Before

UTTARAKHAND ELECTRICITY REGULATORY COMMISSION

Misc. Application No. 27 of 2026

In the matter of:

Petition seeking review of the Commission's Order dated 06.01.2026 in Suo moto proceedings in the matter of removal of difficulties under UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Source and non-fossil fuel based Co-generation Stations) (Second Amendment) Regulations, 2025.

In the matter of:

UJVN Ltd. … Petitioner

AND

Uttarakhand Power Corporation Ltd. …Respondent

CORAM

Shri M.L. Prasad	**Chairman**
Shri Anurag Sharma	**Member (Law)**
Shri Prabhat Kishor Dimri	**Member (Technical)**

Date of Hearing: May 15, 2026

Date of Order : August 19, 2026

UJVN Ltd. filed a Review Petition dated 10.04.2026 for review of Commission's Suo-moto Order dated 06.01.2026 in Petition no. 94 of 2026 (Suo-moto) (hereinafter referred to as "Impugned Order") passed by the Commission in the Suo-moto proceedings in the matter of review of removal of difficulties under Uttarakhand Electricity Regulatory Commission (Tariff and Other Terms for Supply of Electricity from Renewable Energy Source and non-fossil fuel based Co-generation Stations) (Second Amendment) Regulations, 2025 (hereinafter referred to as "RE Regulations, (Second Amendment) 2025"), under Section 94(1)(f) of the Electricity Act, 2003 (herein after referred to as "the Act") read with Section 144, Order XLVII of the Code of Civil Procedure 1908 and Regulation 54 of Uttarakhand Electricity Regulatory Commission (Conduct of Business), Regulations, 2014.

1. Background

1.1. The Commission vide its notification dated 16.08.2023 issued UERC (Tariff and Other Terms for Supply of Electricity from Renewable Energy Source and non-fossil fuel based Co-generation Stations) Regulations, 2023 (hereinafter referred to as "RE Regulations, 2023" or "Principal Regulations, 2023") which came into force with effect from the date of notification, and unless reviewed earlier or extended by the Commission, shall remain in force for a period of 5 years from the date of commencement.

1.2. Subsequently, the Commission vide notification dated 20.06.2024 issued first amendment to Principal Regulations, 2023 revising the Renewable Purchase Obligation trajectory specified by Ministry of Power, Government of India (MoP, GoI) vide notification dated 20.10.2023 and to comply with the Electricity (Rights of Consumers) Rules, 2020 regarding timelines for key activities for commissioning of grid interactive rooftop and small solar PV plants under net metering as per the directions given by MoP, GoI vide its letter dated 16.11.2023.

1.3. Thereafter, the Commission vide notification dated 27.11.2025 issued Second amendment to RE Regulations, 2023 (hereinafter referred to as "RE Regulations (Second Amendment), 2025") based on the detailed guidelines issued by MoP, GoI for procurement and utilization of BESS as part of generation, transmission, or distribution assets, or along with ancillary services & national framework for promoting energy storage system and request made by UJVN Ltd. for fixation of norms and setting of tariff/trading margin for proposed Battery Energy Storages System (BESS) in the State of Uttarakhand.

1.4. Through RE Regulations (Second Amendment), 2025, the Commission specified the provision regarding BESS alongwith trading margin for BESS and solar energy based power plants and levelized ceiling tariff for BESS. The relevant extract of the RE Regulations (Second Amendment), 2025 is as follows:

"**2. *Scope and extent of application***

(1) xxx

(2) xxx

(3) The generic tariff specified for Wind, Battery Energy Storage System, Solar PV and Solar Thermal power projects under these Regulations shall be the maximum tariff and the distribution licensee shall, either on its own or through any other agency, invite tariff based competitive bids from generators/developers for procurement of power/BESS services from such generators/developers. The distribution licensee shall enter into a PPA with the generators/developers bidding lowest tariff.

Provided that implementation of Canal Bank, Canal Top and Ground mounted Solar Power Plants by the eligible government organisation through any developer shall be done by way of tariff based competitive bidding process. In such cases PPA for sale of power from these plants shall be signed with distribution licensee with the eligible Government organisation who shall get a margin of 4% of the tariff quoted by L-1 bidder towards their resources employed, however, the tariff plus a margin of 4% shall not exceed the generic tariff determined by the Commission for the year of commissioning.

