed, then the entire scheme of capital expenditure becomes futile.
- j. The Commission is surprised to note that instead of proving its efficiency by way of mobilising its resources to match the targets set by the Commission, UPCL in some way

or the other is seeking pass through of its inefficiency, for which huge capital expenditure has already been allowed by the Commission, the ultimate burden of which would be borne by the consumers.

- k. As can be seen from the above discussion, the Commission has already dealt with this issue in detail after considering all the submissions made by UPCL and as such no new fact or information has been brought on record by UPCL in the current Review Petition which can be considered as legitimate grounds for review. UPCL, instead of proving its efficiency by way of mobilising its resources to match the targets set by the Commission, is trying to mislead the Commission with the arguments which are not only devoid of merits but which are also factually incorrect. Infact as evident till date UPCL has not been able to submit before the Commission the division wise loss reduction targets fixed by the Corporation. This reflects the lack of seriousness of UPCL towards loss reduction. Accordingly, there is no error apparent on the face of record and there is no new evidence which can be considered and hence this issue does not qualify for review.

- 3.3 Further, the Petitioner has also claimed Interest on Working Capital for FY 2023-24 and FY 2025-26, and carrying cost for FY 2023-24, which are consequential claims resulting from the grounds of review raised by the Petitioner in the Review Petition. Since the Petitioner has failed to establish any tenable ground for review of the Tariff Order, accordingly, there is no occasion to delve upon on the consequential claims raised by the Petitioner.

From the above, it is clear that the grounds raised in the present Petition do not qualify within the limited scope of review. The Commission has duly considered all the submissions of the parties and the documents available on record, and deliberated upon the various issues raised in the Review Petition. As discussed earlier, these very issues have already been considered by the Commission and have been dealt with in detail, with reasons and justification, in the Tariff Order dated 11.04.2025. A reasoned view of the Commission cannot be regarded as an 'error apparent' so as to constitute a valid ground for review. It is well settled that review cannot be undertaken unless the error is manifest and self-evident; an error which requires to be fished out or established by a process of reasoning cannot be termed as an error apparent. Review is not an appeal in disguise, nor does it afford an opportunity for a rehearing of old and overruled arguments. The review

sought by the Petitioner, in essence, reflects dissatisfaction or disagreement with the view taken by the Commission in the impugned order. Mere dissatisfaction or a different perception of the correctness of the reasoning cannot justify a review, which has a very narrow and well-defined scope under Section 114 read with Order XLVII of the CPC and as consistently interpreted in judicial pronouncements.

3.4 The Commission, in view of the above, finds the Review Petition filed by UPCL against the Commission's Order dated 11.04.2025, as not maintainable, and rejects the same. Accordingly, Miscellaneous Application No. 69 of 2025 stands disposed off.

3.5 Ordered Accordingly.

(Anurag Sharma)
Member (Law)