Provided that in case of an Intermediary Agency, for implementation of Battery Energy Storage System for the discom, the trading margin shall be 5 paise per unit. The L-1 tariff plus a margin of 5 paise shall not exceed the generic tariff determined by the Commission for the year of commissioning."

And

"Table at serial number 12 under Annexure-I of RE Regulations, 2023

Levellised *rate of Fixed Charges(RFC) in Rs./kWh for Bess Projects*

Particular	***BESS***
	(Rs./kWh)
Gross Tariff	*5.78*
Less: Acc. Dep. Benefit	*0.00*
Net Tariff	*5.78*

"

1.5. UJVN Ltd. vide its letter dated 08.12.2025 requested the Commission to specify ceiling tariff for BESS in the terms of Rs./MW/month and also requested for reconsideration of margin for implementation of solar energy based power plants and BESS projects stating that the notified margins of 4% for Solar projects and Rs. 0.05/kWh for BESS are inadequate to recover the costs associated with its role as the implementing agency, including land acquisition, DPR preparation, surveys, regulatory approvals, execution of long-term agreements, coordination with stakeholders, and project monitoring over the entire project life. Accordingly, UJVN Ltd. had requested the Commission to reconsider the first and second provisos to Regulation 2(3) of the RE Regulations (Second Amendment), 2025.

Based on the representations submitted by UJVN Ltd., the Commission, vide its Suo Motu Order dated 06.01.2026, clarified that the energy charges specified under the RE Regulations (Second Amendment), 2025 shall be construed as equivalent to capacity charges of Rs. 3,96,747 per MW per month. Further, with respect to UJVN Ltd.'s request for providing an implementation margin for solar energy-based power plants and BESS projects, the Commission held that no cogent justification had been presented to warrant any revision in the trading margin. The Commission observed that the applicable trading margin had already been determined after detailed deliberations and, therefore, found no merit in revising the same.

1.6. The Petitioner filed this Review Petition stating that future difficulties may arise and the low recovery of costs being incurred by the Petitioner for implantation of solar projects and BESS projects on account of lower margin for implementation of solar and BESS projects.

2. Petitioner's Submission

2.1. The Petitioner submitted that the present Review Petition has been filed under Section 94(1)(f) of the Act read with Section 114 and Order XLVII Rule 1 of the Code of Civil Procedure, 1908 and Regulation 54 of UERC (Conduct of Business) Regulations, 2014 seeking review of the Commission's Order dated 06.01.2026 passed in Petition No. 94 of 2025 (Suo-Moto).

2.2. The Petitioner submitted that the Review Petition was to be filed within 60 days, i.e. by 07.03.2026, from the date of Order. The Petitioner submitted that the Review Petition has been filed within the prescribed period of limitation.

2.3. The Petitioner submitted that the present Petition does not seek a re-hearing on the merits of the matter but seeks correction of omissions and errors arising from non-consideration of material submissions. The Petitioner also submitted that during the process leading to the RE Regulations (Second Amendment), 2025, it had submitted detailed comments and suggestions before the Commission. It was further submitted that while the Commission accepted the Petitioner's submissions regarding adoption of a capacity charge-based tariff structure for Standalone BESS projects and, accordingly, prescribed a ceiling tariff in terms of Rs./MW/Month in line with prevailing national practices, the request for revision of the trading margin for Solar and Standalone BESS projects was not accepted.

2.4. The Petitioner submitted that the impugned Order declined revision of the trading margin primarily on the ground that the Commission had already undertaken detailed deliberations while determining the applicable margin. According to the Petitioner, the Order does not specifically deal with the financial data, recurring cost components and operational responsibilities placed on record by UJVN Ltd. and, therefore, does not address the submissions advanced in support of revision of the trading margin.

2.5. The Petitioner further submitted that UJVN Ltd. performs the role of an implementing and intermediary agency for development of Solar and BESS projects in the State and cannot be equated with a conventional trading licensee. According to the Petitioner, its responsibilities extend beyond execution of back-to-back power purchase arrangements and include land identification and aggregation, preparation of Detailed Project Reports, surveys, bid process management, obtaining statutory and regulatory approvals, execution of long-term agreements, coordination with developers, UPCL, SLDC and other agencies, monitoring project implementation, ensuring regulatory compliance and discharging contractual obligations throughout the useful life of the projects, i.e. up to 25 years in case of Solar projects and 12 years for Standalone BESS projects.

2.6. The Petitioner submitted that the trading margin specified under the RE Regulations (Second Amendment), 2025 does not adequately compensate for the recurring operational and administrative expenditure incurred in discharging the aforesaid functions. It was submitted that the prescribed trading margin is insufficient to recover costs relating to manpower deployment, project management, compliance monitoring, contractual administration, coordination activities and other project-specific expenditure. The Petitioner further submitted that such expenditure is expected to increase over time due to inflation and escalation in operating costs, whereas the prescribed trading margin remains fixed.

2.7. The Petitioner submitted that the Ministry of Power, Government of India, vide the

Guidelines for Procurement and Utilization of Battery Energy Storage Systems issued on 10.03.2022, has recognised the role of an Intermediary Procurer for implementation of BESS projects and has provided for a trading margin of seven paise per kWh or 0.5% of the capacity charges, as applicable. According to the Petitioner, the trading margin prescribed under the Second Amendment RE Regulations, 2025 departs from the framework contemplated in the said Guidelines without recording adequate reasons for such deviation.

2.8. The Petitioner submitted that the presently prescribed trading margin of 5 paise per unit for Standalone BESS projects is not sufficient to recover the expenditure associated with implementation and long-term management of such projects. Referring to an illustrative 150 MWh BESS project, the Petitioner submitted that the annual revenue recoverable through the prescribed trading margin would be substantially lower than the recurring expenditure required for performing its functions as an implementing agency, thereby affecting institutional sustainability over the project life cycle.

2.9. The Petitioner further submitted that the Statement of Reasons issued along with the RE Regulations (Second Amendment), 2025 recognises the evolving role of implementing agencies and indicates that the issue may be considered at an appropriate stage based on implementation experience. According to the Petitioner, the present Review Petition has been filed in light of such implementation-related considerations and seeks a regulatory adjustment based on practical experience after notification of the amended Regulations.

2.10. The Petitioner submitted that the Commission had, in its earlier regulatory framework, allowed a higher trading margin for implementation of Solar projects, which was subsequently rationalised under the RE Regulations, 2023. It was submitted that the reduction of the trading margin to 4% for Solar projects and 5 paise per unit for Standalone BESS projects under the Second Amendment RE Regulations, 2025 has been made despite there being no corresponding reduction in the scope of responsibilities, regulatory obligations or operational risks borne by the implementing agency. According to the Petitioner, the revised trading margin is not consistent with the Commission's earlier regulatory approach.

2.11. The Petitioner further submitted that the determination of trading margin should be consistent with the principles specified under Section 61 of the Electricity Act, 2003, which requires balancing consumer interest with the sustainability of the entities entrusted with implementation of the regulatory framework. According to the Petitioner, if substantial operational and financial responsibilities are imposed without providing adequate recovery of associated costs, the intermediary framework may become difficult to sustain, thereby affecting timely implementation of renewable energy and energy storage projects in the State.

2.12. The Petitioner submitted that BESS plays an important role in supporting grid reliability by facilitating storage of surplus renewable energy and reducing dependence on short-term market purchases during peak demand periods. It is submitted that, in the absence of a viable intermediary mechanism for implementation of BESS projects, distribution licensees may increasingly rely upon procurement through the Day Ahead Market, Real Time Market or other short-term market mechanisms, which are generally associated with higher and more volatile prices. According to the Petitioner, strengthening the intermediary framework would contribute towards more stable and economical power procurement in the long run.

2.13. The Petitioner submitted that the trading margin sought is not intended to provide an additional return or profit but is only a cost-reflective regulatory mechanism to enable recovery of legitimate expenditure incurred in discharging long-term implementation, coordination and compliance functions. According to the Petitioner, a reasonable revision of the trading margin would facilitate institutional sustainability, support effective implementation of Solar and Standalone BESS projects, and promote the broader objectives of renewable energy development, grid reliability and consumer interest.

2.14. In view of the above submissions, the Petitioner prayed that the Commission may review the impugned Order dated 06.01.2026 to the extent it declined revision of the trading margin for Solar and Standalone BESS projects and reconsider the same after taking into account the operational responsibilities, financial implications, applicable regulatory framework and other submissions placed on record by the Petitioner.