(M.L. Prasad)
Chairman

Public Notice

 UTTARAKHAND POWER CORPORATION LTD. (A Govt. of Uttarakhand Undertaking) Victoria Cross Vijeyta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun-248001 Corporate Identity No. U40109UR2001SGC025867 Tel No. 0135-2768895, Fax No.:0135-2768867, E-mail ID : cgmupcl@yahoo.com, website: www.upcl.org				
Public Hearing to decide on admissibility of the Petition for review of the Commission's Tariff Order dated 11.04.2025 on the Petitions of the Business Plan and Multi Year Tariff for Fifth Control Period from FY 2025-26 to FY 2027-28 and Tariff determination for FY 2025-26 alongwith True-up for FY 2023-24 filed by Uttarakhand Power Corporation Limited (UPCL) before the Uttarakhand Electricity Regulatory Commission				
Salient Points of the Review Petition				
1. Uttarakhand Power Corporation Limited (UPCL), the sole Distribution and Retail Supply Licensee in the State, has filed a Review Petition before Uttarakhand Electricity Regulatory Commission (UERC or Commission) for review of the Commission's Tariff Order dated 11.04.2025 on Business Plan and Multi Year Tariff for Fifth Control Period from FY 2025-26 to FY 2027-28 and Tariff determination for FY 2025-26 alongwith True-up for FY 2023-24. 2. Through the above Petition, UPCL has made an additional claim of ARR amounting to Rs. 674.77 Crore as summarized below:				
S. No.	Particulars	Additional claim of ARR for FY 2023-24 Rs. Cr)	Additional claim of ARR for FY 2025-26 Rs. cr)	Total Rs. cr)
1.	Power Purchase cost	---	74.86	74.86
2.	Depreciation	22.95	20.27	43.22
3.	Interest on Loan	42.45	37.49	79.93
4.	Return on Equity	35.06	30.97	66.03
5.	Delayed Payment Surcharge on receivables from GOU	129.09	129.09	258.18
6.	R&M Expenses	---	82.27	82.27
7.	Interest on working capital after sharing of Gain/ Loss	3.07	7.77	10.84
8.	Additional ARR	232.62	382.72	615.34
9.	Carrying Cost	59.43	---	59.43
10.	Total additional ARR including Carrying cost	292.05	382.72	674.77
3. UPCL has proposed to recover the additional revenue gap of Rs.674.77 Crore through increase in tariffs to be made effective from 01.04.2025. UPCL has, accordingly, proposed an average tariff hike of 5.82% in the existing tariffs as approved in the Tariff Order of the Commission. 4. Responses/suggestions, if any, are sought from consumers and other stakeholders to decide on admissibility of the Petition. Responses may be sent to the Secretary, Uttarakhand Electricity Regulatory Commission, either in person, or by post at 'Vidyut Niyamak Bhawan', Near ISBT, PO-Majra, Dehradun - 248171 or through e-mail to secy.uerc@gov.in by 01.08.2025. 5. The Commission has also decided to hold a Public Hearing in the matter on 05.08.2025 at 11:30 AM in the Commission's office on the above-mentioned address. Any person, who wishes to put his views on the subject before the Commission, is invited to appear before the Commission and make the submission in the above public hearing. 6. Detailed Petition can be seen free of cost on any working day at the Commission's office or at the office of Chief Engineer (Commercial) at Victoria Cross Vijeta Gabar Singh Urja Bhawan, Kanwali Road, Dehradun/Chief Engineer (Distribution), Garhwal Zone, UPCL, Shivalik Complex, 2nd Floor, Near LIC Divisional Office, Haridwar Road, Dhampur, Dehradun/Chief Engineer (Distribution), Kumaon Zone, UPCL, 132-KV Substation, Kathgodam, Haldwani/ Chief Engineer (Distribution), Haridwar Zone, UPCL, Roshnabad, Haridwar / Chief Engineer (Distribution), Udham Singh Nagar Zone, UPCL, 33KV Sub Station, Sector-2, SIDCUL, Pantnagar, Rudrapur-263153. Relevant extracts can also be obtained from the above mentioned offices of the Petitioner 7. The Petition is also available at the website of the Commission (www.uerc.gov.in) and at the Petitioner's website (www.upcl.org).				
No.: 423/EE(CM)/UPCL/A-2		Dated : 21.07.2025		
		Managing Director		
*SAVE ELECTRICITY IN THE INTEREST OF THE NATION. (Toll Free No. 1800 419 0405) Pay Electricity Bill Online 24x7 from www.upcl.org . (For information on Electricity theft, informer may report to Toll Free No. 1800 180 4185)				

List of Stakeholders

Sr. No.	Name	Designation	Organisation	Address
1.	Sh. Manohar Singh	-	-	Haldwani, Nainital
2.	Sh. Sunny Upadhyay	-	-	supadhyay.mkt@gmail.com
3.	Shubham Chaudhary	-	-	241, Rishi Nagar, Sahastradhara Road Dehradun.
4.	-	-	-	prateek.agar1@gmail.com
5.	Sh. Pawan Agarwal	Vice-President	M/s Uttarakhand Steel Manufacturers Association	C/o Shree Sidhali Industries Ltd., Kandi Road, Kotdwar, Uttarakhand
6.	Sh. Pankaj Gupta	President	Industries Association of Uttarakhand	Mohabewala Industrial Area, Dehradun-248110.
7.	Sh. Puneet Mohindra	President (Finance & Admn.)	M/s Kashi Vishwanath Steels Pvt. Ltd.	Narain Nagar Industrial Estate, Bazpur Road, Kashipur-244713, Distt. Udham Singh Nagar.
8.	Sh. Shakeel A. Siddiqui	Industrial Advisor	M/s Kashi Vishwanath Textile Mill (P) Ltd.	5th KM, Stone, Ramnagar Road, Kashipur-244713, Distt. Udham Singh Nagar
9.	Sh. Shakeel A. Siddiqui	Industrial Advisor	M/s Galwalia Ispat Udyog Ltd.	5th KM, Stone, Ramnagar Road, Kashipur-244713, Distt. Udham Singh Nagar
10.	Sh. Ashok Bansal	President	M/s Kumaon Garhwal Chamber of Commerce & Industry Uttarakhand	Chamber House, Industrial Estate, Bazpur Road, Kashipur, Distt. Udham Singh Nagar
11.	Sh. Yash Veer Arya	Convenor	जागरूक बनो आवाज उठाओ	aryayv@gmail.com