3. Respondent's Submission

3.1. The Commission fixed the matter for hearing on 09.07.2026 on the admissibility of the

Review Petition and forwarded a copy of the Review Petition to the Respondent, UPCL, for filing its comments with an advance copy to the Petitioner. In compliance thereof, UPCL submitted its comments vide letter dated 06.05.2026 and UJVN Ltd. submitted its counter reply on 13.05.2026. The submissions made by UPCL and UJVN Ltd. have been dealt with in the subsequent paragraphs of this Order

3.2. The Respondent, UPCL, submitted that the issues raised in the present Review Petition have already been adjudicated by the Commission vide Order dated 06.01.2026. It was contended that the Petitioner, under the guise of invoking the review jurisdiction of the Commission, is seeking reconsideration of issues that have already been decided in the original proceedings.

3.3. UPCL submitted that the scope of review jurisdiction is limited and can be exercised only on the statutorily recognized grounds, namely, (i) discovery of a new and important matter or evidence which was not available despite due diligence, (ii) an error apparent on the face of the record, or (iii) any other sufficient reason. According to the Respondent, the Review Petition does not satisfy any of these conditions, as no new material has been placed on record, no apparent error has been demonstrated, and no other sufficient reason call for review has been made out.

3.4. The Respondent further submitted that the Order dated 06.01.2026 contains adequate reasons in support of the conclusions reached by the Commission. It was contended that the Petitioner has failed to identify any manifest illegality or patent error in the impugned Order that would justify exercise of the review jurisdiction.

3.5. UPCL contended that the Petitioner is, in effect, seeking reconsideration of the trading margin fixed at 4% for Solar Projects and 5 paise per unit for BESS Projects. According to the Respondent, these issues were consciously determined by the Commission after due consideration during the original proceedings and cannot be reopened in review.

3.6. The Respondent further submitted that the Petitioner's contentions are founded upon its own projected financial estimates, anticipated revenue shortfall and assumed operational costs to contend that the trading margin is inadequate. According to UPCL, acceptance of these submissions would necessarily require re-appreciation of factual and financial assessments that were already considered by the Commission while passing the original Order.

3.7. It was also submitted that the Petitioner is effectively seeking reopening of the entire determination relating to the trading margin and tariff methodology, including comparison with the Central Government guidelines and alleged industry practices. According to the Respondent, such an exercise falls beyond the scope of review jurisdiction and amounts to seeking a rehearing on merits.

3.8. UPCL further submitted that the powers conferred upon the Commission under Section 94(1) of the Electricity Act, 2003 are limited and can be exercised only to correct an error apparent on the face of the record. In support of its submissions, the Respondent relied upon the judgment of the Hon'ble Supreme Court in State of *West Bengal v. Kamal Sengupta* [(2008) 8 SCC 612], wherein it was held that a party cannot be permitted to argue the matter de novo in the guise of a review petition.

3.9. UPCL also placed reliance upon the judgments in *Aizaz Alam v. Union of India & Others* [2006 (5) AD (Delhi) 297], wherein reference was made to the decision of the Hon'ble Supreme Court in *Meera Bhanja v. Nirmala Kumari Choudhury*, and upon *Kamlesh Verma v. Mayawati and Others* [(2013) 8 SCC 320], to contend that review proceedings are not in the nature of an appeal, and are confined to correcting errors apparent on the face of the record, and do not permit re-appreciation of evidence or substitution of one view for another.

3.10. Accordingly, the Respondent submitted that the Petitioner is attempting to re-agitate issues that have already been deliberated upon and decided without identifying any apparent error or producing any new facts or material that were unavailable at the time of passing the Order dated 06.01.2026. It was, therefore, prayed that the Review Petition, which merely raises issues relating to financial inadequacy and adequacy of the trading margin already considered by the Commission, does not disclose any ground warranting review.

4. Petitioner's Submission

4.1. UJVN Ltd. vide its rejoinder dated 13.05.2026 submitted that the Review Petition did not seek a fresh adjudication of issues already decided by the Commission, as alleged by UPCL. According to the Petitioner, the Review Petition sought correction of errors apparent on the face of the record arising from the non-consideration of material submissions, quantified financial information and the applicable regulatory framework that had been placed before the Commission during the original proceedings.

4.2. The Petitioner reiterated that the revision of trading margin had been sought only to enable recovery of reasonable administrative and operational expenses incurred by it in discharging its responsibilities as the State implementing and intermediary agency. According to the Petitioner, the objective was not to earn any additional profit but to ensure recovery of essential recurring expenditure associated with implementation and coordination of Solar and BESS projects, thereby facilitating long-term procurement of renewable energy at competitive costs and reducing dependence on expensive short-term market purchases.

4.3. The Petitioner further submitted that the Commission, while passing the Order dated 06.01.2026, had primarily relied upon the deliberations already undertaken during the suo motu proceedings without examining the additional submissions made by the Petitioner vide its communication dated 08.12.2025. According to the Petitioner, the said submissions specifically highlighted practical implementation difficulties, inadequacy of the existing trading margin for meeting recurring expenditure and inconsistency with the Ministry of Power's Guidelines for Procurement and Utilization of Battery Energy Storage Systems dated 10.03.2022. The Petitioner contended that the omission to consider these additional submissions constituted an error apparent on the face of the record warranting review.

4.4. The Petitioner, while responding to UPCL's contention that the Review Petition sought reconsideration of the tariff methodology, submitted that the Review Petition was only for revision of the trading margin for Solar and standalone BESS projects. The Petitioner stated that the Commission had already decided to adopt a capacity-charge based tariff for BESS projects while determining the ceiling tariff of Rs. 3,96,747/MW/Month vide Order dated 06.01.2026. Therefore, according to the Petitioner, there was no issue regarding the tariff structure, as the same had already been decided. The only issue that remained was whether the trading margin allowed was adequate.

4.5. The Petitioner submitted that UPCL had only denied the grounds raised in the Review Petition, without explaining why the Petition did not meet the requirements for review under Order XLVII Rule 1 of the Code of Civil Procedure. The Petitioner stated that the Review Petition clearly pointed out an error on the face of the record, as the Commission had not considered the financial details, specific cost components, responsibilities of the project parties, and the relevant framework prescribed under the Ministry of Power's BESS Guidelines.

4.6. The Petitioner denied UPCL's contention that the Review Petition was based upon projected financial estimates requiring re-appreciation of evidence. According to the Petitioner, the financial information placed before the Commission comprised quantified cost-recovery data rather than speculative projections. The Petitioner submitted that the data demonstrated that, for a representative 150 MWh BESS project, the annual facilitation revenue at the existing trading margin would be less than Rs. 0.60 Crore against recurring expenditure exceeding Rs. 1 Crore, resulting in recovery of only about fifty percent of the essential recurring costs. According to the Petitioner, these figures had not been examined by the Commission while passing the impugned Order.

4.7. The Petitioner further submitted that the modest increase in trading margin sought by it would be insignificant when compared with the overall consumer benefits arising from optimized procurement through BESS, including reduction in costly purchases from the Day Ahead Market (DAM), Real Time Market (RTM) and other short-term power procurement arrangements during peak demand periods.

4.8. The Petitioner stated that the trading margin was required only to cover the cost of carrying out its responsibilities as the State implementing agency. These responsibilities included identifying suitable land, preparing Detailed Project Reports, obtaining necessary approvals, managing the bidding process, executing long-term agreements, coordinating with UPCL and the SLDC, deploying manpower, and monitoring Solar projects for 25 years and BESS projects for 12 years. The Petitioner submitted that the existing trading margin was not sufficient to meet the costs of these long-term responsibilities.

4.9. With regard to the judgment of the Hon'ble Supreme Court in *State of West Bengal v. Kamal Sengupta*, relied upon by UPCL, the Petitioner submitted that the judgment was different from the present case. The Petitioner stated that the said case related to the Administrative

Tribunals Act, 1985 and concerned a review based on subsequent judgments or events. In the present case, the Review Petition was not based on any subsequent development, but on the Commission's failure to consider material already available on record. The Petitioner submitted that such failure is a recognised ground for review under Order XLVII Rule 1 of the Code of Civil Procedure.

4.10. The Petitioner submitted that the Ministry of Power's Guidelines dated 10.03.2022 provides for a trading margin of 7 paise/kWh or 0.5% of the capacity charges, as applicable, for an intermediary procurer. The Petitioner stated that, while fixing the trading margin at 5 paise/unit for BESS projects and reducing the trading margin for Solar projects from 8% under the RE Regulations, 2023 to 4% under the Second Amendment Regulations, 2025, the Commission did not consider these Guidelines or give any reason for fixing a lower margin. According to the Petitioner, this was an error on the face of the record and not an attempt to raise a new issue in the Review Petition.

4.11. The Petitioner also stated that the judgment of the Hon'ble Delhi High Court in *Aizaz Alam v. Union of India & Others*, relied upon by UPCL, was not applicable to the present case. The Petitioner submitted that the said judgment related to land acquisition proceedings and review of a case based on re-examination of evidence. In the present case, the Petitioner was not seeking re-examination of evidence, but only pointing out that the Commission had not considered the financial details and the applicable regulatory framework while passing the Order.

4.12. The Petitioner further submitted that the judgment of the Hon'ble Supreme Court in *Kamlesh Verma v. Mayawati & Others* was rendered in the context of criminal proceedings and did not govern the present regulatory proceedings. According to the Petitioner, the issue involved in the present Review Petition was not re-appreciation of evidence but non-consideration of material submissions and financial data already available on record. The Petitioner further contended that none of the judicial precedents relied upon by UPCL related to determination of trading margin or review proceedings before an Electricity Regulatory Commission exercising powers under Section 94(1)(f) of the Electricity Act, 2003.

4.13. The Petitioner reiterated that, while rejecting the request for revision of the trading margin, the Commission had not considered the actual responsibilities being performed by the Petitioner, the recurring expenses involved in the projects, or the financial details showing that the existing trading margin was not sufficient. The Petitioner submitted that the Order mainly relied on earlier discussions and did not consider the financial information placed on record. According to the Petitioner, this amounted to an error apparent on the face of the record.

4.14. The Petitioner further submitted that the Commission had not considered several recurring expenditure components, including land identification, preparation of DPRs, surveys, regulatory approvals, execution of long-term agreements, coordination with UPCL and the State Load Despatch Centre, manpower deployment and life-cycle monitoring of projects. According to the Petitioner, these responsibilities distinguished it from a conventional electricity trader and justified reconsideration of the trading margin.

4.15. The Petitioner also submitted that the Commission had not taken into account the inflationary nature of recurring expenditure despite the trading margin remaining fixed and non-indexed throughout the project life. According to the Petitioner, the reduction of trading margin for Solar projects from 8% under the RE Regulations, 2023 to 4% under the RE Regulations (Second Amendment), 2025 had been effected without any corresponding reduction in the functions or responsibilities entrusted to the Petitioner.

4.16. The Petitioner further submitted that the Statement of Reasons issued with the Second Amendment Regulations recognised that the role of implementing agencies was changing and that the issue could be considered at a suitable stage. The Petitioner stated that the Review Petition was, therefore, not seeking to reopen settled matters, but only requesting reconsideration of the trading margin based on actual experience, the cost details provided, and the additional responsibilities assigned to the Petitioner. The Petitioner also pointed out that, under the earlier RE Regulations, 2023, the Commission had recognised the wider responsibilities of UJVN Ltd. and had allowed a higher trading margin linked to the L-1 tariff.

5. Commission's Analysis and Findings

5.1. **Powers of the Commission and Grounds for Review**

5.1.1. **Limitation – A Threshold Issue**

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

As per the mandate of Regulation 54 of UERC CBR, 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 Order was issued on 06.01.2026 and, hence, the limitation period for filing a review petition was upto 07.03.2026. The present review Petition has been filed before the Commission on 10.04.2026, i.e. with a delay of 33 days.

With regard to the delay in filing the Review Petition, the Petitioner submitted that, after receiving the Impugned Order, internal discussions were held regarding the grounds for seeking review and legal advice was obtained. Thereafter, necessary steps were taken to obtain approval for filing the Review Petition. The proposal was placed before the Board of Directors of the Petitioner in its meeting held on 12.01.2026 and was approved. The Petitioner further submitted that some time was thereafter required for preparation of the Review Petition, resulting in a delay in its filing.

The explanation furnished by the Petitioner is found to be reasonable and satisfactory as sufficient cause has been shown for the delay and the delay of 33 days in filing the Review Petition is hereby condoned.

5.1.2. **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.

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 passing 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 the Courts in India. The Commission shall proceed to examine these grounds in light of the judicial pronouncements by the courts in detail in the succeeding part of this order.

5.1.3. **Discovery of New Evidence**

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

1. Discovery of new and important matter or evidence, which after the exercise of due diligence was not within the knowledge of the person seeking review, or could not be produced by him at the time when order was made.
2. The evidence is of such materiality that its absence would cause miscarriage of justice.
3. The evidence must be relevant and of such nature that, if considered, could potentially alter the judgment.

In this regard, it is relevant to refer to the Judgment 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 justiciae. 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*'.

5.1.4. **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.

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****".*

The principle was further affirmed by the Hon'ble Supreme Court in *Lily Thomas v. Union of India* [(2000) 6 SCC 224], wherein referring to *Parsion Devi v. Sumitra Devi (Supra)* 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…***
>
> …

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…"

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* (2008 (8) SCC 612) 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.

5.1.5. **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 Poulose 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."

Further, the Hon'ble Supreme Court vide judgement dated 08.09.2025 in the matter of *Malleeswari Vs K. Suguna and another (2025 INSC 1080, SLP (C) No. 12787 of 2025)* while dealing with the scope and power of review referred to the various judgements such as (i)*Meera Bhanja v. Nirmala Kumari Choudhary, (1995) 1 SCC 170* wherein it was held that the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC., (ii) *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389* wherein it was held that review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court, (iii) *Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715* wherein it was held that in exercise of the jurisdiction under Order 47 Rule 1 of 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, (iv) *Lily Thomas v. Union of India, (2000) 6 SCC 224* wherein it was held that the power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power. (v) *Inderchand Jain v. Motilal, (2009) 14 SCC 663* wherein it was held that the review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered and (vi) *Shivdev Singh v. State of Punjab, AIR (1963) SC 1909* wherein it was held that it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors has carved out a distinction between power of review and appellate power and restated the power and scope of review jurisdiction, has summed up the ground of review. The relevant Para 17 of the said judgement is reproduced hereinbelow:

> *"17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:*
>
> *17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.*
>
> *17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record.8 Such an error is a patent error and not a mere wrong decision.9 An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. (Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR (1960) SC 137.)*

17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories. (Chhajju Ram v. Neki, 1922 SCC OnLine PC 11 and approved in Moran Mar Basselios Catholicos v. Mar Poulose Athanasius, AIR (1954) SC 526.)

5.1.6. 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.

5.2. **Commission's Analysis and Ruling**

5.2.1. Before going into merits of the Petition, it is necessary to discuss what was decided in the Order dated 06.01.2026 and what the Petitioner is seeking through the present Review Petition. The said Impugned Order dealt with two separate requests made by the Petitioner vide letter dated 08.12.2025. The first request was to specify the ceiling tariff for Standalone BESS as capacity charges (Rs./MW/Month), instead of the per unit tariff as provided by the Commission vide RE Regulations (Second Amendment), 2025. The second request was to revise the trading margin of 4% for Solar projects and 5 paise/unit for BESS prescribed under the first and second provisos to Regulation 2(3) of RE Regulations (Second Amendment), 2025.

The Commission accepted the first request and clarified that the applicable generic tariff for BESS projects translates to a capacity charge of Rs. 3,96,747/ MW/Month. However, the second request for revision of the trading margin was rejected, as the trading margin had already been determined after detailed consideration and no sufficient reason was found to revise it.

The Petitioner vide its rejoinder dated 13.05.2026 submitted that the present Review Petition is limited only to the issue of trading margin and does not seek to reopen the tariff structure already decided in its favour. Accordingly, the scope of the present review is limited to examining whether the Commission's decision not to revise the trading margin falls within any of the grounds for review recognised under Order XLVII of the Code of Civil Procedure, 1908, as discussed in preceding paragraphs of this Order.

5.2.2. The Commission observes that the trading margin is an issue relating to the compensation payable to the Intermediary Agency and was considered independently.

Therefore, acceptance of the request for conversion of the BESS tariff cannot be construed that the Commission had also reopened or reconsidered the trading margin. The two issues were separate, and the Commission dealt with them separately in the Order dated 06.01.2026.

5.2.3. It is pertinent to note that the Order dated 06.01.2026 was passed by the Commission in exercise of its removal of difficulties power provided in the regulations, to address the difficulty raised by UJVN Ltd. regarding implementation of the per unit ceiling tariff structure prescribed for BESS projects for the purpose of tendering. The difficulty arose as BESS tenders across the country are generally invited and discovered on a capacity charges basis. Accordingly, the Commission had accepted the request of UJVN Ltd. and prescribed the ceiling tariff for Standalone BESS projects in terms of capacity charges (Rs./MW/Month) instead of per unit tariff, in exercise of the removal of difficulties power laid down in the regulations.

As far as, the issue raised by UJVN Ltd. regarding the trading margin applicable to solar power project and BESS projects is concerned, the Commission after taking cognizance of the fact that specified trading margin in RE Regulations (Second Amendment), 2025 did not pose any difficulty in implementation of the regulations and that detailed deliberations had already been undertaken while fixing the applicable trading margin, did not found any cogent reason or justification for revising the same.

It is further pertinent to mention that the trading margin of 4% for Solar projects and 5 paise/kWh for BESS was specified under the RE Regulations (Second Amendment), 2025, notified by the Commission on 27.11.2025 in exercise of its power under Section 181 of the Electricity Act, 2003 and was not determined afresh by the Commission through its Order dated 06.01.2026 and hence, the request of the Petitioner was rejected through the same Order. The Commission through the said Order merely declined to reconsider or revise the trading margin already specified under the regulations. The impugned Order is not an independent or maiden Order of the trading margin fixation but it is linked to the RE Regulations (Second Amendment) Regulations, 2025 under which the margin was originally specified. Consequently, there is no separate fixation of the trading margin in Order dated 06.01.2026 which could be corrected or modified in exercise of the Commission’s review jurisdiction.

Further, it is a law that a review Petition can be used to correct an error in an Order, but it cannot be used to amend the Regulations. Any change in the trading margin would have to be made through the specified regulation making process, including fresh consultation, and not through a review of an Order which merely declined to reconsider the existing provisions of the Regulations with regard to trading margin.

Accordingly, since the trading margin was determined under the RE Regulations (Second Amendment), 2025 and the Order dated 06.01.2026 merely declined to revisit the same, no ground of review of the Order dated 06.01.2026 is made out to revisit or review the trading margin fixed for solar energy based power plants and BESS projects.

5.2.4. It is pertinent to mention that the issue raised by UJVN Ltd. in the present review Petition regarding trading margin has already been dealt by the Commission in the Statement of Reasons of RE Regulations (Second Amendment), 2025 & subsequently, in Order dated 06.01.2026 which clearly states that the Commission had considered UJVN Ltd.'s request and found no sufficient reason to revise the trading margin, as the issue had already been discussed in detail while fixing the trading margin.

5.2.5. Further, the Petitioner has relied on the Ministry of Power’s Guidelines dated 10.03.2022, which provides for a trading margin of 7 paise/kWh or 0.5% of capacity charges, as applicable, for an Intermediary Procurer. However, it is explicitly clear from the Statement of Reasons that the guidelines were already considered by the Commission while framing the BESS provisions under RE Regulations (Second Amendment), 2025. Therefore, it cannot be treated as new material for the purpose of review.

The Petitioner is requesting the Commission to replace the trading margin already fixed in the Regulations with the margin specified in the Guidelines. Such a request would require reconsidering an issue that has already been examined and decided by the Commission. A review petition cannot be used simply to seek a different view on material that was already available and considered earlier.

5.2.6. In this regard, as already discussed above, the Hon’ble Supreme Court, in *Parsion Devi v.*

Sumitra Devi [(1997) 8 SCC 715] and *State of West Bengal and Others v. Kamal Sengupta and Another* [(2008) 8 SCC 612], *Meera Bhanja v. Nirmala Kumari Choudhary, (1995) 1 SCC 170, Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389* wherein it was held that review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court, Further, the Hon'ble Apex Court also laid down that 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 and that the power of review can be exercised only for the correction of a mistake, but not to substitute a view. Thus, as per the findings of the Hon'ble Supreme Court, the review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC.

In the present case, the Commission had already considered UJVN Ltd.'s objection regarding the trading margin and found no sufficient reason to revise it, both while framing the RE Regulations (Second Amendment), 2025 and while passing the Order dated 06.01.2026.

The Petitioner has not pointed out any apparent error in the Order dated 06.01.2026. It has only disagreed with the conclusion already reached by the Commission after considering the issue, such disagreement does not constitute an error apparent on the face of the record. Therefore, the Review Petition seeks to reargue the matter and amounts to an appeal in disguise, which is not permissible under the Commission's review jurisdiction.

5.2.7. Accordingly, the Review Petition is found to be devoid of merit and is liable to be rejected.

6. Ordered Accordingly.

(Prabhat Kishor Dimri) **Member (Technical)**	**(Anurag Sharma)** **Member (Law)**	**(M.L. Prasad)** **Chairman**